

Public Authorities (Equal Employment Opportunity) Bill

No.

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Clause

1. Purpose.
2. Commencement.
3. Definitions.
4. Application.

PART 2—EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS AND PERSONNEL MANAGEMENT PRINCIPLES

5. Public authorities with 40 or more employees required to develop equal employment opportunity programs.
6. Contents of equal employment opportunity program.
7. Regard to be had to equal employment opportunity program.
8. Public authorities must observe personnel management principles.
9. Public authorities may use special tests and qualifications.
10. Quotas applicable to certain public authorities.
11. Exemptions from this Part.

PART 3—REPORTING REQUIREMENTS AND REGULATIONS

12. Requirement for annual report.
13. Lodging of annual report.
14. Report by Minister.
15. Special reports and Ministerial direction.
16. Regulations.

†

†

LEGISLATIVE COUNCIL

Read 1° 10 August 1988

(Brought from the Legislative Assembly)

A BILL

for

An Act to provide for equal employment opportunity programs in public authorities and for other purposes.

Public Authorities (Equal Employment Opportunity) Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

1. The purpose of this Act is—

- 5 (a) to provide for equal employment opportunity programs in public authorities; and
- (b) to establish reporting requirements in relation to those programs; and
- 10 (c) to require public authorities to observe personnel management principles in employment matters.

Commencement.

2. This Act comes into operation on a day or days to be proclaimed.

Definitions.**3. In this Act—**

- “Designated group”** means a class of persons with a common characteristic or attribute which is declared by Order of the Governor in Council published in the *Government Gazette* to be a designated group. 5
- “Discrimination”** means an act of discrimination within the meaning of the *Equal Opportunity Act 1984* which is unlawful under that Act.
- “Employee”** means a natural person appointed or engaged by a public authority— 10
- (a) under a contract of service; or
 - (b) under a contract for services—
- whether on a full-time, part-time, permanent, casual or temporary basis. 15
- “Employment matters”** includes—
- (a) recruitment procedure and selection procedure for appointment or engagement of persons as employees; and
 - (b) promotion and transfer of employees; and 20
 - (c) training and staff development for employees; and
 - (d) remuneration and conditions of service of employees.
- “Equal employment opportunity program”** means a program which is designed to eliminate discrimination against and promote equal opportunity for women and persons in designated groups in relation to employment matters. 25
- “Public authority”** means a body whether corporate or unincorporate constituted by or under any Act for a public purpose and includes—
- (a) the governing body of any technical and further education institution referred to in Schedule 3 of the *Post-Secondary Education Act 1978*; and 30
 - (b) the chairman of the Technical and Further Education Board established under section 41 of the *Post-Secondary Education Act 1978*; and 35
 - (c) the board of management or governing body (by whatever name called) of any hospital listed in Schedule 1 or 2 to the *Health Services Act 1988*; and
 - (d) any committee of management of an ambulance service within the meaning of the *Ambulance Services Act 1986*; and 40
 - (e) any authority within the meaning of the *Water Act 1958*, the First Mildura Irrigation Trust, the Sunraysia Water Board and any water board constituted under

the *Water and Sewerage Authorities (Restructuring) Act* 1983; and

(f) the Chief Executive, Ministry of Education; and

(g) the Chief Commissioner of Police; and

5 (h) any other body constituted for a public purpose which is declared by Order of the Governor in Council published in the *Government Gazette* to be a public authority for the purposes of this Act—

but does not include—

10 (i) any municipality or the council of any municipality (including the City of Melbourne or the City of Geelong); or

(j) any body or committee established under the *Local Government Act* 1958; or

15 (k) the Municipal Association of Victoria established under the *Municipal Association Act* 1907; or

(l) the Victorian Public Service; or

20 (m) a body to which the *Affirmative Action (Equal Employment Opportunity for Women) Act* 1986 of the Commonwealth as amended and in force for the time being applies; or

(n) a body which has been granted an exemption from this Act, to the extent only of that exemption.

“Trade union” means—

25 (a) an association of employees which is a recognised association under Part V. of the *Industrial Relations Act* 1979; or

(b) an organisation of employees—

30 (i) which is registered under the *Conciliation and Arbitration Act* 1904 of the Commonwealth as amended and in force for the time being; or

(ii) which is approved by the Governor in Council as a trade union for the purposes of this Act.

Application.

35 4. Where at any time the number of employees employed by a public authority falls below 40, any reference in this Act to a public authority with 40 or more employees continues to apply to the authority unless and until the number of employees employed by it falls below 30.

PART 2—EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS AND PERSONNEL MANAGEMENT PRINCIPLES

Public authorities with 40 or more employees required to develop equal employment opportunity programs.

5
5. A public authority with 40 or more employees shall commence the development and implementation of an equal employment opportunity program on the day of commencement of this section.

Contents of equal employment opportunity program.

10
6. Without limiting the generality of the definition of “equal employment opportunity program” in section 3, the equal employment opportunity program of a public authority with 40 or more employees shall provide for action to be taken—

15
(a) to inform employees of the contents of the equal employment opportunity program and of the results of any monitoring and evaluation of the equal employment opportunity program under paragraph (i); and

20
(b) to confer responsibility for the development and implementation of the equal employment opportunity program (including a continuous review of the equal employment opportunity program) on a person having sufficient authority and status within the management of the authority to enable the person properly to develop and implement the equal employment opportunity program; and

25
(c) to establish an equal employment opportunity consultative committee comprising representatives of—

(i) trade unions having members employed by the authority; and

(ii) management of the authority; and

30
(iii) if the representatives referred to in sub-paragraph (i) or (ii) so determine, persons with expertise in areas which are relevant to the development and implementation of the equal employment opportunity program—

