

10:5-3

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 10:5-3

(Discrimination cases--establish right to jury trial)

LAWS OF: 1990

CHAPTER: 12

Bill No: A2872, A2118, A2228

Sponsor(s): Spadoro and others

Date Introduced: Pre-filed

Committee: Assembly: Judiciary, Law and Public Safety

Senate: ~~Judiciary, Law and Public Safety~~

Amended during passage: Yes Assembly Committee Substitute enacted

Date of Passage: Assembly: February 26, 1990

Senate: March 8, 1990

Date of Approval: April 16, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

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(over)

Shaner v Horizon Bank,¹¹⁶ NJ 433

See newspaper clipping--attached:

"Jury trials advance in bias cases," 4-17-90 Star Ledger

KBG/SLJ

P.L.1990, CHAPTER 12, approved April 16, 1990

Assembly Committee Substitute for

1990 Assembly Nos. 2872, 2118 and 2228

1 AN ACT concerning the right to a jury trial and common law
 2 remedies for discrimination and amending P.L.1945, c.169 and
 3 P.L.1986, c.105.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
 6 *State of New Jersey:*

7 1. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read
 8 as follows:

9 3. The Legislature finds and declares that practices of
 10 discrimination against any of its inhabitants, because of race,
 11 creed, color, national origin, ancestry, age, sex, marital status,
 12 liability for service in the Armed Forces of the United States, or
 13 nationality, are a matter of concern to the government of the
 14 State, and that such discrimination threatens not only the rights
 15 and proper privileges of the inhabitants of the State but menaces
 16 the institutions and foundation of a free democratic State;
 17 provided, however, that nothing in this expression of policy
 18 prevents the making of legitimate distinctions between citizens
 19 and aliens when required by Federal law or otherwise necessary
 20 to promote the national interest.

21 The Legislature further declares its opposition to such
 22 practices of discrimination when directed against any person by
 23 reason of the race, creed, color, national origin, ancestry, age,
 24 sex, marital status, liability for service in the Armed Forces of
 25 the United States, or nationality of that person or that person's
 26 spouse, partners, members, stockholders, directors, officers,
 27 managers, superintendents, agents, employees, business
 28 associates, suppliers, or customers, in order that the economic
 29 prosperity and general welfare of the inhabitants of the State
 30 may be protected and ensured.

31 The Legislature further finds that because of discrimination,
 32 people suffer personal hardships, and the State suffers a grievous
 33 harm. The personal hardships include: economic loss; time loss;
 34 physical and emotional stress; and in some cases severe emotional
 35 trauma, illness, homelessness or other irreparable harm resulting
 36 from the strain of employment controversies; relocation, search
 37 and moving difficulties; anxiety caused by lack of information,
 38 uncertainty, and resultant planning difficulty; career, education,
 39 family and social disruption; and adjustment problems, which

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
 above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 particularly impact on those protected by this act. Such harms
2 have, under the common law, given rise to legal remedies,
3 including compensatory and punitive damages. The Legislature
4 intends that such damages be available to all persons protected
5 by this act and that this act shall be liberally construed in
6 combination with other protections available under the laws of
7 this State.

8 (cf: P.L.1977, c.96, s.1)

9 2. Section 12 of P.L.1945, c.169 (C.10:5-13) is amended to
10 read as follows:

