

SENATE JOINT RESOLUTION N

November 13, 1997, Introduced by Senator BULLARD and referred to the Committee on Government Operations.

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 2 of article I, section 29 of article V, section 2 of article VIII, and section 5 of article XI and adding sections 25 and 26 to article I, to prohibit discrimination based on sex or ethnicity and to prohibit the state, a political subdivision of the state, an institution of higher education funded wholly or partially by the state, or an employer receiving a state grant, tax abatement, or tax subsidy from using religion, race, sex, color, ethnicity, or national origin as a criterion for either discriminating against, or granting preferential treatment to, an individual or group in employment, public education, or public contracting.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to prohibit discrimination based on sex or

ethnicity and to prohibit the state, a political subdivision of the state, an institution of higher education funded wholly or partially by the state, or an employer receiving a state grant, tax abatement, or tax subsidy from using religion, race, sex, color, ethnicity, or national origin as a criterion for either discriminating against, or granting preferential treatment to, an individual or group in employment, public education, or public contracting, is proposed, agreed to, and submitted to the people of the state:

ARTICLE I

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, SEX, color, ETHNICITY, or national origin. The legislature shall implement this section by appropriate legislation.

SEC. 25. TO THE EXTENT PERMITTED BY FEDERAL LAW, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INSTITUTION OF HIGHER EDUCATION FUNDED WHOLLY OR PARTIALLY BY THE STATE SHALL NOT USE RELIGION, RACE, SEX, COLOR, ETHNICITY, OR NATIONAL ORIGIN AS A CRITERION FOR EITHER DISCRIMINATING AGAINST, OR GRANTING PREFERENTIAL TREATMENT TO, ONE OR MORE INDIVIDUALS IN EMPLOYMENT, EDUCATION, OR PUBLIC CONTRACTING. REASONABLE ATTORNEY FEES MAY BE AWARDED TO AN INDIVIDUAL OR GROUP OF INDIVIDUALS INJURED BY A VIOLATION OF THIS SECTION. THIS SECTION DOES NOT INVALIDATE A COURT ORDER OR CONSENT DECREE THAT IS IN EFFECT ON THE EFFECTIVE

1 DATE OF THIS SECTION. ADDITIONALLY, THIS SECTION DOES NOT
2 PROHIBIT ANY OF THE FOLLOWING:

3 (A) CLASSIFICATIONS BASED ON SEX THAT ARE REASONABLY NECES-
4 SARY FOR THE ORDINARY OPERATION OF A SYSTEM OF PUBLIC EMPLOYMENT,
5 PUBLIC EDUCATION, OR PUBLIC CONTRACTING.

6 (B) STATE ACTION REQUIRED TO ESTABLISH OR MAINTAIN ELIGIBIL-
7 ITY FOR FEDERAL FUNDS.

8 (C) ASSISTANCE TO AN INDIVIDUAL BECAUSE OF THAT INDIVIDUAL'S
9 ECONOMIC STATUS OR OTHER CONDITION UNRELATED TO THE INDIVIDUAL'S
10 RELIGION, RACE, SEX, COLOR, ETHNICITY, OR NATIONAL ORIGIN.

11 (D) A PREFERENCE IN EMPLOYMENT OR PUBLIC CONTRACTING THAT IS
12 BASED UPON AN INDIVIDUAL'S RESIDENCY AND MADE BY A COUNTY, CITY,
13 VILLAGE, TOWNSHIP, SCHOOL DISTRICT, AUTHORITY, OR ANY OTHER
14 POLITICAL SUBDIVISION ORGANIZED UNDER THE LAWS OF THIS STATE.

