

Legislative History for Connecticut Act

SB 292	PA 331	1991
House	1596-1597, 8906-8926, 9695-9699	(26)
Senate	469, 2576-2577, 2591-2592, 3242-3244, 3250-3251	(10)
Labor	60-62, 119-120, 167-169, 188-190, 233-234, 257-259	(16) 52 p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

H-590

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1991

VOL. 34
PART 5
1581-1987

tcc

House of Representatives

Wednesday, March 13, 1991

REP. MILLERICK: (22nd)

Mr. Speaker, for the purposes of an announcement.

SPEAKER BALDUCCI:

Proceed.

REP. MILLERICK: (22nd)

As we can all see, the wearing of the green is going on today here and the committee that's running the party downstairs asked me to remind everybody there is a party starting right now downstairs. Everyone is invited and they hope everyone shows up. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Thank you, Representative Millerick. Other announcements or Points? If not, is there business on the Clerk's desk?

CLERK:

Yes, Mr. Speaker, the Clerk has in his possession a Report.

The Connecticut Hazardous Waste Management Service - 1990 Annual Report.

SPEAKER BALDUCCI:

Refer to the Committee on the Environment.

CLERK:

Also, Mr. Speaker, the Clerk has in his possession a Favorable Change of Reference, Senate Bill 292, AN

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ACT CONCERNING CERTAIN DISCRIMINATORY PRACTICES.

The committee has met, feels the bill should be passed, first be referred to the Committee on Judiciary.

SPEAKER BALDUCCI:

So ordered.

CLERK:

No further business on the Clerk's desk, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, there being no further business on the Clerk's desk, I would move the House stand adjourned subject to the Call of the Chair for purposes of Technical Sessions.

SPEAKER BALDUCCI:

Is there objection? Seeing none, the House stands adjourned.

The House adjourned at 5:05 o'clock p.m., to meet again at the Call of the Chair.

FAVORABLE REPORT OF JOINT STANDING COMMITTEE
HOUSE BILL

The following bill was received from the committee indicated, the bill read the second time and tabled for the Calendar and printing:

H-608-A

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House of Representatives

Saturday, June 1, 1991

CLERK:

The House of Representatives is now voting by roll call. Members please report to the Chamber. The House of Representatives is voting by roll. Members to the Chamber please.

SPEAKER BALDUCCI:

If all the members have voted, the machine will be locked. The Clerk take a tally.

The Clerk please announce the tally.

CLERK:

Senate Bill 48, as amended by Senate Amendment Schedule "A", in concurrence with the Senate.

Total Number Voting	142
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not Voting	9

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Please turn to Page 9, Calendar 706, Substitute for Senate Bill 292, AN ACT CONCERNING CERTAIN DISCRIMINATORY PRACTICES.

Favorable Report of the Committee on Appropriations.

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House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

Representative Adamo of the 116th.

REP. ADAMO: (116th)

Good morning, Mr. Speaker.

SPEAKER BALDUCCI:

Good morning.

REP. ADAMO: (116th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. ADAMO: (116th)

Yes, Mr. Speaker. Mr. Speaker, this bill allows someone to sue for damages in cases of employment discrimination before the Commission on Human Rights and Opportunities has in fact acted. It gives the complainant a release under the current law. The employee discrimination complaints would only be taken to court after the CHRO had acted.

The commission must meet certain requirements. They are that the complainant or his lawyer asks for a release and the complaint was filed with the commission in writing within 180 days of the alleged discrimination, that the complaint is still pending

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with the commission 210 days after it was filed and had not yet been scheduled for public hearing.

Once the commission has granted this release, it may dismiss the complaint and that if the employment discrimination under the bill the court may grant the appropriate equitable relief in concluding temporary or permanent injunctions, attorney's fees and court costs and I would move passage of the bill.

SPEAKER BALDUCCI:

Will you remark further on the bill? Will you remark?

REP. MADDOX: (66th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Maddox of the 66th.

REP. MADDOX: (66th)

Through you, Mr. Speaker, to the proponent. Representative Adamo, if we were to enact this change in the law, basically giving individuals an opportunity to go into court and to sue for discrimination, through you, Mr. Speaker, why would we need the Commission on Human Rights and Opportunities then?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

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Through you, Mr. Speaker. I think that the Representative is very much aware of the fact that the commission is very much backed up and has thousands of cases pending before it. What this basically does is if there's a case that needs -- someone feels should have immediate action, it would give them the opportunity seek a release from the CHRO and go directly to the court for the appropriate action.

SPEAKER BALDUCCI:

Representative Maddox.

REP. MADDOX: (66th)

Well, I would just make a comment. What we're going to do then is say because the Commission on Human Rights and Opportunities is all backed up and our court system it's implied isn't. The last time I was near a court system, it was tremendously backed up. We're going to back up the court system further. I think we've set up a process where we wish these complaints first to go to the Commission on Human Rights and Opportunities. Then if the individuals are not satisfied with the results there, they can then have the ability to go into court.

If we are now going to give them the ability to go into court, it would seem to me we then potentially ought to get rid of the Commission on Human Rights and

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Opportunities and put additional resources into court to take care of the additional backlog that is going to result from this legislation. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Brown of the 74th.

REP. BROWN: (74th)

Thank you, Mr. Speaker. I would like to speak in support of this amendment. I have a constituent in my district who has been embroiled with the commission for four years and unsuccessfully been able to move the decision along.

This type of legislation would offer an alternative, and I'll bet if we did live in a perfect world and all of these commissions were operating in an expeditious manner, we probably would not need this alternative, which I think is much need for constituents whose whole lives are practically in animated suspension because these decisions affect their ability to get jobs and to move along.

So I would urge the body to adopt this amendment. Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment -- on the bill? Representative Wollenberg of the 21st.

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REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. A question to Representative Adamo, through you, sir.

SPEAKER BALDUCCI:

Proceed.

REP. WOLLENBERG: (21st)

Representative Adamo, on line 38, Section D, upon granting a release, the commission may dismiss the discriminatory practice complaint pending. Is there some criteria for the commission to release that or is it just their fancy, sir, through you?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, to Representative Wollenberg, as I read the bill and as I understand it, sir, it is simply the fact that once they have released it to the individual to go to court, they would simply dismiss it to get it off of their record, off of their docket, I presume.

SPEAKER BALDUCCI:

Representative Wollenberg.

REP. WOLLENBERG: (21st)

Through you, Mr. Speaker, to Representative Adamo.

