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Testimony of Barbara Collins, Chair, Executive Committee  
Human Rights and Responsibilities Section of the Connecticut Bar Association

SUPPORTING

**House Bill 6595**

AN ACT CONCERNING THE COMMISSION ON  
HUMAN RIGHTS AND OPPORTUNITIES VATION OF RIGHTS

Appropriations Committee  
March 31, 2011

Senator Harp, Representative Walker, members of the Appropriations Committee: Thank you for the opportunity to provide testimony on Bill 6595, AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES:

My name is Barbara Collins and I am the Chair of the Connecticut Bar Association Human Rights and Responsibilities Section. The section is comprised of approximately 80 attorneys who interested in legislation concerning civil rights and discrimination law. On behalf of the CBA Human Rights and Responsibilities Section, I respectfully request that the Appropriations Committee **favorably report** House Bill 6595.

The Human Rights and Responsibilities Section is concerned that the Commission on Human Rights and Opportunities is adequately funded to perform its mandated duties and functions to eliminate discrimination in the state of Connecticut. We are also concerned that the CHRO retains all of its authority to perform all functions related to the elimination of discrimination in the State of Connecticut.

Over the past two years of budget crisis, the CHRO has lost funding and positions. It was an agency of 103 positions two years ago, now it has about 73 positions. Even when funding was allocated to fill positions, CHRO was not permitted to use the funding to fill the positions. At 103 positions, the CHRO still needed additional staff to effectively perform the agency's work. Now due to the staff and budget cuts, case processing is taking longer, investigators, lawyers and other non clerical staff must use their time performing clerical and administrative work. Consequently, cases are taking longer to process and case backlogs are growing.

Last year these problems have affected the agency's ability to collect funds from the U.S. Equal Employment Opportunity Commission (EEOC), because fewer investigators could not close the same number of cases. CHRO lost credit and corresponding payments in an amount in excess of \$150,000.00 of federal funding payments to the State's General Funds from the EEOC through the EEOC/CHRO work-share agreement. The continuing reduction in investigative staff will cause

longer times to process each discrimination complaint and will cause growing case backlogs. The continuing diminishing numbers of cases closed will continue to cause greater reductions in the amount of federal funding provided to the State's General funds through the work share agreements.

The Human Rights and Responsibilities Section is very concerned about the ability of the CHRO to effectively and timely process complaints. CHRO provides important and essential case processing for parties to state and federal discrimination complaints. With the declining numbers of CHRO staff, and the resulting increased length of time to process cases, help is needed. Unquestionably, the CHRO needs more staff. If you would fund two or four additional investigative staff members, additional help is still needed.

House Bill 6595 proposes procedural changes to expedite the case process and to reduce costs. We urge your support of the bill and its efficiency and cost savings provisions. Some of the provisions that will reduce costs and improve complaint processing include the following:

Costs will be reduced by changing the mail and service requirements.

Costs will be reduced by the automatic legal review of cases dismissed in the merit assessment review (MAR), if reconsideration has not been requested and if a release of jurisdiction to file the case in court has not been requested. The review of the MAR dismissal will determine if the case was properly dismissed. Cases that should not have been dismissed will be reinstated. This will limit the number of appeals of cases dismissed at MAR and reduce costs associated with the appeals. Each appeal can result in awards to the appellant for fees up to \$7,500.

Costs will be reduced by a mandatory mediation requirement. When a case is retained after MAR or reinstated, a mandatory mediation will occur. This will provide early opportunity for the parties to resolve the case, and for the CHRO to limit investigation processing and resources for a case that can be resolved.

Case processing may be reduced by the early legal intervention, a new process which will provide the opportunity for either party or the CHRO, after a MAR and mandatory mediation are concluded, to request that the Executive Director or designee conduct a legal review of the case to determine whether the case should fast track to public hearing because of legal issues and policy issues involved, remain in investigation process or that the complaint be recommended for dismissal and the complainant be issued a release of jurisdiction. Although, most cases would likely remain in investigation, this will allow those cases that can go directly to Public Hearing to do so and would allow for a more expeditious disposition of cases that further investigation will not save so that those claimants can receive a release of jurisdiction and proceed in court, if they choose to. The early legal intervention will enable some cases to be expedited past the investigation process and save time for all parties, it will also save investigation resources.

This bill also proposes to shorten the time that a case must be in process at the CHRO before a complainant can seek a release of jurisdiction from 210 days to 180 days. This will allow complainants to remove their complaints from the CHRO more quickly and file their cases in court sooner. To the extent that it is possible, if it is made known that the

complainant wishes to seek a release of jurisdiction to proceed at court, the CHRO can be asked to try to expedite the MAR process and the mandatory mediation process. One hundred and eighty days will provide the time needed for the MAR review and mandatory mediation of the complaints.

For housing cases in which an election has been made to try the case at court, the bill will allow a complainant to intervene as a matter of right. When a complainant is represented by counsel, the CHRO will have the discretion to require the Complainant's counsel present the case at court. This will reduce the CHRO's legal resources expended in court litigation.

At the current time, the Human Rights Referees at CHRO hear whistleblower complaints brought by state employees or employees of large state contractors who believe that they have been retaliated against for bringing a complaint under the whistleblower law. Most of these victims proceed without counsel while the agency accused of retaliating is provided with representation by the Attorney General's office. This proposal would allow, at the discretion of the Executive Director of CHRO, Commission legal counsel to intervene in order to put on the case for the victim of retaliation. This new function fits within the Commission mission and the State's obligation to eliminate discrimination and retaliation. The Commission's involvement would speed up the process and ensure a level playing field for all parties.

The bill allows for CHRO to file enforcement actions in the Hartford Superior Court, where the CHRO's Central Office is located. This involves cases where, after a settlement or favorable decision by a Referee in a CHRO case, complainants have trouble collecting their due compensation. This section allows the Commission to file enforcement actions to collect these awards in Hartford, where CHRO attorneys are already located, which makes the process less expensive and more efficient. It also clarifies that the enforcement action is not a new cause of action, but only seeks a court order formalizing the referee's decision. It also allows the court to award the Commission attorney's fees and costs against the party that had refused to comply with the Order of the Referee, which would reimburse the state's general fund.

The Section also believes that the Appropriations should revisit the reduction of human rights referees whereby current five referees are to be reduced to three referees as of July 1, 2011. The Section recommends that the five human rights referees be retained, particularly if the new process involving MAR dismissals and the early legal intervention process succeed in moving cases more quickly to public hearing.

Thank you, again, for allowing me the opportunity to submit this testimony on House Bill 6595. The CBA Human Rights and Responsibilities Section respectfully requests that the Appropriations Committee approve House Bill 6595.