



General Assembly

Amendment

January Session, 2015

LCO No. 8660



Offered by:

REP. MORRIS, 140th Dist.
REP. SANTIAGO, 84th Dist.
SEN. COLEMAN, 2nd Dist.
REP. ADAMS, 146th Dist.
REP. BUTLER, 72nd Dist.
REP. CANDELARIA, 95th Dist.
REP. CUEVAS, 75th Dist.
REP. GONZALEZ, 3rd Dist.
REP. HEWETT, 39th Dist.
REP. LESSER, 100th Dist.
REP. MCCRORY, 7th Dist.
REP. MCGEE, 5th Dist.

REP. MILLER P., 145th Dist.
REP. PORTER, 94th Dist.
REP. ROJAS, 9th Dist.
REP. ROSARIO, 128th Dist.
REP. SANCHEZ, 25th Dist.
REP. SANTIAGO, 130th Dist.
REP. STALLWORTH, 126th Dist.
REP. VARGAS, 6th Dist.
SEN. GOMES, 23rd Dist.
SEN. MOORE, 22nd Dist.
SEN. WINFIELD, 10th Dist.

To: House Bill No. 6086

File No. 670

Cal. No. 432

"AN ACT EXPANDING THE SET-ASIDE PROGRAM TO INCLUDE MUNICIPALITIES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsections (a) to (d), inclusive, of section 4a-60g of the
4 general statutes are repealed and the following is substituted in lieu
5 thereof (*Effective October 1, 2015*):

6 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive,
7 the following terms have the following meanings:

8 (1) "Small contractor" means any contractor, subcontractor,
9 manufacturer, service company or nonprofit corporation (A) that
10 maintains its principal place of business in the state, (B) that had gross
11 revenues not exceeding fifteen million dollars in the most recently
12 completed fiscal year prior to such application, and (C) that is
13 independent. "Small contractor" does not include any person who is
14 affiliated with another person if both persons considered together have
15 a gross revenue exceeding fifteen million dollars.

16 (2) "Independent" means the viability of the enterprise of the small
17 contractor does not depend upon another person, as determined by an
18 analysis of the small contractor's relationship with any other person in
19 regards to the provision of personnel, facilities, equipment, other
20 resources and financial support, including bonding.

21 (3) "State agency" means each state board, commission, department,
22 office, institution, council or other agency with the power to contract
23 for goods or services itself or through its head.

24 (4) "Minority business enterprise" means any small contractor (A)
25 fifty-one per cent or more of the capital stock, if any, or assets of which
26 are owned by a person or persons who (i) exercise operational
27 authority over the daily affairs of the enterprise, (ii) have the power to
28 direct the management and policies and receive the beneficial interest
29 of the enterprise, (iii) possess managerial and technical competence
30 and experience directly related to the principal business activities of
31 the enterprise, and (iv) are members of a minority, as such term is
32 defined in subsection (a) of section 32-9n, or are individuals with a
33 disability, or (B) which is a nonprofit corporation in which fifty-one
34 per cent or more of the persons who (i) exercise operational authority
35 over the enterprise, (ii) possess managerial and technical competence
36 and experience directly related to the principal business activities of
37 the enterprise, (iii) have the power to direct the management and

38 policies of the enterprise, and (iv) are members of a minority, as
39 defined in this subsection, or are individuals with a disability.

40 (5) "Affiliated" means the relationship in which a person directly, or
41 indirectly through one or more intermediaries, controls, is controlled
42 by or is under common control with another person.

43 (6) "Control" means the power to direct or cause the direction of the
44 management and policies of any person, whether through the
45 ownership of voting securities, by contract or through any other direct
46 or indirect means. Control shall be presumed to exist if any person,
47 directly or indirectly, owns, controls, holds with the power to vote, or
48 holds proxies representing, twenty per cent or more of any voting
49 securities of another person.

50 (7) "Person" means any individual, corporation, limited liability
51 company, partnership, association, joint stock company, business trust,
52 unincorporated organization or other entity.

53 (8) "Individual with a disability" means an individual (A) having a
54 physical or mental impairment that substantially limits one or more of
55 the major life activities of the individual, which mental impairment
56 may include, but is not limited to, having one or more mental
57 disorders, as defined in the most recent edition of the American
58 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
59 Disorders", or (B) having a record of such an impairment.

60 (9) "Nonprofit corporation" means a nonprofit corporation
61 incorporated pursuant to chapter 602 or any predecessor statutes
62 thereto.

63 (10) "Municipality" means any town, city, borough, consolidated
64 town and city or consolidated town and borough.

65 (11) "Quasi-public agency" has the same meaning as provided in
66 section 1-120.

67 (12) "Awarding agency" means a state agency or political
68 subdivision of the state other than a municipality.

69 (13) "Public works contract" has the same meaning as provided in
70 section 46a-68b, as amended by this act.

71 (14) "Municipal public works contract" means that portion of an
72 agreement between any individual, firm or corporation and a
73 municipality for construction, rehabilitation, conversion, extension,
74 demolition or repair of a public building, highway or other changes or
75 improvements in real property, which is financed in whole or in part
76 by the state, including, but not limited to, matching expenditures,
77 grants, loans, insurance or guarantees but excluding any project of an
78 alliance district, as defined in section 10-262u, financed by state
79 funding of fifty thousand dollars or less.

80 (15) "Quasi-public agency project" means the construction,
81 rehabilitation, conversion, extension, demolition or repair of a building
82 or other changes or improvements in real property, which is financed
83 in whole or in part by a quasi-public agency, including, but not limited
84 to, matching expenditures, grants, loans, insurance or guarantees but
85 does not include any public works contract.

86 (b) (1) It is found and determined that there is a serious need to help
87 small contractors, minority business enterprises, nonprofit
88 organizations and individuals with disabilities to be considered for
89 and awarded state contracts for [the construction, reconstruction or
90 rehabilitation of public buildings, the construction and maintenance of
91 highways and] the purchase of goods and services, public works
92 contracts, municipal public works contracts and contracts for quasi-
93 public agency projects. Accordingly, the necessity [, in the public
94 interest and for the public benefit and good,] of awarding such
95 contracts in compliance with the provisions of this section, sections 4a-
96 60h to 4a-60j, inclusive, and sections 32-9i to 32-9p, inclusive, for
97 advancement of the public benefit and good, is declared as a matter of
98 legislative determination.

