



SPONSOR: Sen. Walsh & Rep. Bolden
Sens. Hansen, Sokola, Pettyjohn, Richardson; Reps.
Bennett, Brady, Dukes, Spiegelman

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 122

AN ACT TO AMEND TITLE 6 AND TITLE 31 OF THE DELAWARE CODE RELATING TO THE STATE HUMAN RELATIONS COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3001, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3001. ~~Creation; composition;~~ State Human Relations Commission composition; vacancies; ~~compensation~~
compensation; removal; quorum.

(a) ~~There is created a State Human Relations Commission which shall consist of 28 members. The State Human Relations Commission consists of 18 members, all of whom are appointed by the Governor and, collectively, meet all of the following criteria:~~

(1) Broadly represent the various racial and cultural groups of this State.

(2) All reasonable efforts must be made to ensure that each county is represented by at least 5 members. Each county of the State shall be represented by 7 members, and 7 members shall be selected without regard to the county in which they reside. The members shall be appointed by the Governor and shall be broadly representative of various racial and cultural groups of the State. Seven of the original members shall be appointed for a term of 1 year, 7 for a term of 2 years, 7 for a term of 3 years and 7 for a term of 4 years. Thereafter, all appointments shall be made for terms of 4 years.

(b) Commission appointments are for 4-year terms. The Governor may appoint a member for a term of less than 4 years to ensure that no more than 5 members' terms expire in 1 year. In the event of death, removal or resignation of a member, a successor shall be appointed to serve for the unexpired term.

(c) ~~Members shall serve~~ A Commission member serves without compensation but ~~shall be~~ is reimbursed for actual and necessary expenses; ~~provided, however, expenses, except that those Commissioners~~ a member designated by the ~~Chairperson~~ Chair to serve on hearing panels ~~shall be~~ is compensated the sum of \$50 per day day, up to a maximum of \$500 \$1,500 in a calendar year year, for each day spent ~~in attendance of~~ attending a hearing.

22 (d) ~~Any member of the Commission who fails to attend 3 consecutive meetings, without reasonable excuse to the~~
23 ~~Chairperson, or fails to attend at least half of all regular business meetings during any calendar year, shall automatically~~
24 ~~upon such occurrence be deemed to have resigned from office and the Chairperson shall immediately notify the Governor~~
25 ~~that a vacancy on the Commission exists and that a replacement must be appointed. The notice shall identify the member~~
26 ~~deemed to have resigned and the reason therefore. A Commission member may be removed at any time for gross~~
27 inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

28 (1) A member is deemed in neglect of duty if the member, without good cause, is absent from 3 consecutive
29 meetings or attends less than 50% of meetings in a calendar year.

30 (2) A member deemed in neglect of duty is considered to have resigned. The Commission Chair shall
31 immediately notify the Governor of the resignation.

32 (e) The Commission shall adopt bylaws that provide for operating ~~procedures~~ procedures, such as: as election of
33 officers, appointment of committees, ~~designation of a quorum~~, conducting of meetings, and other matters that will promote
34 the Commission's efficient operation ~~of the Commission in the performance of its duties under this chapter.~~

35 (f) A majority of appointed members must be present at a meeting in order to have a quorum and conduct official
36 business.

37 Section 2. Amend § 3002, Title 31 of the Delaware Code by making deletions as shown by strike through and
38 insertions as shown by underline as follows:

39 § 3002. ~~Chairperson~~ Chair and executive committee; meetings.

40 (a) ~~The Governor shall designate 1 of the members of the Commission to serve as its Chairperson~~ The
41 Commission shall elect a Chair from among the members of the Commission.

42 (b) ~~The Chairperson of the Commission may appoint an executive committee of not less than 7 members. The~~
43 ~~Chairperson shall serve as Chairperson of the executive committee. An executive committee of the Commission consists of~~
44 7 members. The Commission Chair shall serve as Chair of the executive committee. The Chair may appoint the remaining
45 6 executive committee members after consultation with the Commission regarding which members to appoint.

46 (c) ~~There shall be a meeting of the~~ The executive committee or ~~of the Commission~~ shall meet at least once a
47 month.

Section 3. Amend § 3003, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3003. Responsibilities.

