

SENATE BILL REPORT

ESB 6180

As Passed Senate, February 12, 2004

Title: An act relating to genetic testing as a condition of employment.

Brief Description: Prohibiting the use of genetic information in employment decisions.

Sponsors: Senators Franklin, Eide, Prentice, Kline, Fraser, Hargrove, B. Sheldon, Kohl-Welles, Fairley, Kastama, Regala, McAuliffe, Keiser, Shin, Jacobsen, T. Sheldon, Spanel, Roach and Rasmussen.

Brief History:

Committee Activity: Commerce & Trade: 2/6/04 [DP].

Passed Senate: 2/12/04, 49-0.

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: Do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

Staff: John Dziedzic (786-7784)

Background: Genetic testing is used by some employers in an attempt to predict diseases that job applicants and employees may contract, particularly those associated with occupational hazards. These tests also have the capacity to identify the sex, race, and ethnic-religious origins of individuals who are tested. Proponents of genetic testing in employment claim that such testing helps to control health care costs. Among the arguments raised by those opposed to genetic testing are that the tests are highly invasive, discriminate against individuals who may never get a particular disease, and are not predictive of job performance.

The Equal Employment Opportunity Commission, the federal agency that enforces the Americans with Disabilities Act (ADA), has taken the position that basing employment decisions on genetic testing violates the ADA.

Summary of Bill: Genetic information is defined as information about inherited characteristics that can be derived from DNA-based or other laboratory tests, family history, or medical examination, but not including routine tests for the abuse of alcohol or drugs, or the presence of HIV. Requiring an employee or prospective employee to submit to screening for genetic information as a condition of employment or continued employment is unlawful.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Genetic information is the most basic, immutable data that defines a person as a person. These tests do not actually predict whether a person will contract a condition, are susceptible to misuse in discriminatory ways, and could effectively render a person unemployable or uninsurable.

Testimony Against: The currently drafted definition of what is a "genetic test" includes tests that are routinely used today to determine the current presence of drugs or alcohol.

Testified: PRO: Senator Rosa Franklin, prime sponsor; Randy Loomans, WA State Labor Council; Remy Trupin, Jewish Federation of Greater Seattle; Nick Federici, American Lung Assoc. of WA; CON: Amber Balch Carter, Assoc. of WA Business.