

Legislative History for Connecticut Act

Act Number: 07-181	
Bill Number: 1048	
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Committee: Labor: 961-964, 977-990, 1198-1203	24



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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2007

VOL. 50
PART 13
4000-4350

slr

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Senate

May 31, 2007

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

THE CHAIR:

Acting on approval of the bill, will you remark further, Ma'am?

SEN. PRAGUE:

Thank you, Mr. President. Mr. President, the Clerk has in his possession LCO 7805. Would he call please, and I be allowed to summarize.

THE CHAIR:

Mr. Clerk. Senate to stand at ease.

[SENATE AT EASE]

Mr. Clerk.

THE CLERK:

Mr. President, there was a computer error. Calendar Page 11, Calendar 341, File 441, Substitute for Senate Bill 1048, An Act Concerning Investigation of a Discrimination Complaint Against or By An Agency

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Senate

May 31, 2007

Head or State Commission or Board Member, Favorable Reports in the Committees on Labor, Government Administration and Elections, Judiciary, and Appropriations.

THE CHAIR:

Thank you, Mr. Clerk. We'll have to make sure we get better computers next time. Senator Prague.

SEN. PRAGUE:

We'll start again, Mr. President.

THE CHAIR:

Thank you.

SEN. PRAGUE:

Mr. President, I move the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Acting on approval of the bill, Ma'am, will you remark further?

SEN. PRAGUE:

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Senate

May 31, 2007

Thank you. The Clerk has in his possession LCO 7805. Would he please call, and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7805 which will be designated as Senate Amendment Schedule "A". It is offered by Senator Prague of the 19th District.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. Mr. President--

THE CHAIR:

Are you adoptioning?

SEN. PRAGUE:

I move adoption, thank you.

THE CHAIR:

Please proceed.

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May 31, 2007

SEN. PRAGUE:

The amendment requires, under certain conditions, that the Department of Administrative Services investigate complaints against an agency head, board, or commission member, or an affirmative action officer. CHRO will refer any affirmative action complaint against an agency head or a board member to DAS, and they'll do the investigation.

Any complaint against the head of CHRO or a board member will also be referred to DAS, and they will do the investigation. Otherwise, the affirmative action officers in each agency shall conduct the investigations, as they are currently doing. I hope the Circle will approve this amendment. It's a strike-all amendment and this now becomes the bill.

THE CHAIR:

Thank you, Senator Prague. Will you remark further on Senate Amendment "A"? Senator Coleman.

SEN. COLEMAN:

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Senate

May 31, 2007

Thank you very much, Mr. President. I rise to express some support for the bill. I think the underlying purposes of the bill are certainly necessary to avoid conflicts of interest, and I commend the Chair Lady of the committee, as well as her committee, for the work that they've done on this bill.

But I do rise, because the bill before us gives me an opportunity to make some comments concerning my concerns for the Commission on Human Rights and Opportunities, and I just happen to believe that it's one of the most mistreated agencies in the state government structure.

As you might suspect, I believe it is a very, important agency. Its mission is critical to many, many people in the State of Connecticut. I believe that the Commission on Human Rights and Opportunities should enjoy, because of its special mission, some autonomy within state government.

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Senate

May 31, 2007

And unfortunately over the years, I've observed that this particular agency has been the subject of some undue influences and some shenanigans, to put it quite mildly. Recently, there were some changes at the head of the agency, including the Chairman of the Commission and the Executive Director of the Commission was ousted from their positions.

I think the bill that is before us goes a step or so in the right direction. I think that there is some further work that needs to be done in future years, in order to insulate this particular agency from some of the tactics and some of the unfortunate situations that it has found itself in over the years.

Specifically, with respect to the amendment that was just adopted, there is a relationship already between CHRO and DAS, in that CHRO is in a position by statute, where it must approve the affirmative action plans of DAS. To put DAS in a position where it could

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May 31, 2007

retaliate, I think opens up some situations that we need to rethink.

Just as an affirmative action officer, who has to report to a commissioner or an executive director is in a conflict situation, I do believe that CHRO, who may be overseen under circumstances by DAS, is in a conflict situation and vice versa.

DAS, also being overseen by CHRO, may find itself in a conflict situation. I think that in future years, we ought to give a little bit more thought to how the Executive Director and the Commissioners of CHRO would appropriately be monitored and overseen without any appearance of impropriety, undue influence, or conflict of interest.

I think that can be accomplished with a little bit more effort and a little bit more thought. Although, as I indicated at the outset of my remarks, I do commend the Chair Lady for recognizing that this is an issue that needs to be addressed, and I hope

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May 31, 2007

that in future sessions we will take what I perceive to be necessary and needed further steps in the right direction. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Coleman. Will you remark? Will you remark further on Senate Amendment "A"? If not, I will try your minds. All those in favor signify by saying "aye".

SENATE ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? Ayes have it. "A" is amended.
Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. Mr. President, if
there is no objection, I would like to put this on the
Consent Calendar.

