

Legislative History for Connecticut Act

HB 5723	PA 425	1977
House 3311-3317		(7p)
Senate 2834-2835		(2p)
State and Urban Dev. 115-120		(6p)

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1977

VOL. 20  
PART 8  
2979-3432

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Those voting Yea. . . . .	52	efr
Those voting Nay. . . . .	89	
Those absent and not voting . . . . .	10	

The bill fails.

THE CLERK:

Calendar 1050, Substitute for S.B. 1531, File 587.

WILLIAM A. O'NEILL:

Mr. Speaker, may that be passed temporarily, please.

MR. SPEAKER:

You've heard the motion this ought to be passed temporarily. Any objections to that motion? Any objections? So ordered.

THE CLERK:

Page 11 of the Calendar, Calendar 1052, S.B. 1241, File 747, an Act concerning blind persons carrying white canes. Favorable report of the Committee on Judiciary.

ERNEST N. ABATE:

Mr. Speaker, I move that Calendar 1052, File 747, be recommitted to the Committee on Judiciary.

MR. SPEAKER:

You've heard the motion. Any objections that this item, Calendar 1052, be recommitted to the Committee on Judiciary? Any objections? So ordered.

THE CLERK:

Page 5 of the Calendar, Calendar 740, Substitute for H.B. 5723, File 620, an Act concerning the expansion of the

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Setaside Program. Favorable report of the Committee on State and Urban Development. efr

JOSEPH S. COATSWORTH:

Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the bill.

TAPE  
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MR. SPEAKER:

The question's on acceptance of the Committee's favorable report and passage of the bill. Would you remark, sir?

JOSEPH S. COATSWORTH:

Mr. Speaker, the Clerk has an amendment, L.C.O. No. 8452.

MR. SPEAKER:

The Clerk has L.C.O. 8452 designated as House Amendment Schedule "A". Will the Clerk please call, and the gentleman care to seek permission to summarize?

JOSEPH S. COATSWORTH:

Mr. Speaker, I intend to seek permission to summarize.

THE CLERK:

House Amendment Schedule "A", L.C.O. 8452, offered by Representative Billington, 7th District.

MR. SPEAKER:

Any objection to Representative Coatsworth summarizing this amendment? Please proceed, sir.

JOSEPH S. COATSWORTH:

Mr. Speaker, the amendment before us is simply to clarify some of the language in the original bill regarding the Setaside Program now administered by the Department of Commerce, and, for

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example, the amendment makes it clear and uses clarifying language efr which exempts the use of the Setaside Program in case of a conflict with Federal law or regulation and makes the bill apply the percentage of contracts awarded to the average of the three fiscal years better than any one year. It finally raises the amount of the contracts which can be awarded to a small contractor from the present \$250,000 to \$500,000 in any given year. I move adoption of the amendment.

MR. SPEAKER:

The question's on adoption of House Amendment Schedule "A". Would you remark further? Remark further? If not, all those in favor signify by saying "aye". Those opposed. House "A" is adopted and ruled technical by the Chair. Would you remark further on the bill as amended by House Amendment Schedule "A"?

JOSEPH S. COATSWORTH:

Mr. Speaker, the intent of this bill and really the purpose...the major thrust of the bill is to expand the Setaside Program and, indeed, make it in some instances...well, in all instances...make it mandatory up to 15%. The present Setaside Program applies to, for the most part, a construction rehabilitation program...projects...but mostly construction projects. This bill expands that to purchases of the State as well as construction and would mandate that some 15% of those contracts awarded be awarded to "small contractors"..."small contractors" being defined under Section 81-68 of the Statutes...and the Setaside Program which is in existence for some time and has been administered by the Department of Commerce we feel would be more effective if there

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was at least a floor below which we could not fall, so that a Set-  
aside Program would, in fact, be mandated and might work the bet-  
ter. So, I move passage of the bill.

MR. SPEAKER:

The question is on passage of the bill as amended by  
House Amendment Schedule "A". Would you remark further? If not,  
would the Members please...

GERALD F. STEVENS:

Mr. Speaker, through you, a question to the gentleman  
reporting out the bill.

MR. SPEAKER:

Please proceed, sir.

