

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 941\*  
Committee Substitute Favorable 4/25/01

Short Title: County Antidiscrimination Ordinances.

(Public)

Sponsors:

Referred to:

April 2, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE CITIES AND COUNTIES IN NORTH CAROLINA  
3 WITH POPULATIONS OF ONE HUNDRED THOUSAND OR MORE TO  
4 ENACT ORDINANCES PROHIBITING DISCRIMINATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 23 of Chapter 153A of the General Statutes is amended  
7 by adding a new section to read:

8 "**§ 153A-451. Ordinances prohibiting discrimination.**

9 (a) A county may adopt an ordinance designed to prohibit discrimination in  
10 employment, housing, and public accommodations. The bases of discrimination which  
11 may be prohibited are limited to race, color, religion, gender, national origin, age,  
12 disability, familial status, and veteran status.

13 (b) Any county that has adopted an ordinance under this section may, in that  
14 ordinance, adopt procedures and delegate powers to a Human Relations Commission  
15 ('Commission') which are necessary and proper for carrying out and enforcing the  
16 ordinance. To assist in the enforcement of the ordinance, the Commission has, but is not  
17 limited to, the following powers:

18 (1) Receiving and reviewing complaints that allege a violation of the  
19 ordinance has occurred, is occurring, or is about to occur.

20 (2) Conducting investigations into the basis of complaints. In this regard,  
21 the Commission may issue subpoenas compelling the production of  
22 documents or compelling witnesses, or both, to appear before the  
23 Commission to give testimony and to take depositions and serve  
24 interrogatories in accordance with the North Carolina Rules of Civil  
25 Procedure. In the event any person refuses to comply with a subpoena  
26 or discovery request, the Commission may apply to the superior court  
27 for an order to compel compliance with the subpoena or discovery  
28 request. Information and records discovered by the Commission during  
29 an investigation or conciliation may be maintained in confidence by

1 the Commission and are not subject to the provisions of G.S. 132-6  
2 and G.S. 132-9 until and unless they are offered into evidence in a  
3 judicial proceeding authorized by this section and an ordinance.

4 (3) Applying to the superior court for mandatory or prohibitory injunctive  
5 relief, or both, pursuant to Rule 65 of the North Carolina Rules of Civil  
6 Procedure if it determines, after a preliminary investigation, that  
7 prompt judicial action is necessary to carry out the purposes of the  
8 ordinance.

9 (4) Making a determination of whether or not there is reasonable cause to  
10 believe that an unlawful discriminatory practice has occurred, is  
11 occurring, or is about to occur.

12 (5) Dismissing complaints in such cases as the Commission determines  
13 that reasonable cause does not exist.

14 (6) Issuing a right-to-sue letter to any complaining party upon request  
15 after 60 days following receipt of a complaint.

16 (7) Attempting to conciliate a resolution of the complaint between the  
17 parties.

18 (8) Entering into conciliation agreements in such instances where  
19 conciliation efforts have been successful.

20 (9) Administrative cause determinations.

21 The county may, in enacting an ordinance, delegate the powers of the Commission  
22 under this section and the ordinance to an administrative department of the county.

23 (c) The ordinance may provide that complainants who receive a right-to-sue  
24 letter from the Commission may bring a civil action in superior court against the  
25 respondent within one year of the issuance of the right-to-sue letter. The ordinance shall  
26 provide that in a civil action filed which seeks damages from the respondent, either the  
27 complainant or the respondent may request, and upon request, is entitled to a jury trial.  
28 The superior court judge or jury, as appropriate, shall be authorized to impose  
29 mandatory and prohibitory injunctive relief; compensatory damages; and, unless  
30 otherwise prohibited by law, punitive damages; and any other appropriate relief,  
31 provided that:

32 (1) Punitive damages may be ordered only if the fact finder finds that the  
33 respondent engaged in a practice made unlawful under the ordinance  
34 with malice or with reckless indifference to the protected rights of the  
35 complainant; and

36 (2) In cases involving unlawful employment practices, the fact finder may  
37 order reinstatement or hiring, with back pay.

38 In any action brought in the superior court pursuant to the ordinance, the court may  
39 allow the prevailing party reasonable costs and attorneys' fees from the other party or  
40 parties. Attorneys' fees, however, may not be awarded to the Commission, and a  
41 prevailing respondent may be awarded court costs and reasonable attorneys' fees only  
42 upon a showing that the case is frivolous, unreasonable, or without foundation.

1       (d) The governing body of any county within the State that has adopted an  
2 ordinance may enter into work-sharing agreements with the State and the federal  
3 government.

