



AFSCME

Connecticut Local 2663

Connecticut State Social and Human Service Professional Employees

LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, March 2, 2010

Senators Prague and Gomes, Representatives Ryan and O'Brien and other Esteemed Senators and Representatives from the Labor and Public Employees Committee:

Thank you for this opportunity to comment on Raised Bill #5206. My name is Christopher Gemeasky and I am a union steward with Local 2663; a local union for AFSCME Council 4 which represents collective bargaining members comprised of Social and Human Services employees, including job classifications working within the Commission on Human Rights and Opportunities (CHRO). Several of these positions - Human Rights Attorney, Assistant Commission Counsel I, Human Rights and Opportunities Representative, Human Rights and Opportunities Intake Officer, and Human Rights and Opportunities Trainee - are directly involved in the processing of discriminatory employment complaints. On behalf of the union and these bargaining members, we would ask that you oppose Raised Bill #5206.

The proposed bill provides no new benefits to the citizens of the State of Connecticut and it seeks to circumvent a highly effective principle of administrative law; that is, if an adequate administrative remedy exists, then it must be exhausted before the superior court obtains jurisdiction to act in the matter. This principle, so important that it is known by the courts as the exhaustion doctrine of administrative remedies, provides that no one is entitled to judicial relief for an alleged injury, until the prescribed administrative remedy has been exhausted. Two primary reasons exist for this exhaustion doctrine: 1) it protects the courts from becoming overburdened with prematurely decided questions, which if entrusted to an agency like the CHRO, could have received a satisfactory administrative disposition and have avoided the additional time needed for a judicial review; and 2) it ensures the integrity of the agency's role in administering its statutory responsibilities. In essence, the courts defer to the legislature's authority to coordinate branches of State Government so that the agencies, and not the courts, have primary responsibility for the programs that the legislature has charged them to administer.

It is well established that the CHRO is statutorily charged with the initial responsibility for the investigation and adjudication of claims of employment discrimination. It is also clear that the legislature, in keeping with this doctrine of exhausting administrative remedies, has already developed an effective release of jurisdiction process through Public Act 91-331, later amended by Public Act 98-245, to address concerns of complainants wishing to proceed to superior court. Individuals wishing to proceed to superior court can do so anytime after 210 days of filing a CHRO complaint or 15 days after a dismissal of the complaint through the Merit Assessment Review process.

CHRO collective bargaining employees have worked hard to bring prompt administrative remedy to complainants and to help respondents and complainants avoid the high cost of litigation. In the fiscal year ending June 30, 2009, bargaining unit members settled some 716 complaints and brought in known settlement amounts of over 2.4 million dollars to aggrieved parties (this figure is even higher, but due to confidentiality terms, some settlement disclosure was limited). Additionally, during this same time frame, CHRO employees closed over 2,118 filed complaints. If the tenants of Raised Bill 5206 had been in effect, an unknown number of these complaints would still be lingering unresolved in the superior courts. To allow complainants to proceed directly to superior court, without first attempting to exhaust their administrative remedy, is to waste the valuable talents of a highly skilled workforce within CHRO. It is also to risk clogging the courts with complaints that could have been resolved administratively by the CHRO and without court costs and attorney's fees being imposed on the complainants and respondents.

Finally, the CHRO has a work sharing agreement with the federal Equal Employment Opportunity Commission (EEOC) for the investigation of employment complaints. EEOC defers to CHRO to resolve complaints of discrimination and pays the CHRO, per case, for these dispositions; this money is deposited into the state's General Fund. Complaints filed directly with the superior court would not be subject to this work sharing agreement. To reduce these federal funds, at a time when the state's budget deficit continues to grow, will only serve to hurt the citizens of Connecticut.

Thank you for your time and consideration.