99 (2) Notwithstanding any provisions of the general statutes, [to the
100 contrary,] and except as set forth [herein] in this section, the head of
101 each [state] awarding agency [and each political subdivision of the
102 state other than a municipality] shall set aside in each fiscal year, for
103 award to small contractors, on the basis of competitive bidding
104 procedures, contracts or portions of contracts for the construction,
105 reconstruction or rehabilitation of public buildings, the construction
106 and maintenance of highways and the purchase of goods and services.
107 [Eligibility of nonprofit corporations under the provisions of this
108 section shall be limited to predevelopment contracts awarded by the
109 Commissioner of Housing for housing projects.] The total value of
110 such contracts or portions thereof to be set aside by each such agency
111 shall be at least twenty-five per cent of the total value of all contracts
112 let by the head of such agency in each fiscal year, provided [that
113 neither: (1) A contract that may not be set aside due to a conflict with a
114 federal law or regulation; or (2)] a contract for any goods or services
115 which have been determined by the Commissioner of Administrative
116 Services to be not customarily available from or supplied by small
117 contractors shall not be included. Contracts or portions thereof having
118 a value of not less than twenty-five per cent of the total value of all
119 contracts or portions thereof to be set aside shall be reserved for
120 awards to minority business enterprises.

121 (3) Notwithstanding any provision of the general statutes, and
122 except as provided in this section, on and after October 1, 2015, each
123 municipality when awarding a municipal public works contract shall
124 state in its notice of solicitation for competitive bids or request for
125 proposals for such contract that the general or trade contractor shall be
126 required to comply with the provisions of this section and the
127 requirements concerning nondiscrimination and affirmative action
128 under section 4a-60, as amended by this act. Any such contractor
129 awarded a municipal public works contract shall, on the basis of
130 competitive bidding procedures, (A) set aside at least twenty-five per
131 cent of the total value of the state's or quasi-public agency's financial
132 assistance for such contract for award to subcontractors who are small

133 contractors, and (B) of that portion to be set aside in accordance with
134 subparagraph (A) of this subdivision, reserve a portion equivalent to
135 twenty-five per cent of the total value of the contract or portion thereof
136 to be set aside for awards to subcontractors who are minority business
137 enterprises. The provisions of this section shall not apply to any
138 municipality that has established a set-aside program pursuant to
139 section 7-148u where the percentage of contracts set aside for minority
140 business enterprises is equivalent to or exceeds the percentage set forth
141 in this subsection.

142 (4) Notwithstanding any provision of the general statutes, and
143 except as provided in this section, on and after October 1, 2015, any
144 individual, firm or corporation that enters into a contract for a quasi-
145 public agency project shall notify the contractor awarded such project
146 of the requirements of this section and the requirements concerning
147 nondiscrimination and affirmative action under section 4a-60, as
148 amended by this act. Any such contractor awarded a contract for a
149 quasi-public agency project shall, on the basis of competitive bidding
150 procedures, (A) set aside at least twenty-five per cent of the total value
151 of the quasi-public agency's financial assistance for such contract for
152 award to subcontractors who are small contractors, and (B) of that
153 portion to be set aside, in accordance with subparagraph (A) of this
154 subdivision, reserve a portion equivalent to twenty-five per cent of the
155 total value of the contract or portions thereof to be set aside for awards
156 to subcontractors who are minority business enterprises.

157 (5) Eligibility of nonprofit corporations under the provisions of this
158 section shall be limited to predevelopment contracts awarded by the
159 Commissioner of Housing for housing projects.

160 (6) In calculating the percentage of contracts to be set aside under
161 subdivisions (2) to (4), inclusive, of this subsection, the awarding
162 agency or contractor shall exclude any contract that may not be set
163 aside due to a conflict with a federal law or regulation.

164 (c) The head of any [state] awarding agency [or political subdivision

165 of the state other than a municipality] may, in lieu of setting aside any
166 contract or portions thereof, require any general or trade contractor or
167 any other entity authorized by such agency to award contracts, to set
168 aside a portion of any contract for subcontractors who are eligible for
169 set-aside contracts under this section. Nothing in this subsection shall
170 be construed to diminish the total value of contracts which are
171 required to be set aside by any [state] awarding agency [or political
172 subdivision of the state other than a municipality] pursuant to this
173 section.

174 (d) The [heads of all state agencies and of each political subdivision
175 of the state other than a municipality] head of each awarding agency
176 shall notify the Commissioner of Administrative Services of all
177 contracts to be set aside pursuant to subdivision (2) of subsection (b) or
178 subsection (c) of this section at the time that bid documents for such
179 contracts are made available to potential contractors.

180 Sec. 2. Subsection (h) of section 4a-60g of the general statutes is
181 repealed and the following is substituted in lieu thereof (*Effective*
182 *October 1, 2015*):

183 (h) The provisions of this section shall not apply to (1) any [state]
184 awarding agency [or political subdivision of the state other than a
185 municipality] for which the total value of all contracts or portions of
186 contracts of the types enumerated in subdivision (2) of subsection (b)
187 of this section is anticipated to be equal to ten thousand dollars or less,
188 or (2) any municipal public works contract or contract for a quasi-
189 public agency project for which the total value of the contract is
190 anticipated to be equal to ten thousand dollars or less.

191 Sec. 3. Subsection (j) of section 4a-60g of the general statutes is
192 repealed and the following is substituted in lieu thereof (*Effective*
193 *October 1, 2015*):

194 (j) (1) Whenever the awarding [authority] agency has reason to
195 believe that any contractor or subcontractor awarded a set-aside

196 contract has wilfully violated any provision of this section, the
197 awarding [authority] agency shall send a notice to such contractor or
198 subcontractor by certified mail, return receipt requested. Such notice
199 shall include: (A) A reference to the provision alleged to be violated;
200 (B) a short and plain statement of the matter asserted; (C) the
201 maximum civil penalty that may be imposed for such violation; and
202 (D) the time and place for the hearing. Such hearing shall be fixed for a
203 date not earlier than fourteen days after the notice is mailed. The
204 awarding [authority] agency shall send a copy of such notice to the
205 Commission on Human Rights and Opportunities.

