

**Testimony of Cary Brown, Executive Director of the Vermont Commission on Women
Sunset Advisory Commission
August 20, 2020**

Re: Vermont Commission on Women review

3 V.S.A. § 22 The Commission on Women

... (i)(1) No part of any funds appropriated to the Commission by the General Assembly shall, in the absence of express authorization by the General Assembly, be used directly or indirectly for legislative or administrative advocacy. The Commission shall review and amend as necessary all existing contracts and grants to ensure compliance with this subsection.

(2) As used in this subsection, legislative or administrative advocacy means employment of a lobbyist as defined in 2 V.S.A. chapter 11, or employment, establishment, or maintenance of a lobbyist position whose primary function is to influence legislators or State officials with respect to pending legislation or rules. (Added 2001, No. 142 (Adj. Sess.), § 175b; amended 2009, No. 33, § 3; 2018, No. 2 (Sp. Sess.), § 6.)

Good afternoon. My name is Cary Brown, and I am the Executive Director of the Vermont Commission on Women. Thank you for inviting me to speak with you further about the portion of our authorizing statute that speaks to legislative and administrative advocacy. (The relevant section is quoted above.)

The Vermont Commission on Women is, as far as we can tell, unique in all of State government in having such statutory language. No other commission, agency, department, or board has this expressed prohibition. The effect is to single out the State's body that is devoted to advancing rights and opportunities for women in Vermont, with no clear and compelling benefit derived by the State.

HISTORY and BACKGROUND

The Vermont Commission on Women existed only in Executive Orders from 1964, when it was created by Governor Hoff, to 2002. In 2002, the General Assembly created the authorizing statute to move it permanently into Vermont law. It was at this time that the language about legislative and administrative advocacy was added.

In speaking with people who were present at the time, it appears that the process was less than completely smooth. It was done at the end of the session, moved very quickly, and involved a fair amount of bargaining in the final hours. My understanding is that there was a feeling among many that the Commission, with all members having been appointed by the Governor, was by design overly partisan. To address this, the appointments were divided between the Governor, the Speaker of the House, and the Senate Committee on Committees. It seems possible that adding the language about advocacy was a further attempt to ward off potential partisanship on the Commission.

VCW'S STATUTE IN CONTEXT OF SIMILAR INDEPENDENT COMMISSIONS

While this portion of our statute is unique, our position as an independent commission within State government is not. The Human Rights Commission and the Ethics Commission are two examples of independent commissions staffed by State employees, like VCW, but who do not have any language regarding advocacy in their authorizing statutes. Both of these commissions, also like VCW, provide critical information, research, perspective, and voices to the legislature and the administration that allows them to be more effective in their work. Again, like VCW, neither of these two bodies answer to the Governor, and are under no obligation to represent the administration's position on policy. Only the Commission on Women has this specific language.

IMPACT ON VCW'S WORK

In our statute, legislative or administrative advocacy is defined very specifically, and very narrowly. It is defined as:

- a) employment of a lobbyist as defined in 2 V.S.A. chapter 11, or
- b) employment, establishment, or maintenance of a lobbyist position whose primary function is to influence legislators or State officials with respect to pending legislation or rules.

We do not employ a lobbyist, and we have no position among our staff whose primary function is to influence legislators or State officials with respect to pending legislation or rules. By these actions (or non-actions) alone, we believe we are fully in compliance with our statutory limitation.

In order to avoid the appearance of noncompliance, we draw even wider boundaries around our activities. Our work is designed to be informative, educational, and advisory in nature. We provide research, data, information, and resources to assist the Executive and Legislative branches in their work. When we provide legislative testimony, its nature is informational.

However, in response to our statute, even more expanded limitations have been placed on us in our contracting processes. We have been prevented from entering into contracts with organizations that do any lobbying, ever, on any issue, even though the lobbying is not done for us. This runs counter to the definitions given in our authorizing statute, and is not a standard that is applied to others in State government. As one example, the State has had a contract – for services other than lobbying - with the Lake Champlain Regional Chamber of Commerce, which is an organization that has a strong and active lobbying presence. The Vermont Commission on Women would not be allowed to contract with them for any work at all, because of our statute.

Thank you for your time. I am happy to answer any questions or to provide any further information that I can.