

FEBRUARY 22, 2013

I am Harvey M. Feinberg. I have just retired as the Chairman of the Commission on Equal Opportunities in the City of New Haven.

I am testifying about two proposed bills: S.B. No. 206 and S.B. No. 284.

I am here to promote jobs for Connecticut citizens and specifically jobs for urban residents. I am particularly concerned with equal employment opportunities and affirmative action goals. After I have spent close to three years trying to get the Executive branch to do the right thing, I am convinced that the Legislature must insist on contract compliance and improve the State's ability to enforce EEO hiring practices on state construction projects or nothing will happen. Specifically, I am urging you, as members of the legislature, to pass legislation which mandates that State authorities enforce laws requiring construction contractors and sub-contractors to employ minorities, women and Connecticut residents. State authorities must mandate a duty to employ in their contracts. Finally, I am asking the Legislature to require the Department of Construction Services to cooperate with local equal employment opportunities commissions, such as the commission we have in New Haven, in order to achieve equal employment opportunities goals.

Affirmative Action hiring goals in Connecticut are based on data provided by the Connecticut Department of Labor, under the heading of Primary Metropolitan Statistical Areas and Metropolitan Statistical Areas. These data, to my knowledge, have not been changed as a result of the 2010 census (they were still in effect in June, 2011) and are based on census information from 2002. Please see:

<http://www.ct.gov/chro/lib/chro/pdf/aapformat0904.pdf>

(pages 21 and 22).

The data, organized according to regions in the state, show significant variations for minority male hiring goals, while those for female hiring are totally inadequate, averaging

about 3 percent, far below the federal standard of 6.9 percent. A mandate to re-evaluate the data every two or three years is sensible and not difficult because the Census Bureau now collects data more often for the American Community Survey. In addition, it would be more appropriate if the State Department of Labor adopted the 6.9 percent goal for female workers in all the Metropolitan Statistical areas.

Connecticut General Statutes Sec. 46a-68d requires every contractor on a public works project to have an affirmative action plan approved by the Commission on Human Rights and Opportunities. However, CHRO and the Department of Construction Services are NOT holding contractors accountable to achieve affirmative action goals. Monitoring compliance with regular on-site inspections is the best method to achieve accountability, but this is not happening. To my knowledge, certified payrolls, the best source, are not being reviewed on a regular basis on site or at the appropriate state offices. Also, only with on-site inspections can workers be interviewed, if necessary. Consequently, the inspection staff of the Contract Compliance Unit of the Commission on Human Rights and Opportunities needs to be adequately funded. In addition, cooperation between state agencies and local equal opportunities commissions can assist in the compliance efforts, an approach which I hope this committee will write into a new law relating to equal employment opportunities and affirmative action goals.

Connecticut General Statutes Sec. 31-52 states that a "preference" be given to Connecticut citizens in the employment of mechanics, laborers and workmen for the construction of any public building by the state. However, there does not seem to be a specific goal for Connecticut residents. Connecticut needs a clearer guideline for out-of-state contractors instead of relying on "good faith" efforts.

My message to you is that there is no or very little enforcement of the relatively low State equal employment opportunities goals. I can offer you strong evidence where no action

was taken against sub-contractors on a \$150-\$200 million state construction project who failed to meet the legal requirements. My second message is that serious penalties need to be legislated because, to be fair to certain state agencies, current law does not mandate penalties strong enough to encourage construction contractors to follow the law. The current penalty, two percent of the value of the contract per month, is too low.

I have been working on these issues for about three years. You are my last hope to achieve fairer employment opportunities for all of Connecticut's residents on state funded construction projects.

APPENDIX 1

CONNECTICUT OCCUPATIONAL STATISTICS PRIMARY METROPOLITAN STATISTICAL AREAS AND METROPOLITAN STATISTICAL AREAS

Construction & Extraction

Bridgeport PMSA

Minority Male 22.7 percent

Female 1.4 percent

Danbury PMSA

Minority Male 18.1

Female 20.6

New Haven/Meriden PMSA

Minority Male 17.9
Female 3.1

New London/Norwich CT-RI MSA
Minority Male 7.4
Female 3.1

Hartford MSA
Minority Male 13.7
Female 2.1

Waterbury PMSA
Minority Male 12.4
Female 1.6

Stamford/Norwalk PMSA
Minority Male 33.2
Female 2.1

APPENDIX 2:

RECOMMENDATIONS for improving the enforcement of State of Connecticut Equal Employment Opportunity goals on State funded construction projects:

Commitment to enforce goals:

A commitment to enforce the Equal Employment Opportunity goals concerning minorities and women on all State funded construction projects is vital.

It is necessary for the appropriate department heads to confirm to construction managers and subcontractors that the goals are mandated by law and that they will be enforced. The requirement to meet EEO goals should be written into every construction contract.

State agencies should hold the general contractor responsible for compliance by their subcontractors. This requirement should also be written into contracts.

Cooperation and Incentives:

The departments might develop incentives for contractors to do the right thing. Work with unions and employers to provide the necessary training and entry into apprenticeships in the trades. Support pre-apprenticeship training programs, like the Construction Workforce Initiative in New Haven and programs sponsored by Funnel Agencies in other cities.

Improve the Equal Employment Opportunity goals:

I recommend improving Equal Employment Opportunity goals, especially the goal for women, which averages about 3 percent (far below the 6.9 percent Federal Government goal).

Employment of local residents:

I believe that the State should require contractors and subcontractors to employ construction workers (as a specific proportion of their employees) who are residents of the cities where the construction project is located.

Enforcement office:

It may be necessary to create an enforcement/compliance office to assure adherence to the law. This will allow for the regular evaluation of certified payrolls, the best source of employment information.

Cooperation with local agencies:

I recommend that State departments overseeing construction projects cooperate with city agencies (such as a Commission on Equal Opportunities) to enforce Connecticut Equal Employment Opportunity goals.

Penalties:

If cooperative efforts and incentives do not work, then penalties should be considered: I recommend an increase in the monetary penalty from 2 percent per month to 5 percent per month. If contractors do not meet the goals consistently, the State should bar those contractors from bidding on contracts for a significant period of time, at least one year, perhaps two. "Good faith" efforts should not be an acceptable defense.

