



House Bill 5049, An Act Implementing the Governor's Budget Recommendations for General Government

912 Silas Deane Highway
Wethersfield, CT 06109

February 22, 2016

Tel: 860.529.6855

Fax: 860.563.0616

ccia-info@ctconstruction.org

www.ctconstruction.org

Public Hearing, Committee on Government Administration and Elections

The Connecticut Construction Industries Association is comprised of a number of substantial firms in various sectors of the construction industry that have a long history of providing quality work for the public benefit and a great deal of experience performing work on public projects. Those firms include building contractors, heavy civil contractors, environmental contractors, utility contractors, transportation contractors, quarry operators, asphalt producers, ready mixed concrete producers, and equipment dealers that rely on public sector contracting as their core business.

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. 5049, as part of the governor's budget recommendations, would postpone the extension of the state's small business minority enterprise program to municipal public works contracts and contracts for quasi-public agencies until July 1, 2019. Implementation of that extension was included in the budget implementer bill during the previous session of the General Assembly.

In the 2015 legislative session, CCIA and AGC submitted testimony on several bills proposing changes to the state's minority business enterprise program, including extending the state program to municipal and quasi-governmental agency public works contracts. We testified that the state 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*. In order to meet the strict scrutiny standard, the state must first show in a disparity study that discrimination exists in state contracting in the market area.

The Connecticut Academy of Science and Engineering (CASE) is currently engaged in Phase 3 of a disparity study designed to legally support state's minority business enterprise program. The purpose of this phase is to examine evidence of marketplace disparities based on data gathered from available sources. After Phase 3, in order to complete the study, CASE will need to engage in a Phase 4 to analyze the state's MBE and WBE utilization.

CCIA and AGC continue to actively encourage providing opportunities and ensuring the appropriate minority and women participation in state contracts; however, without completion of CASE's disparity study, the program has no legal foundation. Postponing the program's extension to municipal and quasi-governmental agency public works contracts would provide CASE more opportunity to develop the study to a point where it is on a more solid legal footing.

In conclusion, we encourage this committee and all parties to concentrate their efforts on completing the disparity study process until Connecticut has an effective MWBE program supported by a strong legal foundation, one that will stand up to court challenge and will truly serve all the people of Connecticut.

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

