

ASSEMBLY BILL

No. 2000

Introduced by Messrs. Hawkins, Rumford, O'Connell, Weinberger, Bruce F. Allen, Don A. Allen, Beaver, Bee, Biddick, Brown, Burton, Busterud, Caldecott, Coolidge, Crown, Cunningham, Mrs. Davis, Mr. Dills, Miss Donahoe, Messrs. Donald D. Doyle, Thomas J. Doyle, Elliott, Frew, Gaffney, Ernest R. Geddes, Samuel R. Geddes, Henderson, Kilpatrick, MacBride, Masterson, McCollister, McMillan, Meyers, Miller, Munnell, Nisbet, Pattee, Porter, Rees, Thomas, Unruh, Wilson, and Winton

January 19, 1957

REFERRED TO COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

An act to add Part 4.5 (commencing with Section 1410) to Division 2 of the Labor Code, relating to prevention and elimination of practices of discrimination in employment and otherwise against persons because of race, religious creed, color, national origin, or ancestry, creating a State Commission on Fair Employment Practices, defining its functions, powers and duties, providing for the appointment and compensation of its officers and employees.

The people of the State of California do enact as follows:

1 SECTION 1. Part 4.5 (commencing with Section 1410) is
2 added to Division 2 of the Labor Code, to read:

3
4 PART 4.5. FAIR EMPLOYMENT PRACTICES

5
6 1410. This part may be referred to as the "California Fair
7 Employment Practice Act."

8 1411. It is hereby declared as the public policy of this
9 State that it is necessary to protect and safeguard the right and
10 opportunity of all persons to seek, obtain, and hold employ-
11 ment without discrimination or abridgement on account of
12 race, religious creed, color, national origin, or ancestry.

1 It is recognized that the practice of denying employment
2 opportunity and discriminating in the terms of employment
3 for such reasons, foments domestic strife and unrest, deprives
4 the State of the fullest utilization of its capacities for develop-
5 ment and advance, and substantially and adversely affects the
6 interests of employees, employers, and the public in general.

7 This part shall be deemed an exercise of the police power of
8 the State for the protection of the public welfare, prosperity,
9 health, and peace of the people of the State of California.

10 1412. The opportunity to seek, obtain and hold employment
11 without discrimination because of race, religious creed, color,
12 national origin, or ancestry is hereby recognized as and de-
13 clared to be a civil right.

14 1413. As used in this part:

15 (a) "Person" includes one or more individuals, partner-
16 ships, associations or corporations, legal representatives, trus-
17 tees, trustees in bankruptcy, or receivers.

18 (b) "Employment agency" includes any person undertak-
19 ing for compensation to procure employees or opportunities to
20 work.

21 (c) "Labor organization" includes any organization which
22 exists and is constituted for the purpose, in whole or in part,
23 of collective bargaining or of dealing with employers concern-
24 ing grievances, terms or conditions of employment, or of other
25 mutual aid or protection.

26 (d) "Employer," except as hereinafter provided, includes
27 any person regularly employing five or more persons, or any
28 person acting as an agent of an employer, directly or indi-
29 rectly; the State or any political or civil subdivision thereof
30 and cities.

31 "Employer" does not include a social club, fraternal, char-
32 itable, educational or religious association or corporation not
33 organized for private profit.

34 (e) "Employee" does not include any individual employed
35 by his parents, spouse or child, or in the domestic service of
36 any person in his home.

37 (f) "Commission," unless a different meaning clearly ap-
38 pears from the context, means the State Fair Employment
39 Practice Commission created by this part.

40 1414. There is hereby created a State Fair Employment
41 Practice Commission. Such commission shall consist of five
42 members, to be known as commissioners, who shall be ap-
43 pointed by the Governor, by and with the advice and consent
44 of the Senate, and one of whom shall be designated as chair-
45 man by the Governor. The term of office of each member of
46 the commission shall be for four years; provided, however, that
47 of the commissioners first appointed two shall be appointed
48 for a term of one year, one for a term of two years, one for a
49 term of three years, and one for a term of four years.