THE CHAIR:

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Hearing and seeing no objections, so ordered,

Ma'am. Mr. Clerk.

THE CLERK:

Calendar Page 12, Calendar 397, File 49,
Substitute for Senate Bill 937, An Act Establishing An
Office of Military Affairs and Implementing
Recommendations of the Governor's Commission for the
Economic Diversification of Southeastern Connecticut,
Favorable Reports of the Committees of Public Safety,
Commerce and Export, Government Administration and
Elections, Finance, Revenue and Bonding, and
Appropriations. The Clerk is in possession of
amendments.

THE CHAIR:

Senator Stillman.

SEN. STILLMAN:

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

THE CHAIR:

S-550

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
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4351-4705

slr

Senate

May 31, 2007

Senator Looney.

SEN. LOONEY:

Thank you, Mr. President, having completed that item, I would now ask the Clerk to call the Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Mr. President, those items placed on the first Consent Calendar begin on Calendar Page 8.

First Consent Calendar begins on Page 8, Calendar 135, Senate Bill 845.

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Senate

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Calendar Page 10, Calendar 291, Substitute for
Senate Bill 1400.

Calendar Page 11, Calendar 341, Substitute for
Senate Bill 1048.

Calendar Page 12, Calendar 397, Substitute for
Senate Bill 937.

Calendar Page 13, Calendar 440, Substitute for
Senate Bill 751.

Calendar Page 14, Calendar 521, Substitute for
Senate Bill 703.

Calendar Page 16, Calendar 620, Substitute for
House Bill 7275.

And Calendar Page 17, Calendar 310, Substitute
for Senate Bill 1192.

Mr. President, that completes those items
previously placed on the Consent Calendar.

THE CHAIR:

Thank you, Sir. Please call the roll again. The
machine will be open.

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Senate

May 31, 2007

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

If all Senators have voted, the machine will be closed. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.
Total number voting, 36; necessary for adoption 19. Those voting "yea", 36; those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

Consent Calendar No. 1 passes. Senator Looney.

SEN. LOONEY:

H-1008

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2007

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7976-8339

kh
House of Representatives

433
June 5, 2007

DEPUTY SPEAKER ALTOBELLO:

The bill as amended is passed. Will the Clerk please call Calendar Number 710.

CLERK:

On Page 19, Calendar Number 710, Substitute for Senate Bill Number 1048, AN ACT CONCERNING THE INVESTIGATION OF A DISCRIMINATION COMPLAINT AGAINST OR BY AN AGENCY HEAD OR STATE COMMISSION OR BOARD MEMBER, Favorable Report by the Committee on Appropriations.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan of the 139th, you have the floor, Sir.

REP. RYAN: (139th)

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

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is the acceptance of the Joint Committee's Favorable Report and passage of the bill. Representative Ryan, you have leave to proceed, Sir.

kh
House of Representatives

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June 5, 2007

REP. RYAN: (139th)

Thank you, Mr. Speaker. I move for this to be a passage in concurrence with the Senate. I didn't mention that. In 2006 the Labor Committee held an informational hearing about allegations that the then Executive Director of the CHRO treated female staff members in a discriminatory manner.

The complaints were investigated by CHRO staff who reported the outcome of the investigation directly to the Executive Director.

At that time, under the law at that time, each state agency department, board, or commission had to designate an Affirmative Action Officer who must investigate all complaints of discrimination made against the entity, and report all the findings and recommendations to this entity's commissioner or director for proper action.

Under this bill, we will see that we're going to ask the complaints against or by an agency head, board, or commission member or an Affirmative Action officer be referred to the Commission on Human Rights

kh
House of Representatives

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June 5, 2007

and Opportunities for review and then found to be appropriate, it would be referred to the Department of Administrative Services for investigation.

Under the bill, a discrimination complaint against CHRO would be handled by the Department of Administrative Services and a complaint against the Department of Administrative Services will be handled by CHRO.

Just to make this a little clearer and to clean up some of the language, the Senate had an amendment. And I'd ask the Clerk to call LCO Number 7805 and let me be allowed to summarize.

DEPUTY SPEAKER ALTOBELLO:

Would the Clerk please call LCO Number 7805. It shall be previously designated Senate "A".

CLERK:

LCO Number 7805, Senate "A", offered by Senator
Prague.

DEPUTY SPEAKER ALTOBELLO:

kh
House of Representatives

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June 5, 2007

Representative seeks leave of the Chamber to summarize. Are there objections to summarization? Seeing none, please proceed, Representative Ryan.

REP. RYAN: (139th)

Thank you, Mr. Speaker. This amendment requires that all discrimination complaints made against or by an agency head be referred to CHRO for review.

It requires that all Attorney General designees in discrimination complaints undergo certain training and it removed changes to the Affirmative Action Office's duties that the original bill provided. I move for adoption.

DEPUTY SPEAKER ALTOBELLO:

Question is on adoption. Remark further? Remark further on Senate "A"? Representative Ryan.