206 (2) The awarding [authority] agency shall hold a hearing on the
207 violation asserted unless such contractor or subcontractor fails to
208 appear. The hearing shall be held in accordance with the provisions of
209 chapter 54. If, after the hearing, the awarding [authority] agency finds
210 that the contractor or subcontractor has wilfully violated any provision
211 of this section, the awarding [authority] agency shall suspend all set-
212 aside contract payments to the contractor or subcontractor and may, in
213 its discretion, order that a civil penalty not exceeding ten thousand
214 dollars per violation be imposed on the contractor or subcontractor. If
215 such contractor or subcontractor fails to appear for the hearing, the
216 awarding [authority] agency may, as the facts require, order that a civil
217 penalty not exceeding ten thousand dollars per violation be imposed
218 on the contractor or subcontractor. The awarding [authority] agency
219 shall send a copy of any order issued pursuant to this subsection by
220 certified mail, return receipt requested, to the contractor or
221 subcontractor named in such order. The awarding [authority] agency
222 may cause proceedings to be instituted by the Attorney General for the
223 enforcement of any order imposing a civil penalty issued under this
224 subsection.

225 Sec. 4. Subsections (l) and (m) of section 4a-60g of the general
226 statutes are repealed and the following is substituted in lieu thereof
227 (*Effective October 1, 2015*):

228 (l) On or before August 30, 2007, and annually thereafter, each

229 [state] awarding agency [and each political subdivision of the state
230 other than a municipality] setting aside contracts or portions of
231 contracts under subdivision (2) of subsection (b) of this section shall
232 prepare a report establishing small and minority business set-aside
233 program goals for the twelve-month period beginning July first in the
234 same year. Each such report shall be submitted to the Commissioner of
235 Administrative Services, the Commission on Human Rights and
236 Opportunities and the cochairpersons and ranking members of the
237 joint standing committees of the General Assembly having cognizance
238 of matters relating to planning and development and government
239 administration, [and elections.]

240 (m) On or before November 1, 1995, and quarterly thereafter, each
241 [state] awarding agency [and each political subdivision of the state
242 other than a municipality] setting aside contracts or portions of
243 contracts under subdivision (2) of subsection (b) of this section shall
244 prepare a status report on the implementation and results of its small
245 business and minority business enterprise set-aside program goals
246 during the three-month period ending one month before the due date
247 for the report. Each report shall be submitted to the Commissioner of
248 Administrative Services and the Commission on Human Rights and
249 Opportunities. Any [state] awarding agency [or political subdivision of
250 the state, other than a municipality,] that achieves less than fifty per
251 cent of its small contractor and minority business enterprise set-aside
252 program goals by the end of the second reporting period in any
253 twelve-month period beginning on July first shall provide a written
254 explanation to the Commissioner of Administrative Services and the
255 Commission on Human Rights and Opportunities detailing how the
256 awarding agency [or political subdivision] will achieve its goals in the
257 final reporting period. The Commission on Human Rights and
258 Opportunities shall: (1) Monitor the achievement of the annual goals
259 established by each [state] awarding agency; [and political subdivision
260 of the state other than a municipality;] and (2) prepare a quarterly
261 report concerning such goal achievement. The report shall be
262 submitted to each [state] awarding agency that submitted a report, the

263 Commissioner of Economic and Community Development, the
264 Commissioner of Administrative Services and the cochairpersons and
265 ranking members of the joint standing committees of the General
266 Assembly having cognizance of matters relating to planning and
267 development and government administration, [and elections.] Failure
268 by any [state] awarding agency [or political subdivision of the state
269 other than a municipality] to submit any reports required by this
270 section shall be a violation of section 46a-77.

271 Sec. 5. Section 4a-60h of the general statutes is repealed and the
272 following is substituted in lieu thereof (*Effective October 1, 2015*):

273 (a) The Commissioner of Administrative Services shall be
274 responsible for the administration of the set-aside program for public
275 works contracts and state contracts for goods and services, as
276 described in subdivision (2) of subsection (b) of section 4a-60g, as
277 amended by this act. The commissioner shall conduct regular training
278 sessions, as often as the commissioner deems necessary, for state
279 agencies to explain the state set-aside program and to specify the
280 factors that must be addressed in calculating awarding agency goals
281 under the program. The commissioner shall conduct informational
282 workshops to inform businesses of state set-aside opportunities and
283 responsibilities.

284 (b) The Commission on Human Rights and Opportunities shall be
285 responsible for the administration of the set-aside program for
286 municipal public works contracts and contracts for quasi-public
287 agency projects, as described in subdivisions (3) and (4) of subsection
288 (b) of section 4a-60g, as amended by this act. The commission shall
289 conduct regular training sessions, as often as the commission deems
290 necessary, for municipalities, quasi-public agencies and contractors to
291 explain the municipal and quasi-public agency project set-aside
292 program. The commission may adopt regulations in accordance with
293 the provisions of chapter 54, to carry out the purposes of sections 4a-
294 60g to 4a-60j, inclusive, as amended by this act, in regards to the
295 municipal and quasi-public agency project set-aside program.

296 [(b)] (c) The [commissioner] Commissioner of Administrative
297 Services shall adopt regulations in accordance with the provisions of
298 chapter 54 to carry out the purposes of sections 4a-60g to 4a-60j,
299 inclusive, as amended by this act, in regards to the state set-aside
300 program. Such regulations shall include (1) provisions concerning the
301 application of the program to individuals with a disability; (2)
302 guidelines for a legally acceptable format for, and content of, letters of
303 credit authorized under subsection (j) of section 4a-60g, as amended by
304 this act; (3) procedures for random site visits to the place of business of
305 an applicant for certification at the time of application and at
306 subsequent times, as necessary, to ensure the integrity of the
307 application process; and (4) time limits for approval or disapproval of
308 applications.

309 [(c)] (d) On or before January 1, 1994, the Commissioner of
310 Administrative Services shall, by regulations adopted in accordance
311 with chapter 54, establish a process to ensure that small contractors,
312 small businesses and minority business enterprises have fair access to
313 all competitive state contracts outside of the state set-aside program.

