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SFA**BILL ANALYSIS**

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Senate Joint Resolution N (as introduced 11-13-97)

Sponsor: Senator Bill Bullard, Jr.

Committee: Government Operations

Date Completed: 3-18-98

CONTENT

Senate Joint Resolution N proposes to amend several articles of the State Constitution to prohibit discriminating against, or granting preferential treatment to, individuals in employment, education, or public contracting based upon religion, race, sex, color, ethnicity, or national origin. The resolution would have to be submitted to the voters at the next general election, if the resolution were approved by two-thirds of the members elected to and serving in each house of the Legislature.

The resolution would add Section 25 to Article I of the Constitution to provide that, to the extent permitted by Federal law, the State, a political subdivision of the State, or an institution of higher education funded wholly or partially by the State, could not use religion, race, sex, color, ethnicity, or national origin as a criterion for either discriminating against, or granting preferential treatment to, one or more individuals in employment, education, or public contracting. The bill specifies that Section 25 would not prohibit any of the following:

- Classifications based on sex that were reasonably necessary for the ordinary operation of a system of public employment, public education, or public contracting.
- State action required to establish or maintain eligibility for Federal funds.
- Assistance to an individual because of his or her economic status or other condition unrelated to the individual's religion, race, sex, color, ethnicity, or national origin.
- A preference in employment or public contracting that was based upon an individual's residency and made by a county, city, village, township, school district, authority, or any other political subdivision organized under Michigan law.
- A preference, made by an institution of higher education funded wholly or partially by the State, to promote a diverse student body, if that preference were based on an individual's academic, musical, or artistic skills, athletic ability, economic or social background, relationship to the institution's alumni, or residency, and not based upon the individual's religion, race, sex, color, ethnicity, or national origin.

The resolution provides that reasonable attorney fees could be awarded to an individual or group of individuals who were injured by a violation of proposed Section 25. Section 25 would not invalidate a court order or consent decree that was in effect on the section's effective date.

The resolution also would add Section 26 to Article I, to provide that if any part of proposed Section 25 were held to be invalid or unconstitutional, the remaining part or parts of the section would not be affected and would remain in effect.

Article I, Section 2 of the Constitution provides that no person may be denied the equal protection of the laws or the enjoyment of his civil or political rights, or be discriminated against in the exercise thereof, because of religion, race, color, or national origin. The resolution would add that no person

could be denied the equal protection of the laws or the enjoyment of his civil or political rights, or be discriminated against in the exercise thereof, because of sex or ethnicity.

Article V, Section 29 of the Constitution requires the Civil Rights Commission to investigate alleged discrimination against any person because of religion, race, color, or national origin in the enjoyment of civil rights guaranteed by law and the Constitution. The resolution also would require the Commission to investigate alleged discrimination because of sex or ethnicity.

Article VIII, Section 2 requires every school district to provide for the education of its pupils without discrimination as to religion, creed, race, color, or nation origin. The resolution also would require every school district to provide for the education of its pupils without discrimination as to sex or ethnicity.

Article XI, Section 5 provides for the classified State civil service. In part, Section 5 provides that no appointments, promotions, demotions, or removals in the classified service may be made for religious, racial, or partisan considerations. The resolution would provide that no appointments, promotions, demotions, or removals could be made on the basis of an individual's religion, race, sex, color, ethnicity, national origin, or political affiliation.

Legislative Analyst: G. Towne

FISCAL IMPACT

The State could incur substantial costs in providing reasonable attorney fees to an individual or group of individuals who were injured by a violation of proposed Section 25. The proposed Constitutional provision would substantially broaden the pool of complaints that could be filed. Because, however, there are no data available to indicate how many people may pursue a claim against the State, the fiscal impact on State government is indeterminate. The Civil Rights Commission already operates under legislation that enables it to investigate alleged discrimination because of sex or ethnicity.

There would be no fiscal impact on local government.

Fiscal Analyst: E. Limbs