15 (E) A PREFERENCE, MADE BY AN INSTITUTION OF HIGHER EDUCATION
16 FUNDED WHOLLY OR PARTIALLY BY THE STATE TO PROMOTE A DIVERSE STU-
17 DENT BODY, IF THAT PREFERENCE IS BASED ON AN INDIVIDUAL'S ACADEM-
18 IC, MUSICAL, OR ARTISTIC SKILLS, ATHLETIC ABILITY, ECONOMIC OR
19 SOCIAL BACKGROUND, RELATIONSHIP TO THE INSTITUTION'S ALUMNI, OR
20 RESIDENCY, AND NOT BASED UPON THE INDIVIDUAL'S RELIGION, RACE,
21 SEX, COLOR, ETHNICITY, OR NATIONAL ORIGIN.

22 SEC. 26. IF ANY PART OF SECTION 25 OF THIS ARTICLE IS HELD
23 TO BE INVALID OR UNCONSTITUTIONAL, THE REMAINING PART OR PARTS OF
24 THE SECTION SHALL NOT BE AFFECTED AND SHALL REMAIN IN FULL FORCE
25 AND EFFECT.

ARTICLE V

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2 Sec. 29. There is hereby established a civil rights commis-
3 sion which shall consist of eight persons, not more than four of
4 whom shall be members of the same political party, who shall be
5 appointed by the governor, by and with the advice and consent of
6 the senate, for four-year terms not more than two of which shall
7 expire in the same year. It shall be the duty of the commission
8 in a manner which may be prescribed by law to investigate alleged
9 discrimination against any person because of religion, race, SEX,
10 color, ETHNICITY, or national origin in the enjoyment of the
11 civil rights guaranteed by law and by this constitution, and to
12 secure the equal protection of such civil rights without such
13 discrimination. The legislature shall provide an annual appro-
14 priation for the effective operation of the commission.

15 The commission shall have power, in accordance with the pro-
16 visions of this constitution and of general laws governing admin-
17 istrative agencies, to promulgate rules and regulations for its
18 own procedures, to hold hearings, administer oaths, through court
19 authorization to require the attendance of witnesses and the sub-
20 mission of records, to take testimony, and to issue appropriate
21 orders. The commission shall have other powers provided by law
22 to carry out its purposes. Nothing contained in this section
23 shall be construed to diminish the right of any party to direct
24 and immediate legal or equitable remedies in the courts of this
25 state.

26 Appeals from final orders of the commission, including cease
27 and desist orders and refusals to issue complaints, shall be

1 tried de novo before the circuit court having jurisdiction
2 provided by law.

3 ARTICLE VIII

4 Sec. 2. The legislature shall maintain and support a system
5 of free public elementary and secondary schools as defined by
6 law. Every school district shall provide for the education of
7 its pupils without discrimination as to religion, creed, race,
8 SEX, color, ETHNICITY, or national origin.

9 No public monies or property shall be appropriated or paid
10 or any public credit utilized, by the legislature or any other
11 political subdivision or agency of the state directly or indi-
12 rectly to aid or maintain any private, denominational or other
13 nonpublic, pre-elementary, elementary, or secondary school. No
14 payment, credit, tax benefit, exemption or deductions, tuition
15 voucher, subsidy, grant or loan of public monies or property
16 shall be provided, directly or indirectly, to support the
17 attendance of any student or the employment of any person at any
18 such nonpublic school or at any location or institution where
19 instruction is offered in whole or in part to such nonpublic
20 school students. The legislature may provide for the transporta-
21 tion of students to and from any school.

22 ARTICLE XI

23 Sec. 5. The classified state civil service shall consist of
24 all positions in the state service except those filled by popular
25 election, heads of principal departments, members of boards and
26 commissions, the principal executive officer of boards and
27 commissions heading principal departments, employees of courts of

1 record, employees of the legislature, employees of the state
2 institutions of higher education, all persons in the armed forces
3 of the state, eight exempt positions in the office of the gover-
4 nor, and within each principal department, when requested by the
5 department head, two other exempt positions, one of which shall
6 be policy-making. The civil service commission may exempt three
7 additional positions of a policy-making nature within each prin-
8 cipal department.

9 The civil service commission shall be non-salaried and shall
10 consist of four persons, not more than two of whom shall be mem-
11 bers of the same political party, appointed by the governor for
12 terms of eight years, no two of which shall expire in the same
13 year.

