

HOUSE BILL REPORT

ESHB 1445

As Reported By House Committee On:
Commerce & Labor
Appropriations

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

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

Sponsors: House Committee on Commerce & Labor (originally sponsored by 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, January 19, 1994, DP2S;
Appropriations, February 5, 1994, DP2S(CL-A APP).

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The second substitute bill be substituted therefor and the second 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, marital status, age, or the presence of any sensory, mental, or physical disability.

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."

Summary of Second Substitute Bill: The freedom from discrimination statute applies to employers who employ one or more persons. 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.

The Human Rights Commission is required to make available an informational brochure designed to help employers comply with discrimination laws. The commission is encouraged to consult with representatives of small business to ensure that the brochure is useful and practical to small employers. The commission is also required to hold educational seminars across the state to explain the discrimination laws. The commission is authorized to charge fees for these services, and the fees shall be sufficient to cover the costs of the programs and materials.

Second Substitute Compared to Engrossed Substitute Bill: The second substitute bill removes the delayed effective date for administrative enforcement of discrimination claims against employers who employ fewer than eight employees. The second substitute bill allows for both administrative enforcement by the Human Rights Commission and civil actions against newly covered employers after the effective date of July 1, 1994. The second substitute bill also corrects the underlying language of the bill to reflect amendments to the law enacted in 1993.

Fiscal Note: Available.

Effective Date of Bill: The bill takes effect July 1, 1994.

Testimony For: Employees working for small employers should have the same ability to redress discrimination as employees working for large employers. This is primarily a matter of fairness. Sixty-one percent of states cover employers who

employ fewer than eight employees. Thirty-one percent of states cover all employers. This is also a matter of sound business practice. Discontented workers are not productive workers. Experience in other states and localities has shown that this will not create a tremendous increase in litigation. Willful discrimination is wrong, no matter who does it. The coalition in support of this bill continues to grow.

Testimony Against: Small business owners are unable to afford the legal costs that would be required in the case of a frivolous lawsuit. The cumulative effects of increased government regulations are causing small employers to oppose any new burden on their dwindling resources. An exclusive remedy at the Human Rights Commission with no private right of action is the only way to go. It is prohibitively expensive to allow these cases to go to court. Even settling lawsuits is very expensive.

Witnesses: (In favor) Representative Jeanne Kohl, Prime Sponsor; Lonnie Johns-Brown, National Organization of Women and Employment Equal Opportunity Coalition; Judy Turpin and Harriet Strasberg, Northwest Women's Law Center; Merrit Long and Edmon Lee, Washington State Human Rights Commission; Karen Keiser, Washington State Labor Council, AFL-CIO; Ann Simons, Washington Women United; and Steven Aldrich, Hotel and Restaurant Employees Union, Local 8. (Opposed) Clif Finch, Association of Washington Business; Ron Rants, Association of Washington Business Small Business Policy Council; Gary Smith, Independent Business Association; and Carolyn Logue, National Federation of Independent Business.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill by Committee on Commerce & Labor be substituted therefor and the second substitute bill as amended by Committee on Appropriations do pass. Signed by 17 members: Representatives Sommers, Chair; Valle, Vice Chair; Carlson, Assistant Ranking Minority Member; Appelwick; Basich; Dorn; Dunshee; G. Fisher; Lemmon; Linville; H. Myers; Peery; Rust; Talcott; Wang; Wineberry and Wolfe.

Minority Report: Do not pass. Signed by 8 members: Representatives Silver, Ranking Minority Member; Ballasiotes; Cooke; Foreman; Sehlin; Sheahan; Stevens and Talcott.

Staff: Jennifer Priddy (786-7118).

**Summary of Recommendation of Committee on Appropriations
Compared to Recommendation of Committee on Commerce & Labor:**

By June 30, 1994, the Human Rights Commission is required to distribute a manual to small businesses on state discrimination laws. The bill language regarding religious exemptions is changed slightly for consistency with federal law.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 1994.

Testimony For: Employees working for small employers should have the same ability to redress discrimination as employees working for large employers. This is primarily a matter of fairness. Sixty-one percent of states cover employers who employ fewer than eight employees. Thirty-one percent of states cover all employers. This is also a matter of sound business practice. Discontented workers are not productive workers. Experience in other states and localities has shown that this will not create a tremendous increase in litigation. Willful discrimination is wrong, no matter who does it. The coalition in support of this bill continues to grow.

Testimony Against: Small business owners are unable to afford the legal costs that would be required in the case of a frivolous lawsuit. The cumulative effects of increased government regulations are causing small employers to oppose any new burden on their dwindling resources. An exclusive remedy at the Human Rights Commission with no private right of action is the only way to go. It is prohibitively expensive to allow these cases to go to court. Even settling lawsuits is very expensive. Language regarding religious exemption must be made consistent with federal law.

Witnesses: Tommi R. Gath, WTV (con); Leslie McMillan (con); Doug Simpson, The Capitol Project (con); Randy Jones, WTV (con); Merritt Long, Human Rights Commission (pro); Lonnie Johns-Brown (pro); Allen Correll, City of Tacoma Human Rights Commission (pro); Tony Lee, Washington Association of Churches (pro); Carolyn Logue, National Federation of Independent Business (con, needs amendment); and Greg Smith, Independent Business Association (con, needs amendment).