

Legislative History for Connecticut Act

2011 Bill Index

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2011**

**VOL.54
PART 23
7513 - 7859**

And would the Clerk please announce the tally.

THE CLERK:

Done.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Mr. Clerk.

The bill passes.

Will the Clerk please call Calendar 463.

THE CLERK:

On page 48, Calendar 463, House Bill Number 6595,
AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND
OPPORTUNITIES, favorable report of the Committee on
Judiciary.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield of the 94th, the
Elm city, you have the floor, sir.

REP. HOLDER-WINFIELD (94th):

Thank you. Good afternoon, Mr. Speaker.

I move acceptance of the joint committee's
favorable report and passage of the bill.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is acceptance of
the joint committee's favorable report and passage of
the bill.

Please proceed, sir. Please proceed.

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Speaker.

This bill is a bill that comes to us. It is a bill that makes some changes to our CHRO statute to help with some issues that many of us in this Chamber have been concerned about, the functioning of CHRO, making it more efficient, and reducing costs and streamlining the operations of CHRO.

The bill has been supported by the OPM secretary, the executive director of CHRO. Some of the things that it does is it reduces unnecessary mail costs, allowing us to use electronic communications wherever possible. It mandates a mediation process. It allows merit assessment reviews to happen at an earlier, more expeditious place in the process, and we think that that is going to help us to become more efficient.

Mr. Speaker, the Clerk is in possession of LCO 8222. I request that the Clerk call the amendment, and I be granted leave of the Chamber to summarize.

DEPUTY SPEAKER ALTOBELLO:

Would the Clerk please call LCO 8222, which shall be designated House Amendment Schedule "A".

THE CLERK:

LCO 8222, House "A," Offered by Representative

Walker, Fox, Miner and Hetherington.

DEPUTY SPEAKER ALTOBELLO:

The good Representative has begged leave of the Chamber to allow for summarization. Without objection, please proceed, sir.

REP. HOLDER-WINFIELD (94th):

Yes, Mr. Speaker.

What this amendment does is, is it strikes lines 29 through 113 in the bill before this Chamber, which is Section 2 of the bill, which pertains to issues not addressing those things which I spoke about when summarizing the bill, therefore, actually capturing what we intended to do with the bill before us.

I urge passage.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is passage of House "A". Will you remark further on House "A"?

Representative Cafero of the 142nd, on House "A," sir. You have the floor.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

Mr. Speaker, obviously the amendment that's before us strikes out a section which consists of, well, close to a hundred lines here. And not having served

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on the Judiciary Committee, or the committees of cognizance that handled this initial bill, what do the lines we are striking out do, and obviously in summary form, so we know what exactly we're taking out by way of this amendment.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Speaker.

To actually, I guess, further clarify for people and to answer your question, Representative Cafero, that section deals with a number of things, including personnel issues, but not expediting the process within CHRO. But it also conflicts with some previously passed legislation that we did. And so in order not to have that conflict arise, that section has been stripped.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

Mr. Speaker, again, how would you characterize

the remaining sections, the sections that would remain if this amendment would be adopted? When I say, how would you characterize it, what aspects of CHRO do they deal with, and how would they change from current law?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

I thank you, Mr. Speaker.

And through you, Mr. Speaker. As I was saying in the initial summary, it deals with the ability to use electronic communications wherever possible, therefore, allowing for a better, more expeditious process there.

It also deals with merit assessments and when, in the process, the merit assessments happen. Currently, they don't happen automatically, so this speeds up the process also. It provides for earlier review of investigations by changing some of the -- the way we operate, and the number of staff we have, and where our staff are placed.

So it goes a long way towards moving the resources currently within CHRO to where they should be the best to operate -- have a better, more efficient process.

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Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Cafero.

REP. CAFERO (142nd):

The bill, if amended by the amendment that's before us, through you, Mr. Speaker, to Representative Holder-Winfield, when you indicate that -- it sounds like a lot of this is expediting the processes that take place in CHRO. And -- and yet, you reference, you know, moving resources and/or personnel.

So I guess my question is, is the anticipated expedition of these things -- expediting of these processes, is it a result of the statute saying, you know, what -- what should have taken 30 days, it now shall be done in 30 days or 15 days, or is it an assumption that things will be expedited because of a shift of resources, either personnel or monetary?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative, if you could just hold that thought for a moment.

Just so that I can catch up to the conversation, perhaps we should adopt House "A," and then continue the conversation on the bill as amended.

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REP. CAFERO (142nd):

That's fair enough, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, sir.

REP. CAFERO (142nd):

I don't know if anyone wants to comment on House
"A," so I'll be glad to get off and come back on.

DEPUTY SPEAKER ALTOBELLO:

Terrific.

REP. CAFERO (142nd):

Thank you.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington of the 125th on House
"A".

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

Through you to the proponent.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. HETHERINGTON (125th):

Thank you.

The -- the amendment has the effect of deleting
these lines referenced because of a possible conflict,
I believe, with other legislation that has passed this

House. Is that a reference to the provision in an implementor that dealt with complaints of retaliation, and involving the -- the board -- the auditors and also the Attorney General?

Is it to make it consistent with that -- those retaliation provisions that were in that earlier implementor? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Speaker. Yes, that would be correct. In looking prior to doing this bill, and checking to make sure we didn't have any conflicts, how we recognized that there was a potential conflict between the bill we are discussing here today and the implementor. So that is what gave rise to the amendment before for us.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

I see. Thank you. And through you, Mr. Speaker, if the proponent would comment on the impact or the effect of the role of the auditors of public account,

or the Attorney General, in -- with -- with these -- with these lines removed, that will, as I believe, leave those retaliation complaints as they are in the implementor, so that the retaliation complaints, which ultimately do involve the CHRO, would -- would be handled otherwise, as any other complaint to the CHRO?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Yes, thank you, Mr. Speaker.

If this amendment passes and becomes part of the bill, then the language we passed in the implementor would be in effect, and would be the guidance under which we operated as a State.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker, and I thank the proponent.

DEPUTY SPEAKER ALTOBELLO:

Thank you. Further on House "A"? Further on House "A"? If not, I'll try your minds. All those in

favor, please signify by saying, aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ALTOBELLO:

Opposed.

The ayes have it. House "A" is adopted. Now we have the bill as amended by House "A". Further on the bill as amended by House A? Representative Cafero, you have the floor, sir.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Thank you, Mr. Speaker. Again, I guess, picking up where we left off, I was asking Representative Holder-Winfield whether or not when he references the expediting of various functions of CHRO, is that expediting as a result of being redirected to accomplish tasks in a quick period of time? Like, my example was something took 60 days, it shall take no longer than 15, et cetera, or is the expediting of these functions and assumption that, by shifting resources, i.e. more money and or more people, to certain tasks, it will take place quicker?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

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REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker.

This is an actual changing of some time period. So, for instance, a review process goes from 210 days to 280 days. The merit assessment begins automatically, so it's not based on assumptions. It's based on actually changing time periods and changing where in the process we began a secondary process.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

I appreciate the gentleman's answer.

DEPUTY SPEAKER ALTOBELLO:

Further on this bill as amended? Representative Hetherington, you have the floor.

REP. HETHERINGTON (125th):

Thank you.

Through you, Mr. Speaker to the proponent, if I may?

Lines 121 through 124 of the bill, which are unaffected by the amendment, provides for the appointment of a -- or the assignment of a commission

of legal counsel to represent the commission on any hearing or appeal. Is that a change from -- from what would be the case now? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

If you would give me one second, Mr. Speaker, just to take a quick glance at the bill.

DEPUTY SPEAKER ALTOBELLO:

You have 'till June 8th, midnight, sir.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker.

I believe that, as you can see, if you are looking at the bill, this is language which is underlined. It is new language. I believe what it does is it actually gives them the authority to do this. I believe they could do that, but it's not automatically -- authority automatically granted under the current -- the way the statute is written. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington --

REP. HETHERINGTON (125th):

I see. Okay. How does this bill advance the mediation process, in -- in general? Would you

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comment on that, please?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker.

Is my understanding that where mediation processes are dealt with in the bill, the mandatory conferences that -- that happen under the CHRO statute become more productive. And it changes the time for fact-finding, which is an expedition of the process.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, and through you -- through you, Mr. Speaker, after the process, as contemplated here, is completed, if CHR does not take any action to respond to the complaint in a positive way, then the respondent is -- is it the complainant who then can proceed with a private action, after the CHRO relinquishes jurisdiction?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

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Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker .

Representative Hetherington's understanding is correct.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you.

It appears to me that that's the case now. This really is addressed more to how the complainant is notified and during what period of time. Is that -- that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Speaker. And through you, Mr. Speaker, again, representative Hetherington is correct.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you. Through you, Mr. Speaker, is it

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contemplated that this will result in a more rapid disposition, and reference to the complainant of the ability to take a private action, if so desired. Does this make that happen more quickly? I'm not quite sure just reading it whether or not that's what is accomplished here.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Yes. Again, thank you, Mr. Speaker. That is what is contemplated. That is actually one of the reasons that the agency presented us with the bill. If you were to reference the testimony of the executive director, that is part of his explanation, at least, for why we get the language we get in this bill.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you.

Through you, Mr. Speaker, does the proponent know, offhand, what is the magnitude of the number of matters that are released by the CHRO and proceed to private

action? Are there many or very few? What is the experience, if the proponent knows that?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker.

I don't know offhand, although I'm being told that's it somewhere on the order of 5 percent. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Only 5 percent actually are pursued through private right of action?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker, again, that is what I have been told but I -- I have not done the research for myself. Through you, Mr. Speaker --

DEPUTY SPEAKER ALTOBELLO:

Okay. Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you. Through you, Mr. Speaker, if the proponent is aware of this -- do -- if the -- a private action is brought, is the disposition of the CHRO admissible in that private action? In other words, can a dismissal or rejection of the complaint, finding of no cause by the CHRO, is that admissible in the private right of action in superior court?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker.

I do not know the answer to that question.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Okay. Thank you. I thank the proponent for his comments and answers, and I thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Hetherington. Further on this bill? 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. Members take your

seats. The machine will be open.

THE CLERK:

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? Actually, I can see from the board all members have not voted. Would all members who are in the Chamber please check the board to make sure your vote is properly cast, or cast at all, as the case may be.

Would all members from Windsor Locks kindly vote?

If all members have voted, the machine will be locked. Will the Clerk please take a tally. And would the Clerk please announce the tally.

THE CLERK:

House Bill 6595 as amended by House "A".

Total number voting	138
Necessary for passage	70
Those voting Yea	138
Those voting Nay	0
Those absent and not voting	13

DEPUTY SPEAKER ALTOBELLO:

The bill as amended passes. Will the Clerk please

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So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Also Calendar page 19, Calendar 635, House Bill 6351; Madam President, move to place the item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Moving to Calendar page 20, Calendar 642, House Bill 6592 -- I believe --

A VOICE:

It's 65 --

SENATOR LOONEY:

-- that might be --

A VOICE:

-- 95.

SENATOR LOONEY:

-- 6595 --

THE CHAIR:

Five.

SENATOR LOONEY:

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-- Madam President --

THE CHAIR:

So ordered.

SENATOR LOONEY:

-- move to place the item on the Consent
Calendar.

Thank you, Madam President.

Calendar page 21, Calendar 647, House Bill 6267;
Madam President, move to place the item on the Consent
Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Continuing Calendar page 21, Calendar 650, House
Bill 6344; Madam President, move to place the item on
the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Calendar page 21, Calendar 648, House Bill 5326;
Madam President, move to place the item on the Consent
Calendar.

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

Madam President, the items placed on the first Consent Calendar begin on Calendar page 10, Calendar Number 478, House Bill 6488; Calendar 480, House Bill 5256.

Calendar page 11, Calendar 513, substitute for House Bill 6557.

Calendar page 12, Calendar Number 535, substitute for House Bill 6226; Calendar 555, House Bill 6259.

Calendar page 13, Calendar 560, substitute for House Bill 5368; Calendar 567, substitute for House Bill 6157.

Calendar page 14, Calendar 574, substitute for House Bill 6410; Calendar 578, House Bill 6156.

Calendar page 15, Calendar 591, House Bill 6263; Calendar 594, substitute for House Bill 5508; Calendar 595, substitute for House Bill 62 -- 5263.

Calendar page 16, Calendar Number 606, substitute for House Bill 6581; Calendar 609, substitute for House Bill 6501.

Calendar page 17, Calendar 610, substitute for House Bill 6224; Calendar 613, substitute for House Bill 6453.

Calendar page 18, Calendar 614, substitute for House Bill 5068; Calendar 628, substitute for House Bill 5008; Calendars 633, House Bill 6489.

Calendar page 19, Calendar 635, substitute for House Bill 6351; Calendar 640, House Bills, 6559.

Calendar page 20, Calendar 642; House Bill 6595.

Calendar page 21, Calendar 645, substitute for House Bill 6267; Calendar 648, substitute for House Bill 5326; Calendar 650, substitute for House Bill 6344.

Calendar page 22, Calendar 651, substitute for House Bill 6540.

Calendar page 23, Calendar Number 655, substitute for House Bill 6497; Calendar 657, substitute for House Bill 6262; Calendar 658, House Bill 6364; Calendar 659, House Bill 5489.

Calendar page 24, Calendar 660, substitute for House Bill 6449.

Calendar page 36 -- correction -- Calendar page 33, Calendar Number 390, substitute for Senate Bill 1181.

Calendar page 36, Calendar Number 481, House Bill 5472.

Calendar page 37, Calendar Number 584, substitute for House Joint Resolution Number 34; Calendar 585, substitute for House Joint Resolution Number 54; Calendar 586, House Joint Resolution Number 65, Calendar 587, House Joint Resolution Number 66.

Calendar page 38, Calendar 588, House Joint Resolution Number 80; Calendar 589, House Joint Resolution Number 63; Calendar 590, House Joint Resolution Number 35; Calendar 620, substitute for House Joint Resolution Number 45.

Calendar page 39, Calendar Number 621, substitute for House Joint Resolution Number 47; Calendar 622, House Joint Resolution Number 68; Calendar 623, substitute for House Joint Resolution Number 69; Calendar 624, substitute for House Joint Resolution Number 73.

Calendar page 40, Calendar 625, substitute for House Joint Resolution Number 81; Calendar 626, House Joint Resolution Number 84.

Madam President, I believe that completes the items placed on Consent Calendar Number 1.

THE CHAIR:

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Thank you.

SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

Mr. Clerk, please call for a roll call vote, and the machine will be open.

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:

Senator Gomes?

If all members have voted; all members have voted? The machine shall be locked.

And, Mr. Clerk, will you please call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar.

Number 1.

Total number voting	36
Those voting Yea	36
Those voting Nay	0

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Those absent and not voting 0

THE CHAIR:

Consent Calendar passes.

The Senate will stand at ease for a moment.

(Chamber at ease.)

SENATOR LOONEY:

Madam President?

THE CHAIR:

Yes, Senator.

The Senate will come to order.

SENATOR LOONEY:

Yes. Madam President, the Clerk is in possession of Senate Agenda Number 5 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Madam President, the Clerk is in possession of Senate Agenda Number 5, dated Wednesday, June 8, 2011.

Copies have been made available.

THE CHAIR:

Senator Looney.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**APPROPRIATIONS
PART 14
4451 – 4801**

2011

So with that we'll begin. Our first speaker is Bob Brothers from Commission on Human Rights and Opportunities.

Good to see you, Mr. Brothers.

ROBERT BROTHERS, JR.: Thank you. Good morning members of the Appropriations Committee. I'd like to thank you for having the opportunity to come before you. I'm here to provide testimony on Bill Number 6595, An Act Concerning the Commission on Human Rights and Opportunities. My name is Bob Brothers. I've been with the Commission for 25 years currently serving as the executive director.

When -- when preparing for testimony, I actually had several drafts before me which some of them were almost equal to the volume of the bill. So I finally concluded this morning that I will simply talk to you about the bill. The bill speaks for itself.

The -- the bill actually does a number of things that will actually save the state money which I'm sure all of you would be glad to know. For example some of those things are taking certified mail and using e-mail as opposed to certified mail. We spend about --

REP. GENGA: Mr. Brothers if I could just take your indulgence. I would ask everybody to please respect the speaker and to hold the silence if you can.

ROBERT BROTHERS, JR.: Thank you.

