

House Bill 1383

By: Representatives Wilensky of the 79th, Efstoration of the 104th, Oliver of the 82nd, Rich of the 97th, Holcomb of the 81st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 19 of Title 45 of the Official Code of Georgia Annotated,
2 relating to the "Fair Employment Practices Act of 1978," so as to provide for hearing before
3 an administrative law judge; to change provisions relating to the appointment of hearing
4 officers; to provide for a definition; to provide for the administrator of the Commission on
5 Equal Opportunity with the power to order discovery; to change certain provisions relating
6 to the filing, amending, and investigation of a complaint regarding an unlawful practice; to
7 change provisions relating to an appeal seeking a review of a final order by a hearing officer
8 and a review of a dismissal of a complaint by the administrator; to provide penalty for willful
9 failure to provide testimony or discovery; to provide for a conforming cross-reference; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 2 of Chapter 19 of Title 45 of the Official Code of Georgia Annotated, relating to the
14 "Fair Employment Practices Act of 1978," is amended by revising Code Section 45-19-22,
15 relating to definitions, as follows:

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16 "45-19-22.

17 As used in this article, the term:

18 (1) 'Administrator' means the administrator of the Commission on Equal Opportunity
19 provided for by Code Section 45-19-24, which agency is composed of an Equal
20 Employment Division and a Fair Housing Division.

21 (2) 'Board' means the Board of Commissioners of the Commission on Equal Opportunity
22 created by Code Section 45-19-23.

23 (3) 'Disability' means a physical or mental impairment which substantially limits one or
24 more of a person's major life activities, unless an employer demonstrates that the
25 employer is unable to accommodate reasonably to an employee's or prospective
26 employee's disability without undue hardship on the conduct of the employer's operation.

27 (4) 'Discrimination' means any direct or indirect act or practice of exclusion, distinction,
28 restriction, segregation, limitation, refusal, denial, or any other act or practice of
29 differentiation or preference in the treatment of a person or persons because of race,
30 color, religion, national origin, sex, handicap, or age or the aiding, abetting, inciting,
31 coercing, or compelling of such an act or practice. ~~This~~ Such term shall not include any
32 direct or indirect act or practice of exclusion, distinction, restriction, segregation,
33 limitation, refusal, denial, or any other act or practice of differentiation or preference in
34 the treatment of a person or persons because of religion if an employer demonstrates that
35 the employer is unable to accommodate reasonably an employee's or prospective
36 employee's religious observance or practice without undue hardship on the conduct of the
37 employer's operation.

38 (5) 'Hearing officer' or 'administrative law judge' means an administrative law judge of
39 the Office of State Administrative Hearings, except where the Office of State
40 Administrative Hearings is a respondent, at which time such term shall mean a special
41 master selected by the Governor pursuant to subsection (e) of Code Section 45-19-23.

42 (6) 'Public employer' or 'employer' means any department, board, bureau, commission,
 43 authority, or other agency of the state which employs 15 or more employees within the
 44 state for each working day in each of 20 or more calendar weeks in the current or
 45 preceding calendar year. A person elected to public office in this state is a public
 46 employer with respect to persons holding positions or individuals applying for positions
 47 which are subject to the state system of personnel administration created by Chapter 20
 48 of this title, including the rules and regulations promulgated by the State Personnel Board
 49 or any personnel merit system of any agency or authority of this state. A person elected
 50 to public office in this state is not a public employer with respect to persons holding
 51 positions or individuals applying for positions on such officer's personal staff or on the
 52 policy-making level or as immediate advisers with respect to the exercise of the
 53 constitutional or legal powers of the office held by such officer.

54 ~~(6)~~(7) 'Public employment' means employment by any department, board, bureau,
 55 commission, authority, or other agency of the State of Georgia.

56 ~~(7)~~(8) 'Religion' means all aspects of religious observance and practice as well as belief.

57 ~~(8)~~(9) 'Unlawful practice' means an act or practice declared to be an unlawful practice
 58 in Code Sections 45-19-29 through 45-19-31, 45-19-32, or 45-19-45."

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SECTION 2.

