

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 55

Short Title: Discrimination/State Personnel.

(Public)

Sponsors: Representatives Kennedy; D. Brown, Burton, Cummings, Cunningham, Easterling, Fitch, Gist, Green, Hensley, Holt, Judy Hunt, H Hunter, R. Hunter, Jarrell, Jeffus, McAllister, Michaux, Oldham, Stamey, Wainwright, and Wright.

Referred to: Judiciary I.

February 4, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE STATE PERSONNEL SYSTEM LAWS CONCERNING
2 EMPLOYMENT DISCRIMINATION, AUTHORIZE THE CIVIL RIGHTS
3 DIVISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS TO ISSUE
4 SUBPOENAS, AND AUTHORIZE THE ATTORNEY GENERAL TO SEEK
5 INJUNCTIVE RELIEF ON BEHALF OF THE CIVIL RIGHTS DIVISION OF
6 THE OFFICE OF ADMINISTRATIVE HEARINGS.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 126-16 reads as rewritten:

10 "**§ 126-16. Equal opportunity for employment and compensation by State**
11 **departments and agencies and local political subdivisions.**

12 (a) All state departments and agencies and all local political subdivisions of
13 North Carolina shall give equal opportunity for employment and compensation, without
14 regard to race, religion, color, creed, national origin, sex, age, or handicapping condition
15 as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age,
16 sex, or physical requirements constitute bona fide occupational qualifications necessary
17 to proper and efficient administration. This section with respect to equal opportunity as
18 to age shall be limited to individuals who are at least 40 years of age.

19 (b) Any employee, former employee or applicant of all State departments and
20 agencies and all local political subdivisions of North Carolina may grieve any action
21 arising out of the denial of any term, condition, or benefit of employment on the basis of
22 unlawful discrimination.

1 (c) Aggrieved employees, former employees or applicants may file a grievance
2 action not later than 180 days from the date of the last alleged discriminatory action.

3 (d) Notwithstanding any other provisions of this Chapter, the employment
4 discrimination provisions of this Article shall be applicable to exempt policy-making
5 employees as defined in G.S. 126-5(d).

6 (e) Notwithstanding any other provisions of this Chapter or any rules or policies
7 established by the State Personnel Commission pursuant to G.S. 126-4(9), all grievance
8 actions alleging unlawful employment discrimination pursuant to this Article shall be
9 first heard before the State Personnel Commission. Any decision of the Commission
10 which is appealed shall be heard by an Administrative Law Judge in the Office of
11 Administrative Hearings. Any decision of an Administrative Law Judge which is
12 appealed shall be heard by the North Carolina Court of Appeals.

13 (f) Aggrieved employees, former employees or applicants injured in violation of
14 this Article may seek injunctive relief, damages, reinstatement, payment of back wages,
15 full reinstatement of benefits and seniority, costs, reasonable attorneys' fees or any
16 combination of these remedies."

17 Sec. 2. Article 6 of Chapter 126 of the General Statutes is amended by
18 adding a new section to read:

19 "**§ 126-16.2. Notice of right to file discrimination action.**

20 All State departments and agencies and all local political subdivisions of North
21 Carolina shall notify all employees of their right to file an employment discrimination
22 action. The notice shall include information concerning when, where, and how such
23 filing should be made."

24 Sec. 3. G.S. 7A-759(c) reads as rewritten:

25 "(c) In investigating charges an employee of the Civil Rights Division of the
26 Office of Administrative Hearings specifically designated by an order of the Chief
27 Administrative Law Judge filed in the pending case may administer oaths and
28 ~~affirmations.~~ affirmations and issue subpoenas. Upon request by the Civil Rights
29 Division, the Attorney General may institute a civil action in the General Court of
30 Justice to seek injunctive relief to restrain further discriminatory action and for such
31 other relief that the court may deem proper."

32 Sec. 4. This act is effective upon ratification.