

## **Kennedy favors '08 Senate vote on ENDA**

Leaked HRC memo suggests putting measure on hold until next year

By LOU CHIBBARO JR

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Sen. Edward Kennedy (D-Mass.) is expected to push for a Senate vote in 2008 on the same gay-only version of the Employment Non-Discrimination Act that the House of Representatives passed in 2007, a Kennedy spokesperson said this week.

Kennedy stated on the Senate floor on Nov. 8, one day after the House passed ENDA by a vote of 235 to 184, that he hoped the Senate would follow suit by passing the employment protection bill in the current Congress, which lasts through 2008.

But until this week, Kennedy's office had not stated publicly where Kennedy stood on the demands by many gay and transgender organizations that Congress should withhold any action on ENDA unless it includes protection for transgender persons.

"Although Sen. Kennedy strongly supports protections against job discrimination for transgender workers, inaction won't advance justice for anyone, and will just make it harder to pass any version of ENDA in 2009," said Kennedy spokesperson Melissa Wagoner.

"We will most likely work to move the House-passed bill, rather than introducing a separate Senate bill," Wagoner told the Blade by e-mail. "Because the same legislation must pass both the House and Senate, now that the House has acted, the only realistic way to get a bill to the president's desk this Congress is to have the Senate pass the House bill."

Asked if Kennedy thought ENDA could pass the Senate in an election year, Wagoner said, "Yes, if enough Republicans support the bill to give us a realistic chance of breaking a filibuster."

Most political observers have predicted Republican senators opposing ENDA will stage a filibuster against the legislation, which requires 60 votes to break through a parliamentary move known as cloture. Kennedy and Sen. Gordon Smith (R-Ore.), who has joined Kennedy as a chief sponsor of ENDA, have said they were hopeful they could line up a bipartisan "super majority" of at least 60 senators to ensure the bill's passage.

Jim Manley, a spokesperson for Senate Majority Leader Harry Reid (D-Nev.), said this week that Reid strongly supports ENDA and favors holding a Senate vote on the measure in 2008. Manley said Reid would defer to Kennedy on the "strategy and timing" of such a vote.

House Democratic leaders, led by Speaker of the House Nancy Pelosi (D-Calif.), said they favored a trans-inclusive version of ENDA but determined there were not enough votes to pass

it. Rather than wait one or more years before being able to line up the support to pass a trans-inclusive bill, Pelosi, joined by gay Rep. Barney Frank (D-Mass.), chose to strip the bill of its transgender provision to enable it to pass in 2007.

Frank introduced a separate bill banning job discrimination against transgender persons and Pelosi vowed to schedule a vote on that bill when enough support could be found to pass it.

The statement this week by Kennedy's office that Kennedy plans to back a gay-only version of ENDA comes after news surfaced last month that a high-level official at the Human Rights Campaign suggested a vote on ENDA would not take place until 2009.

### **Holding off until '09?**

News of the HRC official's comment came in a memo that was leaked to transgender blogger Marti Abernathy, who published it on her Transadvocate blog on Dec. 4.

The five-page internal memo, written by HRC national field director Marty Rouse, proposed that HRC adopt a series of actions and policy initiatives to "win back" the confidence of the transgender community. Rouse acknowledged in his memo that HRC lost the confidence of transgender leaders and that community's rank-and-file members when HRC changed its position of unequivocally opposing a gay-only version of ENDA to one of "not opposing" such a measure.

HRC on Nov. 6 announced it would support the gay-only version after the influential Leadership Conference on Civil Rights came out in support of the gay-only measure. The Leadership Conference, considered the nation's most respected civil rights organization, said it favored transgender protections but it, too, determined there weren't enough votes to pass a trans-inclusive bill.

Rouse's memo calls for HRC to redouble its efforts to build support for a trans-inclusive version of ENDA by providing logistical and financial support for transgender groups in states where opposition to transgender rights is strong.

"HRC has the political and financial clout to do all this," Rouse said in the memo. "We have two years to prepare for the next volley in Congress. I think this would be a good start."

By saying HRC has two years to accomplish his proposals before Congress next considers ENDA, Rouse created a stir within some gay activist circles because it raised questions about whether HRC had inside knowledge from congressional leaders that ENDA would be put on the shelf until at least 2009.

Brad Luna, HRC's director of communications, confirmed the authenticity of the Rouse memo but said it was a draft proposal that did not tie HRC to a specific timetable for when ENDA should come up for a vote.

"The memo referenced is not a plan but rather a collection of thoughts and ideas in a very embryonic, draft form," Luna said.

“We have been reaching out to our friends in the transgender community and seeking their input on putting together a plan for moving forward,” he said. “We continue to work with our allies in Congress to move forward our legislative agenda, including ENDA and hate crimes.”

Luna was referring to a hate crimes prevention bill that passed in 2007 in both the House and Senate but died in a House-Senate conference committee. House Democrats declined to support the Senate’s decision to include the bill as part of defense authorization measure. Supporters were hopeful that Congress would pass the bill in 2008 as a stand-alone measure.

Meanwhile, the United ENDA Coalition, a new alliance of gay and transgender organizations led by the **National Gay & Lesbian Task Force**, has called for holding off on a vote on ENDA until at least 2009, when the coalition believes Congress would be more inclined to pass a trans-inclusive version. **Task Force executive director Matt Foreman said a newly elected Democratic president would also be expected sign the bill.**

**The White House has said President Bush would likely veto any version of ENDA, a development that prompted Foreman and others associated with United ENDA to question why HRC and congressional Democrats were pushing for a gay-only version of the bill in 2007 and 2008.**

Pelosi and Frank have said passing a gay-only version as soon as possible would clear the way for passing a trans-inclusive version at a later date because it would remove the stigma of passing a controversial bill addressing the issue of sexual orientation.

In a related matter, the rift that emerged over the ENDA-transgender disagreement among gay rights advocates was highlighted last week when Meredith Bacon, president of the board of the National Center for Transgender Equality, published a blog entry denouncing HRC for its handling of the ENDA-trans dispute.

“[A]s the chair of the NCTE Board of Directors, I can assure all who read this blog that NCTE will not work with HRC in the foreseeable future, until the current leadership is completely purged, and until we are convinced that, unlike its predecessors, any new HRC leadership is totally committed to working for transgender rights,” Bacon wrote.

“As long as HRC is controlled by and is dependent upon white, rich, professional gay men, such collaboration may never occur,” she wrote.

Bacon and other trans activists have said they were especially upset with HRC because its president, Joe Solmonese, promised trans leaders at a conference in Atlanta, in 2006 that HRC would never back a version of ENDA that did not include protection for transgender persons.

Solmonese said later that HRC remained committed to backing a trans-inclusive ENDA but found itself in an unexpected and untenable position in the fall of 2007 when House Democratic leaders — against HRC’s wishes — moved forward with a gay-only version of the bill.

According to Solmonese, HRC would undercut its credibility and effectiveness on Capitol Hill for all future efforts on behalf of gay and transgender rights if the nation’s largest and most visible

GLBT civil rights organization suddenly came out against a gay rights bill set for a vote on the floor of the House.

“It’s something we just couldn’t do,” he told the Blade in late September.

One source familiar with National Center for Transgender Equality, which is considered to be among the nation’s most prominent transgender advocacy organizations, said the sharply worded statement by Bacon had not been adopted by the group’s board and that Bacon was “speaking only for herself.”

Bacon could not be reached by press time. Mara Keisling, the group’s executive director, declined to comment on Bacon’s statement.