



General Assembly

Amendment

February Session, 2014

LCO No. 5490

SB0015105490SD0

Offered by:
SEN. COLEMAN, 2nd Dist.

To: Senate Bill No. 151

File No. 606

Cal. No. 398

"AN ACT CONCERNING CONTRACT COMPLIANCE REQUIREMENTS FOR THE METROPOLITAN DISTRICT OF HARTFORD."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 46a-68 of the 2014 supplement to
4 the general statutes is repealed and the following is substituted in lieu
5 thereof (*Effective July 1, 2014*):

6 (a) Each state agency, department, board and commission with
7 twenty-five, or more, full-time employees shall develop and
8 implement, in cooperation with the Commission on Human Rights
9 and Opportunities, an affirmative action plan that commits the agency,
10 department, board or commission to a program of affirmative action in
11 all aspects of personnel and administration. Such plan shall be
12 developed pursuant to regulations adopted by the Commission on
13 Human Rights and Opportunities in accordance with chapter 54 to
14 ensure that affirmative action is undertaken as required by state and

15 federal law to provide equal employment opportunities and to comply
16 with all responsibilities under the provisions of sections 4-61u to 4-
17 61w, inclusive, sections 46a-54 to 46a-64, inclusive, section 46a-64c and
18 sections 46a-70 to 46a-78, inclusive. The executive head of each such
19 agency, department, board or commission shall be directly responsible
20 for the development, filing and implementation of such affirmative
21 action plan. [The Metropolitan District of Hartford County shall be
22 deemed to be a state agency for purposes of this section and sections
23 4a-60, 4a-60a and 4a-60g.]

24 Sec. 502. Subsection (a) of section 46a-82 of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective July*
26 *1, 2014*):

27 (a) Any person claiming to be aggrieved by an alleged
28 discriminatory practice, except for an alleged violation of section 4a-
29 60g or 46a-68 or the provisions of sections 46a-68c to 46a-68f, inclusive,
30 may, by himself or herself or by such person's attorney, make, sign and
31 file with the commission a complaint in writing under oath, [which]
32 except that a complaint that alleges a violation of section 46a-64c need
33 not be notarized. The complaint shall state the name and address of the
34 person alleged to have committed the discriminatory practice, [and
35 which shall set forth the particulars thereof] any act alleged to be a
36 discriminatory practice and [contain] such other information as may be
37 required by the commission. After the filing of a complaint, [pursuant
38 to this subsection,] the commission shall [serve upon the person
39 claiming to be aggrieved] provide the complainant with a notice that:
40 (1) Acknowledges receipt of the complaint; and (2) advises of the time
41 frames and choice of forums available under this chapter.

42 Sec. 503. Section 46a-83 of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective July 1, 2014*):

44 (a) [Within twenty] Not later than fifteen days after the filing of any
45 discriminatory practice complaint pursuant to subsection (a) or (b) of
46 section 46a-82, as amended by this act, or an amendment to such

47 complaint adding an additional respondent, the commission shall
48 [provide] serve the respondent by first class mail, facsimile machine,
49 electronic mail or a file transfer protocol site with the complaint and a
50 notice advising of the procedural rights and obligations of a
51 respondent under this chapter. Except for complaints alleging a
52 violation of section 46a-64c, as amended by this act, the respondent
53 shall either (1) file a written answer to the complaint as provided in
54 subsection (b) of this section, or (2) not later than ten days after the
55 date of receipt of the complaint, provide written notification to the
56 complainant and the commission that the respondent has elected to
57 participate in no-fault conciliation. Unless the date of receipt of a
58 complaint by the respondent is otherwise proven, a complaint sent by
59 first class mail shall be considered to be received not later than two
60 days after the date of mailing. A complaint sent by facsimile machine,
61 electronic mail or file transfer protocol site shall be considered to be
62 received on the date on which it was sent. The commission shall
63 conduct a no-fault conciliation conference not later than thirty days
64 after the date of receiving the respondent's request for no fault
65 conciliation.

