BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #:     I-4086.1/21
ATTY/TYPIST:     RB:jlb

BRIEF DESCRIPTION:
AN ACT Relating to prohibiting government entities from discriminating or granting preferential treatment based on race, sex, color, ethnicity, or national origin; adding a new section to chapter 49.60 RCW; creating new sections; repealing RCW 49.60.400; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. A new section is added to chapter 49.60 RCW to read as follows:

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after the effective date of this section.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment
to, any individual or group on the basis of race, sex, color, ethnicity, or national origin.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

(b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

(c) Provides for separate athletic teams for each sex.

(5) This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

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

(7) Nothing in this section prohibits schools established under chapter 28A.715 RCW from:

(a) Implementing a policy of Indian preference in employment; or

(b) Prioritizing the admission of tribal members where capacity of the school's programs or facilities is not as large as demand.

(8) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin, under the claim of remedying discrimination against, or underrepresentation of, disadvantaged groups.

(9) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin, under the claim of a disparity study.

(10) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin, under the claim of participation goals.
(11) This section does not prohibit outreach efforts that do not constitute preferential treatment on the basis of race, sex, color, ethnicity, or national origin.

(12) For the purposes of this section:

(a) "State" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality of or within the state.

(b) "Preferential treatment" means the act of giving special preference to a candidate over another candidate based on their race, sex, color, ethnicity, or national origin for a public education, public employment, or a public contracting opportunity.

(13) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington antidiscrimination law.

(14) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

NEW SECTION. Sec. 2. RCW 49.60.400 (Discrimination, preferential treatment prohibited) and 2013 c 242 s 7, (2019 c 160 s 3, Referendum Measure No. 88 failed to become law), & 1999 c 3 s 1 (Initiative Measure No. 200, approved November 3, 1998) are each repealed.

NEW SECTION. Sec. 3. The provisions of this act are to be liberally construed to effectuate the policies, purposes, and intent of this act.
NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This act may be known and cited as the Washington state equal opportunity act.

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