314 Sec. 6. Section 4a-60 of the general statutes is repealed and the
315 following is substituted in lieu thereof (*Effective October 1, 2015*):

316 (a) Every contract to which [the state or any political subdivision of
317 the state other than a municipality] an awarding agency is a party and
318 every municipal public works contract and quasi-public agency project
319 contract shall contain the following provisions:

320 (1) The contractor agrees and warrants that in the performance of
321 the contract such contractor will not discriminate or permit
322 discrimination against any person or group of persons on the grounds
323 of race, color, religious creed, age, marital status, national origin,
324 ancestry, sex, gender identity or expression, intellectual disability,
325 mental disability or physical disability, including, but not limited to,
326 blindness, unless it is shown by such contractor that such disability
327 prevents performance of the work involved, in any manner prohibited

328 by the laws of the United States or of the state of Connecticut; and the
329 contractor further agrees to take affirmative action to insure that
330 applicants with job-related qualifications are employed and that
331 employees are treated when employed without regard to their race,
332 color, religious creed, age, marital status, national origin, ancestry, sex,
333 gender identity or expression, intellectual disability, mental disability
334 or physical disability, including, but not limited to, blindness, unless it
335 is shown by such contractor that such disability prevents performance
336 of the work involved;

337 (2) The contractor agrees, in all solicitations or advertisements for
338 employees placed by or on behalf of the contractor, to state that it is an
339 "affirmative action-equal opportunity employer" in accordance with
340 regulations adopted by the [commission] Commission on Human
341 Rights and Opportunities;

342 (3) The contractor agrees to provide each labor union or
343 representative of workers with which such contractor has a collective
344 bargaining agreement or other contract or understanding and each
345 vendor with which such contractor has a contract or understanding, a
346 notice to be provided by the [commission] Commission on Human
347 Rights and Opportunities advising the labor union or workers'
348 representative of the contractor's commitments under this section, and
349 to post copies of the notice in conspicuous places available to
350 employees and applicants for employment;

351 (4) The contractor agrees to comply with each provision of this
352 section and sections 46a-68e and 46a-68f and with each regulation or
353 relevant order issued by said commission pursuant to sections 46a-56,
354 as amended by this act, 46a-68e, [and] 46a-68f and 46a-86; and

355 (5) The contractor agrees to provide the Commission on Human
356 Rights and Opportunities with such information requested by the
357 commission, and permit access to pertinent books, records and
358 accounts, concerning the employment practices and procedures of the
359 contractor as relate to the provisions of this section and section 46a-56,

360 as amended by this act.

361 (b) If the contract is a public works contract, municipal public works
362 contract or contract for a quasi-public agency project, the contractor
363 agrees and warrants that he or she will make good faith efforts to
364 employ minority business enterprises as subcontractors and suppliers
365 of materials on such public works or quasi-public agency project.

366 (c) (1) Any contractor who has one or more contracts with [the state
367 or a political subdivision of the state that] an awarding agency or who
368 is a party to a municipal public works contract or a contract for a
369 quasi-public agency project, where such contract is valued at less than
370 fifty thousand dollars for each year of the contract, shall provide the
371 [state or such political subdivision of the state] awarding agency, or in
372 the case of a municipal public works or quasi-public agency project
373 contract, the Commission on Human Rights and Opportunities, with a
374 written or electronic representation that complies with the
375 nondiscrimination agreement and warranty under subdivision (1) of
376 subsection (a) of this section, provided if there is any change in such
377 representation, the contractor shall provide the updated representation
378 to the [state or such political subdivision] awarding agency or
379 commission not later than thirty days after such change.

380 (2) Any contractor who has one or more contracts with [the state or
381 a political subdivision of the state that] an awarding agency or who is a
382 party to a municipal public works contract or a contract for a quasi-
383 public agency project, where such contract is valued at fifty thousand
384 dollars or more for any year of the contract, shall provide the [state or
385 such political subdivision of the state] awarding agency, or in the case
386 of a municipal public works or quasi-public agency project contract,
387 the Commission on Human Rights and Opportunities, with any one of
388 the following:

389 (A) Documentation in the form of a company or corporate policy
390 adopted by resolution of the board of directors, shareholders,
391 managers, members or other governing body of such contractor that

392 complies with the nondiscrimination agreement and warranty under
393 subdivision (1) of subsection (a) of this section;

394 (B) Documentation in the form of a company or corporate policy
395 adopted by a prior resolution of the board of directors, shareholders,
396 managers, members or other governing body of such contractor if (i)
397 the prior resolution is certified by a duly authorized corporate officer
398 of such contractor to be in effect on the date the documentation is
399 submitted, and (ii) the head of the awarding agency, [of the state or
400 such political subdivision,] or a designee, or in the case of a municipal
401 public works or quasi-public agency project contract, the executive
402 director of the Commission on Human Rights and Opportunities or a
403 designee, certifies that the prior resolution complies with the
404 nondiscrimination agreement and warranty under subdivision (1) of
405 subsection (a) of this section; or

406 (C) Documentation in the form of an affidavit signed under penalty
407 of false statement by a chief executive officer, president, chairperson or
408 other corporate officer duly authorized to adopt company or corporate
409 policy that certifies that the company or corporate policy of the
410 contractor complies with the nondiscrimination agreement and
411 warranty under subdivision (1) of subsection (a) of this section and is
412 in effect on the date the affidavit is signed.

413 (3) [Neither the state nor any political subdivision] No awarding
414 agency, or in the case of a municipal public works contract, no
415 municipality, or in the case of a quasi-public agency project contract,
416 no entity, shall award a contract to a contractor who has not provided
417 the representation or documentation required under subdivisions (1)
418 and (2) of this subsection, as applicable. After the initial submission of
419 such representation or documentation, the contractor shall not be
420 required to resubmit such representation or documentation unless
421 there is a change in the information contained in such representation
422 or documentation. If there is any change in the information contained
423 in the most recently filed representation or updated documentation,
424 the contractor shall submit an updated representation or

425 documentation, as applicable, either (A) not later than thirty days after
426 the effective date of such change, or (B) upon the execution of a new
427 contract with the [state or a political subdivision of the state] awarding
428 agency, municipality or entity, as applicable, whichever is earlier. Such
429 contractor shall also certify, in accordance with subparagraph (B) or
430 (C) of subdivision (2) of this subsection, to the [state or political
431 subdivision] awarding agency, municipality or entity, as applicable,
432 not later than fourteen days after the twelve-month anniversary of the
433 most recently filed representation, documentation or updated
434 representation or documentation, that the representation on file with
435 the [state or political subdivision] awarding agency or commission, as
436 applicable, is current and accurate.

