



General Assembly

Substitute Bill No. 5323

February Session, 2010

* _____HB05323GAE___032610_____*

**AN ACT REQUIRING STATE AGENCY AND CONTRACTOR
AFFIRMATIVE ACTION PLANS TO BE SUBMITTED TO THE
DEPARTMENT OF ADMINISTRATIVE SERVICES.**

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

1 Section 1. Subsection (a) of section 4a-2 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2010*):

4 (a) The Commissioner of Administrative Services shall have the
5 following general duties and responsibilities:

6 (1) The establishment of personnel policy and responsibility for the
7 personnel administration of state employees;

8 (2) The purchase and provision of supplies, materials, equipment
9 and contractual services, as defined in section 4a-50;

10 (3) The publishing, printing or purchasing of laws, stationery, forms
11 and reports; [and]

12 (4) The collection of sums due the state for public assistance; and

13 (5) The monitoring of affirmative action plans submitted by (A)
14 state agencies, departments, boards or commissions in accordance with
15 the provisions of section 46a-68, as amended by this act, (B) contractors

16 in accordance with the provisions of section 46a-68c, as amended by
17 this act, or (C) bidders in accordance with the provisions of section
18 46a-68d, as amended by this act.

19 Sec. 2. Section 46a-54 of the general statutes is repealed and the
20 following is substituted in lieu thereof (*Effective October 1, 2010*):

21 The commission shall have the following powers and duties:

22 (1) To establish and maintain such offices as the commission may
23 deem necessary;

24 (2) To organize the commission into a division of [affirmative action
25 monitoring and] contract compliance, a division of discriminatory
26 practice complaints and such other divisions, bureaus or units as may
27 be necessary for the efficient conduct of business of the commission;

28 (3) To employ legal staff and commission legal counsel as necessary
29 to perform the duties and responsibilities under section 46a-55. One
30 commission legal counsel shall serve as supervising attorney. Each
31 commission legal counsel shall be admitted to practice law in this state;

32 (4) To appoint such investigators and other employees and agents as
33 it deems necessary, fix their compensation within the limitations
34 provided by law and prescribe their duties;

35 (5) To adopt, publish, amend and rescind regulations consistent
36 with and to effectuate the provisions of this chapter;

37 (6) To establish rules of practice to govern, expedite and effectuate
38 the procedures set forth in this chapter;

39 (7) To recommend policies and make recommendations to agencies
40 and officers of the state and local subdivisions of government to
41 effectuate the policies of this chapter;

42 (8) To receive, initiate as provided in section 46a-82, investigate and
43 mediate discriminatory practice complaints;

44 (9) By itself or with or by hearing officers or human rights referees,
45 to hold hearings, subpoena witnesses and compel their attendance,
46 administer oaths, take the testimony of any person under oath and
47 require the production for examination of any books and papers
48 relating to any matter under investigation or in question;

49 (10) To make rules as to the procedure for the issuance of subpoenas
50 by individual commissioners, hearing officers and human rights
51 referees;

52 (11) To require written answers to interrogatories under oath
53 relating to any complaint under investigation pursuant to this chapter
54 alleging any discriminatory practice as defined in subdivision (8) of
55 section 46a-51, and to adopt regulations, in accordance with the
56 provisions of chapter 54, for the procedure for the issuance of
57 interrogatories and compliance with interrogatory requests;

58 (12) To utilize such voluntary and uncompensated services of
59 private individuals, agencies and organizations as may from time to
60 time be offered and needed and with the cooperation of such agencies,
61 (A) to study the problems of discrimination in all or specific fields of
62 human relationships, and (B) to foster through education and
63 community effort or otherwise good will among the groups and
64 elements of the population of the state;

65 (13) To require the posting by an employer, employment agency or
66 labor organization of such notices regarding statutory provisions as
67 the commission shall provide;

68 (14) To require the posting, by any respondent or other person
69 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-
70 81e, of such notices of statutory provisions as it deems desirable;

71 (15) (A) To require an employer having three or more employees to
72 post in a prominent and accessible location information concerning the
73 illegality of sexual harassment and remedies available to victims of
74 sexual harassment; and (B) to require an employer having fifty or more

