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EDUCATION Elementary and Secondary Education: Prohibit Discrimination Based on Gender in Elementary and Secondary School Athletic Programs Under the "Quality Basic Education Act;" Amend Certain Provisions Relating to Grants and Other Disbursements of Funds by the Department of Community Affairs

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EDUCATION

*Elementary and Secondary Education:
Prohibit Discrimination Based on Gender in Elementary and
Secondary School Athletic Programs Under the
"Quality Basic Education Act;" Amend Certain Provisions
Relating to Grants and Other Disbursements of Funds by the
Department of Community Affairs*

CODE SECTIONS: O.C.G.A. §§ 20-2-314 to -315 (new);
50-8-8 (amended)

BILL NUMBER: HB 1308

ACT NUMBER: 750

GEORGIA LAWS: 2000 Ga. Laws 1129

SUMMARY: The Equity in Sports Act requires that elementary and secondary schools provide equal sports opportunities for male and female students. The Act reinforces Title IX, federal legislation that prohibits discrimination based on gender in educational environments. The Act enforces existing law by creating sanctions for noncompliance, such as withholding funds from schools and prohibiting those schools from participating in postseason athletic contests.

EFFECTIVE DATE: July 1, 2000

History

Prior to the enactment of HB 1308, the Equity in Sports Act, Georgia schools were already required by federal law to provide equal sports opportunities for female students.¹ However, few Georgia schools were audited or met the standards of the law.²

1. See 20 U.S.C. § 1681 (2000). Federal legislation, commonly referred to broadly as Title IX, prohibits discrimination on the basis of sex in state-funded institutions' athletic programs and has been in existence for nearly thirty years. See *id.*

2. See Kathey Pruitt, *Gender Equity Vote Unanimous; Why Worry? Stricken Senator's Fears Groundless as High School Sports Measure Goes to Barnes*, ATLANTA

Therefore, it became necessary for the Georgia General Assembly to enact enforcement legislation to ensure compliance with goals of federal equity laws and to prescribe proper sanctions for Georgia's public schools that fail to comply.³ HB 1308 was heavily lobbied by students from Agnes Scott College and female athletes and their parents across the state.⁴ Although similar legislation introduced in the General Assembly in previous years had failed, the bill's supporters relied on heightened enthusiasm for women's athletics to help push the bill through the General Assembly.⁵

HB 1308

Introduction

Representatives Kathy Ashe, Stephanie Stuckey, Thomas Murphy, Jeanette Jamieson, Bob Irvin, and Louise McBee of the 46th, 67th, 18th, 22nd, 45th, and 88th Districts, respectively, sponsored HB 1308.⁶ Representatives Ashe and Stuckey introduced the bill on February 2, 2000.⁷

Consideration by the House Judiciary Committee

The House assigned HB 1308 to its Judiciary Committee.⁸ The House Judiciary Committee favorably reported the bill, as substituted, on February 10, 2000.⁹ First, the Committee made minor technical changes, such as altering references to the genders as "each" gender to the grammatically correct "both"

J. & CONST., Mar. 18, 2000, at 5D. An Atlanta Journal-Constitution series on gender equity in Georgia athletics uncovered mass discrepancies in male/female funding and helped push the bill through the General Assembly. *See id.*

3. *See* Electronic Mail Interview with Rep. Kathy Ashe, House District No. 46 (July 5, 2000) [hereinafter Ashe Interview].

4. *See* Patti Puckett, *Helping Women Athletes Thrive; You Go Girls: Supporters Say the Sports Equity Act Would Boost Georgia's College Athletics Programs*, ATLANTA J. & CONST., Feb. 10, 2000, at 2JA.

5. *See* *Lawmakers 2000* (GPTV broadcast, Feb. 10, 2000) (on file with the *Georgia State University Law Review*).

6. *See* HB 1308, as introduced, 2000 Ga. Gen. Assem.

