

## SPEAKOUT

# Gay rights in the workplace

**W**hile the media focuses on the highly emotional issue of same-sex marriage as the benchmark of progress on gay issues in the United States, gay activists and others continue to work out of the spotlight for passage of the Employment Non-Discrimination Act, or ENDA as it has become known.

In a squeaker of a vote in the final days of the 104th Congress, ENDA failed to pass the U.S. Senate by only one vote, 50-49. It is certain the bill will be resurrected in the 105th Congress.

Currently, no federal law protects people from being fired, refused work or otherwise discriminated against merely for being lesbian or gay. ENDA would prohibit employers from using an individual's sexual orientation (real or perceived) as the basis for employment decisions such as hiring, firing, promotion or compensation. The bill, as written, is closely tied to the Civil Rights Act of 1964.

This federal law would apply to virtually all employers in Puerto Rico just as it will apply to employers in the rest of the United States. The government of Puerto Rico, as employer, would also be subject to this prohibition in the same way it is currently prohibited by federal law from discriminating based on race, religion, national origin, age and disability.

ENDA, as currently drafted, even specifically prohibits "discrimination against an individual based on the sexual orientation of persons with whom such individual is believed to associate or to have associated."

Julio C. Abreu — policy advocate for the 170,000-member Human Rights Campaign, the nation's largest lesbian and gay political organization — said that last year's 50-49 vote on ENDA was only a stepping stone to eventual passage of this legislation.

"The Congress is behind the curve by not having already passed this legislation," noted Abreu. "The increasing implementation of non-discriminatory policies by major corporations in their official hiring practices will make it easier to get this bill through Congress this year."

Abreu also pointed out that while Puerto Rico's Resident Commissioner, Carlos Romero Barceló, is one of 240 Representatives in the U.S. House who are on record as having indicated that sexual orientation is not a consideration in the hiring, promoting, or termination of an employee in their congressional office, he has not yet become one of the 139 official House co-sponsors of this legislation. It has, however, been co-sponsored by the three other Puerto Rican Representa-



**ANDREW PRASCHAK**

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tives to Congress — Luis Gutiérrez, José Serrano and Nydia Velázquez — as well as all other non-voting delegates to Congress, including Victor Frazer from the U.S. Virgin Islands.

ENDA, when enacted, will not be retroactive. However, as with all imminent federal civil rights legislation, proactive employers who have the foresight to integrate this non-discrimination policy into their established personnel management structures prior to it becoming law will ease the eventual transition period, and will be in the best position to avoid subsequent legal action.

Some experts make a conservative estimate that more than 1,000 U.S. companies from corporate giants to small entrepreneurs have stated non-discrimination policies based on sexual orientation. Many companies with a substantial presence in Puerto Rico, including Sears, Walgreen, American Airlines, Abbott Laboratories, Baxter, Eli Lilly, Kentucky Fried Chicken, AT&T, Johnson & Johnson, and Toys 'R' Us, to name a few, have already implemented such non-discrimination policies in the workplace, according to the Human Rights Campaign.

These companies have learned that not only does such a policy provide for a more productive, talented and diverse work force, but that it makes good business sense. Nearly 84 percent of Americans who voted last year also support equal rights for gay Americans in the workplace, according to a 1996 *Newsweek* poll.

President Clinton, who has publicly supported passage of ENDA on several occasions, has already ordered all heads of agencies in the executive branch to implement this policy of non-discrimination, most of whom have added sexual orientation to the agency's Equal Employment Opportunity Policy. These policies have protected lesbian and gay federal employees in Puerto Rico since 1994.

With the support of substantial numbers of Americans and the active support of such diverse personalities as New Jersey Gov. Christie Todd Whitman, Corretta Scott King, Barry Goldwater and Newt Gingrich's mom, the question is not if ENDA will become the law of the land but when.

*Andrew Praschak is a San Juan-based attorney.*