GERALD F. STEVENS:

Yes. Through you, Mr. Speaker, referring to Section 4  
of the bill, could the gentleman please indicate what the impact  
of Section 4 of the bill is on present payment procedures?

JOSEPH S. COATSWORTH:

Mr. Speaker, in answer to the question raised by the  
Minority Leader, Section 4 says that the State shall make payments  
on a contract awarded under the provisions of this Act no later  
than 30 days from the due date of any such payment on such con-  
tract. The reason for this part of the bill is two-fold. First  
of all, in trying to help small contractors by awarding some pur-  
chases of the State's needs to small contractors, we're trying to  
in some way stimulate small business in Connecticut clearly. One  
of the major problems that small businesses have is cash flow, and  
that applies not only to small businesses but to minority

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enterprises in Connecticut which would also fall under the thrust of this Act. And so that a 30-day payment period, which is, for the most part, standard in most business transactions, would provide critical assistance to make sure that the intent of this bill actually works and actually provides some help to the small business community in Connecticut.

GERALD F. STEVENS:

Through you, Mr. Speaker, does the gentleman know what the average payment period after the due date for a small contractor is today?

JOSEPH S. COATSWORTH:

Mr. Speaker, through you, sir, no.

GERALD F. STEVENS:

Through you, Mr. Speaker, what recourse does Section 4 give to a small contractor if the State does not pay within 30 days?

JOSEPH S. COATSWORTH:

Mr. Speaker, the recourse of the law, sir.

GERALD F. STEVENS:

Through you, Mr. Speaker, does not the small contractor have the recourse of the law on a due bill with the State of Connecticut today?

JOSEPH S. COATSWORTH:

Mr. Speaker, I believe, through you, sir, that this is a more specific recourse.

GERALD F. STEVENS:

Mr. Speaker, I support the bill because I think its

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purposes are well intended, but I do think it's a mistake to write laws that we really are not sure what we're doing. First, we don't know what the payment period is today for small contractors, so why have we taken 30 days arbitrarily? Secondly, it would seem to me that big contractors, as well as small contractors, should be paid within 30 days, because they have a cash flow problem also. And finally, and what disturbs me greatly, is because the gentleman's remarks are well put in terms of stimulating small business, Section 4 is meaningless. It's a sham, like in so many things that we do on the floor of this House. If a person doesn't get paid by the State within 30 days, their recourse is exactly what it is today if they don't get paid by the State within 10 days...or 20 days...or 60 days. They go to Court. It adds nothing whatsoever to the bill, and if we really mean to do something more than window-dress, it would seem to me that in writing a bill of this kind, we'd put something in whereby if the State does not live up to the terms of the law within 30 days, there's some kind of a penalty, like every retail establishment and every business person in this State has in their contract. If you don't pay within 30 days, you get something added on. But we haven't done that, and I think that's a mistake. But the bill is well-meaning, and I certainly do support it.

MR. SPEAKER:

Would you remark further on the bill? Remark further on the bill as amended? If not, will the Members please take their seats; the staff and guests come to the well of the House. The machine will be opened. Have all the Members voted? Have all the

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Members voted? If so, the machine will be locked, and the Clerk efr  
please take a tally.

EDWARD J. ZAMM:

Mr. Speaker, please, may I be recorded in the affirmative.  
Thank you, Mr. Speaker. May I be recorded in the affirmative,  
please.

MR. SPEAKER:

The Clerk please note.

EDWARD J. ZAMM:

Thank you.

MR. SPEAKER:

The Clerk please announce the tally.

The following is the result of the vote:

Total number voting . . . . .	142
Necessary for passage . . . . .	72
Those voting Yea. . . . .	129
Those voting Nay. . . . .	13
Those absent and not voting . . . . .	9

The bill as amended is passed.

THE CLERK:

Page 5 of the Calendar, Calendar 773, Substitute for  
S.B. 1555, File 484, an Act concerning continuing political com-  
mittees. Favorable report of the Committee on Elections.

THEODORE CUMMINGS:

Mr. Speaker, I move acceptance of the Joint Committee's

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dollars and that the set-aside portions not exceed twenty-five percent of the total contract. Instead, Mr. President, the bill requires the aggregate value of all set-asides be at least fifteen percent but not more than twenty-five percent of the total contracts let by the state for each of the previous fiscal years. Finally, recognizing the importance of rapid cash flow to small contractors, this bill requires that they receive payment no later than thirty days after any payment made to the senior contractor is due. Mr. President, I move that the bill be placed on the Consent Calendar.

