

LEGISLATIVE BILL 397

Approved by the Governor February 1, 1990

Introduced by Chambers, 11; Dierks, 40; Lindsay, 9

AN ACT relating to athletics; to adopt the Nebraska Collegiate Athletic Association Procedures Act.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Collegiate Athletic Association Procedures Act.

Sec. 2. The Legislature hereby finds and declares that:

(1) The National Collegiate Athletic Association is a national unincorporated association consisting of public and private colleges and universities and is a private monopolist that controls intercollegiate athletics throughout the United States;

(2) The National Collegiate Athletic Association adopts rules governing member institutions' admissions, academic eligibility, and financial aid standards for collegiate athletes;

(3) A member must agree contractually to administer its athletic program in accordance with National Collegiate Athletic Association legislation;

(4) National Collegiate Athletic Association rules provide that association enforcement procedures are an essential part of the intercollegiate athletic program of each member institution;

(5) The National Collegiate Athletic Association exercises great power over member institutions by virtue of its monopolistic control of intercollegiate athletics and its power to prevent a nonconforming institution from competing in intercollegiate athletic events or contests;

(6) Substantial monetary loss, serious disruption of athletic programs, and significant damage to reputation may result from the imposition of penalties on a college or university by the National Collegiate Athletic Association for what the association determines to be a violation of its rules; and

(7) Because of such potentially serious and far reaching consequences, all proceedings which may result in the imposition of any penalty by the National Collegiate Athletic Association should be subject to the

requirements of due process of law.

Sec. 3. Every stage and facet of all proceedings of a collegiate athletic association, college, or university that may result in the imposition of a penalty for violation of such association's rule or legislation shall comply with due process of law as guaranteed by the Constitution of Nebraska and the laws of Nebraska.

Sec. 4. No collegiate athletic association shall impose a penalty on any college or university for violation of such association's rule or legislation in violation of the due process requirements of the Nebraska Collegiate Athletic Association Procedures Act.

Sec. 5. No collegiate athletic association shall impose a penalty on any college or university for failure to take disciplinary action against an employee or student for violation of such association's rule or legislation in violation of the due process requirements of the Nebraska Collegiate Athletic Association Procedures Act.

Sec. 6. A collegiate athletic association that violates the Nebraska Collegiate Athletic Association Procedures Act shall be liable to the aggrieved college or university in an action at law, suit in equity, or other proper proceeding for redress. No penalty shall be threatened against or imposed upon an aggrieved college or university for seeking redress pursuant to this section.

Sec. 7. In addition to costs and a reasonable attorney's fee, a collegiate athletic association that violates the Nebraska Collegiate Athletic Association Procedures Act shall be liable to the aggrieved college or university for an amount equal to one hundred percent of the monetary loss per year or portion of a year suffered during the period that any monetary loss occurs due to a penalty imposed in violation of the act. For purposes of calculating monetary loss, one hundred percent of the yearly loss shall be equal to the gross amount realized by the affected athletic program during the immediately preceding calendar year.

Sec. 8. A collegiate athletic association, college, or university which subjects, or causes to be subjected, any employee or student to a penalty in violation of the Nebraska Collegiate Athletic Association Procedures Act shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. No penalty shall be threatened against or imposed upon an aggrieved party for seeking redress pursuant to this section. In

addition to any other relief granted, an aggrieved employee or student shall be awarded costs and a reasonable attorney's fee.

Sec. 9. Any penalty imposed by any collegiate athletic association, college, or university shall be subject to judicial review in the district court.

Sec. 10. The remedies provided in the Nebraska Collegiate Athletic Association Procedures Act are cumulative and in addition to any other remedies provided by law.