437 (d) For the purposes of this section, "contract" includes any
438 extension or modification of the contract, "contractor" includes any
439 successors or assigns of the contractor, "marital status" means being
440 single, married as recognized by the state of Connecticut, widowed,
441 separated or divorced, and "mental disability" means one or more
442 mental disorders, as defined in the most recent edition of the American
443 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
444 Disorders", or a record of or regarding a person as having one or more
445 such disorders. For the purposes of this section, "contract" does not
446 include a contract where each contractor is (1) a political subdivision of
447 the state, including, but not limited to, a municipality, unless the
448 contract is a municipal public works contract, [(2) a quasi-public
449 agency, as defined in section 1-120, (3)] (2) any other state, as defined
450 in section 1-267, [(4)] (3) the federal government, [(5)] (4) a foreign
451 government, or [(6)] (5) an agency of a subdivision, [agency,] state or
452 government described in [subparagraph] subdivision (1), (2), (3) [,] or
453 (4) [or (5)] of this subsection.

454 (e) For the purposes of this section, "minority business enterprise"
455 means any small contractor or supplier of materials fifty-one per cent
456 or more of the capital stock, if any, or assets of which is owned by a
457 person or persons: (1) Who are active in the daily affairs of the

458 enterprise, (2) who have the power to direct the management and
459 policies of the enterprise, and (3) who are members of a minority, as
460 such term is defined in subsection (a) of section 32-9n; and "good faith"
461 means that degree of diligence which a reasonable person would
462 exercise in the performance of legal duties and obligations. "Good faith
463 efforts" shall include, but not be limited to, those reasonable initial
464 efforts necessary to comply with statutory or regulatory requirements
465 and additional or substituted efforts when it is determined that such
466 initial efforts will not be sufficient to comply with such requirements.

467 (f) Determination of the contractor's good faith efforts shall include,
468 but shall not be limited to, the following factors: The contractor's
469 employment and subcontracting policies, patterns and practices;
470 affirmative advertising, recruitment and training; technical assistance
471 activities and such other reasonable activities or efforts as the
472 [commission] Commission on Human Rights and Opportunities may
473 prescribe that are designed to ensure the participation of minority
474 business enterprises in public works projects.

475 (g) The contractor shall develop and maintain adequate
476 documentation, in a manner prescribed by the [commission]
477 Commission on Human Rights and Opportunities, of its good faith
478 efforts.

479 (h) The contractor shall include the provisions of subsections (a) and
480 (b) of this section in every subcontract or purchase order entered into
481 in order to fulfill any obligation of a contract with the state, and in
482 every subcontract entered into in order to fulfill any obligation of a
483 municipal public works contract or contract for a quasi-public agency
484 project, and such provisions shall be binding on a subcontractor,
485 vendor or manufacturer, unless exempted by regulations or orders of
486 the [commission] Commission on Human Rights and Opportunities.
487 The contractor shall take such action with respect to any such
488 subcontract or purchase order as the commission may direct as a
489 means of enforcing such provisions, including sanctions for
490 noncompliance in accordance with section 46a-56; provided, if such

491 contractor becomes involved in, or is threatened with, litigation with a
492 subcontractor or vendor as a result of such direction by the
493 commission regarding a state contract, the contractor may request the
494 state of Connecticut to enter into any such litigation or negotiation
495 prior thereto to protect the interests of the state and the state may so
496 enter.

497 Sec. 7. Section 4a-60a of the general statutes is repealed and the
498 following is substituted in lieu thereof (*Effective October 1, 2015*):

499 (a) Every contract to which [the state or any political subdivision of
500 the state other than a municipality] an awarding agency is a party and
501 every municipal public works contract and contract for a quasi-public
502 agency project shall contain the following provisions:

503 (1) The contractor agrees and warrants that in the performance of
504 the contract such contractor will not discriminate or permit
505 discrimination against any person or group of persons on the grounds
506 of sexual orientation, in any manner prohibited by the laws of the
507 United States or of the state of Connecticut, and that employees are
508 treated when employed without regard to their sexual orientation;

509 (2) The contractor agrees to provide each labor union or
510 representative of workers with which such contractor has a collective
511 bargaining agreement or other contract or understanding and each
512 vendor with which such contractor has a contract or understanding, a
513 notice to be provided by the Commission on Human Rights and
514 Opportunities advising the labor union or workers' representative of
515 the contractor's commitments under this section, and to post copies of
516 the notice in conspicuous places available to employees and applicants
517 for employment;

518 (3) The contractor agrees to comply with each provision of this
519 section and with each regulation or relevant order issued by said
520 commission pursuant to section 46a-56; and

521 (4) The contractor agrees to provide the Commission on Human

522 Rights and Opportunities with such information requested by the
523 commission, and permit access to pertinent books, records and
524 accounts, concerning the employment practices and procedures of the
525 contractor which relate to the provisions of this section and section
526 46a-56.

527 (b) (1) Any contractor who has one or more contracts with [the state
528 or a political subdivision of the state that] an awarding agency or who
529 is a party to a municipal public works contract or a contract for a
530 quasi-public agency project, where such contract is valued at less than
531 fifty thousand dollars for each year of the contract, shall provide the
532 [state or such political subdivision of the state] awarding agency, or in
533 the case of a municipal public works or quasi-public agency project
534 contract, the Commission on Human Rights and Opportunities, with a
535 written representation that complies with the nondiscrimination
536 agreement and warranty under subdivision (1) of subsection (a) of this
537 section.

