



WISCONSIN LEGISLATIVE COUNCIL

AFFIRMATIVE ACTION

Room 412 East
State Capitol

December 19, 2006
6:30 p.m. - 10:00 p.m.

[The following is a summary of the December 19, 2006 meeting of the Special Committee on Affirmative Action. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Grothman called the meeting to order. The roll was called and it was determined that a quorum was present. Chair Grothman stated that Representative Fred Kessler was unable to attend the meeting and at his request, Senator Lena Taylor would be attending the meeting in his place.

Chair Grothman welcomed Senator Taylor and committee members Jean Abramowksi, Chi Sather, and Representative Scott Suder, all of whom were not in attendance at the committee's first meeting.

COMMITTEE MEMBERS PRESENT: Sen. Glenn Grothman, Chair; Reps. Tamara Grigsby and Scott Suder; and Public Members Jean Abramowski, Rudy Binter, Raymond Camosy, Jeffrey Dziedzic, Robert Gregg, Fred Mohs, Chi Sather, Vicki Washington, Jeremy Wick, and Noel Williams.

COMMITTEE MEMBERS EXCUSED: Reps. Fred Kessler and Ann Nischke; and Public Members Charles Coleman, Kamal Shah, and Kate Wagner.

COUNCIL STAFF PRESENT: Mary Matthias, Senior Staff Attorney; and Scott Grosz, Staff Attorney.

APPEARANCES: Mayor Dave Cieslewicz, and Lucia Nunez, Director, Department of Civil Rights, City of Madison; and Ward Connerly, Chairman, American Civil Rights Institute.

Approval of the Minutes of the October 4, 2006 Meeting

Vicki Washington stated that in her opinion, the minutes of the committee's first meeting do not adequately recount some of the committee discussion. Ms. Matthias suggested that she submit, in writing, the information she would like to have added to the minutes for the Committee's consideration at its next meeting.

For the benefit of the audience, Chair Grothman briefly explained the purpose of Legislative Council Study Committees. He explained that if the committee develops legislation that is introduced by the Joint Legislative Council, there will be an opportunity for public testimony on the legislation in the standing committees of the Legislature.

Senator Taylor and Ms. Washington asked whether the committee would be hearing from a speaker providing testimony in favor of affirmative action who is of similar stature to Mr. Connerly. Senator Taylor suggested that the NAACP be invited to address the committee. Ms. Washington said she had submitted names of several people who would be appropriate speakers to serve as a counterpoint to Mr. Connerly. She asked that the list of those names be distributed to the committee.

Senator Taylor expressed her dismay that the meeting was not held in Milwaukee and urged Chair Grothman to hold a subsequent meeting of the committee in Milwaukee.

Invited Speakers

Dave Cieslewicz, Mayor, City of Madison

Mayor Cieslewicz provided a brief history of the recruitment, hiring and advancement policies of the city and explained the benefit the city receives from having a diverse workforce. He said the city strives to reduce artificial barriers in the hiring process that may limit the applicant pool. He discussed the impact of state and federal laws on the city's activities. He stated that the city has a duty to ensure that all members of society have a fair and equal opportunity to benefit from the city's actions. Mayor Cieslewicz provided a written copy of his testimony to the committee.

In response to questions, the Mayor stated that the city has a population that is 20% people of color. He said it is the city's goal to have the workforce of every city department reflect the make up of the general population.

Lucia Nunez, Director, Department of Civil Rights, City of Madison

Ms. Nunez provided a detailed explanation of the principles of affirmative action and the outreach programs offered by the city. She stressed that federal, state, and local laws regarding equal employment are interconnected and that they cannot be analyzed in isolation from one another. She also stated that the success of federal programs depends greatly on the quality of the local delivery of those programs.

Ms. Nunez described the four programs that support the mission of the Affirmative Action Division of the Department of Civil Rights: Wage Compliance Programs, Labor Compliance Programs, Targeted Business Compliance Programs, and the Affirmative Action Program. Ms. Nunez provided a written copy of her testimony to the committee.

In response to questions, Ms. Nunez discussed how the city determines the hiring goals for each position. Mayor Cieslewicz added that diversity in the workforce is good for the economy. Ms. Nunez stated that a key component to the city's strategy is to expand the number of people recruited for job openings so that more people have an opportunity for a job and so there is a larger pool of applicants from which to fill jobs.

Ward Connerly, Chairman, American Civil Rights Institute

Mr. Connerly acknowledged that there is no issue more contentious in America than race. He stated that the country is going through a difficult period in race relations and stated that the process is as important as the conclusion that is reached. He said it is important that people on all sides of the issue respect one another. He said that at least 50% of Americans believe it is wrong to use race as a factor in governmental decision-making and that it is important to listen to one another.

