



New federal employer bill could mean the 'ENDA' your rights — and more

By PENNY HARRINGTON

The Employment Non-Discrimination Act of 2009 is now moving through both Houses of Congress. ENDA affects any business with 15 or more employees, adding "sexual orientation" (actual or perceived) and "gender identity" to workplace anti-discrimination law.

GUEST COMMENTARY

Currently, every federally-protected class embodies three standards: an obvious, immutable characteristic; a history of discrimination evidenced by economic disenfranchisement; and political powerlessness.

These new categories fall under none of these criteria, yet under ENDA, employers with moral or religious beliefs opposed to homosexuality, bisexuality or alternative forms of gender expression (like cross-dressing) would be forced to leave their rights and convictions at the office door. The measure will create fertile ground for conflicts within business organizations and lawsuits against them.

"Religious" exemptions are very narrow and apply only to specifically religious organizations and institutions, the definitions of which are ambiguous. Most likely, a church or Christian school affiliated with a church would be exempt, but a Christian bookstore or counseling center not part of a church would not.

But ENDA places more than

religious or moral freedoms for employers in jeopardy.

Thomas Messner of the Heritage Foundation suggests in a September policy paper that there is another chief concern. He states, "Proponents often argue that ENDA and similar laws at the state and local levels are focused exclusively on workplace issues, but a large body of evidence suggests that such legislation would also be viewed as, and in many cases expressly intended to be, a significant step toward redefining marriage to include homosexual unions."

Court battles involving same-sex "marriage" across the nation bear this out. As Messner notes, "In marriage litigation throughout the country, same-sex marriage advocates have cited sexual orientation nondiscrimination laws in arguing that traditional marriage laws are unconstitutional." This has occurred even when there has been specific language within nondiscrimination laws stating such measures could not be construed as relating to laws involving the right to marry.

Enter President Obama's nominee to the Equal Employment Opportunity Commission (EEOC), Chai Feldblum. Feldblum is a lesbian who has held posts at the ACLU and the Human Rights Campaign. She is also a chief author of ENDA, a bill the EEOC will enforce.

At the core of this conflict is whether we will elevate "sexual orientation" and sexual behavior to equal status

with immutable characteristics such as race. Will we allow the freedoms of faith and conscience to be stifled and another incremental step toward the reordering of our society to embrace same-sex "marriage" to occur?

The House version, authored by Rep. Barney Frank (D-Massachusetts) was heard in the House Education and Labor Committee on Sept. 23. The Senate version (S. 1584), sponsored by Sen. Jeff Merkley (D-Oregon), is awaiting its first committee hearing. California Senators Barbara Boxer and Dianne Feinstein are listed as co-sponsors. To share your concerns about ENDA with Boxer and Feinstein and ask them to oppose Chai Feldblum's nomination, call the Capitol switchboard at (202) 224-3121 or comment online at <http://boxer.senate.gov/contact/email/policy.cfm> or <http://feinstein.senate.gov.email.html>.

To ask President Obama to reconsider his nominee for the EEOC, call the White House comment line at (202) 456-1111 or comment online at <http://whitehouse.gov/contact>. Be certain to pray daily for our leaders as they make decisions affecting so many facets of our lives and those of the next generations. The king's heart is in the hand of the Lord, like the rivers of water; He turns it wherever He wishes. (Proverbs 21:1)

Penny Harrington is director of legislation for Concerned Women for America of California. For more about CWA, and to sign up for e-alerts visit <http://ca.cwfa.org> or www.cwfa.org.

