



General Assembly

February Session, 2006

**Raised Bill No. 623**

LCO No. 3046



Referred to Committee on

**GOVERNMENT ADMINISTRATION & ELECTIONS**

Introduced by:

(GAE)

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
DISABLED AND DISADVANTAGED EMPLOYMENT SECURITY  
POLICY GROUP.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2006*) For the purposes of this  
2 section and sections 2 to 4, inclusive, of this act:
- 3 (1) "Person with a disability" means any individual with a disability,  
4 excluding blindness, as such term is applied by the Department of  
5 Mental Health and Addiction Services or the Bureau of Rehabilitation  
6 Services within the Department of Social Services;
- 7 (2) "Vocational rehabilitation service" means any goods and services  
8 necessary to render a person with a disability employable, in  
9 accordance with Title I of the Rehabilitation Act of 1973, 29 USC 701 et  
10 seq., as amended from time to time;
- 11 (3) "Community rehabilitation program" means any entity or  
12 individual that provides directly for or facilitates the provision of  
13 vocational rehabilitation services to, or provides services in connection  
14 with the recruiting, hiring or managing of the employment of persons

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**CONNECTICUT STATE LIBRARY  
LEGISLATIVE REFERENCE SECTION**

15 with disabilities based on an individualized plan and budget for each  
16 worker with a disability;

17 (4) "Products are made or manufactured by or services are provided  
18 by persons with disabilities" if not less than seventy-five per cent of the  
19 hours of direct labor required for such products or services are  
20 performed by persons with disabilities, or such services are janitorial  
21 services provided by a qualified partnership, as described in section 3  
22 of this act;

23 (5) "Commercial janitorial contractor" means any for-profit  
24 proprietorship, partnership, joint venture, corporation, limited liability  
25 company, trust, association or other privately owned entity that  
26 employs persons to perform janitorial work, and that enters into  
27 contracts to provide janitorial services;

28 (6) "Janitorial work" means work performed in connection with the  
29 care or maintenance of buildings, including, but not limited to, work  
30 customarily performed by cleaners, porters, janitors and  
31 handypersons;

32 (7) "Janitorial contract" means a contract or subcontract to perform  
33 janitorial work for a department or agency of the state; and

34 (8) "Person with a disadvantage" means any individual who is  
35 determined by the Labor Department to be eligible for employment in  
36 accordance with the Workforce Investment Act.

37 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) The Commissioner of  
38 Administrative Services shall establish a pilot program, for a term of  
39 four years, to create and expand janitorial work job opportunities for  
40 persons with a disability and persons with a disadvantage. Such pilot  
41 program shall consist of four identified projects for janitorial work, one  
42 in each branch of government, in addition to one for a constituent unit  
43 of higher education. The program shall create a minimum of sixty full-  
44 time jobs at standard wages for persons with disabilities and persons

45. with disadvantages and have a total market value for all janitorial  
46 contracts awarded under the program, of three million dollars. In  
47 establishing such pilot program, the Commissioner of Administrative  
48 Services may consult with the Commissioner of Social Services and the  
49 Labor Commissioner.

50 (b) Notwithstanding any other provision of the general statutes,  
51 under such pilot program, the Commissioner of Administrative  
52 Services shall award four janitorial contracts, one for each identified  
53 project, pursuant to the following procedures: (1) Upon receipt of a  
54 request for janitorial services by an agency or department of the state,  
55 the Commissioner of Administrative Services shall notify each  
56 qualified partnership, as described in section 3 of this act, of such  
57 request and invite each qualified partnership in good standing to  
58 submit a bid proposal for such janitorial contract to the commissioner  
59 in a manner and form as prescribed by the commissioner; (2) in the  
60 event that only one such qualified partnership submits a bid for such  
61 janitorial contract, the commissioner shall award such contract to the  
62 bidding qualified partnership, provided such bid does not exceed one  
63 hundred fifteen per cent of the fair market value for such contract, as  
64 determined by the commissioner; (3) if more than one qualified  
65 partnership submits a bid, the commissioner shall award the contract  
66 to the lowest responsible qualified bidder, as defined in section 4a-59  
67 of the general statutes; (4) in the event that a qualified partnership does  
68 not submit a bid or is not awarded such contract, the commissioner  
69 shall award such contract in accordance with the provisions of section  
70 17b-656 of the general statutes, as amended by this act; and (5)  
71 whenever the commissioner awards such a janitorial contract to a  
72 qualified partnership, such award shall provide for remuneration to  
73 the janitorial contractor equal to one hundred ten per cent of the  
74 successful bid.

75 (c) Notwithstanding any other provision of the general statutes, the  
76 responsibilities of the Commissioner of Administrative Services, as  
77 established in subsections (a) and (b) of this section, may not be

78 delegated to an outside vendor.

79 (d) The Commissioner of Administrative Services may adopt  
80 regulations, in accordance with the provisions of chapter 54 of the  
81 general statutes, to undertake the requirements established in this  
82 section.

83 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) The Bureau of  
84 Rehabilitation Services in the Department of Social Services shall  
85 designate partnerships between a commercial janitorial contractor and  
86 a community rehabilitation program as a "qualified partnership"  
87 whenever the following criteria have been established: (1) Such  
88 commercial janitorial contractor has entered into a binding agreement  
89 with a qualified community rehabilitation program in which such  
90 contractor agrees to fill not less than one-third of the jobs from a  
91 successful bid for a janitorial contract under the pilot program  
92 established in section 2 of this act with persons with disabilities and  
93 not less than one-third of such jobs with persons with a disadvantage,  
94 (2) such contractor employs not less than two hundred persons who  
95 perform janitorial work in the state; and (3) such contractor certifies, in  
96 writing, that it will pay the standard wage to employees, including  
97 persons with disabilities, under such janitorial contract.

98 (b) The requirement established in subsection (a) of this section to  
99 fill not less than one-third of the jobs from a successful bid for a  
100 janitorial contract with persons with disabilities and one-third with  
101 persons with a disadvantage shall be met whenever such janitorial  
102 contractor employs the requisite number of persons with disabilities  
103 and persons with a disadvantage throughout the entirety of its  
104 operations in the state, provided any persons with disabilities or  
105 persons with a disadvantage employed by such janitorial contractor  
106 prior to the commencement date of any such contract shall not be  
107 counted for the purpose of determining the number of persons with  
108 disabilities or the number of persons with a disadvantage employed by  
109 such janitorial contractor.

110 (c) The number of persons with disabilities and the number of  
111 persons with a disadvantage that such janitorial contractor is required  
112 to employ pursuant to the provisions of subsection (a) of this section  
113 shall be employed not later than six months after the commencement  
114 of janitorial work under the terms of any contract awarded pursuant to  
115 the provisions of section 2 of this act, provided such contractor shall fill  
116 any vacancy for janitorial work that arises during the first six months  
117 of any such contract with persons with disabilities and persons with  
118 disadvantages.

119 (d) The Bureau of Rehabilitation Services shall maintain a list of  
120 community rehabilitation programs, as defined in section 17b-650 of  
121 the general statutes. Any individual or entity that has been denied  
122 designation as a community rehabilitation program may appeal such  
123 denial, in writing, to the Commissioner of Social Services.

124 (e) Any qualified partnership awarded a janitorial contract pursuant  
125 to the provisions of section 2 of this act, shall provide to the Bureau of  
126 Rehabilitation Services, not later than six months after the  
127 commencement date of such contract, a list of the persons with  
128 disabilities and persons with a disadvantage employed by such  
129 contractor that includes the date of hire and employment location for  
130 each such person. Such partnership shall certify to the Bureau of  
131 Rehabilitation Services, in such manner and form as prescribed by the  
132 Commissioner of Social Services, that the requisite number of persons  
133 with disabilities for such contract continue to be employed by such  
134 contractor in positions equivalent to those created under such janitorial  
135 contract and have been integrated into the general workforce of such  
136 contractor. Such certifications shall be forwarded by the Commissioner  
137 of Social Services to the Commissioner of Administrative Services in  
138 such manner as prescribed by the Commissioner of Administrative  
139 Services.

140 (f) Notwithstanding any other provision of the general statutes, the  
141 responsibilities of the Bureau of Rehabilitation Services, as established

142 in this section, may not be delegated to an outside vendor.

143 (g) The Commissioner of Social Services may adopt regulations, in  
144 accordance with the provisions of chapter 54 of the general statutes, to  
145 undertake the certification requirements established pursuant to this  
146 section.

