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SENATE FILE
BY MILLER

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Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to selection criteria for state employment,
2 contracts, and services.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 93
STATE GOVERNMENT

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1 Section 1. Section 8.6, subsection 12, Code 2001, is
2 amended by striking the subsection.

3 Sec. 2. Section 15.102, subsection 4, Code 2001, is
4 amended to read as follows:

5 4. "Small business" or "targeted small business" means any
6 enterprise which is located in this state, which is operated
7 for profit and under a single management, and which has either
8 fewer than twenty employees or an annual gross income of less
9 than three million dollars computed as the average of the
10 three preceding fiscal years. This definition does not apply
11 to any program or activity for which a definition for small
12 business is provided for the program or activity by federal
13 law or regulation or other state law.

14 Sec. 3. Section 15.102, subsection 5, Code 2001, is
15 amended by striking the subsection.

16 Sec. 4. Section 15.247, subsection 1, Code 2001, is
17 amended to read as follows:

18 1. As used in this section, "small business" and "targeted
19 small business" mean the same as defined in section 15.102,
20 ~~subsections 4 and 5.~~

21 Sec. 5. Section 15.264, subsection 7, paragraph a, Code
22 2001, is amended by striking the paragraph.

23 Sec. 6. Section 16.9, subsection 3, Code 2001, is amended
24 by striking the subsection.

25 Sec. 7. Section 16.9, subsection 5, Code 2001, is amended
26 to read as follows:

27 5. The authority may require mortgage lenders who
28 participate in programs financed or otherwise assisted by the
29 authority to take ~~affirmative~~ action to make available
30 mortgage loans in areas with a higher than average
31 concentration of lower-income families ~~or members of racial or~~
32 ~~ethnic minorities.~~

33 Sec. 8. Section 19A.1, subsection 2, paragraph d, Code
34 2001, is amended by striking the paragraph.

35 Sec. 9. Section 19A.1, subsection 3, paragraph c, Code

1 2001, is amended by striking the paragraph.

2 Sec. 10. Section 19B.1, Code 2001, is amended to read as
3 follows:

4 19B.1 DEFINITIONS.

5 As used in this chapter unless the context otherwise
6 requires:

7 ~~1. "Affirmative action" means action appropriate to
8 overcome the effects of past or present practices, policies,
9 or other barriers to equal employment opportunity.~~

10 2. "State state agency" means an office, bureau, division,
11 department, board, or commission in the executive branch of
12 state government.

13 Sec. 11. Section 19B.2, unnumbered paragraph 1, Code 2001,
14 is amended to read as follows:

15 It is the policy of this state to provide equal opportunity
16 in state employment to all persons. An individual shall not
17 be denied equal access to or be granted preferential treatment
18 for state employment opportunities because of race, creed,
19 color, religion, national origin, sex, age, or physical or
20 mental disability. ~~It also is the policy of this state to
21 apply affirmative action measures to correct deficiencies in
22 the state employment system where those remedies are
23 appropriate.~~ This policy shall be construed broadly to
24 effectuate its purposes.

25 Sec. 12. Section 19B.3, Code 2001, is amended to read as
26 follows:

27 19B.3 ADMINISTRATIVE RESPONSIBILITIES OF DEPARTMENT OF
28 PERSONNEL AND BOARD OF REGENTS.