THE PRESIDENT:

Hearing no objection, so ordered.

THE CLERK:

Bottom item on page twenty-three, Cal. 977, File 1078. Favorable report of the joint standing Committee on Finance. Substitute for Senate Bill 1427. AN ACT CONCERNING TRANSIT DISTRICTS FORMED UNDER CHAPTER 103a.

THE PRESIDENT:

Senator Beck.

SENATOR BECK: (29th)

Mr. President, I move acceptance of the Committee's favorable report and favorable action on the bill.

THE PRESIDENT:

Will you comment, Senator?

SENATOR BECK:

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THE PRESIDENT:

Hearing no objection, so ordered.

THE CLERK:

Page twenty-three of the Calendar, Cal. 971, Files 620 and 1069. Favorable report of the joint standing Committee on State and Urban Development. Substitute for House Bill 5723. AN ACT CONCERNING THE EXPANSION OF THE SETASIDE PROGRAM, as amended by House Amendment Schedule A.

THE PRESIDENT:

Senator Putnam.

SENATOR PUTNAM: (5th)

Yes, Mr. President, I move acceptance of the committee's favorable report and passage of the bill, as amended.

THE PRESIDENT:

Will you comment, Senator?

SENATOR PUTNAM:

Yes, Mr. President, the State of Connecticut has already stated as a policy that it is in the public interest in certain circumstances to setaside portions of state contracts for bidding by small contractors. This bill would expand that principle by adding contracts for purchase of supplies, materials, equipment and services to those for construction or rehabilitation of buildings and construction and maintenance of highways which contracts were included in the original set-aside act. This measure would do away with the requirement that set-asides apply only to contracts rated at fifty thousand

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ROBERT BRUBAKER: (Con't) All this is to say that while funding for bonding is necessary, it is also necessary, and now possible, to attempt to change to the extent of bonding state and local governments required in Connecticut.

In closing, I would like to add that it is to the credit of this committee that these and other bills have been scheduled for public hearing. We also support the thrusts of HB-5997 and HB-5723 concerning a state set aside program, and Senator Cloud's proposed SB-124 which addresses the dire need for a special office to coordinate state efforts towards assisting minority owned and ec-nomically disadvantaged businesses.

I'll be glad to answer any questions.

SENATOR CLOUD: Do you have a copy of the testimony that you gave?

MR. BRUBAKER: I'm going to go across the street and make one.

SENATOR CLOUD: Any questions of Mr. Brubaker? Did you say you're going across the street to make a copy?

MR. BRUBAKER: Yes, sir.

SENATOR CLOUD: I'm sure we have one in the Capitol that we can loan to you. Mr. Mero, Al, Mero?

MR. ALBERT MERO: Mr. Chairman, I am here representing the GREATER NEW HAVEN BUSINESS & PROFESSIONAL MEN'S ASSOCIATION and the CONSTRUCTION CONTRACTORS' ASSISTANCE CENTER. We would like to go on record as being in support of SB-124, and a group of bills that directly relate to activities of the Construction Contractors Assistance Center and the Business & Professional Men's Association - HB-5893, HB-5997, HB-7321 and HB-5723. Small and disadvantaged firms are running into obstacles which need to be addressed by such an office. The Greater New Haven Business & Professional Men's Association and the Construction Contractors' Assistance Center's primary goals are to help secure contracts and to help maintain existing businesses. There is another outfit that we're quite active with, the Unity Contractors in Hartford, Connecticut who would also like to go on record as helping and supporting their effort and they also support these bills.

A centralized component is necessary in order to concentrate various business techniques towards the survival, improvement and strengthening and retention of small and dis-

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MR. ALBERT MERO: (Con't) advantaged firms. This state office could help identify business opportunities that will ultimately increase general business productivity in Connecticut.

Several of the things that we're talking about and our work that has been going on with the Department of Commerce and the CBA for the last year and a half have been on some major problems and SB-124 addresses to this. One of the hearings that has been most heartbreaking at times has been dealing with the Department of Commerce with a very limited staff.