147 Sec. 4. (NEW) (*Effective October 1, 2006*) During the term of the pilot  
148 program described in section 2 of this act, the joint standing committee  
149 of the General Assembly having cognizance of matters relating to  
150 government administration shall study the effectiveness of such pilot  
151 program, including, but not limited to, the effectiveness of such  
152 programs to create integrated work settings for persons with  
153 disabilities. Additionally, said committee shall study the need to make  
154 such pilot program permanent and ways to provide incentives for  
155 municipalities and private businesses to utilize such pilot programs if  
156 such program is determined by the committee to be effective.

157 Sec. 5. Section 17b-656 of the general statutes is repealed and the  
158 following is substituted in lieu thereof (*Effective October 1, 2006*):

159 Whenever any products made or manufactured by or services  
160 provided by persons with disabilities through community  
161 rehabilitation programs described in subsection (b) of section 17b-655  
162 or in any workshop established, operated or funded by nonprofit and  
163 nonsectarian organizations for the purpose of providing persons with  
164 disabilities training and employment suited to their abilities meet the  
165 requirements of any department, institution or agency supported in  
166 whole or in part by the state as to quantity, quality and price such  
167 products shall have preference over products or services from other  
168 providers, except (1) articles produced or manufactured by blind  
169 persons under the direction or supervision of the Board of Education  
170 and Services for the Blind as provided in section 10-298a, as amended,  
171 (2) articles produced or manufactured by Department of Correction  
172 industries as provided in section 18-88, [and] (3) emergency purchases  
173 made under section 4-98, and (4) janitorial services provided by a

174 qualified partnership, pursuant to the provisions of section 2 of this  
 175 act. All departments, institutions and agencies, including the Judicial  
 176 Department, the Legislative Department and constituent units of  
 177 higher education, which are supported in whole or in part by the state  
 178 shall purchase such articles made or manufactured and services  
 179 provided by persons with disabilities from the Bureau of  
 180 Rehabilitation Services of the Department of Social Services. Any  
 181 political subdivision of the state may purchase such articles and  
 182 services through the Bureau of Rehabilitation Services of the  
 183 Department of Social Services. A list describing styles, designs, sizes  
 184 and varieties of all such articles made by persons with disabilities and  
 185 describing all available services provided by such persons shall be  
 186 prepared by the Connecticut Association of Rehabilitation Facilities.  
 187 The Bureau of Rehabilitation Services of the Department of Social  
 188 Services shall cooperate with the State Board of Education and Services  
 189 for the Blind by submitting necessary information concerning such  
 190 products and services to the Board of Education and Services for the  
 191 Blind at frequent intervals.

192 Sec. 6. Section 4a-57 of the general statutes is amended by adding  
 193 subsection (f) as follows (*Effective October 1, 2006*):

194 (NEW) (f) Nothing in this section shall be construed to apply to the  
 195 award of janitorial contracts pursuant to the provisions of section 2 of  
 196 this act.

197 Sec. 7. Section 4a-60g of the general statutes is amended by adding  
 198 subsection (p) as follows (*Effective October 1, 2006*):

199 (NEW) (p) Nothing in this section shall be construed to apply to the  
 200 award of janitorial contracts pursuant to the provisions of section 2 of  
 201 this act.

202 Sec. 8. Section 31-57g of the general statutes is repealed and the  
 203 following is substituted in lieu thereof (*Effective October 1, 2006*):

204 (a) (1) "Awarding authority" means any person, including a  
 205 contractor or subcontractor, that awards or otherwise enters into a  
 206 contract to perform food and beverage services at Bradley  
 207 International Airport, and any person, including a contractor or  
 208 subcontractor, that awards or otherwise enters into a contract to  
 209 perform janitorial work for any department, institution or agency,  
 210 including the Judicial Department, Legislative Department and  
 211 institutions of higher education, supported in whole or in part by the  
 212 state, or for any political subdivision of the state.

213 (2) "Contractor" means any person that enters into a service contract  
 214 with the awarding authority and any subcontractors to such service  
 215 contract at any tier who employs ten or more persons.

216 (3) "Employee" means any person engaged to perform services  
 217 pursuant to a service contract, but does not include a person who is (A)  
 218 a managerial, supervisory or confidential employee, including any  
 219 person who would be so defined under the federal Fair Labor  
 220 Standards Act, or (B) employed for less than fifteen hours per week.

221 (4) "Person" means any individual, proprietorship, partnership, joint  
 222 venture, corporation, limited liability company, trust association or  
 223 other entity that may employ or enter into other contracts, including  
 224 the state and its political subdivisions.

225 (5) "Service contract" means (A) a contract for the performance of  
 226 food and beverage services at Bradley International Airport, let by the  
 227 awarding authority [(A)] (i) after July 1, 2001, and before July 1, 2002,  
 228 provided the successor contractor had actual knowledge of the  
 229 pendency in the General Assembly of proposed legislation with  
 230 content similar to this section, or [(B)] (ii) on or after July 1, 2002, and a  
 231 (B) janitorial contract, as defined in section 1 of this act, let by an  
 232 awarding authority.

233 (6) "Successor service contract" means a service contract with the  
 234 awarding authority under which substantially the same services to be

235 performed have previously been rendered to the awarding authority  
236 as part of the same program or at the same facility under another  
237 service contract or have previously been rendered by the awarding  
238 authority's own employees.

239 (7) "Terminated contractor" means a contractor whose service  
240 contract expires without renewal or whose contract is terminated, and  
241 includes the awarding authority itself when work previously rendered  
242 by the awarding authority's own employees is the subject of a  
243 successor service contract.

244 (b) Each contractor and awarding authority that enters into a service  
245 contract to be performed at Bradley International Airport or into a  
246 janitorial contract, as defined in section 1 of this act, shall be subject to  
247 the following obligations:

248 (1) The awarding authority shall give advance notice to a contractor  
249 and the exclusive bargaining representative of any of the contractor's  
250 employees, of the termination or nonrenewal of such service contract  
251 and shall provide the contractor and the exclusive bargaining  
252 representative with the name, telephone number and address of the  
253 successor contractor or contractors, if known. The terminated  
254 contractor shall, not later than three days after receipt of such notice,  
255 provide the successor contractor with the name, date of hire and  
256 employment occupation classification of each person employed by the  
257 terminated contractor at the site or sites covered by the service contract  
258 as of the date the terminated contractor receives the notice of  
259 termination or nonrenewal.

260 (2) On the date the service contract terminates, the terminated  
261 contractor shall provide the successor contractor with updated  
262 information concerning the name, date of hire and employment  
263 occupation classification of each person employed by the terminated  
264 contractor at the site or sites covered by the service contract, to ensure  
265 that such information is current up to the actual date of service  
266 contract termination.

(3) If the awarding authority fails to notify the terminated contractor of the identity of the successor contractor, as required by subdivision (1) of this subsection, the terminated contractor shall provide the information described in subdivision (2) of this subsection to the awarding authority not later than three days after receiving notice that the service contract will be terminated. The awarding authority shall be responsible for providing such information to the successor contractor as soon as the successor contractor has been selected.

(4) (A) Except as provided in subparagraph (D) of this subdivision, a successor contractor shall retain, for at least ninety days from the date of first performance of services under the successor service contract, all of the employees who were continuously employed by the terminated contractor at the site or sites covered by the service contract during the six-month period immediately preceding the termination or nonrenewal of such service contract, including any periods of layoff or leave with recall rights.

(B) Except as provided in subparagraph (D) of this subdivision, if the successor service contract is terminated prior to the expiration of such ninety-day period, then any contractor awarded a subsequent successor service contract shall be bound by the requirements set forth in this subsection to retain, for a new ninety-day period commencing with the onset of the subsequent successor service contract, all of the employees who were previously employed by any one or more of the terminated contractors at the site or sites covered by the service contract continuously during the six-month period immediately preceding the date of the most recently terminated service contract, including any periods of layoff or leave with recall rights.

(C) At least five days prior to the termination of a service contract, or at least fifteen days prior to the commencement of the first performance of service under a successor service contract, whichever is later, the successor contractor shall hand-deliver a written offer of employment in substantially the form set forth below to each such

299 employee in such employee's native language or any other language in  
300 which such employee is fluent:

301 "IMPORTANT INFORMATION REGARDING YOUR  
302 EMPLOYMENT

303 To: ....(Name of employee)

304 We have received information that you are employed by .... (name  
305 of predecessor contractor) and are currently performing work at ....  
306 (address of worksite) .... (name of predecessor contractor's) contract to  
307 perform .... (describe services under contract) at .... (address of  
308 worksite) will terminate as of .... (last day of predecessor contract) and  
309 it will no longer be providing those services as of that date.