60 Said article is further amended by revising subsection (e) of Code Section 45-19-23, relating
 61 to the creation of the Board of Commissioners of the Commission on Equal Opportunity,
 62 members, terms, officers, meetings, compensation of members, powers and duties of board,
 63 annual report to Governor and General Assembly, and special masters' list, as follows:

64 "(e) The board shall establish and certify to the Governor at the beginning of each fiscal
 65 year a list of not less than ~~12~~ eight persons, including females and minorities, licensed to
 66 practice law in Georgia, who have experience in labor law, in employment law, or
 67 administrative law, from which list the Governor may select, on the basis of rotation in

68 sequential order, special masters as provided for in Code Section 45-19-37. The board may
69 from time to time certify to the Governor additional persons to be added to the
70 aforementioned list."

71 **SECTION 3.**

72 Said article is further amendment by revising paragraphs (3) and (11) of Code Section
73 45-19-27, relating to additional powers and duties of administrator, as follows:

74 "(3) Within the limitations provided by law, to appoint clerks and other employees and
75 agents as the administrator may deem necessary, to include employees and agents to
76 represent complainants at ~~special master~~ hearings before the hearing officer as provided
77 in Code Section 45-19-37;"

78 "(11) To require answers to interrogatories, examine witnesses, and require the
79 production of documents so long as it is relevant to the investigation of a complaint, to
80 order discovery pursuant to Article 5 of Chapter 11 of Title 9, the 'Georgia Civil Practice
81 Act,' relating to depositions and discovery, in aid of investigations and hearings under this
82 article to the same extent and subject to the same limitations as would apply if ordered
83 or served in aid of a civil action in the superior court in which the investigation is taking
84 place;"

85 **SECTION 4.**

86 Said article is further amended by revising Code Section 45-19-32, relating to unlawful
87 practice for a party to violate conciliation agreement, as follows:

88 "45-19-32.

89 It is an unlawful practice for a party to a conciliation agreement made pursuant to
90 subsection ~~(e)~~(f) of Code Section 45-19-36 to violate the terms of the agreement."

SECTION 5.

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Said article is further amended by revising Code Section 45-19-36, relating to filing complaints of unlawful practice and action by administrator, as follows:

"45-19-36.

(a) As used in this Code section, the term 'respondent' means an employer charged with an alleged unlawful practice.

(b) An individual claiming to be aggrieved by an unlawful practice or another person on behalf of an individual claiming to be aggrieved by an unlawful practice may file with the administrator a written, sworn complaint stating that an unlawful practice has been committed setting forth the facts upon which the complaint is based and setting forth facts sufficient to enable the administrator to identify the employer charged. The administrator's staff shall promptly investigate the allegations of unlawful practice set forth in the complaint and, within 15 days of filing, shall serve the respondent with a copy of the complaint. The complaint shall be barred unless filed within 180 days after the alleged unlawful practice occurs.

(c) The charges contained within the complaint and answers shall be verified and may be reasonably and fairly amended at any time prior to the administrator rendering a decision as to reasonable cause to believe that the respondent has engaged in an unlawful practice.

(d) Within 90 days after of the filing of the complaint has been filed, the administrator shall determine whether there is reasonable cause to believe the respondent has engaged in an unlawful practice, unless it is impracticable to do so or unless the administrator has approved a conciliation agreement with respect to the complaint. If it is determined that there is no reasonable cause to believe that the respondent has engaged in an unlawful practice, the administrator shall issue an order dismissing the complaint. If the administrator is unable to complete the investigation within 90 days of the filing of the complaint, the administrator shall notify the complainant and respondent, in writing, of the reasons for the failure to complete the investigation. Every 60 days following the 90 day

118 written notification, the administrator shall issue to the complainant and the respondent a
119 status report summarizing any action taken with respect to the complaint. The status
120 reports required by this subsection shall be issued until the administrator makes a
121 determination as to reasonable cause.

122 ~~(d)~~(e) Within ten days after receiving a copy of the order dismissing the complaint, the
123 complainant may file with the administrator an application for reconsideration of the order.
124 Upon such application, the administrator shall determine within 15 days whether there is
125 reasonable cause to believe that the respondent has engaged in an unlawful practice. If it
126 is again determined that there is no reasonable cause to believe that the respondent has
127 engaged in an unlawful practice, the administrator shall issue an order dismissing the
128 complaint and notifying the complainant that such complainant has the right to request a
129 right to bring an action letter from the appropriate federal agency or petition for review in
130 the appropriate superior court as provided for in Code Section 45-19-39.