7. *See* *Lawmakers*, *supra* note 5; *see also* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

8. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

9. *See id.*

genders.¹⁰ The substitute modified the bill to require that student and employee complaints regarding gender discrimination in athletics be in writing.¹¹ Additionally, the substitute implemented time limitations regarding when complaints must be filed and answered.¹² For example, the bill, as introduced, placed no time restrictions on the duties of employees responding to complaints under the Act.¹³ The substitute required that decisions be rendered within thirty days of receipt of the complaint.¹⁴ Further, the complainant is entitled to a copy of the decision within five days after the decision is rendered, and the complainant has thirty-five days to appeal the decision.¹⁵

Next, the substitute altered subsection (j) of Code section 20-2-314 by adding time requirements for an order by the State Board of Education barring postseason interscholastic contests when a school violates the Act.¹⁶ Such an order must be made and announced before the beginning of the school year.¹⁷ The school may then submit a remedial plan, and the Board can reinstate eligibility no later than thirty days before the postseason begins.¹⁸

Finally, the substitute added the requirement that all complaints, inquiries, and requests be in writing.¹⁹ The substitute also changed the bill to require that all high school athletic associations have a policy to notify people that their complaints, requests, or inquiries will not be included in the school's annual compliance report unless the complaint, inquiry, or request is in writing.²⁰

10. *Compare* HB 1308, as introduced, 2000 Ga. Gen. Assem., *with* HB 1308 (HCS), 2000 Ga. Gen. Assem.

11. *Compare* HB 1308, as introduced, 2000 Ga. Gen. Assem., *with* HB 1308 (HCS), 2000 Ga. Gen. Assem.

12. *Compare* HB 1308, as introduced, 2000 Ga. Gen. Assem., *with* HB 1308 (HCS), 2000 Ga. Gen. Assem.

13. *See* HB 1308, as introduced, 2000 Ga. Gen. Assem.

14. *See* HB 1308 (HCS), 2000 Ga. Gen. Assem.

15. *See id.*

16. *Compare* HB 1308, as introduced, 2000 Ga. Gen. Assem., *with* HB 1308 (HCS), 2000 Ga. Gen. Assem.

17. *See* HB 1308 (HCS), 2000 Ga. Gen. Assem.

18. *See id.*

19. *Compare* HB 1308, as introduced, 2000 Ga. Gen. Assem., *with* HB 1308 (HCS), 2000 Ga. Gen. Assem.

20. *Compare* HB 1308, as introduced, 2000 Ga. Gen. Assem., *with* HB 1308 (HCS), 2000

From House Committee to Passage in the House

After HB 1308 was favorably reported by the House Judiciary Committee, the original proponents of the bill offered a floor substitute on March 6, 2000.²¹ The floor substitute added a new section to the bill to affect the schools' grant funding.²² The floor substitute provided that if schools violate the Act, they will lose funding for construction and operation of athletic facilities.²³ The floor substitute prohibited the Department of Community Affairs under Georgia Code section 50-8-8 from making any grant to a school system that is not in compliance with the requirements of Code section 20-2-314.²⁴ The floor substitute also narrowed the enforcement mechanisms so that penalties are only imposed after problems persist for a period of two years.²⁵ The floor substitute was offered in response to complaints that the enforcement provisions in the bill were both vague and too harsh.²⁶

The House adopted the floor substitute and passed the bill on March 6, 2000.²⁷ Representatives William Clark and Brian Joyce of the 3rd and 1st Districts, respectively, were the only dissenters.²⁸

Ga. Gen. Assem.

21. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

22. Compare HB 1308 (HCS), 2000 Ga. Gen. Assem., with HB 1308 (HFS), 2000 Ga. Gen. Assem.

23. Compare HB 1308 (HCS), 2000 Ga. Gen. Assem., with HB 1308 (HFS), 2000 Ga. Gen. Assem.

24. Compare HB 1308 (HCS), 2000 Ga. Gen. Assem., with HB 1308 (HFS), 2000 Ga. Gen. Assem.

25. Compare HB 1308 (HCS), 2000 Ga. Gen. Assem., with HB 1308 (HFS), 2000 Ga. Gen. Assem.

26. See Ashe Interview, *supra* note 3. While the floor substitute lessened the penalties and modified the period of time before they become effective, Representative Ashe believes that these changes were necessary for the bill to pass the House. See *id.* However, Representative Ashe is confident that the overall goal and intent of the bill was preserved, despite the changes, and that the changes made that goal's realization materialize more quickly. See *id.*