14 The administration of the commission's powers shall be
15 vested in a state personnel director who shall be a member of the
16 classified service and who shall be responsible to and selected
17 by the commission after open competitive examination.

18 The commission shall classify all positions in the classi-
19 fied service according to their respective duties and responsi-
20 bilities, fix rates of compensation for all classes of positions,
21 approve or disapprove disbursements for all personal services,
22 determine by competitive examination and performance exclusively
23 on the basis of merit, efficiency and fitness the qualifications
24 of all candidates for positions in the classified service, make
25 rules and regulations covering all personnel transactions, and
26 regulate all conditions of employment in the classified service.

1 State Police Troopers and Sergeants shall, through their
2 elected representative designated by 50% of such troopers and
3 sergeants, have the right to bargain collectively with their
4 employer concerning conditions of their employment, compensation,
5 hours, working conditions, retirement, pensions, and other
6 aspects of employment except promotions which will be determined
7 by competitive examination and performance on the basis of merit,
8 efficiency and fitness; and they shall have the right 30 days
9 after commencement of such bargaining to submit any unresolved
10 disputes to binding arbitration for the resolution thereof the
11 same as now provided by law for Public Police and Fire
12 Departments.

13 No person shall be appointed to or promoted in the classi-
14 fied service who has not been certified by the commission as
15 qualified for such appointment or promotion. No appointments,
16 promotions, demotions or removals in the classified service shall
17 be made ~~for religious, racial or partisan considerations~~ ON THE
18 BASIS OF AN INDIVIDUAL'S RELIGION, RACE, SEX, COLOR, ETHNICITY,
19 NATIONAL ORIGIN, OR POLITICAL AFFILIATION.

20 Increases in rates of compensation authorized by the commis-
21 sion may be effective only at the start of a fiscal year and
22 shall require prior notice to the governor, who shall transmit
23 such increases to the legislature as part of his budget. The
24 legislature may, by a majority vote of the members elected to and
25 serving in each house, waive the notice and permit increases in
26 rates of compensation to be effective at a time other than the
27 start of a fiscal year. Within 60 calendar days following such

1 transmission, the legislature may, by a two-thirds vote of the
2 members elected to and serving in each house, reject or reduce
3 increases in rates of compensation authorized by the commission.
4 Any reduction ordered by the legislature shall apply uniformly to
5 all classes of employees affected by the increases and shall not
6 adjust pay differentials already established by the civil service
7 commission. The legislature may not reduce rates of compensation
8 below those in effect at the time of the transmission of
9 increases authorized by the commission.

10 The appointing authorities may create or abolish positions
11 for reasons of administrative efficiency without the approval of
12 the commission. Positions shall not be created nor abolished
13 except for reasons of administrative efficiency. Any employee
14 considering himself aggrieved by the abolition or creation of a
15 position shall have a right of appeal to the commission through
16 established grievance procedures.

17 The civil service commission shall recommend to the governor
18 and to the legislature rates of compensation for all appointed
19 positions within the executive department not a part of the clas-
20 sified service.

21 To enable the commission to exercise its powers, the legis-
22 lature shall appropriate to the commission for the ensuing fiscal
23 year a sum not less than one percent of the aggregate payroll of
24 the classified service for the preceding fiscal year, as certi-
25 fied by the commission. Within six months after the conclusion
26 of each fiscal year the commission shall return to the state
27 treasury all moneys unexpended for that fiscal year.

1 The commission shall furnish reports of expenditures, at
2 least annually, to the governor and the legislature and shall be
3 subject to annual audit as provided by law.

4 No payment for personal services shall be made or authorized
5 until the provisions of this constitution pertaining to civil
6 service have been complied with in every particular. Violation
7 of any of the provisions hereof may be restrained or observance
8 compelled by injunctive or mandamus proceedings brought by any
9 citizen of the state.

10 Resolved further, That the foregoing amendment shall be sub-
11 mitted to the people of the state at the next general election in
12 the manner provided by law.