



2023 ASSEMBLY JOINT RESOLUTION 109

January 25, 2024 - Introduced by Representatives MURPHY, ALLEN, BEHNKE, BODDEN, BRANDTJEN, DITTRICH, GOEBEN, GUNDRUM, MAXEY, O'CONNOR, VOS and WICHGERS, cosponsored by Senators NASS, WANGGAARD, CABRAL-GUEVARA and JACQUE. Referred to Committee on Judiciary.

1 **To create** section 27 of article I of the constitution; **relating to:** prohibiting
2 governmental entity discrimination (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2023 legislature on first consideration, prohibits governmental entities in 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 public employment, public education, public contracting, or public administration.

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

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

4 **SECTION 1.** Section 27 of article I of the constitution is created to read:

5 [Article I] Section 27 (1) In this section, “governmental entity” means the state,
6 its political subdivisions including municipalities, the University of Wisconsin
7 System, the Technical College System, any public college or university, any public
8 school district, and any office, department, independent agency, board, commission,
9 authority, institution, association, society, or other body in state or local government

1 created or authorized to be created by the constitution or any law, including the
2 legislature and the courts.

3 (2) A governmental entity may not discriminate against, or grant preferential
4 treatment to, any individual or group on the basis of race, sex, color, ethnicity, or
5 national origin in public employment, public education, public contracting, or public
6 administration.

7 (3) This section does not prohibit action that must be taken to establish or
8 maintain eligibility for any federal program, if ineligibility would result in a loss of
9 federal funds to the governmental entity.

10 (4) Nothing in this section prohibits bona fide qualifications based on sex that
11 are reasonably necessary to the normal operation of public employment, public
12 education, public contracting, or public administration.

13 (5) If any part or parts of this section are found to be in conflict with the United
14 States Constitution or federal law, the section shall be implemented to the maximum
15 extent that the United States Constitution and federal law permit. Any provision
16 of this section held invalid shall be severable from the remaining portions of this
17 section.

18 **SECTION 2. Numbering of new provision.** If another constitutional
19 amendment ratified by the people creates the number of any provision created in this
20 joint resolution, the chief of the legislative reference bureau shall determine the
21 sequencing and the numbering of the provisions whose numbers conflict.

22 ***Be it further resolved, That*** this proposed amendment be referred to the
23 legislature to be chosen at the next general election and that it be published for 3
24 months previous to the time of holding such election.

25

(END)