



Legislation Details (With Text)

**File #:** 29698      **Version:** 1      **Name:** Gender identity  
**Type:** Ordinance      **Status:** Passed  
**File created:** 4/4/2013      **In control:** COMMON COUNCIL  
**On agenda:** 9/3/2013      **Final action:** 9/3/2013  
**Enactment date:** 9/12/2013      **Enactment #:** ORD-13-00149

**Title:** Amending Sections 39.02(1), 39.02(9)(b) and (e) of the Madison General Ordinances to add sexual orientation and gender identity as protected classes.

**Sponsors:** Michael E. Verveer, Marsha A. Rummel, Joseph R. Clausius, David Ahrens, Shiva Bidar, Mark Clear, Lauren Cnare, Sue Ellingson, Steve King, Larry Palm, Matthew J. Phair, Scott J. Resnick, Chris Schmidt, John Strasser, Lisa Subeck, Maurice S. Cheeks, Anita Weier, Ledell Zellers

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
9/3/2013	1	COMMON COUNCIL	Adopt	Pass
7/9/2013	1	AFFIRMATIVE ACTION COMMISSION	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
4/16/2013	1	COMMON COUNCIL	Referred	Pass
4/4/2013	1	Attorney's Office/Approval Group	Referred for Introduction	

**Fiscal Note**

No significant fiscal impact is anticipated. Any additional administrative responsibilities will be accommodated within existing staff resources.

**Title**

Amending Sections 39.02(1), 39.02(9)(b) and (e) of the Madison General Ordinances to add sexual orientation and gender identity as protected classes.

**Body**

DRAFTER'S ANALYSIS: This amendment would add "gender identity" and "sexual orientation" as protected classes to the City's affirmative action ordinance. This would therefore make it unlawful for either the City or any of its contractors to discriminate in the provision of employment, promotional opportunities or service delivery on such basis. These protected classes are already incorporated into the City's Equal Opportunities Ordinance, Sec. 39.03, MGO.

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The Common Council of the City of Madison do hereby ordain as follows:

- Subsection (1) entitled "Declaration of Policy" of Section 39.02 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:  
 "(1) Declaration of Policy. It is the official policy of the City of Madison to provide equal employment and promotional opportunities and equal access to public services for all persons from all segments of the Madison community without regard to their race, religion, color, age, marital status, disability, sex, or national origin, sexual orientation or gender identity, hereinafter referred to as affected or under-represented groups. The Council finds that the practice of unfair discrimination in access to public services, employment and contracting adversely affects the general welfare of the City. Because such practices have existed throughout Madison's history, the mere passive prohibition of discriminatory practices is not sufficient to effectuate this principle of equal opportunity in contracting, employment

and promotional opportunity and equal access to public services. Affirmative and direct action is required to make equal employment, access to public service, and promotional opportunities a reality and correct the effects of past patterns of inequality.

To implement this policy, therefore, the City of Madison hereby adopts this Affirmative Action Ordinance designed to increase the number and representation of affected and/or other under-represented groups, in all departments, job classifications and salary categories throughout the City employment. All City of Madison agencies shall adhere to principles of equal opportunity in service delivery. The City of Madison in developing its Affirmative Action Program shall require similar efforts from vendors, contractors and firms with which it does business. The Council finds that it is not in the public interest for the City to purchase goods and services from vendors and contractors unless they demonstrate that they have taken affirmative action to ensure equal employment and sub-contracting opportunities.

Nothing in this ordinance is intended to alter or impair the City's or contractors' obligation to comply with Section 39.03 of these ordinances.

It is also the official policy of the City of Madison that as an overall goal, ten percent (10%) of the City's public works funds shall be expended with certified small business enterprises. The term "certified small business enterprises" is defined in the City's small business enterprise program, as approved by the Common Council. The Council finds that this policy will stimulate economic growth, promote the establishment of new businesses and provide employment opportunities.

In addition, when the City expends funds provided to it by federal agencies, the City shall require that contractors comply with applicable federal regulations governing the participation of minority business enterprises, women business enterprises and disadvantaged business enterprises."

2. Subdivision (b) of Subsection (9) entitled "Contract Compliance Provisions" of Section 39.02 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(b) Notwithstanding the provisions of Sec. 39.02(9)(a)2., providing for certain exemptions from the provisions of this ordinance, every contract to which the City of Madison is a party shall contain the following language, except for contracts with the State of Wisconsin, another state government, the United States of America or individual agencies of the U.S. government, and written employment contracts between the City and City employees:

In the performance of the services under this Agreement the Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin."

3. Article I of Paragraph 2. entitled "Contract Conditions" of Subdivision (e) entitled "Compliance Requirements" of Subsection (9) entitled "Contract Compliance Provisions" of Section 39.02 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

#### "ARTICLE I

The contractor shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the contractor. The contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract."

4. Article II of Paragraph 2. entitled "Contract Conditions" of Subdivision (e) entitled "Compliance Requirements" of Subsection (9) entitled "Contract Compliance Provisions" of Section 39.02 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

“ARTICLE II

The contractor shall in all solicitations or advertisements for employees placed by or on behalf of the contractors state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin.”