



June 2, 1995

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MEMO TO: MTA BOARD OF DIRECTORS AND ALTERNATES
THROUGH: FRANKLIN E WHITE
FROM: BARRY ENGELBERG *B.C. for*
SUBJECT: GOVERNOR PETE WILSON'S EXECUTIVE ORDER ON
AFFIRMATIVE ACTION

ISSUE

On June 1, 1995 Governor Pete Wilson signed Executive Order W-124-95 regarding affirmative action practices in the State of California. Specifically, the Governor's executive order repeals three previous Executive Orders promoting affirmative action signed by Governors Reagan, Brown and Deukmejian. The measure also eliminates all state advisory panels and consulting contracts on affirmative action.

The executive order brings state practices in line with federal statutory and regulatory guidelines, but calls for an analysis of the costs to the state of implementing current federal and state affirmative action laws. It also encourages the governor's appointees to college and university boards in the California system, state agencies, and other boards and commissions to comply with the intent of his directive.

Although this executive order does not directly apply to local governmental entities such as the Los Angeles County Metropolitan Transportation Authority (MTA), the impact of the Governor's action on public and private entities throughout the state will certainly be profound. MTA staff will continue to keep you informed on this important matter. This report was prepared by the Intergovernmental Relations and Equal Opportunity staffs.

Attachments

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA



EXECUTIVE ORDER TO
END PREFERENTIAL TREATMENT AND TO PROMOTE
INDIVIDUAL OPPORTUNITY BASED ON MERIT

EXECUTIVE ORDER W-124-95

WHEREAS, basic fairness is at the core of the American dream and the American character; and

WHEREAS, it is government's duty to promote the belief that Americans who work hard and play by the rules can, on the basis of their individual merit, win for themselves and their families the deserved rewards of excelling in an honest competition for a job, for a contract, or for a place in an institution of higher education; and

WHEREAS, government must promote equal opportunity regardless of race or gender; and

WHEREAS, we must have zero tolerance for discrimination of any kind and must vigorously and conscientiously enforce the laws that protect against discrimination to achieve our goal of a truly color-blind society; and

WHEREAS, numerical quotas for hiring and contracting processes merely replace one form of discrimination with another; and

WHEREAS, the continuation of race- and gender-based preferential treatment programs which benefit an individual who has not suffered discrimination at the expense of an individual who has not engaged in discrimination is divisive, inconsistent with the principle of basic fairness, and fundamentally wrong; and

WHEREAS, state government must award contracts and make hiring decisions on the basis of merit to the maximum extent allowable by law; and

WHEREAS, state governmental programs and practices which grant special preference based on race and gender in employment and contracting (hereinafter referred to as "preferential treatment") have expanded beyond even the requirements of current law;

NOW, THEREFORE, I, PETE WILSON, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. Executive Orders R-34-71, R-85-81, and D-20-83 are repealed in their entirety.
2. No state agencies, departments, boards, or commissions shall discriminate in employment on the basis of race, gender, creed, color, religion, national or ethnic origin, age, marital status, or physical or mental disability.

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3. To ensure equal opportunity, all state agencies, departments, boards, and commissions shall take appropriate measures to ensure that qualified applicants are recruited from all segments of the relevant work force and shall monitor their hiring practices to assure that they are operating in a non-discriminatory manner and without any barriers to equal opportunity.
4. To the maximum extent allowable by law, decisions in public employment and contracting shall be based upon merit.
5. In the interest of promoting an equal opportunity and truly color-blind society and eliminating excessive state regulations and requirements, the following actions shall be taken immediately by state agencies, departments, boards, and commissions to the maximum extent allowable by law:
 - (a) eliminate all state preferential treatment requirements that exceed federal statutory or regulatory, or state statutory requirements, including but not limited to those concerning hiring and layoffs and state contractors or grantees;
 - (b) terminate any consultant contracts, disband any advisory committees, and abolish any performance recognition awards, where those contracts, advisory committees, and recognition awards foster or encourage preferential treatment;
 - (c) quantify and report to the Governor within 75 days the cost to state taxpayers of implementing federal and state requirements, which grant preferential treatment; and
 - (d) draft 1995/96 state employment goals and timetables required by the Government Code so as to be based on the employment pool possessing the necessary qualifications for the particular job classification at issue, rather than on general work force parity.
6. The State Personnel Board is directed to re-examine current regulations implementing state preferential treatment employment statutes. In promulgating further regulations, the Board shall limit the scope of such regulations to the extent compelled by law, and in that connection, appointment and layoff processes which grant preferential treatment based on race or gender should be eliminated except to the extent compelled by law.
7. State Constitutional Officers, the University of California, the California State University, the California Community Colleges, the State Board of Education and state agencies, departments, boards, and commissions not directly under the authority of the Executive Branch are requested to take all necessary action to comply with the intent and the requirements of this executive order.
8. Nothing in this executive order shall be construed to require an action that would result in a violation of a court order or a loss of federal funding.

