CONNECTICUT CONSTRUCTION INDUSTRIES ASSOCIATION, INC.

912 Silas Deane Highway
Wethersfield, CT 06109

Tel: 860.529.6855
Fax: 860.563.0616
ccia-info@ctconstruction.org
www.ctconstruction.org

S.B. 468, An Act Concerning the Commission on Human Rights and Opportunities

March 23, 2016

Public Hearing, Committee on Judiciary

Connecticut Construction Industries Association, Inc. (CCIA) represents significant sectors of the commercial construction industry in the state. CCIA is comprised of more than 300 members, including contractors, subcontractors, material producers, suppliers and affiliated entities. CCIA members have a long history of performing public work in Connecticut.

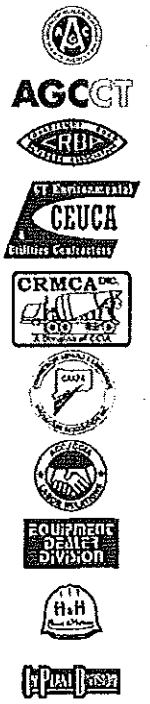
AGC of Connecticut is the building division of CCIA, representing 150 commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the Connecticut construction industry. AGC is a chapter of AGC of America.

AGC of Connecticut and CCIA strongly **support** the provision in S.B. 468 that would require action on the part of the Commission on Human Rights and Opportunities (CHRO) to review and formally approve, conditionally approve or disapprove the content of a contractor's affirmative action plan not later than 90 days following the date of submission of the plan to the commission. If the executive director or the executive director's designee fails to act on the plan within 90 days, the plan shall be deemed to be approved.

By establishing a firm retainage release policy in case CHRO does not act on an affirmative action plan within 90 days, this bill would go a long way toward providing much-needed relief to contractors who cannot afford to have 2 percent withheld from their payments on top of the up to 10 percent of retainage that's already withheld on DAS projects. Delay in retainage release escalates the financial pressure for general contractors and subcontractors alike, essentially forcing them to operate at a loss while financing projects.

Instances of the lack of timely action by CHRO on contractor affirmative action plans have become all too commonplace and, unfortunately, the norm rather than the exception within the Connecticut construction industry. In a recent conversation with one of our members, a substantial Connecticut construction firm that does business with the state on a regular basis, I was told that this firm has submitted 12 affirmative action plans to CHRO in the last 5 years. Of those 12, only 1 plan was approved. The other 11 were never acted on by the agency. This story is repeated in conversation with contractor after contractor, almost always concluding with the statement, "The project was completed over a year ago, and I still haven't heard back whether or not my affirmative action plan was accepted or rejected."

This problem was starkly illustrated in testimony before the Connecticut Construction Bidding Transparency Task Force in August of 2014 by representatives of CHRO. This task force, chaired by former DAS Commissioner Donald DeFronzo, was established to study and report on state construction contracting and subcontracting processes. CHRO representatives testified that as of June 30, 2014, there were 790 affirmative action plans filed with the agency. Of those, 295 had



been assigned to staff to review, and 495 – nearly 2/3 – had been unassigned. They also testified that as a result of this particular backlog, they issued a temporary policy in December, 2014 that allowed contracting agencies to release the 2 percent retainage to contractors as long as the Affirmative Action/Set-Aside Plan was timely submitted and "CHRO has not had an opportunity to fully review and approve, disapprove or conditionally approve an Affirmative Action Plan (AAP) or Set-Aside Plan (SAP) within 120 days." Quite frankly, S.B. 468 would effectively make permanent a policy that CHRO decided to temporarily implement two years ago.

We do not believe the backlog problem that was revealed in 2014 has been fully resolved, and will only be exacerbated by the extension of the CHRO set-aside requirements to all municipal projects that contain state funds or state assistance of any kind, if it hasn't already. Referring back to the contractor who said they had submitted 12 affirmative action plans in 5 years, with the extension of the program to municipal projects, they are now on target to submit the same amount of plans in one year alone.

Thank you for your consideration and for the opportunity to present our views. Please contact John Butts, AGC/CT Executive Director at 860-529-6855, or at jbutts@ctconstruction.org if you have any questions or if you need additional information.