11 12. Any person claiming to be aggrieved by an unlawful
12 employment practice or an unlawful discrimination may, [by
13 himself, or his] personally or by an attorney-at-law, make, sign
14 and file with the division a verified complaint in writing which
15 shall state the name and address of the person, employer, labor
16 organization, employment agency, owner, lessee, proprietor,
17 manager, superintendent, or agent alleged to have committed the
18 unlawful employment practice or unlawful discrimination
19 complained of and which shall set forth the particulars thereof
20 and shall contain such other information as may be required by
21 the division. Upon receipt of the complaint, the division shall
22 notify the complainant on a form promulgated by the director of
23 the division and approved by the Attorney General of the
24 complainant's rights under this act, including the right to file a
25 complaint in the Superior Court to be heard before a jury; of the
26 jurisdictional limitations of the division; and any other provisions
27 of this act, without interpretation, that may apply to the
28 complaint. The Commissioner of Labor [and Industry], the
29 Attorney General, or the Commissioner of Education may, in like
30 manner, make, sign and file such complaint. Any employer whose
31 employees, or some of them, refuse or threaten to refuse to
32 co-operate with the provisions of this act, may file with the
33 division a verified complaint asking for assistance by conciliation
34 or other remedial action.

35 Any complainant may initiate suit in Superior Court under this
36 act without first filing a complaint with the division or any
37 municipal office. Upon the application of any party, a jury trial
38 shall be directed to try the validity of any claim under this act
39 specified in the suit. All remedies available in common law tort
40 actions shall be available to prevailing plaintiffs. These remedies
41 are in addition to any provided by this act or any other statute.
42 Prosecution of such suit in Superior Court under this act shall bar
43 the filing of a complaint with the division or any municipal office
44 during the pendency of any such suit.

45 At any time after 180 days from the filing of a complaint with
46 the division, a complainant may file a request with the division to
47 present the action [by himself] personally or through [his own]
48 counsel to the Office of Administrative Law. Upon such request,
49 the director of the division shall file the action with the Office of

1 Administrative Law, provided that no action may be filed with
2 the Office of Administrative Law where the director of the
3 division has found that no probable cause exists to credit the
4 allegations of the complaint or has otherwise dismissed the
5 complaint.

6 A party to an action based upon a violation of this act shall
7 mail a copy of the initial pleadings or claims, amended pleadings
8 or claims, counterclaims, briefs, and legal memoranda to the
9 division at the same time as filing such documents with the
10 Office of Administrative Law or the court. Upon application to
11 the Office of Administrative Law or to the court wherein the
12 matter is pending, the division shall be permitted to intervene.

13 ~~(cf: P.L.1979, c. 404, s.1)~~

14 3. Section 13 of P.L.1945, c.169 (C.10:5-14) is amended to
15 read as follows:

16 13. After the filing of any complaint, the Attorney General
17 shall cause prompt investigation to be made in connection
18 therewith and advise the complainant of the results thereof [if].
19 ~~If the Attorney General shall determine after such investigation~~
20 ~~that probable cause exists for crediting the allegations of the~~
21 ~~complaint, he shall immediately endeavor to eliminate the~~
22 ~~unlawful employment practice or the unlawful discrimination~~
23 ~~complained of by conference, conciliation and persuasion during a~~
24 ~~period terminating not later than 45 days from the date of the~~
25 ~~finding of probable cause. Neither the Attorney General nor any~~
26 ~~officer or employee of the division shall disclose any conversation~~
27 ~~between the Attorney General or his representative and the~~
28 ~~respondent or his representative at such conference.~~

29 (cf: P.L.1966, c.17, s.5)

30 4. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read
31 as follows:

32 5. Upon a violation of any of the provisions of this act, an
33 aggrieved employee or former employee may, within one year,
34 institute a civil action in a court of competent jurisdiction[,
35 within one year, for relief which may include, and which the
36 court may order, the following:]. Upon the application of any
37 party, a jury trial shall be directed to try the validity of any
38 claim under this act specified in the suit. All remedies available
39 in common law tort actions shall be available to prevailing
40 plaintiffs. These remedies are in addition to any legal or
41 equitable relief provided by this act or any other statute. The
42 court may also order:

- 43 a. An injunction to restrain continued violation of this act;
44 b. The reinstatement of the employee to the same position
45 held before the retaliatory action, or to an equivalent position;
46 c. The reinstatement of full fringe benefits and seniority
47 rights;

1 d. The compensation for lost wages, benefits and other
2 remuneration;

3 e. The payment by the employer of reasonable costs, and
4 attorney's fees;

5 f. Punitive damages; or

6 g. An assessment of a civil fine of not more than \$1,000.00 for
7 the first violation of the act and not more than \$5,000.00 for
8 each subsequent violation, which shall be paid to the State
9 Treasurer for deposit in the General Fund.