75 employees to provide two hours of training and education to all
76 supervisory employees within one year of October 1, 1992, and to all
77 new supervisory employees within six months of their assumption of a
78 supervisory position, provided any employer who has provided such
79 training and education to any such employees after October 1, 1991,
80 shall not be required to provide such training and education a second
81 time. Such training and education shall include information
82 concerning the federal and state statutory provisions concerning
83 sexual harassment and remedies available to victims of sexual
84 harassment. As used in this subdivision, "sexual harassment" [shall
85 have] has the same meaning as set forth in subdivision (8) of
86 subsection (a) of section 46a-60, and "employer" [shall include]
87 includes the General Assembly;

88 (16) To require each state agency that employs one or more
89 employees to (A) provide a minimum of three hours of diversity
90 training and education (i) to all supervisory and nonsupervisory
91 employees, not later than July 1, 2002, with priority for such training to
92 supervisory employees, and (ii) to all newly hired supervisory and
93 nonsupervisory employees, not later than six months after their
94 assumption of a position with a state agency, with priority for such
95 training to supervisory employees. Such training and education shall
96 include information concerning the federal and state statutory
97 provisions concerning discrimination and hate crimes directed at
98 protected classes and remedies available to victims of discrimination
99 and hate crimes, standards for working with and serving persons from
100 diverse populations and strategies for addressing differences that may
101 arise from diverse work environments; and (B) submit an annual
102 report to the Commission on Human Rights and Opportunities
103 concerning the status of the diversity training and education required
104 under subparagraph (A) of this subdivision. The information in such
105 annual reports shall be reviewed by the commission for the purpose of
106 submitting an annual summary report to the General Assembly.
107 Notwithstanding the provisions of this section, if a state agency has
108 provided such diversity training and education to any of its employees

109 prior to October 1, 1999, such state agency shall not be required to
110 provide such training and education a second time to such employees.
111 The requirements of this subdivision shall be accomplished within
112 available appropriations. As used in this subdivision, "employee" shall
113 include any part-time employee who works more than twenty hours
114 per week;

115 (17) To [require each agency to submit information demonstrating
116 its compliance with subdivision (16) of this section as part of its
117 affirmative action plan and to] receive and investigate complaints
118 concerning the failure of a state agency to comply with the
119 requirements of subdivision (16) of this section; and

120 (18) To enter into contracts for and accept grants of private or
121 federal funds and to accept gifts, donations or bequests, including
122 donations of service by attorneys.

123 Sec. 3. Section 46a-56 of the general statutes is repealed and the
124 following is substituted in lieu thereof (*Effective October 1, 2010*):

125 (a) The commission shall:

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

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

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

135 (4) From time to time, but not less than once a year, report to the
136 Governor as provided in section 4-60, making recommendations for
137 the removal of such injustices as it may find to exist and such other

138 recommendations as it deems advisable and describing the
139 investigations, proceedings and hearings it has conducted and their
140 outcome, the decisions it has rendered and the other work it has
141 performed; and

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

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

149 (b) The commission may, when it is deemed in the best interests of
150 the state, exempt a contractor from the requirements of complying
151 with any or all of the provisions of section 4a-60, 4a-60a [, 46a-68c, 46a-
152 68d] or 46a-68e in any specific contract. Exemptions under the
153 provisions of this section may include, but not be limited to, the
154 following instances: (1) If the work is to be or has been performed
155 outside the state and no recruitment of workers within the limits of the
156 state is involved; (2) those involving less than specified amounts of
157 money or specified numbers of workers; (3) to the extent that they
158 involve subcontracts below a specified tier. The commission may also
159 exempt facilities of a contractor which are in all respects separate and
160 distinct from activities of the contractor related to the performance of
161 the contract, provided such an exemption shall not interfere with or
162 impede the effectuation of the purposes of this section and sections 4a-
163 60, 4a-60a, 4a-60g, as amended by this act, 4a-62 and 46a-68b to 46a-
164 68k, inclusive.

