

NORTH CAROLINA GENERAL ASSEMBLY  
1979 SESSION

CHAPTER 851  
HOUSE BILL 756

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON BY ADDING A NEW ARTICLE XXX, RELATING TO THE PROHIBITION OF ACTS OF DISCRIMINATION IN EMPLOYMENT BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP OR AGE.

The General Assembly of North Carolina enacts:

**Section 1.** A new Article XXX is added to the Charter of the City of Wilmington, said Charter having been enacted by the North Carolina General Assembly in 1977, as follows:

"ARTICLE XXX.

"PROHIBITION OF ACTS OF DISCRIMINATION IN EMPLOYMENT.

"Sec. 30.1. Authority to Adopt Ordinances. The City Council of the City of Wilmington may adopt ordinances to prohibit acts of discrimination in employment based on race, color, national origin, religion, sex, handicap or age. To assist in the enforcement of these ordinances, the City Council may authorize or create an agency or commission of the City of Wilmington (hereafter called 'The Agency') to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints, and mediate alleged violations of such ordinance, and to issue orders against persons, firms, or corporations it finds, after notice and hearing, to have violated such ordinance. The Agency may, as part of such order, require any such person, firm or corporation to cease and desist from unlawful practices and to engage in such additional remedial action as may be appropriate including but not limited to, the following:

- (a) hiring, reinstatement or upgrading of aggrieved individuals, with or without back pay;
- (b) admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupation training or retraining program, and the utilization of objective criteria in the admission of such individuals in such programs;
- (c) to approve or disapprove plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex and handicap, or age;
- (d) to provide technical assistance to persons subject to this act to further compliance with the act;
- (e) reporting as to the manner of compliance;
- (f) posting notices in conspicuous places in the form prescribed by the Agency.

"Sec. 30.2. Judicial Review of Agency Orders. Judicial review of Agency orders shall be in accordance with Article 4 of Chapter 150A of the North Carolina General Statutes provided, however, that the provisions of G.S. 150A-45 notwithstanding, petitions for judicial review shall be filed in the Superior Court of New Hanover County. The term 'Agency', whenever used in Article 4 of Chapter 150A of the North Carolina General Statutes, shall mean the Agency as authorized or created by the City Council of the City of Wilmington under the authority of this act.

"Sec. 30.3. Enforcement of Agency Orders. (a) If a person, firm or corporation fails to comply with an order of the Agency, any aggrieved person or the Agency may apply to the Superior Court of New Hanover County for an order of the Court enforcing the order of the Agency.

(b) Within 30 days after receipt of the petition for enforcement of the Agency's order or within such additional time as the Court may allow, the Agency shall transmit to the Court the original or a certified copy of the entire record of the proceedings leading to the order. With the permission of the Court, the record may be shortened by stipulation of all parties. Any party unreasonably refusing to stipulate to limit the record may be taxed by the Court for such additional costs as may be occasioned by the refusal. The Court may require or permit subsequent corrections or additions to the record when deemed desirable.

(c) The hearing on the petition for enforcement of the Agency's order shall be conducted by the Court without a jury. The court shall hear oral arguments and receive written briefs, but shall take no evidence not offered at the Agency hearing; except that in cases of alleged irregularities in procedure before the Agency not shown in the record, testimony thereon may be taken by the Court; and except that where no record was made of the proceeding or the record is inadequate, the judge in his discretion may hear all or part of the matter de novo.

(d) The court shall issue the order requiring compliance with the Agency's order unless it finds that enforcement of the Agency's order would prejudice substantial rights of the party against whom the order is sought to be enforced because the Agency's findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional provisions; or
- (2) in excess of the statutory authority or jurisdiction of the Agency; or
- (3) made upon unlawful procedure; or
- (4) affected by other error of law; or
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

(e) If the Court declines to enforce the Agency's order for one of the reasons specified in paragraph (d) of this subsection, it shall either:

- (1) dismiss the petition; or
- (2) modify the Agency's order and enforce it as modified; or
- (3) remand the case to the Agency for further proceedings.

(f) Any party to the hearing on the petition for enforcement of the Agency's order may appeal the Court's decision to the appellate division under the rules of procedure applicable to other civil cases.

"Sec. 30.4. Additional Authority of Agency. To further assist in enforcement of ordinances authorized by this section, the Agency may subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued by the Agency, the Agency may apply to the General Court of Justice for an order requiring that its order be obeyed, and the Court shall have jurisdiction to issue such orders after notice to all proper parties. No testimony of any witness before the Agency pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against him on the trial of any criminal action other than a prosecution for false swearing committed on the examination. If any person, while under oath administered pursuant to this paragraph willfully swears falsely, he is guilty of a misdemeanor.

"Sec. 30.5. Public Records. Public records concerning the investigation, conciliation or mediation of alleged violations of an ordinance enacted pursuant to this section are not subject to the provisions of G.S. 132-6 and G.S. 132-9."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.