

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 467 (Boerner Horvath) – As Introduced February 11, 2019

SUBJECT: Competitions on state property: prize compensation: gender equity.

SUMMARY: Would require any competitive event on specified state property which provides prize compensation, as defined, in gendered categories to award identical prizes in each category. Specifically, **this bill:**

- 1) Subjects the Department of Fish and Game, Department of Parks and Recreation, State Lands Commission and California Coastal Commission to the following requirement:

That for an event on state owned property, as provided, which awards prize compensation to competitors in gendered categories, the responsible state authorities shall require as a condition of issuing an event permit that the prize compensation for each gendered category be identical at each participant level, as specified.

- 2) Further states that the specified state authorities shall not approve a permit for an event that does not comply with this condition.

- 3) Contains the following definitions:

- a. “Event” means a competition event on lands managed by the department.
- b. “Prize compensation” includes prize or purse money, other prizes, goods, or other compensation.

EXISTING LAW:

- 1) Allows the Department of Fish and Wildlife to issue a permit, subject to Fish and Game Commission regulations, authorizing a person to offer a prize or other inducement as a reward for the taking of a game fish if it makes a specified finding. Fish and Game Code, Section 2003.
- 2) Provides that the Department of Parks and Recreation oversees the state park system, including regulations requiring any game or recreational activity occurring within or on any property owned, operated or administered by the department, to be subject to a special event permit, as defined. Public Resource Code Section 5001.3
- 3) Authorizes the State Lands Commission to lease state lands under the jurisdiction of the commission for purposes as the commission deems advisable, including, but not limited to, grazing leases and leases for commercial, industrial, and recreational purposes. Public Resource Code Section 6504.

- 4) Establishes the California Coastal Act of 1976 and California Coastal Commission and requires the commission to implement and administer a coastal development permit process within the coastal zone, as defined. Public Resource Code Section 30615.

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Author's statement and support.* According to the author, "AB 467 is a simple bill that addresses a problem with a long history. It would take the precedent set by 2018 California Coastal Commission and State Lands Commission, requiring equal prize compensation for all athletes regardless of gender as a condition for approving a lease or permit request for any event held on state property. The bill would also require that the lease or permit requested be declined unless that competition affirms its equal pay prizes for both men and women at each participant level.

"The bill is a result of the tireless advocacy of women athletes that have been fighting to end gender pay inequities for decades in their workplace; and the intention of this bill is to affirm to future generations of women athletes that the state of California values their skills equal to those of their male counterparts."

In support of this measure, the Longboard Girls Crew, writes to say, "The sports world has historically engaged in the practice of paying women markedly less than men. Across the sport sectors, pay disparities exist. For example, professional female basketball players earn on average 1.6 percent of their male counterparts. In 2016, the national women's soccer team took a stand on equal pay, filing a complaint against U.S. Soccer for wage discrimination. Paid on average 40 percent less than male counterparts, the women's teams ranked first in the nation in 2014 and won \$2 million dollars, while the men's team, knocked out in the first round of the 2014 World Cup, earned \$9 million. It has become increasingly apparent that there is more work to be done to ensure pay equity for men and women athletes. When men and women compete at the same level and, in some cases, women outperform their male counterparts, pay disparities are not justified."

- 2) *Background: The Mavericks go coed.* According to information provided by the author, "In 2016, the California Coastal Commission considered a Coastal Development Permit for a men-only surf event at Mavericks Beach in Half Moon Bay. The Mavericks Challenge in Half Moon Bay is a professional surfing contest owned by the World Surf League (WSL), the international sports league for professional surfing. By 2018, at the urging of the Committee for Equity in Women's Surfing, the California Coastal Commission added a special condition to the permit for the event to require a women's division with a comparable format and prize purse to the men's division.

"The State Lands Commission, within its authority as the land manager for the public trust lands that include Mavericks Beach, preemptively ruled that it would only lease the public beach for the Mavericks competition if equal prize compensation was guaranteed to both the Men's and Women's divisions. In their ruling, the State Lands Commission stated that it 'believes it is the best interest of the state to require the event to implement certain measures to promote equity by requiring that the amount of compensation awarded to any participants does not depend on gender.'

“WSL resubmitted their event application for a Coastal Development Permit to the Coastal Commission and a lease application to the State Lands Commission for consideration in the 2018 October meetings of both agencies. Both applications received approval because the Mavericks Challenge surf event included a division for women and equal pay for all competitors regardless of gender.”

- 3) *Advocates urge further issues for consideration: equality, inclusion and equal access.* In addition to the bill’s supporters, the Committee also heard from the San Mateo Harbor District, and their President Sabrina Brennan. Ms. Brennan is the Co-Founder of the Committee for Equity in Women’s Surfing, the person and organization responsible for bringing the Mavericks and World Surf League into gender pay equity. “Starting in 2015, I advocated for the inclusion of gendered categories (a women’s division and men’s division) at the Mavericks comp. In 2016, I co-founded the Committee for Equity in Women’s Surfing and our attorney Karen Tynan made it clear to the Coastal Commission staff and board that gender-based discrimination at Mavericks was out of step with the Unruh Civil Rights Act. This helped us win unanimous support for a men’s and women’s division from the Coastal Commission and later we won pay parity with unanimous support from the State Lands Commission.”

While she lauds the author and supports the concept of gender pay equity where there are competitions with gendered categories, she and others are concerned that the bill does not go far enough, and states that, “I’m struggling to figure out how best to support AB 467. The bill does not appear to require inclusion of gendered categories in sport. How would the bill require pay parity in a men’s only OR a women’s only competition? In the case of a comp (sic) with gendered categories is there a way to provide state oversight to protect athletes from gender-based discrimination and ensure that gendered categories are fair, balanced and equitable?” She points out that some professional competitions pay men and women equally but offer female athletes significantly less opportunities than male athletes”, and offers the Amgen Tour of California as an example of pay parity for days on the bike, but men ride 6 days while women only ride 3. She concludes by saying, “Women pro athletes are concerned about the lack of inclusion and equality in pro sport. We are concerned that this chronic problem could become worse (and in addition to the issues addressed in AB 467) believe that equality, inclusion and equal access are also necessary to build a strong foundation for pay parity.”

The Committee notes that California law has long afforded its residents with broad protection against unreasonable, arbitrary, or invidious discrimination based on personal characteristics such as gender. Enacted in 1958, the **Unruh Civil Rights Act** (Unruh Act) is a cornerstone of antidiscrimination law in California that prohibits business establishments from denying equal accommodations and services on the basis of sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status. Yet, the true scope of Unruh Act is even broader. The Unruh Act has been consistently interpreted to cover *all* arbitrary and intentional discrimination. (See *In re Cox* (1970) 3 Cal.3d 205, 212.)

- 4) *Committee suggestion:* The Author may wish to consider adding to the bill's provisions to include event permits issued by the Department of Transportation and their jurisdiction over state roadways where running, cycling and motor vehicle races have gendered prize categories.

REGISTERED SUPPORT / OPPOSITION:

Support

California Employment Lawyers Association
Groundswell Community Project
Growing Hope Gardens
Hollywood Now
Longboard Girls Crew
M.S. Domingo Law Group
Pacifica Therapeutic Massage & Wellness
Sea Together Magazine
Skate Like a Girl
The Wahine Project
Women's Pro Surfing
3 Individuals

Opposition

There is no opposition on file.

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