

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/HCS/House Bill No. 722, Page 1, Section A, Line 3,

2 by inserting immediately after all of said line the following:

3 "213.055. 1. It shall be an unlawful employment practice:

4 (1) For an employer, because of the race, color, religion,  
5 national origin, sex, ancestry, age or disability of any  
6 individual:

7 (a) To fail or refuse to hire or to discharge any  
8 individual, or otherwise to discriminate against any individual  
9 with respect to his compensation, terms, conditions, or  
10 privileges of employment, because of such individual's race,  
11 color, religion, national origin, sex, ancestry, age or  
12 disability;

13 (b) To limit, segregate, or classify his employees or his  
14 employment applicants in any way which would deprive or tend to  
15 deprive any individual of employment opportunities or otherwise  
16 adversely affect his status as an employee, because of such  
17 individual's race, color, religion, national origin, sex,  
18 ancestry, age or disability;

19 (2) For a labor organization to exclude or to expel from  
20 its membership any individual or to discriminate in any way  
21 against any of its members or against any employer or any

1 individual employed by an employer because of race, color,  
2 religion, national origin, sex, ancestry, age or disability of  
3 any individual; or to limit, segregate, or classify its  
4 membership, or to classify or fail or refuse to refer for  
5 employment any individual, in any way which would deprive or tend  
6 to deprive any individual of employment opportunities, or would  
7 limit such employment opportunities or otherwise adversely affect  
8 his status as an employee or as an applicant for employment,  
9 because of such individual's race, color, religion, national  
10 origin, sex, ancestry, age or disability; or for any employer,  
11 labor organization, or joint labor-management committee  
12 controlling apprenticeship or other training or retraining,  
13 including on-the-job training programs to discriminate against  
14 any individual because of his race, color, religion, national  
15 origin, sex, ancestry, age or disability in admission to, or  
16 employment in, any program established to provide apprenticeship  
17 or other training;

18 (3) For any employer or employment agency to print or  
19 circulate or cause to be printed or circulated any statement,  
20 advertisement or publication, or to use any form of application  
21 for employment or to make any inquiry in connection with  
22 prospective employment, which expresses, directly or indirectly,  
23 any limitation, specification, or discrimination, because of  
24 race, color, religion, national origin, sex, ancestry, age or  
25 disability unless based upon a bona fide occupational  
26 qualification or for an employment agency to fail or refuse to  
27 refer for employment, or otherwise to discriminate against, any  
28 individual because of his race, color, religion, national origin,  
29 sex, ancestry, age as it relates to employment, or disability, or

1 to classify or refer for employment any individual on the basis  
2 of his race, color, religion, national origin, sex, ancestry, age  
3 or disability;

4 (4) For a public employer to inquire into or consider the  
5 criminal record of an applicant for employment until the employer  
6 has either extended a conditional offer of employment to the  
7 applicant or has conducted an interview with the applicant. For  
8 purposes of this subdivision, a conditional offer of employment  
9 is an offer of employment that is dependent on the successful  
10 completion of the following: medical examination; drug test; and  
11 background investigation. Once a conditional offer has been made  
12 or the interview has been conducted, the applicant's criminal  
13 record may be considered as part of the background check. The  
14 employer shall consider the following factors in evaluating the  
15 applicant and the results of any criminal history inquiry:

16 (a) The nature of the offense;

17 (b) Any information pertaining to the degree of  
18 rehabilitation and good conduct, including any information  
19 produced by the applicant, or produced on his or her behalf;

20 (c) Whether the prospective job provides an opportunity for  
21 the commission of a similar offense;

22 (d) Whether the circumstances leading to the offense are  
23 likely to reoccur;

24 (e) The length of time that has elapsed since the offense;  
25 and

26 (f) Whether there is a rational relationship between the  
27 offense and the duties and responsibilities of the position.

28  
29 After considering the above factors, an employer may determine in

1 its discretion whether or not to revoke any conditional offer of  
2 employment that may have been extended to an applicant.

3 2. Notwithstanding any other provision of this chapter, it  
4 shall not be an unlawful employment practice for an employer to  
5 apply different standards of compensation, or different terms,  
6 conditions or privileges of employment pursuant to a bona fide  
7 seniority or merit system, or a system which measures earnings by  
8 quantity or quality of production or to employees who work in  
9 different locations, provided that such differences or such  
10 systems are not the result of an intention or a design to  
11 discriminate, and are not used to discriminate, because of race,  
12 color, religion, sex, national origin, ancestry, age or  
13 disability, nor shall it be an unlawful employment practice for  
14 an employer to give and to act upon the results of any  
15 professionally developed ability test, provided that such test,  
16 its administration, or action upon the results thereof, is not  
17 designed, intended or used to discriminate because of race,  
18 color, religion, national origin, sex, ancestry, age or  
19 disability.

20 3. Nothing contained in this chapter shall be interpreted  
21 to require any employer, employment agency, labor organization,  
22 or joint labor-management committee subject to this chapter to  
23 grant preferential treatment to any individual or to any group  
24 because of the race, color, religion, national origin, sex,  
25 ancestry, age or disability of such individual or group on  
26 account of an imbalance which may exist with respect to the total  
27 number or percentage of persons of any race, color, religion,  
28 national origin, sex, ancestry, age or disability employed by  
29 any employer, referred or classified for employment by any

1 employment agency or labor organization, admitted to membership  
2 or classified by any labor organization, or admitted to or  
3 employed in any apprenticeship or other training program, in  
4 comparison with the total number or percentage of persons of such  
5 race, color, religion, national origin, sex, ancestry, age or  
6 disability in any community, state, section, or other area, or in  
7 the available workforce in any community, state, section, or  
8 other area.

9 4. Notwithstanding any other provision of this chapter, it  
10 shall not be an unlawful employment practice for the state or any  
11 political subdivision of the state to comply with the provisions  
12 of 29 U.S.C. 623 relating to employment as firefighters or law  
13 enforcement officers.

14 5. Subdivision (4) of subsection 1 of this section does not  
15 apply to any state, county or municipal law enforcement agency,  
16 the department of corrections, any county or municipal  
17 governmental entity responsible for housing or incarcerating  
18 individuals charged with or convicted of any offense, or any  
19 position where federal or state law requires or expressly permits  
20 the consideration of an applicant's criminal history."; and

21 Further amend said bill, page 2, section 285.055, lines 23-  
22 25, by striking all of said lines; and

23 Further amend the title and enacting clause accordingly.