REP. GENGA: Thank you.

ROBERT BROTHERS, JR.: Again as I was saying the bill, although it's voluminous in the pages, it actually does a number of savings. I was mentioning one of them is being able to get rid of certified mail and the requirement so that we could use email for example. Some of the other things that the bill does and I've heard from a number of you and your constituents about complaints that they have with the Commission. The time that it takes to be able to go through the Commission has -- has been longer than I would like it to be.

The bill actually tries to streamline the process and -- and puts time constraints on some of the things that we're doing to be able to ensure that the process moves along quickly. For example one of the things allows me, as the executive director, to pull a case if I think it's been languishing in the field for too long and expedite the proceeding on it.

The Commission on Human Rights and Opportunities receives about one and a half million dollars every year from EEOC and HUD. That money in turn goes to the general fund. We have a contract with both of those entities regarding a number of cases that we can do. Unfortunately last year we fell short of the number that we were contracted for therefore losing money.

By streamlining the -- the process with the agency my goal is to be able to have more

investigations done with fewer people. The -- as I was mentioning before the -- the process -- the bill itself actually streamlines a -- a lot of what's going on. It -- it makes mandates regarding settlement so that parties are required to come to settlement conferences and hopefully resolve complaints early on.

Again the bill speaks for itself and if you have any questions I'd be glad to entertain them.

REP. GENGA: Thank you for your testimony and I appreciate the section where you reduced from 210 to 180 days.

ROBERT BROTHERS, JR.: Actually that's something we're working on with trial lawyers. Trial lawyers had come to me last year and they were looking to be able to reduce that timeframe. The reason that it went to 180 is that it's consistent with the federal courts in -- in bringing an action. Also the 180 days ensures that we'll be able to do a merit assessment review on the case, commonly referred to as MAR.

As long as we do that, we're deemed to have done substantial work and we can get paid for the case. I -- I wouldn't suggest reducing that number any lower than the 180 because it would result in the Commission not receiving federal payment.

REP. GENGA: Right. Anybody on the Committee have any questions?

I guess not. You've done an excellent job.

ROBERT BROTHERS, JR.: Thank you very much.

REP. GENGA: Thank you.

Next is Senator Kevin Kelly from the 21st district.

Good afternoon, Senator.

SENATOR KELLY: Good afternoon, Representative Genga, members of the Appropriations Committee. My name is Kevin Kelly. I am the state senator for the district consisting of the Towns of Monroe, Seymour, Shelton and Stratford. I'm here this afternoon to testify on Raised Bill 6519, An Act Concerning Medicaid Savings.

Because of my background in elder law and advocacy on behalf of seniors I was appointed Ranking Member on the Aging Committee. And the status was recently raised from a select committee to that of a full standing committee. I've been working very closely with Senator Edith Prague and Representative Serra and other members of that Committee to create policies that enable seniors to age in place in their communities rather than in nursing homes.

In order to rebalance our long-term care dollars away from institutionalization and towards home care we must develop the necessary infrastructure to create a robust home care industry that -- that can manage both the current and future aging population considering that we have a -- a large baby boomer population in Connecticut.

Thank you for your fine work, Senator.

SENATOR KELLY: Thank you.

REP. GENGA: We're now going to go to the public portion and the first speaker is Cheryl Sharp followed by Sheldon Toubman.

CHERYL SHARP: Good afternoon and thank you for the opportunity to provide testimony on House Bill 6595, An Act Concerning the Commission on Human Rights and Opportunities. I'm Cheryl Sharp an attorney with the Commission on Human Rights and Opportunities. You just heard from the executive director of our agency and I just wanted to add a few additional comments on behalf of and in support of the bill in -- in support of the Commission on Human Rights and Opportunities.

If enacted this bill will save money for the State of Connecticut, generate federal dollars, promote government efficiency and prove the services that are provided to the public and increase stakeholder satisfaction with the CHRO's complaint process. This bill is progressive and comprehensive and will take us, the CHRO, in the direction that the agency needs to go in terms of its case processing.

Stakeholders have asked us, the CHRO, to improve and expedite its case processing and I believe that this bill allows the CHRO to do just that. Just a few years ago the CHRO received around \$1.5 million in combined federal funds from two federal agencies, about \$800,000 of it from the United States Equal Employment Opportunities

Commission and those federal dollars paid for close to 25 percent of the agency's budget.

Just last year due to a reduction in staff and the lack of authorization to refill staff positions the agency had to reduce its contract with the EEOC from 1,607 cases to 1,307 case -- cases causing the CHRO to lose almost 20 percent of the value of the EEOC contract.

As Governor Malloy cautioned we should not be leaving federal dollars on the table and I agree with that sentiment especially when those federal dollars help to offset the cost of running a state agency.

Turning for a moment to the provisions of the bill, and I know there's a lot to digest there, but I wanted to point out a few highlights that I believe are worth mentioning. By adding a more visible legal component to the investigative process the overburdened understaffed investigators will be provided with assistance that will allow them to increase the quantity of their closures, i.e., attorneys can deal with purely legal issues at public hearing and not bog down investigators with purely legal issues that have to be decided by a referee or a judge which will result in federal dollars being generated.

And I know that I'm out of time but that's one of the most important portions of this bill, the early legal intervention aspect of it.

REP. GENGA: Thank you.

Senator Prague has a question for you.

SENATOR PRAGUE: Thank you, Mr. Chairman.

You know CHRO plays a very critical role in ending discrimination. But people for the longest time have complained about how long it takes CHRO to finalize a case. And they really get, you know -- they think it's never going to end. They think it's never going to happen. And this is not just one person I've heard from. I've heard over and over again. So I'm hoping that this will help you speed up the process and give people a -- a better opportunity to get their issues resolved.

CHERLY SHARP: Yes and that's -- that's what we're hoping as well that.

SENATOR PRAGUE: Do you --

CHERLY SHARP: I'm sorry.

SENATOR PRAGUE: Do you have any plans to do that?

CHERLY SHARP: Yes. That -- the -- the intent of this legislation is to make it so that cases can be processed much more expeditiously. There are some cases that have just pure legal issues that don't need to necessarily go through an investigative process. Those cases -- they just need to go up to the legal department, be assigned to an attorney, a litigation attorney which is what I am, and -- and I have six other colleagues that -- we're all litigation attorneys and we need to take those cases to public hearing

and we have currently five public hearing referees that hear those cases.

And we need to take those legal issues -- those cases with those legal issues and have them resolved at the public hearing stage expeditiously. They don't need to languish in the -- in the regional offices because they're legal issues that they can't resolve at the investigative stage.

So that will take those cases out of the system and allow the investigators to focus their attention on cases that are raising factual issues that the investigators can actually resolve. And there are plenty of cases to go around because we get thousands of cases filed with us every year and so we're just trying to unclog the system in -- in the places that there are clogs so that we can work together cohesively to get these cases processed.

SENATOR PRAGUE: Well thank you. I'm glad to hear that. Thank you.

CHERLY SHARP: Thank you.

REP. GENGA: Representative Winfield.

REP. HOLDER-WINFIELD: I don't -- I -- I would suppose you could answer this question and I'm just asking because I don't know. So what currently provides for that clog that this bill alleviates?

CHERLY SHARP: I'm sorry you said what current --

REP. HOLDER-WINFIELD: What is currently provided for the clog that you suggest this bill is alleviating?

CHERLY SHARP: There are a couple of things that have resulted in the number of cases and the length of time it takes to process them. One is that we have historically been understaffed. Two is -- is that -- and that's the major part of the problem -- two is that cases, once they are assigned to an investigator, once they're filed with us, then merit assessed and then assigned to an investigator. If we don't have enough investigators to investigate them and they raise purely legal issues, there's no mechanism to get those cases to go to public hearing without waiting to have an investigation.

If an investigator is bogged down with dealing with cases that raise legal issues that they can't resolve, they can't then focus their attention on cases where factual issues are raised that they can resolve by drawing inferences and so what this does is allow an early legal intervention where the executive director or his designee can look at the -- the case or the parties and say oh there -- there is an issue, it's a fairly legal issue or this case has been languishing and it's one that needs -- we need this immediate early legal intervention.

We can take those cases out of the process and they can go directly to public hearing. That's one of the clauses in -- in the language of the bill.

