
MEMORANDUM

TO: Committee on Government Administration and Elections

FROM: Alvin K. Bingham, Supervisor - Windsor
Affirmative Action/Contract Compliance

DATE: March 7, 2011

RE: House Bill #5877/5974

Good morning Senator Slosberg, Representative Morin and Honorable members of the GAE Committee. My name is Alvin Bingham, I am here today, to speak in support of Bills 5877 and 5974.

I am very much aware of the State of Connecticut's unprecedented economic hardship. Nevertheless, the State is in dire need of a current disparity study to solidify its small and minority business set-aside program. The State's current study is over twenty-five (25) years old and therefore would not withstand a constitutional challenge per *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) ("Croson"). Under Croson, the valid life of a disparity study is five (5) to seven (7) years. It would be far more costly for the State to enter into litigation to defend a constitutional challenge, than for the State to provide three (3) to (4) four hundred thousand dollars to conduct a statewide disparity study that would pre-empt any constitutional challenges, thus solidifying its small and minority business set-aside program. However, without a current disparity study, the State will lose the constitutional challenge regarding the validity of its small and minority business set-aside program, and as a result of this lost, the State's Affirmative Action/Equal Employment Opportunity Contract Compliance Program (that is charged with monitoring the good faith effort of state contractors to solicit and employ small, women, minority and disabled owned business enterprises) would be shut down.

Such ramifications of an outdated disparity study can be verified by contacting the country's most sought after expert in regards to the constitutionality of a state's set-aside program, which are designed and implemented to remedy the effects of past discrimination. That is:

Dr. Franlin Lee
100 East Pratt Street
26th Floor
Baltimore, MD 21202
Telephone: 410.752.9734
Fax: 410.727.5460

It must be stated, that when laws, rules, regulations and exemptions have a clear disparate impact on racial and ethnic minorities, those rules, regulations and exemptions institutionalize a system of maintaining the status quo.