



**Substitute Senate Bill No. 1106**

**Public Act No. 07-142**

**AN ACT CONCERNING PROCEDURES FOR THE HEARING OF COMPLAINTS AGAINST STATE CONTRACTORS AND SUBCONTRACTORS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES AND THE DOCUMENTATION OF NONDISCRIMINATION POLICIES ADOPTED BY STATE CONTRACTORS.**

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

Section 1. Subdivision (8) of section 46a-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(8) "Discriminatory practice" means a violation of section 4a-60, as amended by this act, 4a-60a, as amended by this act, 4a-60g, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, [sections] 46a-68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of section 46a-80 [,] or sections 46a-81b to 46a-81o, inclusive.

Sec. 2. Subsections (c) and (d) of section 46a-56 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(c) If the commission determines through its [complaint procedure] monitoring and compliance procedures that a contractor or subcontractor is not complying with antidiscrimination statutes or

**Substitute Senate Bill No. 1106**

contract provisions required under section 4a-60 or 4a-60a, as amended by this act, or the provisions of [section 46a-68c, 46a-68d, 46a-68e or 46a-68f, (A)] sections 46a-68c to 46a-68f, inclusive, the commission may issue a complaint pursuant to subsection (c) of section 46a-82, as amended by this act. Such complaint shall be scheduled for a hearing before a hearing officer or human rights referee appointed to act as a presiding officer. Such hearing shall be held in accordance with chapter 54 and section 46a-84, as amended by this act. If, after such hearing, the presiding officer makes a finding of noncompliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a, as amended by this act, or the provisions of sections 46a-68c to 46a-68f, inclusive, the presiding officer may: (1) Order the state [shall] to retain two per cent of the total contract price per month on any existing contract with such contractor; [and (B)] (2) prohibit the contractor [shall be prohibited] from participation in any further contracts with state agencies until: [(i)] (A) The expiration of a period of two years from the date of the finding of noncompliance, or [(ii)] (B) the [commission] presiding officer determines that the contractor has adopted policies consistent with such statutes, [. The commission] provided the presiding officer shall make such [a] determination [as to whether the contractor has adopted such policies] within forty-five days of [its determination] such finding of noncompliance; [. In addition, the commission may do one or more of the following: (1) Publish] (3) publish, or cause to be published, the names of contractors or unions [which it] that the presiding officer has found to be in noncompliance with such provisions; [(2)] (4) notify the Attorney General that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in section 4a-60 or 4a-60a, as amended by this act, appropriate proceedings should be brought to enforce [those] such provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals or groups who prevent directly or indirectly, or seek to prevent directly or indirectly,

**Substitute Senate Bill No. 1106**

compliance with the provisions of [said] section 4a-60 or 4a-60a, as amended by this act; [(3)] (5) recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964, when necessary; [(4)] (6) recommend to the appropriate prosecuting authority that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the commission as the case may be; [(5)] (7) order the contractor to bring itself into compliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a, as amended by this act, or sections 46a-68c to 46a-68f, inclusive, within a period of thirty days or, for good cause shown, within an additional period of thirty days, and, if such contractor fails to bring itself into such compliance within such time period and such noncompliance is substantial or material or there is a pattern of noncompliance, recommend to the contracting agency that such agency declare the contractor to be in breach of the contract and that such agency pursue all available remedies; or (8) order the contracting agency to refrain from entering into further contracts, or [extension] extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the commission that such contractor has established and will carry out personnel and employment policies in compliance with antidiscrimination statutes and the provisions of section 4a-60 or 4a-60a, as amended by this act, and sections 46a-68c to 46a-68f, inclusive. The commission shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

(d) If the commission determines, through its [complaint procedure and after a hearing held in accordance with chapter 54] monitoring and compliance procedures and after a complaint is filed and a hearing is held pursuant to subsection (c) of this section, that, with respect to a state contract, a contractor, subcontractor or supplier of materials has