4       (e) If an ordinance is adopted by a county, the ordinance shall apply to any part  
5 of the county not within a municipally incorporated city, town, or village in the county.  
6 The governing board of a city, town, or village within the county adopting an ordinance  
7 may, by resolution, permit an ordinance adopted by the county to be applicable within  
8 its corporate boundaries. A city, town, or village may, by resolution, withdraw its  
9 permission. If it does so, it shall give written notice to the county of its withdrawal of  
10 permission. Thirty days after the date the county receives the permission withdrawal  
11 notice, the ordinance ceases to be applicable within the city, town, or village.

12       (f) This section applies to counties with a population of 100,000 or more, as  
13 determined by the most recent federal decennial census."

14       **SECTION 2.** Article 8 of Chapter 160A of the General Statutes is amended  
15 by adding a new section to read:

16       **"§ 160A-199. Ordinances prohibiting discrimination.**

17       (a) A city may adopt an ordinance designed to prohibit discrimination in  
18 employment, housing, and public accommodations. The bases of discrimination which  
19 may be prohibited are limited to race, color, religion, gender, national origin, age,  
20 disability, familial status, and veteran status.

21       (b) Any city that has adopted an ordinance under this section may, in that  
22 ordinance, adopt procedures and delegate powers to a Human Relations Commission  
23 ('Commission') which are necessary and proper for carrying out and enforcing the  
24 ordinance. To assist in the enforcement of the ordinance, the Commission has, but is not  
25 limited to, the following powers:

26           (1) Receiving and reviewing complaints that allege a violation of the  
27 ordinance has occurred, is occurring, or is about to occur.

28           (2) Conducting investigations into the basis of complaints. In this regard,  
29 the Commission may issue subpoenas compelling the production of  
30 documents or compelling witnesses, or both, to appear before the  
31 Commission to give testimony and to take depositions and serve  
32 interrogatories in accordance with the North Carolina Rules of Civil  
33 Procedure. In the event any person refuses to comply with a subpoena  
34 or discovery request, the Commission may apply to the superior court  
35 for an order to compel compliance with the subpoena or discovery  
36 request. Information and records discovered by the Commission during  
37 an investigation or conciliation may be maintained in confidence by  
38 the Commission and are not subject to the provisions of G.S. 132-6  
39 and G.S. 132-9 until and unless they are offered into evidence in a  
40 judicial proceeding authorized by this section and an ordinance.

41           (3) Applying to the superior court for mandatory or prohibitory injunctive  
42 relief, or both, pursuant to Rule 65 of the North Carolina Rules of Civil

1 Procedure if it determines, after a preliminary investigation, that  
2 prompt judicial action is necessary to carry out the purposes of the  
3 ordinance.

4 (4) Making a determination of whether or not there is reasonable cause to  
5 believe that an unlawful discriminatory practice has occurred, is  
6 occurring, or is about to occur.

7 (5) Dismissing complaints in such cases as the Commission determines  
8 that reasonable cause does not exist.

9 (6) Issuing a right-to-sue letter to any complaining party upon request  
10 after 60 days following receipt of a complaint.

11 (7) Attempting to conciliate a resolution of the complaint between the  
12 parties.

13 (8) Entering into conciliation agreements in such instances where  
14 conciliation efforts have been successful.

15 (9) Administrative cause determinations.

16 The city may, in enacting an ordinance, delegate the powers of the Commission  
17 under this section and the ordinance to an administrative department of the city.

18 (c) The ordinance may provide that complainants who receive a right-to-sue  
19 letter from the Commission may bring a civil action in superior court against the  
20 respondent within one year of the issuance of the right-to-sue letter. The ordinance shall  
21 provide that in a civil action filed which seeks damages from the respondent, either the  
22 complainant or the respondent may request, and upon request, is entitled to a jury trial.  
23 The superior court judge or jury, as appropriate, shall be authorized to impose  
24 mandatory and prohibitory injunctive relief; compensatory damages; and, unless  
25 otherwise prohibited by law, punitive damages; and any other appropriate relief,  
26 provided that:

27 (1) Punitive damages may be ordered only if the fact finder finds that the  
28 respondent engaged in a practice made unlawful under the ordinance  
29 with malice or with reckless indifference to the protected rights of the  
30 complainant; and

31 (2) In cases involving unlawful employment practices, the fact finder may  
32 order reinstatement or hiring, with back pay.

33 In any action brought in the superior court pursuant to the ordinance, the court may  
34 allow the prevailing party reasonable costs and attorneys' fees from the other party or  
35 parties. Attorneys' fees, however, may not be awarded to the Commission, and a  
36 prevailing respondent may be awarded court costs and reasonable attorneys' fees only  
37 upon a showing that the case is frivolous, unreasonable, or without foundation.

38 (d) The governing body of any city within the State that has adopted an  
39 ordinance may enter into work-sharing agreements with the State and the federal  
40 government.

41 (e) This section applies to cities with a population of 100,000 or more, as  
42 determined by the most recent federal decennial census."

1           **SECTION 3.** This act is effective when it becomes law.