538 (2) Any contractor who has one or more contracts with [the state or
539 a political subdivision of the state that] an awarding agency or who is a
540 party to a municipal public works contract or a contract for a quasi-
541 public agency project, where such contract is valued at fifty thousand
542 dollars or more for any year of the contract, shall provide [the state or
543 such political subdivision of the state] such awarding agency, or in the
544 case of a municipal public works or quasi-public agency project
545 contract, the Commission on Human Rights and Opportunities, with
546 any of the following:

547 (A) Documentation in the form of a company or corporate policy
548 adopted by resolution of the board of directors, shareholders,
549 managers, members or other governing body of such contractor that
550 complies with the nondiscrimination agreement and warranty under
551 subdivision (1) of subsection (a) of this section;

552 (B) Documentation in the form of a company or corporate policy
553 adopted by a prior resolution of the board of directors, shareholders,

554 managers, members or other governing body of such contractor if (i)
555 the prior resolution is certified by a duly authorized corporate officer
556 of such contractor to be in effect on the date the documentation is
557 submitted, and (ii) the head of the [agency of the state or such political
558 subdivision] awarding agency, or a designee, or in the case of a
559 municipal public works or quasi-public agency project contract, the
560 executive director of the Commission on Human Rights and
561 Opportunities or a designee, certifies that the prior resolution complies
562 with the nondiscrimination agreement and warranty under
563 subdivision (1) of subsection (a) of this section; or

564 (C) Documentation in the form of an affidavit signed under penalty
565 of false statement by a chief executive officer, president, chairperson or
566 other corporate officer duly authorized to adopt company or corporate
567 policy that certifies that the company or corporate policy of the
568 contractor complies with the nondiscrimination agreement and
569 warranty under subdivision (1) of subsection (a) of this section and is
570 in effect on the date the affidavit is signed.

571 (3) [Neither the state nor any political subdivision] No awarding
572 agency, or in the case of a municipal public works contract, no
573 municipality, or in the case of a quasi-public agency project contract,
574 no entity, shall award a contract to a contractor who has not provided
575 the representation or documentation required under subdivisions (1)
576 and (2) of this subsection, as applicable. After the initial submission of
577 such representation or documentation, the contractor shall not be
578 required to resubmit such representation or documentation unless
579 there is a change in the information contained in such representation
580 or documentation. If there is any change in the information contained
581 in the most recently filed representation or updated documentation,
582 the contractor shall submit an updated representation or
583 documentation, as applicable, either (A) not later than thirty days after
584 the effective date of such change, or (B) upon the execution of a new
585 contract with the [state or a political subdivision of the state] awarding
586 agency, municipality, or entity, as applicable, whichever is earlier.

587 Such contractor shall also certify, in accordance with subparagraph (B)
588 or (C) of subdivision (2) of this subsection, to the [state or political
589 subdivision] awarding agency, municipality, or entity, as applicable,
590 not later than fourteen days after the twelve-month anniversary of the
591 most recently filed representation, documentation or updated
592 representation or documentation, that the representation on file with
593 the [state or political subdivision] awarding agency or commission, as
594 applicable, is current and accurate.

595 (4) For the purposes of this section, "contract" includes any
596 extension or modification of the contract, and "contractor" includes any
597 successors or assigns of the contractor. For the purposes of this section,
598 "contract" does not include a contract where each contractor is (A) a
599 political subdivision of the state, including, but not limited to, a
600 municipality, [(B) a quasi-public agency, as defined in section 1-120,
601 (C)] unless the contract is a municipal public works contract, (B) any
602 other state, as defined in section 1-267, [(D)] (C) the federal
603 government, [(E)] (D) a foreign government, or [(F)] (E) an agency of a
604 subdivision, [agency,] state or government described in subparagraph
605 (A), (B), (C) [,] or (D) [or (E)] of this subdivision.

606 (c) The contractor shall include the provisions of subsection (a) of
607 this section in every subcontract or purchase order entered into in
608 order to fulfill any obligation of a contract with [the state] an awarding
609 agency, municipality, or entity, as applicable, and such provisions
610 shall be binding on a subcontractor, vendor or manufacturer unless
611 exempted by regulations or orders of the [commission] Commission on
612 Human Rights and Opportunities. The contractor shall take such
613 action with respect to any such subcontract or purchase order as the
614 commission may direct as a means of enforcing such provisions,
615 including sanctions for noncompliance in accordance with section 46a-
616 56, as amended by this act; provided, if such contractor becomes
617 involved in, or is threatened with, litigation with a subcontractor or
618 vendor as a result of such direction by the commission regarding a
619 state contract, the contractor may request the state of Connecticut to

620 enter into any such litigation or negotiation prior thereto to protect the
621 interests of the state and the state may so enter.

622 Sec. 8. Section 4a-62 of the general statutes is repealed and the
623 following is substituted in lieu thereof (*Effective October 1, 2015*):

624 (a) There is established a Minority Business Enterprise Review
625 Committee. The committee shall consist of two members of the House
626 of Representatives appointed by the speaker of the House, two
627 members of the House appointed by the minority leader of the House,
628 two members of the Senate appointed by the president pro tempore of
629 the Senate, and two members of the Senate appointed by the minority
630 leader of the Senate. The committee shall conduct an ongoing study of
631 contract awards, loans and bonds made or guaranteed by [the state or
632 any political subdivision of the state other than a municipality]
633 awarding agencies and of municipal public works contracts and
634 contracts for quasi-public agency projects for the purpose of
635 determining the extent of compliance with the provisions of the
636 general statutes concerning contract awards, loans and bonds for
637 minority business enterprises, including the set-aside program for such
638 business enterprises.

639 (b) The committee may request (1) any awarding agency [of the
640 state] authorized to award public works contracts or to enter into
641 purchase of goods or services contracts, or (2) in the case of a
642 municipal public works contract or contract for a quasi-public agency
643 project, the Commission on Human Rights and Opportunities, to
644 submit such information on compliance with sections 4a-60, as
645 amended by this act, and 4a-60g, as amended by this act, and at such
646 times as the committee may require. The committee shall consult with
647 the Departments of Administrative Services, Transportation and
648 Economic and Community Development and the Commission on
649 Human Rights and Opportunities concerning compliance with the
650 state programs for minority business enterprises. The committee shall
651 report annually on or before February first to the Joint Committee on
652 Legislative Management on the results of its ongoing study and

653 include its recommendations, if any, for legislation.

