

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 865

Session of
1981

INTRODUCED BY WILT, GRUITZA AND MILLER, MARCH 16, 1981

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 16, 1981

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222),
2 entitled, as amended, "An act prohibiting certain practices
3 of discrimination because of race, color, religious creed,
4 ancestry, age or national origin by employers, employment
5 agencies, labor organizations and others as herein defined;
6 creating the Pennsylvania Human Relations Commission in the
7 Department of Labor and Industry; defining its functions,
8 powers and duties; providing for procedure and enforcement;
9 providing for formulation of an educational program to
10 prevent prejudice; providing for judicial review and
11 enforcement and imposing penalties," further providing for
12 the payment of reasonable expenses, hearing examiners and
13 making editorial changes.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 4, act of October 27, 1955 (P.L.744,
17 No.222), known as the "Pennsylvania Human Relations Act," is
18 amended by adding a clause to read:

19 Section 4. Definitions.--As used in this act unless a
20 different meaning clearly appears from the context:

21 * * *

22 (q) The term "permanent hearing examiner" shall mean a full-
23 time employe who is an attorney or other person knowledgeable in

1 Human Relations matters designated by the Commission to conduct
2 hearings required to be held under this act.

3 Section 2. Subsection (c) of section 7 of the act, amended
4 March 28, 1956 (P.L.1354, No.428), is amended to read:

5 Section 7. Powers and Duties of the Commission.--The
6 Commission shall have the following powers and duties:

7 * * *

8 (c) To appoint such attorneys [with the approval of the
9 Attorney General,] and permanent hearing examiners and other
10 employes and agents as it may deem necessary, fix their
11 compensation within the limitations provided by law, and
12 prescribe their duties.

13 * * *

14 Section 3. Section 9 of the act, amended February 28, 1961
15 (P.L.47, No.19), December 27, 1965 (P.L.1225, No.498) and
16 October 11, 1967 (P.L.425, No.190), is amended to read:

17 Section 9. Procedure.--(a) Any individual claiming to be
18 aggrieved by an alleged unlawful discriminatory practice may
19 make, sign and file with the Commission a verified complaint, in
20 writing, which shall state the name and address of the person,
21 employer, labor organization or employment agency alleged to
22 have committed the unlawful discriminatory practice complained
23 of, and which shall set forth the particulars thereof and
24 contain such other information as may be required by the
25 Commission. The Commission upon its own initiative or the
26 Attorney General may, in like manner, make, sign and file such
27 complaint. Any employer whose employes, or some of them, hinder
28 or threaten to hinder compliance with the provisions of this act
29 may file with the Commission a verified complaint, asking for
30 assistance by conciliation or other remedial action and, during

1 such period of conciliation or other remedial action, no
2 hearings, orders or other actions shall be taken by the
3 Commission against such employer.

4 (b) After the filing of any complaint, or whenever there is
5 reason to believe that an unlawful discriminatory practice has
6 been committed, the Commission shall make a prompt investigation
7 in connection therewith.

8 (c) If it shall be determined after such investigation that
9 no probable cause exists for crediting the allegations of the
10 complaint, the Commission shall, within ten days from such
11 determination, cause to be issued and served upon the
12 complainant written notice of such determination, and the said
13 complainant or his attorney may, within ten days after such
14 service, file with the Commission a written request for a
15 preliminary hearing before the Commission to determine probable
16 cause for crediting the allegations of the complaint. If it
17 shall be determined after such investigation that probable cause
18 exists for crediting the allegations of the complaint, the
19 Commission shall immediately endeavor to eliminate the unlawful
20 discriminatory practice complained of by conference,
21 conciliation and persuasion. The members of the Commission and
22 its staff shall not disclose what has transpired in the course
23 of such endeavors: Provided, That the Commission may publish the
24 facts in the case of any complaint which has been dismissed, and
25 the terms of conciliation when the complaint has been adjusted,
26 without disclosing the identity of the parties involved.

27 (d) In case of failure so to eliminate such practice or in
28 advance thereof, if in the judgment of the Commission
29 circumstances so warrant, the Commission shall cause to be
30 issued and served a written notice, together with a copy of such

1 complaint as the same may have been amended, requiring the
2 person, employer, labor organization or employment agency named
3 in such complaint, hereinafter referred to as respondent, to
4 answer the charges of such complaint at a hearing before the
5 Commission at a time and place to be specified in such notice.
6 The place of any such hearing shall be in the county in which
7 the alleged offense was committed.

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 file a written, verified answer
14 to the complaint and appear at such hearing in person or
15 otherwise, with or without counsel, and submit testimony. The
16 complainant may likewise appear at such hearing in person or
17 otherwise, with or without counsel, and submit testimony. The
18 Commission or the complainant shall have the power reasonably
19 and fairly to amend any complaint, and the respondent shall have
20 like power to amend his answer. The Commission shall not be
21 bound by the strict rules of evidence prevailing in courts of
22 law or equity. The testimony taken at the hearing shall be under
23 oath and be transcribed.

24 (f) If, upon all the evidence at the hearing, the Commission
25 shall find that a respondent has engaged in or is engaging in
26 any unlawful discriminatory practice as defined in this act, the
27 Commission shall state its findings of fact, and shall issue and
28 cause to be served on such respondent an order requiring such
29 respondent to cease and desist from such unlawful discriminatory
30 practice and to take such affirmative action including but not

1 limited to hiring, reinstatement or upgrading of employes, with
2 or without back pay, admission or restoration to membership in
3 any respondent labor organization, or selling or leasing
4 specified commercial housing upon such equal terms and
5 conditions and with such equal facilities, services and
6 privileges or lending money, whether or not secured by mortgage
7 or otherwise for the acquisition, construction, rehabilitation,
8 repair or maintenance of commercial housing, upon such equal
9 terms and conditions to any person discriminated against or all
10 persons as, in the judgment of the Commission, will effectuate
11 the purposes of this act, and including a requirement for report
12 of the manner of compliance. When the respondent is a licensee
13 of the Commonwealth, the Commission shall inform the appropriate
14 State licensing authority of the order with the request that the
15 licensing authority take such action as it deems appropriate
16 against such licensee. An appeal from the Commission's order
17 shall act as a supersedeas and stay such action by the State
18 licensing authority until a final decision on said appeal. If,
19 upon all the evidence, the Commission shall find that a
20 respondent has not engaged in any such unlawful discriminatory
21 practice, the Commission shall state its findings of fact, and
22 shall issue and cause to be served on the complainant an order
23 dismissing the said complaint as to such respondent.

24 (g) The Commission shall establish rules or practice to
25 govern, expedite and effectuate the foregoing procedure and its
26 own actions thereunder. Three or more members of the Commission
27 or a permanent hearing examiner designated by the Commission
28 shall constitute the Commission for any hearing required to be
29 held by the Commission under this act. The recommended findings,
30 conclusions and order made by said members or permanent hearing

1 examiner shall be reviewed and approved by the Commission before
2 such order may be served upon the parties to the complaint. Any
3 complaint filed pursuant to this section must be so filed within
4 ninety days after the alleged act of discrimination. Any
5 complaint may be withdrawn at any time by the party filing the
6 complaint.

7 Section 4. This act shall take effect in 60 days.