REP. HOLDER-WINFIELD: But that early intervention only happens after a process -- after you go through a process as written in this piece of legislation, right? It's -- it's not from the very beginning.

CHERLY SHARP: No but it's much faster than it was because within -- this -- this streamlines the investigative process because within 60 days a mandatory mediation has to occur if a case is -- if a case is retained or -- and -- and so that -- that shortens the -- the timeframe because now there is no mechanism. There is nothing that says that you have to have this mandatory mediation.

We have an automatic review of every single merit assessment review that is being done that -- where a case is dismissed and that review is being conducted by the legal depart -- department and so then that case can go back to the field with some instructions as to this is what needs to be -- be gathered, this is the fir -- the evidence that you need and so it's inserting the legal department in the process earlier and these individuals, the attorneys in the legal department, have the background in this area of law and many, many years of practice.

And so it directs the investigations in some of the cases and it also frees up the time for the investigators to -- to investigate cases that raise, you know, factual issues that they can actually resolve. So it does streamline the process.

REP. HOLDER-WINFIELD: Thank you.

Thank you, Mr. Chair.

REP. GENGA: Question for you, Attorney Sharp. Do you have any idea of the number of -- of complaints that you don't complete within the statutory time?

CHERLY SHARP: Our principal attorney is sitting behind me and I'm going to ask him if he knows the exact number or the executive director also can come forward because I think they deal more with the statistics of it all.

ROBERT BROTHERS, JR.: On average the Commission takes in about 2,000 cases a year. Of those about 100 are housing cases. Last year for example we took in 300 more cases than we closed. So to give you an idea that if we continue to go that way, it's only going to get compounded but considering that we had staffing shortages of about one-third we're doing the best that we can with staff that we have. Hopefully this bill will expedite it even quicker so we can close more cases.

REP. GENGA: If you would recognize yourself, Mr. Brothers.

ROBERT BROTHERS, JR.: I'm sorry. Bob Brothers, I'm the executive director from CHRO.

REP. GENGA: That's for the official record, not us.

ROBERT BROTHERS, JR.: Thank you, I forgot that.

REP. GENGA: Thank you, sorry.

Further questions or comments from the Committee?

Oh Representative Clemons.

REP. CLEMONS: Thank you, Mr. Chairman.

Good afternoon. I'm just curious if you could share with us prior to -- or this bill being introduced, I know you're saying there was a backlog of so many cases and -- and you mentioned all the impediments that -- that fostered that situation. With this bill could you tell us, in the past, how long it took for cases to -- for you to, you know, look at the merits of a complaint and ones that you felt that were -- that had merit to it proceeded through the process and the time factor that would be involved with this bill in terms of -- of -- you know -- closing that -- that gap?

ROBERT BROTHERS, JR.: Sure. The -- the timeframe for conducting what's referred to as a merit assessment review, which is the first screening that happens after the complaint has been served on a respondent and there is an answer, what the field operation investigators will do is they will look at the answer and determine whether or not there is a probability of finding discrimination in the case. If so, that case goes onto full investigation.

Of the cases that are retained for full investigation, it probably takes us, on average, about 13 months to 14 months for a full

investigation. If a case is certified to a public hearing, that process takes probably about one year, sometimes a little quicker.

REP. CLEMONS: Okay and with -- with this bill this would expedite that process to -- can you give us an estimation in terms of --

ROBERT BROTHERS, JR.: There are a number of things as Cheryl was mentioning about this bill that will expedite it. One of the things I think most critical is that there will be mandatory mediation. As most people know most cases on litigation settle out. What we're trying to do with this bill is to afford early mediation. It also allows me, as the executive director, if a -- if a case is languishing and I believe that it should be moved along, I have the ability with this bill to make that happen.

REP. CLEMONS: Okay.

ROBERT BROTHERS, JR.: And in addition to that there's also a no -- several other things. In order to go to court with a discrimination case you have to exhaust your administrative remedy. Currently the timeframe is 210 days. We've shortened that to 180 days so that if somebody wants to leave, they can get out quicker and go to court.

REP. CLEMONS: Okay. Well I thank you for that answer because I've gotten a lot of -- somewhat -- well you might as well call them complaints but issues with people frustrated with -- with the length of, you know, the process and then, at the same time, they're still dealing with discrimination,

you know, in -- in the workplace so that was my -
- my question then to see if this would do just
that.

CHERLY SHARP: Yes.

REP. CLEMONS: Hopefully -- hopefully this will.

CHERLY SHARP: And -- and that's why the early legal
intervention is -- or early legal intervention
program is so important because then we can
actually hold cases that have a legal issues that
are raised or issues that we feel need to be
dealt with immediately such as, you know, in a
school bullying case or something that's timely
that's going to become moot after a certain point
in time. We can actually deal with those cases
much faster with this early intervention process.

And it will address some of the concerns of our
stakeholders because instead of waiting the 210
days, if you can -- and 180 days, during that
time period we're still taking action because the
merit assessment review process is being
conducted. So we're still doing something with
the case but right at the time approximately that
the merit assessment review process would be
done, if you chose to leave the administrative
process and go into court, you can now through
this bill if it's enacted.

REP. GENGA: Senator Prague.

SENATOR PRAGUE: Thank you, Mr. Chairman for the
second time.

You know to move a case in 210 days or 180 people are still waiting six months. Is this the best you can do?

ROBERT BROTHERS, JR.: The -- the reason that 180 days is established is that, as I was mentioning earlier, we receive payment from EEOC on employment cases. We're only paid if we do substantial work. Substantial work by EEOC's standard is at least doing the merit assessment review. That takes place within the first 90 days after we receive an answer. So the 90 days have to be added on to actually sending the complaint out and receiving an answer and -- and what we're looking to do is to try to reduce it to the minimum. The 180 days is consistent with federal court.

CHERLY SHARP: The -- the CHRO has to remain substantially equivalent with the federal agencies that we have a contract with which those agencies are the EEOC and HUD. And so we're remaining substantially equivalent with that 180 day mark. The -- our system -- the administrative system is so much faster than the court system because if these cases were filed in -- in court it would take much longer than 180 days to get resolved.

And so we've streamlined the process as much as we can through this bill or we're attempting to streamline the process as much as we can through this -- through this bill and it doesn't mean that every single case that we get is going take 180 days or even the 13 months that Bob talked about. Some cases are settled through no-fault

conciliation and that's before an answer is even filed, so it could settle within ten days the case is done.

Some cases take much longer because they're complex litigation cases. They raise multiple issues that can't be resolved very quickly and so that -- those types of cases may take more time. Now we have a vehicle to grab those complex litigation cases and take them to public hearing so they can be resolved by a referee which is where they need to be because they -- that's not a case that we would necessarily want to investigate.

So all throughout the -- the bill we have put processes in place to expedite the -- the processing of complaints and address the concerns of our stakeholders that the process takes too long. But you have to look at it on a case-by-case basis and so there's going to be a range of time.

So I -- I understand your concern that, you know, 180 days is a long time but that's not every case, some cases go much faster.

SENATOR PRAGUE: Okay Mr. Chairman if I may just one more question?

You also train the human resource people in various departments. Is that correct?

ROBERT BROTHERS, JR.: We -- we do training for affirmative action officers throughout the state.

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1:00 P.M.

SENATOR PRAGUE: In every agency?

ROBERT BROTHERS, JR.: Yeah we're mandated by statute to do that.

SENATOR PRAGUE: And do you have enough help, enough employees, to do that training?

ROBERT BROTHERS, JR.: I would love to have more employees. As I was mentioning within the past two years we've gone from 103 to 73 while the scope of our responsibilities has increased.

SENATOR PRAGUE: Do you get to every agency to --

ROBERT BROTHERS, JR.: We -- we comply with all of our obligations. We --- we do all the training.

SENATOR PRAGUE: Okay. You know as Chair of the Labor Committee I'll be watching you because people are out of work while they're waiting for you to resolve their cases and six months is a long time for some people to have to wait to get their case resolved. So I'm hoping that you'll do a better job than the Commission has done in the past in taking care of the issues that people bring to you.

ROBERT BROTHERS, JR.: That's our intent.

SENATOR PRAGUE: Thank you.

REP. GENGA: Anybody else on the Committee?

Thank you for your testimony.

SHELDON TOUBMAN: Thank you.

REP. GENGA: Anybody else on the Committee?