310 We are .... (name of successor contractor) and have been hired to  
311 provide services similar to those of .... (name of predecessor contractor)  
312 at .... (address of worksite). We are offering you a job with us for a  
313 ninety-day probationary period starting .... (first day of successor  
314 contract) to perform the same type of work that you have already been  
315 doing for .... (name of predecessor contractor) under the following  
316 terms:

317 Payrate (per hour): \$....

318 Hours per shift: ....

319 Total hours per week: ....

320 Benefits: ....

321 You must respond to this offer within the next ten days. If you want  
322 to continue working at .... (address of worksite) you must let us know  
323 by .... (no later than ten days after the date of this letter). If we do not  
324 receive your response by the end of business that day, we will not hire  
325 you and you will lose your job. We can be reached at .... (successor  
326 contractor telephone number).

327 Connecticut state law gives you the following rights:

328 1. You have the right with certain exceptions, to be hired by our  
329 company for the first ninety days that we begin to provide services at  
330 .... (address of worksite).

331 2. During this ninety-day period, you cannot be fired without just  
332 cause.

333 3. If you believe that you have been fired or laid off in violation of  
334 this law, you have the right to sue us and be awarded back pay,  
335 attorneys' fees and court costs.

336 From: .... (Name of successor contractor)

337 .... (Address of successor contractor)

338 .... (Telephone number of successor contractor)"

339 Each offer of employment shall state the time within which such  
340 employee must accept such offer but in no case shall that time be less  
341 than ten days from the date of the offer of employment.

342 (D) The provisions of subparagraphs (A) and (B) of this subdivision  
343 shall not be construed to require a successor contractor to retain any  
344 employee whose attendance and performance records, while working  
345 under the terminated service contract, would lead a reasonably  
346 prudent employer to terminate the employee. Nothing in this  
347 subsection shall be construed to apply to a commercial janitorial  
348 contractor.

349 (5) If at any time a successor contractor determines that fewer  
350 employees are required to perform the successor service contract than  
351 were required by the terminated contractor, the successor contractor  
352 shall be required to retain such employees by seniority within each job  
353 classification, based upon the employees' total length of service at the  
354 affected site or sites.

355 (6) During such ninety-day period, the successor contractor shall  
356 maintain a preferential hiring list of employees eligible for retention  
357 pursuant to subdivision (4) of this subsection, who were not initially

358 retained by the successor contractor, from which the successor  
359 contractor shall hire additional employees, if necessary.

360 (7) Except as provided under subdivision (5) of this subsection,  
361 during such ninety-day period, the successor contractor shall not  
362 discharge without just cause an employee retained pursuant to this  
363 section. For purposes of this subdivision, "just cause" shall be  
364 determined solely by the performance or conduct of the particular  
365 employee.

366 (8) If the performance of an employee retained pursuant to this  
367 section is satisfactory during the ninety-day period, the successor  
368 contractor shall offer the employee continued employment under the  
369 terms and conditions established by the successor contractor, or as  
370 required by law.

371 (c) (1) An employee displaced or terminated in violation of this  
372 section may bring an action in Superior Court against the awarding  
373 authority, the terminated contractor or the successor contractor, jointly  
374 or severally, to recover damages for any violation of the obligations  
375 imposed under this section.

376 (2) If the employee prevails in such action, the court may award the  
377 employee (A) back pay, including the value of benefits, for each day  
378 during which the violation continues, that shall be calculated at a rate  
379 of compensation not less than the higher of (i) the average regular rate  
380 of pay received by the employee during the last year of employment in  
381 the same job occupation classification, or, if the employee has been  
382 employed for less than one year, the average rate of pay for the  
383 employee's entire employment multiplied by the average number of  
384 hours worked per day over the last four months of employment  
385 preceding the date of the violation, or (ii) the final regular rate of pay  
386 received by the employee at the date of termination multiplied by the  
387 average number of hours worked per day over the last four months,  
388 and (B) reinstatement to the employee's former position at not less  
389 than the most recent rate of compensation received by the employee,

390 including the value of any benefits.

391 (3) If the employee prevails in such action, the court shall award the  
392 employee reasonable attorney fees and costs.

393 (4) Nothing in this subsection shall be construed to limit an  
394 employee's right to bring a common law cause of action for wrongful  
395 termination against the awarding authority, the terminated contractor  
396 or the successor contractor.

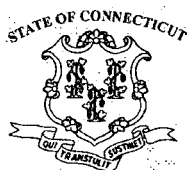
397 (d) Any awarding authority or contractor who knowingly violates  
398 the provisions of this section shall pay a penalty not to exceed one  
399 hundred dollars per employee for each day the violation continues.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	New section
Sec. 5	<i>October 1, 2006</i>	17b-656
Sec. 6	<i>October 1, 2006</i>	4a-57
Sec. 7	<i>October 1, 2006</i>	4a-60g
Sec. 8	<i>October 1, 2006</i>	31-57g

**Statement of Purpose:**

To establish a pilot program consisting of certain janitorial contracts which will be performed by qualified partnerships that employ a specified number of persons with disabilities and persons with a disadvantage.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*



## Senate

General Assembly

**File No. 453**

February Session, 2006

Substitute Senate Bill No. 623

*Senate, April 10, 2006*

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
DISABLED AND DISADVANTAGED EMPLOYMENT SECURITY  
POLICY GROUP.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (Effective October 1, 2006) For the purposes of this  
2 section and sections 2 to 4, inclusive, of this act:

3 (1) "Person with a disability" means any individual with a disability,  
4 excluding blindness, as such term is applied by the Department of  
5 Mental Health and Addiction Services, the Department of Mental  
6 Retardation, the Bureau of Rehabilitation Services within the  
7 Department of Social Services or the Veterans' Administration and  
8 who is certified by the Bureau of Rehabilitation Services within the  
9 Department of Social Services as qualified to participate in the  
10 qualified partnership, as described in section 3 of this act;

11 (2) "Vocational rehabilitation service" means any goods and services

necessary to render a person with a disability employable, in accordance with Title I of the Rehabilitation Act of 1973, 29 USC 701 et seq., as amended from time to time;

(3) "Community rehabilitation program" means any entity or individual that provides directly for or facilitates the provision of vocational rehabilitation services to, or provides services in connection with the recruiting, hiring or managing of the employment of persons with disabilities based on an individualized plan and budget for each worker with a disability;

(4) "Commercial janitorial contractor" means any for-profit proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other privately owned entity that employs persons to perform janitorial work, and that enters into contracts to provide janitorial services;

(5) "Janitorial work" means work performed in connection with the care or maintenance of buildings, including, but not limited to, work customarily performed by cleaners, porters, janitors and handypersons;

(6) "Janitorial contract" means a contract or subcontract to perform janitorial work for a department or agency of the state; and

(7) "Person with a disadvantage" means any individual who is determined by the Labor Department, or its designee, to be eligible for employment services in accordance with the Workforce Investment Act or whose verified individual gross annual income during the previous calendar year was not greater than two hundred per cent of the federal poverty level for a family of four.

Sec. 2. (NEW) (*Effective October 1, 2006*) (a) The Commissioner of Administrative Services shall establish a pilot program, for a term of four years, to create and expand janitorial work job opportunities for persons with a disability and persons with a disadvantage. Such pilot program shall consist of four identified projects for janitorial work. The

43 program shall create a minimum of sixty full-time jobs or sixty full-  
44 time equivalents at standard wages for persons with disabilities and  
45 persons with disadvantages and have a total market value for all  
46 janitorial contracts awarded under the program, of at least three  
47 million dollars. In establishing such pilot program, the Commissioner  
48 of Administrative Services may consult with the Commissioner of  
49 Social Services and the Labor Commissioner.

50 (b) Notwithstanding any other provision of the general statutes,  
51 under such pilot program, the Commissioner of Administrative  
52 Services shall award four janitorial contracts, one for each identified  
53 project, pursuant to the following procedures: (1) Upon receipt of a  
54 request for janitorial services by an agency or department of the state,  
55 the Commissioner of Administrative Services shall notify each  
56 qualified partnership, as described in section 3 of this act, of such  
57 request and invite each qualified partnership in good standing to  
58 submit a bid proposal for such janitorial contract to the commissioner  
59 in a manner and form as prescribed by the commissioner; (2) in the  
60 event that only one such qualified partnership submits a bid for such  
61 janitorial contract, the commissioner shall award such contract to the  
62 bidding qualified partnership, provided such bid does not exceed  
63 fifteen per cent of the fair market value for such contract, as  
64 determined by the commissioner; (3) if more than one qualified  
65 partnership submits a bid, the commissioner shall award the contract  
66 to the lowest responsible qualified bidder, as defined in section 4a-59  
67 of the general statutes; and (4) in the event that a qualified partnership  
68 does not submit a bid or is not awarded such contract, the  
69 commissioner shall award such contract in accordance with the  
70 provisions of sections 4a-59 and 17b-656 of the general statutes, as  
71 amended by this act.