REP. RYAN: (139th)

Thank you, Sir. Basically, CHRO is in full support of the bill. It's going to remove any conflicts of interest or appearance of a conflict when an agency's Affirmative Action Officer investigates the Director or Board members of the same agency.

kh
House of Representatives

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June 5, 2007

The Permanent Commission on the Status of Women also supports the bill because it was a solution to possible conflicts that can arise when Affirmative Action Officer investigates the internal discrimination complaint against and executive head of the state agency, or a member of the State Board of Commission, who essentially is their supervisor.

So they want to remove that conflict. I ask my colleagues to support me in this amendment.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Ryan. Representative William Aman.

REP. AMAN: (14th)

Thank you, Mr. Speaker. I've looked carefully at the Senate strike-all amendment that became the bill that we're looking at. And as much as I look at it, I can't find a reason to give the Chairman of the Labor Committee a hard time about the bill.

Looking at it, it doesn't make sense under the current statute that an employee would have to investigate their boss.

kh
House of Representatives

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June 5, 2007

And if there was an investigation for discrimination, it also doesn't make any sense that CHRO would investigate themselves. And so the new proposal where CHRO investigates DAS and DAS would investigate CHRO, which I think solves much of the problem.

And unlike most labor bills, this is probably the first one that I've looked at when I looked at the fiscal note, that I see general fund none for this year, none for next year, municipal cost none for either of the years. So after going all through that, I will actually encourage my caucus to vote for the bill.

DEPUTY SPEAKER ALTOBELLO:

Thank you for that glowing endorsement, Representative Aman. Representative Ferrari of the 62nd, do you care to remark on Senate "A"?

REP. FERRARI: (62nd)

Yes, I will, Mr. Speaker. I think it's a good bill and it probably ought to pass. But I just find it completely ironic that the Commission on Human

kh
House of Representatives

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June 5, 2007

Rights and Opportunity has had in the past and in the recent past some very difficult times because of some of these situations that have occurred.

I certainly hope that we have turned a corner. I think we did a number of years ago, and I'm hoping that this is really the final straw. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Ferrari. Further on Senate "A"? Further on Senate "A"? If not, I'll try your minds. All those in favor signifying by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ALTOBELLO:

Opposed? The Ayes have it. Senate "A" is
adopted. Further on the bill as amended? Further on the bill as amended? If not, staff and guests please retire to the Well of the House, and Members take their seats. The machine will be open.

CLERK:

kh
House of Representatives

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June 5, 2007

The House of Representatives is voting by Roll
Call. Members to the Chamber. The House is taking a
Roll Call Vote. Members to the Chamber, please.

DEPUTY SPEAKER ALTOBELLO:

Have all Members voted? Have all Members voted?
Have all Members voted? If all Members have voted,
the machine will be locked. Will the Clerk please
take the tally. Thank you. Will the Clerk kindly
announce the tally.

CLERK:

Senate Bill Number 1048, as amended by Senate
Amendment Schedule "A", in concurrence with the
Senate.

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not voting	7

DEPUTY SPEAKER ALTOBELLO:

kh
House of Representatives

441
June 5, 2007

The bill as amended is passed in concurrence with the Senate. Representative Walker of the 93rd District, you have the floor, Madam.

REP. WITKOS: (17th)

Good evening, Mr. Speaker. Mr. Speaker, I move for immediate transmittal of all bills needing immediate action in the Senate.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Madam. Without objection? Without objection? So ordered. Returning to the Call of the Calendar. Will the Clerk please call Calendar Number 383.

CLERK:

On Page 31, Calendar Number 383, Substitute for House Bill Number 7361, AN ACT CONCERNING CHILD SUPPORT ENFORCEMENT PROGRAM COMPLIANCE AND IMPROVEMENTS, Favorable Report of the Committee on Transportation.

DEPUTY SPEAKER ALTOBELLO:

Representative Villano of the 91st, you have the floor, Sir.

JOINT
STANDING
COMMITTEE
HEARINGS

LABOR
AND
PUBLIC
EMPLOYEES

PART 4

945-1236

2007

February 15, 2007
dbz LABOR AND PUBLIC EMPLOYEES 2:00 p.m.

PRESIDING CHAIRMAN: Senator Prague

COMMITTEE MEMBERS PRESENT:

SENATORS: Gomes, Guglielmo

REPRESENTATIVES: Belden, Hewett, Reinoso,
Ryan, Zalaski, Aman,
Esposito, Olson

ROBERT BROTHERS: Good afternoon, Senator Prague,
Representative Ryan, Committee Members. My
name is Robert Brothers. I'm the Managing
Director and Commission Attorney for the
Connecticut Commission on Human Rights and
Opportunities.

SB 1048

Executive Director Raymond Peck has submitted
written testimony and extends his condolences
for not being here. The bill before you has
two main purposes.

The first purpose is really to avoid the actual
conflict that currently exists when an
affirmative action officer is charged with
investigating a complaint, either by or against
an agency head.

