

HOUSE BILL No. 5996

July 8, 1992, Introduced by Rep. Clack and referred to the Committee on Civil Rights, Constitution and Women's Issues.

A bill to create a Michigan equal employment and business opportunity council and to provide for its powers and duties; to require state departments and agencies to establish and maintain affirmative action programs; and to prescribe certain powers and duties of the civil rights commission, the civil service commission, and certain other state officers and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan equal employment and business opportunity act".

3 Sec. 2. As used in this act:

4 (a) "Council" means the Michigan equal employment opportu-
5 nity and business opportunity council created in section 3.

6 (b) "Executive director" means the person designated
7 pursuant to section 10.

1 Sec. 3. The Michigan equal employment and business
2 opportunity council is created in the office of the governor.
3 The former Michigan equal employment and business opportunity
4 council created by executive order 1985-2 shall have all its
5 powers, duties, and functions and its files, records, equipment,
6 and supplies transferred to the council created in this act.

7 Sec. 4. The council shall consist of the following members,
8 all of whom shall serve ex-officio:

9 (a) The directors of the departments of civil rights, civil
10 service, management and budget, commerce, labor, transportation,
11 and social services, each of whom shall be a voting member.

12 (b) The lieutenant governor, who shall be a voting member,
13 and who also shall serve as chairperson of the council and as the
14 state of Michigan affirmative action officer.

15 (c) The director of the office of state employer, who shall
16 be a nonvoting member.

17 Sec. 5. (1) The business that the council performs shall be
18 conducted at a public meeting of the council held in compliance
19 with the open meetings act, Act No. 267 of the Public Acts of
20 1976, being sections 15.261 to 15.275 of the Michigan Compiled
21 Laws. Public notice of the time, date, and place of the meeting
22 shall be given in the manner required by Act No. 267 of the
23 Public Acts of 1976.

24 (2) A writing prepared, owned, used, in the possession of,
25 or retained by the council in the performance of an official
26 function shall be made available to the public in compliance with
27 the freedom of information act, Act No. 442 of the Public Acts of

1 1976, being sections 15.231 to 15.246 of the Michigan Compiled
2 Laws.

3 Sec. 6. (1) The council shall issue guidelines regarding
4 affirmative action for all state departments, agencies, and
5 commissions. Every state department, agency, and commission
6 shall be guided by the guidelines. The guidelines shall enable
7 each department, agency, or commission to do both of the
8 following:

9 (a) Develop and carry out affirmative action plans that will
10 increase the number of blacks, Hispanics, Asians, Native
11 Americans, women, and handicappers employed at all levels of
12 state government.

13 (b) Assure equal employment opportunity in recruitment,
14 selection, promotion, and retention for all classified
15 positions.

16 (2) Each department, agency, and commission shall submit an
17 annual affirmative action plan for review by the governor. Each
18 plan shall make full use of the employment preference affirmative
19 action exemption provision provided for in chapter 2 of the gen-
20 eral rules of the civil service commission and in the collective
21 bargaining agreements to protect affirmative gains achieved
22 before the effective date of this act. The use or nonuse of the
23 plan provisions shall be reported separately with justification
24 supplied for the use or nonuse of the plan provisions. The coun-
25 cil shall review each affirmative action plan submitted, shall
26 work with the department, agency, or commission involved to
27 develop the best feasible plan, and shall report to the governor

1 regarding each plan at the earliest possible date after its
2 submission.

3 Sec. 7. The civil rights commission and the civil service
4 commission shall review this state's overall affirmative action
5 plan to ensure that the process established in the plan developed
6 by the council for council review of each department, agency, and
7 commission comports with all of the following:

8 (a) Section 29 of article V and section 5 of article XI of
9 the state constitution of 1963.

10 (b) The Michigan handicappers' civil rights act, Act No. 220
11 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of
12 the Michigan Compiled Laws.

13 (c) The Elliott-Larsen civil rights act, Act No. 453 of the
14 Public Acts of 1976, being sections 37.2101 to 37.2804 of the
15 Michigan Compiled Laws.

16 Sec. 8. (1) The council shall develop and recommend stan-
17 dards and procedures for each department, agency, and commission
18 which, when adopted and implemented, shall increase the partici-
19 pation of black, Hispanic, Asian, Native American, and woman
20 contractors.

21 (2) Each department, agency, or commission shall prepare and
22 submit to the council for review an operating plan which incor-
23 porates the standards and procedures developed by the council and
24 which meets the legal requirements of Act No. 428 of the Public
25 Acts of 1980, being sections 450.771 to 450.776 of the Michigan
26 Compiled Laws.