72 (c) Notwithstanding any other provision of the general statutes, the  
73 responsibilities of the Commissioner of Administrative Services, as  
74 established in subsections (a) and (b) of this section, may not be  
75 delegated to an outside vendor.

76 (d) The Commissioner of Administrative Services may adopt  
77 regulations, in accordance with the provisions of chapter 54 of the  
78 general statutes, to undertake the requirements established in this  
79 section.

80 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) The Connecticut  
81 Community Providers Association shall designate a commercial  
82 janitorial contractor and a community rehabilitation program as a  
83 "qualified partnership" whenever the following criteria have been  
84 established: (1) Such commercial janitorial contractor has entered into a  
85 binding agreement with a qualified community rehabilitation program  
86 in which such contractor agrees to fill not less than one-third of the  
87 jobs from a successful bid for a janitorial contract under the pilot  
88 program established in section 2 of this act with persons with  
89 disabilities and not less than one-third of such jobs with persons with a  
90 disadvantage; (2) such contractor employs not less than two hundred  
91 persons who perform janitorial work in the state; and (3) such  
92 contractor certifies, in writing, that it will pay the standard wage to  
93 employees, including persons with disabilities, under such janitorial  
94 contract. Any partnership between a commercial janitorial contractor  
95 and a community rehabilitation program that has been denied  
96 designation as a qualified partnership may appeal such denial, in  
97 writing, to the Commissioner of Administrative Services and said  
98 commissioner may, after review of such appeal, designate such  
99 program as a qualified partnership.

100 (b) The requirement established in subsection (a) of this section to  
101 fill not less than one-third of the jobs from a successful bid for a  
102 janitorial contract with persons with disabilities and one-third with  
103 persons with a disadvantage shall be met whenever such janitorial  
104 contractor employs the requisite number of persons with disabilities  
105 and persons with a disadvantage throughout the entirety of its  
106 operations in the state provided any persons with disabilities  
107 employed by such janitorial contractor prior to the commencement  
108 date of any such contract shall not be counted for the purpose of  
109 determining the number of persons with disabilities employed by such

110 janitorial contractor.

111 (c) The number of persons with disabilities and the number of  
112 persons with a disadvantage that such janitorial contractor is required  
113 to employ pursuant to the provisions of subsection (a) of this section  
114 shall be employed not later than six months after the commencement  
115 of janitorial work under the terms of any contract awarded pursuant to  
116 the provisions of section 2 of this act, provided such contractor shall fill  
117 any vacancy for janitorial work that arises during the first six months  
118 of any such contract with persons with disabilities and persons with  
119 disadvantages.

120 (d) The Connecticut Community Providers Association shall submit  
121 a list of employees who have applied to participate in the partnership  
122 to the Bureau of Rehabilitation Services for certification. Such  
123 association shall maintain a list of certified employees who are persons  
124 with disabilities and community rehabilitation programs.

125 (e) Any qualified partnership awarded a janitorial contract pursuant  
126 to the provisions of section 2 of this act, shall provide to the  
127 Connecticut Community Providers Association, not later than six  
128 months after the commencement date of such contract, a list of the  
129 persons with disabilities and persons with a disadvantage employed  
130 by such contractor that includes the date of hire and employment  
131 location for each such person. Such association shall certify to the  
132 Department of Administrative Services, in such manner and form as  
133 prescribed by the Commissioner of Administrative Services, that the  
134 requisite number of persons with disabilities for such contract continue  
135 to be employed by such contractor in positions equivalent to those  
136 created under such janitorial contract and have been integrated into  
137 the general workforce of such contractor.

138 (f) Notwithstanding any other provision of the general statutes, the  
139 responsibilities of the Bureau of Rehabilitation Services, as established  
140 in this section, may not be delegated to an outside vendor.

141 (g) The Commissioner of Social Services may adopt regulations, in

accordance with the provisions of chapter 54 of the general statutes, to undertake the certification requirements established pursuant to this section.

(h) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Administrative Services shall authorize certified small and minority business to participate in such pilot program.

Sec. 4. (NEW) (*Effective October 1, 2006*) (a) During the term of the pilot program described in section 2 of this act, the joint standing committee of the General Assembly having cognizance of matters relating to government administration shall study the effectiveness of such pilot program, including, but not limited to, the effectiveness of such program to create integrated work settings for persons with disabilities. Additionally, said committee shall study the need to make such pilot program permanent and ways to provide incentives for municipalities and private businesses to utilize such pilot program if such program is determined by the committee to be effective.

(b) During the term of the pilot program described in section 2 of this act, any contract awarded pursuant to section 17b-656 of the general statutes, as amended by this act, shall remain in effect with no changes in the formula for fair market value. Additionally, any new janitorial contract awarded pursuant to section 17b-656 of the general statutes, as amended by this act, shall be limited to not more than four full-time employees per contract.

(c) Any person employed on or before October 1, 2006, under a janitorial contract let pursuant to section 4a-57 or 10a-151b of the 2006 supplement to the general statutes, or by the judicial or legislative departments shall have the same rights conferred upon an employee by section 31-57g of the general statutes, as amended by this act, for the duration of the pilot program described in section 2 of this act.

Sec. 5. Section 17b-656 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

Whenever any products made or manufactured by or services provided by persons with disabilities through community rehabilitation programs described in subsection (b) of section 17b-655 or in any workshop established, operated or funded by nonprofit and nonsectarian organizations for the purpose of providing persons with disabilities training and employment suited to their abilities meet the requirements of any department, institution or agency supported in whole or in part by the state as to quantity, quality and price such products shall have preference over products or services from other providers, except (1) articles produced or manufactured by blind persons under the direction or supervision of the Board of Education and Services for the Blind as provided in section 10-298a, as amended, (2) articles produced or manufactured by Department of Correction industries as provided in section 18-88, [and] (3) emergency purchases made under section 4-98, and (4) janitorial services provided by a qualified partnership, pursuant to the provisions of section 2 of this act. All departments, institutions and agencies supported in whole or in part by the state shall purchase such articles made or manufactured and services provided by persons with disabilities from the Bureau of Rehabilitation Services of the Department of Social Services. Any political subdivision of the state may purchase such articles and services through the Bureau of Rehabilitation Services of the Department of Social Services. A list describing styles, designs, sizes and varieties of all such articles made by persons with disabilities and describing all available services provided by such persons shall be prepared by the Connecticut [Association of Rehabilitation Facilities] Community Providers Association. The Bureau of Rehabilitation Services of the Department of Social Services shall cooperate with the State Board of Education and Services for the Blind by submitting necessary information concerning such products and services to the Board of Education and Services for the Blind at frequent intervals.

Sec. 6. Section 4a-57 of the general statutes is amended by adding subsection (f) as follows (*Effective October 1, 2006*):

(NEW) (f) Nothing in this section shall be construed to apply to the

award of janitorial contracts pursuant to the provisions of section 2 of this act.

Sec. 7. Section 4a-60g of the general statutes is amended by adding subsection (p) as follows (*Effective October 1, 2006*):

(NEW) (p) Nothing in this section shall be construed to apply to the four janitorial contracts awarded pursuant to section 2 of this act.

Sec. 8. Section 31-57g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) (1) "Awarding authority" means any person, including a contractor or subcontractor, that awards or otherwise enters into a contract to perform food and beverage services at Bradley International Airport, and any person, including a contractor or subcontractor, that awards or otherwise enters into a contract, as described in section 2 of this act, to perform janitorial work for any department, institution or agency, supported in whole or in part by the state, or for any political subdivision of the state.

(2) "Contractor" means any person that enters into a service contract with the awarding authority and any subcontractors to such service contract at any tier who employs ten or more persons.

(3) "Employee" means any person engaged to perform services pursuant to a service contract, but does not include a person who is (A) a managerial, supervisory or confidential employee, including any person who would be so defined under the federal Fair Labor Standards Act, or (B) employed for less than fifteen hours per week.

(4) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust association or other entity that may employ or enter into other contracts, including the state and its political subdivisions.

(5) "Service contract" means (A) a contract for the performance of food and beverage services at Bradley International Airport, let by the

237 awarding authority [(A)] (i) after July 1, 2001, and before July 1, 2002,  
238 provided the successor contractor had actual knowledge of the  
239 pendency in the General Assembly of proposed legislation with  
240 content similar to this section, or [(B)] (ii) on or after July 1, 2002, and  
241 (B) a janitorial contract, as described in section 2 of this act, awarded to  
242 a qualified partnership.

243 (6) "Successor service contract" means a service contract with the  
244 awarding authority under which substantially the same services to be  
245 performed have previously been rendered to the awarding authority  
246 as part of the same program or at the same facility under another  
247 service contract or have previously been rendered by the awarding  
248 authority's own employees.