This bill eliminates that conflict, both in the
apparent manner of that conflict and the rule
of manner in which it exists. It does that by
taking a complaint out of the agency's hands
and putting it in the hands of the Department

of Administrative Services and having a neutral party investigate it.

In the case of the Department of Administrative Services, that complaint would be investigated by CHRO. The other purpose in this bill is to be able to clean up some language, which actually extends from 03151. Those are the two primary purposes of this bill.

The Commission is in full support of this bill, along with the Department of Administrative Services.

The Commission is, understands that there's a concern that the Connecticut Association of Affirmative Action Officer, I think its professionals, excuse me, has, regarding the word internal, which is found on line 6 of this bill.

Although the Commission shares some concern with them, the concern of the Commission has is not of the same level that the Association has. The Commission will let them speak as they wish.

With respect to that, the Commission would like to be able to indicate to this Committee that, whatever concerns that they have, we are willing to sit down, listen to them, and that, we have every expectation that we can resolve those.

If you have any questions, I would be glad to address them at this time.

SEN. PRAGUE: I would like to ask you a question, just for my own clarification. On line 4, it says each person designated by a state agency, department, board or commission as an affirmative action officer, shall be responsible for investigating all internal complaints of discrimination made against the agency, department, board or commission, and then it goes on.

ROBERT BROTHERS: As they relate to the agency head or a commissioner of an agency.

SEN. PRAGUE: Okay.

ROBERT BROTHERS: The problem is, the problem is this. By legislation, within this Statute, it requires that every affirmative action officer within the State of Connecticut, report to the agency head. And the reason for that is, that every agency head should be within the loop when it comes to affirmative action.

Ultimately, they are responsible for what's going on regarding that agency's hiring, firing and promotional opportunities. That's why Statute.

What happens is, when there's a complaint, either by that agency head or against that agency head, that same affirmative action officer is not charged with investigating it.

So what we're looking to do is to take that responsibility away from that person to avoid the actual conflict with the apparent conflict and put it with someone who is neutral.

SEN. PRAGUE: Okay. Thank you. Any other questions from Committee Members? Mr. Brothers, thank you for coming today.

So the second person to testify is Martin Anderson, PhD from the Department of Administrative Services.

MARTIN ANDERSON: Good afternoon, Senator Prague, Representative Ryan and Members of the Committee on Labor and Public Employees. My name is Doctor Martin Anderson. I am Director of Administration for the Connecticut Department of Administrative Services.

For many years, I was Chief Personnel Psychologist at Department of Administrative Services, and prior to that, I was Director of Personnel Assessment for the State of Oklahoma. My spoken remarks are shortened from the written testimony that you have before you, in the interest of time.

I am here today to speak in opposition to Raised Senate Bill 1049, AN ACT CONCERNING COLLECTIVE BARGAINING OF THE MERIT SYSTEM. We believe passage of this Raised Senate Bill 1049 will be fought with many unwanted in unintended consequences.

First of all, it's been candid. All hiring and promotional systems public or private sector are inherently subject to complaints, because it's natural for people to be disappointed if they do not get a job or promotion that they want. That is just a fact of life.

of Public Defender Services support, what's to say there isn't a support, or maybe that--

DEBORAH DEL PRETE SULLIVAN: Well, that's where I think the comment needs to comment, Representative Ryan, because we don't have support enforcement officers. I think that was just a typo. So that's a separate group and we're not here on behalf of that group or criminal justice to say one way or the other.

REP. RYAN: Thank you.

DEBORAH DEL PRETE SULLIVAN: Thank you.

SEN. PRAGUE: Are there any other questions from committee members? No. Seeing none. Tony [inaudible] do you have a question?

TONY: No.

SEN. PRAGUE: No. Okay. Well, thank you very much for coming in and testifying.

DEBORAH DEL PRETE SULLIVAN: Thank you, Senator. Thank you Representative Ryan.

SEN. PRAGUE: The first person to speak on Senate Bill 1048 AN ACT CONCERNING THE INVESTIGATION OF A DISCRIMINATION COMPLAINT AGAINST OR BY AN AGENCY HEAD OR STATE COMMISSION OR BOARD MEMBER. First one is Debi Freund. Debi, for the record, would you state your name, please?

DEBI FREUND: My name is Debi Freund, and I am the Director of Equal Opportunity and Diversity for the State Department of Children and Families,

as well as the President of the Connecticut Association of Affirmative Action Professionals.

I am here today regarding Senate Bill 1048, CONCERNING THE INVESTIGATION OF A DISCRIMINATION COMPLAINT AGAINST OR BY AN AGENCY HEAD OR STATE COMMISSION OR BOARD MEMBER.

The intent of the Senate Bill 1048 is commendable and I support it. Since by statute affirmation action personnel report directly to agency heads, no person should be called upon to investigate charges against the very person they report to.

For the complainant, the person who files the discrimination complaint, the integrity of the investigation would always be called into question, as they would never feel that the investigation of their complaint had been done without bias.

