

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 725

State Government, Local Government, and Personnel Committee Substitute Adopted  
4/30/97

Short Title: EEOC Deferral Agency/Proceedings.

(Public)

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Sponsors:

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Referred to:

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April 7, 1997

A BILL TO BE ENTITLED

AN ACT PERTAINING TO THE FILING OF A DEFERRED CHARGE WITH EEOC  
OR THE OFFICE OF ADMINISTRATIVE HEARINGS BY STATE OR LOCAL  
GOVERNMENT EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-759 reads as rewritten:

**"§ 7A-759. Role as deferral agency.**

(a) The Office of Administrative Hearings is designated to serve as the State's deferral agency for cases deferred by the Equal Employment Opportunity Commission to the Office of Administrative Hearings as provided in Section 706 of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. for charges filed by State or local government employees covered under Chapter 126 of the General Statutes and shall have all of the powers and authority necessary to function as a deferral agency.

(b) The Chief Administrative Law Judge is authorized and directed to contract with the Equal Employment Opportunity Commission for the Office of Administrative Hearings to serve as a deferral agency and to establish and maintain a Civil Rights

1 Division in the Office of Administrative Hearings to carry out the functions of a deferral  
2 agency.

3 (b1) As provided in the contract between the Office of Administrative Hearings and  
4 the Equal Employment Opportunity Commission, a deferred charge for purposes of 42  
5 U.S.C. § 2000e-5(c) or (d) is a charge that is filed by a State or local government  
6 employee covered under Chapter 126 of the General Statutes and alleges an unlawful  
7 employment practice prohibited under that Chapter or any other State law. A deferred  
8 charge may be filed with either agency.

9 The date a deferred charge is filed with either agency is considered to be a  
10 commencement of proceedings under State law for purposes of 42 U.S.C. § 2000e-5(c)  
11 or (d). The filing of a deferred charge automatically tolls the time limit under  
12 G.S. 126-7.2, 126-35, 126-38, and 150B-23(f) and any other State law that sets a time  
13 limit for filing a contested case under Article 3 of Chapter 150B of the General Statutes  
14 alleging an unlawful employment practice. These time limits are tolled until the  
15 completion of the investigation and of any informal methods of resolution pursued  
16 pursuant to subsection (d) of this section.

17 (c) In investigating charges an employee of the Civil Rights Division of the Office  
18 of Administrative Hearings specifically designated by an order of the Chief  
19 Administrative Law Judge filed in the pending case may administer oaths and  
20 affirmations.

21 (c1) In investigating charges, an employee of the Civil Rights Division shall have  
22 access at reasonable times to State premises, records, and documents relevant to the  
23 charge and shall have the right to examine, photograph, and copy evidence. Any  
24 challenge to the Civil Rights Division to investigate the deferred charge shall not  
25 constitute grounds for denial or refusal to produce or allow access to the investigative  
26 evidence.

27 (d) Any charge not resolved by informal methods of conference, conciliation or  
28 persuasion shall be heard as a contested case as provided in Article 3 of Chapter 150B of  
29 the General Statutes.

30 (e) Notwithstanding G.S. 150B-34 and G.S. 150B-36, an order entered by an  
31 administrative law judge after a contested case hearing on the merits of a deferred charge  
32 is a final agency decision and is binding on the parties. The administrative law judge  
33 may order whatever remedial action is appropriate to give full relief consistent with the  
34 requirements of federal statutes or ~~regulations~~ regulations or State statutes or rules.

35 (f) In addition to the authority vested in G.S. 7A-756 and G.S. 150B-33, an  
36 administrative law judge may monitor compliance with any negotiated settlement,  
37 conciliation agreement or order entered in a deferred case.

38 (g) The standards of confidentiality established by federal statute or regulation for  
39 discrimination charges shall apply to deferred cases investigated or heard by the Office of  
40 Administrative Hearings.

41 (h) Nothing in this section shall be construed as limiting the authority or right of  
42 any federal agency to act under any federal statute or regulation.

1       (i)     This section shall be broadly construed to further the general purposes stated in  
2 this section and the specific purposes of the particular provisions involved."

3             Section 2. This act is effective when it becomes law and applies to charges  
4 pending or filed on and after that date.