66 (b) The respondent shall file a written answer to the complaint
67 under oath with the commission within thirty days of receipt of the
68 complaint or within thirty days of the date the commission determines
69 that the no-fault conciliation conference was unsuccessful, provided a
70 respondent may request, and the commission may grant [, for good
71 cause shown,] one extension of time of fifteen days within which to file
72 an answer. [to a complaint.] The answer to any complaint alleging a
73 violation of section 46a-64c, as amended by this act, [or 46a-81e] shall
74 be filed within ten days of receipt. Answers to any amendment to a
75 complaint shall be subject to the time frames prescribed in this
76 subsection.

77 [(b)] (c) Within [ninety] sixty days of the filing of the respondent's
78 answer to the complaint, the executive director or the executive
79 director's designee shall conduct a [merit] case assessment review to

80 determine whether the complaint should be retained for further
81 processing or dismissed because it fails to state a claim for relief or is
82 frivolous on its face, because the respondent is exempt from the
83 provisions of this chapter or because there is no reasonable possibility
84 that investigating the complaint will result in a finding of reasonable
85 cause. The [merit] case assessment review shall include the complaint,
86 the respondent's answer and the responses to the commission's
87 requests for information, if any, and the complainant's comments, if
88 any, to the respondent's answer and information responses. [If the
89 executive director or the executive director's designee determines that
90 the complaint fails to state a claim for relief or is frivolous on its face,
91 that the respondent is exempt from the provisions of this chapter or
92 that there is no reasonable possibility that investigating the complaint
93 will result in a finding of reasonable cause, the executive director or
94 the executive director's designee shall dismiss the complaint and send
95 notice of dismissal pursuant to section 46a-86a. Within fifteen days of
96 the sending of the notice of dismissal, the complainant may request a
97 release of jurisdiction allowing the complainant to bring a civil action
98 under section 46a-100. If the complainant does not request a release of
99 jurisdiction, commission legal counsel shall conduct a legal review of
100 any complaint dismissed pursuant to this subsection and shall
101 reinstate or deny reinstatement of the complaint within sixty days of
102 the sending of the notice of dismissal. The executive director or the
103 executive director's designee shall send notice of any action taken
104 pursuant to the merit assessment review and the legal review
105 conducted pursuant to this subsection in accordance with section 46a-
106 86a.] No complaint may be dismissed unless a commission legal
107 counsel approves the dismissal. The executive director or the executive
108 director's designee shall issue a release of jurisdiction allowing the
109 complainant to bring a civil action under section 46a-100 for
110 complaints dismissed pursuant to this subsection. This subsection and
111 subsections (d) and (e) of this section shall not apply to any complaint
112 alleging a violation of section 46a-64c, as amended by this act. [or 46a-
113 81e.] The executive director shall report the results of the [merit] case

114 assessment reviews made pursuant to this subsection to the
115 commission quarterly during each year.

116 [(c) (1) If a complaint is not dismissed after the merit assessment
117 review pursuant to subsection (b) of this section or if a complaint is
118 reinstated after legal review pursuant to said subsection (b), the]

119 (d) The executive director or the executive director's designee shall
120 assign an investigator or commission legal counsel to hold a
121 mandatory mediation conference within sixty days of [sending notice
122 of action taken pursuant to the merit assessment review or legal
123 review] servicing notice that a complaint has been retained pursuant to
124 the case assessment review. A mediation conference may, but need not
125 be held, if the commission has held a no-fault conciliation conference.
126 The investigator or commission legal counsel assigned to conduct the
127 mediation shall not be assigned to investigate the complaint. The
128 mandatory mediation conference may not be scheduled for the same
129 [time] day as a fact-finding conference held pursuant to subsection
130 [(d)] (f) of this section. The mediator may hold additional mediation
131 conferences to accommodate settlement discussions.

