

House Bill 552

By: Representatives Drenner of the 85<sup>th</sup>, Waites of the 60<sup>th</sup>, Cannon of the 58<sup>th</sup>, and Park of the 101<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 45 of the Official Code of Georgia Annotated, relating to public officers and  
2 employees, so as to change certain provisions relating to the "Fair Employment Practices Act  
3 of 1978" and the merit system in order to prohibit discrimination based on sexual orientation  
4 and gender identity; to provide for related matters; to repeal conflicting laws; and for other  
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
9 is amended by revising Code Section 45-19-21, relating to the purposes and construction of  
10 the "Fair Employment Practices Act of 1978," as follows:

11 "45-19-21.

12 (a) The general purposes of this article are:

13 (1) To provide for execution within public employment in ~~the~~ this state of the policies  
14 embodied in Title VII of the federal Civil Rights Act of 1964 (78 Stat. 241), as amended  
15 by the Equal Employment Opportunity Act of 1972 (86 Stat. 103), as from time to time  
16 amended, the federal Age Discrimination in Employment Act of 1967 (81 Stat. 602), as  
17 from time to time amended, and the federal Rehabilitation Act of 1973 (87 Stat. 355), as  
18 from time to time amended;

19 (2) To safeguard all individuals in public employment from discrimination in  
20 employment; and

21 (3) To promote the elimination of discrimination against all individuals in public  
22 employment because of such individuals' race, color, religion, national origin, sex, sexual  
23 orientation, gender identity, disability, or age thereby to promote the protection of their  
24 interest in personal dignity and freedom from humiliation; to make available to ~~the~~ this  
25 state their full productive capacities; to secure ~~the~~ this state against domestic strife and  
26 unrest which would menace its democratic institutions; to preserve the public safety,

27 health, and general welfare; and to further the interests, rights, and privileges of  
 28 individuals within ~~the~~ this state.

29 (b) This article shall be broadly construed to further the general purposes stated in this  
 30 Code section and the special purposes of the particular provision involved.

31 (c) Nothing in this article shall be construed as indicating an intent to exclude local or  
 32 federal laws on the same subject matter, which laws are not inconsistent with this article.

33 (d) Nothing contained in this article shall be deemed to repeal any other nonconflicting law  
 34 of this state relating to discrimination because of race, color, religion, national origin, sex,  
 35 sexual orientation, gender identity, disability, or age."

### 36 **SECTION 2.**

37 Said title is further amended by revising paragraph (4) of Code Section 45-19-22, relating  
 38 to definitions relative to the "Fair Employment Practices Act of 1978," as follows:

39 "(4) 'Discrimination' means any direct or indirect act or practice of exclusion, distinction,  
 40 restriction, segregation, limitation, refusal, denial, or any other act or practice of  
 41 differentiation or preference in the treatment of a person or persons because of race,  
 42 color, religion, national origin, sex, sexual orientation, gender identity, handicap, or age  
 43 or the aiding, abetting, inciting, coercing, or compelling of such an act or practice. This  
 44 term shall not include any direct or indirect act or practice of exclusion, distinction,  
 45 restriction, segregation, limitation, refusal, denial, or any other act or practice of  
 46 differentiation or preference in the treatment of a person or persons because of religion  
 47 if an employer demonstrates that the employer is unable to accommodate reasonably an  
 48 employee's or prospective employee's religious observance or practice without undue  
 49 hardship on the conduct of the employer's operation."

### 50 **SECTION 3.**

51 Said title is further amended by revising paragraphs (8) and (14) of Code Section 45-19-27,  
 52 relating to additional powers and duties of the administrator of the Commission on Equal  
 53 Opportunity, as follows:

54 "(8) To receive, initiate, investigate, seek to conciliate, and make determinations  
 55 regarding complaints alleging violations of this article and to approve or disapprove plans  
 56 required by the Governor to eliminate or reduce imbalance in employment with respect  
 57 to race, color, disability, religion, sex, sexual orientation, gender identity, national origin,  
 58 or age;"

59 "(14) To adopt, promulgate, amend, and rescind, subject to approval of the board and the  
 60 Governor and after giving proper notice and hearing to all public employers pursuant to  
 61 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' such rules and

62 regulations as may be necessary to carry out the provisions of this article, including  
 63 regulations requiring the posting or inclusion in advertising material of notices prepared  
 64 or approved by the administrator and regulations regarding the filing, approval, or  
 65 disapproval of plans to eliminate or reduce imbalance in employment with respect to race,  
 66 color, disability, religion, sex, sexual orientation, gender identity, national origin, or age;"

67 **SECTION 4.**

68 Said title is further amended by revising Code Section 45-19-29, relating to unlawful  
 69 practices generally relative to fair employment practices, as follows:

70 "45-19-29.

