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LWVWI Opposition to AJR102/SJR94

This proposed constitutional amendment prohibits governmental entities in the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity or national origin in public employment, public education, public contracting, or public administration. If approved by the 2025 legislature and subsequently ratified by voters in the November 2026 election, this amendment would be added as Section 27 to Article I of the Wisconsin Constitution, aiming to codify principles of non-discrimination across various areas of public sector activity.

The proposed constitutional amendment defines a “governmental entity” broadly to include state and local government bodies, public universities, school districts and other government-created organizations. This broad definition therefore includes all subdivisions including municipalities; the University of Wisconsin System; the Technical College System; any public college or university; and any school district; any office, department, independent agency, board, commission, authority, institution, association, society, or other body in state or local government created or authorized to be created by the Constitution or any law, including the legislature and the courts.

The proposed constitutional amendment is premised on the U.S. Constitution and the 14th Amendment which guarantee “equal protection under the law.” Simply stated, according to this premise, “equity” is not guaranteed in the Constitution and thus any “governmental entity” will be prohibited from adopting and promoting “equitable measures which are now defined as “forced equal outcomes.

This proposed amendment is also premised on the U.S. Supreme Court decision in *Students for Fair Admission v. Harvard* which held that admission policies that treat students differently based on race are in violation of the Constitution’s equal protection clause and not permissible. Chief Justice Roberts, writing for the majority, concluded that “a student must be treated based on his or her experiences as an individual—not on the basis of race.”

Essentially, AJR102 and SJR94 will guarantee all Wisconsin’s the principle of “color-blind equality” and “merit-based decision-making,” since as one Senator describes this proposed amendment, it will rectify what he calls “Wisconsin’s problem with race” by “prescribing that

past discrimination, however wrong, cannot be corrected with more discrimination since old wounds cannot be treated by inflicting new ones.”

In other words, all the equity-based progress since the Civil Rights Act of 1964 to provide “equal opportunity” to all disadvantaged persons is now defined as “discrimination.” This new definition of discrimination is premised on the belief that race-based programs such as affirmative action and DEI hurt all Americans who are not receiving preferential treatment and are thereby harmed because they are not being treated equally by the government. The Wisconsin Law and Liberty (WILL) acknowledge that “rooting out this racial discrimination will take a lot of work, but this amendment will go a long way to advance the cause of equality.

This proposed constitutional amendment will damage this country’s efforts to provide equity to disadvantaged groups and individuals through its civil rights laws and DEI and affirmative action programs. Some of the preferential treatment for disadvantaged ; health outcomes; multiple equity programs offered through the Department of Public Education; programs in the City of Milwaukee offered by the Office of African-American Affairs; Milwaukee County’s use of a Racial Equity Budget Tool to spend money to achieve racially-balanced outcomes; local school districts for programs for mentoring opportunities for black students; disability programs for black and “First Nation” students; and all programs prohibiting discrimination against LGBTQ+ individuals and all DEI programs effectively promoted through state governmental entities in areas of public employment, public education and public administration.

AJR102 and SJR94 intend to weaken the individual rights and liberties of Americans who have been guaranteed protection by the Civil Rights laws of our country. The responsibility of state and local government officials is to uphold their oath of allegiance to the U.S. Constitution and Wisconsin Constitution to protect the individual rights of their constituents in the face of laws that weaken or abridge them. AJR102 and SJR94 not only intend to weaken or abridge federal civil rights law but intend to obliterate them.

The League of Women Voters of Wisconsin opposes by any non-violent means governmental action that weaken or abridge the individual rights guaranteed by the U.S. Constitution and the Wisconsin Constitution. Therefore, the League strongly opposes this proposed constitutional amendment.