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SENATE FILE 2239  
BY KING, MILLER, and SCHUERER

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to ensuring equal opportunity in state  
2 employment, contracts, and services.

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

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SF 2239  
STATE GOVERNMENT

1 Section 1. Section 8.6, subsection 12, Code Supplement  
2 2001, is 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 16.9, subsection 3, Code 2001, is amended  
22 by striking the subsection.

23 Sec. 6. Section 16.9, subsection 5, Code 2001, is amended  
24 to read as follows:

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

31 Sec. 7. Section 19A.1, subsection 2, paragraph d, Code  
32 Supplement 2001, is amended by striking the paragraph.

33 Sec. 8. Section 19A.1, subsection 3, paragraph c, Code  
34 Supplement 2001, is amended by striking the paragraph.

35 Sec. 9. Section 19B.1, Code 2001, is amended to read as

1 follows:

2 19B.1 DEFINITIONS.

3 As used in this chapter unless the context otherwise  
4 requires:

5 1- ~~---"Affirmative-action" means action appropriate to~~  
6 ~~overcome the effects of past or present practices, policies,~~  
7 ~~or other barriers to equal employment opportunity.~~

8 2- "State state agency" means an office, bureau, division,  
9 department, board, or commission in the executive branch of  
10 state government.

11 Sec. 10. Section 19B.2, unnumbered paragraph 1, Code 2001,  
12 is amended to read as follows:

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

23 Sec. 11. Section 19B.3, Code 2001, is amended to read as  
24 follows:

25 19B.3 ADMINISTRATIVE RESPONSIBILITIES OF DEPARTMENT OF  
26 PERSONNEL AND BOARD OF REGENTS.

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

1 a. ~~Designate a position as the state affirmative action~~  
2 ~~administrator.~~

3 b. ~~Propose affirmative action standards applicable to each~~  
4 ~~state agency based on the population of the community in which~~  
5 ~~the agency functions, the population served by the agency, or~~  
6 ~~the persons that can be reasonably recruited.~~

7 c. ~~Gather data necessary to maintain an ongoing assessment~~  
8 ~~of affirmative action efforts in state agencies.~~

9 d. ~~Monitor accomplishments with respect to affirmative~~  
10 ~~action remedies identified in affirmative action plans of~~  
11 ~~state agencies.~~

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

17 f. ~~Establish a state recruitment coordinating committee to~~  
18 ~~assist in addressing affirmative action recruitment needs,~~  
19 ~~with members appointed by the director of the department of~~  
20 ~~personnel.~~

21 g. b. Address equal opportunity ~~and affirmative action~~  
22 training needs of all state agencies by:

23 (1) Providing appropriate training for managers and  
24 supervisors.

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

28 (3) Investigating means for training in the area of career  
29 development.

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

34 i. ~~Address equal opportunity and affirmative action~~  
35 ~~policies with respect to employee benefits and leaves of~~

1 ~~absence.~~

2 ~~j. -- Adopt equal employment opportunity and affirmative~~  
3 ~~action rules in accordance with chapter 17A.~~

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

11 ~~a. -- Designate a position as the regents' affirmative action~~  
12 ~~coordinator.~~

13 ~~b. -- Propose affirmative action standards applicable to the~~  
14 ~~board and each institution under its jurisdiction.~~

15 ~~c. -- Gather data necessary to maintain an ongoing assessment~~  
16 ~~of affirmative action efforts.~~

17 ~~d. -- Monitor accomplishments with respect to affirmative~~  
18 ~~action remedies identified in affirmative action plans.~~

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

24 ~~f. -- Establish an equal employment committee to assist in~~  
25 ~~addressing affirmative action needs, including recruitment.~~

26 g. b. Address equal opportunity and affirmative action  
27 training needs by:

28 (1) Providing appropriate training for managers and  
29 supervisors.

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

33 (3) Investigating means for training in the area of career  
34 development.

35 h. c. Require development of equal employment opportunity

1 reports, including the initiation of the processes necessary  
2 for the completion of reports as required by the federal equal  
3 employment opportunity commission law.

4 i. Address equal opportunity and affirmative action  
5 policies with respect to employee benefits and leaves of  
6 absence.

7 j. Adopt equal employment opportunity and affirmative  
8 action rules in accordance with chapter 17A.

9 Sec. 12. Section 19B.6, Code Supplement 2001, is amended  
10 to read as follows:

11 19B.6 RESPONSIBILITIES OF DEPARTMENT OF PERSONNEL AND  
12 DEPARTMENT OF MANAGEMENT ---AFFIRMATIVE ACTION.

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

24 Sec. 13. Section 19B.7, subsection 1, paragraph a,  
25 subparagraph (2), Code 2001, is amended by striking the  
26 subparagraph.

27 Sec. 14. Section 19B.7, subsection 1, paragraph d, Code  
28 2001, is amended to read as follows:

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

1 assistance.

2 Sec. 15. Section 19B.11, subsections 1 and 2, Code 2001,  
3 are amended to read as follows:

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

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

31 Sec. 16. Section 73.16, subsection 2, unnumbered paragraph  
32 4, Code 2001, is amended by striking the unnumbered paragraph.

33 Sec. 17. Section 261.9, subsection 1, paragraph d, Code  
34 Supplement 2001, is amended by striking the paragraph.

35 Sec. 18. Section 261.92, subsection 1, paragraph b, Code

1 2001, is amended by striking the paragraph.

2 Sec. 19. Section 602.1204, subsection 2, Code 2001, is  
3 amended to read as follows:

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

21 Sec. 20. Section 602.1208, subsection 3, Code 2001, is  
22 amended to read as follows:

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

29 Sec. 21. Section 602.1209, subsection 3, Code 2001, is  
30 amended to read as follows:

31 3. Authorize the filling of vacant court-employee  
32 positions, and review the qualifications of each person to be  
33 employed within the judicial branch, ~~and assure that  
34 affirmative action goals are being met by the judicial branch.~~  
35 The state court administrator shall not approve the employment

1 of a person when either the proposed terms and conditions of  
2 employment or the qualifications of the individual do not  
3 satisfy personnel policies of the judicial branch. The  
4 ~~administrator shall implement the comparable worth directives~~  
5 ~~issued under section 602.1204, subsection 2 in all court~~  
6 ~~employment decisions.~~

7 Sec. 22. Section 602.1401, subsection 1, Code 2001, is  
8 amended to read as follows:

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

32 Sec. 23. Sections 12.43, 19B.4, 19B.8, 70A.18, 314.14, and  
33 314.15, Code 2001, are repealed.

34 Sec. 24. Section 19B.5, Code Supplement 2001, is repealed.

35

EXPLANATION

1 This bill establishes that the policy of this state is to  
2 ensure equal opportunity in state employment, contracts, and  
3 services by not denying or giving preference to a person for  
4 these benefits based on race, color, religion, national  
5 origin, sex, age, or physical or mental disability. Current  
6 law only provides that these benefits not be denied based on  
7 the previously listed protected categories and on the  
8 protected category of creed. The bill deletes provisions  
9 defining and establishing affirmative action programs in the  
10 Code. The bill also repeals the section authorizing the  
11 department of management to impose sanctions on state agencies  
12 and the board of regents and other educational agencies to  
13 ensure compliance with affirmative action programs.

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

19 The bill also repeals the focused small business linked  
20 investments program for small businesses owned and operated by  
21 women or minorities.

22 The bill also repeals the contract set-aside for  
23 disadvantaged businesses for contracts with the state  
24 department of transportation.

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

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