

MOVING POWERFULLY FORWARD! ➔

April 2, 2024

Dear Honored Member of the Iowa General Assembly:

Representing over thirty units across the State of Iowa of the National Association for the Advancement of Colored People, the Iowa-Nebraska NAACP (“the NAACP”) writes to you today to express our strong opposition to SF2385 insofar as that bill would make substantial changes in the Iowa Civil Rights Act (“the Act”), Ch. 216 of the Iowa Code, particularly in the provisions concerning the Iowa Civil Rights Commission. We urge you and other members of the General Assembly to strike those portions of the bill—Section through Section, pp. 106-130—and to direct that matters of making changes in the Commission’s structure, composition, and operations be the subject of public hearings following the General Assembly’s adjournment this year.

Reflecting Iowa’s standout history as a bulwark in the defense of civil rights, the Civil Rights Act prohibits unlawful discrimination based on race, creed, sex, religion, or national origin, among other bases, in employment, education, credit, public accommodations, and housing. The mission of the Civil Rights Commission created by the Act, simply put, is to end prohibited discrimination through effective enforcement of the Act.

This is in full alignment with the mission of the NAACP, the nation’s oldest and largest civil rights organization, and so for many years the NAACP has referred individuals who have submitted complaints of discrimination to us to the ICRC. Over the years, the NAACP has worked with Executive Directors of the ICRC and participated in its meetings on the subject of rules and procedures that we believe need attention and improvement. Asked by the Director, we filed an *Amicus Curiae* Brief in the Iowa Supreme Court to defend the jurisdiction of the Commission. A lower court had found that a private company’s clause in an employment agreement ousted the Commission of jurisdiction to hear a sex discrimination case, and the Commission was appealing that decision. The NAACP filed its brief wholeheartedly supporting the Commission; and the Supreme Court unanimously reversed. We have even lobbied and spoken with legislators in opposition to reductions in the Commission’s budget.

The Civil Rights Commission has special importance to the NAACP. Other departments and agencies of State Government represent all Iowans in that, with respect to the departments’ and agencies’ missions, Iowans are not differently situated. In contrast, the beneficiaries of the Iowa Civil Rights Act whom the Commission is charged to protect are members of minority groups, not majorities, individuals who we know have historically been the subject of unlawful discrimination in employment and public accommodations, to take just two of ICRC’s areas.

The Commission consists of seven members appointed by the Governor and confirmed by the Senate with a view “to provid[ing] geographical area representation insofar as practicable.” “and “No more than four members of the commission shall belong to the same political party.” The NAACP strongly favors retention of the Commission as a body of seven independent Commissioners, which offers the opportunity for further diversity of experience and viewpoint among Commissioners, as opposed to a single person, the Executive Director. Certainly, the Governor is authorized to appoint a director to serve as chief executive officer of the Commission, accountable to the Governor as is any appointee of the Governor, even though the Commission is authorized to prescribe duties for the Director. (Iowa Code, Ch. 216.5(1). But it is the Commission, not the Director, to which the Civil Rights Act gives the powers and duties to enforce the Act; and in the NAACP’s considered and strongly held view, the Commission must retain those powers and duties.

The Civil Rights Act clearly envisions a proactive role for the Commission and its members. That includes the authority to “investigate and study the existence, character, causes, and extent of discrimination . . . and to attempt the elimination of such discrimination by education and conciliation.” And in past years the Commission has held hearings in different locations within the State for just that purpose. The Commission’s authority also includes “making recommendations to the general assembly for such further legislation concerning (unlawful) discrimination . . . as it may deem necessary and desirable.” The Act also gives the Commission, not the Executive Director, the authority to adopt, amend and rescind rules to implement the purposes of the Iowa Civil Rights Act. You may be aware that we do have objections to certain aspects of the Commission’s rules and are prepared to move for change.