249 (7) "Terminated contractor" means a contractor whose service  
250 contract expires without renewal or whose contract is terminated, and  
251 includes the awarding authority itself when work previously rendered  
252 by the awarding authority's own employees is the subject of a  
253 successor service contract.

254 (b) Each contractor and awarding authority that enters into a service  
255 contract to be performed at Bradley International Airport or into a  
256 janitorial contract, as described in section 2 of this act, shall be subject  
257 to the following obligations:

258 (1) The awarding authority shall give advance notice to a contractor  
259 and the exclusive bargaining representative of any of the contractor's  
260 employees, of the termination or nonrenewal of such service contract  
261 and shall provide the contractor and the exclusive bargaining  
262 representative with the name, telephone number and address of the  
263 successor contractor or contractors, if known. The terminated  
264 contractor shall, not later than three days after receipt of such notice,  
265 provide the successor contractor with the name, date of hire and  
266 employment occupation classification of each person employed by the  
267 terminated contractor at the site or sites covered by the service contract  
268 as of the date the terminated contractor receives the notice of  
269 termination or nonrenewal.

(2) On the date the service contract terminates, the terminated contractor shall provide the successor contractor with updated information concerning the name, date of hire and employment occupation classification of each person employed by the terminated contractor at the site or sites covered by the service contract, to ensure that such information is current up to the actual date of service contract termination.

(3) If the awarding authority fails to notify the terminated contractor of the identity of the successor contractor, as required by subdivision (1) of this subsection, the terminated contractor shall provide the information described in subdivision (2) of this subsection to the awarding authority not later than three days after receiving notice that the service contract will be terminated. The awarding authority shall be responsible for providing such information to the successor contractor as soon as the successor contractor has been selected.

(4) (A) Except as provided in subparagraph (D) of this subdivision, a successor contractor shall retain, for at least ninety days from the date of first performance of services under the successor service contract, all of the employees who were continuously employed by the terminated contractor at the site or sites covered by the service contract during the six-month period immediately preceding the termination or nonrenewal of such service contract, including any periods of layoff or leave with recall rights.

(B) Except as provided in subparagraph (D) of this subdivision, if the successor service contract is terminated prior to the expiration of such ninety-day period, then any contractor awarded a subsequent successor service contract shall be bound by the requirements set forth in this subsection to retain, for a new ninety-day period commencing with the onset of the subsequent successor service contract, all of the employees who were previously employed by any one or more of the terminated contractors at the site or sites covered by the service contract continuously during the six-month period immediately preceding the date of the most recently terminated service contract,

303 including any periods of layoff or leave with recall rights.

304 (C) At least five days prior to the termination of a service contract,  
305 or at least fifteen days prior to the commencement of the first  
306 performance of service under a successor service contract, whichever is  
307 later, the successor contractor shall hand-deliver a written offer of  
308 employment in substantially the form set forth below to each such  
309 employee in such employee's native language or any other language in  
310 which such employee is fluent:

311 "IMPORTANT INFORMATION REGARDING YOUR  
312 EMPLOYMENT

313 To: .... (Name of employee)

314 We have received information that you are employed by .... (name  
315 of predecessor contractor) and are currently performing work at ....  
316 (address of worksite) .... (name of predecessor contractor's) contract to  
317 perform .... (describe services under contract) at .... (address of  
318 worksite) will terminate as of .... (last day of predecessor contract) and  
319 it will no longer be providing those services as of that date.

320 We are .... (name of successor contractor) and have been hired to  
321 provide services similar to those of .... (name of predecessor contractor)  
322 at .... (address of worksite). We are offering you a job with us for a  
323 ninety-day probationary period starting .... (first day of successor  
324 contract) to perform the same type of work that you have already been  
325 doing for .... (name of predecessor contractor) under the following  
326 terms:

327 Payrate (per hour): \$....

328 Hours per shift: ....

329 Total hours per week: ....

330 Benefits: ....

331 You must respond to this offer within the next ten days. If you want  
332 to continue working at .... (address of worksite) you must let us know  
333 by .... (no later than ten days after the date of this letter). If we do not

receive your response by the end of business that day, we will not hire you and you will lose your job. We can be reached at .... (successor contractor telephone number).

Connecticut state law gives you the following rights:

1. You have the right with certain exceptions, to be hired by our company for the first ninety days that we begin to provide services at .... (address of worksite).

2. During this ninety-day period, you cannot be fired without just cause.

3. If you believe that you have been fired or laid off in violation of this law, you have the right to sue us and be awarded back pay, attorneys' fees and court costs.

From: .... (Name of successor contractor)

.... (Address of successor contractor)

.... (Telephone number of successor contractor)"

Each offer of employment shall state the time within which such employee must accept such offer but in no case shall that time be less than ten days from the date of the offer of employment.

(D) The provisions of subparagraphs (A) and (B) of this subdivision shall not be construed to require a successor contractor to retain any employee whose attendance and performance records, while working under the terminated service contract, would lead a reasonably prudent employer to terminate the employee. Nothing in this subparagraph shall be construed to apply to the four janitorial contracts awarded in accordance with the provisions of section 2 of this act.

(5) If at any time a successor contractor determines that fewer employees are required to perform the successor service contract than were required by the terminated contractor, the successor contractor shall be required to retain such employees by seniority within each job

364 classification, based upon the employees' total length of service at the  
365 affected site or sites.

366 (6) During such ninety-day period, the successor contractor shall  
367 maintain a preferential hiring list of employees eligible for retention  
368 pursuant to subdivision (4) of this subsection, who were not initially  
369 retained by the successor contractor, from which the successor  
370 contractor shall hire additional employees, if necessary.

371 (7) Except as provided under subdivision (5) of this subsection,  
372 during such ninety-day period, the successor contractor shall not  
373 discharge without just cause an employee retained pursuant to this  
374 section. For purposes of this subdivision, "just cause" shall be  
375 determined solely by the performance or conduct of the particular  
376 employee.

377 (8) If the performance of an employee retained pursuant to this  
378 section is satisfactory during the ninety-day period, the successor  
379 contractor shall offer the employee continued employment under the  
380 terms and conditions established by the successor contractor, or as  
381 required by law.

382 (c) (1) An employee displaced or terminated in violation of this  
383 section, or such employee's collective bargaining representative, may  
384 bring an action in Superior Court against the awarding authority, the  
385 terminated contractor or the successor contractor, jointly or severally,  
386 to recover damages for any violation of the obligations imposed under  
387 this section.

388 (2) If the employee prevails in such action, the court may award the  
389 employee (A) back pay, including the value of benefits, for each day  
390 during which the violation continues, that shall be calculated at a rate  
391 of compensation not less than the higher of (i) the average regular rate  
392 of pay received by the employee during the last year of employment in  
393 the same job occupation classification, or, if the employee has been  
394 employed for less than one year, the average rate of pay for the  
395 employee's entire employment multiplied by the average number of

hours worked per day over the last four months of employment preceding the date of the violation, or (ii) the final regular rate of pay received by the employee at the date of termination multiplied by the average number of hours worked per day over the last four months, and (B) reinstatement to the employee's former position at not less than the most recent rate of compensation received by the employee, including the value of any benefits.

(3) If the employee prevails in such action, the court shall award the employee reasonable attorney fees and costs.

(4) Nothing in this subsection shall be construed to limit an employee's right to bring a common law cause of action for wrongful termination against the awarding authority, the terminated contractor or the successor contractor.

(d) Any awarding authority or contractor who knowingly violates the provisions of this section shall pay a penalty not to exceed one hundred dollars per employee for each day the violation continues.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section
Sec. 2	October 1, 2006	New section
Sec. 3	October 1, 2006	New section
Sec. 4	October 1, 2006	New section
Sec. 5	October 1, 2006	17b-656
Sec. 6	October 1, 2006	4a-57
Sec. 7	October 1, 2006	4a-60g
Sec. 8	October 1, 2006	31-57g

**Statement of Legislative Commissioners:**

In Subdiv. (1) of section 1, ", as described in section 3 of this act" was added for clarity. In Subpara. (D) of Subdiv. (4) of Subsec. (b) of section 8, "subsection" was changed to "subparagraph" for purposes of accuracy and the word "commercial" was deleted for purposes of consistency.

7067

sSB623

File No. 453

**GAE**      *Joint Favorable Subst.*

CONNECTICUT  
STATE LIBRARY  
LEGISLATIVE REFERENCE  
SECTION

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Various State Agencies	GF - Cost	Potential Significant	Potential Significant

Note: GF=General Fund

#### **Municipal Impact:** None

#### **Explanation**

This bill requires the Department of Administrative Services (DAS) to establish a four-year pilot program to create and expand janitorial jobs for people with certain disabilities or people with a disadvantage. The pilot program shall include four projects for janitorial work at state agencies with a minimum of 60 full-time jobs or full-time equivalents at standard wages, and must have a total market value of at least \$3 million. DAS must award the janitorial contracts in the pilot program to qualified partnerships<sup>1</sup> if they meet certain criteria.