SPEAKER BALDUCCI:

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Proceed.

SPEAKER BALDUCCI:

Representative Adamo, to me, a dismissal of a complaint means that there may be lack of merit or something and that's what I'm concerned about here. If I were the commission and I dismissed something, if I were the court thereafter, I'd kind of look at it to look at the merits of that dismissal and not just the request for a release and that's kind of what I'm getting at is that there doesn't seem to be anything here that wherein the commission has to justify to release and I think it might be looked at by a court in an adverse way when they receive. That's all. Would you like to respond to that?

REP. ADAMO: (116th)

Through you, Mr. Speaker, I understand your concerns very much. I noticed that in the language myself. It indicates in the OLR analysis that the dismissal would not even have the ability to appealed once the complainant received the release.

I guess that's the judgment the complainant is going to have to make. If he goes to the commission and says, "I want you to release this complaint so I can go directly to court, he knows that it's going to be dismissed by the board and would really just be

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gambling with the court, I presume.

REP. WOLLENBERG: (21st)

Thank you, Representative Adamo. Thank you,
Mr. Speaker.

REP. RELL: (107th)

Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further?

REP. RELL: (107th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Rell of the 107th.

REP. RELL: (107th)

Thank you. Mr. Speaker, a question to
Representative Adamo please.

Proceed, madam.

REP. RELL: (107th)

Thank you. Representative Adamo, would this apply
to any cases, and I apologize if you had answered this
before. I couldn't hear everything you were saying.
Would this apply to any cases that are currently
pending before the CHRO?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

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Through you, Mr. Speaker, to the Representative, yes, under the OLR Report. It would really and truly apply to any case that is still pending before the commission for at least 210 days after it was filed and is not yet scheduled for a public hearing or has not yet been scheduled for a public hearing.

REP. RELL: (107th)

Through you, Mr. Speaker, some cases, and I can identify with what Representative Brown has said earlier, I have constituents who have -- in fact I recently got a letter just yesterday as a follow-up. They have had a public hearing, one public hearing and then they've gone back and asked for reconsideration and I guess I would want to make sure that this would apply in case they would like to move forward with that and I don't expect you to answer that question. It was more for my purposes, but I would also point out that I think Representative Maddox was correct that one of the things we're going to be doing is sending this directly to the courts now.

Many of the cases before the commission simply cannot be handled. They don't have the people to do the workload. They are backlogged. We have passed legislation in the past years. This makes a very good point and it allows for direct access to the court.

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I'm going to support the bill. I have some reservations. I think Representative Wollenberg brought up a very good point. Hopefully, it will work. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the bill?

Representative Andrews of the 88th.

REP. ANDREWS: (88th)

Thank you, Mr. Speaker, a question, through you, to Representative Adamo please.

SPEAKER BALDUCCI:

Proceed.

REP. ANDREWS: (88th)

Representative Adamo, through you, Mr. Speaker, a couple of points were just raised that I think are kind of interesting. The file copy shows a backlog of CHRO of approximately 2,300 or so cases. Can you elucidate a little bit as far as how long it takes for an average complaint to go through that commission, if you could please, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, to Representative Andrews, my understanding is that if the statutory

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requirements were absolutely followed, around nine months.

REP. ANDREWS: (88th)

I'm sorry. Through you, Mr. Speaker, I didn't hear you, Representative Adamo.

REP. ADAMO: (116th)

Once again, through you, Mr. Speaker, to the Representative, if the statutory requirements are absolutely followed, around nine months.

REP. ANDREWS: (88th)

Is it -- to follow up then, my understanding is that the judicial system, through you, Mr. Speaker, the judicial system may be tied up even more than the nine months. Would some of these people, if they are not getting, getting granted a release from the commission, could this not delay their action even further than the nine months that they may be waiting by the commission, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Will you remark further?

REP. ADAMO: (116th)

Through you, Mr. Speaker, was that a question, sir?

REP. ANDREWS: (88th)

Yes, let me -- I'll reframe it please, if I may.

SPEAKER BALDUCCI:

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Representative Adamo.

REP. ANDREWS: (88th)

Representative Adamo, through you, Mr. Speaker, if the commission has to -- or the average is about nine months to deal with these complaints, the judicial system may or may not take longer than the nine months. If these people that are filing complaints are being granted releases by the commission, could they not delay actually their complaints, through you, Mr. Speaker?

REP. ADAMO: (116th)

Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

If I might, I'd like to yield to Representative Coleman please. I'm yielding to Representative Coleman, Mr. Speaker, for response to that question.

SPEAKER BALDUCCI:

Representative Coleman of the first, do you accept the yield, sir?

REP. COLEMAN: (1st)

Yes, I do, Mr. Speaker, thank you. The CHRO is in the nature of an administrative agency and the purpose of the administrative agency is to expeditiously

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resolve some complaints in more of an informal nature than the court system would allow. If complaints which are filed with CHRO are going to linger and not be resolved expeditiously I think it's only fair to the parties that they have the full access of the court system.

In the court system there are some formal procedures which would allow for a more thorough review of the individual's cases, and again, I think if cases are going to linger for three years the parties should not give up the benefit of having the right to go to court, through you, Mr. Speaker.

REP. ANDREWS: (88th)

So, through you, Mr. Speaker, to follow up, what you're explaining then, Representative Coleman, is that the more complicated cases would then, after a period of time, probably get a better treatment through the court system rather than through CHRO, is that correct, through you, Mr. Speaker?

REP. COLEMAN: (1st)

Through you, Mr. Speaker, I think it's fair to say that the complicated cases would receive a more thorough treatment from the judicial system than they would from an agency like CHRO which is in the nature of an administrative agency.

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REP. ANDREWS: (88th)

One more question, if I may, Mr. Speaker, through you, Representative Coleman, with your vast background in this field, do you feel that this would have a negative impact on the judicial system as it currently exists in the State of Connecticut, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Coleman.

REP. COLEMAN: (1st)

Through you, Mr. Speaker, I think there is certainly the potential for that, but I think as it stands now, both the court system, the judicial system and the CHRO system are saddled with very large caseloads. There are backloads in both systems. I think if we allow complainants to utilize both systems, that there's a greater potential that justice will not be delayed and there may be some satisfactory resolution reached for the benefit of all the parties in a sooner and quicker manner, through you, Mr. Speaker.

REP. ANDREWS: (88th)

Thank you, Mr. Speaker. Thank you, Representative.

