



**JUDICIATRY COMMITTEE
MARCH 19, 2009**

Good morning, Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Bob Brothers. I am the Acting Executive Director of the Commission on Human Rights and Opportunities.

The Commission on Human Rights and Opportunities **SUPPORTS SB 1003, AN ACT CONCERNING AFFIRMATIVE ACTION PLANS**. The primary purpose of this bill is to establish that an Affirmative Action Plan submitted more than 90 days after the date scheduled shall be deemed disapproved. This standard was long thought to exist as the result of administrative interpretation, but no basis in law actually exists. The bill also reduces or eliminates some reporting requirements and allows plan submission schedules to be adopted administratively, all reflective of staff reductions, and the need to economize our resources within the ongoing fiscal situation.

We have submitted a technical amendment to this bill in the form of Attachment "A".

We also **SUPPORT SB 1125, AN ACT CONCERNING THE COMPREHENSIVE REVISION OF THE HUMAN RIGHTS AND OPPORTUNITIES STATUTES**.

Over the course of many years amendments to the CHRO statutes have made them difficult for members of the public to understand and use. Since we should be one of the most accessible of state agencies we find this unacceptable and took it upon ourselves to rewrite our laws to make them as uncomplicated, comprehensible and harmonious as possible.

To that end we have:

- adjusted language to improve reading and understanding
- corrected grammatical errors
- deleted extraneous language and section references
- provided conforming language for consistency
- consolidated and reordered the definitions section
- made our statutes gender-neutral
- reduced or eliminated some reporting requirements
- clarified the role and responsibilities of human rights referees
- made the order and wording of references to protected classes consistent throughout while consolidating all protected classes, including sexual orientation, together
- recognized court decision *Kerrigan v. Commissioner of Public Health*, 289 Conn. 135 (2008) regarding the right to same-sex marriage;
- transferred the retaliation and aiding and abetting of a discriminatory practice from 46a-60 and expanded it to apply to public accommodation and credit as well as employment and housing



- required contractors to comply with orders of referees
- made the definition of "individual with a disability" consistent with Sec. 46a-51
- deleted the anachronistic wording of section 46a-81a, "but excludes any behavior which constitutes a violation of part VI of chapter 952" which the Commission views as offensive and demeaning
- made failure to post Commission notices a discriminatory practice
- transferred sections that are criminal provisions to the Penal Code
- set standards for the reconsideration of dismissed cases
- clarified the conciliation process
- clarified the role of the Commission legal counsel

Other changes would better accommodate the public by allowing complainants to bring civil action in the judicial district in which they live, and by allowing the Commission to grant a release of jurisdiction after 180 days instead of the present 210 days.

We have also made changes relative to the Commission and the court by establishing that no objection that has not been raised before the Commission to defeat or excuse compliance with a subpoena may be presented to, or relied on, by the court. The bill would give us the authority to intervene in court action involving CHRO cases. We would also be permitted to bring action in the Hartford Judicial District.

A civil penalty would finally be established for failure to comply with sexual harassment posting requirements. This sexual harassment enforcement tool has long been needed.

The Commission on Human Rights and Opportunities is proud to proactively advance legislation that serves the public, eliminates discriminatory language in our statutes, and creates administrative efficiencies during these lean economic times. We urge the Judiciary Committee to approve this bill and help us to better serve the public.

The Commission also **SUPPORTS** as written **HB 6673, AN ACT CONCERNING HOUSING DISCRIMINATION AND ATTORNEY'S FEES**. This bill which the Commission requested is inspired by three legal cases. Section 1 adds a definition to conform with federal law. Section 2 makes complainants parties to cases and clarifies their right to that status. Requests for filing appearances in two cases, *Kilby v Litchfield Housing Authority* and *Bowen v Brookside*, were opposed by defense counsel and the court denied complainants the right to intervene in their own cases. CHRO wants to head off the use of this tactic of exclusion.

Sections 3 and 4 of the bill address an issue that arose in *Sanchez v Brookstone Court* wherein the court implied a limitation on legal fees based on the amount of an award.

Finally, I would also like to comment on **SB 1127, AN ACT CONCERNING THE APPLICABILITY OF CERTAIN STATE CONTRACTING NONDISCRIMINATION REQUIREMENTS**. The bill as drafted presents some difficulty in interpretation and application. We discuss these issues fully in Attachment "B."

Attachment "A"

SB 1003, AN ACT CONCERNING AFFIRMATIVE ACTION PLANS

In line 239 we would bracket out **[resubmit such plan or]** and in line 240 we would bracket out **[disapproval]** and add **ORIGINAL FILING DATE** before the period.

The reason this is needed is because when an agency files a plan six months after disapproval for a late filing, the feedback on deficiencies of that plan will not be available prior to writing the plan for the next filing period. Therefore, the agency will not have sufficient time to address deficiencies as required by the regulations.

238 disapproved and the agency, department, board or commission shall
239 **[resubmit such plan or]** file a new plan not later than six months after
240 such **[disapproval]** **ORIGINAL FILING DATE**.

Attachment "B"

SB 1127, AN ACT CONCERNING THE APPLICABILITY OF CERTAIN STATE CONTRACTING NONDISCRIMINATION REQUIREMENTS

While we appreciate the Committee's intent to reduce the number of exemptions that come to CHRO for consideration, while increasing efficiencies at the agencies effected, we believe the language is somewhat ambiguous. Which employee of a contractor would submit "a written representation to support the nondiscrimination agreement?" We believe it should be an officer of the corporation or some other responsible party. The \$50,000 amount is also problematic. Does the Committee intend this to be per contract or would it be a cumulative amount over a fiscal or calendar year? Additionally, we would request clarification of whether the use of the term contract and its application in lines 62 through 68, and as repeated later in the bill, mean a contract between any parties and any of the delineated entities or only contracts between such entities?

Relative to the definition of marital status, since we have addressed this in HB 1125 we respectfully ask that this portion of SB 1127 be deleted.