

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 864*

Short Title: County Antidiscrimination Ordinances.

(Public)

Sponsors: Senators Kinnaird, Lee; Gulley and Lucas.

Referred to: Judiciary II.

April 4, 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 TO ENACT
4 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 include, but are not limited to, race, color, religion, gender, national
12 origin, age, disability, marital status, 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

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

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

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

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

15 (6) Issuing a right-to-sue letter to any complaining party where the
16 Commission has failed to make a determination on the issue of
17 reasonable cause in a timely manner; determines that reasonable cause
18 does not exist; where conciliation efforts have failed; and where the
19 Commission has made a determination that there is probable cause to
20 believe that discrimination took place.

21 (7) Attempting to conciliate a resolution of the complaint between the
22 parties.

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

25 (9) Administrative cause determinations.

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

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

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

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

43 In any action brought in the superior court pursuant to the ordinance, the court may
44 allow the prevailing party reasonable costs and attorneys' fees from the other party or

1 parties. Attorneys' fees, however, may not be awarded to the Commission, and a
2 prevailing respondent may be awarded court costs and reasonable attorneys' fees only
3 upon a showing that the case is frivolous, unreasonable, or without foundation.

4 (d) The governing body of any city or county within the State that has adopted an
5 ordinance may enter into work-sharing agreements with the State and the federal
6 government.

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

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

17 **SECTION 2.** This act is effective when it becomes law.