

CHAPTER 183

[S. B. 12.]

DISCRIMINATION IN EMPLOYMENT.

AN ACT to prevent and eliminate discrimination in employment against persons because of race, creed, color or national origin; creating in the executive department a state board against discrimination; defining its functions, powers and duties and providing for the appointment and compensation of its officers and employees.

Be it enacted by the Legislature of the State of Washington:

Title of act.

SECTION 1. This law shall be known as the "Law Against Discrimination in Employment." It shall be deemed an exercise of the police power of the state for the protection of the public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the constitution of this state concerning civil rights; and the Legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color or national origin are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is hereby created with powers with respect to elimination and prevention of discrimination in employment because of race, creed, color or national origin, as herein provided; and the Board established hereunder is hereby given general jurisdiction and power for such purposes.

Civil rights.

SEC. 2. The opportunity to obtain employment without discrimination because of race, creed, color or national origin is hereby recognized as and declared to be a civil right.

Definitions.
"Person."

SEC. 3. As used herein: (a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees in bankruptcy, receivers or any group of persons,

and includes any political or civil subdivision of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(b) The term "employer" includes any person acting in the interest of an employer, directly, or indirectly, who has eight (8) or more persons in his employ, and does not include any religious, charitable, educational, social or fraternal association or corporation, not organized for private profit; "Employer."

(c) The term "employee" does not include any individual employed by his parents, spouse or child, or in the domestic service of any person; "Employee."

(d) The term "labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment; "Labor organization."

(e) The term "employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer; "Employment agency."

(f) The term "national origin" shall, for the purposes of this act, include "ancestry." "National origin."

SEC. 4. (a) There is hereby created a Board to be known as the Washington State Board Against Discrimination in Employment, which shall be composed of five members to be appointed by the Governor, one of whom shall be designated as chairman by the Governor. Washington State Board Against Discrimination in Employment.
Members.

(b) One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. Terms of office.
Vacancies.

Compensation of members.

(c) Each member of the Board while in session or on official business shall receive the sum of twenty dollars (\$20) per day in lieu of subsistence and shall receive reimbursement for actual and necessary travelling expenses incurred during such time. Such reimbursement to be made in the manner provided by law for similar reimbursements for state employees. A member shall be eligible for reappointment.

Members eligible for re-appointment.

Official seal.

(d) The Board shall have an official seal which shall be judicially noticed.

Vacancies.

(e) A vacancy in the Board shall be filled within thirty days, the remaining members to exercise all powers of the Board.

Principal office.

(f) The principal office of the Board shall be in the City of Seattle, but it may meet and exercise any or all of its powers at any other place in the state and may establish such district offices as it deems necessary.

Report to Governor.

(g) The Board, at the close of each six months period, shall report to the Governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, the recommendations it has issued, and the other work performed by it, and shall make such recommendations for further legislation as may appear desirable. The Board shall present its reports to each regular session of the Legislature; the Board's reports shall be published and made available upon request.

Report to Legislature.

Removal of members.

(h) Any member of the Board may be removed by the Governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

Board to formulate policies and make recommendations.

SEC. 5. The Board shall formulate policies to effectuate the purposes of this act and may make recommendations to agencies and officers of the state

or local subdivisions of government in aid of such policies and purposes.

SEC. 6. The Board shall have the following functions, powers and duties:

(a) To establish and maintain its principal office in the City of Seattle, and such other offices within the state as it deems necessary.

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

(c) To appoint an Executive Secretary and Chief Examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this act, and the policies and practices of the Board in connection therewith.

(f) To receive, investigate and pass upon complaints alleging discrimination in employment because of race, creed, color or national origin.

(g) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board. The Board may make rules as to the issuance of subpoenas by individual members as to service of complaints, decisions, orders, recommendations and other process or papers of the Board, its member, agent, or agency, either personally or by registered mail, return receipt requested, or by leaving a copy thereof at the principal office or place of business of the person required to be served. The return post office

receipt, when service is by registered mail, shall be proof of service of the same.

Testimony
or evidence
tending to
incriminate.

No person shall be excused from attending and testifying or from producing records, correspondence, documents or other evidence in obedience to the subpoena of the Board or of any individual member, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

Immunity
granted.

Exceptions.

Refusal to
obey
subpoena.

In case of contumacy or refusal to obey a subpoena issued to any person, the Superior Court of any county within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Board shall have jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the Court may be punished by said Court as a contempt thereof.

Advisory
agencies and
conciliation
councils.

(h) To create such advisory agencies and conciliation councils, local, regional or state-wide, as in its judgment will aid in effectuating the purposes of this article, and the Board may empower them to study the problems of discrimination in all or specific

fields of human relationships or in specific instances of discrimination because of race, creed, color or national origin, and to foster through community effort or otherwise good-will, cooperation and conciliation among the groups and elements of the population of the state, and make recommendations to the Board for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the Board may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary travelling expenses, and the Board may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance; the Board may use organizations specifically experienced in dealing with questions of discrimination.

Members.

Compensation.