**Substitute Senate Bill No. 1106**

(1) fraudulently qualified as a minority business enterprise, or (2) performed services or supplied materials on behalf of another contractor, subcontractor or supplier of materials knowing (A) that such other contractor, subcontractor or supplier has fraudulently qualified as a minority business enterprise in order to comply with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a, as amended by this act, and (B) that such services or materials are to be used in connection with a contract entered into pursuant to subsection (b) of section 4a-60g, [it] the hearing officer or human rights referee before whom such hearing was held shall assess a civil penalty of not more than ten thousand dollars upon such contractor, subcontractor or supplier of materials. The Attorney General, upon complaint of the commission, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty. Any penalties recovered pursuant to this subsection shall be deposited in a special fund and shall be held by the State Treasurer separate and apart from all other moneys, funds and accounts. The resources in such fund shall, pursuant to regulations adopted by the commission in accordance with the provisions of chapter 54, be used to assist minority business enterprises. As used in this section, "minority business enterprise" means any contractor, subcontractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: [(1)] (i) Who are active in the daily affairs of the enterprise; [(2)] (ii) who have the power to direct the management and policies of the enterprise; and [(3)] (iii) who are members of a minority, as [such term is] defined in subsection (a) of section 32-9n.

Sec. 3. Section 46a-68i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

The commission or any contractor or subcontractor aggrieved by a decision of the hearing officer or human rights referee following a

**Substitute Senate Bill No. 1106**

hearing held pursuant to [section 46a-68h] subsection (c) of section 46a-56, as amended by this act, shall have a right of appeal to the Superior Court as provided for in section 4-183. Such appeal shall be privileged in order of assignment of trial.

Sec. 4. Section 46a-81r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

Nothing in sections 4a-60a, as amended by this act, 45a-726a, 46a-51, as amended by this act, 46a-54, 46a-56, as amended by this act, 46a-63, 46a-64b, 46a-65, 46a-67, 46a-68b [,] and 46a-81a to 46a-81q, inclusive, subsection [(d)] (e) of section 46a-82, as amended by this act, subsection (a) of section 46a-83, as amended by this act, and sections 46a-86, as amended by this act, 46a-89, 46a-90a, 46a-98, 46a-98a and 46a-99 shall be deemed or construed (1) to mean the state of Connecticut condones homosexuality or bisexuality or any equivalent lifestyle, (2) to authorize the promotion of homosexuality or bisexuality in educational institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle, (3) to authorize or permit the use of numerical goals or quotas, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the administration or enforcement of the provisions of sections 4a-60a, as amended by this act, 45a-726a, 46a-51, as amended by this act, 46a-54, 46a-56, as amended by this act, 46a-63, 46a-64b, 46a-65, 46a-67, 46a-68b [,] and 46a-81a to 46a-81q, inclusive, subsection [(d)] (e) of section 46a-82, as amended by this act, subsection (a) of section 46a-83, as amended by this act, and sections 46a-86, as amended by this act, 46a-89, 46a-90a, 46a-98, 46a-98a and 46a-99, (4) to authorize the recognition of or the right of marriage between persons of the same sex, or (5) to establish sexual orientation as a specific and separate cultural classification in society.

Sec. 5. Section 46a-82 of the general statutes is repealed and the

**Substitute Senate Bill No. 1106**

following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) Any person claiming to be aggrieved by an alleged discriminatory practice, except for an alleged violation of section 4a-60g or 46a-68 or the provisions of sections 46a-68c to 46a-68f, inclusive, may, by himself or [his] herself or by such person's attorney, make, sign and file with the commission a complaint in writing under oath, which shall state the name and address of the person alleged to have committed the discriminatory practice, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. After the filing of a complaint pursuant to this subsection, the commission shall serve upon the person claiming to be aggrieved a notice that: (1) Acknowledges receipt of the complaint; and (2) advises of the time frames and choice of forums available under this chapter.

(b) The commission, whenever it has reason to believe that any person has been engaged or is engaged in a discriminatory practice, may issue a complaint, except for a violation of subsection (a) of section 46a-80.

(c) The commission, whenever it has reason to believe that any contractor or subcontractor is not complying with antidiscrimination statutes or contract provisions required under section 4a-60, 4a-60a, as amended by this act, or 4a-60g or the provisions of sections 46a-68c to 46a-68f, inclusive, may issue a complaint.

[(c)] (d) The commission may issue a complaint if: (1) An affirmative action plan filed pursuant to section 46a-68 is in violation of any of the provisions of section 4-61u or 4-61w, sections 46a-54 to 46a-64, inclusive, section 46a-64c or sections 46a-70 to 46a-78, inclusive; or (2) an agency, department, board or commission fails to submit an affirmative action plan required under section 46a-68.

**Substitute Senate Bill No. 1106**

[[d)] (e) Any employer whose employees, or any of them, refuse or threaten to refuse to comply with the provisions of section 46a-60 or 46a-81c [ ] may file with the commission a written complaint under oath asking for assistance by conciliation or other remedial action.

