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Human Rights Referee**

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Public Hearing of the Joint Committee on Judiciary

Raised Bill No. 1192: An Act Concerning the Processing of Complaints Filed with the Commission on Human Rights and Opportunities

Good morning, Senator Coleman, Representative Fox and members of the Judiciary Committee. I am Donna Maria Wilkerson Brilliant, a human rights referee at the Commission on Human Rights and Opportunities. Thank you for the opportunity, on behalf of myself and fellow referees Attorneys Thomas C. Austin, Jr., J. Allen Kerr and Jon P. FitzGerald, to submit testimony on Raised Bill No. 1192: An Act Concerning the Processing of Complaints Filed with the Commission on Human Rights and Opportunities.

One of the stated purposes of the bill is to "Expedite the processing of complaints filed with the Commission on Human Rights and Opportunities". Effective July 1, 2011, the number of human rights referees will be statutorily reduced from five to three. We believe that the complaints of your constituents will be better processed with four rather than three referees.

By way of background, in 1998, in response to the serious backlog of cases that had resulted from a system that had employed part-time per diem attorney hearing officers, the legislature passed P.A. 98-245, replacing the per diem, contractual hearing officers with seven full-time human rights referees. In 2009, the number of referees was reduced from seven to five effective October 1, 2009 and was further reduced from five to three effective July 1, 2011 (Public Act 09-7, September Special Session).

The human rights referees manage their own caseload from the time the case is assigned to us by the chief human rights referee. This involves conducting scheduling conferences, settlement conferences, status conferences, a prehearing conference and the public hearing (trial). It also involves rulings on motions, including but not limited to, motions to strike, to dismiss and to compel the production of documents.

By way example, for the 2009-2010 fiscal year, the referees ruled on four hundred and sixty-seven (467) motions, and conducted two hundred and nine (209) conferences, four (4) default hearings, and seven (7) public hearings that totaled fifty-four (54) trial days. The total settlement figure for discrimination cases for that fiscal year was \$522,924. These settlement figures do not include the dollar amounts for settlements in confidential agreements nor does it include the dollar amounts in whistleblower agreements. The total amount awarded by the referees via discrimination cases was \$61,905. The total amount awarded in whistleblower cases was \$5,000. With respect to appeals of referee decisions, the superior court consistently upheld our decisions, dismissing ten (10) appeals of referee decisions.

The public is better served with four referees because further reducing the number of referees may cause justice to be delayed and in turn create a backlog of cases again. Although five referee positions are being funded, we are currently functioning with only four referees and it is those four who are seeking reappointment. We realize that these are difficult financial times and that compromise is necessary. As such, we suggest that we meet in the middle and reduce the number of referees by one, still a twenty percent (20%) reduction from current staffing. Four referees allows the office to expeditiously process certified complaints; to meet the program standards adopted by the legislature in its Result Based Accountability criteria; and to provide the high level of service that the CHRO, the bar and the public have come to expect.

Having less than four referees would create a void in adjudicating complaints because the chief referee has administrative duties along with adjudication, a second referee is needed to be the presiding referee to conduct the trial, a third referee is needed to be the settlement referee to conduct settlement discussions and it is extremely important to have a fourth referee available in the event of conflicts or absences. In addition, the EEOC filings have increased, as unemployment remains high so that our human rights docket is expected to expand. We anticipate an increase in our whistleblower retaliation docket due to a number of legislative initiatives. The CHRO also expects a large number of reasonable cause findings being made stemming from approximately five hundred cases backlogged in the regions.

Along with the ability to maintain current timeframes in the scheduling of public hearings and pre-hearing activities, four referees provide CHRO the possibility to utilize the referees and our skill sets to further assist the CHRO with vital assignments that due to budgetary cutbacks may go unattended.

A copy of our proposal is attached for your reference. Thank you for your consideration, and I would be happy to answer any questions you may have.

PROPOSAL

Subsection (a) of section 46a-57 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a)(1) The Governor shall appoint three human rights referees for terms commencing October 1, 1998, and four human rights referees for terms commencing January 1, 1999. The human rights referees so appointed shall serve for a term of one year.

(2) (A) On and after October 1, 1999, the Governor shall appoint seven human rights referees with the advice and consent of both houses of the General Assembly. The Governor shall appoint three human rights referees to serve for a term of two years commencing October 1, 1999. The Governor shall appoint four human rights referees to serve for a term of three years commencing January 1, 2000. Thereafter, human rights referees shall serve for a term of three years.

(B) On and after July 1, 2001, there shall be five human rights referees. Each of the human rights referees serving on July 1, 2001, shall complete the term to which such referee was appointed. Thereafter, human rights referees shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve for a term of three years.

(C) On and after July 1, 2004, there shall be seven human rights referees. Each of the human rights referees serving on July 1, 2004, shall complete the term to which such referee was appointed and shall serve until his successor is appointed and qualified. Thereafter, human rights referees shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve for a term of three years.

(D) On and after October 5, 2009, and until July 1, 2011, there shall be five human rights referees. Each of the human rights referees serving on October 5, 2009, shall serve until the term to which such referee was appointed is completed, or until July 1, 2011, whichever is earlier, and shall serve until a successor is appointed and qualified. In the case of a vacancy, a successor shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve until July 1, 2011.

[(E) On and after July 1, 2011, there shall be three human rights referees who shall (i) be appointed by the Governor with the advice and consent of both houses of the General Assembly, and (ii) serve for a term of three years.]

(E) On and after July 1, 2011, there shall be four human rights referees who shall (i) be appointed by the Governor with the advice and consent of both houses of the General Assembly, and (ii) serve for a term of three years.

(3) When the General Assembly is not in session, any vacancy shall be filled pursuant to the provisions of section 4-19. The Governor may remove any human rights referee for cause.