10 (cf: P.L.1986, c.105, s.5)

11 5. This act shall take effect immediately and shall apply to
12 any action pending on that date.

13
14
15 **CIVIL JUSTICE**
16

17 Provides that a person who brings a legal action pursuant to the
18 "Law Against Discrimination" or the "Conscientious Employee
19 Protection Act" is entitled to a jury trial.

ASSEMBLY, No. 2872
STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1990

By Assemblyman CHARLES

1 AN ACT concerning the right to a jury trial and common law
2 remedies for discrimination and amending P.L.1945, c.169 and
3 P.L.1986, c.105.

4
5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read
8 as follows:

9 3. The Legislature finds and declares that practices of
10 discrimination against any of its inhabitants, because of race,
11 creed, color, national origin, ancestry, age, sex, marital status,
12 liability for service in the Armed Forces of the United States, or
13 nationality, are a matter of concern to the government of the
14 State, and that such discrimination threatens not only the rights
15 and proper privileges of the inhabitants of the State but menaces
16 the institutions and foundation of a free democratic State;
17 provided, however, that nothing in this expression of policy
18 prevents the making of legitimate distinctions between citizens
19 and aliens when required by Federal law or otherwise necessary
20 to promote the national interest.

21 The Legislature further declares its opposition to such
22 practices of discrimination when directed against any person by
23 reason of the race, creed, color, national origin, ancestry, age,
24 sex, marital status, liability for service in the Armed Forces of
25 the United States, or nationality of that person or that person's
26 spouse, partners, members, stockholders, directors, officers,
27 managers, superintendents, agents, employees, business
28 associates, suppliers, or customers, in order that the economic
29 prosperity and general welfare of the inhabitants of the State
30 may be protected and ensured.

31 The Legislature further finds that because of discrimination,
32 people suffer personal hardships, and the State suffers a grievous
33 harm. The personal hardships include: economic loss, time loss;
34 physical and emotional stress; and in some cases severe emotional
35 trauma, illness, homelessness or other irreparable harm resulting
36 from the strain of employment controversies; relocation, and
37 moving difficulties; anxiety caused by lack of information,
38 uncertainty, and resultant planning difficulty; career, education,
39 family and social disruption; and adjustment problems, which

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2 have, under the common law, given rise to legal remedies,
3 including compensatory and punitive damages. The Legislature
4 intends that such damages be available to all persons protected
5 by this act and that this act shall be liberally construed in
6 combination with other protections available under the laws of
7 this State.

8 (cf: P.L.1977, c.96, s.1)

9 2. Section 12 of P.L.1945, c.169 (C.10:5-13) is amended to
10 read as follows:

11 12. Any person claiming to be aggrieved by an unlawful
12 employment practice or an unlawful discrimination may, [by
13 himself, or his] personally or by an attorney-at-law, make, sign
14 and file with the division a verified complaint in writing which
15 shall state the name and address of the person, employer, labor
16 organization, employment agency, owner, lessee, proprietor,
17 manager, superintendent, or agent alleged to have committed the
18 unlawful employment practice or unlawful discrimination
19 complained of and which shall set forth the particulars thereof
20 and shall contain such other information as may be required by
21 the division. Upon receipt of the complaint, the division shall
22 notify the complainant on a form promulgated by the director of
23 the division and approved by the Attorney General of the
24 complainant's rights under this act, including the right to file a
25 complaint in the Superior Court to be heard before a jury; of the
26 jurisdictional limitations of the division; and any other provisions
27 of this act, without interpretation, that may apply to the
28 complaint. The Commissioner of Labor [and Industry], the
29 Attorney General, or the Commissioner of Education may, in like
30 manner, make, sign and file such complaint. Any employer whose
31 employees, or some of them, refuse or threaten to refuse to
32 co-operate with the provisions of this act, may file with the
33 division a verified complaint asking for assistance by conciliation
34 or other remedial action.