For the agency head or board member, a finding of non-discrimination would always be suspect and general disbelieved.

And finally, for the affirmative action professional, they would be put into the untenable position of investigating the person who is responsible for their annual performance appraisal. This is not a good situation for anyone.

I am here today, however, with concerns about a single word that has been added to the Senate

Bill 1048. I call your attention to paragraph four.

In the original Senate Bill 1048, the language reads, each person designated by a state agency, department, board or commission as an affirmative action officer, shall be responsible for investigation all complaints of investigation, discrimination. I beg your pardon.

Under the Proposed Senate Bill 1048, the language would now read, each person designated as an affirmative officer, shall be responsible for investigating all internal complaints of discrimination.

I caution against using the phrase, all internal complaints. The more appropriate phrase is the original, all complaints of discrimination. We must not diminish the spirit and goals of affirmative action and equal opportunity.

It must be acknowledged that affirmative action professionals have other complaints that they investigate complaints from other outside agencies.

Depending on the agency, they may investigate complaints from the federal EEOC, the Office of Civil Rights, the Department of Education, the Federal Highway Transit, just to name a few. These are not internal complaints.

The concern here is that the inclusion of the word internal, in effect, stands to further

remove allegations of discrimination from getting an independent and unbiased investigation.

I understand that this change in phraseology has been added in light of the passage of 03-151. Our field has changed since that time.

Affirmative action personnel no longer are responsible for handling CHRO complaints. This was due to the real concern that affirmative action professionals, in some agencies, were in the tenuous position of advocating for the complainant in an Internet investigation, and then turning and representing the agency, if the complaint went before CHRO.

To address this, an attorney general designee or the AG designee was appointed in each agency to now represent that agency before the CHRO. While this has satisfied the concern of the affirmative action officer being torn between opposing interests, it has opened up a new myriad of other concerns.

In the spirit of the original regulations, the intent was to establish an independent person within each agency to investigate concerns of discrimination.

This person was ordered to report directly to the agency head, so that their investigation would not be influenced by others. It was this person's job to examine allegations of discrimination and then report back to the agency head, so that remedial action could be taken. This has now changed.

In almost all of the agencies, the AG designee is either legal counsel who wants to win at CHRO, or the Human Resources Department, who, for all intents and purposes, by now investigating themselves.

Nowhere is the affirmative action professional, who was the one, originally charged with ensuring that all people are treated equally. Now wait, you say. When a CHRO complaint is filed, the agency, then, would generate an internal complaint to be investigated by the affirmative action personnel.

There's only one problem. The agency designee is not required to even consider the findings of the affirmative action investigation. Now this fine if both the AG designee and the affirmative action office agree on the findings.

But all too often, the affirmative action office finds concerns of disparate treatment, while the AG designee finds none. This results in the affirmative action investigation and its findings being discarded in the agency's attempt to win.

With this proposed language change, it appears that there may no longer be an internal investigation of a CHRO complaint. If this is taken away, the complainant no longer has the opportunity to receive a fair and impartial investigation.

This also removes the agency's opportunity to resolve and mediate CHRO complaints internally, which is part of the very premise that the affirmative action office was created by statute.

I've spoken with CHRO. They have assured me that they will sit down together with us and take a look at these concerns. It is not that I am not in support of this Senate Bill 1048. I am. But I am concerned that some of the language could be misinterpreted and possibly misused, diminishing the regulations.

What I am asking is that, as it comes before you, you re-examine the language the language to clarify its intent, and I am confident that your intent is to uphold the spirit of the law and guaranty equal rights for all citizens of the State of Connecticut. Thank you.

REP. RYAN: Do you have a copy of your testimony?

DEBI FREUND: No, but I can get it immediately.

REP. RYAN: Okay. That would be good. It would just be helpful, because you said a lot and we just want to have copies of it.

DEBI FREUND: Absolutely.

SEN. PRAGUE: And a second issue, the only change you're suggesting in the Senate Bill 1048 is to delete on line 6, the words all--

DEBI FREUND: Internal.

SEN. PRAGUE: --all internal?

DEBI FREUND: Internal and go back, for all complaints of discrimination.

SEN. PRAGUE: Okay. I will seriously consider that.

DEBI FREUND: Thank you very much.

SEN. PRAGUE: Thank you.

DEBI FREUND: Thank you for your time.

SEN. PRAGUE: And thanks. Any questions?

REP. HEWETT: I have a question.

SEN. PRAGUE: Please, Representative Hewett.

REP. HEWETT: When you say internal, now, the reason that I'm asking this question, because, and I keep going back using my experience as a Mayor back in New London.

We had an affirmative action coordinator, and we had to get rid of him because of budget cuts. When we got rid of him, you would never guess in a million years who they wanted to handle all the complaints, discrimination complaints. No, No, not me. The personnel coordinator. You've got to be kidding me.