SPEAKER BALDUCCI:

Will you remark further on the bill?

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Representative Radcliffe of the 123rd.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I rise in support of this bill. I must say, however, that I do so very reluctantly because it seems to me that the mere fact that we have this bill before us is in some respects an admission of failure. Representative Coleman talked about expediting the process, about judicial economy, about getting a quick remedy for individuals. That was the purpose of the Commission on Human Rights and Opportunities, to provide for an administrative remedy, to provide it in a somewhat less formal fashion than in a court of law, not to require in all circumstances and in all cases and for all applicants representation by counsel at least at the initial stage and to try to resolve through mediation, consultation and conciliation many disputes that otherwise would have clogged the court dockets and it seems to me that the mere fact that we have this bill before us, the fact that two committees of this Legislature, the Judiciary and the Labor Committee have heard testimony over a period of time about the backlog in the Commission on Human Rights and Opportunities. We've heard the horror stories, unfortunately the true stories, about backlogs of two, three, three and a half years before an

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individual can have a case heard in an administrative agency and it seems to me that defeats the entire process of an administrative agency.

But, Mr. Speaker, I do have one question, if I may, either to the proponent of the bill or to Representative Coleman who seems familiar with this particular area, if I might pose the question, through you, Mr. Speaker.

Through you, Mr. Speaker, in lines 26 through 28 we're told that a request must be made for release and that the Executive Director shall grant the request for a release unless a hearing is scheduled. Through you, Mr. Speaker, in order for the release not to be granted, must the hearing be scheduled before the release is requested or may it be scheduled within the next ten days after receipt of the request for the release, through you, Mr. Speaker, to either Representative Adamo or to Representative Coleman?

REP. ADAMO: (116th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

I was in consultation, Mr. Speaker. I would please ask Representative Radcliffe to repeat the question.

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I'm sorry.

REP. RADCLIFFE: (123rd)

I'd be happy to, Mr. Speaker. In line 27 through 30 it states that the Executive Director shall grant a release allowing someone to sue after a request if a case has been pending for 240 days and it has to be released within 10 days. There is an exception and that exception is if a hearing has been scheduled, through you, Mr. Speaker, I should like to ask if the hearing must be scheduled before the release or if the Executive Director can avoid granting the release simply by scheduling a hearing within the next ten days, through you, Mr. Speaker?

REP. ADAMO: (116th)

Through you, Mr. Speaker, as I read this, Executive Director is obligated to grant the release to the complainant within ten days after the receipt of the request, except that if the case was scheduled for a public hearing.

I understand that to mean that the case would already have been scheduled for a public hearing.

REP. RADCLIFFE: (123rd)

Well, then through you, Mr. Speaker, if the Executive Director receives a request for a release and there is no hearing scheduled at the time he receives

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the release, after receipt and before the ten days have lapsed he then schedules a hearing. Does he still have to issue the release, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, I would believe not.

REP. RADCLIFFE: (123rd)

He would not have to under those circumstances, through you, Mr. Speaker?

REP. ADAMO: (116th)

That's correct.

REP. RADCLIFFE: (123rd)

All right, Mr. Speaker, I thank the Chairman of the Labor Committee for that answer. I think that there is some ambiguity here, but I believe that that certainly answers it to my satisfaction. Certainly the idea is to obtain a quick and an expeditious remedy for an individual and after the receipt of a release seeking a lawsuit that could drag on for a time. If the commission then immediately acts to grant this individual a hearing, I see no reason for the issuance of a release at that time. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Krawiecki

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of the 78th.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. A couple of questions to Representative Adamo.

SPEAKER BALDUCCI:

Proceed.

REP. KRAWIECKI: (78th)

Representative Adamo, I'm focusing specifically on lines 38 to 40 wherein we are talking about upon granting a release, the commission releases the matter, the commission -- and then it says may dismiss the discriminatory action and, through you, Mr. Speaker, as an example in federal court action if there's an administrative proceeding pending, it's my understanding that once you bring the action in the court system that there's a period of time, and I frankly have forgotten what it is, that the administrative proceeding is dismissed or withdrawn automatically. It is immediately stopped. This seems to indicate that there are going to be two forms where the action continues to pend. If the commission decides to have a fight with whoever the person bringing the complaint is, for example, they may very well leave the action pending before the commission and at the same time you're in Superior Court, and through

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you, Mr. Speaker, it would seem to me that the language should have been it shall be dismissed and I'm just wondering, through you, Mr. Speaker, what the intention of the committee is.

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, to the distinguished Minority Leader, you raise a very valid point. The language would in fact allow it to be -- if the commission so felt, to be pending in both forums and if that is -- that may be inappropriate, as you say and I, frankly, don't know how to deal with it.

Unfortunately, I didn't write it. I might add that my Senate Chair did, sir.

REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER BALDUCCI:

(Gavel) The Chamber please come to order.

REP. ADAMO: (116th)

Mr. Speaker, may I yield to the Majority Leader please.

REP. KRAWIECKI: (78th)

Mr. Speaker, I think I had the floor, but if you'd like, I'd be happy to yield to the Majority Leader, I

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assume for a motion.

SPEAKER BALDUCCI:

Thank you, Representative Krawiecki.

Representative Frankel.

REP. FRANKEL: (121st)

Yes, I accept the yield, Mr. Speaker. In the course of debate a number of us in studying, it does appear that there should not be a jurisdiction presiding in two places in two causes of action. The "may" should certainly be changed to a "shall" in line 39. With a view towards receiving an amendment to do that, I move this item be passed temporarily.

SPEAKER BALDUCCI:

The question before the Chamber is passing temporarily. Is there objection? Seeing none, so ordered.

CLERK:

Please turn to Page 10, Calendar 707, Substitute for Senate Bill 327, AN ACT CONCERNING HEAD START ENHANCEMENT. As amended by Senate Amendment Schedule "A", Favorable Report of the Committee on Human Services.

DEPUTY SPEAKER POLINSKY:

Representative Moynihan of the 10th.

REP. MOYNIHAN: (10th)

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House of Representatives

Monday, June 3, 1991

REP. FRANKEL: (121st)

Mr. Speaker, the judgment as those reading it, has not altered since my comments, but in order to either provide a clarifying amendment to see to it that it says within available appropriations, or to get some further clarification, I would have no objection to the motion.

SPEAKER BALDUCCI:

The question before the Chamber is passing temporarily. Is there objection? Seeing none, it is so ordered.

