



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2 repealed and the following is substituted in lieu thereof: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 that a contractor or subcontractor is not
5 complying with antidiscrimination statutes or contract provisions
6 required under section 4a-60 or 4a-60a or the provisions of section 46a-
7 68c, 46a-68d, as amended by this act, 46a-68e or 46a-68f, [(A)] (1) the
8 state shall retain two per cent of the total contract price per month on
9 any existing contract with such contractor, and [(B)] (2) the contractor
10 shall be prohibited from participation in any further contracts with
11 state agencies until: [(i)] (A) The expiration of a period of two years
12 from the date of the finding of noncompliance, or [(ii)] (B) the
13 commission determines that the contractor has adopted policies
14 consistent with such statutes. The commission shall make such a
15 determination as to whether the contractor has adopted such policies
16 within forty-five days of its determination of noncompliance. In
17 addition, the commission may do one or more of the following: [(1)] (i)
18 Publish or cause to be published, the names of contractors or unions
19 which it has found to be in noncompliance with such provisions; [(2)]
20 (ii) notify the attorney general that, in cases in which there is
21 substantial or material violation or the threat of substantial or material

22 violation of the contractual provisions set forth in section 4a-60 or 4a-
23 60a, appropriate proceedings should be brought to enforce those
24 provisions, including the enjoining, within the limitations of applicable
25 law, of organizations, individuals or groups who prevent directly or
26 indirectly, or seek to prevent directly or indirectly, compliance with
27 the provisions of said section 4a-60 or 4a-60a; [(3)] (iii) recommend to
28 the Equal Employment Opportunity Commission or the Department of
29 Justice that appropriate proceedings be instituted under Title VII of the
30 Civil Rights Act of 1964, when necessary; [(4)] (iv) recommend to the
31 appropriate prosecuting authority that criminal proceedings be
32 brought for the furnishing of false information to any contracting
33 agency or to the commission as the case may be; [(5)] (v) order the
34 contracting agency to refrain from entering into further contracts, or
35 extension or other modifications of existing contracts, with any
36 noncomplying contractor, until such contractor has satisfied the
37 commission that such contractor has established and will carry out
38 personnel and employment policies in compliance with
39 antidiscrimination statutes and provisions of section 4a-60 or 4a-60a
40 and sections 46a-68c to 46a-68f, inclusive. Any order of the commission
41 pursuant to subparagraph (B)(v) of subdivision (2) of this subsection
42 shall inform the contractor that such contractor may request a hearing
43 pursuant to section 46a-68h, as amended by this act. The commission
44 shall adopt regulations in accordance with chapter 54 to implement the
45 provisions of this section.

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

48 (d) If the commission determines through its [complaint] contract
49 compliance procedure and after a hearing held in accordance with
50 chapter 54 that, with respect to a state contract, a contractor,
51 subcontractor or supplier of materials has (1) fraudulently qualified as
52 a minority business enterprise, or (2) performed services or supplied
53 materials on behalf of another contractor, subcontractor or supplier of
54 materials knowing (A) that such other contractor, subcontractor or
55 supplier has fraudulently qualified as a minority business enterprise in

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

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

78 In addition to the provisions of section 4a-60, every public works
79 contract [subject to the provisions of part II of chapter 60] in excess of
80 five hundred thousand dollars in any fiscal year shall also be subject to
81 the provisions of this section. After a [bid] proposal has been accepted
82 but before a contract is awarded, the successful [bidder] contractor
83 shall file and have approved by the commission an affirmative action
84 plan. The commission may provide for conditional acceptance of an
85 affirmative action plan provided written assurances are given by the
86 contractor that it will amend its plan to conform to affirmative action
87 requirements. The state shall withhold two per cent of the total
88 contract price per month from any payment made to such contractor
89 until such time as the contractor has developed an affirmative action

90 plan, and received the approval of the commission. Notwithstanding
91 the provisions of this section, a contractor subject to the provisions of
92 this section may file a plan in advance of or at the same time as its [bid]
93 proposal. The commission shall review plans submitted pursuant to
94 this section within sixty days of receipt and either approve, approve
95 with conditions or reject such plan. When the commission approves an
96 affirmative action plan pursuant to this section, it shall issue a
97 certificate of compliance to the contractor as provided in section 46a-
98 68c.

99 Sec. 4. Section 46a-68h of the general statutes is repealed and the
100 following is substituted in lieu thereof:

101 If the commission issues an order pursuant to [subdivision (5)]
102 subparagraph (B)(v) of subdivision (2) of subsection (c) of section 46a-
103 56, as amended by this act, the contractor or subcontractor may request
104 a hearing within fifteen days of receipt of such order to allow such
105 contractor or subcontractor to show cause why the commission's order
106 should not be implemented. Upon receipt of a request for a hearing,
107 the commission shall appoint a hearing officer or human rights referee
108 pursuant to the procedures adopted by the commission. Any hearing
109 requested pursuant to this section shall be conducted in accordance
110 with the provisions of sections 4-177 to 4-182, inclusive.

111 Sec. 5. This act shall take effect July 1, 2001.

Statement of Legislative Commissioners:

Section 4 was added for accuracy.

JUD **JOINT FAVORABLE SUBST.**