Why would you get a personnel coordinator to have, he should be independent. Of everybody, he shouldn't be under anybody's thumb. He should be like a Supreme Court Justice, to tell

you the truth, so he can make the right decision.

So if this language corrects that where he would be independent, I'm all for that language, because they shouldn't be held under anybody's thumb, or they're never going to make due, never let anybody investigate themselves.

What do you think I'm going to do if I investigated myself? I'm going to exonerate myself, that's what I'm going to do. Thank you. I loved your testimony.

DEBI FREUND: Thank you.

SEN. PRAGUE: And you'll get us copies of your testimony?

DEBI FREUND: Yes.

SEN. PRAGUE: Representative, Belden.

REP. BELDEN: Thank you, and good afternoon. In the new language of the re-adjusted language on lines 6 and 7, if there's a complaint made against the agency from another agency or from outside of that agency, how do you, how would that be handled?

DEBI FREUND: Well, is it a CHRO complaint?

REP. BELDEN: Well, whatever it's called--

DEBI FREUND: The concern here, the concern in this Senate Bill 1048 is, are complaints that are made against an agency head. In which case,

the affirmative action professional, who directly reports to the agency head, would not be required to investigate its own person, and that makes absolute good sense. I mean, you can't investigate the person that you report to.

REP. BELDEN: Now I understand that as a former assemblyman for about 10,000 people, the intricacies of trying deal with issues like this, but if there's a complaint made against somebody within your agency by somebody outside of the agency, who would handle that? Would that come through this agency's affirmative action officer?

DEBI FREUND: It would depend, Sir, who the complaint was made with. The complaint can be made, there are different venues for the complaint. If the complaint went directly to the Commission of Human Rights and Opportunities, that, now, would be handled by the AG designee.

The way things are now, a CHRO complaint automatically generates what's known as an internal complaint investigation. That would be handled by the affirmative action office. So they would both be running.

However, an external complaint, somebody from outside the agency, could file only an internal complaint of investigation. It would not have to go to CHRO, in which case it would only be handled by the affirmative action office.

REP. BELDEN: I think I'll, we'll discuss this later.

DEBI FREUND: Okay. However, if I may say one more thing? With the passage of this, if a complaint came from outside, like from the federal EEOC, my interpretation of this is that, this would, in fact, eliminate affirmative action personnel from doing the investigation, because it now says all internal complaints of investigation instead of all complaints of discrimination. Does that make sense?

REP. BELDEN: It does, but my concern here isn't a new language. If we take out, whether we leave it in or not, I understand what the, what you're getting at by taking it out. Investigating, if we take out internal, investigating all complaints of discrimination made against the agency. What if they're made against the agency board of commission in another venue, somewhere else? Then who gets to investigate that? The other agency?

DEBI FREUND: I have no idea, because the word literally says internal. So affirmative action, theoretically the interpretation could be, could be such that affirmative action personnel would not do that investigation.

Whether or not it would be addressed by the AG designee, I have no idea. Because it says, in fact, would be responsible for investigating all internal complaints.

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REP. BELDEN: But would it be better if we said all complaints required that are within that jurisdiction?

DEBI FREUND: Absolutely.

REP. BELDEN: It could be complaints from within or from without.

DEBI FREUND: Exactly.

REP. BELDEN: So maybe within, within the jurisdiction would be, okay, I'll think about it. I think there might be a better way to do that, so you can handle outside complaints.

Now the Ag, he's nowhere in statute, right? Does he practice a law somewhere else again that we don't know about, or what?

DEBI FREUND: No. He's, he's, it depends. On most agencies inside of the Human Resources Department, or it's legal counsel within the agency.

REP. BELDEN: Because we have the same situation with the whistleblowers. Whistleblower, by statute, is supposed to go to the auditors, and people think they should send everything to the AG, and, and, it's a little misunderstandings out there. Thank you.

DEBI FREUND: Thank you.

SEN. PRAGUE: Just one question to clarify, I think to clarify what Representative Belden was saying. If we took out the word internal, then

it would just say, be responsible for investigating all complaints, whether they come from inside or outside.

DEBI FREUND: Exactly.

SEN. PRAGUE: Okay.

DEBI FREUND: Thank you, Senator Prague.

SEN. PRAGUE: Thank you.

SHARON GADDY: I'm Sharon Gaddy.

SEN. PRAGUE: I'm not doing very well with names today, so far.

SHARON GADDY: That's okay. I am a member of Connecticut Association of Affirmative Action Professionals, as well. I come before you, just as Debi Freund has come, to express my support of Senate Bill 1048.

Since Ms. Freund has already detailed the historical background or provided information related to Senate Bill 1048 or to, in terms of how this Senate Bill 1048 came to be, I will be brief and not be before your very long.

In addition to the issues presented by Ms. Freund, I believe that the proposed change to the Senate Bill 1048 is too broad.

Therefore, I'm requesting that the Senate Bill 1048 be modified to include, perhaps, language that will insure that affirmative action professionals will continue to conduct internal

investigations related to all complaints of discrimination, including external complaints, equal opportunity, insurance commission complaints, and CHRO complaints.