[(e)] (f) Any complaint filed pursuant to this section must be filed within one hundred and eighty days after the alleged act of discrimination, except that any complaint by a person claiming to be aggrieved by a violation of subsection (a) of section 46a-80 must be filed within thirty days of the alleged act of discrimination.

Sec. 6. Subsection (a) of section 46a-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) Within twenty days after the filing of any discriminatory practice complaint pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, or an amendment to such complaint adding an additional respondent, the commission shall cause the complaint to be served upon the respondent together with a notice (1) identifying the alleged discriminatory practice, and (2) advising of the procedural rights and obligations of a respondent under this chapter. The respondent shall file a written answer to the complaint under oath with the commission within thirty days of receipt of the complaint, provided a respondent may request, and the commission may grant, for good cause shown, one extension of time of fifteen days within which to file an answer to a complaint. The answer to any complaint alleging a violation of section 46a-64c or 46a-81e shall be filed within ten days of receipt.

Sec. 7. Section 46a-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) If the investigator fails to eliminate a discriminatory practice

**Substitute Senate Bill No. 1106**

complained of pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, within fifty days of a finding of reasonable cause, [he] the investigator shall, within ten days, certify the complaint and the results of the investigation to the executive director of the commission and to the Attorney General.

(b) Upon certification of [the] a complaint filed pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, or upon the filing of a complaint pursuant to subsection (c) of said section, the [executive director of the commission or his designee] Chief Human Rights Referee shall appoint, for a complaint filed pursuant to said subsection (a) or (b), a hearing officer, hearing adjudicator or human rights referee, and for a complaint filed pursuant to said subsection (c), a hearing officer or human rights referee, to act as a presiding officer to hear the complaint or to conduct settlement negotiations and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the presiding officer or hearing adjudicator at a time and place to be specified in the notice. [, provided such] A hearing on a complaint filed pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, shall be commenced by convening a hearing conference not later than forty-five days after the certification of the complaint. [The] Such hearing shall be a de novo hearing on the merits of the complaint and not an appeal of the commission's processing of the complaint prior to its certification. [The hearing] A hearing on a complaint filed pursuant to subsection (c) of section 46a-82, as amended by this act, shall be commenced by convening a hearing conference not later than twenty days after the date of notice of such complaint. Hearings shall proceed with reasonable dispatch and be concluded in accordance with the provisions of section 4-180.

**Substitute Senate Bill No. 1106**

(c) The place of any hearing may be the office of the commission or another place designated by [it] the commission.

(d) The case in support of the complaint shall be presented at the hearing by the Attorney General, who shall be counsel for the commission, or by a commission legal counsel as provided in section 46a-55, as the case may be. If the Attorney General or the commission legal counsel determines that a material mistake of law or fact has been made in the finding of reasonable cause [ , he] on a complaint filed pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, the Attorney General or the commission legal counsel may withdraw the certification of the complaint and remand the file to the investigator for further action. The complainant may be represented by an attorney of [his] the complainant's own choice. If the Attorney General or the commission legal counsel, as the case may be, determines that the interests of the state will not be adversely affected, the attorney for the complainant shall present all or part of the case in support of the complaint. No commissioner may participate in the deliberations of the presiding officer in the case.

(e) A hearing officer, hearing adjudicator, human rights referee or attorney who volunteers service pursuant to subdivision (18) of section 46a-54 may supervise settlement endeavors, or, in employment discrimination cases only, the complainant and respondent, with the permission of the commission, may engage in alternate dispute resolution endeavors for not more than three months. The cost of such alternate dispute resolution endeavors shall be borne by the complainant or the respondent, or both, and not by the commission. Any endeavors or negotiations for conciliation, settlement or alternate dispute resolution shall not be received in evidence.

(f) The respondent may file a written answer to the complaint under oath and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. If the respondent

**Substitute Senate Bill No. 1106**

fails to file a written answer prior to the hearing within the time limits established by regulation adopted by the commission in accordance with chapter 54 or fails to appear at the hearing after notice in accordance with section 4-177, the presiding officer or hearing adjudicator may enter an order of default and order such relief as is necessary to eliminate the discriminatory practice and make the complainant whole. The commission or the complainant may petition the Superior Court for enforcement of any such order for relief pursuant to the provisions of section 46a-95.

(g) The presiding officer or hearing adjudicator conducting any hearing shall permit reasonable amendment to any complaint or answer and the testimony taken at the hearing shall be under oath and be transcribed at the request of any party.