CLERK:

Page 7, Calendar 706, Substitute for Senate Bill Number 292, AN ACT CONCERNING CERTAIN DISCRIMINATORY PRACTICES. Favorable Report of the Committee on Appropriations.

SPEAKER BALDUCCI:

Representative Adamo of the 116th.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. ADAMO: (116th)

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Yes, Mr. Speaker. We were debating this bill yesterday and the distinguished Minority Leader raised the very valid question about section 3, I'm sorry, section d of the file copy and for clarification, I would ask the Clerk to please call LCO Number 7354 and I be given leave to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO7354 designated House "A".

CLERK:

LCO Number 7354 designated House Amendment Schedule "A" offered by Representative Adamo et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Adamo.

REP. ADAMO: (116th)

Yes, Mr. Speaker. Ladies and gentlemen, the Minority Leader, as I said, raised a very valid question of the potential of the matter being valid before two proper boards, one being the CHRO and the other being the court.

We have changed that by having this amendment read, frankly, that they shall dismiss or otherwise administratively dispose of the discriminatory practice complaint pending with the Commission without cost or penalty assessed to either party.

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I would move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. Just a question to Representative Adamo, and I appreciate the amendment. I think it does fill presumably the hole that I pointed out. But in the language it indicates on line 17 and 18 of the amendment, or otherwise administratively dispose of. Could the Representative give us some indication as to what that kind of an activity might be?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Yes, through you, Mr. Speaker, it is my understanding with my conversations with Representative Coleman, that the board has numerous options. One of the other options, for example, could very well be indicating that the complaint had been withdrawn by virtue of the parties involved.

REP. KRAWIECKI: (78th)

Thank you, Representative Adamo. I think that takes care of the problem.

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SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed, nay. The ayes have it. The amendment is adopted and ruled technical.

House Amendment Schedule "A".

Delete lines 39 and 40 in their entirety and insert the following in lieu thereof: "shall dismiss or otherwise administratively dispose of the discriminatory practice complaint pending with the commission without cost or penalty assessed to any party."

SPEAKER BALDUCCI:

Will you remark further on the bill as amended? If not, staff and guests to the well. Members please please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber.

SPEAKER BALDUCCI:

Have all the members voted and is your vote

properly recorded? If all the members have voted, the machine will be locked. The Clerk take a tally. The Clerk please announce the tally.

CLERK:

Senate Bill 292 as amended by House Amendment
Schedule "A".

Total number voting	142
Necessary for passage	72
Those voting yea	138
Those voting nay	4
Those absent and not voting	9

SPEAKER BALDUCCI:

The bill as amended is passed.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, for an introduction.

SPEAKER BALDUCCI:

Proceed.

REP. FRANKEL: (121st)

Ladies and gentlemen, joining us on the rostrum is one of our former members, the former Chairman of the Labor Committee, the distinguished Congressman from the

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CONNECTICUT
GEN. ASSEMBLY
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WEDNESDAY
March 13, 1991

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Nominate for appointment, Lawrence DeNardis of Hamden, to be a member of the Board of Governors for Public Higher Education. Term: four years ending March 1, 1995

Nominate for appointment, Belton Copp of Old Lyme, to be a member of the Board of Governors for Public Higher Education. Term: ending March 1, 1995

Nominate for appointment, Helen Wasserman of Fairfield, to be a member of the Board of Governors for Public Higher Education. Term: four years ending March 1, 1995

Nominate for appointment, Joseph Ciaburri of Woodbridge, to be a member of the Board of Governors for Public Higher Education. Term: four years ending March 1, 1995.

5. SENATE BILLS FAVORABLY REPORTED WITH A CHANGE OF REFERENCE - to be referred to committees indicated

Labor & Public Employees

Substitute SB292 AN ACT CONCERNING CERTAIN

DISCRIMINATORY PRACTICES

Referred to: JUDICIARY

Insurance & Real Estate

Substitute SB658 AN ACT CONCERNING SECURITIES

S-321

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
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Senator O'Leary. I'm sorry, Mr. Clerk.

THE CLERK:

Matters returned from Committee, Calendar Page 22,
Calendar 400, File 638, Substitute SB292, AN ACT
CONCERNING CERTAIN DISCRIMINATORY PRACTICES. Favorable
Report of the Committee on APPROPRIATIONS.

THE CHAIR:

The Senate will please come to order. Keep the
level of the conversation down, please. Thank you.
Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. I would move the Joint
Committee's Favorable Report and passage of the bill.

THE CHAIR:

Thank you Senator. Do you wish to remark further?

SENATOR MALONEY:

Thank you, Madam President. What this bill does is
provide under fairly limited circumstances a private
right of action for individuals who allege they have
been the victims of discriminatory practice. Most
specifically what it does is allow after a complaint
has been pending with Human Rights Commission for 210
days for the party to receive a waiver from further
proceeding before the Commission which currently has a
backlog in the four figures, very substantial backlog

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and allow an individual then to proceed with the complaint in court.

This is analogous with the way the Civil Rights Action statutes in regards to similar matters operates.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on Senate Calendar 400? Any further remarks on Senate Calendar 400? Senator Maloney.

SENATOR MALONEY:

I would move the matter to Consent.

THE CHAIR:

Thank you very much, Senator. Is there any objection in placing Senate Calendar 400, Substitute SB292 on the Consent Calendar? Is there any objection? Hearing none, so ordered. Mr. Clerk.

THE CLERK:

Madam President, I skipped over on Page 21, Calendar 109, Files 165 and 829, Substitute SB77, AN ACT CONCERNING THE "CHARLES EDWARD IVES MEMORIAL COMPOSER LAUREATE". Favorable Report of the Committee on EDUCATION. Clerk is in possession of one amendment.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. I would move approval

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2, Calendar 139, Substitute SB809. Calendar Page 2,
Calendar 391, Substitute HB7084. Calendar Page 7,
Calendar 494, Substitute HB5213. Calendar Page 8,
Calendar 502, Substitute HB7201. Calendar 504,
Substitute HB5821.

Calendar Page 9, Calendar 508, Substitute SB838.
Calendar Page 10, Calendar 520, Substitute SB907.
Calendar Page 11, Calendar 523, Substitute SB342.
Calendar Page 12, Calendar 528, SB950. Calendar 535,
Substitute HB6997.