35 Any complainant may initiate suit in Superior Court under this
36 act without first filing a complaint with the division or any
37 municipal office. Upon the application of any party, a jury trial
38 shall be directed to try the validity of any claim under this act
39 specified in the suit. All remedies available in common law tort
40 actions shall be available to prevailing plaintiffs. These remedies
41 are in addition to any provided by this act or any other statute.
42 Prosecution of such suit in Superior Court under this act shall bar
43 the filing of a complaint with the division or any municipal office
44 during the pendency of any such suit.

45 At any time after 180 days from the filing of a complaint with
46 the division, a complainant may file a request with the division to
47 present the action [by himself] personally or through [his own]
48 counsel to the Office of Administrative Law. Upon such request,

1 the director of the division shall file the action with the Office of
2 Administrative Law, provided that no action may be filed with
3 the Office of Administrative Law where the director of the
4 division has found that no probable cause exists to credit the
5 allegations of the complaint or has otherwise dismissed the
6 complaint.

7 A party to an action based upon a violation of this act shall
8 mail a copy of the initial pleadings or claims, amended pleadings
9 or claims, counterclaims, briefs, and legal memoranda to the
10 division at the same time as filing such documents with the
11 Office of Administrative Law or the court. Upon application to
12 the Office of Administrative Law or to the court wherein the
13 matter is pending, the division shall be permitted to intervene.

14 (cf: P.L.1979, c.404, s.1)

15 3. Section 13 of P.L.1945, c.169(C.10:5-14) is amended to read
16 as follows:

17 13. After the filing of any complaint, the Attorney General
18 shall cause prompt investigation to be made in connection
19 therewith and advise the complainant of the results thereof [if].
20 If the Attorney General shall determine after such investigation
21 that probable cause exists for crediting the allegations of the
22 complaint, he shall immediately endeavor to eliminate the
23 unlawful employment practice or the unlawful discrimination
24 complained of by conference, conciliation and persuasion during a
25 period terminating not later than 45 days from the date of the
26 finding of probable cause. Neither the Attorney General nor any
27 officer or employee of the division shall disclose any conversation
28 between the Attorney General or his representative and the
29 respondent or his representative at such conference.

30 (cf: P.L.1966, c.17, s.5)

31 4. Section 5 of P.L.1986, c.105(C.34:19-5) is amended to read
32 as follows:

33 5. Upon a violation of any of the provisions of this act, an
34 aggrieved employee or former employee may, within one year,
35 institute a civil action in a court of competent jurisdiction[,
36 within one year, for relief which may include, and which the
37 court may order, the following:]. Upon the application of any
38 party, a jury trial shall be directed to try the validity of any
39 claim under this act specified in the suit. All remedies available
40 in common law tort actions shall be available to prevailing
41 plaintiffs. These remedies are in addition to any legal or
42 equitable relief provided by this act or any other statute. The
43 court may also order:

- 44 a. An injunction to restrain continued violation of this act;
45 b. The reinstatement of the employee to the same position
46 held before the retaliatory action, or to an equivalent position;
47 c. The reinstatement of full fringe benefits and seniority
48 rights;

1 d. The compensation for lost wages, benefits and other
2 remuneration;

3 e. The payment by the employer of reasonable costs, and
4 attorney's fees;

5 f. Punitive damages; or

6 g. An assessment of a civil fine of not more than \$1,000.00 for
7 the first violation of the act and not more than \$5,000.00 for
8 each subsequent violation, which shall be paid to the State
9 Treasurer for deposit in the General Fund.

10 (cf: P.L.1986, c.105, s.5)

11 5. This act shall take effect immediately and shall apply to
12 any action pending on that date.