The Commission ~~shall be~~ is responsible for carrying out public information and education programs, ~~for~~ preparing reports and recommendations, and ~~for~~ making surveys and studies necessary for the performance of its duties under this chapter. The Commission may delegate 1 or more of its responsibilities under this section to the ~~Division; provided,~~ however, that such Division of Human Relations, but the delegation shall must specifically state the responsibility the Division must undertake.

Section 4. Amend § 3004, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3004. Powers and duties.

The Commission shall cooperate with the Governor, the General Assembly, public agencies, officials, firms, corporations, civic ~~groups~~ groups, and individuals in promoting amicable relationships among the various racial and cultural groups within the State. To this end the Commission may do any of the following:

(1) Act as conciliator in matters involving ~~race, age, marital status, color, sex, disability, creed, national origin or ancestry; provided, however, that the~~ members of groups protected under the laws enforced by the Commission. The provisions of the Freedom of Information Act in Chapter 100 of Title 29 ~~shall do~~ not apply to meetings that involve conciliation or ~~mediation; mediation.~~

(2) ~~Make such~~ Complete investigations, ~~surveys~~ surveys, and studies as are pertinent to the performance of its ~~duties; duties.~~

(3) Make recommendations to the Governor and General Assembly concerning needed legislation.

(4) Perform duties assigned to the Commission under Chapters 45, 46, and 78 of Title 6.

Section 5. Amend § 3004, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3004. Powers and duties.

The Commission shall cooperate with the Governor, the General Assembly, public agencies, officials, firms, corporations, civic ~~groups~~ groups, and individuals in promoting amicable relationships among the various racial and cultural groups within the State. To this end the Commission may do any of the following:

(1) Act as conciliator in matters involving race, age, marital status, color, sex, disability, creed, national ~~origin~~ origin, or ~~ancestry~~; ~~provided, however, that the~~ ancestry. The provisions of the Freedom of Information Act in Chapter 100 of Title 29 ~~shall do~~ not apply to meetings that involve conciliation or ~~mediation~~; mediation.

(2) ~~Make such~~ Complete investigations, ~~surveys~~ surveys, and studies as are pertinent to the performance of its ~~duties~~; duties.

(3) Make recommendations to the Governor and General Assembly concerning needed legislation.

(4) Perform duties assigned to the Commission under Chapter 45 and 46 of Title 6.

Section 6. Amend § 3005, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3005. Special Administration Fund.

(a) Creation. — ~~There is created in the State Treasury a~~ A special fund in the State Treasury, to be known as the Special Administration Fund of the Human Relations ~~Commission~~; Commission and referred to as “the Fund” throughout this section. ~~This Fund shall consist~~ consists of:

(1) All civil penalties assessed and collected ~~pursuant to Chapter 45 or 46~~ under Chapters 45, 46, or 78 of Title 6.

(2) Costs, attorneys' ~~fees~~ fees, and expenses awarded to the Commission ~~pursuant to Chapter 45 or 46~~ under Chapters 45, 46, or 78 of Title 6.

(3) All Community Development Block Grant moneys designated for the administration and enforcement of Chapter 46 of Title 6.

(4) All other moneys specifically designated for ~~this~~ the Fund.

(5) All interest on or profits earned by the ~~Special Administration~~ Fund.

(b) Administration. —

(1) All moneys collected ~~pursuant to~~ under this section ~~shall~~ must be deposited or paid into ~~this Fund and shall be the Fund~~, are continuously available to the Commission for expenditure in accordance with this ~~section and shall~~ section, do not lapse at any ~~time or time~~, and may not be transferred to any other ~~fund~~ fund, except as provided in subsection (d) of this section. All moneys in ~~this~~ the Fund ~~shall~~ must be prudently invested to the credit of ~~this~~ the Fund, administered and disbursed in the same manner as is provided by law for other special funds in the State ~~Treasury and such moneys shall be~~ Treasury, and maintained in a separate ledger account on the books of the Secretary of Finance.

(2) All moneys in the Fund which are received from the federal ~~government or any agency thereof~~ government, or any of its agencies, or ~~which are~~ appropriated by this State for purposes described in this chapter or Chapters ~~45 or 46~~ 45, 46, or 78 of Title 6, ~~shall~~ may be expended solely for the proper and efficient administration of this chapter.