Calendar Page 13, Calendar 537, Substitute HB6334.
Calendar 542, Substitute HB7092. Calendar Page 22,
Calendar 400, Substitute 292. Calendar Page 23,
Calendar 403, Substitute HB6847. Calendar 450,
Substitute SB327. Calendar Page 27, Calendar 383,
Substitute SB848, Madam President, that completes the
first Consent Calendar.

THE CHAIR:

Thank you very much. The Chair recognizes Senator
Matthews.

SENATOR MATTHEWS:

Thank you. Calendar 528, SB950, I request that we
pass it temporarily and remove it from the Consent
Calendar.

THE CHAIR:

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Thank you very much, Senator. Is there any objection? Could you restate that again?

SENATOR MATTHEWS:

SB950, Calendar 528. I request that we pass it temporarily.

THE CHAIR:

Calendar 528, SB950, File 844. You have heard the items that have been placed on the Consent Calendar. The first Consent Calendar for Wednesday, May 29, 1991. The machine is on. You may record your vote. Senator Upson. Senator Upson. Thank you very much. All Senators here voting have voted. The machine is closed.

The result of the vote.

36	Yea
0	Nay
0	Absent

The Consent Calendar is adopted.

Clerk, return to page...

THE CLERK:

Returning to Calendar Page 25, Calendar 165, File 252 and 862, Substitute SB810, AN ACT TO ENCOURAGE THE DEVELOPMENT AND IMPLEMENTATION OF ECONOMIC DEVELOPMENT PROGRAMS AND CONSERVATION AND LOAD MANAGEMENT TECHNOLOGIES. As amended by Senate Amendment Schedule

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is open. You may record your vote. Thank you. All
Senators have voted that are going to vote. The
machine is closed.

The result of the vote.

36 Yea

0 Nay

0 Absent

The bill passes.

Senator O'Leary.

SENATOR O'LEARY:

Thank you, Madam President. I would like to move
for immediate transmittal to the House.

THE CHAIR:

Is there any objection for the motion for immediate
transmittal of all items that we have acted on so far
to the House? Any objection? Hearing none, so
ordered. Mr. Clerk.

THE CLERK:

Calendar 400, File 638, Substitute SB292, AN ACT
CONCERNING CERTAIN DISCRIMINATORY PRACTICES. As amended
by House Amendment Schedule "A". Favorable Report of
the Committee on APPROPRIATIONS.

THE CHAIR:

Thank you. The Chair recognizes Senator Maloney.

SENATOR MALONEY:

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Thank you, Madam President. I would move approval of the Joint Committee's Favorable Report and passage of the bill in accordance with the House.

THE CHAIR:

Thank you, Senator. Would you care to remark further?

SENATOR MALONEY:

Thank you, Madam President. The House Amendment basically turned an optional provision of the bill which said that the Commission could dismiss pending claims if the matter was certified in court to a mandatory requirement that those claims be in fact dismissed so there would not be two parallel simultaneous proceedings. I think it is a good housekeeping amendment and would urge the bill as adopted by the House be supported in the Senate.

THE CHAIR:

Thank you very much, Senator. Would anyone else wish to remark on Senate Calendar 400? Are there any further remarks? If not, Senator, would you like to place this on Consent?

SENATOR MALONEY:

I would so move.

THE CHAIR:

Thank you. Is there any objection in placing

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Senate Calendar 400, Substitute SB292 on the Consent Calendar? Is there any objection? Hearing none, so ordered. Mr. Clerk.

THE CLERK:

Calendar 507, File 795, Substitute SB723, AN ACT REQUIRING THE ESTABLISHMENT OF A PILOT PROGRAM TO EXPEDITE THE ISSUANCE AND RENEWAL OF MOTOR VEHICLE OPERATORS' LICENSES AT LOCATIONS OTHER THAN STATE MOTOR VEHICLE DEPARTMENT OFFICES. As amended by Senate Amendment Schedules "A", "B" and "C". Favorable Report of the Committee on APPROPRIATIONS. House rejected Senate Amendment "B".

THE CHAIR:

Thank you very much. The Chair would recognize Senator Meotti.

SENATOR MEOTTI:

Thank you, Madam President. I would move adoption of the bill and readoption of Senate "B".

THE CHAIR:

Thank you very much, Senator. There is a motion to re-adopt Senate Amendment "B". Would you like to speak to that motion? Don't have anything to say? Anyone else like to speak to this motion? All those in favor please signify by saying aye.

SENATORS:

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to the Chamber.

THE CHAIR:

Thank you very much. The issue before the Chamber is Consent Calendar #1. Would you give your attention to the Clerk who will read the items placed on the Consent Calendar?

THE CLERK:

Madam President, the first Consent Calendar begins on Calendar Page 6, Calendar 585, Substitute HB7358. Calendar 587, Substitute HB6852. Calendar Page 7, Calendar 592, Substitute HB6338. Calendar 594, Substitute HB7270. Calendar 595, Substitute HB7216.

Calendar Page 8, Calendar 599, Substitute HB7327. Calendar 602, HB6457. Calendar Page 10, Calendar 611, Substitute HB7300. Calendar 612, Substitute HB7351. Calendar Page 11, Calendar 616, Substitute HB5045. Calendar Page 16, Calendar 389, Substitute HB6624. Calendar Page 17, Calendar 111, Substitute SB701. Calendar Page 18, Calendar 400, Substitute SB292. Calendar 520, Substitute SB907. Calendar 523, Substitute SB342. Calendar Page 19, Calendar 536, Substitute HB5396. Madam President, that completes the first Consent Calendar.

THE CHAIR:

Thank you very much. You have heard the items that

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have been placed on the Consent Calendar #1. The machine is on. You may record your vote. Thank you very much. The machine is closed.

The result of the vote.

36 Yea

0 Nay

0 Absent

The Consent Calendar is adopted.

Senator DiBella.

SENATOR DIBELLA:

Thank you, Madam President. Calendar 591, Page 6, Calendar 591, I voted in the affirmative on that piece of legislation and I would like to move consideration.

THE CHAIR:

Are you talking about the amendment? There is a motion on the floor to reconsider LC07248 which was an amendment to Senate Calendar 591, which you will find on Page 6. 591 is Substitute HB5427. There is a motion to reconsider that amendment, made by Senator DiBella who is on the prevailing side.

SENATOR DIBELLA:

May we have a roll call on that.

THE CHAIR:

And he has also requested a roll call vote on the motion to reconsider only. Is there anyone who would

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SEN. MALONEY: Thank you very much. Any other questions? Representative Gyle, thank you. Oh, I'm sorry, Senator Robertson.

