

The Workplace Religious Freedom Act of 2005 is opening up the landmark Civil Rights Act of 1964 to amendment. Queer advocates say the current wording of the legislation may threaten gay workers.

The move also undercuts a principal reason given by traditional civil rights groups for not supporting a gay-inclusive amendment to the civil rights bill.

The Workplace Religious Freedom Act (Senate Bill 677, House Resolution 1445) was introduced March 17 with the bipartisan support of truly strange political bedfellows. Gay nemesis Rick Santorum, R-Pa., is the lead sponsor in the Senate, joined by John Kerry, D-Mass., and Hillary Clinton, D-N.Y., among others. It has been around for several sessions of Congress.

The lead sponsor in the House is Mark Souder, R-Ind. His staff has pushed harassing audits of AIDS services organizations and promoted abstinence-only HIV prevention programs. Democrat Chris Van Hollen, a charismatic young progressive from Maryland who is running for the Senate, provides the bipartisan cover.

Title VII of the Civil Rights Act requires employers to give reasonable accommodations to the religious needs of their employees, so long as it does not impose undue hardship on the employer.

Christopher Anders, a lobbyist with the American Civil Liberties Union, fears the legislation will "undercut state and local laws...and corporate employment policies that go beyond the basic federal statute" in terms of protecting all citizens from discrimination in the workplace.

Access to health care is one worry. The way the bill is written would allow health care work-

DEVIL OF A JOB

Workplace Religious Freedom Act poses threats and opportunities

by Bob Roehr

ers "to deny GLBT patients full and fair access to medical treatment" simply on religious grounds, according to Anders.

Even under existing law, social conservatives have been supporting the "religious freedom" of pharmacists on the job to refuse to provide contraception or the so-called "morning after" pill that some hold to be akin to abortion.

CONTEXT AND OPPORTUNITY

Amending the Civil Rights Act also might offer an opportunity to queer advocates, should they chose to seize it.

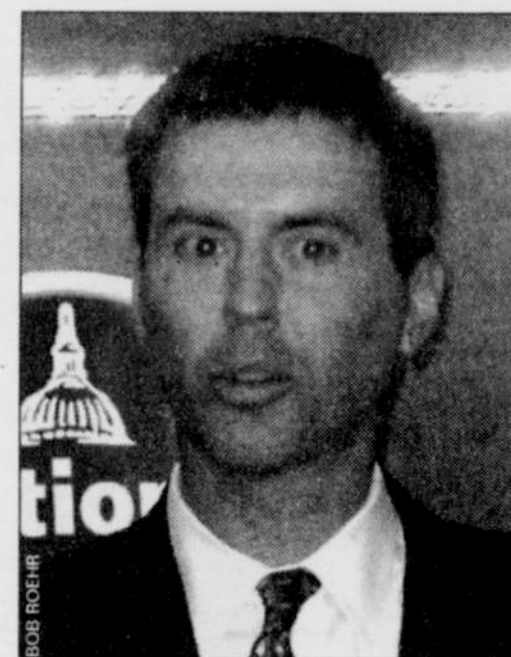
An amendment to add sexual orientation to that core civil rights legislation was first introduced in 1975 by Rep. Bella Abzug, D-N.Y., who represented the west side of Manhattan. The number of co-sponsors grew slowly, topping 100 in the House in 1992, but it never got a hearing, let alone a vote.

A backlash to affirmative action programs made traditional civil rights groups leery of opening up the act to amendments, or at least that is what they told gay groups seeking their support.

That, in part, led gay advocates to adopt a strategy centering on the employment piece of the puzzle with introduction of the Employment

Non-Discrimination Act in 1994. The Human Rights Campaign made ENDA the cornerstone of its legislative agenda and dropped support for amending the Civil Rights Act.

"By coming up with this concept, we were able to get united support from the civil rights community and especially the very influential Leadership Conference on Civil Rights," Rep. Barney Frank, D-Mass., later explained in an extended posting to the Queerpolitics listserv in November 1999. "We were also able to write a bill from the start which was tailored to the specific kinds of discrimination gay and lesbian and bisexual people faced and avoided the awkwardness of having to undo parts of the Civil Rights Act which we felt might not be relevant."



ACLU lobbyist Christopher Anders says the Workplace Religious Freedom Act poses threats to gay employees.

The other part of the equation was that gay advocates thought they could pass ENDA, if not immediately, then within a few years, certainly during Bill Clinton's second term as president. More than a decade has passed since its introduction.

A lone congressman continues to carry the torch for the amendment approach—simply

because he believes it is the right thing to do—by introducing it at the beginning of each session. The Civil Rights Amendments Act of 2005 (House Resolution 288) was introduced Jan. 6 by Edolphus Towns, D-N.Y., an African American who represents Brooklyn.

When asked in past years if it supports the Towns bill, HRC has demurred, saying it is the wrong approach. Legislative director Christopher Labonte dodged the question this time. He said HRC would "continue to pursue opportunities" to state the case for legal protections for gay Americans during the debate on Social Security reform and other legislation.

Anders said ACLU attorneys are focusing on stopping what they consider to be ill-

advised and dangerous legislation. They "haven't gotten that far" in considering whether to try to get gay-inclusive language added as part of any amendments to the Civil Rights Act. 

BOB ROEHR is a free-lance reporter based in Washington, D.C.



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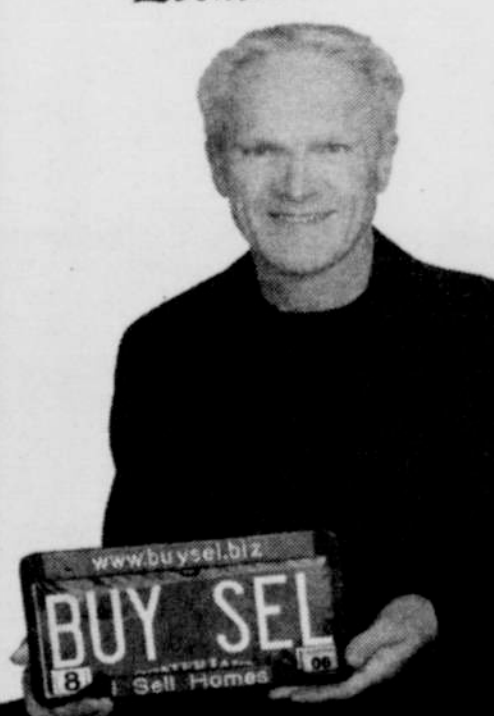
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