Technical and clerical assistance.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good-will and minimize or eliminate discrimination because of race, creed, color or national origin.

Publications of investigations and research.

(j) To adopt an official seal.

Official seal.

(k) To make such technical studies as are appropriate to effectuate the purposes and policies of this act and to publish and distribute the reports of such studies.

Technical studies.

(l) Witnesses before the Board, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the Courts of this state. Witnesses whose depositions are taken and the person taking the same shall be entitled to same fees as are paid for like services in the Courts of the state.

Fees and mileage for witnesses.

SEC. 7. (1) It shall be an unfair employment practice for any employer:

Unfair employment practice by employer.

Discrimination due to person's race, creed, color or national origin.

(a) To refuse to hire any person because of such person's race, creed, color, or national origin, unless based upon a bona fide occupational qualification.

(b) To discharge or bar any person from employment because of such person's race, creed, color, or national origin.

(c) To discriminate against any person in compensation or in other terms or conditions of employment because of such person's race, creed, color or national origin.

Unfair labor practice by labor unions and organizations.

(2) It shall be an unfair employment practice for any labor union or labor organization:

Discrimination due to person's race, creed, color or national origin.

(a) To deny full membership rights and privileges to any person because of such person's race, creed, color, or national origin.

(b) To expel from membership any person because of such person's race, creed, color or national origin; or

(c) To discriminate against any member, employer, or employee because of such person's creed, color, or national origin.

Unfair employment practice by employment agencies.

(3) It shall be an unfair employment practice for any employment agency, except in the case of a bona fide occupational qualification or need, to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, any individual because of his race, color, religious creed, national origin or ancestry.

Discrimination against person opposing unfair labor practices forbidden.

(4) It shall be an unfair employment practice for any employer, employment agency, or labor union to discharge, expel, or otherwise discriminate against any person because he has opposed any practices forbidden by this act, or because he has filed a charge, testified, or assisted in any proceeding under this act.

Aiding and abetting of unfair employment practices.

(5) It shall be an unlawful employment practice for any person to aid, abet, encourage, or incite the commission of any unlawful employment prac-

tice, or to attempt to obstruct or prevent any other person from complying with the provisions of this act or any order issued thereunder.

SEC. 8. Any person claiming to be aggrieved by an alleged unfair employment practice may, by himself or his attorney, make, sign and file with the Board a complaint in writing under oath, which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unfair employment practice, and which shall set forth the particulars thereof and contain such other information as may be required by the Commission. The Board, whenever it has reason to believe that any persons [person] has been engaged or is engaging in an unfair employment practice may issue a complaint. Any employer whose employees, or any of them, refuse or threaten to refuse to comply with the provisions of this act may file with the Board a written complaint under oath asking for assistance by conciliation or other remedial action. After the filing of any complaint, the chairman of the Board shall refer the same to a member or investigator to make prompt preliminary investigation of such complaint, and, if such member or investigator determines after such preliminary investigation that there is reasonable cause for believing that an unfair employment practice has been or is being committed as alleged in such complaint, he shall immediately endeavor to eliminate the unfair employment practice complained of by conference, conciliation and persuasion. No member or investigator shall disclose what has occurred in the course of such endeavors, provided the Board may publish the facts in the case of any complaint which has been dismissed and the terms of conciliation when a complaint has been adjusted. In case of failure to eliminate such practice, the investigator or investigating member shall certify the complaint and the results

Complaints of unfair labor practice.

Contents of complaint

Board may issue complaint.

Employer may file complaint asking remedial action.

Board to make preliminary investigation.

Certification of complaint and findings to board.

Hearing
tribunal.Notice of
charges
and hearing.Place of
hearing.

Hearing.

of his investigation to the Chairman of the Board. The Chairman of the Board shall thereupon appoint a hearing tribunal of three persons who shall be members of the Board or panel of hearing examiners to hear such complaint and shall cause to be issued and served in the name of the Board a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, employer, labor organization or employment agency named in such complaint, hereinafter referred to as the respondent, to answer the charges of such complaint at a hearing before such tribunal, at a time and place to be specified in such notice. The place of any such hearing may be the office of the Board or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the Commission; and no member of the Board who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall he participate in the deliberations of the tribunal in such case. Any endeavors or negotiations for conciliation shall not be received in evidence. The respondent may file a written answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The tribunal conducting any hearing may permit reasonable amendment to any complaint or answer and the testimony taken at each hearing shall be under oath and be transcribed at the request of any party. If, upon all the evidence, the tribunal finds that a respondent has engaged in any unfair employment practice as defined in section 7, it shall state its findings of fact and shall issue and file with the Board and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair employment practice. If, upon all the evidence, the tribunal finds that the respondent

has not engaged in any alleged unfair employment practice, it shall state its findings of fact and shall similarly issue and file an order dismissing the complaint. The Board shall establish rules of practice to govern, expedite and effectuate the foregoing procedure. Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination.

Rules of practice.

Time of filing complaint.