(3) The State Treasurer ~~shall be~~ is the custodian of and ~~shall be~~ liable on the State Treasurer's official bond for the faithful performance of duties in connection with the Fund. Such liability on the official bond ~~shall exist~~ exists in addition to the liability on any separate bond which the State Treasurer may give ~~be given by the State Treasurer~~. All sums recovered on any such official bond for losses sustained by the Fund ~~shall~~ must be deposited in the Fund.

(c) Use. — The Commission may use moneys in the ~~Special Administration~~ Fund ~~may be used by the Commission~~ for any of the following purposes:

(1) The payment of litigation expenses, ~~costs~~ costs, and attorneys' fees in connection with the enforcement provisions of Chapters ~~45 and 46~~ 45, 46, or 78 of Title 6.

(2) The payment of the expenses of investigations conducted ~~pursuant to~~ under Chapters ~~45 and 46~~ 45, 46, or 78 of Title 6, and this chapter.

(3) The payment of studies and surveys conducted ~~pursuant to~~ under this chapter.

(d) Transfer. — ~~The Commission, whenever it~~ If the Commission determines that the money in the ~~Special Administration~~ Fund is more than adequate to pay for all foreseeable needs for which this Fund is created, it may authorize the transfer ~~therefrom~~ of money from the Fund to the General Fund ~~of such~~ in an amount as ~~it~~ the Commission deems proper.

Section 7. Amend § 3005, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3005. Special Administration Fund.

(a) Creation. — ~~There is created in the State Treasury a~~ A special fund in the State Treasury, to be known as the Special Administration Fund of the Human Relations ~~Commission~~. Commission and referred to as "the Fund" throughout this section. ~~This Fund shall consist~~ consists of:

(1) All civil penalties assessed and collected ~~pursuant to~~ under Chapter 45 or 46 of Title 6.

(2) Costs, attorneys' fees fees, and expenses awarded to the Commission ~~pursuant to~~ under Chapter 45 or 46 of Title 6.

(3) All Community Development Block Grant moneys designated for the administration and enforcement of Chapter 46 of Title 6.

(4) All other moneys specifically designated for ~~this~~ the Fund.

(5) All interest on or profits earned by the ~~Special Administration~~ Fund.

(b) Administration. —

(1) All moneys collected ~~pursuant to~~ under this section ~~shall~~ must be deposited or paid into ~~this Fund and shall be the Fund,~~ are continuously available to the Commission for expenditure in accordance with this ~~section and shall~~ section, ~~do not lapse at any time or time, and may not~~ do not lapse at any time or time, and may not be transferred to any other ~~fund~~ fund, ~~except as provided in subsection (d) of this section.~~ All moneys in ~~this~~ the Fund ~~shall~~ must be prudently invested to the credit of ~~this~~ the Fund, administered and disbursed in the same manner as is provided by law for other special funds in the State Treasury ~~and such moneys shall be~~ Treasury, and maintained in a separate ledger account on the books of the Secretary of Finance.

(2) All moneys in the Fund which are received from the federal ~~government or any agency thereof~~ government, or any of its agencies, or ~~which are~~ appropriated by this State for purposes described in this chapter or Chapters 45 or 46 of Title 6, ~~shall~~ may be expended solely for the proper and efficient administration of this chapter.

(3) The State Treasurer ~~shall be~~ is the custodian of and ~~shall be~~ is liable on the State Treasurer's official bond for the faithful performance of duties in connection with the Fund. Such liability on the official bond ~~shall exist~~ exists in addition to the liability on any separate bond which the State Treasurer may ~~give~~ be given by the State Treasurer. All sums recovered on any such official bond for losses sustained by the Fund ~~shall~~ must be deposited in the Fund.

(c) Use. — The Commission may use moneys in the ~~Special Administration~~ Fund ~~may be used by the Commission~~ for any of the following purposes:

(1) The payment of litigation expenses, ~~costs~~ costs, and attorneys' fees in connection with the enforcement provisions of Chapters 45 and 46 of Title 6.

(2) The payment of the expenses of investigations conducted ~~pursuant to~~ under Chapters 45 and 46 of Title 6, and this chapter.

(3) The payment of studies and surveys conducted ~~pursuant to~~ under this chapter.