165 (c) If the commission determines through its monitoring and
166 compliance procedures that a contractor or subcontractor is not
167 complying with antidiscrimination statutes or contract provisions
168 required under section 4a-60 or 4a-60a or the provisions of sections
169 46a-68c to 46a-68f, inclusive, as amended by this act, or the

170 Department of Administrative Services reports to the commission that
171 a contractor or subcontractor is not complying with the provisions of
172 section 46a-68c, as amended by this act, or 46a-68d, as amended by this
173 act, the commission may issue a complaint pursuant to subsection (c)
174 of section 46a-82. Such complaint shall be scheduled for a hearing
175 before a hearing officer or human rights referee appointed to act as a
176 presiding officer. Such hearing shall be held in accordance with
177 chapter 54 and section 46a-84. If, after such hearing, the presiding
178 officer makes a finding of noncompliance with antidiscrimination
179 statutes or contract provisions required under section 4a-60 or 4a-60a
180 or the provisions of sections 46a-68c to 46a-68f, inclusive, as amended
181 by this act, the presiding officer may: (1) Order the state to retain two
182 per cent of the total contract price per month on any existing contract
183 with such contractor; (2) prohibit the contractor from participation in
184 any further contracts with state agencies until: (A) The expiration of a
185 period of two years from the date of the finding of noncompliance, or
186 (B) the presiding officer determines that the contractor has adopted
187 policies consistent with such statutes, provided the presiding officer
188 shall make such determination within forty-five days of such finding
189 of noncompliance; (3) publish, or cause to be published, the names of
190 contractors or unions that the presiding officer has found to be in
191 noncompliance with such provisions; (4) notify the Attorney General
192 that, in cases in which there is substantial or material violation or the
193 threat of substantial or material violation of the contractual provisions
194 set forth in section 4a-60 or 4a-60a, appropriate proceedings should be
195 brought to enforce such provisions, including the enjoining, within the
196 limitations of applicable law, of organizations, individuals or groups
197 who prevent directly or indirectly, or seek to prevent directly or
198 indirectly, compliance with the provisions of section 4a-60 or 4a-60a;
199 (5) recommend to the Equal Employment Opportunity Commission or
200 the Department of Justice that appropriate proceedings be instituted
201 under Title VII of the Civil Rights Act of 1964, when necessary; (6)
202 recommend to the appropriate prosecuting authority that criminal
203 proceedings be brought for the furnishing of false information to any
204 contracting agency or to the commission as the case may be; (7) order

205 the contractor to bring itself into compliance with antidiscrimination
206 statutes or contract provisions required under section 4a-60 or 4a-60a
207 or sections 46a-68c to 46a-68f, inclusive, as amended by this act, within
208 a period of thirty days or, for good cause shown, within an additional
209 period of thirty days, and, if such contractor fails to bring itself into
210 such compliance within such time period and such noncompliance is
211 substantial or material or there is a pattern of noncompliance,
212 recommend to the contracting agency that such agency declare the
213 contractor to be in breach of the contract and that such agency pursue
214 all available remedies; or (8) order the contracting agency to refrain
215 from entering into further contracts, or extensions or other
216 modifications of existing contracts, with any noncomplying contractor,
217 until such contractor has satisfied the commission that such contractor
218 has established and will carry out personnel and employment policies
219 in compliance with antidiscrimination statutes and the provisions of
220 section 4a-60 or 4a-60a and sections 46a-68c to 46a-68f, inclusive, as
221 amended by this act. The commission shall adopt regulations, in
222 accordance with chapter 54, to implement the provisions of this
223 section.

224 (d) If the commission determines, through its monitoring and
225 compliance procedures and after a complaint is filed and a hearing is
226 held pursuant to subsection (c) of this section, that, with respect to a
227 state contract, a contractor, subcontractor or supplier of materials has
228 (1) fraudulently qualified as a minority business enterprise, or (2)
229 performed services or supplied materials on behalf of another
230 contractor, subcontractor or supplier of materials knowing (A) that
231 such other contractor, subcontractor or supplier has fraudulently
232 qualified as a minority business enterprise in order to comply with
233 antidiscrimination statutes or contract provisions required under
234 section 4a-60 or 4a-60a, and (B) that such services or materials are to be
235 used in connection with a contract entered into pursuant to subsection
236 (b) of section 4a-60g, the hearing officer or human rights referee before
237 whom such hearing was held shall assess a civil penalty of not more
238 than ten thousand dollars upon such contractor, subcontractor or