Mr. Connerly said his main premise is that the use of race by the government is wrong. He said he agrees with many of the policies used by the City of Madison as described by the previous speakers, but opposes treating people differently because of their race. For university admissions, he said he favors "comprehensive review," in which socioeconomic factors other than test scores and GPA are considered, such as the quality of the high school attended, whether advanced placement courses were offered at the applicant's high school, the applicant's leadership qualities, whether the applicant had to overcome obstacles, whether the applicants parents went to college, and the applicant's family income level. He said that although these nonacademic factors are relevant, a university is an academic institution and therefore academic standards should be paramount in admission decisions.

Mr. Connerly said that ever since the *Bakke* decision in 1978, it has been clear that the only legitimate rationale for using race as a factor in university admissions is to foster diversity. He said that in, the *Bakke* decision, Justice O'Connor said that race should be used in the college admissions process for only another 25 years. Therefore, he said, it is crucial that we find other sustainable ways to foster diversity.

Mr. Connerly said that in early December the U.S. Supreme Court heard arguments in a case regarding the use of race in the K-12 public education context. He said that due to recent personnel changes at the Supreme Court, it is possible that the court might prohibit the use of race as a factor in college admissions. He said that in any event, it is a long-term reality that at some point the court will prohibit the use of race in college admissions. When that occurs it is crucial that race neutral methods be in place that will ensure that minorities have access to higher education.

In response to a question from Chair Grothman, Mr. Connerly described his experience as a University of California Regent and his involvement with Proposition 209 in California. Proposition 209 amended the California Constitution to provide that the state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

Mr. Connerly said that a result of Proposition 209, the number of underrepresented minorities at the "elite" schools in California - Berkeley and UCLA - dropped. However there were more underrepresented minorities in the University of California system as a whole and retention and graduation rates throughout the system for underrepresented minorities improved.

Mr. Connerly stated that blacks are not benefiting from affirmative action as much as many people think they are. He also believes that affirmative action marginalizes black students because people assume they were admitted only because of affirmative action.

In response to a question from Representative Suder, Mr. Connerly said it is more important to remove barriers to advancement for minorities than to grant them special treatment.

Representative Grigsby strongly disagreed with Mr. Connerly's contention that race does not matter in our society. She cited many statistics and factors that she said indicate that race is a factor in every aspect of our society: home ownership rates, poverty rates, teen pregnancy rates, incarceration rates, access to health care, and high school graduation rates. Mr. Connerly replied that he would prefer to get beyond using race and instead focus on helping low-income people or those whose parents do not have a college education. He said efforts should be made to address the underlying problems faced by blacks that result in disparities.

Senator Taylor commented that without affirmative action policies she would not have been admitted to law school. She said that because racism still exists it is appropriate to counter racism with affirmative action policies. Mr. Connerly said he believes it would be better to offer blacks the opportunity to compete without the need for racial preferences by closing the academic achievement gap that currently exists.

Ms. Washington asked why Mr. Connerly believes there is a stigma attached to being the recipient of the benefits of affirmative action. She stated that whites have been the recipients of enormous benefits because of their race and yet they are not stigmatized. She asked how society can make up for 300 years of exclusion of blacks without affirmative action.

Mr. Connerly replied that we cannot make up for those years of exclusion but we can provide mentoring and other assistance to help blacks succeed. Ms. Washington agreed that mentoring is good but asked how long African-Americans should be willing to wait for equity. She said it is a mischaracterization to say that affirmative action is racial preference since 90% of University of Wisconsin students are white.

Mr. Gregg expressed concern that any changes made to affirmative action policies in Wisconsin would also impact policies that provide preferences for veterans. He said that if we eliminate the consideration of race in state hiring then it would not be fair to continue using veterans points. Mr. Gregg also stated that in his opinion it would be irresponsible to eliminate the use of race as a factor in university admissions without first ensuring that other mechanisms are in place to guarantee equal access to education for minorities.

Representative Grigsby noted that Mr. Connerly supports the use of family income level as a factor in university admissions. She asked why he advocates the use of class to address classism but not the use of race to address racism. She asked how society can mitigate the effects of racism without the use of affirmative action. Mr. Connerly responded that the legal rationale for the use of affirmative action is to promote diversity, not to cure societal ills. He said the goal should be to ensure that every African-American child graduates from high school, not to get a few African-American kids into an elite university.

The committee discussed public school integration and the use of race in the collection of government data and statistics.

Senator Taylor stated that she believes that discrimination, not affirmative action, stigmatizes people.

In response to a question from Senator Grothman, Mr. Connerly said he thinks racism is a minor factor in American life and that American society has changed profoundly. He said racism is a distraction and we need to focus on the root problem of why minority kids are not academically competitive. He said if affirmative action is eliminated at the University of Wisconsin, the state will be mobilized to take other action to ensure racial diversity at the University of Wisconsin that it has not taken before.

Other Business

The committee discussed the future course of the committee. Senator Taylor said she would like to be added as a member to the committee and said that more speakers should be allowed to address the committee.

Plans for Future Meetings

The next meeting of the Special Committee will be held at the call of the chair.

Adjournment

The meeting was adjourned at 10:00 p.m.

MM:tlu