

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
Jan 27, 2021
S.B. 15
PRINCIPAL CLERK

S

D

SENATE BILL DRS35009-LR-12A*

Short Title: NC Adopt ERA.

(Public)

Sponsors: Senators Foushee, Marcus, and Murdock (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO RATIFY THE EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION OF
3 THE UNITED STATES OF AMERICA RELATING TO EQUAL RIGHTS FOR MEN
4 AND WOMEN AND TO APPROPRIATE FUNDS TO EDUCATE THE PUBLIC ABOUT
5 THE PROVISIONS OF THE ACT.

6 Whereas, the 92nd Congress of the United States of America at its second session, in
7 both houses, by a constitutional majority of two-thirds thereof, adopted the following proposition
8 to amend the Constitution of the United States of America in the following words, to wit:

9 "JOINT RESOLUTION

10 *****

11 "Resolved by the Senate and House of Representatives of the United States of America in
12 Congress assembled (two-thirds of each House concurring therein), that the following article is
13 proposed as an amendment to the Constitution of the United States, which shall be valid to all
14 intents and purposes as part of the Constitution when ratified by the Legislatures of three-fourths
15 of the several States within seven years from the date of its submission by the Congress:

16 "ARTICLE _____

17 "Section 1. Equality of rights under the law shall not be denied or abridged by the United
18 States or by any State on account of sex.

19 "Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the
20 provisions of this article.

21 "Sec. 3. This amendment shall take effect two years after the date of ratification"; and

22 Whereas, the federal Equal Rights Amendment (ERA) is an essential constitutional
23 guarantee for correcting systemic sex discrimination in North Carolina and nationally, since it
24 would affirm that constitutional rights are held equally by all persons regardless of sex, it would
25 provide a fundamental legal remedy against sex discrimination, and it would make "sex" a
26 suspect classification, so that governmental actions that treat people differently based on sex
27 would have to bear a necessary relation to a compelling state interest; and

28 Whereas, the ERA, which was first introduced in Congress in 1923 and passed by
29 Congress in 1972, has, as a result of its recent approvals by Nevada (2017), Illinois (2018), and
30 Virginia (2020), met the Article V constitutional requirement for inclusion in the Constitution
31 after ratification by three-quarters of the states (38); and

32 Whereas, the ERA is awaiting certification and publication by the U.S. Archivist in a
33 ministerial act required by law (1 U.S.C. 106b), pending resolution of issues regarding (1) a
34 Congressionally imposed time limit and (2) the purported rescission or withdrawal of ratification
35 by five states; and



1 Whereas, the time limit for the ERA's ratification period was placed in the
2 amendment's preamble rather than its text and thus was not language ratified by the states; and
3 the power of Congress to impose a time limit includes the ability to alter or remove it, as Congress
4 demonstrated in 1978 with its extension of the original ratification deadline from March 22, 1979,
5 to June 30, 1982, and as the 116th Congress has already taken action on with bipartisan passage
6 of H.J. Res. 79 in the House of Representatives on February 13, 2020, and which will be achieved
7 when its bipartisan companion bill S.J. Res. 6 is passed by the Senate, whereby Congress will
8 have expressed its will "That notwithstanding any time limit contained in House Joint Resolution
9 208, 92nd Congress, as agreed to in the Senate on March 22, 1972, the article of amendment
10 proposed to the States in that joint resolution shall be valid to all intents and purposes as part of
11 the United States Constitution whenever ratified by the legislatures of three-fourths of the several
12 States."; and

13 Whereas, although five states (Idaho, Kentucky, Nebraska, Tennessee, and South
14 Dakota) voted to rescind or otherwise withdraw their ratification of the ERA before the time limit
15 that was set and extended by Congress, Article V of the Constitution does not mention rescission
16 and grants no such power to the states, and based on both precedent with the 14th and 15th
17 Amendments and statutory language (1 U.S.C. 106b), a state withdrawal of its ratification of a
18 constitutional amendment has never been recognized as valid; and

19 Whereas, the 27th ("Madison") Amendment was added to the U.S. Constitution in
20 1992, 203 years after it had been sent to the states for ratification without a deadline, and was
21 certified by the U.S. Archivist one day before Congress passed a resolution affirming acceptance
22 of its ratification process (a Congressional action taken only once before, with the 14th
23 Amendment in 1868); and based on the U.S. Supreme Court's decision in *Coleman v. Miller*, 307
24 U.S. 433, at 456 (1939), Congress is in a unique position to judge the political, social, and
25 economic factors affecting the national importance of a proposed amendment and to determine
26 the validity of an amendment's mode of ratification; and

27 Whereas, in a 2016 poll for the national ERA Coalition, the research agency db5
28 found that 94% of Americans support an amendment to the Constitution to guarantee equal rights
29 for men and women, and most of the remaining 12 states that have not yet ratified the ERA have
30 already introduced ratification bills in their current legislative sessions, and it is probable that in
31 2020 and 2021 more states will be added to the 38 that have already ratified the ERA; Now,
32 therefore,

33 The General Assembly of North Carolina enacts:

34 **SECTION 1.** That the Equal Rights Amendment to the Constitution of the United
35 States of America set out in the preamble to this act be, and the same is, hereby ratified by the
36 General Assembly of the State of North Carolina.

37 **SECTION 2.** That certified copies of this preamble and act be forwarded by the
38 Governor of this State to the Administrator of General Services, Washington, D.C., and the
39 President of the Senate and the Speaker of the House of Representatives of the Congress of the
40 United States.

41 **SECTION 3.** There is appropriated from the General Fund to the Department of
42 Labor the sum of ten thousand dollars (\$10,000) for the 2021-2022 fiscal year to educate the
43 public about this act.

44 **SECTION 4.** This act becomes effective July 1, 2021.