239 supplier of materials. The Attorney General, upon complaint of the
240 commission, shall institute a civil action in the superior court for the
241 judicial district of Hartford to recover such penalty. Any penalties
242 recovered pursuant to this subsection shall be deposited in a special
243 fund and shall be held by the State Treasurer separate and apart from
244 all other moneys, funds and accounts. The resources in such fund shall,
245 pursuant to regulations adopted by the commission in accordance with
246 the provisions of chapter 54, be used to assist minority business
247 enterprises. As used in this section, "minority business enterprise"
248 means any contractor, subcontractor or supplier of materials fifty-one
249 per cent or more of the capital stock, if any, or assets of which is owned
250 by a person or persons: (i) Who are active in the daily affairs of the
251 enterprise; (ii) who have the power to direct the management and
252 policies of the enterprise; and (iii) who are members of a minority, as
253 defined in subsection (a) of section 32-9n.

254 Sec. 4. Section 46a-68 of the 2010 supplement to the general statutes
255 is repealed and the following is substituted in lieu thereof (*Effective*
256 *October 1, 2010*):

257 (a) Each state agency, department, board and commission shall
258 develop and implement [, in cooperation with the Commission on
259 Human Rights and Opportunities,] an affirmative action plan that
260 commits the agency, department, board or commission to a program of
261 affirmative action in all aspects of personnel and administration. Such
262 plan shall [be developed pursuant to regulations adopted by the
263 Commission on Human Rights and Opportunities in accordance with
264 chapter 54 to ensure that affirmative action is undertaken as required
265 by state and federal law to provide equal employment opportunities
266 and to comply with all responsibilities under the provisions of sections
267 4-61u to 4-61w, inclusive, sections 46a-54 to 46a-64, inclusive, section
268 46a-64c and sections 46a-70 to 46a-78, inclusive] describe the efforts of
269 the agency, department, board or commission to provide equal
270 employment opportunities and to comply with all its responsibilities
271 under state and federal nondiscrimination laws, and shall include the

272 race, gender, occupational category and age data for all full-time
273 employees of the agency, department, board or commission. The
274 executive head of each such agency, department, board or commission
275 shall be directly responsible for the development, filing and
276 implementation of such affirmative action plan. The Metropolitan
277 District of Hartford County shall be deemed to be a state agency for
278 purposes of this section.

279 (b) (1) Each state agency, department, board or commission shall
280 designate a full-time or part-time affirmative action officer. If such
281 affirmative action officer is an employee of the agency, department,
282 board or commission, the executive head of the agency, department,
283 board or commission shall be directly responsible for the supervision
284 of the officer.

285 [(2) The Commission on Human Rights and Opportunities shall
286 provide training and technical assistance to affirmative action officers
287 in plan development and implementation.]

288 [(3)] (2) The Commission on Human Rights and Opportunities and
289 the Permanent Commission on the Status of Women shall provide
290 training concerning state and federal discrimination laws and
291 techniques for conducting investigations of discrimination complaints
292 to persons designated by state agencies, departments, boards or
293 commissions as affirmative action officers and persons designated by
294 the Attorney General or the Attorney General's designee to represent
295 such agencies, departments, boards or commissions pursuant to
296 subdivision [(5)] (4) of this subsection. Such training shall be provided
297 for a minimum of ten hours during the first year of service or
298 designation, and a minimum of five hours per year thereafter.

299 [(4)] (3) (A) Each person designated by a state agency, department,
300 board or commission as an affirmative action officer shall (i) be
301 responsible for mitigating any discriminatory conduct within the
302 agency, department, board or commission, (ii) investigate all internal
303 complaints of discrimination made against the state agency,

304 department, board or commission, and (iii) report all findings and
305 recommendations upon the conclusion of an investigation to the
306 commissioner or director of the state agency, department, board or
307 commission for proper action.