50 1415. Any member chosen to fill a vacancy occurring other-
51 wise than by expiration of term shall be appointed for the
52 unexpired term of the member whom he is to succeed. Three

1 members of the commission shall constitute a quorum for the
2 purpose of conducting the business thereof.

3 1416. The members of the commission shall not practice in
4 their respective professions or callings but shall devote their
5 entire time to the duties of their respective offices. Each mem-
6 ber of the commission shall receive a salary of ten thousand
7 five hundred dollars (\$10,500) a year and shall also be entitled
8 to his expenses actually and necessarily incurred by him in
9 the performance of his duties.

10 1417. Any member of the commission may be removed by
11 the Governor for inefficiency, for neglect of duty, misconduct
12 or malfeasance in office, after being given a written statement
13 of the charges and an opportunity to be heard thereon.

14 1418. The commission shall formulate policies to effectuate
15 the purposes of this part and may make recommendations to
16 agencies and officers of the state and local governments in aid
17 of such policies and purposes.

18 1419. The commission shall have the following functions,
19 powers and duties:

20 (a) To establish and maintain a principal office and such
21 other offices within the State as it may deem necessary.

22 (b) To meet and function at any place within the State.

23 (c) To appoint such attorneys, clerks and other employees
24 as it may deem necessary, fix their compensation within the
25 limitations provided by law, and prescribe their duties.

26 (d) To obtain upon request and utilize the services of all
27 governmental departments and agencies and to utilize such vol-
28 untary and uncompensated services by private agencies and
29 individuals as may from time to time be available and needed.

30 (e) To adopt, promulgate, amend, and rescind suitable
31 rules and regulations to carry out the provisions of this part.

32 (f) To receive, investigate and pass upon complaints alleg-
33 ing discrimination in employment because of race, religious
34 creed, color, national origin or ancestry.

35 (g) To hold hearings, subpoena witnesses, compel their at-
36 tendance, administer oaths, examine any person under oath
37 and, in connection therewith, to require the production of any
38 books or papers relating to any matter under investigation or
39 in question before the commission.

40 (h) To create such advisory agencies and conciliation coun-
41 cils, local or otherwise, as in its judgment will aid in effectuat-
42 ing the purposes of this part, and may empower them to study
43 the problems of discrimination in all or specific fields of human
44 relationships or in specific instances of discrimination because
45 of race, religious creed, color, national origin, or ancestry, and
46 to foster through community effort or otherwise good will, co-
47 operation, and conciliation among the groups and elements of
48 the population of the State and to make recommendations to
49 the commission for the development of policies and procedures
50 in general and in specific instances. Such advisory agencies and

1 conciliation councils shall be composed of representative citi-
2 zens, serving without pay; but the commission may make pro-
3 vision for technical and clerical assistance to them.

4 (i) To issue such publications and such results of investiga-
5 tions and research as in its judgment will tend to promote
6 good will and minimize or eliminate discrimination because of
7 race, religious creed, color, national origin, or ancestry.

8 (j) To render annually to the Governor and biennially to
9 the Legislature a written report of its activities and of its
10 recommendations.

11 1420. It shall be an unlawful employment practice:

12 (a) For an employer, because of the race, religious creed,
13 color, national origin, or ancestry of any person, to refuse to
14 hire or employ him or to bar or to discharge from employment
15 such person, or to discriminate against such person in compen-
16 sation or in terms, conditions or privileges of employment.

17 (b) For a labor organization, because of the race, religious
18 creed, color, national origin, or ancestry of any person, to
19 exclude, expel or restrict from its membership such person, or
20 to provide only second class or segregated membership or to
21 discriminate in any way against any of its members or against
22 any employer or against any person employed by an employer.

23 (c) For any employer or employment agency to print or
24 circulate or cause to be printed or circulated any publication,
25 or to use any form of application for employment or to make
26 any inquiry in connection with prospective employment, which
27 expresses, directly or indirectly, any limitation, specification or
28 discrimination as to race, religious creed, color, national origin,
29 or ancestry or any intent to make any such limitation, specifi-
30 cation or discrimination.

31 (d) For any employer, labor organization or employment
32 agency to discharge, expel or otherwise discriminate against
33 any person because he has opposed any practices forbidden
34 under this act or because he has filed a complaint, testified or
35 assisted in any proceeding under this part.