131 ~~(e)~~(f) After investigation or after the review provided for in subsection ~~(d)~~ (e) of this Code
132 section, if the administrator determines that there is reasonable cause to believe that the
133 respondent has engaged in an unlawful practice, then the administrator's staff shall first
134 endeavor to eliminate the alleged unlawful practice by conference, conciliation, and
135 persuasion. The terms of a conciliation agreement reached with a respondent may require
136 the respondent to refrain from the commission of unlawful discriminatory practices in the
137 future and make such further provisions as may be agreed upon between the administrator
138 and the respondent. If a conciliation agreement is entered into, the administrator shall issue
139 and serve on the complainant a final order stating its terms. Except for the terms of the
140 conciliation agreement, neither the administrator nor any agent thereof shall make public
141 without the written consent of the complainant and the respondent information concerning
142 efforts in the particular case to eliminate an unlawful practice by conference, conciliation,
143 or persuasion, whether or not there is a determination of reasonable cause or a conciliation
144 agreement.

145 ~~(f)~~(g) In the event the administrator determines that there is reasonable cause to believe
 146 that an agency or authority has engaged in an unlawful practice as defined in this article
 147 and the administrator's staff is unable to eliminate the alleged unlawful practice by
 148 conference, conciliation, and persuasion, the administrator shall refer the complaint to a
 149 ~~special master~~ hearing officer as provided for in Code Section 45-19-37.

150 ~~(g)~~(h) At the expiration of one year from the date of a conciliation agreement and at other
 151 times in its reasonable discretion, the administrator's staff may investigate whether the
 152 terms of the agreement have been and are being complied with by the respondent. The
 153 administrator shall report the findings to the complainant and respondent. If the
 154 administrator finds reasonable cause to believe that the agreement has been breached, the
 155 complainant may seek enforcement of the agreement in the superior court of the county in
 156 which the alleged violation took place or in the county of the respondent's residence.

157 ~~(h) The administrator shall issue to the complainant and the respondent, 90 days from the~~
 158 ~~date the complaint was filed and every 30 days thereafter, a status report summarizing any~~
 159 ~~action taken with respect to the complaint. The status reports required by this subsection~~
 160 ~~shall be issued until final resolution of the complaint."~~

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SECTION 6.

162 Said article is further amended by revising Code Section 45-19-37, relating to appointment
 163 of special master to conduct hearing on complaint and procedure, as follows:

164 "45-19-37.

165 (a) Unless the administrator has issued an order dismissing the complaint or stating the
 166 terms of a conciliation agreement within ~~90 days after a complaint is filed~~ the time period
 167 provided for in this article, the administrator shall either refer the complaint to an
 168 administrative law judge of the Office of State Administrative Hearings, or for complaints
 169 identifying the Office of State Administrative Hearings as the respondent, request that the
 170 Governor appoint, from the list provided for by subsection (e) of Code Section 45-19-23,

171 a special master to conduct a hearing in accordance with this article. Not more than 15
172 working days after such request, the Governor shall select and appoint a special master who
173 ~~must~~ shall be an attorney licensed to practice law in this state. The ~~special master hearing~~
174 ~~officer to whom the complaint is referred~~ shall have all of the power and authority granted
175 to agencies in conducting hearings and rendering final orders under Chapter 13 of Title 50,
176 the 'Georgia Administrative Procedure Act,' ~~including but not limited to subpoena power.~~
177 Act.'

178 (b) Not more than seven days after the appointment of the ~~special master hearing officer,~~
179 the administrator shall serve on the respondent and on the complainant or the complainant's
180 attorney by registered or certified mail or statutory overnight delivery a written notice
181 together with a copy of the complaint requiring the respondent to answer the charges
182 contained therein at a hearing before the ~~special master hearing officer~~ at a time and place
183 specified in the notice. Such notice ~~must~~ shall contain all general and specific charges
184 against the respondent.

185 (c) The respondent shall serve an answer with the ~~special master hearing officer~~ by
186 registered or certified mail or statutory overnight delivery not more than 20 working days
187 after receipt of the notice of hearing, which 20 working days may be extended by the
188 ~~special master hearing officer~~ in the ~~special master's hearing officer's~~ discretion for an
189 additional time not to exceed ten working days. The respondent's answer ~~must~~ shall show
190 by a certificate of service that the respondent has served a copy of the answer on the
191 complainant or the complainant's attorney at the last known address of the complainant or
192 the complainant's attorney where complainant is represented by an attorney. Upon leave
193 of the ~~special master hearing officer,~~ the complainant may amend the charges contained in
194 the notice of hearing. The respondent may amend an answer at any time prior to the
195 hearing or, upon leave of the ~~special master hearing officer,~~ may amend thereafter. No
196 final order shall be issued unless the respondent has had the opportunity of a hearing on the
197 charges contained in the notice of hearing or amendment on which the final order is based.

