

2007 SENATE JOINT RESOLUTION

- 1 *To create* section 19m of article I; **relating to:** discrimination by the state or its political
2 subdivisions (first consideration).

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft proposed constitutional amendment, proposed for the 2007 legislature on first consideration, was prepared for the joint legislative council's special committee on affirmative action.

This proposed constitutional amendment prohibits the state or any political subdivision or governmental instrumentality within the state, from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operations of public employment, public education, or public contracting.

This draft is identical to Proposition 209 adopted in the State of California.

The provisions of the draft apply only to actions taken after the draft's effective date.

The draft states that it may not be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

The draft states that it may not be interpreted as invalidating any court order or consent decree which is in force as of the effective date of the draft or as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

The draft specifies that the remedies available for violations of the draft's provision shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing Wisconsin antidiscrimination laws.

Finally, the draft specifies that if any part or parts of the draft are found to be in conflict with federal law or the U.S. Constitution, the draft's provisions shall be implemented to the maximum extent that federal law and the U.S. Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

A constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

1 Whereas,

2 ***Resolved by the senate, the assembly concurring, That:***

3 **SECTION 1.** Section 19m of article I of the constitution is created to read:

4 [Article I] Section 19m The state may not discriminate against, or grant preferential
5 treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national
6 origin in the operation of public employment, public education, or public contracting.

7 (b) This section shall apply only to action taken after the section's effective date.

8 (c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications
9 based on sex which are reasonably necessary to the normal operation of public employment,
10 public education, or public contracting.

11 (d) Nothing in this section shall be interpreted as invalidating any court order or consent
12 decree which is in force as of the effective date of this section.

13 (e) Nothing in this section shall be interpreted as prohibiting action which must be taken
14 to establish or maintain eligibility for any federal program, where ineligibility would result
15 in a loss of federal funds to the state.

16 (f) For the purposes of this section, "state" shall include, but not necessarily be limited
17 to, the state itself, any city, county, city and county, public university system, including the
18 University of Wisconsin, technical college district, school district, special district, or any other
19 political subdivision or governmental instrumentality of or within the state.

20 (g) The remedies available for violations of this section shall be the same, regardless of
21 the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for
22 violations of then-existing antidiscrimination laws of this state.

1 (h) This section shall be self-executing. If any part or parts of this section are found to
2 be in conflict with federal law or the U.S. Constitution, the section shall be implemented to
3 the maximum extent that federal law and the U.S. Constitution permit. Any provision held
4 invalid shall be severable from the remaining portions of this section.

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(END)