



## **BREAKING NEWS -- ENDA Heading to Floor This Week**

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*[EDITOR'S NOTE: Subsequent to the posting of this article, the House Rules Committee voted early in the evening on November 5 to advance the Employment Non-Discrimination Act to the floor for a vote, and to permit consideration of three amendments, including Congresswoman Tammy Baldwin's proposal to restore transgender protections to the bill. The Baldwin amendment will get ten minutes for debate.]*

Gay City News has confirmed that the federal Employment Non-Discrimination Act, delayed for the past month due to debate over whether or not the gay rights measure should include protections against bias motivated by an individual's gender identity or expression, will go before the House Rules Committee at 5 p.m. on Monday, November 5.

According to Steve Adamske, a spokesman for out gay Massachusetts Democrat Barney Frank, ENDA's lead sponsor, the Committee will take up the measure in the form it was scaled back to in late September, at Frank's recommendation, to include only sexual orientation - and not gender identity and expression - as a protected class.

Consideration of the bill by Rules signals leadership's conclusion that it has the votes to win passage on the floor, in spite of the potential for defection by an unknown number of Democrats insisting that only an ENDA that includes protections for gender identity and expression be moved.

Floor action on ENDA could come as early as Tuesday, but is clearly expected some day this week.

The Committee will also consider whether an amendment from out lesbian Congresswoman Tammy Baldwin, a Wisconsin Democrat, to add transgender protections back into the bill, will be heard on the floor as well. Baldwin, originally Frank's co-lead sponsor on ENDA, declined to put her name on his revised measure, urging instead that the original, fully-inclusive bill be taken up by the House.

When House leadership, on October 12, told LGBT advocates, pressing the same case as Baldwin, that it was prepared to bring the gay-only ENDA forward, Baldwin stepped up with her amendment. House leaders approved of her effort, though the specific manner in which it will be considered by the full House will be ironed out in Rules.

Baldwin has apparently made limited headway in wooing colleagues to support the inclusion of transgender protections, and ironically her measure, if put to a vote, would create precisely the framework that Frank warned against when he advised a narrower formulation of the bill. His fear was that Republicans would put up a mirror-image amendment to Baldwin's, stripping out transgender protections.

Such an amendment, by forcing members of Congress to record a vote specifically on that issue, threatened to point up the weakness of support for transgender rights - and if done by using a particular parliamentary maneuver could have killed the entire bill for this session.

Given the risk that Baldwin's amendment might fall well short of a majority, the assumption among activists is that she will withdraw it if a decent show of votes cannot be achieved. A well-placed Democratic congressional aide told Gay City News last week that the amendment would be debated on the floor, but then withdrawn by Baldwin prior to a vote.

Jerilyn Goodman, Baldwin's press secretary, acknowledged that the fate of the amendment was now in the hands of the Rules Committee, but could not offer any assessment of where support for the effort stood.

**Both Mara Keisling, executive director of the National Center for Transgender Equality, and Roberta Sklar, a spokeswoman for the National Gay and Lesbian Task Force - two groups leading a coalition of roughly 300 organizations pressing Congress to vote no on any version of ENDA that is not fully inclusive - confirmed today that their understanding is the same as what Gay City News learned last week: that Baldwin's amendment would be offered on the floor, debated, probably for one hour, and then withdrawn.**

In the wake of what many saw as the surprising announcement from Frank in late September that ENDA would be scaled back, NCTE, NGLTF, and several hundred other LGBT groups nationwide formed United ENDA, with the aim of restoring transgender rights to the bill. In the face of pressure from United ENDA and the Human Rights Campaign, which virtually alone among LGBT groups indicated it would not oppose any version of ENDA that leadership brings forward, Speaker Nancy Pelosi gave advocates several weeks in early October to gather support for reversing Frank's retreat on transgender rights.

That grace period expired at the October 12 meeting.

However, when the bill went to the Education and Labor Committee, four Democrats - Brooklyn's Yvette Clarke, New Jersey's Rush Holt, California's Linda Sanchez, and Ohio's Dennis Kucinich - voted no, protesting that only an inclusive version would satisfy them.

Two other New York City congressman - Jerrold Nadler, who represents Manhattan and Brooklyn, and Anthony Weiner, of Brooklyn and Queens - have stated publicly that they too oppose the Frank version of the bill.

Presumably the House leadership has concluded that the number of such no votes does not imperil passage. Estimates of the count of these pro-LGBT dissenters have ranged wildly - from as few as eight to as many as 60, the latter figure cited by one congressional office. Keisling and Sklar said their best counts are much closer to the low end of that range.

"It's unfortunate that leadership would continue to try to pass a bill that the LGBT community has said it doesn't want," Keisling said when asked about the imminent Rules Committee action. "But whatever happens, this is not the end. There is no chance of this becoming law now. We will have to get together and decide how to proceed in '09."

It is unclear when the Senate, where the measure is carried by Massachusetts Democrat Ted Kennedy and Maine Republican Susan Collins, will act on ENDA.

Several weeks ago, the White House issued an internal memorandum laying out a number of policy and constitutional objections to the measure, including the assertion that it would be in conflict with the 1996 Defense of Marriage Act.