308 (B) Notwithstanding the provisions of subparagraphs (A)(i), (A)(ii)
309 and (A)(iii) of this subdivision, if [a] an internal discrimination
310 complaint is made against the executive head of a state agency or
311 department, any member of a state board or commission or any
312 affirmative action officer alleging that the executive head, member or
313 officer directly or personally engaged in discriminatory conduct, or if
314 [a] an internal complaint of discrimination is made by the executive
315 head of a state agency, any member of a state board or commission or
316 any affirmative action officer, the complaint shall be referred to the
317 Commission on Human Rights and Opportunities for review and, if
318 appropriate, investigation by the Department of Administrative
319 Services. If the internal discrimination complaint is made by or against
320 the executive head, any member or the affirmative action officer of the
321 Commission on Human Rights and Opportunities alleging that the
322 executive head, member or officer directly or personally engaged in
323 discriminatory conduct, the commission shall refer the complaint to
324 the Department of Administrative Services for review and, if
325 appropriate, investigation. If the internal complaint is by or against the
326 executive head or affirmative action officer of the Department of
327 Administrative Services, the complaint shall be referred to the
328 Commission on Human Rights and Opportunities for review and, if
329 appropriate, investigation. Each person who conducts an investigation
330 pursuant to this subparagraph shall report all findings and
331 recommendations upon the conclusion of such investigation to the
332 appointing authority of the individual who was the subject of the
333 complaint for proper action. The provisions of this subparagraph shall
334 apply to any such complaint pending on or after July 5, 2007.

335 [(5)] (4) Each person designated by a state agency, department,
336 board or commission as an affirmative action officer, and each person

337 designated by the Attorney General or the Attorney General's designee
338 to represent an agency pursuant to subdivision [(6)] (5) of this
339 subsection, shall complete training provided by the Commission on
340 Human Rights and Opportunities and the Permanent Commission on
341 the Status of Women pursuant to subdivision [(3)] (2) of this
342 subsection.

343 [(6)] (5) No person designated by a state agency, department, board
344 or commission as an affirmative action officer shall represent such
345 agency, department, board or commission before the Commission on
346 Human Rights and Opportunities or the Equal Employment
347 Opportunity Commission concerning a discrimination complaint. If a
348 discrimination complaint is filed with the Commission on Human
349 Rights and Opportunities or the Equal Employment Opportunity
350 Commission against a state agency, department, board or commission,
351 the Attorney General, or the Attorney General's designee, other than
352 the affirmative action officer for such agency, department, board or
353 commission, shall represent the state agency, department, board or
354 commission before the Commission on Human Rights and
355 Opportunities or the Equal Employment Opportunity Commission. In
356 the case of a discrimination complaint filed against the Metropolitan
357 District of Hartford County, the Attorney General, or the Attorney
358 General's designee, shall not represent such district before the
359 Commission on Human Rights and Opportunities or the Equal
360 Employment Opportunity Commission.

361 (c) Each state agency, department, board and commission shall file
362 an affirmative action plan developed in accordance with subsection (a)
363 of this section, with the [Commission on Human Rights and
364 Opportunities, semiannually] Department of Administrative Services,
365 annually, except that any state agency, department, board or
366 commission [which] that has an affirmative action plan approved by
367 the [commission may] department shall be permitted to file its plan on
368 [an annual] a biennial basis. [in a manner prescribed by the
369 commission and any state agency, department, board or commission

370 that employs twenty or fewer full-time employees shall file its
371 affirmative action plan biennially.] All such affirmative action plans
372 shall be filed electronically with the Department of Administrative
373 Services.

374 (d) The [Commission on Human Rights and Opportunities]
375 Department of Administrative Services shall review and formally
376 approve, conditionally approve or disapprove the content of such
377 affirmative action plans [within] not later than ninety days [of] after
378 the submission of each plan to the [commission] department. If the
379 [commissioners, by a majority vote of those present and voting, fail]
380 department fails to approve, conditionally approve or disapprove a
381 plan within [that] such period, the plan shall be deemed to be
382 approved.

383 (e) The Commissioner of Administrative Services and the Secretary
384 of the Office of Policy and Management shall [cooperate with the
385 Commission on Human Rights and Opportunities to] insure that the
386 State Personnel Act and personnel regulations are administered, and
387 that the process of collective bargaining is conducted by all parties in a
388 manner consistent with the affirmative action responsibilities of the
389 state.

390 (f) The [Commission on Human Rights and Opportunities]
391 Department of Administrative Services shall monitor the activity of
392 such plans within each state agency, department, board and
393 commission and report in accordance with the provisions of section 11-
394 4a to the Governor and the General Assembly on or before April first
395 of each year concerning the results of such plans.

396 [(g) The Commission on Human Rights and Opportunities shall
397 adopt regulations, in accordance with chapter 54, to carry out the
398 requirements of this section. Such regulations shall include a schedule
399 for semiannual, annual and biennial filing of plans.]