Moving along, our next speaker is Donna Wilkerson Brilla followed by Deborah McKenna -- oops sorry -- Dr. Kathy Marinelli followed by Deborah McKenna.

DONNA WILKERSON BRILLANT: Good afternoon, Representative Genga and members of the Appropriations Committee. I am Donna Maria Wilkerson Brilliant, a human rights referee at the Commission on Human Rights and Opportunities. Thank you for the opportunity on behalf of myself and my fellow referees, Attorneys Thomas C. Austin, Jr. who's here with me today, Jon P. FitzGerald and J. Allen Kerr to submit testimony on H.B. 6595, An Act Concerning the Commission on Human Rights and Opportunities.

The stated purpose of the bill is to improve case processing, reduce costs and streamline the functioning of the Commission on Human Rights and Opportunities. There are currently five referees at CHRO. Effective July 1, 2011 the number of referees will be statutorily reduced from five to three. The reduction to three referees will not improve case processing but instead will hinder the process.

The current budget funds five referees. We realize that these are difficult financial times. As such we urge you to reduce the number of referees by only one, from five to four, still a 20 percent reduction from current staffing. It

would be a disservice to the parties we serve to further diminish the integrity of a process that is currently working so efficiently and in the best interests of the public that we all serve.

We note that the Governor's proposed budget for CHRO funds 75 full-time employees. As of this date there are only 73 full-time employees including all five referee positions. Additionally, of the current 73 employees, there is legislation proposing to transfer three employees to DAS. Our proposal then is a reallocation of the proposed funding, not a request for additional funding.

By way of background in 1998, in response to the serious backlog of cases that had resulted from the use of part-time per diem hearing officers, the legislature passed Public Act 98-245, replacing the hearing officers with full-time human rights referees.

The reduction to three referees may again create a backlog of cases. A reduction to three would result in longer times for motions to be ruled on, public hearings or trials to be held and justice to be administered. Complainants and respondents in employment, public accommodation and housing situations need to know that their cases will be handled in a fair, timely and cost-efficient manner.

Human Rights referees manage their own case load from the time the case is assigned to them by the chief. The referees conduct scheduling conferences, settlement conferences, status

conferences, pre-hearing conferences and the public hearing. The referees also rule on motions including, but not limited to, motions to strike, to dismiss and motions to compel the production of documents.

For example, in fiscal year 2009-2010 the referees held 209 conferences, conducted public hearings totaling 54 trial days --

Would I be able to finish? Thank you.

And ruled on 467 -- I'm sorry Representative Genga?

REP. GENGA: You'll be able to summarize.

DONNA WILKERSON BRILLANT: Oh thank you.

We expect the docket to increase. Complaints will be filed by -- because of the EEOC unemployment remains high and CHRO expects a large number of cases coming up from the regions as you've heard testified by Mr. Brothers and Attorney Cheryl Sharp. A copy of our proposal is attached to be added to this bill, 6595, for your consideration.

Thank you for your attention and I would be happy to answer any questions you may have.

Thank you for giving me that time.

REP. GENGA: Thank you.

Any questions from members of the Committee?

Senator Prague.

SENATOR PRAGUE: Thank you, Mr. Chairman.

How many offices out in regions do you have? How many regional offices?

DONNA WILKERSON BRILLANT: The CHRO has four regional offices and -- and that doesn't include the central office which consists of the housing investigative office, so technically there's five offices. There's the Hartford central office where right now the legal department is including the housing department and the affirmative action/contract compliance. Then there's four regional offices in Norwich, Bridgeport, Waterbury and also Hartford on Asylum Avenue.

The Human Rights referees are located on Capitol Avenue. We're a separate office of public hearings.

SENATOR PRAGUE: When cases come into the regional offices, are they then referred to the main office in Hartford? What's their job?

DONNA WILKERSON BRILLANT: The regional offices? The job of the regional offices is to conduct the investigations. As you -- as Attorney Sharp and also Mr. Brothers testified that the complaints go into the regional offices usually where the alleged discriminatory conduct occurred. So the complaint is filed at that regional office, a MAR process, a merit assessment review process occurs and if it makes it past that process and goes to

a full investigation, if there is enough or a reasonable cause finding is made, then it will be sent to the public hearing office which is my office to have a trial.

SENATOR PRAGUE: And one more question if I may follow up, Mr. Chairman.

How long does it take the regional office, approximately, to deal with an issue that's brought to them?

DONNA WILKERSON BRILLANT: Sometimes we may not -- we may not receive a case for a couple of years. I mean it depends. If a complaint is filed in let's say 2007, it might be 2009 before that case is actually certified to public hearing. But that's only if a full investigation has been had. If it's a full investigation, it could take anywhere from a year or more for it to be certified to public hearing.

Now if that case is dismissed, it might be dismissed during the MAR process, then it's only a matter of a few -- you know -- maybe as they stated maybe five or six months. It could be dismissed early and then that complainant can go to Superior Court and ask for an appeal of that or ask for a reconsideration from the executive director. So it all depends on what happens with that case.

If it's -- if it's a -- if it stays in the CHRO and the complainant wants to remain there and wait and a full investigation is had and a reasonable cause finding is made, that could take

a few years before it reaches our office for trial.

SENATOR PRAGUE: Thank you.

DONNA WILKERSON BRILLANT: Oh you're very welcome.
Thank you.

REP. GENGA: Anybody else on the Committee?

Thank you for your testimony.

DONNA WILKERSON BRILLANT: Thank you.

REP. GENGA: Next is Dr. Kathy Marinelli followed by Deborah McKenna.

KATHLEEN MARINELLI: Good afternoon, Representative Genga, Chairman Genga, and members of the Appropriations Committee. I'm Dr. Kathleen Marinelli, pediatrician and on the board of directors of the Connecticut chapter of the American Academy of Pediatrics and I would like to comment on two bill this afternoon if I may, S.B. 183 and H.B. 6518.

S.B. 183 is An Act Creating a Separate Nonlapsing Vaccine and Antibiotic Purchase Account Within the General Fund. I would like to start by thanking you for introducing and considering this bill in the Connec -- that the Connecticut American Academy of Pediatrics supports.

The State of Connecticut has been a leader in the country in our vaccination rates. We top the nation. We have the highest percentage of teens

DEBORAH MCKENNA: Good afternoon members of the Committee. My name is Deborah McKenna. I am an attorney at Emmett & Glander in Stamford, Connecticut and I practice in the area of plaintiff's side employment law. I am testifying today on behalf of the Connecticut Employment Lawyers Association, known as CELA, in support of Raised Bill 6595, An Act Concerning the Commission on Human Rights and Opportunities.

SB 1192

CELA is a voluntary membership organization whose members are attorneys from throughout Connecticut who devote at least 51 percent or more of their employment related practice to representing employees. As such CELA attorneys represent individuals in all types of employment related matters including, but not limited to, discrimination and wrongful termination actions.

Our members routinely practice before the Connecticut Commission on Human Rights and Opportunities and also provide counseling and guidance to individuals who may choose to proceed pro se in this forum. Collectively we have a great deal of experience with the agency and many thoughts on how its services can be improved to better help the people of Connecticut.

We support 6595 because we believe the changes in this bill will help complainants move more quickly and efficiently through the Commission process. At present it is not uncommon for a complainant to have to wait up to or over two years from the time he or she files a complaint to have the fact finding or mediation session.

Just by way of personal example, I have a case that has now been pending 30 months and we are still in the investigation phase. My client had to make a choice between pursuing her claim in state court or staying at the CHRO process to decide how she wanted to have that case handled.

My experience is not uncommon. Many if not all of our members have had similar experiences and while we are -- you know appreciate that the investigators are burdened by heavy case loads, these delays create real hardships for our clients. It also creates a real disincentive on employers to resolve these matters quickly.

As you know as time passes between the act complained of and actually investigation it's harder to conduct a thorough investigation. I think the most -- one of the most important points of 6595 is the mandatory 60 day mediation that would im -- that would be -- come into place after the MAR because that actually would focus everyone on the case in a much shorter timeframe and -- and require people to stay connected to the case.

Just a couple of other quick points. We support the enhanced attorneys' fees provision bringing it in line with current state law and we are also supportive of the intent of Raised Bill 1192 which is the other CHRO bill which would compress the timeframe which would actually make the process move quicker.