132 [(2) If] (e) (1) For complaints filed on or before December 31, 2014, if
133 the complaint is not resolved after the mandatory mediation
134 conference, the complainant, the respondent or the commission may at
135 any time after such conference request early legal intervention. If a
136 request for early legal intervention is made, the executive director or
137 the executive director's designee shall determine within ninety days of
138 the request whether [(A) the complaint should be heard pursuant to
139 section 46a-84, (B) the complaint should be processed pursuant to
140 subsection (d) of this section, or (C) the complainant should be
141 released] the complaint should be (A) heard pursuant to section 46a-
142 84, as amended by this act, (B) investigated pursuant to subsection (f)
143 of this section by an investigator working under a regional manager or
144 commission legal counsel, or (C) released from the jurisdiction of the
145 commission. In making such determination, the executive director or

146 the executive director's designee may hold additional proceedings and
147 may utilize and direct commission staff. If the executive director or the
148 executive director's designee determines that the complaint should be
149 processed pursuant to subsection [(d)] (f) of this section, the executive
150 director or the executive director's designee may recommend that the
151 investigator make a finding of no reasonable cause. [If the executive
152 director or the executive director's designee recommends that the
153 investigator make a finding of no reasonable cause, the] The
154 investigator shall make such a finding unless the investigator believes
155 the executive director or the executive director's designee made a
156 mistake of fact. If the investigator intends to make a finding of
157 reasonable cause after the executive director or the executive director's
158 designee recommends otherwise, the investigator shall consult with
159 the executive director or the executive director's designee.

160 [(3) If the complaint is not resolved after the mandatory mediation
161 conference, the complainant or the respondent may request the
162 commission to hold additional mediation conferences.

163 (4) The commission may dismiss the complaint if (A) a complainant,
164 after notice and without good cause, fails to attend a mandatory
165 mediation conference; or (B) the respondent has eliminated the
166 discriminatory practice complained of, taken steps to prevent a like
167 occurrence in the future and offered full relief to the complainant, even
168 though the complainant has refused such relief.]

169 (2) For complaints filed after December 31, 2014, if the complaint is
170 not resolved after the mandatory mediation conference, commission
171 legal counsel shall conduct an early legal intervention not later than
172 ninety days after the date of the mandatory mediation conference to
173 determine whether the complaint should be (A) heard pursuant to
174 section 46a-84, as amended by this act, (B) investigated pursuant to
175 subsection (f) of this section by an investigator working under a
176 regional manager or commission legal counsel, or (C) released from
177 the jurisdiction of the commission. In making such determination,

178 commission legal counsel may hold additional proceedings and may
179 utilize and direct commission staff. No finding of reasonable cause or
180 no reasonable cause or other dismissal may be made unless a
181 commission legal counsel approves the decision. In reviewing such
182 decision, commission legal counsel may order additional proceedings
183 and may utilize and direct commission staff.

184 [(d)] (f) If the complaint is not resolved after the mandatory
185 mediation conference held pursuant to subsection [(c)] (d) of this
186 section or if the executive director, the executive director's designee or
187 commission legal counsel determines that the complaint should be
188 processed pursuant to this subsection in accordance with [subdivision
189 (2) of subsection (c)] subsection (e) of this section, the executive
190 director or the executive director's designee shall assign an investigator
191 to process the complaint within fifteen days after the [mandatory
192 mediation conference] date on which mediation failed or the decision
193 to conduct an investigation was made, as applicable. The investigator
194 may conduct a fact-finding conference, a complete investigation,
195 including, but not limited to, individual witness interviews, requests
196 for voluntary disclosure of information, subpoenas of witnesses or
197 documents, requests for admission of facts, interrogatories, site visits
198 or any other lawful means of finding facts, or any combination thereof
199 for the purpose of determining if there is reasonable cause for
200 believing that a discriminatory practice has been or is being committed
201 as alleged in the complaint. As used in this section and section 46a-84,
202 as amended by this act, "reasonable cause" means a bona fide belief
203 that the material issues of fact are such that a person of ordinary
204 caution, prudence and judgment could believe the facts alleged in the
205 complaint. The executive director or the executive director's designee
206 may dismiss the complaint if the complainant, after notice, and
207 without good cause, fails to attend a fact-finding conference.

208 [(e)] (g) (1) Before issuing a finding of reasonable cause or no
209 reasonable cause, the investigator shall afford each party and each
210 party's representative an opportunity to provide written or oral

211 comments on all evidence in the commission's file, except as otherwise
212 provided by federal law or the general statutes. The investigator shall
213 consider such comments before making a finding. The investigator
214 shall make a finding of reasonable cause or no reasonable cause in
215 writing and shall list the factual findings on which it is based not later
216 than one hundred ninety days from the date of the [merit] case
217 assessment review, except that for good cause shown, the executive
218 director or the executive director's designee may grant no more than
219 two extensions of the investigation of three months each.