SEN. ROBERTSON: Norma, in your interpretation of the way the bill is worded, would this also include internists, residents, as well as doctors?

REP. GYLE: I wasn't really thinking of them to tell you the truth.

SEN. ROBERTSON: Well, should they be

REP. GYLE: Well, I'll tell you why, because I've seen a lot of interns who are on call, so theoretically have that eight hour, sixteen hour shift, what have you. But they're usually in bed, and if we need them we go get them, to be very honest with you. They aren't always at the bedside, they're usually in a room someplace where they can take a nap, or they can sleep so they don't have the, unless the patient is critical in which case they could be up for twenty four, thirty six hours with a patient, and that also depends on the case. But, as far as regular shifts, I was not actually thinking of them, specifically, because interns are students in many respects, so they are not what I consider to be a paid worker who goes home and then comes back.

SEN. MALONEY: Thank you very much. Any other questions? Thank you.

REP. ADAMO: Mr. Lewis Martin, from CHRO.

LOUIS MARTIN: Good afternoon Senator Maloney, Representative Adamo, and members of the Labor and Public Employees Committee, my name is Louis Martin, I'm the Executive Director of the State Commission on Human Rights and Opportunities. I am testifying in behalf of the commission in support in principle of SB292 an act concerning certain discriminatory practices, and I appreciate that opportunity to testify before the Labor Committee today.

The stated purpose of the bill is to provide a more efficient procedure for dealing with certain discriminatory practices. What the bill actually

does, is to create a private right of action in Superior Court for discriminatory employment, housing, public accommodations, and other discriminatory practice cases and provides that a hearing officer can award double damages and attorney fees and discriminatory credit practice case hearings. The commission has supported a private right of action in the past. The commission supports in principle the bill before you today.

There have been significant changes in the statutes which the commission enforces. Those changes are not reflected in the current bill. In addition, the composition of the commission has changed significantly, and I have been just recently hired as the Executive Director of the Commission. The commission is presently preparing a draft of this bill, which will reflect those statutory changes. With the permission of the committee, the commission would like to submit our ideas to the committee in the form of a recommended draft.

Some of the major provisions of the recommended draft will include the inability of the commission to issue a right to sue letter if it has concluded or closed a particular case, makes the right to sue provision available only after one hundred and eighty days has elapsed since the filing of the complaint with the commission and makes the rights of supervision only applicable to employment cases. We believe such changes equitably compliment the commissions mandate without abandoning its responsibility to civil rights enforcements within the State of Connecticut.

In conclusion, I wish to emphasize that the commission continues to support in principle the concept contained of this bill. I'd like to thank the Labor and Public Employees Committee for its continued interest and this issue. We will present our specific proposals to the committee next week in the form of a proposed draft bill. And thank you for the opportunity to testify before you here this afternoon, and I'd be happy to answer any questions concerning this particular bill in general and specific.

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SEN. MALONEY: Mr. Martin, first of all, we want to thank you for your offer of doing a draft. We certainly accept the offer and would look forward in receiving that. In terms of our schedule, we tentatively put that bill down on our potential JF Agenda for next Tuesday. So, if at all possible, it would be very helpful to have it on Monday so that we could take a look at the substitute language.

LOUIS MARTIN: You'll have it on Monday.

SEN. MALONEY: Good, thank you sir. Are there other questions from other members of the committee? Thank you sir.

REP. ADAMO: Bruce Chamberlain please.

BRUCE CHAMBERLAIN: Good afternoon, Senator Maloney, Representative Adamo, members of the committee, my name is Bruce Chamberlain, and I'm the Management Coordinator for the Health Care Cost Containment Committee which is a joint State Labor Management Committee dedicated to health care cost containment and quality health care for state employees. Joining me I have behind me is Mr. Bernie Ferand who is a consultant to the management side of the committee for any technical questions for which you might have. I'm here to speak in favor for raised Bill HB6943 which would enable the state to self insure its health insurance coverage for state employees, beginning in the fiscal year effective July 1, 1991.

According to Martin Segal Company's most recent analysis of state employees benefit plans, thirty four of the fifty states currently self insure their employee health benefits. Connecticut is only one of sixteen states, which funds its employees health benefits to an insurance arrangement. The state would realize a modest savings of about fifty thousand dollars by switching to self insurance. However, one of the major advantages of self insuring our health benefit program next year, it that it would give the state significant increased flexibility in

complied. We feel that in that instance you'd still be affording the employees the protection that they're looking for. However, it would be much less onerous on the business community.

The second measure we'd like to address is and act concerning termination of employment. CBIA is opposing this measure. This measure would further impair employer's ability to set the terms of employment. The employment at will doctrine is very basic, unless there is an explicit contract stating otherwise, either the employer or the employee can terminate the employment relationship at any time. At will employees are protected from termination in certain cases by both federal and state laws as well as case law.

These protections are well known and include cases involving "whistle-blowing" and any discrimination, any discriminatory practices such as; race, age, gender, etc. With federal and state statutory protections and case law that already exist there is a comprehensive body of law dealing with wrongful discharge. Therefore, this measure does not provide any additional necessary protections but further erodes the rights of Connecticut employers by severely limiting their ability to terminate an employment relationship.

This measure would continue to afford employees those rights that it is stripping from employers. In addition the term "just cause" is not defined. The term itself provides neither the employer or the employee with any form of guidance and will result in burdening our already over burdened agencies with resolving claims against a highly ambiguous standard.

The third measure I'd like to address today is SB292, AN ACT CONCERNING CERTAIN DISCRIMINATORY PRACTICES. CBIA is concerned with this measure as well. This bill was before your committee last year and the previous year it was before the judiciary committee. This bill would, say that if a claim or a discriminatory violation or practice is not acted on within 180 days then an employee could take their claim directly to court.

As we've stated before CBIA believes in equality and in justice and we strongly believe that every person who feels that they have been discriminated against should have their claim promptly heard and investigated. If discrimination is found to exist the violation should be quickly corrected and the violator punished. However, we also believe that the best contacts for investigation and correction is the informal, administrative process, not the costly process of litigation in court.

As I had stated to you before we had raised our concerns both last year and the year before when similar bills were made. In response to our request as well as others, Public Act 89-332 was enacted making several significant changes on the commission of human rights and opportunities procedures for handling discriminatory cases. At present in response to requirements under 89-332 the commission on human rights is promulgating regulations which we are also commenting on.

