

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL DRS45448-TC-24

Short Title: Public Nondiscrimination Amendment. (Public)

Sponsors: Senators Berger and Ballard (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT  
3 CONSIDERATION OF RACE, SEX, COLOR, ETHNICITY, OR NATIONAL ORIGIN IN  
4 PUBLIC EMPLOYMENT, PUBLIC CONTRACTING, AND PUBLIC EDUCATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 1 of the North Carolina Constitution is amended by adding a  
7 new section to read:

8 "**Sec. 39. Prohibition on discrimination or preferential treatment in public employment,**  
9 **education, or contracting.**

10 (1) The State and its political subdivisions, including the free public schools and public  
11 institutions of higher education, shall not discriminate against, or grant preferential treatment to,  
12 any individual or group on the basis of race, sex, color, ethnicity, or national origin in the  
13 operation of public employment, public education, or public contracting.

14 (2) Nothing in this Section shall be interpreted as prohibiting bona fide qualifications  
15 based on sex which are reasonably necessary to the normal operation of public employment,  
16 public education, or public contracting.

17 (3) Nothing in this Section shall be interpreted as prohibiting action which must be taken  
18 to establish or maintain eligibility for any federal program where ineligibility would result in a  
19 loss of federal funds to the State."

20 SECTION 2. The amendment set out in Section 1 of this act shall be submitted to  
21 the qualified voters of the State at the statewide primary election to be held in 2022, which  
22 election shall be conducted under the laws then governing elections in the State. Ballots, voting  
23 systems, or both may be used in accordance with Chapter 163 of the General Statutes. The  
24 question to be used in the voting systems and ballots shall be:

25 "[ ] FOR [ ] AGAINST

26 Constitutional amendment to prohibit the State and its political subdivisions from  
27 discriminating or granting preferential treatment on the basis of race, sex, color, ethnicity, or  
28 national origin in public employment, public education, or public contracting."

29 SECTION 3. If a majority of votes cast on the question are in favor of the amendment  
30 set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the  
31 Secretary of State. The Secretary of State shall enroll the amendment so certified among the  
32 permanent records of that office.

33 SECTION 4. The amendment set out in Section 1 of this act becomes effective upon  
34 certification and applies to actions taken on or after the effective date of certification.



1           **SECTION 5.** Nothing in the amendment set out in Section 1 of this act shall be  
2 interpreted as invalidating any court order or consent decree which is in force as of the effective  
3 date of certification.

4           **SECTION 6.** If any part or parts of the amendment set out in Section 1 of this act  
5 are found to be in conflict with federal law or the United States Constitution, the amendment  
6 shall be implemented to the maximum extent that federal law and the United States Constitution  
7 permit, and any provision held invalid shall be severable from the remaining portions of the  
8 amendment.

9           **SECTION 7.** This act is effective when it becomes law.