



HRC Alone in Eschewing No-Compromise Stand

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In an extraordinary six days on Capitol Hill and among more than 100 LGBT organizations nationwide, Democratic leaders in the House of Representatives decided to amend the proposed Employment Non-Discrimination Act (ENDA) by stripping out protections for transgendered Americans - only to face such a grassroots pushback that they were forced by Monday of this week to retreat, though likely only for the moment.

The frantic pace of congressional meetings, lobbying, and grassroots caucusing and action alerts exposed not only a potentially deep rift between thousands of LGBT leaders and committed activists and their Capitol Hill champion, out gay Massachusetts Congressman Barney Frank, but also simmering mistrust between the community's lead national lobbying group, the Human Rights Campaign (HRC), and many of the 113 organizations that have now signed on to a statement opposing any congressional action on ENDA until the gender identity and expression language is restored.

Late on Monday, House Speaker Nancy Pelosi, in tandem with Frank, Tammy Baldwin, the out lesbian Wisconsin Democrat, and California's George Miller - chairman of the Labor and Education Committee that was due to take up the streamlined bill the following day, and likely report it out for a fairly expeditious floor vote - reversed course, announcing the hearing had been postponed "to allow proponents of the legislation to continue their discussions with Members in the interest of passing the broadest possible bill." But according to HRC that delay is likely to last only two weeks, so the community might soon be back at the same place it was over the past few days.

Transgender rights groups are of course especially alarmed - and HRC on October 2 lost its first and only openly transgendered board member, Donna Rose, who released an impassioned statement saying the group "has chosen not to be there" in the fight - but what is striking about the developments of the past week is the degree to which gender rights advocates have won the unqualified support of organizations typically thought of as mainstream gay outfits.

Among non-trans specific groups, the National Gay and Lesbian Task Force (NGLTF) has taken the lead on this issue, joined by the movement's three top legal advocacy groups- Lambda Legal, Gay & Lesbian Advocates & Defenders in Boston, and the National Center for Lesbian Rights in San Francisco - as well as by the National Stonewall Democrats; Pride at Work-AFL-CIO; the National Coalition of Anti-Violence Programs; the Gay, Lesbian, and Straight Education Network (GLSEN); Freedom to Marry; Immigration Equality; the National Black Justice Coalition; and the Matthew Shepard Foundation, among many.

The group opposed to any non-trans inclusive ENDA also includes dozens of state organizations, including the Empire State Pride Agenda and Garden State Equality locally, and their sister organizations in states from Maine to California and from Texas to Minnesota.

Within the trans activist community, the Washington-based National Center for Transgender Equality (NCTE) is out front.

In a telephone press conference on October 3, Mara Keisling, NCTE's executive director, said, "I

am overwhelmed today by the outpouring of support" from mainline gay rights groups.

Jody M. Huckaby, executive director of Parents, Families, and Friends of Lesbians and Gays (P-FLAG), was on the same call, pledging his group's considerable grassroots influence to the cause of transgender inclusion. Speaking of an action alert on the issue his group issued last Friday, Huckaby said, "The response was unlike anything we've seen before."

The posture of this 100-plus coalition stands at odds with an official statement issued on October 2 by HRC, on behalf of its board. After articulating the commitment that the group has publicly staked out since 2004 in favor of a trans-inclusive ENDA, Joe Solmonese, the group's president, is quoted saying, "Therefore, we are not able to support, nor will we encourage Members of Congress to vote against, the newly introduced sexual orientation only bill."

Blog activists and organizations around the country had been pressing HRC on its position since the Washington Blade last week reported that Barney Frank was recommending that ENDA needed to be scaled back in order to ensure passage. The group's posture, widely viewed as nuanced to the point of providing no leadership at all, confirmed the worst fears that many had - that in the end HRC would not stand in the way of Congress moving forward with legislation that provided job protection only for gay men and lesbians.

Worse for some was the fact that even though, in order to buy time to lobby on the gender issue, HRC had joined in the push to have the House hold off on Tuesday's committee hearing, the organization was simultaneously signaling in advance what its endgame would be.

Solmonese, in an interview with Gay City News late on October 3, insisted that the group remains "fully committed" to transgender protections, but also needs to be able to "be there as an allied partner" with Frank and other Democratic leaders "the morning after" any ENDA vote is taken-and if the bill is approved without full inclusiveness, get to work on a second measure to redress the lack of gender rights protections.

In the parlance of Capitol Hill, Solmonese said, to any House member "opposition" means that if he or she supports a non-inclusive ENDA they would be penalized on organizational scorecards. In HRC's view, actively opposing any gay rights measure Congress takes up would hurt its relationships on the Hill.