71 It is an unlawful practice for an employer:

72 (1) To fail or refuse to hire, to discharge, or otherwise to discriminate against any  
 73 individual with respect to the individual's compensation, terms, conditions, or privileges  
 74 of employment because of such individual's race, color, religion, national origin, sex,  
 75 sexual orientation, gender identity, disability, or age;

76 (2) To limit, segregate, or classify his or her employees in any way which would deprive  
 77 or tend to deprive an individual of employment opportunities or otherwise adversely  
 78 affect an individual's status as an employee because of such individual's race, color,  
 79 religion, national origin, sex, sexual orientation, gender identity, disability, or age; or

80 (3) To hire, promote, advance, segregate, or affirmatively hire an individual solely  
 81 because of race, color, religion, national origin, sex, sexual orientation, gender identity,  
 82 disability, or age, but this paragraph shall not prohibit an employer from voluntarily  
 83 adopting and carrying out a plan to fill vacancies or hire new employees in a manner to  
 84 eliminate or reduce imbalance in employment with respect to race, color, disability,  
 85 religion, sex, sexual orientation, gender identity, national origin, or age if the plan has  
 86 first been filed with the administrator for review and comment for a period of not less  
 87 than 30 days."

88 **SECTION 5.**

89 Said title is further amended by revising Code Section 45-19-30, relating to unlawful  
 90 practices in training or apprenticeship programs, as follows:

91 "45-19-30.

92 It is an unlawful practice for an employer controlling apprenticeship or other training or  
 93 retraining, including on-the-job training programs, to discriminate against an individual  
 94 because of such individual's race, color, religion, national origin, sex, sexual orientation,  
 95 gender identity, disability, or age in admission to or employment in any program  
 96 established to provide apprenticeship or other training or to discriminate by allowing

97 admission or promotion to an apprenticeship or training program solely because of race,  
 98 color, religion, national origin, sex, sexual orientation, gender identity, disability, or age."

99 **SECTION 6.**

100 Said title is further amended by revising Code Section 45-19-31, relating to unlawful  
 101 practices in advertisement of employment, as follows:

102 "45-19-31.

103 It is an unlawful practice for an employer to print or publish or cause to be printed or  
 104 published a notice or advertisement relating to employment by such an employer indicating  
 105 any preference, limitation, specification, or discrimination based on race, color, religion,  
 106 national origin, sex, sexual orientation, gender identity, disability, or age, except that such  
 107 a notice or advertisement may indicate a preference, limitation, or specification based on  
 108 race, color, religion, national origin, sex, sexual orientation, gender identity, disability, or  
 109 age when religion, national origin, sex, sexual orientation, gender identity, disability, or age  
 110 is a bona fide occupational qualification for employment."

111 **SECTION 7.**

112 Said title is further amended by revising Code Section 45-19-33, relating to different  
 113 standards of compensation or different terms and conditions of employment where not based  
 114 on race, color, religion, sex, national origin, disability, or age, as follows:

115 "45-19-33.

116 It is not an unlawful practice for an employer to apply different standards of compensation  
 117 or different terms, conditions, or privileges of employment pursuant to a bona fide seniority  
 118 or merit system, or a system which measures earnings by quantity or quality of production,  
 119 or to employees who work in different locations, provided that such differences are not the  
 120 result of an intention to discriminate because of race, color, religion, national origin, sex,  
 121 sexual orientation, gender identity, disability, or age; nor is it an unlawful practice for an  
 122 employer to give and to act upon the results of any professionally developed ability test,  
 123 provided that such test, its administration, or action upon the results thereof is not designed,  
 124 intended, or used to discriminate because of race, color, religion, national origin, sex,  
 125 sexual orientation, gender identity, disability, or age."