220 (2) If the investigator makes a finding that there is reasonable cause
221 to believe that a violation of section 46a-64c has occurred, the
222 complainant and the respondent shall have twenty days from sending
223 of the reasonable cause finding to elect a civil action in lieu of an
224 administrative hearing pursuant to section 46a-84, as amended by this
225 act. If either the complainant or the respondent requests a civil action,
226 the commission, through the Attorney General or a commission legal
227 counsel, shall commence an action pursuant to subsection (b) of section
228 46a-89 within ninety days of receipt of the notice of election. If the
229 Attorney General or a commission legal counsel believes that
230 injunctive relief, punitive damages or a civil penalty would be
231 appropriate, such relief, damages or penalty may also be sought. The
232 jurisdiction of the Superior Court in an action brought under this
233 subdivision shall be limited to such claims, counterclaims, defenses or
234 the like that could be presented at an administrative hearing before the
235 commission, had the complaint remained with the commission for
236 disposition. A complainant may intervene as a matter of right in a civil
237 action without permission of the court or the parties. If the Attorney
238 General or commission legal counsel, as the case may be, determines
239 that the interests of the state will not be adversely affected, the
240 complainant or attorney for the complainant shall present all or part of
241 the case in support of the complaint. If the Attorney General or a
242 commission legal counsel determines that a material mistake of law or
243 fact has been made in the finding of reasonable cause, the Attorney
244 General or a commission legal counsel may decline to bring a civil

245 action and shall remand the file to the investigator for further action.
246 The investigator shall complete any such action not later than ninety
247 days after receipt of such file.

248 ~~[(f)]~~ (h) If the investigator issues a finding of no reasonable cause or
249 if the complaint is dismissed pursuant to subsection ~~[(d)]~~ (m) of this
250 section, the complainant may file a written request for reconsideration
251 with the executive director or the executive director's designee, not
252 later than fifteen days from the sending of such finding or dismissal. A
253 request for reconsideration shall state specifically the reasons why
254 reconsideration should be granted. ~~[The executive director or the~~
255 ~~executive director's designee]~~ Commission legal counsel shall grant or
256 reject reconsideration within ninety days of the sending of such
257 finding or dismissal. ~~[The executive director or the executive director's~~
258 ~~designee]~~ Commission legal counsel shall conduct such additional
259 proceedings as may be necessary to render a decision on the request.

260 ~~[(g)]~~ (i) After finding that there is reasonable cause to believe that a
261 discriminatory practice has been or is being committed as alleged in
262 the complaint, an investigator shall attempt to eliminate the practice
263 complained of by conference, conciliation and persuasion within ~~[fifty]~~
264 thirty days of the finding. The refusal to accept a settlement shall not
265 be grounds for dismissal of any complaint.

266 ~~[(h)]~~ (j) No commissioner or employee of the commission may
267 disclose, except to the parties or their representatives, what has
268 occurred in the course of ~~[such endeavors]~~ the commission's
269 processing of a complaint, provided the commission may publish the
270 facts in the case and any complaint which has been dismissed and the
271 terms of conciliation when a complaint has been adjusted. Each party
272 and his or her representative shall have the right to inspect and copy
273 documents, statements of witnesses and other evidence pertaining to
274 the complaint, except as otherwise provided by federal law or the
275 general statutes.

276 ~~[(i)]~~ (k) In the investigation of any complaint filed pursuant to this

277 chapter, [the] commission legal counsel may issue subpoenas requiring
278 the production of records and other documents or compelling the
279 attendance of witnesses.

280 [(j)] (l) The executive director or the executive director's designee
281 may enter an order of default against a respondent who (1) after
282 notice, fails to answer a complaint in accordance with subsection (a) of
283 this section or within such extension of time as may have been granted;
284 (2) fails to answer interrogatories issued pursuant to subdivision (11)
285 of section 46a-54 or fails to respond to a subpoena issued pursuant to
286 subsection [(i)] (k) of this section or subdivision (9) of section 46a-54,
287 provided the executive director or the executive director's designee
288 shall consider any timely filed objection; (3) after notice and without
289 good cause, fails to attend a fact-finding conference; or (4) after notice
290 and without good cause, fails to attend a mandatory mediation
291 conference. Upon entry of an order of default, the [executive director
292 or the executive director's designee] Chief Human Rights Referee shall
293 appoint a presiding officer to enter, after notice and hearing, an order
294 eliminating the discriminatory practice complained of and making the
295 complainant whole. The respondent may make application to the
296 executive director or the executive director's designee to vacate the
297 default. The commission or the complainant may petition the Superior
298 Court for enforcement of any order for relief pursuant to section 46a-
299 95.