Under the pilot program, when a state janitorial contract becomes available, DAS must notify qualified partnerships. If only one qualified partnership bids, DAS must award the contract to the qualified partnership provided such bid does not exceed 15% of the fair market value for such contract. If more than one qualified partnership bids, DAS must award the contract to the lowest bidder. If no qualified partnerships bid, DAS must award the contract in accordance with the state's general contracting and preference purchasing laws.

Janitorial contracts awarded under the pilot program may increase state contracting costs up to 15%. Since the janitorial pilot program

<sup>1</sup> A qualified partnership is a partnership between a commercial janitorial contractor and a community rehabilitation program.

must have a total market value of at least \$3 million, a 15% increase could cost up to \$450,000 (over the four-year period of the pilot program). However, the costs associated with the pilot program will depend on what bid a qualified partnership actually submits. A qualified partnership may submit a bid equal to the fair market value for such janitorial contract. If this occurs, the pilot program would not increase state contracting costs.

The bill specifies that during the term of the pilot program, any new contract that DAS awards under the state's preference purchasing law for people with disabilities must remain in effect with no change in the formula for fair market value.

This provision may preclude the state from a future cost savings. This provision prevents DAS from revising the formula for fair market value, thus DAS is prohibited from making formula changes that could reduce the future cost of contracts under the preference purchasing law.

The bill requires, for the duration of the pilot program, that contractors who took over janitorial contracts retain their predecessor's employees for at least 90 days<sup>2</sup>; this provision applies to janitorial employees in the pilot program. These employment restrictions could result in fewer successor contractors competing for janitorial contracts. It may also result in higher contract costs for janitorial services in the pilot program. A qualified partnership would have to retain all of their predecessor's employees, for at least 90 days, along with filling at least one-third of the janitorial jobs with persons with disabilities. This could increase the contractor's personnel costs, and these costs would most likely be passed on to the state in the form of higher janitorial contract costs.

Lastly, the bill requires the Government Administration and Elections Committee to study the pilot program's effectiveness and

<sup>2</sup> Under the bill, any janitor working under a state contract on or before October 1, 2006 has the same rights as displaced service contract workers at Bradley Airport for the pilot program's duration.

determine if it should be made permanent. This provision has no fiscal impact.

***The Out Years***

As identified above, janitorial contracts awarded under the pilot program may increase state contracting costs up to 15% over the program's four-year period.

**OLR Bill Analysis**

**sSB 623**

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
DISABLED AND DISADVANTAGED EMPLOYMENT SECURITY  
POLICY GROUP.**

**SUMMARY:**

This bill requires the commissioner of the Department of Administrative Services (DAS) to establish a four-year pilot program to create and expand janitorial jobs for people with disabilities (except blindness) or a disadvantage (defined as someone with income up to 200% of the federal poverty level for a family of four, which is \$40,000 in 2006, or who the Labor Department determines to be eligible for employment services under the federal Workforce Investment Act). Specifically, it requires DAS to award contracts to create four projects for janitorial work needed by state agencies and exempts these contracts from the state's (1) normal competitive bidding process and (2) set-aside program. However, it requires the DAS commissioner to authorize certified small and minority businesses to participate in the pilot.

The bill requires DAS to award the contracts to "qualified partnerships," which it defines as those between commercial janitorial contractors and community rehabilitation programs that meet certain criteria.

The bill requires the Government Administration and Elections (GAE) Committee to study the pilot program and determine if it should be made permanent.

Finally, the bill provides protection to individuals currently working in janitorial jobs as well as those involved in the pilot.

EFFECTIVE DATE: October 1, 2006

## **PILOT PROGRAM**

### ***DAS Responsibilities***

The pilot program must consist of four janitorial work projects. These projects must (1) create at least 60 full-time jobs or the equivalent at standard wages for the two target groups and (2) have a total market value of at least \$3 million. The DAS commissioner may consult with the commissioners of the departments of Social Services (DSS) and Labor (DOL) in establishing the pilot.

The DAS commissioner must award each contract individually and follow the procedures the bill establishes. When a state agency or department asks DAS for janitorial services, the commissioner must notify qualified partnerships of the request and invite those in good standing to submit bid proposals to her. If only one partnership bids, the commissioner must award it the contract unless she determines that its bid is 15% higher than the contract's fair market value. If more than one partnership bids, she must award the contract to the lowest responsible qualified bidder.

If no partnership bids, or receives the contract, she must award the contract in accordance with the state's general contracting and preference purchasing laws (see BACKGROUND).

The commissioner may not delegate any of her obligations under the bill to an outside vendor. She can adopt regulations to carry out the pilot.

### ***"Qualified Partnerships"***

The bill directs Connecticut Community Providers Association (CCPA) to designate a commercial janitorial contractor and community rehabilitation program as a qualified partnership if they meet certain criteria. A community rehabilitation program is any entity or individual that provides or has others provide vocational rehabilitation services to, or provides services in connection with, recruiting, hiring, or managing people with disabilities based on an

individualized plan and budget. In order for a rehabilitation program and commercial janitorial contractor to be a designated partnership, the contractor must:

1. (a) enter into a binding agreement with a qualified rehabilitation program to fill at least one-third of the jobs resulting from a pilot contract it receives with people with disabilities and another third with people with a disadvantage or (b) employ the requisite number of people in either group, excluding employees with disabilities who predate the pilot;
2. employ at least 200 in-state janitors; and
3. certify in writing that it will pay janitors, including those with disabilities, the standard wage as determined by law.

The bill permits partnerships that CCPA does not designate as "qualified" to appeal the denial to the DAS commissioner, in writing. The commissioner can approve the designation after reviewing the appeal.

The bill requires the contractor to hire target employees within six months after the contract work starts and to fill vacancies arising during this time with individuals from the target groups.

The bill requires CCPA to submit a list of employees who have applied to participate in the partnership to the Bureau of Rehabilitation Services (BRS) (within DSS) for certification. BRS is the state's main vocational rehabilitation program for individuals with physical and mental disabilities. DSS can adopt regulations to carry out the certification process. CCPA must maintain a list of those employees BRS certifies (although it does not direct BRS to give CCPA the list). BRS may not delegate its responsibilities under the bill to an outside vendor.

The bill does not establish what entity has the applications and how employees will learn of the pilot. Presumably, the community rehabilitation programs, that have an ongoing relationship with CCPA,

notify their clients, who ultimately become the employees.

Qualified partnerships awarded pilot contracts must provide CCPA with a list of their target employees no later than six months after the contract starts. The list must include the hire date and employment location for each target employee. CCPA must certify to DAS, in a manner and form the commissioner prescribes, that the contractor continues to employ the required number of people with disabilities in positions equivalent to those created under the contract and have integrated them into the contractor's general workforce.

### ***Legislative Oversight***

The bill requires the GAE Committee to study the pilot program's effectiveness during the four-year pilot period. It must specifically look at its success in creating integrated work settings for people with disabilities. The committee must also study the need to make the pilot permanent and ways to provide incentives to municipalities and businesses to use the pilot if it is found to be effective.

### ***Preference Purchasing Law***

The bill specifies that during the pilot's term, any new contract that DAS awards under the state's preference purchasing law for people with disabilities (CGS § 17b-656), including those for janitorial services, remain in effect with no change in the formula for fair market value (see BACKGROUND). (This apparently means that DAS would not be able to change the rate it pays CCPA (which in turn pays its subcontractors) for any contracted goods and services under the preference purchasing program for four years.) Any new janitorial contracts DAS awards after October 1, 2006 are limited to four full-time employees per contract.

By law, agencies, departments, and institutions supported in whole or in part by the state must give preference in their purchases to items made or provided by people with disabilities through community rehabilitation programs or workshops that provide training and employment opportunities, provided they meet the purchaser's

requirements for quantity, quality, and price. These preferences rank third behind purchases for articles produced by blind people under the Board of Education and Services to the Blind's (BESB) direction or supervision and the Department of Correction. (Emergency purchases are also exempt.) The bill makes the preferred purchase program's ranking fourth by making janitorial services provided by the bill's qualified partnerships the third priority. It also makes a technical correction to reflect that CCPA keeps the list of goods and services for this program.

### ***Protections for People Already Employed as Janitors***

Under the bill, any janitor working under a state (including judicial and legislative agencies) or higher education contract on or before October 1, 2006 has the same rights as displaced service contract workers at Bradley Airport (CGS § 31-57g) (see BACKGROUND) for the pilot's duration.

The bill permits collective bargaining representatives of employees who are displaced or terminated in violation of this particular displaced worker law, as well as the employees themselves, to sue the awarding authority, the terminated contractor, or the successor contractor for damages.

