DEPARTMENT OF ADMINISTRATIVE SERVICES

STATE OF CONNECTICUT

165 Capitol Avenue
Hartford, CT 06106-1658

SB 401

An Act Concerning Workforce Diversity Standards of Contractors Performing Work at Southern Connecticut State University

Higher Education & Employment Advancement Committee

March 11, 2014

As the agency responsible for administering construction contracts for the Board of Regents including Southern Connecticut State University (SCSU), the Department of Administrative Services (DAS) offers the following testimony regarding Senate Bill 401.

SB 401 would require every contractor awarded a SCSU construction contract, as a part of their Affirmative Action Plan requirements, to comply with specific workforce diversity standards established in the bill. Specifically, for each classification of work on the project, the contractors would be subject to the following hiring/employment requirements:

- not less than twenty-five percent in each class shall be from a minority group; and
- not less than six and nine-tenths percent in each class shall be female.

While DAS respects and appreciates the intent of this proposal, we are concerned that adding additional requirements on state contractors would decrease competition, add administrative burdens and increase costs on state projects. Currently, all state projects are required to comply with the state's set-aside laws; specifically, 25% of state agency spend going to small business enterprises (SBEs) and 25% of that (i.e. 6.25%) to minority-owned business enterprises (MBEs). Additionally, contractors with public works construction contracts over $50,000 and who have more than 50 employees must draft and submit Affirmative Action Plans to the Commission on Human Rights & Opportunities ("CHRO") to ensure that they are making good faith efforts to meet their SBE and MBE goals. However, there is currently no law that requires contractors to hire employees of a particular gender, race or ethnicity, as SB 401 would do. Such requirements add administrative burdens and costs to contractors, costs that are likely to be passed onto the state, and will also require increased enforcement resources for CHRO.

Further, while it is our contractors' responsibility to draft their Affirmative Action Plans and implement their Affirmative Action programs, and the CHRO's responsibility to monitor compliance with those plans and programs, DAS would like to share with the Committee that we have taken a number of administrative steps in the past year aimed at increasing the diversity of the state contractor workforces. Not only has DAS Construction Services increased the number of MBE set aside packages on Construction Manager at Risk ("CMR") projects, while keeping set aside goals for the other packages, we are adding language to our CMR contracts setting forth our expectation that the contractors will have a diverse workforce on the project, and that the CMR will monitor the contractors' efforts in this regard.

Additionally, as the Committee may be aware, the legislature has contracted for a Disparity Study, currently underway, to assess the constitutionality of and update the state's existing statutes and policies relating to set-aside and state contract work. DAS respectfully suggests that SB 401 raises constitutional questions similar to those currently being assessed in this Study, and that any policy changes in this area should await completion of this Disparity Study. This is especially wise given the costs and administrative burdens that changes such as those in SB 401 will add to construction contractors, CHRO, DAS and to the Board of Regents.

We thank the Committee for permitting DAS to comment on this bill. If there are any questions about this testimony, please feel free to contact Terrence Tulloch-Reid (Terrence.Reid@ct.gov) or Andrea Keilty (Andrea.Keilty@ct.gov).