



General Assembly

January Session, 2001

***Raised Bill No. 1054***

LCO No. 3214

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING CONTRACT COMPLIANCE PROCEDURES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 46a-56 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (c) If the commission determines through its [complaint] contract  
4 compliance procedure and after notice to the contractor of the  
5 commission's order as set forth in section 46a-68h that a contractor or  
6 subcontractor is not complying with antidiscrimination statutes or  
7 contract provisions required under section 4a-60 or 4a-60a or the  
8 provisions of section 46a-68c, 46a-68d, as amended by this act, 46a-68e  
9 or 46a-68f, (A) the state shall retain two per cent of the total contract  
10 price per month on any existing contract with such contractor and (B)  
11 the contractor shall be prohibited from participation in any further  
12 contracts with state agencies until: (i) The expiration of a period of two  
13 years from the date of the finding of noncompliance or (ii) the  
14 commission determines that the contractor has adopted policies  
15 consistent with such statutes. The commission shall make such a  
16 determination as to whether the contractor has adopted such policies  
17 within forty-five days of its determination of noncompliance. In

18 addition, the commission may do one or more of the following: (1)  
19 Publish or cause to be published, the names of contractors or unions  
20 which it has found to be in noncompliance with such provisions; (2)  
21 notify the attorney general that, in cases in which there is substantial or  
22 material violation or the threat of substantial or material violation of  
23 the contractual provisions set forth in section 4a-60 or 4a-60a,  
24 appropriate proceedings should be brought to enforce those  
25 provisions, including the enjoining, within the limitations of applicable  
26 law, of organizations, individuals or groups who prevent directly or  
27 indirectly, or seek to prevent directly or indirectly, compliance with  
28 the provisions of said section 4a-60 or 4a-60a; (3) recommend to the  
29 Equal Employment Opportunity Commission or the Department of  
30 Justice that appropriate proceedings be instituted under Title VII of the  
31 Civil Rights Act of 1964, when necessary; (4) recommend to the  
32 appropriate prosecuting authority that criminal proceedings be  
33 brought for the furnishing of false information to any contracting  
34 agency or to the commission as the case may be; (5) order the  
35 contracting agency to refrain from entering into further contracts, or  
36 extension or other modifications of existing contracts, with any  
37 noncomplying contractor, until such contractor has satisfied the  
38 commission that such contractor has established and will carry out  
39 personnel and employment policies in compliance with  
40 antidiscrimination statutes and provisions of section 4a-60 or 4a-60a  
41 and sections 46a-68c to 46a-68f, inclusive. The commission shall adopt  
42 regulations in accordance with chapter 54 to implement the provisions  
43 of this section.

44 Sec. 2. Subsection (d) of section 46a-56 of the general statutes is  
45 repealed and the following is substituted in lieu thereof:

46 (d) If the commission determines through its [complaint] contract  
47 compliance procedure and after a hearing held in accordance with  
48 chapter 54 that, with respect to a state contract, a contractor,  
49 subcontractor or supplier of materials has (1) fraudulently qualified as  
50 a minority business enterprise, or (2) performed services or supplied

51 materials on behalf of another contractor, subcontractor or supplier of  
52 materials knowing (A) that such other contractor, subcontractor or  
53 supplier has fraudulently qualified as a minority business enterprise in  
54 order to comply with antidiscrimination statutes or contract provisions  
55 required under section 4a-60 or 4a-60a, and (B) that such services or  
56 materials are to be used in connection with a contract entered into  
57 pursuant to subsection (b) of section 4a-60g it shall assess a civil  
58 penalty of not more than ten thousand dollars upon such contractor,  
59 subcontractor or supplier of materials. The Attorney General, upon  
60 complaint of the commission, shall institute a civil action in the  
61 superior court for the judicial district of Hartford to recover such  
62 penalty. Any penalties recovered shall be deposited in a special fund  
63 and shall be held by the Treasurer separate and apart from all other  
64 moneys, funds and accounts. The resources in such fund shall,  
65 pursuant to regulations adopted by the commission in accordance with  
66 the provisions of chapter 54, be used to assist minority business  
67 enterprises. As used in this section, "minority business enterprise"  
68 means any contractor, subcontractor or supplier of materials fifty-one  
69 per cent or more of the capital stock, if any, or assets of which is owned  
70 by a person or persons: (1) Who are active in the daily affairs of the  
71 enterprise; (2) who have the power to direct the management and  
72 policies of the enterprise; and (3) who are members of a minority, as  
73 such term is defined in subsection (a) of section 32-9n.

74 Sec. 3. Section 46a-68d of the general statutes is repealed and the  
75 following is substituted in lieu thereof:

76 In addition to the provisions of section 4a-60, every contractor  
77 awarded a public works contract [subject to the provisions of part II of  
78 chapter 60] in excess of five hundred thousand dollars in any fiscal  
79 year shall also be subject to the provisions of this section. After a bid  
80 has been accepted but before a contract is awarded, the successful  
81 bidder shall file and have approved by the commission an affirmative  
82 action plan. The commission may provide for conditional acceptance  
83 of an affirmative action plan provided written assurances are given by

84 the contractor that it will amend its plan to conform to affirmative  
85 action requirements. The state shall withhold two per cent of the total  
86 contract price per month from any payment made to such contractor  
87 until such time as the contractor has developed an affirmative action  
88 plan, and received the approval of the commission. Notwithstanding  
89 the provisions of this section, a contractor subject to the provisions of  
90 this section may file a plan in advance of or at the same time as its bid.  
91 The commission shall review plans submitted pursuant to this section  
92 within sixty days of receipt and either approve, approve with  
93 conditions or reject such plan. When the commission approves an  
94 affirmative action plan pursuant to this section, it shall issue a  
95 certificate of compliance to the contractor as provided in section 46a-  
96 68c.

97 Sec. 4. This act shall take effect July 1, 2001.

***Statement of Purpose:***

To make the contract compliance process less burdensome for the contractor and more efficient for the Commission on Human Rights and Opportunities by streamlining procedures and requiring construction contractors who have successfully bid a contract in excess of five hundred thousand dollars to develop an affirmative action plan after the bid has been accepted but before a contract is awarded.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*