And hope that that action will be taken. We recommend that the actions and the changes that were enacted under 89-332 and as well as those under the present regulations that are being promulgated have a chance to go into effect and be worked out prior to any other changes in the law being adopted. It's just simply a case where those that have been made in the last year and actually more last two years because you've got 89 and 90 acts that were passed, be given a chance to work before you change any further procedures or substantive law within that commission.

Another measure of concern to the business community is SB291, AN ACT CONCERNING LIABILITY FOR UNPAID WAGES. This measure would hold officers of companies personally liable for any unpaid wages of its employees. This measure fails to recognize that an officer of a company is merely an employee of the company, who often has agreed to assume special duties which are for the most part are administrative in nature.

Unlike a particular, unlike a partner in a corporation an officer has not established a right to share in the profits and extra assets of the

has to be noted, as was noted before, that the cost falls disproportionately on small business. Large businesses that are able to self-insure would not be subject to this mandate because of the ERISA preemption.

So it's a question of priorities and our priority now and what has been the established priority of the General Assembly is to make sure that we have basic coverage. There are 300,000 unemployed people in this state, people that have no coverage at all. Two-thirds of those are working in small businesses. So while we are trying to provide health care coverage to those people and control the rapidly escalating costs, it would be counterproductive to add any additional mandates.

The statutory mandate existing is a mandate that requires the insurer to provide an option to the employer to purchase in vitro coverage and we believe that this law should be kept intact allowing the employer the option of choosing of whether he can afford it or whether it's necessary for his employees.

REP. ADAMO: Pat, can you possibly -- if you can, through the IAC, get to the committee a list of states that in fact do have the mandate nationwide and what the costs -- what costs are generated by that mandate?

PATRICIA SHEA: Okay. I'll get you that information, but it's also -- the states that do have it, there are different limitations on it. So it's not going to be really comparable, but I'll get you whatever I can.

REP. ADAMO: Thank you. Thank you very much.

PATRICIA SHEA: Thank you.

REP. ADAMO: Deborah Ferrigno.

DEBORAH FERRIGNO: Good afternoon, Representative Adamo and Members of the Committee. My name is Debbie Ferrigno and I'm the Equal Opportunity Manager at the United Illuminating Company. I'm here to oppose Proposed SB292, AN ACT CONCERNING CERTAIN DISCRIMINATORY PRACTICES.

UI is a public electric utility that serves over 300,000 customers in New Haven and Fairfield Counties and employs approximately 1,600 people. I am responsible for investigating and responding to charges of employment discrimination at United Illuminating. My comments will address impact of this proposed bill as it relates to discrimination in employment under Connecticut law.

The proposed bill would allow complainants to obtain a release from the Connecticut Commission on Human Rights and Opportunities to file a civil suit in Connecticut if their case is still pending after one year of filing.

Even in those cases where the commission finds no reasonable cause could go into state court. If the commission is unable to meet its goals for eliminating its current backlog of cases, hundreds of cases may end up in court. Further, many of the civil rights protections under Connecticut law are currently afforded under federal law.

Federal law often provides for the administrative process followed by the complainants right to sue. The Equal Opportunity Commission investigates employment discrimination based on race, color, religion, sex, national origin, age, equal pay and will soon add disability. Where a complainant files, both with the Connecticut Commission and the EEOC, the administrative process is usually handled by the Connecticut Commission.

However, if this bill is passed, the complainant will be able to sue in federal court and at the state level. This would create a very burdensome process for Connecticut employers.

Finally, the bill would provide private action to be brought within two and one-half years of the date of filing. Two and one-half years, we feel, is an excessive amount of time and the ability for employers to provide an accurate defense would be significantly diminished.

These provisions would make discrimination cases extremely costly for employers. Our counsel has advised us that discrimination cases that go into

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state court cost as much as ten times more in attorney fees that the administrative process of the commission. Many employers will probably settle cases out of court even when there was no discrimination.

We firmly believe that individuals who are discriminated against in employment should have ample opportunity to have their cases reviewed and concluded in a timely manner. The commission should be given the opportunity and resources to address its backlog of cases. Civil suits for complaints is not treating the problem and actually will result in a worsening of the situation by increasing the number of cases in the already overcrowded courts in Connecticut resulting in further delays in getting contested issues resolved and I'll be happy to answer any questions that you have.

REP. ADAMO: I don't believe there are any. Thank you very much.

DEBORAH FERRIGNO: Thank you.

REP. ADAMO: Lou Halpryn, HB5727. Nalpryn? No? Okay. Helene Rymash. Okay. Jim Neary from the Building Trades. Bill Neary here? Bill Shannon, you're up.

BILL SHANNON: I'll give it to my --.

REP. ADAMO: Boy, you're a good guy, Bill. Just identify yourself for the --.

STAN MCKENNEY: Ladies and Gentlemen, my name is Stan McKenney. I work for a family-owned mechanical contracting business, McKenney Mechanical in Danbury and we are members of the Mechanical Contractors Association of Connecticut and I'm here today to speak in favor of HB6944 regarding the prevailing wages.

In my position in our company, I am directly responsible for bidding the work that goes out and more times than not we lose the jobs to other contractors who cannot be paying the prevailing wage. They cannot do the job, pay the men and make a profit and pay that wage.

employee can terminate the employment relationship at any time. At will employees are protected from termination in certain cases by both federal and state statutes as well as case law. These protections are well known and include cases involving "whistle-blowing" and discriminatory practices based on race, national origin, gender, religion, age or disability.

(HB 5228)

With the federal and state statutory protections and case law that already exist there is a comprehensive body of law dealing with wrongful discharge. Therefore, this measure does not provide any additional necessary protections but further erodes the rights of Connecticut employers by severely limiting their ability to terminate an employment relationship. This measure would continue to afford employees those same rights it is stripping from employers.

In addition the term "just cause" is not defined. The term itself provides neither the employer or the employee with any form of guidance and will result in burdening our already over burdened agency with resolving claims against a highly ambiguous standard.

The third measure I would like to address is SB-292, An Act Concerning Certain Discriminatory Practices. CBIA is concerned with this measure. This bill would permit an individual whose claim before the Commission on Human Rights and Opportunities (CHRO) is not acted on within 180 days to take their claim directly to court.

CBIA believes in equality and justice. We strongly believe that every person who feels they have been discriminated against should have their claim promptly heard and investigated and, if discrimination is found to exist, the violation should be quickly corrected and the violator punished. However, we also believe that the best context for investigation and correction is the informal administrative process not the costly process of litigation in court.