Sec. 8. Section 46a-86 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) If, upon all the evidence presented at the hearing conducted pursuant to section 46a-84, as amended by this act, the presiding officer finds that a respondent has engaged in any discriminatory practice, the presiding officer shall state [his] the presiding officer's findings of fact and shall issue and file with the commission and cause to be served on the respondent an order requiring the respondent to cease and desist from the discriminatory practice and further requiring the respondent to take such affirmative action as in the judgment of the presiding officer will effectuate the purpose of this chapter.

(b) In addition to any other action taken [hereunder] under this section, upon a finding of a discriminatory employment practice, the presiding officer may order the hiring or reinstatement of employees, with or without back pay, or restoration to membership in any respondent labor organization, provided, liability for back pay shall not accrue from a date more than two years prior to the filing or

**Substitute Senate Bill No. 1106**

issuance of the complaint and, provided further, interim earnings, including unemployment compensation and welfare assistance or amounts which could have been earned with reasonable diligence on the part of the person to whom back pay is awarded shall be deducted from the amount of back pay to which such person is otherwise entitled. The amount of any such deduction for interim unemployment compensation or welfare assistance shall be paid by the respondent to the commission which shall transfer such amount to the appropriate state or local agency.

(c) In addition to any other action taken [hereunder] under this section, upon a finding of a discriminatory practice prohibited by section 46a-58, 46a-59, 46a-64, 46a-64c, 46a-81b, 46a-81d or 46a-81e, the presiding officer shall determine the damage suffered by the complainant, which damage shall include, but not be limited to, the expense incurred by the complainant for obtaining alternate housing or space, storage of goods and effects, moving costs and other costs actually incurred by [him] the complainant as a result of such discriminatory practice and shall allow reasonable attorney's fees and costs.

(d) In addition to any other action taken [hereunder] under this section, upon a finding of a discriminatory practice prohibited by section 46a-66 or 46a-81f, the presiding officer shall issue and file with the commission and cause to be served on the respondent an order requiring the respondent to pay the complainant the damages resulting from the discriminatory practice.

(e) In addition to any other action taken under this section, upon a finding of noncompliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a, as amended by this act, or the provisions of sections 46a-68c to 46a-68f, inclusive, the presiding officer shall issue and file with the commission and cause to be served on the respondent an order with respect to any remedial

**Substitute Senate Bill No. 1106**

action imposed by the presiding officer pursuant to subsection (c) or (d) of section 46a-56, as amended by this act.

[(e)] (f) If, upon all the evidence and after a complete hearing, the presiding officer finds that the respondent has not engaged in any alleged discriminatory practice, the presiding officer shall state [his] the presiding officer's findings of fact and shall issue and file with the commission and cause to be served on the respondent an order dismissing the complaint.

[(f)] (g) Any payment received by a complainant under this chapter or under any equivalent federal antidiscrimination law, either as a settlement of a claim or as an award made in a judicial or administrative proceeding, shall not be considered as income, resources or assets for the purpose of determining the eligibility of or amount of assistance to be received by such person in the month of receipt or the three months following receipt under the state supplement program, Medicaid or any other medical assistance program, temporary family assistance program, state-administered general assistance program, or the temporary assistance for needy families program. After such time period, any remaining funds shall be subject to state and federal laws governing such programs, including, but not limited to, provisions concerning individual development accounts, as defined in section 31-51ww.

Sec. 9. Subsection (a) of section 4a-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the

**Substitute Senate Bill No. 1106**

grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, as amended by this act, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56, as amended by this act. If the contract is a public works contract, the

**Substitute Senate Bill No. 1106**

contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project. Prior to entering into the contract, the contractor shall provide the state or such political subdivision of the state with documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the nondiscrimination agreement and warranty under subdivision (1) of this subsection. For the purposes of this section, "contract" includes any extension or modification of the contract, and "contractor" includes any successors or assigns of the contractor.

Sec. 10. Subsection (a) of section 4a-60a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for

**Substitute Senate Bill No. 1106**

employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56, as amended by this act; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56, as amended by this act. Prior to entering into the contract, the contractor shall provide the state or such political subdivision of the state with documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the nondiscrimination agreement and warranty under subdivision (1) of this subsection. For the purposes of this section, "contract" includes any extension or modification of the contract, and "contractor" includes any successors or assigns of the contractor.

Sec. 11. Section 46a-68h of the general statutes is repealed. (*Effective July 1, 2007*)

Approved June 25, 2007