So our proposal to you as to SB-124 is that an appropriation be added to the bill for \$100,000 to staff that operation. We feel that is a sufficient amount of money to get the type of people necessary to get the Office of Small Business Affairs open.

Addressing to several of the other bills that we - HB-5893 - The Construction Contractors' Assistance Center of New Haven and Greater New Haven Business & Professional Men's Association would like to go on record as being in support of HB-5893 with the exception as stated below:

"This act would help small contractors to be able to get contracts that they might not be able to because of the lack of performance bonds. This act, however, serves only one purpose. It is exceedingly difficult to get bid bonds and payment bonds as well as performance bonds.

"In order for a bill of this type to be truly effective, it must include provisions to give acquisition assistance for payment bonds as well as performance bonds."

We are in support of HB-5997 because it addresses several issues which are pressing to small businesses: (1) it specifically states that minimal percent that is to be set aside for minority small business enterprises and it (2) directs the appropriate state agencies to make payment in a short period of time. This time element will help tremendously with cash slow problems that many smaller contractors have with the state.

It is for the above reasons that my organization and its firms wholeheartedly support this bill. We would also hope that a mechanism would be developed with the proposed Office of Small Business Affairs to assure adequate participation of small/disadvantaged firms.

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ALBERT MERO: (Con't) A bill proposed by representatives of our town, HB-7321, that bill as it is presented addresses only HUD funded projects. We would like to see that expanded to all federal agencies funding, municipal government, because there are some sizable agencies and some sizable dollars that comes out of the municipalities through the .....funds.....the Environmental Protection Agency fund - Economic Development Authority funds which is quite an extensive fund - HEW funds, Health, Education and Welfare funds - Corps of Engineers funds, one of our nation's largest builders as well as the General Service Administration of America - all of our municipalities take advantage of these agencies and we would like to see.....

Representative Billington's bill as it addressed - has some very interesting techniques to it and that spells out the 25% of .....on individual contracts. I was hoping it means to that type of schedule - maybe because the state of Connecticut has gone into a pre-file, sub... bid program. On that system, under the Public Works Department only, this is a tremendous opportunity for small disadvantaged and minority firms to participate. Now if there is a 16 bid package or a 20 bid package with 25% of that particular job under that contract could be .....for set aside, that means that there is a meaningful way ..... (INAUDIBLE)

We thank you very much for listening to our testimony. We have made copies for the record for some of our criteria.

SENATOR CLOUD: Any questions of Mr. Mero? Senator Putnam?

SENATOR PUTNAM: Yes. Mr. Mero, a bid bond I can understand; a performance bond I can understand - but I don't know what a payment bond is.

MR. MERO: A payment bond - a performance bond is that you're going to finish the contract - the general contractor itself. The payment bond is what a federal agency, a municipality or a state says - we want to make sure your payrolls have been paid - your subcontractors have been paid and your suppliers have been paid. That was a very, very serious area in contracting. I think many majority firms in the state, as well as suppliers, have really been hurt seriously without the provisions of payment bonds...

SENATOR CLOUD: Well, what does the performance bond do?

MR. MERO: The performance bond is that the job will be done

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MR. MERO: (Con't) by the contractor himself. Now whether he pays his subcomponent people of the job that he contracts to - his electrician - his plumber - his lumber dealer and cement company - that's what protects them, you see - because they to .....to the state or the federal government or municipality that - we supply these services to the general contractor and yet, we have not been paid. So, that insures the agency that that type of suit or action will not be brought against them.

SENATOR PUTNAM: I just don't know anything about this. As a sub-contractor, it's the payment bond that's important to you.

MR. MERO: Right.

SENATOR PUTNAM: The municipality - it is a performance bond that is important to a municipality.

MR. MERO: Right. But the municipality requires a payment bond for materials and service, and a performance bond - you know - of the general contractor itself, as well as the bid bond that gives you access to go after the bidding of the job.

SENATOR PUTNAM: What percent of a \$25,000 contract would this come to?

