

## Senate Bill 1010

### An Act Concerning the Transfer of Functions from the Departments of Public Works, Information Technology, Public Safety and Education and the Judicial Selection Commission to the Department of Administrative Services and Department of Construction Services.

Joint Committee on Government Administration and Elections

March 7, 2011

Good morning Senator Slossberg, Representative Morin and distinguished members of the Government Administration & Elections Committee. For the record, my name is Sharon Gaddy, and I am a member of the Connecticut Association of Diversity and Equity Professionals ("CADEP").

The Connecticut Association of Diversity and Equity Professionals (CADEP) strenuously opposes Sections 20, 21, and 22 of SB1010. We oppose this legislation for the following reasons: the conflict of interest in the relocation of the affirmative action plan review to the Department of Administrative Services (DAS), limiting equal employment officers to the investigation of only internal complaints, and the repeal of the affirmative action regulations, as outlined in section (g) of 46a-68 of the General Statutes.

#### **Conflict of Interest with Moving the Affirmative Action Plan Review from CHRO to DAS (Sec. 20)**

- Removing an impartial reviewer of affirmative action plans eliminates the checks and balances established for the state's equal employment programs.
- An affirmative action plan is an audit of personnel activities ensuring minorities, women and other protected groups are not adversely impacted by state and agency processes. DAS is the agency in charge of state human resources. This bill allows DAS to approve agency personnel decisions, then audit itself through its affirmative action plan, and then review and approve its own plan.
- The DAS Smart Unit currently writes plans for 23 small agencies. DAS would now submit its own plans to itself for approval.
- Each agency is required to examine the pass/fail results of DAS employment examinations to ensure that no minority group is unduly harmed. Under Bill 1010, this independent evaluation of the state's employment examinations for discrimination is eliminated.

#### *Recommendations*

- Leave the review of affirmative action plans at the Commission on Human Rights and Opportunities, the enforcement agency for Connecticut civil rights.
- If the move is necessary per the proposed budget, the unit should be moved to an independent and impartial entity.

#### **Limiting Equal Employment Officers to the Investigation of Only Internal Complaints (Sec. 20)**

- The addition of the word **internal** eliminates the investigation for all allegations of discrimination brought by clients, members of the public, and job applicants. The statute currently holds that ALL allegations of discrimination against an agency be investigated by the independent affirmative action/equal opportunity officer.
- The majority of complaints are resolved at the agency level by the equal employment officer without going to the CHRO or EEOC and without settlement costs to the state. Currently, numerous complaints filed with CHRO are dismissed or withdrawn after the conclusion of the equal employment officer's findings. Removal of this function for these complaints will only result in increased costly employment litigation and/or labor intensive fact-findings involving CHRO, the AG's office, agency legal representatives and witnesses.
- This bill eliminates the statutory time frame for investigations completed by equal employment officers. Per current statute, such investigations must be investigated and resolved within 90 days. The same case, if held over for investigation by CHRO, takes a minimum of one year to resolve.

- DAS has no experience with equal employment in large agencies, with multiple complex programs and issues, numerous complaints and 24/7 employees. The average Smart agency has less than 100 people. The entire office handles less than 10 complaints a year, as compared to large agencies that have 100 complaints or more - and from employees, patients, clients and the community.
- DAS has no experience investigating complaints concerning the equity and service delivery rights of clients, patients, and students – such as DMHAS, DDS, DSS, DCF, DPH, SDE and DOC.

#### *Recommendations*

- Remove the word internal from the proposed legislation.

#### **Repeal of the Affirmative Action Regulations, as Outlined in Section (g) of 46a-68 of the General Statutes (Sec. 20)**

- Eliminates all hiring, promotional, and programmatic goals for minorities, women, and other protected classes.
- SB1010 removes the legal obligation to monitor, implement and report equal opportunity practices within each agency; gutting the state's affirmative action program.
- Eliminates a comprehensive plan to ensure diversity and equity, and replaces it with little more than a listing of employees by race, sex and age.

#### *Recommendations*

- Approved agencies with 25 or more employees will file a plan, in accordance with current regulations, biennially, with the establishment of short and long term numerical goals.
- Instruct the CHRO, not later than three months after the effective date of this section, to update the current regulations to reflect current state employment laws, statutes and regulations.

#### **In conclusion**

Although much progress has been made since the passage of the Civil Rights Act in 1964, inequities based on race, sex, orientation, religion and physical ability still remain. The unemployment rate for African-Americans and Latinos is twice that of Caucasians, Connecticut's education achievement gap is the highest in the nation, and the recession and housing slump over the last two years has disproportionately affected these populations. And disproportionately, these protected populations are the ones most in need of state services. Recognizing these concerns and others, President Obama, on the federal level, has made equal opportunity a priority under his administration by expanding the EEOC's enforcement powers, signing the Lilly Ledbetter Act and broadening the Americans with Disabilities Act. This last year the EEOC saw the largest number of discrimination complaints since its inception, and predicts that this trend will only continue. Now is not the time to diminish these protections in our state.

We fear that without effective monitoring, state employment, intentionally or not, will once again be awarded on the basis of political affiliation, friendship, commonality of sex, race, heritage, religion or any number of other factors. We believe these sections have been submitted without a true understanding of how equal employment and non-discrimination programs work under state and federal regulations and without a true understanding of the consequences of its passage. The state's equal employment laws and regulations have long stood the test of time with not a single successful legal challenge since their inception. In contrast, we have seen states nationwide lose lawsuits filed against their programs resulting in significant monetary settlements. Under SB 1010, the state's laws and regulations would be repealed and replaced with nonbinding guidelines. We urge you to take the time to consider the long-term consequences of a short-term savings.

Thank you for the opportunity to provide testimony on this bill. CADEP would be more than willing to meet with the Committee at any time to provide additional information and support for the issues presented above.