A bill similar to this measure, was raised during the 1989 legislative session and heard before the Judiciary Committee. At the public hearing on then HB-7120, CBIA expressed the same concerns as we have today and requested that the focus of corrective legislation be on improving the CHRO to make it work more efficiently, rather than on methods to sidestep the process.

In response to CBIA's request as well as others, Public Act 89-332 was enacted making several significant changes in the CHRO's procedures for handling discrimination cases.

At present the CHRO is holding public hearings on the regulations promulgated as required by Public Act 89-332 as well.

We recommend that these changes have a chance to be fully implemented then, if the procedures are deemed inadequate, that measures be taken to improve the process so that all parties have

access to an efficient informal administrative process.

Another measure of concern to the business community is SB-291, An Act Concerning Liability For Unpaid Wages. This measure would hold officers of companies personally liable for any unpaid wages of its employees.

This measure fails to recognize that an officer of a company is merely an employee of the company often who has agreed to assume special duties which are for the most part administerial in nature. Unlike a partner in a corporation an officer has no established right to share in the profits and extra assets of the organization. Employees do not agree to assume the position of company officers with the expectation that they will be able to receive the excess profits of the organization and therefore they should not be held to put their personal assets and those of their families at risk merely because they have an officership status with their organizations.

There are protections available to employees through both our labor and bankruptcy laws and this bill will put at risk a group of employees merely because they have agreed to serve in the capacity of company officers, often times without additional pay.

The next measure on the agenda today that I would like to address is HB-5100, An Act Concerning Mandatory Coverage For Infertility Under Group Health Insurance Plans For Employees.



STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
 90 WASHINGTON STREET HARTFORD, CONNECTICUT 06106

IN REPLY:

The Honorable James H. Maloney, Co-Chairman
 The Honorable Joseph A. Adamo, Co-Chairman
 Members of the Labor and Public Employees Committee

**STATEMENT OF THE CONNECTICUT
 COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES**

On
Committee Bill No. 292

AN ACT CONCERNING CERTAIN DISCRIMINATORY PRACTICES

February 28, 1991

By: Louis Martin
 Executive Director

Honorable Chairmen and Members of the Labor and Public Employees Committee, my name is Louis Martin, Executive Director of the State Commission on Human Rights and Opportunities. I am testifying on behalf of the Commission in support, in principle, of S.B. 292, An Act Concerning Certain Discriminatory Practices. I appreciate the opportunity to testify before the Labor Committee today.

The stated purpose of the bill is to provide a more efficient procedure for dealing with certain discriminatory practices. What the bill actually does is to create a private right of action in Superior Court for discriminatory employment, housing, public accommodations and other discriminatory practice cases and provides that a Hearing Officer can award double damages and attorney's fees in discriminatory credit practice case hearings. The Commission has supported a private right of action in the past. The Commission supports, in principle, the bill before you today.

There have been significant changes on the statutes which the Commission enforces. Those changes are not reflected in the bill. In addition the composition of the Commission has changed significantly and I have been recently hired as the Executive Director of the Commission. The Commission is presently preparing a draft of this bill which will reflect those statutory changes. With the permission of Committee, the Commission would like to submit our ideas to the Committee in the form of a recommended draft.

Some of the major provision of our recommended draft include, the inability of the Commission to issue a right to sue letter if it has concluded or closed the case, makes the right to sue provision available only after 180 days has elapse since the filing of the complaint with the Commission and makes the right to sue provision only applicable to employment cases. We believe such changes equitably compliment the Commission's mandate without abandoning its responsibilities for civil rights enforcement within the State of Connecticut.

In conclusion, I wish to emphasize that the Commission continues to support, in principle, the concepts contained in this bill. We thank the Labor and Public Employees Committee for its continuing interest in this issue. We will present our specific proposals to the Committee next week in the form of a proposed draft bill.

Thank you for the opportunity to testify before you this afternoon. I will be happy to answer any questions that you may have.

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Deborah Ferrigno
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Speaker 15

Testimony of
The United Illuminating Company
before the Labor and Public Employees Committee
regarding Committee Bill 292 -
An Act Concerning Certain Discriminatory Practices

February 28, 1991

Hartford, CT

Good afternoon, Senator Maloney, Representative Adamo, and members of the committee. My name is Debbie Ferrigno and I am the Equal Opportunity Manager at The United Illuminating Company. UI is a public electric utility that serves over 300,000 customers in New Haven and Fairfield counties and employs approximately 1600 people. I am responsible for investigating and responding to charges of employment discrimination at UI. My comments will address the impact of this proposed bill as it relates to discrimination in employment under Connecticut law.

The proposed bill would allow complainants to obtain a release from the Connecticut Commission on Human Rights and Opportunities (the Commission) to file a civil suit in Connecticut if their case is still pending after one year of the filing. Even in those cases where the Commission finds no reasonable cause, a complainant may still file a private action. If the Commission is unable to meet its goals for eliminating its current backlog of cases, hundreds of cases may end up in state court.

Further, many of the civil rights protections under Connecticut law are also afforded under federal law. Federal law often provides for the administrative process followed by the complainant's right to sue. The Equal Employment Opportunity Commission investigates employment discrimination based on race, color, religion, national origin, sex, equal pay, age, and will soon add disability. Where a complainant files with both Commission and the EEOC, the administrative process is usually handled by the CT Commission. However, if this bill is passed, the complainant will be able to sue in federal court and at the

state level. This would create a very burdensome process for employers.

Finally, the bill would provide private action to be brought within two and one-half years of the date of filing of the complaint. Two and one-half years after the date of filing is an excessive amount of time. The ability for employers to provide an accurate defense would be significantly diminished.

These provisions would make discrimination cases extremely costly for employers. Our counsel has advised us that discrimination cases that go into state court could cost us as much as ten times more in attorney fees than the administrative process of the Commission. Many employers will probably settle cases out of court even when the employer did not discriminate to avoid these excessive costs.

We firmly believe that individuals who are discriminated against in employment should have ample opportunity to have their cases reviewed and concluded in a timely manner. The Commission should be given the opportunity and resources to address its backlog of cases. Civil suits for complainants is not treating the problem and actually will result in a worsening of the situation by increasing the number of cases in the already overcrowded courts in Connecticut resulting in further delays in getting contested issues resolved.

This concludes our comments. I will be happy to answer any questions you may have.