

SENATE BILL REPORT

SB 5913

As of January 16, 2024

Title: An act relating to communication between employees of state institutions of higher education and student athletes regarding name, image, and likeness use.

Brief Description: Concerning communication between employees of state institutions of higher education and student athletes regarding name, image, and likeness use.

Sponsors: Senators Valdez, MacEwen, Hunt and Nobles.

Brief History:

Committee Activity: State Government & Elections: 1/16/24.

Brief Summary of Bill

- Provides that the Ethics in Public Service Act does not prohibit the use of public resources by an employee of a state higher education institution to benefit any student athlete in advising, facilitation, acknowledgment, or education related to a matter involving name, image, and likeness.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Staff: Greg Vogel (786-7413)

Background: Ethics in Public Service Act. All state employees are subject to the Ethics in Public Service Act (Act). The Act, commonly known as the ethics law, generally addresses conflicts of interest, improper use of state resources, compensation for outside activities, and gifts.

The Act establishes a single code that applies to all state employees in the executive, legislative, and judicial branches of state government. Each branch has a single board responsible for enforcing the Act with respect to employees in that branch. In addition to enforcing the Act, the ethics boards promulgate interpretive rules and provide advisory

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opinions.

Name, Image, and Likeness. Name, image, and likeness (NIL) refers to a person's right of publicity which entitles a person to prevent unauthorized use of one's NIL by a third party for commercial benefit. The National Collegiate Athletic Association (NCAA) adopted guidelines in 2021 that allow individuals to engage in NIL activities consistent with the law of the state where the school is located.

College athletes who attend a school in a state without an NIL law can engage in NIL activity without violating NCAA rules. Institutions located in states without NIL laws were given permission to create their own NIL policies, as long as the policies prohibited NIL compensation to be used for pay-for-performance or as a recruiting inducement.

Summary of Bill: The Act does not prohibit the use of public resources, including but not limited to the use of personnel, money, and property, by an employee of a state institution of higher education to benefit any student athlete in the advising, facilitation, acknowledgment, or education related to a matter involving the name, image, and likeness of such a student athlete or group of student athletes, or in relation to student athlete name, image, and likeness matters generally, so long as the resources are under the control or direction of the higher education employee.

Any use of public resources must adhere to the rules established by the national, nonprofit member organization responsible for oversight of college sports at state institutions of higher education.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: There are good reasons why the ethics laws exist but in this case we are seeking clarity that our staff can support student athletes in these NIL pursuits. The bill would allow staff to go beyond high level educational awareness, and allow staff to provide specific counseling on NIL opportunities. This clarification will mean better service for students and put us on an equal playing field with other states and institutions that we're competing with. It provides us with the opportunity to really grow into the evolving NCAA guidelines to provide greater service in the future.

Persons Testifying: PRO: Senator Javier Valdez, Prime Sponsor; Joe Dacca, University of Washington; Kiley Strong, Sr. Associate Athletic Director for Compliance, UW Athletics; Chris Mulick, Washington State University.

Persons Signed In To Testify But Not Testifying: No one.