### ***Protections for People Already Employed as Janitors Under the Pilot***

The bill extends the protections in the displaced service workers law to employees in the pilot program. It does this, in part, by designating people, including contractors, who enter into pilot contracts "awarding authorities." In expanding the authority's definition, the bill specifies that these contracts are for state and municipal work, but the pilot program contract provisions of the bill apply only to state work (see COMMENT).

## **BACKGROUND**

### ***Preferred Purchasing Law (CGS § 17b-656)***

Since 1977, state law has required the preferred purchase of goods

and services as a way to ensure employment opportunities for people with disabilities. Under the program, certain contracts for state services are not subject to the bidding process. Rather, DAS sets a fair market rate for the goods or services which are considered comparable to what would be offered in a competitive environment. Historically, DAS has used a formula that estimates the price at which the state would secure the products or services.

DAS contracts with CCPA, which in turn acts as a broker for the services and maintains subcontracts with about 60 organizations that offer employment opportunities to people with disabilities. CCPA certifies these organizations and monitors their compliance with federal vocational rehabilitation requirements (e.g., certain percentage of employees must have disabilities).

***Displaced Bradley Service Workers Protection Law (CGS § 31-57g)***

This law provides protections to certain service workers who were affected by changes that occurred at Bradley International Airport (BIA). Specifically, it requires entities that took over contracts to provide food and beverage services at BIA to retain their predecessors' employees for at least 90 days (unless the employee had a poor attendance or performance record).

It imposes responsibilities on the authority that initially awarded the contract, the original contractor, and successor contractors who have 10 or more employees. For example, it bars the successor contractor from firing the retained employees except for good cause during the 90-day period and gives the employee the ability to sue for damages. And it requires successor contractors to offer continued employment to those employees who, in the 90-day period, perform satisfactorily. It establishes fines for violations.

The law applies to contracts entered on or after July 1, 2002 with (1) entities that agree to provide the covered services and (2) their subcontractors at any tier who employ 10 or more people.

**Related Bill**

sSB 653 (File 426), favorably reported by the Labor Committee, requires (1) each state agency to create supported employment positions for people with disabilities and (2) the positions to lead to competitive employment with these agencies.

**COMMENT*****Reference to Municipalities in State Contract Program***

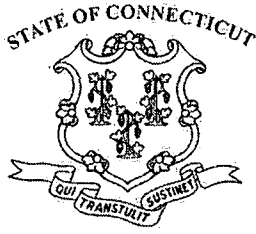
The section of the bill expanding the displaced worker protection definition of "awarding authority" specifies that the pilot contracts are for both state and municipal services but the pilot is only for state contracted services.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/24/2006)



General Assembly

February Session, 2006

~~SENATE~~ Amendment **CA.7**

LCO No. 4333



Offered by:

SEN. DEFRONZO, 6<sup>th</sup> Dist.

SEN. COOK, 18<sup>th</sup> Dist.

To: Subst. Senate Bill No. 623

File No. 453

Cal. No. 328

**"AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
DISABLED AND DISADVANTAGED EMPLOYMENT SECURITY  
POLICY GROUP."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2006*) For the purposes of this  
4 section and sections 2 to 4, inclusive, of this act:

5 (1) "Person with a disability" means any individual with a disability,  
6 excluding blindness, as such term is applied by the Department of  
7 Mental Health and Addiction Services, the Department of Mental  
8 Retardation, the Bureau of Rehabilitation Services within the  
9 Department of Social Services or the Veterans' Administration and  
10 who is certified by the Bureau of Rehabilitation Services within the  
11 Department of Social Services as qualified to participate in a qualified  
12 partnership, as described in section 3 of this act;

13 (2) "Vocational rehabilitation service" means any goods and services  
14 necessary to render a person with a disability employable, in  
15 accordance with Title I of the Rehabilitation Act of 1973, 29 USC 701 et  
16 seq., as amended from time to time;

17 (3) "Community rehabilitation program" means any entity or  
18 individual that provides directly for or facilitates the provision of  
19 vocational rehabilitation services to, or provides services in connection  
20 with, the recruiting, hiring or managing of the employment of persons  
21 with disabilities based on an individualized plan and budget for each  
22 worker with a disability;

23 (4) "Commercial janitorial contractor" means any for-profit  
24 proprietorship, partnership, joint venture, corporation, limited liability  
25 company, trust, association or other privately owned entity that  
26 employs persons to perform janitorial work, and that enters into  
27 contracts to provide janitorial services;

28 (5) "Janitorial work" means work performed in connection with the  
29 care or maintenance of buildings, including, but not limited to, work  
30 customarily performed by cleaners, porters, janitors and  
31 handypersons;

32 (6) "Janitorial contract" means a contract or subcontract to perform  
33 janitorial work for a department or agency of the state; and

34 (7) "Person with a disadvantage" means any individual who is  
35 determined by the Labor Department, or its designee, to be eligible for  
36 employment services in accordance with the Workforce Investment  
37 Act or whose verified individual gross annual income during the  
38 previous calendar year was not greater than two hundred per cent of  
39 the federal poverty level for a family of four.

40 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) The Commissioner of  
41 Administrative Services shall establish a pilot program, for a term of  
42 four years, to create and expand janitorial work job opportunities for  
43 persons with a disability and persons with a disadvantage. Such pilot

44 program shall consist of four identified projects for janitorial work. The  
 45 program shall create a minimum of sixty full-time jobs or sixty full-  
 46 time equivalents at standard wages for persons with disabilities and  
 47 persons with disadvantages and have a total market value for all  
 48 janitorial contracts awarded under the program of at least three million  
 49 dollars. In establishing such pilot program, the Commissioner of  
 50 Administrative Services may consult with the Commissioner of Social  
 51 Services and the Labor Commissioner.

52 (b) Notwithstanding any other provision of the general statutes,  
 53 under such pilot program, the Commissioner of Administrative  
 54 Services shall award four janitorial contracts, one for each identified  
 55 project, pursuant to the following procedures: (1) Upon receipt of a  
 56 request for janitorial services by an agency or department of the state,  
 57 the Commissioner of Administrative Services shall notify each  
 58 qualified partnership, as described in section 3 of this act, of such  
 59 request and invite each qualified partnership in good standing to  
 60 submit a bid proposal for such janitorial contract to the commissioner  
 61 in a manner and form as prescribed by the commissioner; (2) in the  
 62 event that only one such qualified partnership submits a bid for such  
 63 janitorial contract, the commissioner shall award such contract to the  
 64 bidding qualified partnership, provided such bid does not exceed the  
 65 fair market value for such contract, as determined by the  
 66 commissioner; (3) if more than one qualified partnership submits a bid,  
 67 the commissioner shall award the contract to the lowest responsible  
 68 qualified bidder, as defined in section 4a-59 of the general statutes; and  
 69 (4) in the event that a qualified partnership does not submit a bid or is  
 70 not awarded such contract, the commissioner shall award such  
 71 contract in accordance with the provisions of sections 4a-59 and 17b-  
 72 656 of the general statutes, as amended by this act.

73 (c) Notwithstanding any other provision of the general statutes, the  
 74 responsibilities of the Commissioner of Administrative Services, as  
 75 established in subsections (a) and (b) of this section, may not be  
 76 delegated to an outside vendor.

77 (d) The Commissioner of Administrative Services may adopt  
78 regulations, in accordance with the provisions of chapter 54 of the  
79 general statutes, to undertake the requirements established in this  
80 section.

81 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) The Connecticut  
82 Community Providers Association shall designate a commercial  
83 janitorial contractor and a community rehabilitation program as a  
84 "qualified partnership" whenever the following criteria have been  
85 established: (1) Such commercial janitorial contractor has entered into a  
86 binding agreement with such community rehabilitation program in  
87 which such contractor agrees to fill not less than one-third of the jobs  
88 from a successful bid for a janitorial contract under the pilot program  
89 established in section 2 of this act with persons with disabilities and  
90 not less than one-third of such jobs with persons with a disadvantage;  
91 (2) such contractor employs not less than two hundred persons who  
92 perform janitorial work in the state; and (3) such contractor certifies, in  
93 writing, that it will pay the standard wage to employees, including  
94 persons with disabilities, under such janitorial contract. Any  
95 partnership between a commercial janitorial contractor and a  
96 community rehabilitation program that has been denied designation as  
97 a qualified partnership may appeal such denial, in writing, to the  
98 Commissioner of Administrative Services and said commissioner may,  
99 after review of such appeal, designate such program as a qualified  
100 partnership.

