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House Bill 5792, An Act Concerning the Set-Aside Program and the Percentage of Contracts Reserved for Minority Business Enterprises

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House Bill 6086, An Act Expanding the Set-Aside Program to Include Municipalities and State Grant Programs

House Bill 6638, An Act Concerning State-Wide Percentage Goals and Individual Participation Percentage Goals for the Award of State Procurement Contracts to Minority Business Enterprises

February 25, 2015

Public Hearing, Committee on Government Administration and Elections

Connecticut Construction Industries Association, Inc. (CCIA) represents the commercial construction industry in the state and seeks to advance and promote a better quality of life for all citizens in the state. Formed over 40 years ago, CCIA is an organization of associations, where all sectors of the commercial construction industry work together to advance and promote their shared interests. CCIA is comprised of more than 300 members, including contractors, subcontractors, suppliers and affiliated organizations representing many sectors of the construction industry.

AGC of Connecticut is the building division of CCIA, representing 150 commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the Connecticut construction industry. AGC of Connecticut is a chapter of AGC of America.

H.B. 5792, An Act Concerning the Set-Aside Program and the Percentage of Contracts Reserved for Minority Business Enterprises would require that half of the state contracts set aside for minority business enterprises be reserved for minority business enterprises that are owned by members of a minority.

H.B. 6086, An Act Expanding the Set-Aside Program to Include Municipalities and State Grant Programs would expand the MBE/SBE program to municipal construction projects and purchases and state-funded grant programs.

H.B. 6638, An Act Concerning State-Wide Percentage Goals and Individual Participation Percentage Goals for the Award of State Procurement Contracts to Minority Business Enterprises would require the state to establish biennially a state-wide goal for percent participation for minority business enterprises, including but not limited to 7 percent of the total value of the contracts, each, to African-American owned business enterprises, Hispanic-American-owned business enterprises, and women-owned business enterprises.

Currently, the state's minority business enterprise program is not designed as a narrowly-tailored program, and therefore does not meet the strict scrutiny standard for justifying a race-based program, as settled in the U.S. Supreme Court case *City of Richmond v. Croson*. The purpose of a minority business enterprise program should be to eliminate discrimination in state contracting. Although Connecticut's current program undoubtedly intends to achieve this objective, the state



must first show in a disparity study that discrimination exists in state contracting in the market area to justify the program.

CCIA and AGC appreciate the overall purpose of the bills to provide opportunities and ensure the appropriate minority and women participation in state contracts; however, the provisions in H.B. 6638, H.B. 6086, and H.B. 5792 propose changes to a program that has no legal foundation without a disparity study. Therefore, we urge the General Assembly to conduct such a study as soon as possible. Until that work is done, it is premature to adopt a law regarding any aspect of minority participation without statistical evidence that discrimination exists.

In conclusion, we encourage this committee and all parties to concentrate their efforts on the disparity study process so that someday Connecticut will have a strong and effective MWBE program with solid legal footing, one that will stand up to court challenge and will truly serve all the people of Connecticut. In the meantime, we ask this committee to take no action on H.B. 5792, H.B. 6086, H.B. 6638, or any similar bill until that study is completed.

Thank you for your consideration. If you have any questions, please contact Don Shubert or John Butts at 860-529-6855.