

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 361

51st Legislature, 1st Session, 2013

Tracking Number: 190891.1

Short Title: School Athletics Equity Act Delayed Repeal

Sponsor(s): Senator Gay G. Kernan

Analyst: Travis Dulany

Date: February 21, 2013

Bill Summary:

SB 361 repeals the *School Athletics Equity Act* (SAEA) effective July 1, 2016.

Fiscal Impact:

SB 361 makes no appropriation.

Fiscal Issues:

The Public Education Department (PED) bill analysis reports that it takes:

- 20 hours for two PED staff members to collect and submit data required by the SAEA;
- 80 to 120 hours for larger school districts¹ to compile required data and information; and
- 40-80 hours for rural school districts to compile required data and information.

Background:

Federal Law and Regulations

The reporting requirements in the SAEA correspond to federal law and regulations. Applicable to secondary and postsecondary schools alike, the federal Title IX education amendments of 1972 prohibit discrimination on the basis of sex:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance

Although the law does contain a number of exceptions – institutions controlled by religious organizations, social fraternities and sororities, and Boys and Girls State, to name a few – it seeks to ensure, among other things, that girls’ athletic programs are treated equitably with boys’ programs.

¹ PED notes that these larger districts include Albuquerque Public, Clovis Municipal, Farmington Municipal, Las Cruces Public, Roswell Independent, Santa Fe Public, Rio Rancho Public, and Los Lunas school districts.

The federal regulations make these requirements and expectations more explicit. To illustrate, the regulations require:

- each recipient of federal funds (which includes public schools) to perform a self-evaluation of policies and practices and to modify any that seem out of compliance with law or regulation;
- every application for federal funds to be accompanied by an assurance that the educational program or activity operated by the applicant or recipient is operated in compliance with law and regulation;
- each recipient to designate at least one employee to coordinate its efforts toward compliance; and
- each recipient to consider a number of factors in determining whether the programs are in compliance, factors that are reflected in the New Mexico SAEA.

State Law

The SAEA requires that each public school that has an athletics program for grades 7 through 12 “operate its program in a manner that does not discriminate against students or staff on the basis of gender.” The act prescribes two phases of reporting requirements.

- In the first phase, with a deadline of August 31, 2011, the law requires PED to collect, and schools to report, the following data²:
 - total school enrollment;
 - student enrollment by gender;
 - total number of students participating in athletics;
 - athletics participation by gender;
 - the number of boys’ teams and girls’ teams by sport and by competition level;
 - the name and gender of each public school’s athletic director;
 - the name, gender, job title, and employment status of each team’s coach and other team personnel;
 - the coach-to-athlete and staff-to-athlete ratio for each team; and
 - the stipend or other compensation paid to coaches of boys’ teams and of girls’ teams.
- In the second phase, with a deadline of August 31, 2012, the law requires PED to collect, and schools to report, the following data:
 - an account of the funding sources, including booster clubs, concessions, gate receipts and cash or in-kind donations, and the teams to which those funds are allocated;
 - any capital outlay expenditures for each school’s athletic programs;
 - the expenditures for each program;
 - the expenditures for individual teams, including such items as travel, meals, lodging, equipment, banquets, publicity, and insurance;
 - replacement schedules for equipment, uniforms, and supplies;
 - practice and game schedules;
 - access to locker rooms, weight rooms, and other facilities; and
 - assistance in obtaining scholarships.

² Legislative Education Study Committee-endorsed legislation enacted in 2012 eliminated certain reporting requirements for school athletics programs in grades 7 and 8 and clarified other reporting requirements, further discussed on following page.

Among its other provisions, the act:

- requires each public school to:
 - make its data available to the public;
 - maintain its data and related materials for at least three years; and
 - submit an assurance of compliance with Title IX to its local school board or governing body, with a copy to PED; and
- requires PED to:
 - publish each school's data, as well as a list of schools that did not submit fully completed data; and
 - beginning December 1, 2011, report annually to the Legislature and the Governor, including "recommendations on how to increase gender equity in athletics in public schools."

During the October 2011 meeting of the Legislative Education Study Committee (LESC), the committee heard a presentation by staff and representatives of the New Mexico Activities Association (NMAA) and the Southwest Women's Law Center (SWLC) about the reporting requirements in the SAEA. In response to this presentation, committee members expressed concerns about the extensive nature of the requirements and the challenges that school officials have faced in complying with those requirements. To address these concerns, the Chair requested that a work group be formed to examine the requirements and suggest amendments to the act, as needed.

As a result of the work group's recommendations, LESC-endorsed legislation enacted in 2012 amended the SAEA to reduce the reporting requirements related to athletic programs offered by public schools in grades 7 to 12. The major amendments:

- require data to be reported by program – that is, boys' basketball and girls' basketball – rather than by team – that is, boys' varsity basketball, boys' junior varsity basketball, and boys' C team basketball;
- focus the reporting requirements on specific athletic program staff, like coaches and athletic directors, rather than on program personnel in general; and
- eliminate the fiscal reporting requirements for grades 7 and 8.

Committee Referrals:

SEC/SJC

Related Bills:

None as of February 21, 2013.