

## Resolution 37

# PASSING THE EMPLOYMENT NON-DISCRIMINATION ACT: PROTECTING AMERICA'S WORKERS

AT THE 2009 AFL-CIO CONVENTION, delegates unanimously passed Resolution 7, “A Diverse and Democratic Labor Movement.” The resolution defined a union movement that welcomes and recognizes the imperative of full inclusion. In particular, it called for increased inclusion of lesbian, gay, bisexual and transgender (LGBT) workers in our society and our movement. Among the resolution’s many commitments was the following:

“The AFL-CIO supports the Employment Non-Discrimination Act (ENDA) and will do all in our power to see that it passes.”

Only 17 states and the District of Columbia have laws prohibiting employment discrimination based on sexual orientation and gender identity, and four more have laws barring employment discrimination based only on sexual orientation. Meanwhile, LGBT workers continue to face widespread discrimination and harassment in the workplace. Studies show that more than 1 in 5 LGBT workers report discrimination on the job.

For LGBT Americans, the remedy lies in ENDA, a bill that would prohibit employment discrimination on the basis of sexual orientation and gender identity. ENDA does what no other law currently does: creates express protections for LGBT people in the workplace. These are similar to protections under existing federal discrimination laws that protect other classes of workers on the basis of sex, religion, race and ethnicity; ENDA would put in place uniform and comprehensive protections for LGBT workers in all 50 states.

Four years have passed since this convention made a commitment to do all in our power to see that ENDA

passes. Yet little movement has been made on this vital piece of legislation—until now.

### **Momentum**

The LGBT movement is experiencing unprecedented momentum. Last November, Maine, Maryland and Washington joined a growing group of states to pass full marriage equality. This year, Delaware, Minnesota and Rhode Island followed suit, bringing the total number of states to 13. One-third of the U.S. population now lives in a state with marriage equality.

These victories were compounded by a Supreme Court decision in late June that overturned the Defense of Marriage Act and gives same-sex couples married in states with marriage equality full protections under federal law.

An amicus brief filed, in part, by the AFL-CIO explained, “The Defense of Marriage Act (DOMA), by intention and design, ensures that workers with same-sex spouses earn less money, are taxed more on their wages and benefits, and have available to them fewer valuable benefits and less economic security than their counterparts with different-sex spouses.”

The momentum of marriage equality, and the changing tide of public opinion, clears the way for the swift passage of ENDA.

### **Support Across Aisles and Movements**

Nearly 80 percent of Americans support LGBT workplace protections, many believing that these protections already exist. This support cuts across political party affiliation, with 81 percent of Democrats, 74 percent of independents and 66 percent of Republicans supporting these protections. Catholics and seniors solidly favor these protections

with 74 percent support and 61 percent support, respectively.

The most recent version of this legislation, which passed in the Senate Health, Education, Labor and Pensions Committee, was introduced by Republicans and Democrats alike. The civil rights, human rights, business, religious, labor and LGBT communities are coming together in that same bipartisan spirit to make ENDA law.

### **Labor's Leading Voice**

Throughout our history, unions, particularly the AFL-CIO and its affiliates, have been leading advocates against discrimination in the workplace, however it manifests. We were instrumental in passing the Civil Rights Act of 1964 that prohibits discrimination based on race, color, religion, sex or national origin. We fought for the Equal Pay Act, the Age Discrimination in Employment Act and the Americans with Disabilities Act—which all prohibit on-the-job discrimination.

Today, we are leading the way for LGBT protections on the job. Without ENDA, the only protection many

LGBT workers have is their union contracts. Union workers can be fired only with just cause and often have access to grievance procedures and arbitration. Additionally, many union contracts do what the law does not: protect workers against discrimination based on sexual orientation or gender identity.

### **The Time Is Now**

Now, we must work to win freedom from discrimination for all workers—union members and nonunion workers. We have the momentum. We have the support of the American people—from both Democrats and Republicans, and from a wide array of progressive movements. The time is now.

The AFL-CIO will redouble our support for the passage of ENDA and continue this work until every worker—gay or straight, transgender or not—is treated with dignity and respect on the job. We urge all national and international unions to join in the effort to pass ENDA and to use their influence to sway those members of Congress who will be instrumental in the bill's passage. As we did in 2009, let us commit to doing "all in our power to see that it passes."