

HOUSE BILL REPORT

HB 1445

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to expanding the state law against discrimination.

Brief Description: Modifying the scope of the state law against discrimination.

Sponsors: Representatives J. Kohl, Brough, Wineberry, Romero, Veloria, Ogden, G. Cole, Thibaudeau, Anderson, Sheldon, Leonard, Shin, Wang and Heavey.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 19, 1993, DPS.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Conway; King; Springer; and Veloria.

Minority Report: Do not pass. Signed by 3 members: Representatives Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; and Horn.

Staff: Jim Kelley (786-7166).

Background: The Washington State Human Rights Commission was established in 1971 and given general jurisdiction and power to eliminate and prevent discrimination in employment and other settings. The freedom from discrimination statute additionally grants a civil cause of action to any person deeming himself or herself injured due to discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap.

The freedom from discrimination statute includes the rights to obtain and hold employment, to the full enjoyment of public premises, and to engage in real estate, credit, insurance and commercial transactions free from discrimination. Unfair practices in the employment setting include using any of the impermissible considerations in making employment decisions such as refusing to hire,

discharging, compensating or conditioning employment, or advertising any employment position with a discriminatory limitation or specification.

An "employer" is defined as any person who employs eight or more persons, and the definition of "employee" excludes the parent, spouse, or child of an employer. Employers with fewer than eight employees are exempt from the law against discrimination. Religious organizations that are nonprofit are not "employers."

The Washington law refers to a disability as a "handicap." The federal Americans with Disabilities Act uses the term "disability."

Summary of Substitute Bill: The freedom from discrimination statute applies to employers who employ one or more persons. References to a physical "handicap" are changed to physical "disability." Religious organizations are not "employers" only with respect to the employment of individuals of a particular religion to carry out the activities of the organization.

Substitute Bill Compared to Original Bill: The substitute bill strikes references in the intent language to employees "in this state" and "to the people of this state." The substitute bill also limits the provision of law exempting religious organizations from the definition of employer. Religious organizations are not employers only with respect to the employment of individuals of a particular religion to carry out the activities of the organization.

Fiscal Note: Available. New fiscal note requested on February 22, 1993.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effective July 1, 1993.

Testimony For: The current law leaves many employees without any recourse if they suffer discrimination. The bill will not unfairly burden small employers. Employees are entitled to a workplace free of discrimination regardless of the size of the employer. As of 1987, 23 different states protected employees of employers with fewer than eight employees. The Human Rights Commission is the best place to resolve these issues; but, we should not foreclose the private right of action.

Testimony Against: This bill could easily lead to frivolous lawsuits, costing employers money that could go to employee wages. Employers need a manual they can follow to be assured that they are complying with the law. There should

not be a private right of action; lawsuits are too costly. The Human Rights Commission needs a big appropriation to enforce these cases. The language in the original bill referring to employees "in this state" could easily limit existing rights that employees have.

Witnesses: Representative Jeanne Kohl, prime sponsor (in favor); Harriet Strasbourg and Debbie Schmitz, Northwest Women's Law Center (in favor); Ann Simons, Washington Women United (in favor); Lonnie Johns-Brown, National Organization of Women (in favor); Julia Porter and Clif Finch, Association of Washington Business (had concerns); Gary Smith, Independent Business Association (had concerns); Carolyn Logue, National Federation of Independent Business (opposed); Judie Fortier, city of Tacoma (in favor); and Dennis Martin, Washington State Trial Lawyers Association (in favor with committee amendment).