13

14

15

STATEMENT

16

17 The "Law Against Discrimination," P.L.1945, c.169, (C.10:5-1
18 et seq.) prohibits an employer from discriminating in the
19 workplace on the basis of race, creed, color, national origin, sex,
20 and certain other factors. A person who has been discriminated
21 against under the terms of the law may either seek relief by
22 filing a complaint with the Division on Civil Rights in the
23 Department of Law and Public Safety or by bringing an action in
24 Superior Court. The provision of a dual remedial system
25 allows both the efficient and speedy administration of civil rights
26 cases where the damages are incidental to the loss of rights or
27 where the aggrieved cannot afford private counsel, but preserves
28 the right to go to court where the potential monetary damages
29 are not incidental. Because the remedies under the two schemes
30 are substantially different, this bill would provide for disclosure
31 by the Division on Civil Rights of the differences in available
32 relief, and would ensure that plaintiffs are adequately informed
33 of their options when choosing a forum.

34 In a recent decision, Shaner v. Horizon Bank, 116 N.J.433
35 (1989), the New Jersey Supreme Court held that under present
36 law a person who brings a legal action based on a violation of the
37 Law Against Discrimination is not entitled to a jury trial. The
38 reasoning of Shaner would also bar jury trials for an employee
39 who brings a claim based on a violation of the "Conscientious
40 Employee Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.).
41 That act prohibits an employer from taking retaliatory action
42 against an employee who discloses, threatens to disclose, or
43 testifies regarding any of the employer's policies or practices
44 which the employee believes is in violation of the law.

45 The "Law Against Discrimination" and the "Conscientious
46 Employee Protection Act" were enacted to supplement the
47 common law, and to provide special protection to persons who are
48 victimized because of membership in a protected class. As

1 interpreted by the court, remedies would be more limited for
2 victims of discrimination and retaliatory firings than they are for
3 victims of unintentional negligence. This bill would restore the
4 right to a jury trial that is essential to the concept of restitution
5 for injuries under the common law.

6 This bill is submitted pursuant to a recommendation of the
7 Commission on Sex Discrimination in the Statutes.

8

9

10 CIVIL JUSTICE

11

12 Provides that a person who brings a legal action pursuant to the
13 "Law Against Discrimination" or the "Conscientious Employee
14 Protection Act" is entitled to a jury trial.

ASSEMBLY, No. 2118
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen CHARLES and WATSON

1 AN ACT concerning the right to a jury trial and amending
2 P.L.1945, c.169 and P.L.1986, c.105.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. Section 12 of P.L.1945, c.169 (C.10:5-13) is amended to
7 read as follows:

8 12. Any person claiming to be aggrieved by an unlawful
9 employment practice or an unlawful discrimination may, by
10 himself, or his attorney-at-law, make, sign and file with the
11 division a verified complaint in writing which shall state the
12 name and address of the person, employer, labor organization,
13 employment agency, owner, lessee, proprietor, manager,
14 superintendent, or agent alleged to have committed the unlawful
15 employment practice or unlawful discrimination complained of
16 and which shall set forth the particulars thereof and shall contain
17 such other information as may be required by the division. The
18 Commissioner of Labor and Industry, the Attorney General, or
19 the Commissioner of Education may, in like manner, make, sign
20 and file such complaint. Any employer whose employees, or some
21 of them, refuse or threaten to refuse to co-operate with the
22 provisions of this act, may file with the division a verified
23 complaint asking for assistance by conciliation or other remedial
24 action.

25 Any complainant may initiate suit in Superior Court under this
26 act without first filing a complaint with the division or any
27 municipal office. Upon the application of either party a jury trial
28 shall be directed to the try the validity of any claim specified in
29 the suit. Prosecution of such suit in Superior Court under this act
30 shall bar the filing of a complaint with the division or any
31 municipal office during the pendency of any such suit.