MR. MERO: Well, normally, procedures are 100% performance bonds and 100% payment bonds, you see. That is to guarantee. Now, as Mr. Brubaker mentioned, The Office of Management & Budget of the Federal government, has given - is in the preparation of allowing state, local and federal government to lower the requirements of performance bonds, but when it addresses itself to payment bonds because that is the stipular - you know - of contracting. The federal government does not want to be sued by a multiple of entities. They are not willing to lower the payment bond as they are willing to lower the performance bond requirements for a small disadvantaged and minority firms.

SENATOR PUTNAM: 100%? My car has a \$100 deductible.

MR. MERO: It's 100%, sir.

SENATOR PUTNAM: No wonder you can't afford it.

MR. MERO: It's not so much of .....the bond market has been in distress.

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MR. MERO: (Con't) It has been the large, majority contractors in the past five years that have actually gone out of business overnight relieving many of our companies, especially some of our people right here in the city of Hartford holding millions of dollars worth of bond sureties that they had to make good on. So, it hasn't been the small guys that have beat up the market, it's been the large guys who created this atmosphere for us. So we're in a distress situation right now and I think that is why the bills have been prepared this way - to relieve that distress in the bond market.

SENATOR PUTNAM: Well, in effect then, you're asking for a partial state guarantee on the payment bond.

MR. MERO: I think the mechanisms that I think the Department of Commerce could use if they are allowed the bonding program that has been proposed is that they could provide a type of collateral - the type of line credit - you know - by almost by paper that would back the assurance for a Surety Company like Aetna or Travelers .....to say we will bond that money or because there is a letter of credit in collateral behind him - you know - that performs.

SENATOR PUTNAM: Thank you.

SENATOR CLOUD: Any other questions?

REP. LONGYEAR: (INAUDIBLE) when you say Greater New Haven ---

MR. MERO: Well, the Greater New Haven Business & Professional Association does handle the New Haven County region as a membership if it's minority or disadvantaged businesses of all types of nature. The Construction Contractors' Assistance Center Division of them is city aid funded by the city of New Haven to assist by minority firms of New Haven and the support of bordering towns of New Haven in participating in federal, state and local work in the city.

REP. LONGYEAR: I may have misinterpreted Mr. Fisher, but maybe you can correct me on this. When you're talking on 7321 - municipalities - I interpret that as (INAUDIBLE)

MR. MERO: I don't think so, sir. I think what they're addressing to is a municipality being a town like New Haven, Hartford, New London, Bridgeport and of that nature - those cities and towns who receive those funds if they desire the opportunity to set aside work....

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REP. LONGYEAR: (INAUDIBLE)

MR. MERO: Well, this bill does directly state that - it must be a New Haven based contractor and if we had an excavating minority contractor or a disadvantaged guy from West Haven, he would be restricted bidding in the city of New Haven. He would have to be in that municipality.

REP. LONGYEAR: (INAUDIBLE)

MR. MERO: The city of West Haven in that particular case our supporting town has a redevelopment authority and receives one like that as well as East Haven and as well as North Haven. I think you will find that around the state like Stratford, Bridgeport and Trumbull and Fairfield.....

SENATOR CLOUD: Any other questions by members of the committee? Thank you very much, Mr. Mero. I hope I pronounce this next name correctly - Leon Lemaire?

LEON LEMAIRE, CONNECTICUT SMALL BUSINESS FEDERATION. We have approximately 1400 members throughout the state representing a distinct profile of business and industry in Connecticut in the small business sector. We don't have any.....on .....of raised billing but I'll get to it quickly. Several questions that were raised - hope to get an answer rather than try to expound on the wonderful things that small business.....because you all know that. You've heard it and need not be repeated. I think Rep. Hinds raised a question - but, of course, he's not here to .....(INAUDIBLE) I hope this committee doesn't separate majority small businesses from minority small businesses. Believe me, the problems are the same.

The organization I represent started on October 1, '75 -- (inaudible) We have enlisted 1400 members since that date and the one major reason is that they have problems. The small business community out there is struggling for survival. You've heard a lot of those problems expounded on today. I think handling the minority problem can be done within a small business center or whatever you want to call it - within the Department of Commerce.....at the federal level....part of the FDA. There's nothing wrong with that. So I hope that the thrust of any new agency of government would be one which would be representative and do a job for the small business community. And it is a community.

On the specific bills, we ask that SB - HB-6076, Rep. Gilligan proposed that bill----(inaudible)