



Testimony on Senate Bill 1081 (an act concerning municipal set-aside requirements)

Submitted by Scott Shepard, Policy Director

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Good afternoon. My name is Scott Shepard. I am the Policy & Research Director for the Yankee Institute for Public Policy, Connecticut's free-market think tank. I submit this note in support of **Senate Bill 1081**.

We believe that **Senate Bill 1081** would play a salutary role in reducing the burdensome effects of set-asides in the most extreme cases – cases in which the total cost of the municipal projects involved is small. We therefore applaud it, while wishing that it went still further, and urging the General Assembly to make additional reforms to the set-aside programs.

As their name suggests, set-aside rules require governments to set aside certain portions of construction contracts for women- or minority-owned businesses based in the state of Connecticut. Although all of us are united in applauding efforts to secure equal opportunity for every American, set-aside rules as currently written largely fail to achieve that goal while significantly delaying and/or radically increasing the costs of many construction and transportation projects.

Difficulties and inefficiencies abound. First, the rules currently require that part of every eligible project include a set-aside portion, rather than allowing Connecticut governments to set aside a specific portion of their total construction or transportation spending. The latter would be much more efficient, allowing the purpose of set-asides to be achieved fully without having to break up smaller projects into numerous parts inefficiently (and often more expensively) staffed by a variety of contractors.

Second, the rules do not allow for waiver of the set-aside obligations when there are no or only one or two qualified bidders for the set-aside portion. Not allowing a waiver where there are no bidders is absurd; it just delays projects indefinitely to no good effect. Prohibiting waiver when there are only one or two bidders – and hence either no competition or demonstrably inefficient duopolistic bidding – simply encourages market capture and the creation of first-market-occupant barriers to entry. A century-and-a-half of anti-trust law has sought to break down such market barriers. It makes no sense to recreate them.

Additionally, of course, as in all cases of monopoly, the monopolist labor seller earns windfall profits at the expense of the government (actually, the taxpayers!), greatly inflating costs of construction for no constructive purpose.

We urge the General Assembly to adopt this bill, thereby raising the minimum threshold to which set-asides apply to municipal contracts, while advocating additional reforms that would further ensure both cost-savings and general equity.