And if I could just summarize, we're also supportive of the -- increasing the hearing

officers back to four because I'm not sure how all of these changes could take place with three hearing officers.

I'd be happy to answer any questions. Thank you for your time.

REP. GENGA: Any questions from -- Representative Betts.

REP. BETTS: Thank you, Mr. Chairman.

Thank you for your testimony. What happens if -- if they're not able to be in compliance with the 60 day mediation period?

DEBORAH MCKENNA: What happens in terms of a penalty or what happens practically speaking?

REP. BETTS: Yes, both.

DEBORAH MCKENNA: I mean practically speaking and my - my experience with any of the penalties that are sort of in the statute as it exists even now is that nothing really happens. I mean we do have current pen -- current timeframes for when an investigation is supposed to be completed by. It's supposed to be completed within 190 days; it doesn't always happen and as far as I know there are no real penalties.

I don't -- I'm not sure what type of a penalty you could put in place other than -- that has to come from within the agency and perhaps within -- you know from -- direction from the executive

director really kind of leaning on the various offices to meet those deadlines.

But -- but my understanding is there is no penalty that really is put into place.

REP. BETTS: And you know you've -- you've supported the recommendation of four attorneys as opposed to the three that were recommended in the Governor's budget. Is it going to make that much of a difference?

DEBORAH MCKENNA: I think that they're operating with a staff of five now and, you know, they're doing a -- an okay job. We're still seeing delays. Things are still moving slow. I cannot imagine when you increase -- if this bill were to pass, and -- and I do think that there are many important reasons for this bill to pass, it will increase the level of oversight on the cases at an earlier stage which is good for everybody. It -- it helps employers have the cases resolved more quickly. It helps complainants but if you're increasing that level of oversight I don't see how you do that on a -- a smaller staff. Because if you go down to three then the level of oversight I think would suffer rather -- you know I think that you really need to -- to keep the -- to the four.

REP. BETTS: Okay, thank you, Mr. Chairman.

REP. GENGA: Anybody else?

Representative Orange.

REP. ORANGE: Thank you, Mr. Chairman.

Good afternoon, how are you?

DEBORAH MCKENNA: Fine thank you.

REP. ORANGE: If -- if there's attorney oversight on these cases, do the cases go to an -- an actual public hearing? I mean how would you -- how would they be determined to be investigated or not investigated if there isn't a public hearing? So I would imagine there would be a public hearing.

DEBORAH MCKENNA: Well there's -- it's a two step process and perhaps I'm not understanding your question but the first step in the process is there's the investigation phase. And so the cases -- if a case is accepted through a merit assessment review, then it goes to the investigative stage. Not every case goes to a public hearing. Only certain cases that have completed the investigation stage in which a reasonable cause has been found to believe that discrimination has occurred and those complainants have decided to keep their cases at the Commission actually go to the public hearing stage.

So it's not a foregone conclusion. In fact I don't know the statistic but I would guess that a -- a smaller percentage make it to an actual public hearing. Many more cases would make it through the investigation stage.

You're welcome.

REP. GENGA: Thank you.

Senator Prague.

SENATOR PRAGUE: Do other states have a similar agency to handle discrimination complaints?

DEBORAH MCKENNA: Yes although I couldn't give you the statistics but yes there are other state -- many other states have similar agencies and not all of them have the same time requirements if that's -- if that's at all what you're -- where you're heading. I know that we've heard the testimony about that it needs to stay there for 180 days for the EEOC funding but not every state requires that. I think New York has a different -- it doesn't require that for --

SENATOR PRAGUE: I wonder if you know of a state that's doing a real good job with these kind of cases, you could let us know so that we could do some kind of indicative language to help improve this agency. This -- CHRO has an important function to perform and for the longest time it has not done that very well. We need some way to make this better and if the Connecticut trial lawyers know of a state that's doing it and doing it well I, for one, would appreciate that information.

DEBORAH MCKENNA: Well just for clarification, although I sometimes have my CTLA hat on, today I'm here for the employment lawyers but -- but we would be happy to -- to provide you with any information that we have on that. I -- I don't

know of a state off the top of my head to -- to give you but we would certainly be happy to provide that information to the Committee.

SENATOR PRAGUE: Okay that would be helpful and thank you.

DEBORAH MCKENNA: You're welcome.

REP. GENGA: Thank you.

Anyone else?

Thank you for your testimony.

DEBORAH MCKENNA: Thank you for your time.

REP. GENGA: Next speaker is Barbara Collins followed by Peter Gioia, if I'm saying that correctly.

Barbara Collins? Okay, Mr. Gioia you're up, followed by Dalia Guzman.

PETER M. GIOIA: Good afternoon, Chair, and members of the Appropriations Committee. My name is Pete Gioia. I'm vice president and economist for the Connecticut Business and Industry Association. I've submitted written testimony. I'd like to talk about two bills.

HB 6520

First, 6519, An Act Concerning Medicaid Savings. I think it's long overdue that we do a comprehensive study in this area as is recommended by the bill. I think that can only help you folks and do your job better.

TESTIMONY PRESENTED TO THE APPROPRIATIONS COMMITTEE
March 31, 2011

Benjamin Barnes
Secretary
Office of Policy and Management

Thank you for the opportunity to comment on several of the bills before you today.

HB6595 HB6519
HB6518 HB6515
SB1126

S.B. No. 183 -- AN ACT CREATING A SEPARATE NONLAPSING VACCINE AND ANTIBIOTIC PURCHASE ACCOUNT WITHIN THE GENERAL FUND.

OPM opposes movement of currently budgeted accounts to separate, off-budget accounts. Currently, the amounts budgeted in the DPH vaccine account are part of the General Fund and are therefore counted toward the constitutional and statutory spending cap. The vaccine account is supported by assessments on insurers, so there is a dollar-for-dollar revenue source for any proposed appropriation. However, under this proposal the revenue would be put into a separate non-lapsing account which would result in a significant revenue loss to the General Fund (\$9.0 million) while keeping the appropriation.

On occasions in the past, parties have proposed expanding the number and types of vaccines that would be paid for by the DPH immunizations account, arguing that the expansion would be paid for through larger assessments on insurers. Some proposed expansions, however, have not gone forward in whole or in part because of expenditure cap limitations. By moving the immunization account "off-budget" there would several potential consequences:

- a.) loss of budgetary oversight and control (whatever is on-budget is visible, subject to review and oversight, etc.);
- b.) increased costs to insurers as the number and types of vaccines supported by the fund expand due to the lack of a "braking mechanism" played by the spending cap; and
- c.) expansion of the number and types of vaccines supported by the account, which are now prioritized by DPH and the medical community to include those that give us the biggest health care "bang for the buck".

Lastly, this bill would have OPM making the actual expenditures from the new non-lapsing account even though DPH has the expertise, knowledge and resources for the actual distribution of the vaccines. DPH has a federal grant for distribution costs and is also receiving direct assistance from the federal government (actual vaccines), and should continue to play that role.

H.B. No. -- 6520 AN ACT CONCERNING RESULTS-BASED ACCOUNTABILITY.

OPM opposes specifying in statute the programs that should be subject to Results Based Accountability (RBA).

- RBA is a registered trademark and is not appropriate for state statutes.
- The General Assembly has not provided agencies with any resources to comply with the reporting requirements imposed by RBA, so the RBA requirement amounts to an unfunded mandate on state agencies.

- While RBA is currently embraced by the legislature as an approach to program review and analysis, it is unwise to specifically require an RBA approach in statute at the expense of other methods that may yield equally useful information for decision makers. The administration is supportive of data-driven decision making, but there are many methods that could effectively be employed in addition to or in lieu of RBA.
- Any determination of which programs should be subject to RBA should be the product of discussion between, and agreement by, the administration and General Assembly.

This bill seeks to require the Office of Workforce Competitiveness (OWC) to review the Workforce Investment Boards (WIBs) in a Results Based Accountability framework. Governor Malloy's proposed budget would merge OWC with DECD, so if this bill moves forward this reference should be corrected to reflect said proposal.

We recommend that DSS' biannual Nurturing Families Network report be combined into the annual Children's Trust Fund (CTF) report which is required under Section 17b-751(c) in order to streamline reporting processes. This reduces the number of required reports from the CTF from three reports per year to one annual report. This would make the CTF reporting functions more efficient and less redundant, while still incorporating the RBA framework.