SF2385 would dramatically change the nature of the Commission and the authority structure of the Act. Whereas the Iowa Civil Rights Act vests authority in a diverse group of seven Commissioners, SF2385 would lodge authority in a single person, who necessarily would undercut entirely the geographic and other diversity of the Commission. SF2385 would strip the Commissioners of all authority under the Act and convert the Commissioners into “advisors” to the Director. According to Section 303 of SF2385, the Commission would not have the authority to make recommendations to the General Assembly for “further legislation” or bring matters of policy to the Legislature’s attention, but only “to make policy recommendations *to the director for consideration* to be incorporated with any recommendations from the agency to the governor and general assembly.” (Emphasis added). It is the Director, *not* the body of seven Commissioners drawn from across the State, who would have that authority. The Commission’s authority with respect to rules would be reduced to “procedures as necessary for *the conduct of commission meetings.*” (Emphasis added). It is the Director who “shall adopt rules . . . consistent with and necessary for the enforcement of this chapter.” (SF2385, Section 303(3).) In short, members of the Commission essentially become advisors to the Director.

The plan for the Civil Rights Act reflected in SF2385 is that the Commission is separate from the “agency” created by Chapter 216 of the Iowa Code, that the Director is the “head of the agency,” and that it is the “agency,” not the Commission as the Act has prescribed for nearly 60 years who has the powers and duties previously vested in the Commission. That may not be surprising. The NAACP is advised that insofar as it affects the Iowa Civil Rights Commission, SF2385 was drafted by the Director, or others, but not the Commission, and that the Commission was not given the bill draft until after it had been filed and processed at the Subcommittee and Committee levels. With all respect to the those involved, whom we understand have heavy responsibilities, this is no way for change to evolve, especially as it entailed *zero input* not only from Commissioners but from those groups for whose benefit the Iowa Civil Rights Act was written. *Tellingly, given the chance to express themselves about SF2385, the Commission voted 6-0 to oppose it.*

The strong opposition of the NAACP to SF2385 is not to say that the Iowa Civil Rights Act and the Civil Rights Commission can never be the subject of change. That is not our point at all. But any such change should engage the intended beneficiaries of the Iowa Civil Rights Act and be accomplished through public hearings to which all are invited to submit comment and recommendations. Nothing in the Report of the Boards and Commissions Review Committee calling for some “reorganization” gives any indication that that was done and the subject of discussion. It is one page. The Report of the Iowa Advisory Committee to the United States Commission on Civil Rights issued a year ago in February made several recommendations. Some of those concerned rules of procedure the NAACP has earnestly advocated, citing Constitutional opinions of the U.S. Supreme Court and even the EEOC’s own rules in support. Others pointed to the reductions in the budget of the ICRC over some 15 years’ time, with impact on the number of attorneys and staff and the operations of the Commission. These should be studied and considered before any changes are made, let alone the sweeping changes that SF2385 would make, to the Iowa Civil Rights Act.

The NAACP also has other deep concerns regarding SF2385 and its potential implications. Specifically, we strongly oppose the proposal to dissolve separate Commissions dedicated to addressing the status of various minority groups, such as the Commission on the Status of African-Americans. Consolidating these groups under a smaller Human Rights Board with only one representative per community and then having only one representative for that entire board is ill-advised.

It is crucial to recognize the importance of creating dedicated spaces for different ethnic groups to voice their perspectives within the state government. Each community has unique needs and priorities, and limiting their input to just one representative overlooks the diversity of viewpoints within these cultures. This approach would diminish the opportunity for our government to fully understand and address the distinct concerns of each community.

Furthermore, such a consolidation would mute many diverse voices and dilute the current need for focus and historic depth and breadth of these cultural groups' well-being in Iowa and specifically government proceedings.

So, our purpose in writing to each of you is to urge you and other members of the General Assembly to oppose SF2385 insofar as it would affect the Iowa Civil Rights Act and the Department of Human Rights Commissions and the and to strike those sections from the bill. Thank you very much for your consideration of our remarks and request.

Sincerely,

A handwritten signature in black ink, appearing to read "Betty C. Andrews".

Betty C. Andrews, President

David Walker and Russell Lovell, Legal Redress Committee Co-Chairs
Iowa-Nebraska NAACP State Area Conference of Branches