32 At any time after 180 days from the filing of a complaint with
33 the division, a complainant may file a request with the division to
34 present the action by himself or through his own counsel to the
35 Office of Administrative Law. Upon such request, the director of
36 the division shall file the action with the Office of
37 Administrative Law, provided that no action may be filed with
38 the Office of Administrative Law where the director of the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 division has found that no probable cause exists to credit the
2 allegations of the complaint or has otherwise dismissed the
3 complaint.

4 A party to an action based upon a violation of this act shall
5 mail a copy of the initial pleadings or claims, amended pleadings
6 or claims, counterclaims, briefs, and legal memoranda to the
7 division at the same time as filing such documents with the
8 Office of Administrative Law or the court. Upon application to
9 the Office of Administrative Law or to the court wherein the
10 matter is pending, the division shall be permitted to intervene.
11 (cf: P.L.1979, c.404, s.1)

12 2. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read
13 as follows:

14 5. Upon a violation of any of the provisions of this act, an
15 aggrieved employee or former employee may institute a civil
16 action in a court of competent jurisdiction, within one year, for
17 relief which may include, and which the court may order, the
18 following:

- 19 a. An injunction to restrain continued violation of this act;
- 20 b. The reinstatement of the employee to the same position
21 held before the retaliatory action, or to an equivalent position;
- 22 c. The reinstatement of full fringe benefits and seniority
23 rights;
- 24 d. The compensation for lost wages, benefits and other
25 remuneration;
- 26 e. The payment by the employer of reasonable costs, and
27 attorney's fees;
- 28 f. Punitive damages; or
- 29 g. An assessment of a civil fine of not more than \$1,000.00 for
30 the first violation of the act and not more than \$5,000.00 for
31 each subsequent violation, which shall be paid to the State
32 Treasurer for deposit in the General Fund.

33 Upon the application of either party a jury trial shall be
34 directed to try the validity of any claim brought under this act.

35 (cf: P.L.1986, c.105, s.5)

36 3. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 The "Law Against Discrimination," P.L.1945, c.169, (C.10:5-1
42 et seq.) prohibits an employer from discriminating in the work
43 place on the basis of race, creed, color, national origin, sex and
44 certain other factors. A person who has been discriminated
45 against in the work place may either seek relief by filing a
46 complaint with the Division on Civil Rights or by bringing an
47 action in Superior Court.

48 In a recent decision, Shaner v. Horizon Bank, _____ N.J._____,
49 A-90-88 (August 10, 1989), the New Jersey Supreme Court held

1 that under present law a person who brings a legal action based
2 on a violation of the "Law Against Discrimination" is not entitled
3 to a jury trial.

4 The reasoning of Shaner would also bar jury trials for an
5 employee who brings a claim based on a violation of the
6 "Conscientious Employee Protection Act," P.L.1986, c.105
7 (C.34:19-1 et seq.). This act prohibits an employer from taking
8 retaliatory action against an employee who discloses, threatens
9 to disclose, or testifies regarding any of the employer's policies
10 or practices which the employee believes is in violation of the
11 law.

12 This bill would provide that a person who elects to institute a
13 legal action pursuant to the "Law Against Discrimination" or the
14 "Conscientious Employee Protection Act" is entitled to a jury
15 trial.

16
17

18 CIVIL JUSTICE

19

20 Provides that a person who brings a legal action pursuant to the
21 "Law Against Discrimination" or the "Conscientious Employee
22 Protection Act" is entitled to a jury trial.

ASSEMBLY, No. 2228
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen SPADORO, GILL and Duch

1 AN ACT concerning the right to a jury trial in certain cases and
2 amending P.L.1945, c.169.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. Section 12 of P.L.1945, c.169 (C.10:5-14) is amended to
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14 superintendent, or agent alleged to have committed the unlawful
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16 and which shall set forth the particulars thereof and shall contain
17 such other information as may be required by the division. The
18 Commissioner of Labor and Industry, the Attorney General, or
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22 provisions of this act, may file with the division a verified
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12 2. This act shall take effect immediately.