198 If the respondent fails to answer the complaint, the ~~special master~~ hearing officer may enter
199 the respondent's default. Unless the default is set aside for good cause shown, the hearing
200 may proceed on the evidence in support of the complaint.

201 ~~(d) At any time after a notice of hearing is served upon a respondent, discovery shall be~~
202 ~~authorized in the same manner and fashion as discovery is permitted under Code Sections~~
203 ~~9-11-26 through 9-11-37. Any order contemplated in Code Sections 9-11-26 through~~
204 ~~9-11-37 may be issued by the special master. Judicial enforcement of any such order may~~
205 ~~be obtained by the complainant or respondent in the same manner as is provided for the~~
206 ~~enforcement of final orders in Code Section 45-19-40.~~

207 ~~(e)~~ A respondent who has filed an answer or whose default in answering has been set aside
208 for good cause shown may appear at the hearing, may examine and cross-examine
209 witnesses and the complainant, and may offer evidence. The complainant and, at the
210 discretion of the ~~special master~~ hearing officer, any other person may intervene, examine
211 and cross-examine witnesses, and present evidence.

212 ~~(f)~~(e) Efforts at conference, conciliation, and persuasion shall not be received in evidence.

213 ~~(g)~~ Testimony taken at the hearing shall be under oath and shall be stenographically or
214 otherwise recorded by a certified court reporter. After the hearing, the special master at the
215 special master's discretion may take further evidence or hear arguments upon notice to all
216 parties with an opportunity to be present.

217 ~~(h)~~(f) Except as otherwise specifically provided for in this article, all proceedings of the
218 ~~special master~~ hearing officer shall be conducted as provided for with respect to contested
219 cases in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

220 ~~(i)~~(g) A complainant may retain at the complainant's own expense private counsel to
221 represent the complainant in any proceeding provided for under this article; however, the
222 complainant may utilize the services of an individual employed by the administrator
223 pursuant to paragraph (3) of Code Section 45-19-27 in presenting the complainant's case
224 before the ~~special master~~ hearing officer."

225 **SECTION 7.**

226 Said article is further amended by revising Code Section 45-19-38, relating to findings,
227 conclusions, and order of special master generally, and order to cease and desist from
228 unlawful practice and to take remedial action, as follows:

229 "45-19-38.

230 (a) If the ~~special master~~ hearing officer determines that the respondent has not engaged in
231 an unlawful practice, the ~~special master~~ hearing officer shall state the ~~special master's~~
232 hearing officer's findings of fact and conclusions of law and shall issue a final order, within
233 30 days after the hearing unless, for good cause shown, such time is extended by the
234 ~~Governor~~ hearing officer, dismissing the complaint.

235 (b) If the ~~special master~~ hearing officer determines that the respondent has engaged in an
236 unlawful practice, the ~~special master~~ hearing officer shall state the ~~special master's~~ hearing
237 officer's findings of fact and conclusions of law and shall issue a final order, within 30 days
238 after the hearing unless, for good cause shown, such time is extended by the ~~Governor~~
239 hearing officer, requiring the respondent to cease and desist from the unlawful practice and
240 to take such remedial action as in the judgment of the ~~special master will~~ hearing officer
241 shall carry out the purposes of this article.

242 (c) Remedial action under this Code section may include but is not limited to:

243 (1) Hiring, reinstatement, or upgrading of employees with or without back pay. No
244 award of back pay shall be ordered pursuant to this article with respect to any period
245 more than two years prior to the date of the filing with the administrator of the complaint
246 with respect to which such award of back pay is ordered. Interim earnings,
247 unemployment benefits, workers' compensation benefits, or amounts earnable with
248 reasonable diligence by the person or persons discriminated against shall operate to
249 reduce the back pay otherwise allowable;

250 (2) Admission or restoration of individuals to participate in a guidance program,
251 apprenticeship training program, on-the-job training program, or other occupational

252 training or retraining program and the utilization of objective criteria in the admission of
253 individuals to such programs;

254 (3) The extension to all individuals of the full and equal enjoyment of the advantages,
255 facilities, privileges, and services of the respondent;

256 (4) Reporting as to the manner of compliance;

257 (5) Posting notices in conspicuous places in the respondent's place of operation in the
258 form prescribed by the administrator or ~~special master~~ hearing officer;

259 (6) Restoration of employment benefits not otherwise specified in this Code section; or

260 (7) Recommending to the Governor that the respondent be required to adopt and file with
261 the administrator, within a specified time limitation, for the administrator's approval a
262 plan to fill vacancies or hire new employees in a manner to eliminate or reduce imbalance
263 in employment with respect to race, color, disability, religion, sex, national origin, or age.

