

SENATE BILL REPORT

ESHB 1445

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 5, 1993

**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)

HOUSE COMMITTEE ON COMMERCE & LABOR

HOUSE COMMITTEE ON APPROPRIATIONS

SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Niemi, Rinehart, and Spanel.

**Staff:** Tom Fender (786-7414)

**Hearing Dates:** March 30, 1993; April 1, 1993

SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended by Committee on Law & Justice.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Bauer, Gaspard, Jesernig, Niemi, Pelz, Quigley, Snyder, Sutherland, Talmadge, Williams, and Wojahn.

**Minority Report:** Do not pass.

Signed by Senators Anderson, Bluechel, Cantu, Hochstatter, McDonald, Moyer, L. Smith, and West.

**Staff:** Mary Poole (786-7613)

**Hearing Dates:** April 5, 1993

**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:**

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 exempt only with respect to the employment of individuals of a particular religion to carry out the religious activities of the organization.

The Human Rights Commission may not consider a complaint against an employer having fewer than eight employees if the unfair practice occurred before or on June 30, 1995, unless specific funding is provided to the agency by June 30, 1993 in the Omnibus Appropriations Act.

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.

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

Contingent delay of effective date for employers of less than eight is deleted.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**Effective Date:** The bill contains an emergency clause and takes effect July 1, 1993. For administrative actions against an employer of fewer than eight employees the bill takes effect July 1, 1995.

**TESTIMONY FOR (Law & Justice):**

Employees of small business organizations have no practical remedy for sexual harassment and other discriminatory actions. The cost of bringing a civil action in court is \$10,000 to \$20,000 and the court acceptance of jurisdiction varies by county. Religious organization exemptions need to be clarified in regard to hospital and nursing home employment.

**TESTIMONY AGAINST (Law & Justice):**

This is an excessive burden on small business. A manual with employer checklists is required. The HRC should be the sole remedy for employment cases. A business reputation injured by a false claim should be compensable.

**TESTIFIED (Law & Justice):** Representative Kohl, sponsor; Marilyn Endriss, NW Women's Law Center (pro); Mary Brown, Washington Coalition of Sexual Assault Programs (pro); Norleen Koponen, Lonnie Johns-Brown, NOW (pro); Ann Simons, WWU (pro); Julia Porter, Association of Washington Business (con); Terri Hotvedt, Washington Association of Realtors (con); Gary Smith, Independent Business Association; Deborah Addleman, Washington State Human Rights Commission (pro); Carolyn Logne, NFIB (con); Richard Kirton, Washington Freedom Coalition (pro); Sonnia Bean, citizen (con)

**TESTIMONY FOR (Ways & Means):**

Twenty-three states have antidiscrimination laws that cover companies with fewer than eight employees. Thirty thousand people in Washington have no recourse for harassment at their place of employment because they work for small companies. The bill may not cost as much to implement as the fiscal note indicates.

**TESTIMONY AGAINST (Ways & Means):**

If this legislation passes, the Human Rights Commission must make information about the law available to these small businesses to help prevent incidents from occurring. The state must explore administrative remedies to claims brought against small companies and discourage civil remedies. Lawsuits can place a severe financial burden on small businesses.

**TESTIFIED (Ways & Means):** Representative J. Kohl, original prime sponsor; Representative Springer; Ann Simons, WA Women United (pro); Terry Harnish, Kelley Beach, Naselle Sexual Assault Program (pro); Lonnie Johns-Brown, NOW (pro); Judy Turpin, Northwest Women's Law Center (pro); Gary Smith, Independent Business Association; Carolyn Logne, NFIB (con); Clif Finch, AWB