400 Sec. 5. Section 46a-68a of the general statutes is repealed and the

401 following is substituted in lieu thereof (*Effective October 1, 2010*):

402 (a) The [commission] Department of Administrative Services may
403 issue a certificate of noncompliance if the affirmative action plan
404 required by section 46a-68, as amended by this act, is disapproved.

405 (b) The issuance of a certificate of noncompliance shall bar the
406 agency, department, board or commission in noncompliance with
407 section 46a-68, as amended by this act, from filling a position or
408 position classification by hire or promotion upon receipt of the
409 certificate, the provisions of any state law or regulation to the contrary
410 notwithstanding, until: (1) The [commission] department determines
411 that the agency has achieved compliance with section 46a-68, as
412 amended by this act, and withdraws the certificate; or (2) the
413 commission, at a hearing requested by the agency, department, board
414 or commission receiving the certificate or by the Department of
415 Administrative Services and conducted by a presiding officer
416 appointed by the chairperson of the commission, is unable to show
417 cause why the certificate of noncompliance should not be rescinded or
418 a court, upon appeal, so determines; or (3) the [Commissioner of
419 Administrative Services and the] Secretary of the Office of Policy and
420 Management [certify] certifies to the [commission] Department of
421 Administrative Services that the agency in noncompliance with section
422 46a-68, as amended by this act, requires immediate filling of the
423 vacancy because failure to fill the position or position classification will
424 cause an emergency situation to exist jeopardizing the public welfare.
425 A separate certificate of exemption shall be required for each vacancy
426 in a position or position classification with respect to which the
427 [Commissioner of Administrative Services and the] Secretary of the
428 Office of Policy and Management [certify] certifies that an emergency
429 situation exists.

430 (c) Hearings under this section shall be conducted in accordance
431 with sections 4-176e to 4-182, inclusive.

432 (d) The commission, in consultation with the Department of

433 Administrative Services, shall adopt regulations in accordance with
434 chapter 54 to implement this section.

435 Sec. 6. Section 46a-68c of the general statutes is repealed and the
436 following is substituted in lieu thereof (*Effective October 1, 2010*):

437 In addition to the provisions of section 4a-60, each contractor with
438 fifty or more employees awarded a public works contract in excess of
439 fifty thousand dollars in any fiscal year, but not subject to the
440 provisions of section 46a-68d, as amended by this act, shall develop
441 and electronically file with the [commission] Department of
442 Administrative Services an affirmative action plan which shall comply
443 with [regulations adopted by said commission] any guidelines for such
444 plan issued by the department. Failure to develop an approved
445 affirmative action plan pursuant to this section shall act as a bar to
446 bidding on or the award of future contracts until such requirement has
447 been met. When the [commission] department approves an affirmative
448 action plan pursuant to this section, it shall issue a certificate of
449 compliance to the contractor. [This] Such certificate shall be prima facie
450 proof of the contractor's eligibility to bid or be awarded contracts for a
451 period of two years from the date of the certificate. Such certificate
452 shall not excuse the contractor from monitoring by the department or
453 commission or from the reporting and record-keeping requirements of
454 sections 46a-68e and 46a-68f. The [commission] department may
455 revoke the certificate of a contractor if the contractor does not
456 implement its affirmative action plan in compliance with this section
457 and sections 4a-60, 4a-60g, as amended by this act, 4a-62, 46a-56, as
458 amended by this act, 46a-68b, 46a-68d, as amended by this act, and
459 46a-68e to 46a-68k, inclusive.

460 Sec. 7. Section 46a-68d of the general statutes is repealed and the
461 following is substituted in lieu thereof (*Effective October 1, 2010*):

462 In addition to the provisions of section 4a-60, every public works
463 contract subject to the provisions of part II of chapter 60 shall also be
464 subject to the provisions of this section. After a bid has been accepted

465 but before a contract is awarded, the successful bidder shall
466 electronically file and have approved by the [commission] Department
467 of Administrative Services an affirmative action plan. The
468 [commission] department may provide for conditional acceptance of
469 an affirmative action plan provided written assurances are given by
470 the contractor that it will amend its plan to conform to affirmative
471 action requirements. The state shall withhold two per cent of the total
472 contract price per month from any payment made to such contractor
473 until such time as the contractor has developed an affirmative action
474 plan, and received the approval of the [commission] department.
475 Notwithstanding the provisions of this section, a contractor subject to
476 the provisions of this section may electronically file a plan in advance
477 of or at the same time as its bid. The [commission] department shall
478 review plans submitted pursuant to this section [within] not later than
479 sixty days [of] after receipt and either approve, approve with
480 conditions or reject such plan. When the [commission] department
481 approves an affirmative action plan pursuant to this section, it shall
482 issue a certificate of compliance to the contractor as provided in section
483 46a-68c, as amended by this act.