IN WITNESS WHEREOF I have hereunto set my hand
and caused the Great Seal of the State of
California to be affixed this 1st day of
June 1995.

Governor of California

ATTEST:

Secretary of State



GOVERNOR'S OFFICE

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**WILSON BECOMES NATION'S FIRST GOVERNOR TO ISSUE
EXECUTIVE ORDER ROLLING BACK AFFIRMATIVE ACTION****Replaces Preferential Treatment With
Individual Merit As New Standard****FOR IMMEDIATE RELEASE**
Thursday, June 1, 1995**CONTACT:** Sean Walsh
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Los Angeles -- Pete Wilson today became the nation's first governor to roll back affirmative action programs which give preferential treatment based on race and gender, signing an executive order that establishes individual merit as the new standard for employment and contract decisions in state government.

"Today, we begin a new chapter in the journey toward a color-blind society that protects the rights of every individual and offers equal opportunity to all Californians," said Wilson.

Wilson signed the executive order surrounded by firefighters with the California Department of Forestry, at a location adjacent to the scene of 1993's Malibu fires.

His remarks were delivered by Joanne Kozberg, Secretary of California's State and Consumer Services Agency, the agency which enforces state civil rights laws and oversees the State Personnel Board and the Department of General Services. Wilson, still recuperating from surgery on his vocal chords, is under doctor's orders not to give speeches until his throat heals.

In his remarks read by Kozberg, Wilson reiterated his long-held belief that special treatment based on group membership is wrong.

"Granting preferential treatment to one individual on the basis of race or gender, at the expense of another, is not only fundamentally unfair, it stigmatizes the achievements of those it was intended to help," said Wilson.

"Affirmative action, as originally conceived, was an effort to remove barriers to opportunity for individuals who had suffered discrimination," Wilson added. "But over the years, affirmative action has expanded into a vast system of preferential treatment awarded not just to victims of discrimination, but to anyone who is born into a protected group."

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GOVERNOR PETE WILSON • SACRAMENTO, CALIFORNIA 95814 • (916) 445-2841

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Specifically, Wilson's executive order:

***** Repeals three executive orders from previous governors which encouraged the expansion of affirmative action programs and practices which have resulted in the promotion of racial and gender based preferences and set asides.**

***** Prohibits preferential treatment based on race or gender not required by law, and reinforces "zero tolerance" for discrimination by directing state agencies to fully enforce anti-discrimination statutes and remove barriers to equal opportunity for qualified applicants.**

***** Reforms hiring standards throughout state government so that hiring goals are set according to the number of minorities and women in the "relevant labor pool" (possessing the requisite skills and qualifications) rather than "general workforce parity" (percentages of groups in the overall labor force.) Directs State Personnel Board to rewrite the necessary regulations.**

***** Begins dismantling the "affirmative action bureaucracy" by disbanding state advisory councils, terminating consultant contracts and abolishing performance recognition awards which foster preferential treatment in attempting to meet affirmative action goals and timetables.**

***** Eliminates excessive reporting requirements and onerous paperwork imposed by affirmative action programs including forms requiring written justification for hiring of non-affirmative action job candidates.**

***** Requests state constitutional officers, the public university systems and other entities not directly under the authority of the executive branch to comply with the new merit based standard in public employment and contracting.**

In his remarks, Wilson noted that affirmative action, as it was originally implemented, has since been dramatically altered by three decades' worth of legislative actions and judicial decisions at the state and federal level.

Wilson said that is why "bold new steps" are necessary in order to better achieve a merit-based, color-blind society.

"We must replace the outdated policies of preferential treatment with a new vision based upon justice, upon individual merit, and upon the fundamental civil rights principle of equality under the law," said Wilson.

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Wilson, in his remarks, also indicated that he will continue to aggressively pursue additional changes to laws which have enshrined special preferences for minorities and women in the bureaucratic culture of government.

"This executive order is an historic step forward. By itself, it doesn't complete the change we must make. Special preferences remain imbedded in state and federal law. I vow to fight for changes in those laws."

Wilson also noted that today's executive order is only the first step in what will be a series of efforts to fundamentally reform affirmative action programs and policies in government to end the unfairness that special preferences based on race and gender have caused.

"Today's action starts us down a road. It begins to return us to the promise of America as a nation that offers, in the words of Thomas Jefferson, 'Equal rights for all, special privileges for none,'" concluded Wilson.