126 **SECTION 8.**

127 Said title is further amended by revising subsections (b) and (c) of Code Section 45-19-35,  
 128 relating to use of quotas because of imbalances in employee ratios prohibited, grants of  
 129 preferential treatment to certain individuals or groups not required by the "Fair Employment

130 Practices Act of 1978," adoption of plans required by Governor to reduce imbalance, and  
 131 effect of said Act upon certain employment practices, as follows:

132 "(b) Nothing contained in this article requires an employer to grant preferential treatment  
 133 to an individual or to a group because of the race, color, religion, national origin, sex,  
 134 sexual orientation, gender identity, disability, or age of the individual or group on account  
 135 of an imbalance which may exist with respect to the total number or percentage of persons  
 136 of any race, color, religion, national origin, sex, sexual orientation, gender identity,  
 137 disability, or age in ~~the~~ this state or a community, section, or other area or in the available  
 138 work force in ~~the~~ this state or a community, section, or other area.

139 (c) It is specifically provided that neither subsection (a) nor (b) of this Code section nor  
 140 any other provision of this article shall prohibit an employer from adopting or carrying out  
 141 a plan to fill vacancies or hire new employees in a manner to eliminate or reduce imbalance  
 142 in employment with respect to race, color, disability, religion, sex, sexual orientation,  
 143 gender identity, national origin, or age if such plan is required by the Governor and filed  
 144 with and approved by the administrator prior to its final adoption and implementation."

145 **SECTION 9.**

146 Said title is further amended by revising paragraph (7) of subsection (c) of Code  
 147 Section 45-19-38, relating to findings, conclusions, and order of special master generally and  
 148 order to cease and desist from unlawful practice and to take remedial action, as follows:

149 "(7) Recommending to the Governor that the respondent be required to adopt and file  
 150 with the administrator, within a specified time limitation, for the administrator's approval  
 151 a plan to fill vacancies or hire new employees in a manner to eliminate or reduce  
 152 imbalance in employment with respect to race, color, disability, religion, sex, sexual  
 153 orientation, gender identity, national origin, or age."

154 **SECTION 10.**

155 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section  
 156 45-20-1, relating to purposes and principles relative to personnel administration, as follows:

157 "(1) Assuring fair treatment of applicants and employees in all aspects of personnel  
 158 administration without regard to race, color, national origin, sex, sexual orientation,  
 159 gender identity, age, disability, religious creed, or political affiliations. This 'fair  
 160 treatment' principle includes compliance with all state and federal equal employment  
 161 opportunity and nondiscrimination laws;"

162 **SECTION 11.**

163 Said title is further amended by revising paragraph (2) of Code Section 45-20-4, relating to  
164 the duties and responsibilities of the commissioner in the administration of this chapter, as  
165 follows:

166 "(2) To submit to the Governor the rules and regulations adopted by the board. Such  
167 rules and regulations when approved by the Governor shall have the force and effect of  
168 law and shall be binding upon the state departments covered by this article and shall  
169 include provisions for the establishment and maintenance of classification and  
170 compensation plans, the conduct of examinations, appointments, promotions, transfers,  
171 demotions, appeals of classified employees, reports of performance, payroll certification,  
172 and other phases of personnel administration. Such rules and regulations shall define and  
173 prohibit improper political activity by any departmental employee of the State Personnel  
174 Board or any employee covered under the terms of this article and shall provide that there  
175 shall be no discrimination for or against any person or employee in any manner, to  
176 include, but not be limited to, hiring, discharge, compensation, benefits, terms or  
177 conditions of employment, promotion, job classification, transfer, privileges, or demotion  
178 because of political affiliation, religious affiliation, race, creed, national origin, sex,  
179 sexual orientation, gender identity, age between 40 and 70 years, or physical disability.  
180 Such rules and regulations shall conform to the minimum standards for merit systems of  
181 personnel administration as specified by those federal departments from which federal  
182 funds are obtained for use by the several state departments covered by this article.  
183 Compensation plans and modifications thereto promulgated under the rules and  
184 regulations of the commissioner shall become effective as adopted upon approval ~~of~~ by  
185 the director of the Office of Planning and Budget;"

186 **SECTION 12.**

187 All laws and parts of laws in conflict with this Act are repealed.