

AMENDMENTS TO HOUSE BILL NO. 1394

Sponsor: REPRESENTATIVE GROVE

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1 Amend Bill, page 1, line 11, by striking out the period after
2 "definitions" and inserting

3 and for procedure, providing for reimbursement against wrongful
4 claims; repealing provisions relating to local human
5 relations commissions; and prohibiting local human relations
6 commissions.

7 Amend Bill, page 2, line 5, by striking out all of said line
8 and inserting

9 Section 2. Section 9(b) and (e) of the act are amended and
10 the section is amended by adding subsections to read:

11 Section 9. Procedure.--* * *

12 (b) (1) After the filing of any complaint, or whenever
13 there is reason to believe that an unlawful discriminatory
14 practice has been committed, the Commission shall make a prompt
15 investigation in connection therewith. If the Commission does
16 not complete its investigation, it may, after one hundred eighty
17 days of receiving a complaint, make a determination in
18 accordance with subsection (c). A hearing under subsection (e)
19 shall occur only if probable cause of disparate treatment exists
20 and the parties choose not to settle.

21 (2) The Commission shall send a copy of the complaint to the
22 named respondent within [thirty] twenty days from the date of
23 docketing the complaint, unless otherwise required by the Fair
24 Housing Act[.] in accordance with the following:

25 (i) The Commission shall not request information a second
26 time after a respondent provides the information to the
27 Commission's request.

28 (ii) If a respondent fails to provide evidence or the
29 Commission has reasonable proof that a respondent has failed to
30 provide requested information, the Commission may request the
31 Attorney General subpoena the information on behalf of the
32 Commission.

33 (3) A respondent shall file a written, verified answer to
34 the complaint within [thirty] twenty days of service of the
35 complaint, unless otherwise required by the Fair Housing Act.
36 The Commission, upon request of the respondent, may grant an

1 extension of not more than thirty additional days, unless
2 otherwise required by the Fair Housing Act.

3 (4) After service of the complaint, the Commission shall
4 encourage voluntary and informed predetermination settlements
5 between parties, including mediation by a neutral arbitrator
6 under rules and procedures specified by the Commission.

7 * * *

8 (e) The case in support of the complaint shall be presented
9 before the Commission or before a permanent hearing examiner
10 designated by the Commission for the purpose of hearing said
11 complaint by one of its attorneys or agents, by the
12 complainant's attorney or by a designated agent of the
13 complainant. The respondent may appear at such hearing in person
14 or otherwise, with or without counsel, and submit testimony. The
15 complainant may likewise appear at such hearing in person or
16 otherwise, with or without counsel, and submit testimony. The
17 Commission or the complainant shall have the power reasonably
18 and fairly to amend any complaint, and the respondent shall have
19 like power to amend his answer. The Commission shall not be
20 bound by the strict rules of evidence prevailing in courts of
21 law or equity. The Commission or the permanent hearing examiner
22 shall make a determination within thirty days after the
23 conclusion of the hearing. The testimony taken at the hearing
24 shall be under oath and be transcribed[.] and shall be heard for
25 a period of not more than five days of testimony. If the
26 Commission or the permanent hearing examiner determines, upon
27 request of either party, that more time is necessary, the
28 hearing may extend an additional seven days.

29 * * *

30 (k) Only disparate treatment claims may be brought under
31 this act. Disparate treatment may be proven by a repeated
32 history and pattern of decisions that have a disparate impact on
33 an individual class protected under this act.

34 (l) Except as otherwise provided under law, an unlawful
35 discriminatory practice is established when the complainant
36 demonstrates that discrimination was a motivating factor for any
37 employment practice, even though other factors also motivated
38 the practice.

39 Section 3. The act is amended by adding a section to read:

40 Section 11.1. Reimbursement Against Wrongful Claims.--After
41 a hearing under section 9(e), if a claim against a defendant is
42 determined to be unfounded, the defendant may seek and the
43 Commission may award reimbursement for reasonable attorney fees
44 incurred during the proceedings under section 9.

45 Section 4. Section 12.1 of the act is repealed:

46 [Section 12.1. Local Human Relations Commissions.--(a) The
47 legislative body of a political subdivision may, by ordinance or
48 resolution, authorize the establishment or membership in and
49 support of a Local Human Relations Commission. The number and
50 qualifications of the members of any local commission and their
51 terms and method of appointment or removal shall be such as may

1 be determined and agreed upon by the legislative body, except
2 that no such member shall hold office in any political party.
3 Members of a local commission shall serve without salary but may
4 be paid expenses incurred in the performance of their duties.

5 (b) The legislative body of any political subdivision shall
6 have the authority to appropriate funds, in such amounts as may
7 be deemed necessary, for the purpose of contributing to the
8 operation of a local commission including the payment of its
9 share of the salary of an investigator or staff member acting
10 jointly for it and one or more other local commissions.

11 (c) The local commission shall have the power to appoint
12 such employees and staff, as it may deem necessary, to fulfill
13 its purpose including the power to appoint an investigator or
14 staff member to act jointly for it and one or more other local
15 commissions.

16 (d) The legislative bodies of political subdivisions shall
17 have the authority to grant to local commissions powers and
18 duties similar to those now exercised by the Pennsylvania Human
19 Relations Commission under the provisions of this act.

20 (e) The local human relations commission shall notify the
21 Pennsylvania Human Relations Commission of complaints received
22 involving discriminatory acts within that commission's
23 jurisdiction.]

24 Section 5. The act is amended by adding a section to read:

25 Section 12.3. Local Human Relations Commissions
26 Prohibited.--(a) The legislative body of a political
27 subdivision may not, by ordinance or resolution, authorize the
28 establishment or membership in and support of a local human
29 relations commission with the same powers as the Commission
30 under this act.

31 (b) This act shall apply to each local human relations
32 commission. Each local human relations commission shall comply
33 with the policies and procedures in place for the Commission.

34 (c) A case brought before a local human relations commission
35 may not be brought before the Commission.

36 Section 6. The amendment of section 9(b) and (e) of the act
37 shall apply to complaints filed with the commission under
38 section 9(a) of the act on or after the effective date of this
39 section.

40 Section 7. This act shall take effect as follows:

41 (1) The following shall take effect immediately:

42 (i) Section 6 of this act.

43 (ii) This section.

44 (2) The following shall take effect in 60 days:

45 (i) The amendment or addition of sections 4 and
46 9(b), (e), (k) and (l) of the act.

47 (ii) The addition of section 11.1 of the act.

48 (iii) The repeal of section 12.1 of the act.

49 (iv) The addition of section 12.3 of the act.

50 (3) The remainder of this act shall take effect in 30
51 days.