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INITIATIVE 943

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 943 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to prohibiting discrimination and preferential
2 treatment; amending RCW 49.60.400; adding new sections; and providing
3 an effective date.

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

5 **POLICIES AND PURPOSES**

6 NEW SECTION. **Sec. 1.** In 1998, the voters of Washington
7 overwhelmingly supported Initiative 200 which prohibited state and
8 local governments from discriminating against or granting preferential
9 treatment to any individual or group based on race, sex, color,
10 ethnicity, or national origin in employment, education, and
11 contracting. Ever since then, state and local governments, unelected
12 bureaucrats, and courts have punched loophole after loophole into this
13 common sense law. They have purposely misinterpreted the policies,
14 purposes, and intent of voter-approved Initiative 200. The people are
15 the final word. This measure simply reestablishes and clarifies the
16 people's intent with regard to this voter-approved initiative's equal
17 treatment policies. This measure would prohibit state and local
18 governments from discriminating against, or granting preferential

1 treatment to, any individual or group based on race, sex, color,
2 ethnicity, or national origin in public employment, public education,
3 and public contracting. Preferential treatment for one is
4 discrimination against another. The courts have many times
5 misinterpreted the intent of Initiative 200 and this measure seeks to
6 clarify the law so that the intent of the people is clear.

7 **Sec. 2.** RCW 49.60.400 and 1999 c 3 s 1 are each amended to read
8 as follows:

9 (1) (~~The state shall not discriminate against, or grant~~
10 ~~preferential treatment to, any individual or group on the basis of~~
11 ~~race, sex, color, ethnicity, or national origin in the operation of~~
12 ~~public employment, public education, or public contracting~~)) State
13 and local governments shall not discriminate against, or grant
14 preferential treatment to, any individual or group on the basis of
15 race, sex, color, ethnicity, or national origin in the operation of
16 public employment, public education, or public contracting. State
17 and local governments shall not use race, sex, color, ethnicity, or
18 national origin as a factor in decisions relating to public
19 employment, public education, or public contracting.

20 (2) This section applies only to action taken after December 3,
21 1998.

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

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

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

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

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

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

35 (6) This section does not prohibit action that must be taken to
36 establish or maintain eligibility for any federal program, if
37 ineligibility would result in a loss of federal funds to the state or
38 local governments. The mere receipt of federal funds is not adequate

1 for this subsection to apply; there must be a federal requirement
2 that if not established or maintained, a loss of federal funds would
3 directly result.

4 (7) For the purposes of this section, "state and local
5 governments" includes, but is not necessarily limited to, the state
6 itself and any of its agencies and other public institutions, such as
7 any city, county, public college or university, community college,
8 school district, special district, or other political subdivision or
9 governmental instrumentality of or within the state.

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

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

21 (10) Consistent with the intent, policies, and purposes of this
22 act, any government, including but not limited to higher education
23 institutions such as the University of Washington, shall not use
24 race, sex, color, ethnicity, or national origin as a factor in its
25 policies, including, but not limited to, its admission policy. Any
26 public college or university that uses, in whole or in part, a
27 holistic system in its admission policy shall be prohibited from
28 collecting any information from the applicant that provides, directly
29 or indirectly, their race, sex, color, ethnicity, or national origin.
30 Such information may be obtained after the applicant is admitted, not
31 before. Such discriminatory policies are in direct violation of the
32 intent, policies, and purposes of this act.

33 (11) Consistent with the intent, policies, and purposes of this
34 act, any government, including but not limited to schools such as the
35 Seattle school district, shall not use race, sex, color, ethnicity,
36 or national origin as a factor in its policies, including, but not
37 limited to, determining the assignment of students to schools,
38 sometimes referred to as a racial tiebreaker. To make sure they
39 don't, any public school shall be prohibited from collecting any

1 information from the student that provides, directly or indirectly,
2 their race, sex, color, ethnicity, or national origin. Such
3 information may be obtained after the student is admitted, not
4 before. Such discriminatory policies are in direct violation of the
5 intent, policies, and purposes of this act.

6 (12) Consistent with the intent, policies, and purposes of this
7 act, any government, including but not limited to transportation
8 agencies such as Sound Transit and the Seattle monorail, shall not
9 use race, sex, color, ethnicity, or national origin as a factor in
10 contracting. To make sure they don't, any government shall be
11 prohibited from collecting any information from the contractor that
12 provides, directly or indirectly, the race, sex, color, ethnicity, or
13 national origin of the contractor or its subcontractors. Such
14 discriminatory policies are in direct violation of the intent,
15 policies, and purposes of this act.

16 (13) Consistent with the intent, policies, and purposes of this
17 act, any government, including but not limited to Seattle government,
18 shall not collect data on the hiring or subcontracting practices of
19 contractors with regard to race, sex, color, ethnicity, or national
20 origin. Such discriminatory policies can be used to threaten or
21 punish a business for not using preferences in its hiring or
22 contracting and is therefore prohibited. The use of numerical goals
23 and timetables can also be abused and is therefore prohibited. Such
24 discriminatory policies are in direct violation of the intent,
25 policies, and purposes of this act.

26 NEW SECTION. Sec. 4. The provisions of this act are to be
27 liberally construed to effectuate the intent, policies, and purposes of
28 this act.

29 NEW SECTION. Sec. 5. Part headings used in this act are not any
30 part of the law.

31 NEW SECTION. Sec. 6. If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 7.** This act shall be called The Civil Rights
2 Act.

3 NEW SECTION. **Sec. 8.** This act takes effect December 7, 2006.

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