"The community expects that we are going to maintain those relationships," Solmonese said, noting that as the organization with the movement's primary lobbying responsibilities, "being in the speaker's office, in Barney's office, in the [committee] chairman's office, every day, today in fact," HRC, unlike other groups, "does not have the luxury not to have those conversations."

Once news broke last week of what Frank had in mind, activists immediately responded with pressure on him and other leading House Democrats to rethink their position. By Friday, however, the revised bill had already been introduced, along with a companion measure that would provide employment protections against discrimination based on gender identity and expression. Steven Adamske, Frank's spokesman, acknowledged that the gender measure would proceed on a separate, slower timeline.

In several statements prior to the formal introduction of the new bills, Frank and Adamske stated that the House leadership had become increasingly concerned about ENDA's prospects for passage should the language barring discrimination based on gender identity remain in the bill. But in a written statement announcing the change in the ENDA language, Pelosi squarely laid the political call at Frank's feet.

"While I personally favor legislation that would include gender identity, the new ENDA legislation proposed by Congressman Frank has the best prospects for success on the House floor," the House speaker said.

In a lengthy written statement late on Friday, after the new bills surfaced, Frank said, "One of the problems I have found over the years of discussing this is an unwillingness on the part of many, including leaders in the transgender community, to acknowledge a fact: namely that there is more resistance to protection for people who are transgender than for people who are gay, lesbian, and bisexual."

Frank noted that gender identity was only first incorporated into ENDA this year-- "a fairly recent addition to the fight" -- and argued, " We are on the verge of an historic victory that supporters of civil rights have been working on for more than 30 years: the passage for the first time in American history by either house of Congress of legislation declaring it illegal to discriminate against people in employment based on their sexual orientation."

At the time, HRC, in a comment to Advocate.com, indicated it was "deeply disappointed and did not assent to this position," but it declined to sign onto a letter initiated by NGLTF and endorsed by 12 groups, saying, "We would also oppose any employment nondiscrimination bill that did not protect transgender people."

Separately, Matt Foreman, NGLTF's executive director, issued a written statement saying, "It is politically inexplicable and unconscionable that some congressional leaders are rushing to strip protections for transgender people from ENDA - just as the Senate votes overwhelmingly to pass transgender-inclusive hate crimes legislation."

Frank and Pelosi also faced defection by Baldwin. On Friday afternoon, her spokeswoman, Jerilyn Goodman, said Baldwin was not giving interviews on ENDA but she confirmed that the Wisconsin Democrat did not put her name on the new bill.

Some advocates quickly took the gloves off, toward both Frank and HRC.

Melissa Sklarz, the director of the New York City chapter of the state Transgender Rights Organization (NYTRO), said, "HRC was and is a profound disappointment on this."

Sklarz, who is also on the board of the National Stonewall Democrats, added, "Barney Frank does not speak for the LGBT community at this point. Barney Frank speaks for Barney Frank."

Jon Hoadley, Stonewall's executive director, on the other hand, even as he sided with the trans-inclusive approach, took pains to emphasize that the debate over what he termed "tactics" should not pit one portion of the community against another.

"We all know that Congressman Frank is a champion of protecting trans workers. No one is doubting his commitment," he said.

Although the list of groups siding with the NGLTF-NCTE no-compromise position mushroomed over the weekend, advocates for the most part have worked hard to abide by Hoadley's prescription. **Dave Noble, the Task Force's director of public policy and governmental affairs, believes the ayes exist to pass a trans-inclusive ENDA and is working on touching base with what he said were "well more than 30" representatives who previously indicated their support to confirm their positions and shore up their votes.**

Asked Wednesday afternoon whether those efforts were impaired by HRC's board statement indicating that it would not recommend a no-vote on a more limited version of the bill, Noble said he was on his way at that very moment to a meeting with HRC representatives and others to go over the latest intelligence and plot next steps.

"We will need everyone working together in this effort," he said, adding that any House member who wavers based on the political bet that they can get by with supporting less

than full inclusion "would have to say to us that they changed their minds."

Solmonese did not dispute Noble's assertion that there are enough votes to pass an employment bill that protects transgendered workers - but offered the important caveat that there may not be enough votes to survive Republican parliamentary maneuvers on the floor. By offering what is known as a motion to recommit promptly, ENDA opponents could, and likely would, force an up or down vote on the transgender provisions of the bill standing alone. That would likely be a much tougher vote for marginal supporters - and if the leadership did not kill the recommit motion, the entire bill would die for the current session, and ENDA, much like the failed GOP federal marriage amendment, could begin to take on the smell of a political loser.

Solmonese, drawing on input from Frank, suggested the vote gap on a stand-alone gender identity motion might be 30 to 40 votes, not he said an insurmountable lobbying effort.

But there may be only 10 days to complete that-and if the effort fails, the volume can only ratchet up on this red-hot debate.