

Testimony of Eric W. Gjede  
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Before the Judiciary Committee  
Hartford, CT  
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**Testifying in support (with modifications) to SB 385: AAC Revisions To Statutes Concerning Human Rights and Opportunities**

Good afternoon Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas and members of the Labor and Public Employees Committee. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA) which represents more than 10,000 large and small companies throughout the state of Connecticut.

CBIA supports CHRO's effort to update their statutes, but requests that the committee modify the bill to reflect the following concerns of the business community:

1. Lines 675-679 and 694-697 add the standard list of protected classes to what had originally been Connecticut's hate crimes law (see the reference to "noose" in subpart (d)). We fear that this amendment will introduce to the standard discrimination litigation landscape, especially the regular employment discrimination issues contemplated by 46a-60, a set of remedies (because of the list of damages available through Sec. 46a-86(c) of the existing law) that were designed to remedy hate crimes. CHRO is not in the business of enforcing "other laws of this state or of the United States" (lines 674-675). The actions or remedies available for "other laws of this state or of the United States" should be enforced or pursued in their proper forum.
2. Line 1825 replaces the archaic term "such endeavors" with the commission's "processing of a complaint" for purposes of nondisclosure. While this is one interpretation of what "such endeavors" has historically meant, others have interpreted it to apply to conciliation efforts as well. The business community supports CHRO's suggestion to ensure the investigator of the complaint and the mediator two separate people (line 1683). However, we think additional language is necessary to clarify that that the non-disclosure provision in line 1825 also extends to conciliation efforts. It could help to require, in statute, mediation confidentiality agreements. This will ensure conciliation discussions are not shared between the investigator of the complaint and the mediator.
3. Lines 1836-1840 allow, for the first time, the complainant and respondent to conduct written discovery. The business community is unaware that the current investigation process is not securing the information necessary for CHRO to reach a reasoned conclusion. Through existing

processes and practices, the Commission already has many tools at its disposal to get information from the parties. This additional language creates a number of problems:

- a. Extending the power to propound request for information creates a more formalized, court-like process that invites discovery fishing expeditions by both parties.
  - b. There are no procedural safeguards to regulate or rein in the discovery process, as one would see in a court-regulated discovery as set forth in the Connecticut Practice Book or Federal Rules of Civil Procedure.
  - c. Parties represented by counsel would be required to expend thousands of dollars to manage and respond to such discovery requests.
  - d. Conducting written discovery will impede the commission's goals of providing timely and cost effect resolutions of complaints.
4. Finally, we suggest adding language to section 46a-60 that would limit claims for age discrimination in the employment context to individuals that have attained the age of 40, as in federal law. The business community believes this was the intent of the law, and would like to have that clarified. Currently, only two types of individuals can be barred from bringing a claim for age discrimination under this section – the unborn and the deceased. We ask that you modify this section accordingly.

For those reason, CBIA supports (with modifications) SB 385.