

2/23/00 Do Pass

RULES & ADMINISTRATION

FILED FEB 22 2000 Judiciary
H. 3/16/00 Do Pass

SENATE FILE 2274

BY IVERSON
H. 3/23/00 Unfinished Business Calendar

Passed Senate, Date 3/1/00 (p. 497)

Passed House, Date 4-4-00 (P. 1217)

Vote: Ayes 28 Nays 21

Vote: Ayes 55 Nays 43

Approved 4-14-00
retal

A BILL FOR

1 An Act declaring null and void gubernatorial executive orders
2 relating to equal opportunity and affirmative action in state
3 employment and uniform procedures for the waiver of
4 administrative rules and providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2274
RULES & ADMINISTRATION

1 Section 1. Executive order number 7, enacted by the
2 governor on September 14, 1999, is declared null and void.

3 Sec. 2. Executive order number 11, enacted by the governor
4 on September 14, 1999, is declared null and void.

5 Sec. 3. This Act, being deemed of immediate importance,
6 takes effect upon enactment.

7 EXPLANATION

8 This bill declares null and void executive order number 7
9 issued by the governor on September 14, 1999. Executive order
10 number 7 rescinds the prior executive order enacted on April
11 30, 1992, executive order number 44. The two executive orders
12 relate to equal opportunity and affirmative action programs in
13 state employment. The protected classes of persons enumerated
14 under these programs in the 1999 gubernatorial executive order
15 are modified from those enumerated in the 1992 gubernatorial
16 executive order. The 1999 gubernatorial executive order also
17 creates a task force for equal opportunity in employment and
18 defines its duties.

19 The bill also declares null and void executive order number
20 11 issued by the governor on September 14, 1999. The
21 executive order requires each agency to initiate rulemaking
22 proceedings to adopt uniform waiver rules providing for both
23 mandatory and discretionary waiver of rules under different
24 standards set out in the uniform waiver rules. Existing law
25 does not require an agency to adopt uniform waiver rules but
26 does require an agency in the preamble to its rulemaking
27 filings to include the reasons for its failure to provide for
28 waiver of rules in specified situations.

29 The bill takes effect upon enactment.

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THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

STATE CAPITOL
DES MOINES, IOWA 50319
515 281-5211
FAX 515-281-6611

SALLY J. PEDERSON
LT. GOVERNOR

RECEIVED

APR 17

LEGISLATIVE
BUREAU

April 14, 2000

Michael Marshall
Secretary of the Senate
State Capitol Building
LOCAL

Dear Mr. Marshall:

I hereby transmit:

I hereby transmit Senate File 2274, an Act declaring Executive Order number 7 and Executive Order number 11, enacted by this office on September 14, 1999, null and void.

I am unable to approve Senate File 2274 and hereby transmit it to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

I am profoundly disappointed that the legislature has chosen to invest valuable state resources to draft, debate, and pass this bill. I have made it very clear from the outset that Executive Order number 7 and Executive Order number 11 constitute good state policy and are constitutionally sound.

Both orders constitute the appropriate exercise of gubernatorial authority under Iowa law. Executive Order number 7 does not depart from the policy expressly stated in the Iowa Code, which states that "[i]t is the policy of this state to provide equal opportunity in state employment to all persons."

It is unnecessary to submit the provisions set out in Executive Order number 7 to the general assembly for legislative approval. Any attempt by the legislature to portray this order as clandestine legislation fails to recognize that the executive branch may adopt policies that administer state statutes when such administration does not contravene those statutes. It also ignores the fact that the Iowa Senate followed a similar legal interpretation when it redrafted the Legislative Council's Affirmative Action Policy to provide protection to persons, regardless of sexual orientation, without presenting the new policy to the governor for approval through the ordinary course of the legislative process.

Executive Order number 11 also constitutes a valid exercise of gubernatorial authority. Iowa law permits state agencies to waive their enforcement of agency rules in compliance with state and federal law. A number of state agencies currently issue waivers under certain circumstances. As the supreme executive magistrate for the state, the holder of this office possesses the legal authority to direct executive branch agencies to adopt a common waiver provision. By signing Senate File 2274 into law, I would disrupt the balance between our two branches of government by relinquishing authority vested within the executive branch.

The executive orders send a clear message that all persons within the executive branch of state government will be afforded an equal opportunity in employment. They also ensure that individuals and businesses will benefit from an efficient, economical, and responsive state government.

For the above reasons, I hereby respectfully disapprove of Senate File 2274.

Sincerely,



Thomas J. Vilsack
Governor

Cc: Secretary of State
Chief Clerk of the Senate

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

SENATE FILE 2274

AN ACT

DECLARING NULL AND VOID GUBERNATORIAL EXECUTIVE ORDERS
RELATING TO EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION IN
STATE EMPLOYMENT AND UNIFORM PROCEDURES FOR THE WAIVER OF
ADMINISTRATIVE RULES AND PROVIDING AN EFFECTIVE DATE.

I hereby certify that this bill originated in the Senate and
is known as Senate File 2274, Seventy-eighth General Assembly.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Executive order number 7, enacted by the
governor on September 14, 1999, is declared null and void.

Sec. 2. Executive order number 11, enacted by the governor
on September 14, 1999, is declared null and void.

MICHAEL E. MARSHALL
Secretary of the Senate

Vilsack 4/14
Approved _____, 2000

THOMAS J. VILSACK
Governor