654 Sec. 9. Section 46a-68b of the general statutes is repealed and the
655 following is substituted in lieu thereof (*Effective October 1, 2015*):

656 As used in this section and sections 4a-60, as amended by this act,
657 4a-60a, as amended by this act, [4a-60g.] 4a-62, as amended by this act,
658 46a-56, as amended by this act, and 46a-68c to 46a-68k, inclusive, as
659 amended by this act: "Public works contract" means any agreement
660 between any individual, firm or corporation and the state or any
661 political subdivision of the state other than a municipality for
662 construction, rehabilitation, conversion, extension, demolition or repair
663 of a public building, highway or other changes or improvements in
664 real property, or which is financed in whole or in part by the state,
665 including, but not limited to, matching expenditures, grants, loans,
666 insurance or guarantees and "municipal public works contract", "quasi-
667 public agency project" and "awarding agency" have the same meanings
668 as provided in section 4a-60g, as amended by this act.

669 Sec. 10. Section 46a-68c of the general statutes is repealed and the
670 following is substituted in lieu thereof (*Effective October 1, 2015*):

671 In addition to the provisions of section 4a-60, as amended by this
672 act, each contractor with fifty or more employees awarded a public
673 works contract, municipal public works contract or contract for a
674 quasi-public agency project in excess of fifty thousand dollars in any
675 fiscal year, but not subject to the provisions of section 46a-68d, as
676 amended by this act, shall develop and file with the [commission]
677 Commission on Human Rights and Opportunities an affirmative
678 action plan which shall comply with regulations adopted by [said] the
679 commission. Failure to develop an approved affirmative action plan
680 pursuant to this section shall act as a bar to bidding on or the award of
681 future contracts until such requirement has been met. When the
682 commission approves an affirmative action plan pursuant to this
683 section, it shall issue a certificate of compliance to the contractor. This
684 certificate shall be prima facie proof of the contractor's eligibility to bid

685 or be awarded contracts for a period of two years from the date of the
686 certificate. Such certificate shall not excuse the contractor from
687 monitoring by the commission or from the reporting and record-
688 keeping requirements of sections 46a-68e and 46a-68f. The commission
689 may revoke the certificate of a contractor if the contractor does not
690 implement its affirmative action plan in compliance with this section
691 and sections 4a-60, as amended by this act, 4a-60g, as amended by this
692 act, 4a-62, as amended by this act, 46a-56, as amended by this act, 46a-
693 68b, as amended by this act, 46a-68d, as amended by this act, and 46a-
694 68e to 46a-68k, inclusive, as amended by this act.

695 Sec. 11. Section 46a-68d of the general statutes is repealed and the
696 following is substituted in lieu thereof (*Effective October 1, 2015*):

697 In addition to the provisions of section 4a-60, as amended by this
698 act, every public works contract, municipal public works contract or
699 contract for a quasi-public agency project subject to the provisions of
700 part II of chapter 60 shall also be subject to the provisions of this
701 section. After a bid has been accepted but before a contract is awarded,
702 the successful bidder shall file and have [approved by the commission]
703 obtained the approval of the commission for an affirmative action
704 plan. The commission may provide for conditional acceptance of an
705 affirmative action plan provided written assurances are given by the
706 contractor that it will amend its plan to conform to affirmative action
707 requirements. The state shall withhold two per cent of the total
708 contract price per month from any payment made to such contractor
709 until such time as the contractor has developed an affirmative action
710 plan, and received the approval of the commission. Notwithstanding
711 the provisions of this section, a contractor subject to the provisions of
712 this section may file a plan in advance of or at the same time as its bid.
713 The commission shall review plans submitted pursuant to this section
714 within sixty days of receipt and either approve, approve with
715 conditions or reject such plan. When the commission approves an
716 affirmative action plan pursuant to this section, it shall issue a
717 certificate of compliance to the contractor as provided in section 46a-

718 68c, as amended by this act.

719 Sec. 12. Section 46a-68g of the general statutes is repealed and the
720 following is substituted in lieu thereof (*Effective October 1, 2015*):

721 [Contracting agencies] No awarding agency, or in the case of a
722 municipal public works contract, no municipality, or in the case of a
723 quasi-public agency project contract, no entity, shall [not] enter into
724 [contracts] a contract with any bidder or prospective contractor unless
725 the bidder or prospective contractor has satisfactorily complied with
726 the provisions of sections 4a-60, as amended by this act, 4a-60g, as
727 amended by this act, 46a-56, as amended by this act, and 46a-68c to
728 46a-68f, inclusive, as amended by this act, or submits a program for
729 compliance acceptable to the commission.

730 Sec. 13. Section 46a-68k of the general statutes is repealed and the
731 following is substituted in lieu thereof (*Effective October 1, 2015*):

732 (a) If the commission determines an awarding agency [of the state]
733 or in the case of a municipal public works contract, a municipality, has
734 a contract compliance program which is at least equivalent to the
735 requirements and responsibilities of sections 4a-60, as amended by this
736 act, and 46a-68c to 46a-68f, inclusive, as amended by this act, such
737 agency or municipality, subject to the approval of the commission,
738 may use its own compliance program. Any contractor who is a party to
739 a public works contract with such agency or municipality may be
740 relieved of the requirements and responsibilities of said sections,
741 provided such contractor complies with the requirements of such
742 agency's or municipality's contract compliance program.

743 (b) The commission shall adopt regulations in accordance with
744 chapter 54 to carry out the purposes of this section, including, but not
745 limited to, establishing a procedure for such determination and
746 approval.

747 Sec. 14. Subsections (c) and (d) of section 46a-56 of the general
748 statutes are repealed and the following is substituted in lieu thereof

749 (Effective October 1, 2015):

