
Judiciary Committee

HB 3001

Title: An act relating to prohibiting discrimination on the basis of sex in public community athletics programs.

Brief Description: Prohibiting discrimination in community athletics programs.

Sponsors: Representatives Rolfes, Nelson, Simpson, Williams, Appleton, Eddy, VanDeWege, Kenney, Roberts and Upthegrove.

Brief Summary of Bill

- Prohibits any city, town, county, or district or third party contractor from discriminating on the basis of sex in the allocation of facilities and resources in administering youth or adult community athletic programs.
- Requires the court to consider specific factors in making determinations of discrimination and accommodation.
- Establishes procedures for filing compliance reports with the Human Rights Commission.
- Establishes a civil action for violations, independent of any other rights and remedies under the law, including injunctive relief, damages, reasonable attorney's fees, and costs to the prevailing party.

Hearing Date: 2/4/08

Staff: Lara Zarowsky (786-7123).

Background:

Congress passed Title IX of the Education Amendments in 1972, prohibiting discrimination on the basis of sex in all educational programs and activities receiving federal financial assistance.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The same year the Equal Rights Amendment to the Washington State Constitution, Amendment 61, was approved by voters, providing that "equality of rights and responsibility under the law shall not be abridged on account of sex."

Title IX establishes the federal standard for gender equity, applied most prominently in the context of intercollegiate sports. Under Title IX, institutions must meet at least one of three identified criteria. Institutions must: (1) provide "substantial proportionality" between the number of female and male undergraduate students and the number of intercollegiate sports opportunities provided to students of both genders, (2) prove a continuing history of expanding women's sports, or (3) provide evidence that the interests and abilities of women have been accommodated by the institution's sports program.

In 1975, state legislation modeled after Title IX was enacted, prohibiting inequality in the educational opportunities afforded women and girls at *all* levels of public schools in Washington state, and directing the Superintendent of Public Instruction to develop regulations and guidelines to eliminate gender discrimination in Washington schools.

In 1989, legislation was enacted to improve gender equity in public higher education, specifically in academic programs, student employment, counseling, financial aid, recreational activities, and intercollegiate athletics. If student participation in intercollegiate athletic opportunities were found to be disproportionate to the female and male student population, the college or university was required to adopt a plan to comply with the requirements, identify barriers to equal participation, and encourage gender equity in all aspects of college and university life. The Higher Education Coordinating Board is required to report to the Legislature every four years on institutional efforts to comply with the requirements of the law.

The gender equality laws applicable to public education do not explicitly extend to opportunities in community athletic programs.

Summary of Bill:

A city, town, county or district is prohibited from discrimination on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults in the allocation of resources and facilities used to support such programs.

A city, town, county or district may not authorize or grant permits or permission to any third party for the use of such facilities and resources if the third party program discriminates on the basis of sex.

Definitions are provided for "community athletics program," "district," and "park and recreation facilities and resources."

In determining whether adequate accommodation has been made for males and females, the court shall assess whether the community athletics program has:

- shown that the program opportunities for both males and females are provided in numbers substantially proportionate to their respective numbers in the community;
- shown a history and continuing practice of program expansion and allocation of resources demonstrably responsive to developing interest and abilities of the members of an under-represented sex; or

- demonstrated that the interests and abilities of the members of an under-represented sex have been fully and effectively accommodated by the present program and allocation of resources.

A city, town, county, district, or school district may not permit or lease its facilities and resources to a third party unless the third party contractor is in compliance. The third party must agree to demonstrate compliance by filing an annual report with the Human Rights Commission. Separate reports must be submitted for male and female teams.

If a third party contractor fails to comply, the contractor shall prepare and submit a corrective plan and time-line for full implementation prior to receiving any future permits or leases.

In determining whether discrimination has occurred, the court shall consider:

- whether selection of the community athletics programs effectively accommodates the interests and abilities of both genders;
- the provision of funding, equipment, and supplies;
- game and practice schedules;
- coaching opportunities;
- assignment and compensation for coaches and officials;
- access to land through permits and other land use options;
- selection of the season for a sport;
- the location of games and practices;
- locker room facilities;
- practice and competition facilities;
- publicity; and
- officiation by those who have met relevant training and certification standards.

Each city, town, county, district, and public school district shall submit annual compliance reports to the Human Rights Commission.

A cause of action, independent of any other rights and remedies, is established to enforce any ordinances, regulations, or resolutions adopted by a city, town, county, district or public school district. Injunctive relief, damages, reasonable attorneys' fees and costs to the prevailing party are available.

The Municipal Research Council shall establish reporting guidelines to enable monitoring of community athletics program.

Appropriation: None.

Fiscal Note: Requested on 1/31/08.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.