300 (m) The executive director or the executive director's designee may
301 enter an order of dismissal against a complainant who (1) after notice
302 and without good cause, fails to attend a fact-finding conference; (2)
303 after notice and without good cause, fails to attend a mandatory
304 mediation conference; or (3) refuses to accept an offer of settlement
305 where the respondent has eliminated the discriminatory practice
306 complained of, taken steps to prevent a like occurrence in the future
307 and offered full relief to the complainant.

308 Sec. 504. Subsection (d) of section 46a-84 of the general statutes is

309 repealed and the following is substituted in lieu thereof (*Effective July*
310 *1, 2014*):

311 (d) The case in support of the complaint shall be presented at the
312 hearing by the Attorney General, who shall be counsel for the
313 commission, or by a commission legal counsel as provided in section
314 46a-55. [, as the case may be.] If the Attorney General or the
315 commission legal counsel determines that a material mistake of law or
316 fact has been made in the finding of reasonable cause on a complaint
317 filed pursuant to subsection (a) or (b) of section 46a-82, as amended by
318 this act, or the commission legal counsel determines that a case sent to
319 public hearing pursuant to subsection (e) of section 46a-83, as
320 amended by this act, should be further investigated, the Attorney
321 General or the commission legal counsel may withdraw the
322 certification of the complaint or the decision to send the complaint to
323 public hearing and remand the file to the investigator for further
324 action. The investigator shall complete any required action not later
325 than ninety days after receipt of such file. The complainant may be
326 represented by an attorney of the complainant's own choice. If the
327 Attorney General or the commission legal counsel [, as the case may
328 be,] determines that the interests of the state will not be adversely
329 affected, the complainant or the attorney for the complainant shall
330 present all or part of the case in support of the complaint. No
331 commissioner may participate in the deliberations of the presiding
332 officer in the case.

333 Sec. 505. Subsection (b) of section 46a-86 of the general statutes is
334 repealed and the following is substituted in lieu thereof (*Effective July*
335 *1, 2014*):

336 (b) In addition to any other action taken under this section, upon a
337 finding of a discriminatory employment practice, the presiding officer
338 may order: (1) That the respondent pay to the complainant reasonable
339 attorney's fees, costs and any other damages caused by the
340 discriminatory employment practice, and (2) the hiring or

341 reinstatement of employees, with or without back pay, or restoration
342 to membership in any respondent labor organization, provided,
343 liability for back pay shall not accrue from a date more than two years
344 prior to the filing or issuance of the complaint and, provided further,
345 interim earnings, including unemployment compensation and welfare
346 assistance or amounts which could have been earned with reasonable
347 diligence on the part of the person to whom back pay is awarded shall
348 be deducted from the amount of back pay to which such person is
349 otherwise entitled. The amount of any such deduction for interim
350 unemployment compensation or welfare assistance shall be paid by
351 the respondent to the commission which shall transfer such amount to
352 the appropriate state or local agency.

353 Sec. 506. Subsection (b) of section 46a-82c of the general statutes is
354 repealed and the following is substituted in lieu thereof (*Effective July*
355 *1, 2014*):

356 (b) The time frame contained in subsection [(b)] (c) of section 46a-83,
357 as amended by this act, to conduct a [merit] case assessment review
358 shall be tolled if an answer is not timely received from the date the
359 respondent's answer is due pursuant to subsection (a) of section 46a-
360 83, as amended by this act, until the date the answer is actually
361 received by the commission.