36 1421. The commission is empowered to prevent discrim-
37 inatory employment practices. When it shall appear to it that
38 a discriminatory employment practice may have been commit-
39 ted, the commission shall hold a hearing, giving proper notice
40 to all who have a legitimate interest therein. Such hearing may
41 be held before hearing officers, appointed by the commission
42 who shall have full authority to hear the evidence and recom-
43 mend a decision thereon.

44 1422. In making its decision and order, the commission
45 shall not be bound by technical rules of evidence. If the com-
46 mission shall be satisfied that a discriminatory employment
47 practice has existed, exists, or is threatened, it may issue any
48 order which is appropriate to correct the effect of the dis-
49 criminatory employment practice or prevent its occurrence.
50 The order may require the making of periodic reports showing
51 the extent to which it has been complied with.

1 1423. Every final order of the commission is subject to
2 judicial review in accordance with law.

3 1424. The court must enforce the commission's order unless
4 it is contrary to law or unsupported by substantial evidence.
5 If the court shall find that it would be enforceable, if modified,
6 the court must make the appropriate modification and enforce
7 the order as modified.

8 1425. Upon the written agreement of the party against
9 whom the order will run, a consent order may be entered by
10 the commission without a hearing.

11 1426. No objection or argument not urged before the com-
12 mission can be urged before the court except where the court
13 specifically excuses the failure to urge the objection or argu-
14 ment for reasons which it finds to be extraordinary.

15 1427. Disobedience of an order of the court enforcing a
16 commission order, shall be punishable as contempt of court.

17 1428. The court shall have power to grant appropriate re-
18 lief to the commission while the review is pending.

19 1429. The filing of a petition in the court shall not operate
20 as a stay of the commission's order.

21 1430. The court must render a final decision within five
22 months after the petition is filed.

23 1431. No court of this State shall have jurisdiction to issue
24 any restraining order or preliminary or permanent injunc-
25 tion, or any other restraint, preventing the commission from
26 performing any of its functions; nor shall any court have ju-
27 risdiction to make any order affecting the commission or its
28 orders, except as specifically provided in this part. This sec-
29 tion does not prohibit any court from exercising any appro-
30 priate constitutional jurisdiction vested in it.

31 1432. The preceding provisions on enforcement and re-
32 view will not apply to any order of the commission insofar
33 as it runs against the State of California, its subdivisions, any
34 agencies of the State, or any of their subdivisions. As to such
35 orders or portions of orders, they may be appealed to the
36 Governor, if done within 20 days after the order is entered.
37 Upon an appeal to him, the Governor shall set aside, modify,
38 or confirm the commission's order. Any officer, agent, or em-
39 ployee who shall violate an order of the commission, shall, if
40 not prohibited by the State Constitution, be removed from
41 office. An order for removal from office shall be entered by the
42 commission and enforced by it in the manner proper for any
43 other order.

44 1433. Any person who shall wilfully resist, prevent, im-
45 pede or interfere with any member of the commission or any
46 of its agents or agencies in the performance of duties pursuant
47 to this part, or who shall in any manner wilfully violate an
48 order of the commission, shall be guilty of a misdemeanor,
49 punishable by imprisonment in a county jail, not exceeding
50 six (6) months, or by a fine not exceeding five hundred dollars
51 (\$500), or both.

1 1434. The provisions of this part shall be construed lib-
2 erally for the accomplishment of the purposes thereof. Noth-
3 ing contained in this act shall be deemed to repeal any of the
4 provisions of the civil rights law or of any other law of this
5 State relating to discrimination because of race, religious
6 creed, color, national origin or ancestry.
7 1435. If any clause, sentence, paragraph, or part of this
8 part or the application thereof to any person or circumstance,
9 shall, for any reason, be adjudged by a court of competent
10 jurisdiction to be invalid, such judgment shall not affect, im-
11 pair, or invalidate the remainder of this part and the appli-
12 cation thereof to other persons or circumstances, but shall be
13 confined in its operation to the clause, sentence, paragraph, or
14 part thereof directly involved in the controversy in which such
15 judgment shall have been rendered and to the person or cir-
16 cumstances involved.

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