29 1. The department of personnel is responsible for the
30 administration and promotion of equal opportunity and
31 ~~affirmative action~~ efforts in the recruitment, appointment,
32 assignment, and advancement of personnel by all state agencies
33 except the state board of regents and the institutions under
34 its jurisdiction. In carrying out this responsibility the
35 department shall do all of the following with respect to state

1 agencies other than the state board of regents and its
2 institutions:

3 a:--Designate-a-position-as-the-state-affirmative-action
4 administrator:

5 b:--Propose-affirmative-action-standards-applicable-to-each
6 state-agency-based-on-the-population-of-the-community-in-which
7 the-agency-functions, the-population-served-by-the-agency, or
8 the-persons-that-can-be-reasonably-recruited:

9 c:--Gather-data-necessary-to-maintain-an-ongoing-assessment
10 of-affirmative-action-efforts-in-state-agencies:

11 d:--Monitor-accomplishments-with-respect-to-affirmative
12 action-remedies-identified-in-affirmative-action-plans-of
13 state-agencies:

14 e: a. Conduct studies of preemployment and postemployment
15 processes in order to evaluate employment practices and
16 develop improved methods of dealing with all employment issues
17 related to equal employment opportunity and-affirmative
18 action.

19 f:--Establish-a-state-recruitment-coordinating-committee-to
20 assist-in-addressing-affirmative-action-recruitment-needs,
21 with-members-appointed-by-the-director-of-the-department-of
22 personnel:

23 g: b. Address equal opportunity and-affirmative-action
24 training needs of all state agencies by:

25 (1) Providing appropriate training for managers and
26 supervisors.

27 (2) Insuring that all state agencies make training
28 available for all staff members whose duties relate to
29 personnel administration.

30 (3) Investigating means for training in the area of career
31 development.

32 h: c. Coordinate and develop equal employment opportunity
33 reports, including the initiation of the processes necessary
34 for the completion of the annual EEO-4 report as required by
35 the federal equal-employment-opportunity-commission law.

1 ~~i. Address equal opportunity and affirmative action~~
2 ~~policies with respect to employee benefits and leaves of~~
3 ~~absence.~~

4 ~~j. Adopt equal employment opportunity and affirmative~~
5 ~~action rules in accordance with chapter 17A.~~

6 2. The state board of regents is responsible for the
7 administration and promotion of equal opportunity and
8 affirmative action efforts in the recruitment, appointment,
9 assignment, and advancement of personnel by the board and the
10 institutions under its jurisdiction. In carrying out this
11 responsibility the board shall do all of the following with
12 respect to the board and its institutions:

13 ~~a. Designate a position as the regents' affirmative action~~
14 ~~coordinator.~~

15 ~~b. Propose affirmative action standards applicable to the~~
16 ~~board and each institution under its jurisdiction.~~

17 ~~c. Gather data necessary to maintain an ongoing assessment~~
18 ~~of affirmative action efforts.~~

19 ~~d. Monitor accomplishments with respect to affirmative~~
20 ~~action remedies identified in affirmative action plans.~~

21 e. a. Conduct studies of preemployment and postemployment
22 processes in order to evaluate employment practices and
23 develop improved methods of dealing with all employment issues
24 related to equal employment opportunity and affirmative
25 action.

26 ~~f. Establish an equal employment committee to assist in~~
27 ~~addressing affirmative action needs, including recruitment.~~

28 g. b. Address equal opportunity and affirmative action
29 training needs by:

30 (1) Providing appropriate training for managers and
31 supervisors.

32 (2) Insuring that the board and its institutions make
33 training available for all staff members whose duties relate
34 to personnel administration.

35 (3) Investigating means for training in the area of career

1 development.

2 h: c. Require development of equal employment opportunity
3 reports, ~~including the initiation of the processes necessary~~
4 ~~for the completion of reports~~ as required by the federal equal
5 ~~employment opportunity commission~~ law.

6 i: ~~Address equal opportunity and affirmative action~~
7 ~~policies with respect to employee benefits and leaves of~~
8 ~~absence.~~

9 j: ~~Adopt equal employment opportunity and affirmative~~
10 ~~action rules in accordance with chapter 17A.~~

11 Sec. 13. Section 19B.6, Code 2001, is amended to read as
12 follows:

13 19B.6 RESPONSIBILITIES OF DEPARTMENT OF MANAGEMENT --
14 ~~AFFIRMATIVE ACTION.~~

15 The department of management shall oversee the
16 implementation of sections 19B.1 through ~~19B.5~~ 19B.3 and shall
17 work with the governor to ensure compliance with those
18 ~~sections, including the attainment of affirmative action goals~~
19 ~~and timetables,~~ by all state agencies, including the state
20 board of regents and its institutions.