484 Sec. 8. Section 46a-68g of the general statutes is repealed and the
485 following is substituted in lieu thereof (*Effective October 1, 2010*):

486 Contracting agencies shall not enter into contracts with any bidder
487 or prospective contractor unless the bidder or prospective contractor
488 has satisfactorily complied with the provisions of sections 4a-60, 4a-
489 60g, 46a-56, as amended by this act, and 46a-68c to 46a-68f, inclusive,
490 as amended by this act. [, or submits a program for compliance
491 acceptable to the commission.]

492 Sec. 9. Section 46a-68j of the general statutes is repealed and the
493 following is substituted in lieu thereof (*Effective October 1, 2010*):

494 The commission shall adopt regulations in accordance with the
495 provisions of chapter 54 for the purposes of sections 4a-60, 46a-56, as
496 amended by this act, and [46a-68b] 46a-68e to 46a-68i, inclusive.

497 Sec. 10. Subsections (g) to (m), inclusive, of section 4a-60g of the
498 2010 supplement to the general statutes are repealed and the following
499 is substituted in lieu thereof (*Effective October 1, 2010*):

500 (g) The awarding authority or the Commissioner of Administrative
501 Services [or the Commission on Human Rights and Opportunities]
502 may conduct an audit of the financial, corporate and business records
503 and conduct an investigation of any small contractor or minority
504 business enterprise [which] that applies for or is awarded a set-aside
505 contract for the purpose of determining eligibility for awards or
506 compliance with the requirements established under this section.

507 (h) The provisions of this section shall not apply to any state agency
508 or political subdivision of the state other than a municipality for which
509 the total value of all contracts or portions of contracts of the types
510 enumerated in subsection (b) of this section is anticipated to be equal
511 to ten thousand dollars or less.

512 (i) In lieu of a performance, bid, labor and materials or other
513 required bond, a contractor or subcontractor awarded a contract under
514 this section may provide to the awarding authority, and the awarding
515 authority shall accept a letter of credit. Any such letter of credit shall
516 be in an amount equal to ten per cent of the contract for any contract
517 that is less than one hundred thousand dollars and in an amount equal
518 to twenty-five per cent of the contract for any contract that exceeds one
519 hundred thousand dollars.

520 (j) (1) Whenever the awarding authority has reason to believe that
521 any contractor or subcontractor awarded a set-aside contract has
522 wilfully violated any provision of this section, the awarding authority
523 shall send a notice to such contractor or subcontractor by certified
524 mail, return receipt requested. Such notice shall include: (A) A
525 reference to the provision alleged to be violated; (B) a short and plain
526 statement of the matter asserted; (C) the maximum civil penalty that
527 may be imposed for such violation; and (D) the time and place for the
528 hearing. Such hearing shall be fixed for a date not earlier than fourteen

529 days after the notice is mailed. [The awarding authority shall send a
530 copy of such notice to the Commission on Human Rights and
531 Opportunities.]

532 (2) The awarding authority shall hold a hearing on the violation
533 asserted unless such contractor or subcontractor fails to appear. The
534 hearing shall be held in accordance with the provisions of chapter 54.
535 If, after the hearing, the awarding authority finds that the contractor or
536 subcontractor has wilfully violated any provision of this section, the
537 awarding authority shall suspend all set-aside contract payments to
538 the contractor or subcontractor and may, in its discretion, order that a
539 civil penalty not exceeding ten thousand dollars per violation be
540 imposed on the contractor or subcontractor. If such contractor or
541 subcontractor fails to appear for the hearing, the awarding authority
542 may, as the facts require, order that a civil penalty not exceeding ten
543 thousand dollars per violation be imposed on the contractor or
544 subcontractor. The awarding authority shall send a copy of any order
545 issued pursuant to this subsection by certified mail, return receipt
546 requested, to the contractor or subcontractor named in such order. The
547 awarding authority may cause proceedings to be instituted by the
548 Attorney General for the enforcement of any order imposing a civil
549 penalty issued under this subsection.