27. See Georgia House of Representatives Voting Record, HB 1308 (Mar. 6, 2000). The vote was 163 to 2. See *id.*

28. See Audio Recording of House Proceedings, Mar. 6, 2000 (remarks by Reps. William Clark and Brian Joyce) <<http://www.ganet.org/services/leg/audio/2000archive.html>>. Representative Joyce's opposition to the bill centered around his fears that the loss of state school funding as a penalty for inequitable sports programs was improper. See Electronic Mail Interview with Rep. Brian Joyce, House District No. 1 (June 6, 2000). Representative Joyce believes that "academics should not take a back seat to athletics,"

Consideration by the Senate

The Senate passed HB 1308 on March 15, 2000, with no changes to the House version.²⁹ Governor Roy Barnes signed HB 1308 into law on April 29, 2000, at a signing ceremony at Marist High School, following a girls' soccer playoff match.³⁰ As Governor Barnes signed the bill into law, he stated that "[t]hese girls put in equal effort, and they deserve equal treatment."³¹ The Act's supporters, including Representative Ashe, hope that the Act's passage will remind Georgia school systems of their obligations under Title IX and promote real change in gender equity in Georgia's schools.³²

The Act

The Act adds two new Code sections, with language that mirrors federal Title IX, to mandate comparable sports and gender equity.³³ The Act creates a remedy for Georgians at the state level rather than only on a national level.³⁴ The Act adds a requirement that the State actively monitor and enforce sports equity issues.³⁵ Further, the law prevents discrepancies in participation levels, funding, facilities, and coaching support in Georgia's public schools.³⁶ The Act provides two enforcement mechanisms for schools that violate the Act. First, the Act prohibits postseason participation in athletic events for schools not complying with the Act.³⁷ Second, the Act amends Code section 50-8-8, relating to the distribution of state grants by the Department of Community Affairs, so that state grant funds are

and he found it unimaginable that a school system would risk shut down for failing to provide dual track programs. *See id.* Other Representatives were concerned with the effects the legislation would have on "small town football" programs; however, those concerns did not materialize in the final House vote. *See Alan Judd, Bill Signed to Level Playing Fields; Barnes' Pen Brings a Measure of Equality for Girls' Sports and Facilities*, Apr. 30, 2000, at 3G.

29. *See Georgia Senate Voting Record*, HB 1308 (Mar. 15, 2000). *Compare* HB 1308 (HFS), 2000 Ga. Gen. Assem., *with* HB 1308, as passed, 2000 Ga. Gen. Assem.

30. *See* 2000 Ga. Laws 1129, § 5, at 1137; Judd, *supra* note 28.

31. Judd, *supra* note 28 (quoting Governor Roy Barnes).

32. *See Ashe Interview*, *supra* note 3.

33. *See* O.C.G.A. §§ 20-2-314, -315 (Supp. 2000); *see also* 20 U.S.C. § 1681.

34. *See Ashe Interview*, *supra* note 3.

35. *See* O.C.G.A. §§ 20-2-314, -315.

36. *See id.* §§ 20-2-314, -315.

37. *See id.* § 20-2-314.

withheld for the construction and operation of athletic facilities in the event that a school does not comply with the Act.³⁸ The primary effect of the Act's addition and amendment to current law is that, as its drafters intended, it creates real enforcement in Georgia for federal Title IX provisions and, by doing so, promotes a "level playing field" for female athletes.³⁹

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38. Compare 1989 Ga. Laws 1317, § 2.1, at 1338 (formerly found at O.C.G.A. § 50-8-8 (1999)), with O.C.G.A. § 50-8-8 (Supp. 2000).

39. See Ashe Interview, *supra* note 3.