21 Sec. 14. Section 19B.7, subsection 1, paragraph a,
22 subparagraph (2), Code 2001, is amended by striking the
23 subparagraph.

24 Sec. 15. Section 19B.7, subsection 1, paragraph d, Code
25 2001, is amended to read as follows:

26 d. Report results under the contract compliance policy to
27 the governor and the general assembly on an annual basis. ~~The~~
28 ~~report shall detail specific efforts to promote equal~~
29 ~~opportunity through state contracts and services and efforts~~
30 ~~to promote, develop, and stimulate the utilization of~~
31 ~~minority, women's, and disadvantaged business enterprises in~~
32 ~~programs receiving or benefiting from state financial~~
33 ~~assistance.~~

34 Sec. 16. Section 19B.11, subsections 1 and 2, Code 2001,
35 are amended to read as follows:

1 1. It is the policy of this state to provide equal
2 opportunity in school district, area education agency, and
3 community college employment to all persons. An individual
4 shall not be denied equal access to or be granted preferential
5 treatment for school district, area education agency, or
6 community college employment opportunities because of race,
7 creed, color, religion, national origin, sex, age, or physical
8 or mental disability. ~~It also is the policy of this state to~~
9 ~~apply affirmative action measures to correct deficiencies in~~
10 ~~school district, area education agency, and community college~~
11 ~~employment systems where those remedies are appropriate.~~ This
12 policy shall be construed broadly to effectuate its purposes.

13 2. The director of the department of education shall
14 actively promote fair equal employment practices for all
15 school district, area education agency, and community college
16 employees ~~and the state board of education shall adopt rules~~
17 ~~requiring specific steps by school districts, area education~~
18 ~~agencies, and community colleges to accomplish the goals of~~
19 ~~equal employment opportunity and affirmative action in the~~
20 ~~recruitment, appointment, assignment, and advancement of~~
21 ~~personnel. Each school district, area education agency, and~~
22 ~~community college shall be required to develop affirmative~~
23 ~~action standards which are based on the population of the~~
24 ~~community in which it functions, the student population~~
25 ~~served, or the persons who can be reasonably recruited.~~ The
26 director of education shall consult with the department of
27 personnel in the performance of duties under this section.

28 Sec. 17. Section 73.16, subsection 2, unnumbered paragraph
29 4, Code 2001, is amended by striking the unnumbered paragraph.

30 Sec. 18. Section 261.9, subsection 1, paragraph d, Code
31 2001, is amended by striking the paragraph.

32 Sec. 19. Section 261.92, subsection 1, paragraph b, Code
33 2001, is amended by striking the paragraph.

34 Sec. 20. Section 602.1204, subsection 2, Code 2001, is
35 amended to read as follows:

1 2. The state court administrator may issue directives
2 relating to the management of the judicial branch. The
3 subject matters of these directives shall include, but need
4 not be limited to, fiscal procedures, the judicial retirement
5 system, and the collection and reporting of statistical and
6 other data. ~~The directives shall provide for an affirmative
7 action plan which shall be based upon guidelines provided by
8 the Iowa state civil rights commission.~~ In addition, when
9 establishing salaries and benefits the state court
10 administrator shall not discriminate in the employment or pay
11 between employees on the basis of ~~gender by paying wages to
12 employees at a rate less than the rate at which wages are paid
13 to employees of the opposite gender for work of comparable
14 worth~~ sex. ~~As used in this section "comparable worth" means
15 the value of work as measured by the composite of the skill,
16 effort, responsibility, and working conditions normally
17 required in the performance of work.~~