1 Sec. 9. (1) The council shall create 2 subcommittees, as
2 provided in this section, for the purpose of meeting the
3 requirements of Act No. 428 of the Public Acts of 1980, being
4 sections 450.771 to 450.776 of the Michigan Compiled Laws.

5 (2) The first subcommittee shall consist of department,
6 agency, and commission affirmative action officers and personnel
7 directors. If a department, agency, or commission does not have
8 an affirmative action officer, the head of that department,
9 agency, or commission shall immediately designate an employee to
10 serve in that capacity. The person appointed as affirmative
11 action officer shall report directly to the department director.
12 Under no circumstance shall the personnel officer and affirmative
13 action officer be the same person. Each affirmative action offi-
14 cer shall pre-review all appointments into classes in which
15 minorities and women are underrepresented and report to their
16 department director and to the council. This subcommittee shall
17 serve as an advisory group and shall be called together on a reg-
18 ular basis by the executive director.

19 (3) The second subcommittee shall consist of department,
20 agency, and commission procurement officers. In addition, the
21 director of the administrative section of the purchasing division
22 of management and budget and the directors of the office of com-
23 munity development and small business development and minority
24 business development divisions of the office of economic develop-
25 ment of the department of commerce shall also serve as subcommit-
26 tee members. This subcommittee shall serve as an advisory group

1 and shall be called together on a regular basis by the executive
2 director.

3 Sec. 10. The lieutenant governor shall designate a person
4 to serve as executive director to the council and coordinator of
5 equal employment and business opportunity programs, and shall
6 secure other staff from the constitutional offices and depart-
7 ments represented on the council when appropriate. The executive
8 director shall direct the activities of the liaison staff which
9 shall be composed of those persons designated by the council mem-
10 bers to serve in that capacity. The executive director also
11 shall do at least all of the following:

12 (a) Review and report to the council the equal employment
13 and affirmative action procurement efforts of the various depart-
14 ments and agencies pursuant to this act.

15 (b) Establish working relationships with such individuals,
16 groups, and organizations considered appropriate to improve the
17 state program and realize the objectives of this act.

18 (c) Advise, on an annual basis, the lieutenant governor,
19 state departments, and the state legislature on equal employment
20 and business opportunity programs.

21 (d) Advise the department of civil rights as to any com-
22 plaints coming to the attention of the executive director of the
23 council, and report to the council on the actions taken by the
24 department of civil rights in response to those complaints.

25 Sec. 11. Each department and agency shall cooperate fully
26 with the council and its staff in the implementation of its

1 duties and shall make such information available as necessary to
2 the council and its staff to carry out those duties.

3 Sec. 12. The council, civil service commission, and depart-
4 ment of civil rights shall continue to review the existing dis-
5 crimination complaint processing procedure and cooperate in the
6 implementation of modifications and improvements. All state
7 departments shall review, at least on an annual basis, their
8 respective affirmative action plans to assure continued improve-
9 ment in the hiring, upgrading, and retention of blacks,
10 Hispanics, Asians, Native Americans, women, and handicappers and
11 shall submit those plans, and the programs to carry out those
12 plans, to the council for review, evaluation, and approval.

13 Sec. 13. The civil rights commission and the civil service
14 commission shall pre-review departmental affirmative action plans
15 to ensure that the plans comply with the principles of equal
16 employment opportunity and the principles of merit employment.

17 Sec. 14. The council also shall do all of the following:

18 (a) In conjunction with the civil service commission and
19 appointing authorities of state agencies, review and evaluate
20 existing personnel rules, procedures, recruitment procedures, and
21 career development programs affecting the classified service and
22 shall make policy recommendations to the governor and the civil
23 service commission that carry out the intent of this state's
24 policy of affirmative action.

25 (b) Appoint ad hoc study committees, as necessary, which
26 shall review particular aspects of the state's equal employment

1 and business opportunity programs and recommend appropriate
2 changes.

3 (c) Review and advise the department of civil service, in
4 advance, of final action on every proposed appointment in the
5 classified service equivalent to the 15 level and above, the
6 classified executive service or other classified position or
7 levels as determined by the council, that every effort was made
8 in assuring equal employment opportunities in recruitment, selec-
9 tion, promotion, and retention for all classified positions.

10 (d) Receive, review, and approve all contracting
11 departments' procurement operating plans consistent with the
12 standards and procedures.

13 (e) Receive and review all progress reports required of the
14 departments under Act No. 428 of the Public Acts of 1980, being
15 sections 450.771 to 450.776 of the Michigan Compiled Laws, and
16 under the procedures.

17 (f) Prepare and transmit reports to the governor and the
18 legislature as required under Act No. 428 of the Public Acts of
19 1980.