101 (b) The requirement established in subsection (a) of this section to  
102 fill not less than one-third of the jobs from a successful bid for a  
103 janitorial contract with persons with disabilities and one-third with  
104 persons with a disadvantage shall be met whenever such janitorial  
105 contractor employs the requisite number of persons with disabilities  
106 and persons with a disadvantage throughout the entirety of its  
107 operations in the state provided any persons with disabilities  
108 employed by such janitorial contractor prior to the commencement  
109 date of any such contract shall not be counted for the purpose of  
110 determining the number of persons with disabilities employed by such

111 janitorial contractor.

112 (c) The number of persons with disabilities and the number of  
113 persons with a disadvantage that such janitorial contractor is required  
114 to employ pursuant to the provisions of subsection (a) of this section  
115 shall be employed not later than six months after the commencement  
116 of janitorial work under the terms of any contract awarded pursuant to  
117 the provisions of section 2 of this act, provided such contractor shall fill  
118 any vacancy for janitorial work that arises during the first six months  
119 of any such contract with persons with disabilities and persons with  
120 disadvantages.

121 (d) The Connecticut Community Providers Association shall  
122 develop an application process and submit a list of employees who  
123 have applied to participate in a partnership to the Bureau of  
124 Rehabilitation Services for certification. Such association shall maintain  
125 a list of certified employees who are persons with disabilities and  
126 community rehabilitation programs.

127 (e) Any qualified partnership awarded a janitorial contract pursuant  
128 to the provisions of section 2 of this act, shall provide to the  
129 Connecticut Community Providers Association, not later than six  
130 months after the commencement date of such contract, a list of the  
131 persons with disabilities and persons with a disadvantage employed  
132 by such contractor that includes the date of hire and employment  
133 location for each such person. Such association shall certify to the  
134 Department of Administrative Services, in such manner and form as  
135 prescribed by the Commissioner of Administrative Services, that the  
136 requisite number of persons with disabilities for such contract continue  
137 to be employed by such contractor in positions equivalent to those  
138 created under such janitorial contract and have been integrated into  
139 the general workforce of such contractor.

140 (f) Notwithstanding any other provision of the general statutes, the  
141 responsibilities of the Bureau of Rehabilitation Services, as established  
142 in this section, may not be delegated to an outside vendor.

143 (g) The Commissioner of Social Services may adopt regulations, in  
144 accordance with the provisions of chapter 54 of the general statutes, to  
145 undertake the certification requirements established pursuant to this  
146 section.

147 (h) Notwithstanding the provisions of subsection (a) of this section,  
148 the Commissioner of Administrative Services shall authorize certified  
149 small and minority business to participate in such pilot program.

150 Sec. 4. (NEW) (*Effective October 1, 2006*) (a) During the term of the  
151 pilot program described in section 2 of this act, the joint standing  
152 committee of the General Assembly having cognizance of matters  
153 relating to government administration shall study the effectiveness of  
154 such pilot program, including, but not limited to, the effectiveness of  
155 such program to create integrated work settings for persons with  
156 disabilities. Additionally, said committee shall study the need to make  
157 such pilot program permanent and ways to provide incentives for  
158 municipalities and businesses to utilize such pilot program if such  
159 program is determined by the committee to be effective.

160 (b) During the term of the pilot program described in section 2 of  
161 this act, any contract awarded pursuant to section 17b-656 of the  
162 general statutes, as amended by this act, shall remain in effect with no  
163 changes in the formula for fair market value. Additionally, any new  
164 janitorial contract awarded pursuant to section 17b-656 of the general  
165 statutes, as amended by this act, shall be limited to not more than four  
166 full-time employees per contract.

167 (c) Any person employed under a janitorial contract let: (1) On or  
168 before October 1, 2006, or thereafter if such contract constitutes a  
169 successor contract to such janitorial contract let on or before October 1,  
170 2006, and (2) pursuant to section 4a-57 or 10a-151b of the 2006  
171 supplement to the general statutes, or by the judicial or legislative  
172 departments or pursuant to section 2 of this act shall have the same  
173 rights conferred upon an employee by section 31-57g of the general  
174 statutes, as amended by this act, for the duration of the pilot program

175 described in section 2 of this act. The provisions of this subsection shall  
176 not apply to any new janitorial contract with not more than four full-  
177 time employees per contract, as described in subsection (b) of this  
178 section.

179 Sec. 5. Section 17b-656 of the general statutes is repealed and the  
180 following is substituted in lieu thereof (*Effective October 1, 2006*):

181 Whenever any products made or manufactured by or services  
182 provided by persons with disabilities through community  
183 rehabilitation programs described in subsection (b) of section 17b-655  
184 or in any workshop established, operated or funded by nonprofit and  
185 nonsectarian organizations for the purpose of providing persons with  
186 disabilities training and employment suited to their abilities meet the  
187 requirements of any department, institution or agency supported in  
188 whole or in part by the state as to quantity, quality and price such  
189 products shall have preference over products or services from other  
190 providers, except (1) articles produced or manufactured by blind  
191 persons under the direction or supervision of the Board of Education  
192 and Services for the Blind as provided in section 10-298a, as amended,  
193 (2) articles produced or manufactured by Department of Correction  
194 industries as provided in section 18-88, [and] (3) emergency purchases  
195 made under section 4-98, and (4) janitorial services provided by a  
196 qualified partnership, pursuant to the provisions of section 2 of this  
197 act. All departments, institutions and agencies supported in whole or  
198 in part by the state shall purchase such articles made or manufactured  
199 and services provided by persons with disabilities from the Bureau of  
200 Rehabilitation Services of the Department of Social Services. Any  
201 political subdivision of the state may purchase such articles and  
202 services through the Bureau of Rehabilitation Services of the  
203 Department of Social Services. A list describing styles, designs, sizes  
204 and varieties of all such articles made by persons with disabilities and  
205 describing all available services provided by such persons shall be  
206 prepared by the Connecticut [Association of Rehabilitation Facilities]  
207 Community Providers Association. The Bureau of Rehabilitation  
208 Services of the Department of Social Services shall cooperate with the

209 State Board of Education and Services for the Blind by submitting  
210 necessary information concerning such products and services to the  
211 Board of Education and Services for the Blind at frequent intervals.

212 Sec. 6. Section 4a-57 of the general statutes is amended by adding  
213 subsection (f) as follows (*Effective October 1, 2006*):

214 (NEW) (f) Nothing in this section shall be construed to apply to the  
215 award of janitorial contracts pursuant to the provisions of section 2 of  
216 this act.

217 Sec. 7. Section 4a-60g of the general statutes is amended by adding  
218 subsection (p) as follows (*Effective October 1, 2006*):

219 (NEW) (p) Nothing in this section shall be construed to apply to the  
220 four janitorial contracts awarded pursuant to section 2 of this act.

221 Sec. 8. Subsection (c) of section 31-57g of the general statutes is  
222 repealed and the following is substituted in lieu thereof (*Effective*  
223 *October 1, 2006*):

224 (c) (1) An employee displaced or terminated in violation of this  
225 section, or such employee's collective bargaining representative, may  
226 bring an action in Superior Court against the awarding authority, the  
227 terminated contractor or the successor contractor, jointly or severally,  
228 to recover damages for any violation of the obligations imposed under  
229 this section.

230 (2) If the employee prevails in such action, the court may award the  
231 employee (A) back pay, including the value of benefits, for each day  
232 during which the violation continues, that shall be calculated at a rate  
233 of compensation not less than the higher of (i) the average regular rate  
234 of pay received by the employee during the last year of employment in  
235 the same job occupation classification, or, if the employee has been  
236 employed for less than one year, the average rate of pay for the  
237 employee's entire employment multiplied by the average number of  
238 hours worked per day over the last four months of employment

239 preceding the date of the violation, or (ii) the final regular rate of pay  
 240 received by the employee at the date of termination multiplied by the  
 241 average number of hours worked per day over the last four months,  
 242 and (B) reinstatement to the employee's former position at not less  
 243 than the most recent rate of compensation received by the employee,  
 244 including the value of any benefits.

245 (3) If the employee prevails in such action, the court shall award the  
 246 employee reasonable attorney fees and costs.

247 (4) Nothing in this subsection shall be construed to limit an  
 248 employee's right to bring a common law cause of action for wrongful  
 249 termination against the awarding authority, the terminated contractor  
 250 or the successor contractor."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	New section
Sec. 5	<i>October 1, 2006</i>	17b-656
Sec. 6	<i>October 1, 2006</i>	4a-57
Sec. 7	<i>October 1, 2006</i>	4a-60g
Sec. 8	<i>October 1, 2006</i>	31-57g(c)

328

SENATE AMENDMENT

Calendar: 328  
LCO: 4333  
Bill: 623

A

ADOPTED voice ☒ REJECTED voice ☐  
ADOPTED roll ☐ REJECTED roll ☐