(d) Transfer. — ~~The Commission, whenever it~~ If the Commission determines that the money in the ~~Special Administration~~ Fund is more than adequate to pay for all foreseeable needs for which this Fund is created, it may authorize the transfer ~~therefrom~~ money from the Fund to the General Fund ~~of such~~ in an amount ~~as it~~ the Commission deems proper.

Section 8. Amend § 3006, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3006. Subpoenas; compelling testimony.

(a) The Commission may issue subpoenas and order discovery in aid of the investigations, ~~surveys~~ surveys, and studies authorized under § 3004 of this title when the Attorney General has reason to believe that such subpoenas and discovery will enable the Commission to perform the duties imposed by this chapter.

(b) Any subpoena, process, order of the Commission, or other paper requiring service may be served by any sheriff, deputy sheriff, ~~or~~ constable, or ~~by any~~ employee of the Division of Human Relations.

(c) If a witness refuses to obey a subpoena that the Commission lawfully issued ~~by the Commission~~, or to give evidence the Commission properly requested ~~by the Commission~~, the Commission may petition the Superior Court to compel the witness to obey the subpoena or give the evidence. The Court shall immediately issue process to the witness and ~~shall~~ hold a hearing on the petition as soon as possible. If the witness refuses, without reasonable cause or legal grounds, to obey the subpoena or ~~to~~ give the evidence, the Court shall punish the witness for contempt.

Section 9. Amend § 4508, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4508. Procedure on complaint.

(c) Within 120 days after the complaint is filed, the Division shall investigate the complaint and endeavor to eliminate any unlawful discriminatory practice discovered through conciliation. Insofar as possible, conciliation meetings shall be held in the county where the alleged discriminatory public accommodations practice occurred. If the matter is resolved through conciliation, the parties shall enter a conciliation agreement stating the terms of the resolution of the matter. If the Division determines that the allegations in the complaint do not state a claim for which relief is available under this chapter or that the claim is not within the scope of the Division's jurisdiction, it may petition the ~~Division~~ Commission, with notice to the complainant, to dismiss the complaint.

Section 10. Section 1 of this Act takes effect 1 year after enactment. Sections, 2, 3, 8, and 9 of this Act take effect upon enactment. Sections 4 and 6 of this Act take effect upon enactment, but only if Senate Bill No. 49 of the 149th General Assembly, or any substitute for Senate Bill No. 49, is enacted. Sections 5 and 7 of this Act take effect upon enactment, but only if Senate Bill No. 49 of the 149th General Assembly, or any substitute for Senate Bill No. 49, is not enacted.

SYNOPSIS

This Act fulfills recommendations made by the Joint Legislative Overview and Sunset Committee ("JLOSC") by making amendments to the State Human Relations Commission's ("the Commission") governing statute.

First, this Act changes the number of members on the Commission to a more manageable number, 18 members, and adjusts appointment language accordingly, including providing for staggered appointments so that members' terms do not expire all at the same time. To provide the Commission with sufficient time to reorganize itself with the new number of members, Section 1 of this Act takes effect 1 year after the date of enactment.

Next, this Act adds several provisions that are administrative in nature: defining the Commission's quorum and requiring quorum to meet and conduct business; language standard to boards and commissions regarding the removal of members for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance; and technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Finally, this Act fulfills the JLOSC recommendation that the Commission's governing statute include reference to its duties under other chapters of the Delaware Code. Current Delaware law provides that the Commission has duties under Chapters 45 and 46 of Title 6, the Equal Accommodation Act and Fair Housing Act, respectively. Senate Bill No. 49 ("SB 49") of the 149th General Assembly, however, if enacted, will create a new Chapter 78 in Title 6, under which the Commission will have duties related to Homeless Individuals' Bill of Rights. In order to accommodate the possibility of a new chapter in Title 6 which should be referenced in the Commission's governing statute, §§ 3004 and 3005 have been drafted as two versions. The first version of each, Sections 4 and 6, include references to the new Chapter 78, while the second version of each, Sections 5 and 7, do not. Therefore, Section 10 of this Act provides that Sections 4 and 6 take effect if SB 49 is enacted during this General Assembly, and Sections 5 and 7 take effect if SB 49 is not enacted during this General Assembly.

Author: Senator John Walsh