

March 8, 2007

S 657. OMNIBUS CIVIL RIGHTS ACT. Filed 3/8/07. *TO ENACT THE OMNIBUS CIVIL RIGHTS ACT.*

Overview. Enacts new GS Chapter 169, the Omnibus Civil Rights Act, creating the North Carolina Agency for Civil Rights (ACR), reorganizing existing civil rights laws into the new chapter, and enacting comprehensive provisions governing civil rights. The clear proceeds of civil penalties authorized in the new chapter are credited to the Civil Penalty and Forfeiture Fund.

Statutory civil rights established. Article 1 of new GS Chapter 169 sets out definitions and the title and purpose of the chapter. It establishes the following statutory civil rights: (1) to obtain employment without discrimination on the basis of actual or perceived race, color, national origin, religion, age, sex, or physical or mental disability (exempts employers of fewer than 15 employees); (2) to obtain housing without discrimination on the basis of actual or perceived race, color, national origin, religion, sex, physical or mental disability, or familial status; (3) to obtain full use of public accommodations without discrimination on the basis of actual or perceived race, color, national origin, religion, sex, or physical or mental disability; and (4) to live free of fear of victimization from hate crimes on account of actual or perceived race, color, national origin, religion, sex, or physical or mental disability. Prohibits retaliation for opposing unlawful practices or participating in a proceeding under GS Chapter 169. Waives the state's sovereign immunity for the purpose of allowing civil rights actions under the new chapter.

Agency for Civil Rights. Article 2 of new GS Chapter 169 creates the ACR, which includes the Division of Community Relations and Hate Crimes, the Division of Fair Employment Practices, the Division of Fair Housing and Public Accommodations, and the Office of General Counsel. The ACR also includes the Human Relations Commission (recodified from GS 143B-391 and GS 143B-392) and the Martin Luther King, Jr. Commission (recodified from GS 143B-426.34A and GS 143B-426.34B). These and other boards and commissions transferred to the ACR will continue to be appointed and compensated as under current law.

The ACR is an independent agency. Its ranking administrative officer is a commissioner appointed by the Governor, subject to approval by the General Assembly. The commissioner is authorized to hire staff. The ACR is authorized to order investigations, issue subpoenas, and apply to superior court for orders to require persons to cooperate with the ACR's investigations. The new law imposes a civil penalty of up to \$1,000 for making misrepresentations, providing fraudulent information, or interfering with the ACR's investigations. Provides for confidentiality of records.

State Fair Employment Act. Article 3 of new GS Chapter 169 is the State Fair Employment Act. It establishes unlawful employment practices and sets out the proof requirements for disparate treatment and disparate impact charges. The article exempts specific categories of employers and identifies actions that are not unlawful employment practices. The article establishes the administrative procedure for filing a charge of unlawful employment discrimination and for the Division of Fair Employment to investigate charges. The division is the deferral agency for the federal Equal Employment Opportunity Commission. The article establishes superior court jurisdiction over actions brought under the article. Court remedies include injunction and equitable relief including hiring, reinstatement, and back pay. The article (1) specifies that no remedies may be ordered if the employer's sole reason for taking the employment action was not discriminatory and (2) limits the available remedies if the employer's reason for the action was discriminatory but the same action would have been taken in the absence of the discriminatory reason. Requires employers to post notices relating to fair employment law and imposes a civil penalty of \$100 for each violation of the posting requirement.

State Fair Housing Act. Article 4 of new GS Chapter 169 is the State Fair Housing Act, recodified from GS Chapter 41A. The power of the North Carolina Human Relations Commission to enforce the act and the commission's designation as a deferral agency are transferred to the Division of Fair Housing and Public Accommodations (DFHPA).

State Public Accommodations Act. Article 5 of new GS Chapter 169 is the State Public Accommodations Act. A person whose civil right to use public accommodations has been violated is authorized to bring a civil rights action. The DFHPA will provide procedures for accepting and investigating charges; the DFHPA may bring an action on behalf of a person who has been

discriminated against. A court may enjoin illegal discrimination, may award compensatory and punitive damages, and may award court costs and attorneys' fees.

Interference with civil rights. Article 6 of new GS Chapter 169 is titled Interference with Civil Rights and is recodified from GS Chapter 99D.

Hate crime investigations. Article 7 of new GS Chapter 169 is titled Hate Crime Investigations. It authorizes the Division of Community Relations and Hate Crimes (DCRHC) to investigate alleged hate crimes and requires the DCRHC to cooperate with law enforcement agencies. The DCRHC must keep confidential information gathered during its investigations. The DCRHC also provides assistance to communities and individuals in resolving disputes based on racial, religious, or ethnic issues.

Effective dates. The provisions establishing the ACR and transferring the duties of other agencies to the ACR become effective July 1, 2007. The substantive law provisions of new GS Chapter 169 become effective January 1, 2008.

Intro. by Dannelly.

GS 41A, 143, 143B, 169

July 27, 2007

S 657. STUDY COMM. ON STATE CIVIL RIGHTS ENFORCEMENT (NEW). Filed 3/8/07.

Senate committee substitute deletes all provisions of 1st edition and replaces them with *AN ACT ESTABLISHING THE LEGISLATIVE STUDY COMMISSION ON STATE CIVIL RIGHTS ENFORCEMENT*. The Commission consists of the Director of the Office of Administrative Hearings and the Secretary of Administration, both serving as ex officio, nonvoting members, and 15 voting members: five appointed by the Governor, five by the President Pro Tem., and five by the Speaker of the House. The Commission is required to study the issues set out in the bill, all relating to civil rights in the state. The Commission has the authority to subpoena witnesses and to request information, data, and documents from all officers, agents, and departments of the state. Requires the State Personnel Commission to designate staff to serve as liaison to the Commission, and requires the Office of State Personnel (OSP) to study the same civil rights issues that the new Commission will study. OSP is required to submit a report of the study to the new Commission by May 1, 2008. The Commission must submit an interim report to the 2008 Regular Session of the 2007 General Assembly. Appropriates \$25,000 for fiscal 2007-08 and \$25,000 for fiscal 2008-09 from the General Fund to the new Commission. Effective October 1, 2007.