362 Sec. 507. Subsection (b) of section 46a-82e of the general statutes is
363 repealed and the following is substituted in lieu thereof (*Effective July*
364 *1, 2014*):

365 (b) The commission shall report annually to the judiciary committee
366 of the General Assembly and the Governor: (1) The number of cases in
367 the previous fiscal year that exceeded the time frame, including
368 authorized extensions, set forth in subsection [(e)] (g) of section 46a-83,
369 as amended by this act; (2) the reasons for the failure to comply with
370 the time frame; (3) the number of actions brought pursuant to
371 subsection (d) of this section and the results thereof; and (4) the
372 commission's recommendations for legislative action, if any, necessary

373 for the commission to meet the statutory time frame.

374 Sec. 508. Section 46a-83a of the general statutes is repealed and the
375 following is substituted in lieu thereof (*Effective July 1, 2014*):

376 If (1) a complainant requests a release of jurisdiction pursuant to
377 subsection [(b)] (c) of section 46a-83, as amended by this act, [(2) a
378 commission legal counsel denies reinstatement of a complaint
379 pursuant to subsection (b) of said section, or (3)] or (2) a complaint is
380 dismissed for failure to accept full relief pursuant to subsection [(c)]
381 (m) of [said] section 46b-83, and the complainant does not request
382 reconsideration of such dismissal as provided in subsection [(f)] (h) of
383 [said] section 46b-83, the executive director shall issue a release and the
384 complainant may, within ninety days of receipt of the release from the
385 commission, bring an action in accordance with sections 46a-100 and
386 46a-102 to 46a-104, inclusive.

387 Sec. 509. Subsection (a) of section 46a-94a of the general statutes is
388 repealed and the following is substituted in lieu thereof (*Effective July*
389 *1, 2014*):

390 (a) The Commission on Human Rights and Opportunities, any
391 respondent or any complainant aggrieved by a final order of a
392 presiding officer or any complainant aggrieved by (1) the dismissal of
393 his complaint by the commission for failure to attend a mandatory
394 mediation session as provided in subsection [(c)] (m) of section 46a-83,
395 as amended by this act, (2) a finding of no reasonable cause as
396 provided in subsection [(e) of said] (g) of section 46a-83, as amended
397 by this act, or (3) a rejection of reconsideration of any dismissal as
398 provided in subsection [(f) of said] (h) of section 46a-83, as amended by
399 this act, may appeal therefrom in accordance with section 4-183. The
400 court on appeal shall also have jurisdiction to grant to the commission,
401 respondent or complainant such temporary relief or restraining order
402 as it deems just and suitable, and in like manner to make and enter a
403 decree enforcing or modifying and enforcing as so modified or setting
404 aside, in whole or in part, the order sought to be reviewed.

405 Sec. 510. Subsection (b) of section 46a-101 of the general statutes is
 406 repealed and the following is substituted in lieu thereof (*Effective July*
 407 *1, 2014*):

408 (b) The complainant and the respondent, by themselves or their
 409 attorneys, may jointly request that the complainant receive a release
 410 from the commission at any time from the date of filing the complaint.
 411 The complainant or the complainant's attorney may request a release
 412 from the commission if the complaint is still pending after the
 413 expiration of one hundred eighty days from the date of its filing or
 414 after a [merit] case assessment review in accordance with subsection
 415 [(b)] (c) of section 46a-83, as amended by this act, whichever is earlier.
 416 The executive director or the executive director's designee shall
 417 conduct an expedited [merit] case assessment review in accordance
 418 with subsection [(b)] (c) of section 46a-83, as amended by this act, if the
 419 commission receives a request for a release of jurisdiction from the
 420 complainant or the complainant's attorney prior to one hundred eighty
 421 days from the date a complaint is filed."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>July 1, 2014</i>	46a-68(a)
Sec. 502	<i>July 1, 2014</i>	46a-82(a)
Sec. 503	<i>July 1, 2014</i>	46a-83
Sec. 504	<i>July 1, 2014</i>	46a-84(d)
Sec. 505	<i>July 1, 2014</i>	46a-86(b)
Sec. 506	<i>July 1, 2014</i>	46a-82c(b)
Sec. 507	<i>July 1, 2014</i>	46a-82e(b)
Sec. 508	<i>July 1, 2014</i>	46a-83a
Sec. 509	<i>July 1, 2014</i>	46a-94a(a)
Sec. 510	<i>July 1, 2014</i>	46a-101(b)