H.B. No. 6595 -- AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

OPM supports this bill, as it proposes technical changes that enable the statutes regulating the Commission on Human Rights and Opportunities to conform to current practice. This proposal also makes necessary changes to case processing in order to streamline agency functions and reduce costs.

H.B. No. 6519 -- AN ACT CONCERNING MEDICAID SAVINGS

OPM opposes this bill. HB 6519 requires DSS, in consultation with DMHAS, DDS and DCF, to (1) study the state's Medicaid program, (2) identify any means by which the state can achieve savings in Medicaid, and (3) summarize the results of the study in a report to the General Assembly by November 15, 2011.

Given the current fiscal climate, we understand the need to achieve savings wherever possible, particularly in Medicaid which represents such a large portion of the state budget. The language in the bill, however, is overly broad. **Requiring DSS to "identify any means by which the state may achieve savings," would divert resources that could be better used to implement the reductions that will ultimately be approved for the upcoming biennium.** Each year, DSS is responsible for submitting reduction options, which provide an indication of areas for potential savings. In addition, there have been a host of reductions proposed by various administrations over the years that have not been accepted by the General Assembly. Requiring DSS to identify every possible Medicaid reduction, would require extensive resources without a clear benefit. Program benefits such as pharmacy are considered optional services under federal Medicaid rules, and yet the likelihood that either the Administration or the General Assembly would accept the elimination of pharmacy coverage is nil. To divert precious resources to yet another study is not recommended and thus we oppose this bill.

H.B. No. 6518 -- AN ACT ESTABLISHING AN ADMINISTRATIVE SERVICES ORGANIZATION FOR THE MEDICAID PROGRAM

OPM opposes HB 6518, which requires DSS, in consultation with DMHAS, DDS and DCF, to (1) study the state's Medicaid program to determine the feasibility and best means to convert from

Pg. 1 line 20

Thank you for the opportunity to provide testimony on H.B. 6595, AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES:

Good afternoon, my name is Cheryl Sharp and I am an Attorney with the CHRO and a union steward with AFSCME authorized to speak on behalf of the P-2 bargaining unit at CHRO regarding this bill. Further, you just heard from the Executive Director of the CHRO and I add these additional comments on behalf of and in support of the CHRO.

If enacted, H.B. 6595 will save money for the State, generate federal dollars, promote government efficiency, improve the services that are provided to the public and increase stakeholder satisfaction with the CHRO's complaint processing.

This bill is progressive and amounts to a comprehensive overhaul of the CHRO's approach to processing claims of discrimination. Stakeholders have asked for the CHRO to improve and expedite its case processing and I believe that this bill allows the CHRO to do just that. Further, because the Commission has not received permission to refill a single vacant position in over two years and has lost more than 25% of its staff, the agency is not positioned to receive all federal funds for which it is eligible. Thus, leaving federal dollars on the table. The provisions of HB 6595 will empower the agency to fairly and equitably process more cases and process them more expeditiously. Moreover, this bill will increase the likelihood that the agency will receive all of the federal funding to which it is entitled. Thus, this redesign is necessary for the Commission to increase or maximize federal contributions, which go into the general fund, and bring federal dollars back home to Connecticut.

Just a few years ago the CHRO received around \$1,500,000.00 in combined federal money from two federal agencies--about \$800,000 of it from the U.S. Equal Employment Opportunity Commission. Federal dollars paid for close 25% of the agency budget. Just last year, due to a reduction in staff and the lack of authorization to refill positions, the agency had to reduce its contract with the EEOC from 1,607 to 1,307 case closures, causing the CHRO to lose almost 20% of the value of the EEOC contract. As Governor Malloy cautioned we should not be leaving these federal dollars on the table and I agree with that sentiment, especially when those federal dollars help to offset the cost of running a state agency.

Turning to the provisions of the bill, and I know there is a lot to digest, I want to point out a few of its highlights.

By adding an earlier and more visible legal component to the investigative process, the overburdened, understaffed investigators will be provided with assistance that will allow them to increase the quantity of their closures, i.e. attorneys can deal with purely legal issues at public hearing and not bog down investigators with purely legal issues that have to be decided by a Referee or judge. Further, the quality of the agency's decision making will be enhanced, because legal issues will be resolved by the appropriate authority, thereby building public confidence in the CHRO's case processing ability.

One key improvement to the CHRO's case processing made in this bill—early legal intervention—is found in Section 7(c)(2). The CHRO has been criticized for the time it takes to investigate cases. Early legal intervention gives the Executive Director or his designee the power to move cases.

Early legal intervention moves cases by compressing the time it takes to complete the investigative process. It does this by introducing CHRO attorneys at an earlier stage of the process. Currently a case will not generally see an attorney until after it is certified to public hearing. Having attorneys involved earlier does four things: (1) It brings additional staff into the process, which should result in more speedy determinations; (2) Since the attorneys in the Legal Division will be putting the cases on at public hearing, having attorneys make initial assessments about the merits of individual cases will allow the agency to concentrate its efforts on developing cases for hearing more effectively and efficiently while the evidence is fresh; and (3) Working closely alongside attorneys will benefit our dedicated investigative staff by providing them with hands-on practical training and professional development that they can apply to reduce their existing case inventory (4) Investigators won't be bogged down writing up cases that contain purely legal issues that can't be resolved during the investigative stage.

In FY 09-10 about 1,200 cases survived merit assessment review and so would potentially be eligible for early legal intervention if they could not be mediated. The additional assignments for the legal department will require attorneys to do more with less, but both investigators and attorneys have been doing more with less and presumably will continue in this vein if HB 6595 is enacted.

Thank you.

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Commission on Human Rights and Opportunities
Appropriations Committee
Public Hearing March 31, 2011

Senator Harp, Representative Walker, Senator Kane, Representative Miner and member of the Appropriations Committee I am Bob Brothers executive director of the Commission on Human Rights and Opportunities. The Commission on Human Rights and Opportunities enthusiastically **SUPPORTS** HB 6595, An Act Concerning the Commission on Human Rights and Opportunities.

You sent a clear signal that the Commission needed to find ways to perform its mission better and we heard you. While we have compensated for lowered staff to the best of our ability we need your help to make real strides in improving our case management process. Incredibly, the assistance we need not only does not require more money, it will save money!

Aside from the obvious money saving changes such as eliminating certified mail requirements, which you have in a hand-out that was provided to you by your excellent Committee Administrator Susan Keane, we are proposing a streamlined investigation process.

I would like to focus my time on Section 7 of the bill which would:

- Provide for an internal, automatic review of cases dismissed during the Merit Assessment Review process. This promotes efficiency, by establishing internal quality control which increases fairness in the process. We believe that this will also promote economy, as it will result in fewer appeals. And I hope fewer constituent complaints.
- The bill will make mandatory mediation conferences more productive and reduce time by including fact-finding conferences at the same time.
- If the case is not resolved by mandatory mediation the complainant, the respondent or the commission may request early legal intervention.
- Allow a complainant in a housing case to intervene as a matter of right in a civil action without permission of the court or the parties and allow that person's attorney to try the case in lieu of the CHRO or attorney general.
- Requires a complainant to state specifically why reconsideration should be granted. At present a request may be vague or not even state a basis for reconsideration. Wasted time and effort for all involved.
- Requires a complainant to state specifically why a reconsideration should be granted. At present a request may be vague or not even state a basis for reconsideration.

I urge your passage of the bill as written. I will in hindsight also thank you for pushing us into the future.

I'll be happy to answer any questions you may have.

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Donna Maria Wilkerson Brilliant, Esq.
Human Rights Referee

March 31, 2011

Public Hearing of the Joint Committee on Appropriations

H.B. No. 6595: An Act Concerning the Commission on Human Rights and Opportunities

Good afternoon, Senator Harp, Representative Walker and members of the Appropriations Committee. I am Donna Maria Wilkerson Brilliant, a human rights referee at the Commission on Human Rights and Opportunities. Thank you for the opportunity, on behalf of myself and fellow referees Attorneys Thomas C. Austin, Jr., Jon P. FitzGerald and J. Allen Kerr, to submit testimony on H.B. 6595: An Act Concerning the Commission on Human Rights and Opportunities.