18 Sec. 21. Section 602.1208, subsection 3, Code 2001, is
19 amended to read as follows:

20 3. The state court administrator shall employ staff as
21 necessary to perform the duties of the administrator, subject
22 to the approval of the supreme court and budget limitations.
23 ~~The administrator shall implement the comparable worth
24 directives issued under section 602.1204, subsection 2 in all
25 court employment decisions.~~

26 Sec. 22. Section 602.1209, subsection 3, Code 2001, is
27 amended to read as follows:

28 3. Authorize the filling of vacant court-employee
29 positions, and review the qualifications of each person to be
30 employed within the judicial branch, ~~and assure that
31 affirmative action goals are being met by the judicial branch.~~
32 The state court administrator shall not approve the employment
33 of a person when either the proposed terms and conditions of
34 employment or the qualifications of the individual do not
35 satisfy personnel policies of the judicial branch. The

1 ~~administrator shall implement the comparable worth directives~~
2 ~~issued under section 602.1204, subsection 2 in all court~~
3 ~~employment decisions.~~

4 Sec. 23. Section 602.1401, subsection 1, Code 2001, is
5 amended to read as follows:

6 1. The supreme court shall establish, and may amend, a
7 personnel system and a pay and benefits plan for court
8 employees. The personnel system shall include a designation
9 by position title, classification, and function of each
10 position or class of positions within the judicial branch.
11 Reasonable efforts shall be made to accommodate the individual
12 staffing and management practices of the respective clerks of
13 the district court. The personnel system, in the employment
14 of court employees, shall not discriminate on the basis of
15 race, creed, color, sex, national origin, religion, physical
16 disability, or political party preference. ~~The supreme court,~~
17 ~~in establishing the personnel system, shall implement the~~
18 ~~comparable worth directives issued by the state court~~
19 ~~administrator under section 602.1204, subsection 2.~~ The
20 personnel system shall include the prohibitions against sexual
21 harassment of full-time, part-time, and temporary employees
22 set out in section 19B.12, and shall include a grievance
23 procedure for discriminatory harassment. The personnel system
24 shall develop and distribute at the time of hiring or
25 orientation, a guide that describes for employees the
26 applicable sexual harassment prohibitions and grievance,
27 violation, and disposition procedures. This subsection does
28 not supersede the remedies provided under chapter 216.

29 Sec. 24. Sections 12.43, 19B.4, 19B.5, 19B.8, 70A.18,
30 314.14, and 314.15, Code 2001, are repealed.

31 EXPLANATION

32 This bill establishes that the policy of this state is to
33 ensure equal opportunity in state employment, contracts, and
34 services by not denying or giving preference to a person for
35 these benefits based on race, color, religion, national

1 origin, sex, age, or physical or mental disability. Current
2 law only provides that these benefits not be denied based on
3 the previously listed protected categories and on the
4 protected category of creed. The bill deletes provisions
5 defining and establishing affirmative action programs in the
6 Code. The bill also repeals the section authorizing the
7 department of management to impose sanctions on state agencies
8 and the board of regents and other educational agencies to
9 ensure compliance with affirmative action programs.

10 The bill also eliminates the definition of "targeted small
11 business" which was based on the owner of the small business
12 being a woman, minority, or disabled person. Instead,
13 "targeted small business" is defined the same as "small
14 business" pursuant to Code section 15.102.

15 The bill also repeals the focused small business linked
16 investments program for small businesses owned and operated by
17 women or minorities.

18 The bill also repeals the contract set-aside for
19 disadvantaged businesses for contracts with the state
20 department of transportation.

21 The bill also eliminates the "comparable worth" directives
22 which defined "comparable worth" and which required that wages
23 paid to employees be paid at the same rate as for work of
24 comparable worth paid to employees of the opposite gender.
25 Instead, the bill provides that there shall be no
26 discrimination in employment or pay between employees on the
27 basis of sex.

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