35
to advise the person responsible for the development and implementation of the equal employment opportunity program on the development and implementation of the equal employment opportunity program and on any other related matters; and

40
(d) to consult with each trade union which has members who are affected by the proposal for the development and implementation of the equal employment opportunity program; and

(e) to consult with employees of the authority in the development and implementation of the equal employment

opportunity program, especially with employees who are women or persons in designated groups; and

5 (f) for the collection and recording of statistics and related information concerning employment matters in the authority, including the number, classification and types of jobs of—

(i) employees of either sex; and

(ii) employees in designated groups; and

10 (g) to consider policies and examine practices of the authority in relation to employment matters to identify—

(i) any policies or practices that discriminate against women or persons in designated groups; and

15 (ii) any patterns (whether ascertained statistically or otherwise) of lack of equality of opportunity in respect of women and persons in designated groups; and

(h) to set—

(i) the particular objectives to be achieved by the equal employment opportunity program; and

20 (ii) the quantitative and other indicators against which the effectiveness of the equal employment opportunity program is to be assessed; and

(i) to monitor and evaluate the implementation of the equal employment opportunity program and to assess—

(i) the achievement of those objectives; and

25 (ii) the effectiveness of the equal employment opportunity program by comparing statistics and information collected and recorded under paragraph (f) with the indicators against which the effectiveness of the equal employment opportunity program is to be assessed.

30 **Regard to be had to equal employment opportunity program.**

7. A public authority shall take any action necessary to give effect to its equal employment opportunity program and any person who exercises powers in relation to employment matters on behalf of the authority shall have regard to the equal employment opportunity program in exercising those powers.

Public authorities must observe personnel management principles.

8. A public authority must observe the following principles of personnel management:

40 (a) Recruitment to the authority must be from qualified individuals selected solely on the basis of relative ability,

- knowledge and skills in fair and open competition which assures that all receive equal opportunity;
- (b) Promotion and advancement within the authority must be from qualified individuals selected in fair and open competition solely on the basis of relative efficiency measured in relation to the position involved; 5
- (c) All employees must receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, colour, religion, national origin, sex, marital status or physical disability; 10
- (d) Equal pay must be provided for work of equal value with appropriate consideration being given to the different requirements of various occupational employment categories;
- (e) Employees must be used efficiently and effectively; 15
- (f) Employees must be provided with effective education and training where such education and training would result in better organisational and individual performance;
- (g) Employees must be protected against arbitrary action, personal favouritism and coercion; 20
- (h) All necessary steps must be taken to ensure that all employees maintain proper standards of integrity, conduct and concern for the public interest.

Public authorities may use special tests and qualifications.

9. Despite anything to the contrary in this Act, a public authority may determine and use special tests and qualifications to enhance recruitment and promotion of persons in any designated group. 25

Quotas applicable to certain public authorities.

10. (1) Despite anything to the contrary in this Act, if a public authority contravenes or fails to comply with this Act or the regulations made under it, the Governor in Council may, on the recommendation of the Minister administering this Act and the Minister responsible for that authority, make an Order published in the *Government Gazette* imposing an employment quota on the authority. 30
- (2) The quota— 35
- (a) may require the authority to recruit or promote (either generally or in relation to any specific positions) or admit to training or staff development activities a specified number of persons who are women or members of a designated group; and 40
- (b) is binding on the authority for the period of time specified in the Order containing the quota.

Exemptions from this Part.

5 11. (1) On application by a public authority, the Governor in Council may by Order published in the *Government Gazette* grant an exemption from the requirements of this Part to the authority in relation to a specific designated group.

(2) The exemption is valid for the period of time specified in the Order containing it.

PART 3—REPORTING REQUIREMENTS AND REGULATIONS

Requirement for annual report.

10 12. (1) A public authority with 40 or more employees must within 3 months after the end of each financial year of the authority prepare an annual equal employment opportunity report on the development and implementation of its equal employment opportunity program during that financial year which contains—

- 15 (a) a description and detailed analysis of the action taken by the authority to develop and implement its equal employment opportunity program; and
(b) the assessments referred to in section 6 (i); and
20 (c) particulars of each direction given by the Minister under section 15.

(2) A public authority with less than 40 employees must within 3 months after the end of each financial year of the authority prepare an annual equal employment opportunity report in respect of that financial year which states the number, classification and types of jobs of—

- 25 (a) employees of either sex; and
(b) employees in designated groups.

Lodging of annual report.

13. (1) A public authority which is required under the *Annual Reporting Act* 1983 or any other Act to lodge an annual report must—

- 30 (a) include the report under section 12 in that annual report; and
(b) lodge the report under section 12 with the Minister administering this Act.

35 (2) A public authority other than one referred to in sub-section (1) must lodge the report with the Minister responsible for the authority and with the Minister administering this Act within 3 months after the end of the authority's financial year.

Report by Minister.

14. (1) The Minister administering this Act must in respect of each financial year prepare an annual report describing generally the implementation of equal employment opportunity programs in public authorities during that financial year. 5

(2) The Minister must ensure that the report is laid before each House of the Parliament within 3 months after its preparation.

Special reports and Ministerial direction.

15. (1) The Minister responsible for a public authority may at any time by notice in writing to the authority— 10

(a) require the authority to submit to the Minister within a specified time a special written report (other than the report under section 12) about the development, implementation or review of the authority's equal employment opportunity program; and 15

(b) direct the authority generally in relation to any of its obligations under this Act.

(2) A notice under sub-section (1) (a) may specify the specific aspects of an authority's equal employment opportunity program which the special report must include. 20

Regulations.

16. The Governor in Council may make regulations for or with respect to any matter which is required or permitted or necessary to be prescribed for carrying out or giving effect to this Act.