Not insuring that affirmative action is involved in all complaints of discrimination will have a direct impact on the work that we do as it diminishes affirmative action's authority.

When affirmative action is involved in every complaint of discrimination, there are benefits to the agency, as well as to the employees.

Employees' concerns can be mediated by the affirmative action office, as well as attempts can be made to resolve issues, in many cases, resulting in an improved employee relationships, regardless of the outcome of the investigation.

There are many benefits, as I mentioned before, to the agency. An agency will have an opportunity to address concerns internally, as well.

Finally, I'm suggesting that the Senate Bill 1048 include language to insure that other complaints of discrimination, for example, complaints filed against human resources or an affirmative action professional be investigated at the discretion of the affirmative action office to insure that a conflict of interest is not present.

Thank you very much for this opportunity to testify in support of this Senate Bill 1048, and I urge the Committee to seriously consider these concerns. Thank you.

SEN. PRAGUE: Thank you, Sharon, for your testimony. Do you want to give us a copy of your testimony--

SHARON GADDY: Yes, I would.

SEN. PRAGUE: So that we can make copies for all Committee Members?

SHARON GADDY: Okay. Okay. Thank you.

SEN. PRAGUE: You're, just one second, though. Your testimony differs with Debi Freund's testimony.

SHARON GADDY: Basically, it's just a slight difference. Just--

SEN. PRAGUE: Do you agree in taking out the word internal?

SHARON GADDY: That may address the concern. I just fell, basically, the language is too broad, as it is. The proposed language is too broad.

SEN. PRAGUE: Okay. Why don't you give us a copy of your testimony?

SHARON GADDY: Okay. Thank you.

SEN. PRAGUE: Thank you. [inaudible]

Good afternoon

My name is debi freund and I am the director of equal opportunity and diversity for the state department of children and families, as well as the president of the Connecticut association of affirmative action professionals.

I am here today regarding bill 1048 – concerning the investigation of a discrimination complaint against or by an agency head or state commission or board member. The intent of the bill is commendable – since by statute affirmative action personnel report directly to agency heads, no person should be called upon to investigate charges against the very person they report to. For the complainant – the person who filed the discrimination complaint - the integrity of the investigation would always be called into question as they would never feel that the investigation of their complaint had been done without bias. For the agency head or board member, a finding of nondiscrimination would always be suspect and general disbelieved; and finally, for the affirmative action professional they would be put into the untenable position of investigating the person who is responsible for their annual performance appraisal. This is not a good situation for any one.

I am here today however with concerns about a single word that has been added to this bill.

I call your attention to paragraph 4. In the original bill, the language read, "Each person designated by a state agency, department, board or commission as an affirmative action officer shall be responsible for investigating all complaints of discrimination ..." Under the proposed bill, the language would now read, "Each person designated by a state agency, department, board or commission as an affirmative action officer shall be responsible for investigating all internal complaints of discrimination ..."

I caution against using the phrase all internal complaints. The more appropriate phrase is the original, "all complaints of discrimination." We must not diminish the spirit and goals of affirmative action and equal opportunity. It must be acknowledged that affirmative action professionals have other complaints that they investigate –

complaints from other outside agencies. Depending on the agency, they may investigate complaints from the federal EEOC, the Office of Civil Rights, the Department of Education, or Federal Highway Transit, just to name a few. These are not internal complaints. The concern here is that the inclusion of the word internal, in effect, stands to further remove allegations of discrimination from getting an independent and unbiased investigation.

I understand that this change in phraseology has been added in light of the passage of 03-151. Our field has changed since that time. ~~With that,~~ Affirmative action personnel are no longer responsible for handling CHRO complaints. This was due to the concern^{REAL} that affirmative action professionals in some agencies were in the tenuous position of advocating for the complainant in an internal investigation, and then turning and representing the agency if the complaint went before CHRO. To address this, an attorney general designee, or the ag designee, was appointed in each agency to now represent that agency before the CHRO. While this has satisfied the concern of the aa officer being torn between opposing interests, it has opened up a myriad of other concerns.

In the spirit of the original regulations, the intent was to establish an independent person within each agency to investigate concerns of discrimination. This person was ordered to report directly to an agency head so that their investigation would not be influenced by others. It was this person's job to examine allegations of discrimination and report back to the agency head so that remedial action could be taken.

This has now changed. In almost all of the agencies, the AG designee is either legal counsel (who wants to win at CHRO) or the human resources department (who, for all intents and purposes, is investigating itself). Nowhere is the affirmative action professional, who was the one originally charged with ensuring that all people are treated equally. Wait – you say – when a CHRO complaint is filed, the agency then generates an internal complaint to be investigated by the affirmative action personnel. There's only one problem – the agency designee is not required to even consider the findings of the affirmative action investigation. Now this is fine – if both the AG designee and the affirmative action office agree on the findings of a

case. But all too often, the affirmative action office may find concerns of disparate treatment while the ag designee (~~who wants to win~~) finds none. This results in the affirmative action investigation and its findings being discarded in the agencies attempts to win.