The stated purpose of the bill is: "To improve case processing, reduce costs and streamline the functioning of the Commission on Human Rights and Opportunities." There are currently five referees at CHRO. Effective July 1, 2011, the number of referees will be statutorily reduced from five to three. The reduction to three referees will not improve case processing but, instead, will hinder the process.

The current budget funds five referees. We realize that these are difficult financial times. As such, we urge you to reduce the number of referees by only one, from five to four, still a twenty percent (20%) reduction from current staffing. It would be a disservice to the parties we serve to further diminish the integrity of a process that is currently working so efficiently and in the best interests of the public that we all serve.

We note that the Governor's proposed budget for CHRO funds seventy-five (75) full-time employees. As of this date, there are only seventy-three (73) full-time employees, including all five referee positions. Additionally, of the current seventy-three (73) employees, there is legislation proposing to transfer three employees to DAS. Our proposal, then, is a reallocation of the proposed funding, not a request for additional funding.

By way of background, in 1998, in response to the serious backlog of cases that had resulted from the use of part-time, per diem hearing officers, the legislature passed Public Act 98-245, replacing the hearing officers with full-time human rights referees. The reduction to three referees may again create a backlog of cases. A reduction to three will result in longer times for motions to be ruled on, public hearings (trials) to be held, and justice to be administered. Complainants and respondents in employment, public accommodation and housing situations need to know that their cases will be handled in a fair, timely and cost efficient manner.

Human rights referees manage their own caseload from the time the case is assigned to them by the chief human rights referee. The referees conduct scheduling conferences, settlement conferences, status conferences, prehearing conferences and the public hearings.

The referees also rule on motions including, but not limited to, motions to strike, to dismiss, and to compel the production of documents.

For example, in fiscal year 2009-2010, the referees held two hundred and nine (209) conferences, conducted public hearings totaling fifty-four (54) trial days, and ruled on four hundred and sixty-seven (467) motions. The superior court consistently upholds our decisions.

We expect our discrimination docket to increase. Complaints filed with the EEOC have increased as unemployment remains high, and the CHRO expects a large number of cases to come to the referees from approximately five hundred cases backlogged in the regions. We also anticipate an increase in our whistleblower retaliation docket due to a number of legislative initiatives.

A copy of our proposal is attached for your consideration.

Thank you for your attention, and I would be happy to answer any questions you may have.

PROPOSAL

Subsection (a) of section 46a-57 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a)(1) The Governor shall appoint three human rights referees for terms commencing October 1, 1998, and four human rights referees for terms commencing January 1, 1999. The human rights referees so appointed shall serve for a term of one year.

(2) (A) On and after October 1, 1999, the Governor shall appoint seven human rights referees with the advice and consent of both houses of the General Assembly. The Governor shall appoint three human rights referees to serve for a term of two years commencing October 1, 1999. The Governor shall appoint four human rights referees to serve for a term of three years commencing January 1, 2000. Thereafter, human rights referees shall serve for a term of three years.

(B) On and after July 1, 2001, there shall be five human rights referees. Each of the human rights referees serving on July 1, 2001, shall complete the term to which such referee was appointed. Thereafter, human rights referees shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve for a term of three years.

(C) On and after July 1, 2004, there shall be seven human rights referees. Each of the human rights referees serving on July 1, 2004, shall complete the term to which such referee was appointed and shall serve until his successor is appointed and qualified. Thereafter, human rights referees shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve for a term of three years.

(D) On and after October 5, 2009, and until July 1, 2011, there shall be five human rights referees. Each of the human rights referees serving on October 5, 2009, shall serve until the term to which such referee was appointed is completed, or until July 1, 2011, whichever is earlier, and shall serve until a successor is appointed and qualified. In the case of a vacancy, a successor shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve until July 1, 2011.

[(E) On and after July 1, 2011, there shall be three human rights referees who shall (i) be appointed by the Governor with the advice and consent of both houses of the General Assembly, and (ii) serve for a term of three years.]

(E) On and after July 1, 2011, there shall be four human rights referees who shall (i) be appointed by the Governor with the advice and consent of both houses of the General Assembly, and (ii) serve for a term of three years.

(3) When the General Assembly is not in session, any vacancy shall be filled pursuant to the provisions of section 4-19. The Governor may remove any human rights referee for cause.

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**Connecticut Employer Lawyers Association
Connecticut Advocates for Employee Rights**

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March 31, 2011

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SB 1192

Good afternoon Senators Harp and Kane, Representatives Walker and Miner and members of the committee.

My name is Deborah McKenna. I am an attorney at Emmett & Glander in Stamford CT and I practice in the area of plaintiff's side employment law. I am testifying today on behalf of the Connecticut Employment Lawyer's Association (known as CELA) in support of Raised Bill No. 6595 "An Act Concerning the Commission on Human Rights and Opportunities."

CELA is a voluntary membership organization whose members are attorneys from throughout Connecticut who devote at least 51% or more of their employment related practice to representing employees. As such, CELA attorneys represent individual employees in all types of employment related matters including, but not limited to, discrimination, wrongful termination, and claims involving state and federal FMLA and related leave of absence issues.

Our members routinely practice before the Connecticut Commission on Human Rights and Opportunities, and also provide counseling and guidance to individuals who may choose to proceed *pro se* in this forum. Collectively, we have a great deal of experience with this agency as well as many thoughts on how its service to the people of Connecticut can be improved. We support the intention of Raised Bill 6595 because we believe that the changes contained in this bill will help to move complaints more quickly through the Commission. At present, it is not

uncommon for a complainant to have to wait up to or over 2 years from the time he or she files a complaint to have a fact finding/mandatory mediation session.

For example, I currently have three pending CHRO cases, one which passed Merit Assessment in December of 2009 but was not assigned an investigator until the fall of 2010 and did not actually make connect with that investigator until February of this year. I have another case that passed Merit Assessment in March of 2010 and no investigator has yet been assigned to the case. And, I have a third case in which we passed MAR in May and the investigator made contact with me earlier this month. i have even had cases where the fact finding investigation was not held prior to the 2 year expiration to file a claim in state court. In those situations, a client is faced with either choosing to give up his or her state claim to complete the investigation or having to go forward without the benefit of an investigation and attempted mediation.

I can assure you that my experience is not uncommon and that many, if not all, of CELA's members can relate similar stories. While we can appreciate the fact that investigators are burdened by heavy caseloads, these delays create real hardship for our clients. It also creates a real disincentive on employers to resolve these matters quickly. As you know, as time passes between the act complained of and the actual investigation, it can make it harder to conduct a thorough investigation – people's memories fade and employees leave the workplace. Since Raised Bill 6595 would require a mandatory mediation session within 60 days of the MAR review, it would provide complainants with an earlier opportunity to resolve their case if possible. We think this is a very positive step and will serve to keep all parties more focused on the case. As such, it is more likely that evidence will be preserved. We believe that the increased oversight proposed by the bill will also benefit the actual investigative process, by requiring

more thorough and more timely investigations.

Another important change proposed by Raised Bill 6595 is the fact that if passed, it will enhance the CHRO's ability to award attorneys fees in certain cases by not making those fees contingent upon the amount of damages awarded to the Complainant. This will permit more complainants to secure representation.

Overall, the bill will require more timely and more thorough oversight of the complaint process by the CHRO and will hopefully lead to more expedited results that are supported by the law. One suggestion that CELA has which would further enhance Raised Bill 6595's changes to the Commission practices would be to look to RB 1192, which proposes to compress the time periods for various CHRO actions – such as decreasing the time for MAR from 90 days to 80 days and decreasing the time for an investigator to reach a decision to be issued from 190 days to 175 days. In addition, the Connecticut Trial Lawyers Association has offered language to modify RB 1192 to permit individuals who wish to bring the claims to court to withdraw from the CHRO 90 days after the complaint has been filed.

Given the fact that there are certain cases that are simply going to be filed in court and not remain with the CHRO, it seems to make sense to permit those complainants to withdraw from the CHRO process earlier, thereby permitting the CHRO to focus its resources on those cases that will remain for investigation and resolution.

We believe that with Raised Bill 6595 as well as the proposed changes in RB 1192 and CTLA's modification the CHRO could really become a more effective and efficient agency, benefiting not only the individuals and employers who find themselves within its jurisdiction but the taxpayers who support that agency as well.