264 (d) Any monetary award ordered pursuant to this article shall be for actual damages only.

265 (e) The respondent shall comply without delay with the terms and conditions of such a
266 final order."

267 **SECTION 8.**

268 Said article is further amended by revising Code Section 45-19-39, relating to appeal to
269 superior court of final order of special master or complaint dismissed by administrator, as
270 follows:

271 "45-19-39.

272 (a) Any party to a hearing before a ~~special master~~ hearing officer or a complainant whose
273 complaint has been dismissed by the administrator may appeal any adverse final order of
274 a ~~special master~~ hearing officer or the final order of dismissal of the complaint by the
275 administrator by filing a petition for review in the superior court in the county in which the
276 alleged unlawful practice occurred or in the superior court of the residence of the
277 respondent within 30 days of the issuance of the final order. Neither the administrator nor

278 the ~~special master~~ hearing officer shall be a named party; however, the administrator ~~must~~
279 shall be served with a copy of the petition for review. For an appeal seeking the review of
280 a final order by the hearing officer, within ~~Within~~ 30 days after the petition is served on the
281 administrator, the administrator shall forward to the court a certified copy of the record of
282 the hearing before the ~~special master~~ hearing officer, including the transcript of the hearing
283 before the ~~special master~~ hearing officer and all evidence, administrative pleadings, and
284 orders, or the entire record if no hearing has been held. For an appeal seeking the review
285 of the dismissal of a complaint by the administrator, within 30 days after the petition is
286 served on the administrator, the administrator shall forward to the court a certified copy of
287 the entire record. For good cause shown, the court may require or permit subsequent
288 corrections or additions to the record. All appeals for judicial review shall be in
289 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
290 provided, however, that if any provisions of Chapter 13 of Title 50 conflict with any
291 provision of this article, this article controls. An individual employed by the administrator
292 pursuant to paragraph (3) of Code Section 45-19-27 shall not have the authority to
293 represent the complainant in any appeal to superior court of a final order of the ~~special~~
294 ~~master~~ hearing officer or in any proceeding in any court, except to secure judicial
295 enforcement of preliminary procedural orders of a ~~special master~~ hearing officer.

296 (b) The court shall not substitute its judgment for that of the ~~special master~~ hearing officer
297 or the administrator as to the weight of the evidence on questions of fact. The court may
298 affirm a final order of the ~~special master~~ hearing officer or the administrator or remand the
299 case for further proceedings. Upon review of a final order of the hearing officer or the
300 administrator, the ~~The~~ court may reverse or modify the final order if substantial rights of
301 the appellant have been prejudiced because the administrative findings, inferences,
302 conclusions, or decisions are:

- 303 (1) In violation of constitutional or statutory provisions;
304 (2) In excess of the statutory authority of the agency;

- 305 (3) Made upon unlawful procedures;
- 306 (4) Affected by other error of law;
- 307 (5) Not supported by substantial evidence, which shall mean that the record does not
308 contain such relevant evidence as a reasonable mind might accept as adequate to support
309 said findings, inferences, conclusions, or decisions; or
- 310 (6) Arbitrary, capricious, or characterized by abuse of discretion or clearly unwarranted
311 exercise of discretion.
- 312 (c) If, upon judicial review of any order of a ~~special master~~ hearing officer or in a
313 proceeding in which a complainant seeks enforcement of a conciliation agreement, the
314 court rules in favor of the complainant, then the court may in its discretion render an award
315 of reasonable attorney's fees and costs of litigation in the superior court to the
316 complainant."

317 **SECTION 9.**

318 Such article is further amended by revising Code Section 45-19-40, relating to entry of court
319 judgment based upon final order of administrator or special master, notification of parties,
320 and effect of judgment, as follows:

321 "45-19-40.