I have spoken with CHRO, and they have assured me that we will sit down together and take a look at these concerns. It is not that I am not in support of this bill - for I am. But I am concerned that some of the language could be misinterpreted, and ~~further~~ diminish the regulations. What I am asking is that as it comes before you, you reexamine the language to clarify the intent. And I am confident that your intent is to uphold the spirit of the law and guarantee equal rights for all citizens of the state of Connecticut.

→ & possibly misused

If this proposed language change, it appears there would no longer be an internal investigation of a CHRO complaint. If this is taken away, the ^{complainant} ~~agency~~ no longer has the opportunity to ^{receive} ~~provide~~ a fair ^{impartial} investigation. This also removes the agencies opportunity to resolve & mediate ^{CHRO} ~~the~~ complaints internally - which ~~the purpose of the AA division~~ which is part of the premise of the AA office by statute.

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Written Testimony of
The Permanent Commission on the Status of Women
Before the
Labor & Public Employees Committee
Thursday, February 15, 2007

In Support of:

S.B. 1048, AAC the Investigation of a Discrimination Complaint Against or by
an Agency Head or State Commission or Board Member

Senator Prague, Representative Ryan and members of the Committee,
thank you for this opportunity to provide written testimony on the above
referenced bill, on behalf of the Permanent Commission on the Status of Women
(PCSW)

S.B. 1048 would remove any appearance of perceived or actual conflict of
interest when an internal discrimination complaint is filed by or against an
executive head of a state agency, or a member of a state board or commission, by
requiring such investigation to be conducted by the Department of
Administrative Services (DAS); or if the complaint is against DAS by the
Commission on Human Rights and Opportunities (CHRO).

C.G.S. 46a-68(4)(b) requires Affirmative Action Officers (AAO) to
"investigate all complaints of discrimination made against the state agency,
board, or commission." AAOs have the responsibility of helping the state
agencies in which they work maintain non-discriminatory policies and practices,
and also of investigating and remedying instances of discriminatory conduct.

Employees who feel they have been treated unfairly may seek a remedy within their agency by bringing their complaints to the AAO.

Per a bill passed in 2003 (HB 6461) which was later codified as C.G.S. 46a-68(b)(3), the PCSW in conjunction with CHRO provide training to AAOs on state and federal discrimination law, and techniques for conducting internal investigations of discrimination trainings. From these trainings we have learned that a conflict may arise when an AAO officer must investigate an internal discrimination complaint against an executive head of a state agency, or a member of a state board or commission, who is ultimately their supervisor.

S.B. 1048 proposes a solution to such conflicts of interest and we urge your support of the bill. Thank you for your attention.



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CHRO

"Equality and Justice"

**Testimony of Raymond P. Pech
 Executive Director
 Commission on Human Rights and Opportunities**

February 15, 2007

**Senate Bill 1048, an Act Concerning the Investigation of an Internal Discrimination
 Complaint against the Executive Head of a State Agency or a Member of a State
 Board or Commission**

The Commission on Human Rights and Opportunities (CHRO) supports this bill.

Section 46a-68(b)(4) of the general statutes requires that an agency's affirmative action officer investigate all internal complaints of discrimination made against the agency. Section 46a-68(b)(1) of that same statute requires that the agency's affirmative action officer report directly to the executive head of the agency. In those instances where an internal complaint of discrimination is filed against the executive head of the agency, or, where applicable, a member of a commission or board that oversees an agency, the interaction of these two provisions results in the appearance of a conflict, if not an actual conflict. The purpose of this bill is to remove any conflict, or appearance thereof, that might arise from the current statutory provisions.

This bill provides that, when an internal complaint of discrimination is filed against the executive head of an agency, or a member of a commission or board that oversees an agency, DAS would investigate that complaint. Conversely, should such a complaint be filed against the executive head of the DAS, the CHRO would investigate that complaint. The same assignment of responsibility for the conducting of an investigation would apply in those cases where the executive head of an agency, or a member of a board or commission that oversees an agency, files a complaint against an employee of the agency. The Department of Administrative Services (DAS) has worked with CHRO on this issue and is in full support of Senate Bill 1048.

CHRO respectfully recommends Senate Bill 1048 be amended so that the provisions of the bill would apply to any such complaints pending upon the bill's effective date. CHRO suggests in line 23, after "member" that "or if any such complaints are pending on the effective date of this act." be inserted. We also recommend in line 29, after "or" that "of the" be inserted to make it clear that the findings of any investigation arising out of a complaint against a board or commission member be reported to the appointing authority of that member. As currently written, the language could be interpreted to mean that the findings are to be reported to the board or commission member. CHRO also recommends that the bill become effective upon passage.

CHRO appreciates the opportunity to testify in support of this bill and urges the Committee's favorable report on the bill.