SEC. 9. (a) The Board may petition the Court within the county wherein any unfair employment practice occurred or wherein any person charged with unlawful employment practice resides or transacts business, for the enforcement of any order issued by a tribunal under the provisions of this act and for appropriate temporary relief or a restraining order, and shall certify and file in Court a transcript of the entire record of the proceedings, including the pleadings and testimony upon which such order was made and the finding and orders of the hearing tribunal. Within five days after filing such petition in the Court the Board shall cause a notice of such petition to be sent by registered mail to all parties or their representatives. The Court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to grant such relief by injunction or otherwise, including temporary relief, as it deems just and suitable and to make and enter, upon the pleadings, testimony and proceedings set forth in such transcript, a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part any order of the Board or hearing tribunal.

Enforcement of tribunal's orders by courts.

Transcript of record to court.

Notice of petition to court for enforcement of order.

Jurisdiction of court.

(b) The findings of the hearing tribunal as to the facts, if supported by substantial and competent evidence, shall be conclusive. The Court, upon its own motion or upon motion of either of the parties to the proceeding, may permit each party to intro-

Findings of tribunal conclusive.

Introduction of additional evidence.

duce such additional evidence as the court may believe necessary to a proper decision of the cause.

Appeal from judgment of court.

(c) The jurisdiction of the Court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court, on appeal, by either party, irrespective of the nature of the decree or judgment. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Supreme Court, and the record so certified shall contain all that was before the lower Court.

Review of orders of tribunal.

(d) Any respondent aggrieved by a final order of a hearing tribunal may obtain a review of such order in the Superior Court for the county where the unfair employment practice is alleged to have occurred or in the county wherein such person resides or transacts business by filing with the Clerk of said Court, within two weeks from the date of such order, a written petition in duplicate praying that such order be modified or set aside. The Clerk shall thereupon mail the duplicate copy to the Board. The Board shall then cause to be filed in said Court a certified transcript of the entire record in the proceedings, including the pleadings, testimony and order. Upon such filing said Court shall proceed in the same manner as in the case of a petition by the Board under this section and shall have the same exclusive jurisdiction to grant to the respondent such temporary relief or restraining order as it deems just and suitable, and in like manner to make and enter a decree enforcing or modifying and enforcing as so modified or setting aside, in whole or in part, the order sought to be reviewed.

Petition for review.

Certified transcript of record to court.

Decree.

Review shall stay any order of tribunal.

(e) Unless otherwise directed by the Board tribunal or Court, commencement of review proceedings under this section shall operate as a stay of any order.

(f) Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed, without requirement of printing. Hearings in the Court under this act shall take precedence over all other matters, except matters of the same character.

Hearing in courts under this act to have precedence.

(g) No Court of this state shall have jurisdiction to issue any restraining order or temporary or permanent injunction preventing the Board from performing any function vested in it by this act, nor shall any Court have any jurisdiction to issue any order relating to the administration of this act, except as provided by sections 10 and 11 hereof.

Limitation on court's jurisdiction.

(h) This section shall not be applicable to orders issued against any political or civil subdivision of the state, or any agency, office, or employee thereof.

Exceptions.

SEC. 10. Any person, employer, labor organization or employment agency, who or which shall wilfully resist, prevent, impede, or interfere with the Board or any of its members or representatives in the performance of duty under this article, or shall wilfully violate an order of the Board, shall be guilty of a misdemeanor; but procedure for the review of the order shall not be deemed to be such wilful conduct.

Penalty for interfering with and violating orders of Board.

SEC. 11. In any case in which the Board shall issue an order against any political or civil subdivision of the state, or any agency, or instrumentality of the state or of the foregoing, or any officer or employee thereof, the Board shall transmit a copy of such order to the Governor of the state who shall take such action as he deems appropriate to secure compliance with such order.

Orders of Board against state and other governmental agencies.

SEC. 12. The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this act shall be deemed to repeal any of the provisions of any

Act shall be liberally construed.

other law of this state relating to discrimination because of race, color, creed or national origin.

Partial
invalidity.

SEC. 13. If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the remainder of such act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Appropriation.

SEC. 14. There is hereby appropriated from the General Fund the sum of twenty-five thousand dollars (\$25,000) to carry out the purpose of this act.

Passed the Senate February 22, 1949.

Passed the House March 6, 1949.

Approved by the Governor March 19, 1949.

CHAPTER 184.

[S. B. 163.]

APPROPRIATION—MUNICIPAL FIREMEN'S
PENSION FUNDS.

AN ACT making appropriations from the General Fund for the Municipal Firemen's Pension Fund of the various cities and towns.

Be it enacted by the Legislature of the State of Washington:

Appropriation to Firemen's Pension Fund of cities and towns.

SECTION 1. For the biennium ending March 31, 1951, there is hereby appropriated from the General Fund for payment to the cities and towns of the state, for the benefit of the Municipal Firemen's Pension Fund, amounts which the Legislature through oversight failed to appropriate for past bienniums and also amounts for the current biennium for the same purpose, representing forty-five per cent of the tax on fire insurance premiums, payable pursuant to the provisions of chapter 39, Laws of 1935 and chapter 91, Laws of 1947, as amended, based on certifications made by the Secretaries of Firemen's Pension Boards