



State of Connecticut  
**COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES**

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*Promoting Equality and Justice for all People*

**Testimony of Raymond P. Pech  
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**SB 686, AAC the APPLICABILITY OF CERTAIN  
STATE CONTRACTING REQUIREMENTS**

**Judiciary Committee  
Public Hearing  
March 14, 2008**

Good morning, Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Raymond Pech. I am the Executive Director of the Commission on Human Rights and Opportunities. The Commission on Human Rights and Opportunities expresses its qualified support of SB 686. We believe, however, that this bill needs to be broadened.

CONN. GEN. STAT. §§ 4a-60 and 4a-60a have provided, for many years, that any contract to which the state is a party must contain specific provisions regarding non-discrimination, and must also acknowledge the right of the CHRO to request or examine records of a contractor with respect to actions taken in support of these contractual undertakings. Pursuant to Sections 9 & 10 of Public Act 07-142, state contractors, in addition to including the referenced provisions in the contract, must now also provide a corporate resolution in support of those warranties of non-discrimination.

The CHRO has the authority, pursuant to CONN. GEN. STAT. § 46a-56(b), to grant state contractors an exemption to any or all of these provisions in certain circumstances. Several such requests come before the Commission monthly. In reviewing these requests, we have come to question whether the legislature really intended for these provisions to apply to all contracts to which the state is a party. This bill makes a start in narrowing those contracts to which the provisions of Sections 4a-60 and 4a-60a apply, by eliminating contracts between the state and the federal government, as well as those between the state and municipalities of the state.

We question whether certain other contracts were intended to be covered here as well. What about contracts where the state, rather than expending funds, is receiving a grant, or when a private entity wants to gift some land, or other item of value, to the state? What about student exchange programs? We see these frequently. We raise these questions in order that you may clarify the legislative intent as to what contracts are intended to be covered by these provisions.

Sections 9 & 10 of Public Act 07-142, which amended sections 4a-60 and 4a-60a of the statutes, have transformed what was an occasional administrative requirement into an administrative nightmare. The vast majority of the requests for exemption from these provisions that we entertain, which now number in the dozens monthly, request exemption only from the corporate resolution certification requirements of P.A. 07-142. These contractors are perfectly willing to insert non-discrimination language in the contracts, and to make their records available to CHRO. What they request exemption from is the corporate resolution requirement, typically because the contractor's board of directors, or similar governing body, is not scheduled to meet prior to the start date of the contract. Thus far, so as not to impede the state's business, we have allowed contractors to submit a verified copy of their equal employment opportunity policies in lieu of an actual corporate resolution, but this is only a stop-gap measure. We respectfully request that the committee consider an alternative to the recently passed certification requirement, that might achieve the same end, but at a less burdensome cost to the State.

The CHRO in fact submitted a legislative proposal this year to address some of these concerns. I have attached it to this testimony.

In conclusion, Let me state unequivocally that the CHRO absolutely endorses the notion of giving state contracting dollars only to those entities who are committed to equal employment opportunity and affirmative action. We ask only that the legislature examine what type of contracts CONN. GEN. STAT. §§ 4a-60 and 4a-60a was intended to address, and what type of guarantee of a contractor's intentions is sufficient. I ask nothing more than that you clarify your wishes in this area and allow the Commission to focus on our very important mission.

Thank you.

**Sec. 46a-56. Commission duties.** (a) The commission shall:

(1) Investigate the possibilities of affording equal opportunity of profitable employment to all persons, with particular reference to job training and placement;

(2) Compile facts concerning discrimination in employment, violations of civil liberties and other related matters;

(3) Investigate and proceed in all cases of discriminatory practices as provided in this chapter and noncompliance with the provisions of section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive;

(4) From time to time, but not less than once a year, report to the Governor as provided in section 4-60, making recommendations for the removal of such injustices as it may find to exist and such other recommendations as it deems advisable and describing the investigations, proceedings and hearings it has conducted and their outcome, the decisions it has rendered and the other work it has performed;

(5) Monitor state contracts to determine whether they are in compliance with sections 4a-60 and 4a-60a, and those provisions of the general statutes which prohibit discrimination; and

6) Compile data concerning state contracts with female and minority business enterprises and submit a report annually to the General Assembly concerning the employment of such business enterprises as contractors and subcontractors.

(b) The commission may, when it is deemed in the best interests of the state, exempt a contractor from the requirements of complying with any or all of the provisions of section 4a-60, 4a-60a, 46a-68c, 46a-68d or 46a-68e in any specific contract. Exemptions under the provisions of this section may include, but not be limited to, the following instances: (1) If the work is to be or has been performed outside the state and no recruitment of workers within the limits of the state is involved; (2) those involving less than specified amounts of money or specified numbers of workers; (3) to the extent that they involve subcontracts below a specified tier. The commission may also exempt facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided such an exemption shall not interfere with or impede the effectuation of the purposes of this section and sections 4a-60, 4a-60a, 4a-60g, 4a-62 and 46a-68b to 46a-68k, inclusive.

**(c) The following types of contracts shall be exempt from the requirements of complying with section 4a-60, 4a-60a, 46a-68c, 46a-68d or 46a-68e: (A) contracts between the state and the United States government; (B) contracts between the state and a municipality of the state; (C) any contract to which the state is a party which provides for the transfer or exchange of students, staff and faculty to, from or between one or more educational institutions; (D) any contract which stipulates the terms on which any gift of money, services, or real or personal property, or any**

**interest therein, is or are to be donated to the state, regardless of value; and, (E) any contract to which the state is a party whose value does not exceed fifty thousand dollars in any calendar or fiscal year. Exemptions pursuant to this subsection shall not require approval by the commission.**

[(c)] (d) If the commission determines through its complaint procedure that a contractor or subcontractor is not complying with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or the provisions of section 46a-68c, 46a-68d, 46a-68e or 46a-68f, (A) the state shall retain two per cent of the total contract price per month on any existing contract with such contractor and (B) the contractor shall be prohibited from participation in any further contracts with state agencies until: (i) The expiration of a period of two years from the date of the finding of noncompliance or (ii) the commission determines that the contractor has adopted policies consistent with such statutes. The commission shall make such a determination as to whether the contractor has adopted such policies within forty-five days of its determination of noncompliance. In addition, the commission may do one or more of the following: (1) Publish or cause to be published, the names of contractors or unions which it has found to be in noncompliance with such provisions; (2) 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, appropriate proceedings should be brought to enforce those 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, compliance with the provisions of said section 4a-60 or 4a-60a; (3) 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) 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) order the contracting agency to refrain from entering into further contracts, or extension 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 provisions of section 4a-60 or 4a-60a 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)] (e) If the commission determines through its complaint procedure and after a hearing held in accordance with chapter 54 that, with respect to a state contract, a contractor, subcontractor or supplier of materials has (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, 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 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 shall be deposited in a special fund and shall be held by the 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) Who are active in the daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n.