322 Any person affected by a final order of the administrator or a ~~special master~~ hearing officer
323 may file in the superior court of the county of the residence of the respondent a certified
324 copy of a final order of the administrator or of a ~~special master~~ hearing officer unappealed
325 from or of a final order of a ~~special master~~ hearing officer affirmed upon appeal,
326 whereupon said court shall render judgment in accordance therewith and notify the parties.
327 Such judgment shall have the same effect and all proceedings in relation thereto shall
328 thereafter be the same as though the judgment had been rendered in an action duly heard
329 and determined by the court."

330 **SECTION 10.**

331 Said article is further amended by revising Code Section 45-19-44, relating to unlawful
332 practices punishable by a civil fine, as follows:

333 "45-19-44.

334 (a) It shall be an unlawful practice for a person willfully to:

335 (1) Make public with respect to a particular employer or person without the employer's
336 or person's consent information obtained by the administrator or the administrator's
337 representatives or employees pursuant to their authority under Code Section 45-19-41,
338 except as shall reasonably be necessary to carry out the provisions of this article;

339 (2) Retaliate or discriminate in any manner against a person because the person has
340 opposed a practice declared unlawful by this article or because the person has made a
341 charge, filed a complaint, testified, assisted, or participated in any manner in any
342 investigation, proceeding, or hearing concerning an unlawful practice under this article;

343 (3) Aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices
344 declared unlawful by this article;

345 (4) Obstruct or prevent a person from complying with this article or with any order
346 issued under this article;

347 (5) Resist, prevent, impede, or interfere with the administrator, ~~or any of his~~ the
348 administrator's representatives, ~~or employees,~~ or with a ~~special master~~ hearing officer in
349 the lawful performance of a duty under this article. Such unlawful practice may include,
350 but shall not be limited to, willfully neglecting or failing to comply or to fully comply
351 with a subpoena or other lawful order to;

352 (A) Attend and testify at any hearing or deposition;

353 (B) Answer any lawful inquiry; and

354 (C) Produce records, documents, or other requested evidence;

355 provided, however, that it shall not be a violation of this article for anyone to challenge
356 or resist any action by the administrator, ~~or any of his~~ the administrator's representatives

357 ~~or employees, or by a special master hearing officer~~ when there is a good faith belief that
 358 the administrator is, ~~or his~~ the administrator's representatives or employees are, or the
 359 ~~special master hearing officer~~ is acting unlawfully or acting in excess of statutory
 360 authority; or

361 (6) Initiate frivolous and unwarranted charges of discrimination against a public
 362 employer.

363 (b) A violation of this Code section shall not be deemed a crime; but any person who
 364 willfully violates this Code section may be punished by a civil fine not to exceed
 365 \$1,000.00."

366 SECTION 11.

367 Said article is further amended by revising Code Section 45-19-45, relating to unlawful
 368 conspiracies, as follows:

369 "45-19-45.

370 It shall be an unlawful practice for a person or for two or more persons to conspire:

371 (1) To retaliate or discriminate in any manner against a person because the person has
 372 opposed a practice declared unlawful by this article or because the person has made a
 373 charge, filed a complaint, testified, assisted, or participated in any manner in any
 374 investigation, proceeding, or hearing concerning an unlawful practice under this article;

375 (2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or
 376 practices declared unlawful by this article;

377 (3) To obstruct or prevent a person from complying with this article or any order issued
 378 under this article;

379 (4) To resist, prevent, impede, or interfere with the administrator, ~~or any of his~~ the
 380 administrator's representatives or employees, or a ~~special master hearing officer~~ in the
 381 lawful performance of a duty under this article. Such unlawful practice may include, but

382 shall not be limited to, willfully neglecting or failing to comply or to fully comply with
383 a subpoena or other lawful order to:

384 (A) Attend and testify under oath at any hearing or deposition;

385 (B) Answer any lawful inquiry; and

386 (C) Produce records, documents, or other requested evidence;

387 provided, however, that it shall not be a violation of this article for anyone to challenge or
388 resist any action by the administrator, ~~or any of his~~ the administrator's representatives or
389 employees, or a ~~special master~~ hearing officer when there is a good faith belief that the
390 administrator, ~~or his~~ the administrator's representatives or employees, or a ~~special master~~
391 the hearing officer is acting unlawfully or acting in excess of his statutory authority; or

392 (5) To initiate willfully frivolous and unwarranted charges of discrimination against a
393 public employer."

394

SECTION 12.

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