550 (k) On or before January 1, 2000, the Commissioner of
551 Administrative Services shall establish a process for certification of
552 small contractors and minority business enterprises as eligible for
553 set-aside contracts. Each certification shall be valid for a period not to
554 exceed two years. Any paper application for certification shall be no
555 longer than six pages. The Department of Administrative Services shall
556 maintain on its web site an updated directory of small contractors and
557 minority business enterprises certified under this section.

558 (l) On or before August 30, 2007, and annually thereafter, each state
559 agency and each political subdivision of the state other than a
560 municipality setting aside contracts or portions of contracts shall
561 prepare a report establishing small and minority business set-aside

562 program goals for the twelve-month period beginning July first in the
563 same year. Each such report shall be submitted to the Commissioner of
564 Administrative Services [, the Commission on Human Rights and
565 Opportunities] and the cochairpersons and ranking members of the
566 joint standing committees of the General Assembly having cognizance
567 of matters relating to planning and development and government
568 administration and elections in accordance with the provisions of
569 section 11-4a.

570 (m) On or before November 1, 1995, and quarterly thereafter, each
571 state agency and each political subdivision of the state other than a
572 municipality setting aside contracts or portions of contracts shall
573 prepare a status report on the implementation and results of its small
574 business and minority business enterprise set-aside program goals
575 during the three-month period ending one month before the due date
576 for the report. Each report shall be submitted to the Commissioner of
577 Administrative Services, [and the Commission on Human Rights and
578 Opportunities.] Any state agency or political subdivision of the state,
579 other than a municipality, that achieves less than fifty per cent of its
580 small contractor and minority business enterprise set-aside program
581 goals by the end of the second reporting period in any twelve-month
582 period beginning on July first shall provide a written explanation to
583 the Commissioner of Administrative Services [and the Commission on
584 Human Rights and Opportunities] detailing how the agency or
585 political subdivision will achieve its goals in the final reporting period.
586 The [Commission on Human Rights and Opportunities] Department of
587 Administrative Services shall: (1) Monitor the achievement of the
588 annual goals established by each state agency and political subdivision
589 of the state other than a municipality; and (2) prepare a quarterly
590 report concerning such goal achievement. The report shall be
591 [submitted to each state agency that submitted a report, the
592 Commissioner of Economic and Community Development, the
593 Commissioner of Administrative Services and the cochairpersons and
594 ranking members of the joint standing committees of the General
595 Assembly having cognizance of matters relating to planning and

596 development and government administration and elections] posted on
597 the Internet web site of the Department of Administrative Services.
598 Failure by any state agency or political subdivision of the state other
599 than a municipality to submit any reports required by this section shall
600 be a violation of section 46a-77.

601 Sec. 11. (NEW) (*Effective October 1, 2010*) Any state agency,
602 department, board or commission that is required to prepare an
603 affirmative action plan for a federal agency may submit such plan to
604 the Department of Administrative Services in lieu of the affirmative
605 action plan required in section 46a-68 of the general statutes, as
606 amended by this act.

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|---|------------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2010</i> | 4a-2(a) |
| Sec. 2 | <i>October 1, 2010</i> | 46a-54 |
| Sec. 3 | <i>October 1, 2010</i> | 46a-56 |
| Sec. 4 | <i>October 1, 2010</i> | 46a-68 |
| Sec. 5 | <i>October 1, 2010</i> | 46a-68a |
| Sec. 6 | <i>October 1, 2010</i> | 46a-68c |
| Sec. 7 | <i>October 1, 2010</i> | 46a-68d |
| Sec. 8 | <i>October 1, 2010</i> | 46a-68g |
| Sec. 9 | <i>October 1, 2010</i> | 46a-68j |
| Sec. 10 | <i>October 1, 2010</i> | 4a-60g(g) to (m) |
| Sec. 11 | <i>October 1, 2010</i> | New section |

GAE *Joint Favorable Subst.*