

Representative Curtis Oda proposes the following substitute bill:

JOINT RESOLUTION ON EQUAL TREATMENT

BY GOVERNMENT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

Cosponsor: Carl Wimmer

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to enact a provision prohibiting discrimination and preferential treatment by government entities.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ prohibit the State, public institutions of higher education, and political subdivisions from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, religion, ethnicity, or national origin in the operation of public employment, public education, or public contracting;
- ▶ provide exceptions;
- ▶ provide limits for a remedy; and
- ▶ provide that the provision is self-executing.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2011 for this proposal.



26 **Utah Constitution Sections Affected:**

27 ENACTS:

28 **ARTICLE I, SECTION 30**

29

30 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
31 *of the two houses voting in favor thereof:*

32 Section 1. It is proposed to enact Utah Constitution Article I, Section 30, to read:

33 **Article I, Section 30. [Prohibition against discrimination and preferential**
34 **treatment.]**

35 (1) Each of the following is subject to this section:

36 (a) the State, including any department, agency, or other governmental instrumentality
37 of the State;

38 (b) each public institution of higher education; and

39 (c) each county, city, town, school district, local district, special service district, and
40 other political subdivision of the State.

41 (2) An entity that is subject to this section may not discriminate against, or grant
42 preferential treatment to, any individual or group on the basis of race, sex, color, religion,
43 ethnicity, or national origin in the operation of public employment, public education, or public
44 contracting.

45 (3) Subsection (2) may not be construed to:

46 (a) prohibit a bona fide qualification based on sex that is reasonably necessary to the
47 normal functioning of public employment, public education, or public contracting;

48 (b) invalidate a court order or consent decree in force on January 1, 2011; or

49 (c) prohibit action required to be taken to establish or maintain eligibility for a federal
50 program, if ineligibility would result in a loss of federal funds.

51 (4) This section applies only to action taken on or after January 1, 2011.

52 (5) A remedy for a violation of this section, whether based on discrimination or
53 preferential treatment, and regardless of the race, sex, color, religion, ethnicity, or national
54 origin of the individual or group seeking a remedy, shall be the same as the remedy provided
55 under Utah antidiscrimination law in effect at the time the violation occurs.

56 (6) This section is self-executing.

57 Section 2. **Submittal to voters.**

58 The lieutenant governor is directed to submit this proposed amendment to the voters of
59 the state at the next regular general election in the manner provided by law.

60 Section 3. **Effective date.**

61 If the amendment proposed by this joint resolution is approved by a majority of those
62 voting on it at the next regular general election, the amendment shall take effect on January 1,
63 2011.