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15 STATEMENT

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17 The "Law Against Discrimination," N.J.S.10:5-1 et seq.,
18 prohibits an employer from discriminating in the work place on
19 the basis of race, creed, color, national origin, sex and certain
20 other factors. A person who has been discriminated against in
21 the work place may either seek relief by filing a complaint with
22 the Division on Civil Rights or by bringing an action in Superior
23 Court.

24 In a recent decision, Shaner v. Horizon Bank, ___ N.J. ___,
25 A-90-88 (August 10, 1989), the New Jersey Supreme Court held
26 that under present law a person who brings a legal action based
27 on a violation of the "Law Against Discrimination" is not entitled
28 to a jury trial.

29 This bill would provide that a person who elects to institute a
30 legal action pursuant to the "Law Against Discrimination" is
31 entitled to a jury trial.

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36 Provides that a person who brings a legal action pursuant to the
37 "Law Against Discrimination" is entitled to a jury trial.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2872, 2118 and 2228

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1990

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 2872, 2118 and 2228.

In Shaner v. Horizon Bancorp, 116 N.J. 433 (1989), the New Jersey Supreme Court ruled that a plaintiff who brought an action under the "Law Against Discrimination", P.L.1945, c.169 (C.10:5-1 et seq.) (LAD) was not entitled to jury trial. This bill would amend the LAD to grant a plaintiff the right to a jury trial. This bill would also add language to the findings section of the LAD listing the hardships (i.e. economic loss, emotional trauma) which victims of discrimination might suffer and language indicating that the LAD is to be liberally construed so that all common law remedies, including compensatory and punitive damages, are available to persons protected by the LAD. The bill further amends the LAD to require the Division of Civil Rights to promulgate a form of notifying complainants of their rights under the LAD.

On the theory that the Shaner holding would also be applicable to the "Conscientious Employee Protection Act", P.L.1986 c.105 (C.34:19-1 et seq.), the bill would also grant plaintiffs bringing an action pursuant to that act the right to a jury trial. The bill would also add language, similar to that described above with regard to the LAD, indicating that the remedies available under the "whistleblower" act are to be liberally construed.

This Assembly Judiciary, Law and Public Safety Committee Substitute is identical to Senate Bill No. 2234.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001
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Release: Monday
April 16, 1990

ADVISORY

Governor Jim Florio today signed the following bills:

A 1373 Aca/S 330 Sca, sponsored by Assemblyman Wayne Bryant and Senator Walter Rand

The bill makes permissive the revaluation of real property in certain cities for the tax years 1989-91. The bill applies to municipalities with populations of more than 80,000, but less than 90,000. Municipalities in this category are not required to implement a revaluation for the designated tax years. According to the Department of Consumer Affairs, the population category includes only Camden, Hamilton and Edison.

A 2872/2118/2228 Acs/S 2234, sponsored by Assemblyman Joseph Charles, Senator Donald DiFrancesco

Provides that a person who brings a legal action pursuant to the "Law Against Discrimination" (N.J.S. 10:5-1 et seq.) or the "Conscientious Employee Protection Act" (N.J. S. 34:19-1 et seq) is entitled to a jury trial. Both laws were enacted to supplement common law and provide special protection to persons who are victimized because of membership in a protected class.

The Law Against Discrimination Act prohibits an employer from discriminating in the workplace on the basis of race, creed, color, national origin, sex and certain other factors. The person who seeks redress from discrimination has two options 1) filing a complaint with the Division of Civil Rights in the Department of Law and Public Safety or 2) bringing an action in Superior Court. The Conscientious Employee Protection Act, also known as the Whistleblower Act, prohibits an employer from taking retaliatory action against an employee who discloses, threatens to disclose or testifies regarding any of the employer's policies and practices which the employee believes is in violation of the law.