



Connecticut Business & Industry Association

**Testimony of Kia F. Murrell
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Before the Committee on Labor and Public Employees
Hartford, CT
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**H.B. 5206 AA Providing an Individual the Right to Bring a Discriminatory
Practice Action in Superior Court Rather than
the Commission on Human Rights and Opportunities**

Good Afternoon Senator Prague, Representative Ryan and other members of the Committee. My name is Kia Murrell and I am Assistant Counsel for Labor & Employment matters at the Connecticut Business and Industry Association (CBIA). CBIA represents more than 10,000 companies throughout the state of Connecticut. CBIA generally opposes legislation that increases the costs of doing business in the state; creates new administrative burdens for employers; or restricts employers' flexibility when managing their workforces and making personnel decisions.

The Connecticut Human Rights and Opportunities Commission ("CHRO") is the state agency charged with evaluating the merits of discrimination and other equal opportunity claims before those cases reach court. **H.B. 5206** would allow individuals to bring discrimination claims directly into Superior Court without first exhausting their administrative remedies at the CHRO. We believe that the CHRO serves a necessary function as an administrative agency with expertise in discrimination and equal opportunity issues, and as a gatekeeper to ensure that only cases requiring litigation reach Superior Court. **Allowing discrimination claims to reach the court before an individual's administrative remedies are exhausted and all substantive issues are evaluated, may lead to higher litigation costs for employees and employers by forcing them to litigate even relatively minor claims in court.**

Therefore, **we object to H.B. 5206** for the following reasons:

Connecticut law already provides individuals an opportunity to bring discrimination claims directly into court if and when all parties agree.

Generally, discrimination claims are initially brought to the CHRO, but a complaint may be removed to court immediately if both parties submit a joint request to the CHRO to release its jurisdiction. In the alternative, state law grants either party the right to remove the case to court if the matter has not been resolved in 210 days (7 months). The waiting period allows the parties to continue discussions and settlement negotiations without the added pressure of preparing for litigation before all substantive issues have been evaluated.

However, if a sufficient number of parties find the waiting period at CHRO to be an undue delay, then one suggestion may be to consider shortening the 210-day release of jurisdiction waiting period. **If the period were shortened to 180 days or less, it would still provide the administrative process a chance to address discrimination complaints without causing unnecessary delays.**

H.B. 5206 will be the first step in eroding the purpose and efficacy of state agencies as gatekeepers in ensuring that only necessary court litigation occurs. CHRO and other state administrative agency tribunals were established to ensure that low-level cases were easily resolved without clogging the court system. This gatekeeping function is an important one for state agencies in that it saves taxpayer dollars; reduces litigation costs for smaller employers and pro se litigants who cannot afford expensive legal fees; lessens the court docket; and it encourages some cases to be settled at the administrative hearing process and before going to court. In bypassing the state administrative hearing process at CHRO, **H.B. 5206** would set a bad precedent for other state agencies whose function is served by claims-resolution proceedings and reducing the number of cases that clog the judicial system.

H.B. 5206 will create a two-tier justice system for discrimination claims. If **H.B. 5206** becomes law, individuals with the means to hire an attorney could go directly to court while individuals without sufficient means would be left filing with CHRO, since with or without counsel, out-of-pocket costs are minimal at the administrative hearing. Generally, the CHRO is a forum that is accessible and suited to offer relief in those cases where discrimination may have occurred but damages are small, making the more expensive court litigation impractical for many people.

CHRO should be fixed and made more functional, not disregarded. Like many state agencies that lack funding and resources, the CHRO has been widely criticized by employers and employees alike. However, in light of staff reductions due to agency budget cuts, its increasing responsibilities and widening issue-area jurisdiction, the CHRO is still functional and it plays an important role for the individuals who bring claims there. Moreover, we are concerned that if too many complaints are permitted to bypass the CHRO and proceed directly into court, it could undermine the CHRO's status as a state deferral agency for federal equal opportunity claims, thereby jeopardizing the federal funding which currently provides for some of CHRO's operations. Ultimately, that would lead to the demise of one of the oldest civil rights state agencies in the country, leaving the federal EEOC as the sole administrative agency handling workplace, housing, credit discrimination complaints. If and when that occurs, **many claims brought by members of protected classes under state law, including sexual orientation (not a protected class under federal law) would be left without redress.**

For all of these reasons, we respectfully urge the Committee to **reject H.B. 5206.**