750 (c) If the commission determines through its monitoring and
751 compliance procedures that a contractor or subcontractor is not
752 complying with antidiscrimination statutes or contract provisions
753 required under section 4a-60, as amended by this act, or 4a-60a, as
754 amended by this act, or the provisions of sections 46a-68c to 46a-68f,
755 inclusive, as amended by this act, the commission may issue a
756 complaint pursuant to subsection (c) of section 46a-82. Such complaint
757 shall be scheduled for a hearing before a hearing officer or human
758 rights referee appointed to act as a presiding officer. Such hearing shall
759 be held in accordance with chapter 54 and section 46a-84. If, after such
760 hearing, the presiding officer makes a finding of noncompliance with
761 antidiscrimination statutes or contract provisions required under
762 section 4a-60, as amended by this act, or 4a-60a, as amended by this
763 act, or the provisions of sections 46a-68c to 46a-68f, inclusive, as
764 amended by this act, the presiding officer may: (1) [Order] In the case
765 of a state contract order the state, or in the case of a municipal public
766 works or quasi-public agency project contract, order the municipality
767 or entity, to retain two per cent of the total contract price per month on
768 any existing contract with such contractor; (2) prohibit the contractor
769 from participation in any further contracts with state agencies or any
770 further municipal public works contracts or quasi-public agency
771 project contracts, as applicable until: (A) The expiration of a period of
772 two years from the date of the finding of noncompliance, or (B) the
773 presiding officer determines that the contractor has adopted policies
774 consistent with such statutes, provided the presiding officer shall make
775 such determination [within] not later than forty-five days [of] after
776 such finding of noncompliance; (3) publish, or cause to be published,
777 the names of contractors or unions that the presiding officer has found
778 to be in noncompliance with such provisions; (4) notify the Attorney
779 General that, in cases in which there is substantial or material violation
780 or the threat of substantial or material violation of the contractual
781 provisions set forth in section 4a-60, as amended by this act, or 4a-60a,
782 as amended by this act, appropriate proceedings should be brought to

783 enforce such provisions, including the enjoining, within the limitations
784 of applicable law, of organizations, individuals or groups who prevent
785 directly or indirectly, or seek to prevent directly or indirectly,
786 compliance with the provisions of section 4a-60, as amended by this
787 act, or 4a-60a, as amended by this act; (5) recommend to the Equal
788 Employment Opportunity Commission or the Department of Justice
789 that appropriate proceedings be instituted under Title VII of the Civil
790 Rights Act of 1964, when necessary; (6) recommend to the appropriate
791 prosecuting authority that criminal proceedings be brought for the
792 furnishing of false information to any [contracting] awarding agency
793 or to the commission as the case may be; (7) order the contractor to
794 bring itself into compliance with antidiscrimination statutes or contract
795 provisions required under section 4a-60, as amended by this act, or 4a-
796 60a, as amended by this act, or sections 46a-68c to 46a-68f, inclusive, as
797 amended by this act, [within] not later than a period of thirty days
798 after the issuance of such order or, for good cause shown, within an
799 additional period of thirty days, and, if such contractor fails to bring
800 itself into such compliance within such time period and such
801 noncompliance is substantial or material or there is a pattern of
802 noncompliance, recommend to the [contracting] awarding agency that
803 such agency declare the contractor to be in breach of the contract and
804 that such agency pursue all available remedies or, in the case of a
805 municipal public works or quasi-public agency project contract,
806 recommend the municipality or entity to make such a declaration and
807 pursue all available remedies; or (8) order the [contracting] awarding
808 agency or, in the case of a municipal public works or quasi-public
809 agency project contract, the municipality or entity, to refrain from
810 entering into further contracts, or extensions or other modifications of
811 existing contracts, with any noncomplying contractor, until such
812 contractor has satisfied the commission that such contractor has
813 established and will carry out personnel and employment policies in
814 compliance with antidiscrimination statutes and the provisions of
815 section 4a-60, as amended by this act, or 4a-60a, as amended by this
816 act, and sections 46a-68c to 46a-68f, inclusive, as amended by this act.
817 The commission shall adopt regulations, in accordance with chapter

818 54, to implement the provisions of this section.

819 (d) If the commission determines, through its monitoring and
820 compliance procedures and after a complaint is filed and a hearing is
821 held pursuant to subsection (c) of this section, that, with respect to a
822 state contract, municipal public works contract or quasi-public agency
823 project contract, a contractor, subcontractor or supplier of materials
824 has (1) fraudulently qualified as a minority business enterprise, or (2)
825 performed services or supplied materials on behalf of another
826 contractor, subcontractor or supplier of materials knowing (A) that
827 such other contractor, subcontractor or supplier has fraudulently
828 qualified as a minority business enterprise in order to comply with
829 antidiscrimination statutes or contract provisions required under
830 section 4a-60, as amended by this act, or 4a-60a, as amended by this
831 act, and (B) that such services or materials are to be used in connection
832 with a contract entered into pursuant to subsection (b) of section 4a-
833 60g, as amended by this act, the hearing officer or human rights referee
834 before whom such hearing was held shall assess a civil penalty of not
835 more than ten thousand dollars upon such contractor, subcontractor or
836 supplier of materials. The Attorney General, upon complaint of the
837 commission, shall institute a civil action in the superior court for the
838 judicial district of Hartford to recover such penalty. Any penalties
839 recovered pursuant to this subsection shall be deposited in a special
840 fund and shall be held by the State Treasurer separate and apart from
841 all other moneys, funds and accounts. The resources in such fund shall,
842 pursuant to regulations adopted by the commission in accordance with
843 the provisions of chapter 54, be used to assist minority business
844 enterprises. As used in this section, "minority business enterprise"
845 means any contractor, subcontractor or supplier of materials fifty-one
846 per cent or more of the capital stock, if any, or assets of which is owned
847 by a person or persons: (i) Who are active in the daily affairs of the
848 enterprise; (ii) who have the power to direct the management and
849 policies of the enterprise; and (iii) who are members of a minority, as
850 defined in subsection (a) of section 32-9n."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	4a-60g(a) to (d)
Sec. 2	<i>October 1, 2015</i>	4a-60g(h)
Sec. 3	<i>October 1, 2015</i>	4a-60g(j)
Sec. 4	<i>October 1, 2015</i>	4a-60g(l) and (m)
Sec. 5	<i>October 1, 2015</i>	4a-60h
Sec. 6	<i>October 1, 2015</i>	4a-60
Sec. 7	<i>October 1, 2015</i>	4a-60a
Sec. 8	<i>October 1, 2015</i>	4a-62
Sec. 9	<i>October 1, 2015</i>	46a-68b
Sec. 10	<i>October 1, 2015</i>	46a-68c
Sec. 11	<i>October 1, 2015</i>	46a-68d
Sec. 12	<i>October 1, 2015</i>	46a-68g
Sec. 13	<i>October 1, 2015</i>	46a-68k
Sec. 14	<i>October 1, 2015</i>	46a-56(c) and (d)