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Local Ordinance Prohibits Discrimination on the Basis of Sexual Orientation and Gender Identity with Some Employers Exempted

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Nearly a year after council members introduced the proposed county ordinance prohibiting discrimination on the basis of sexual orientation and gender identity, Allegheny County Council approved the heavily debated law in an 8 – 6 vote on July 1, 2009. On July 6, 2009, the ordinance was signed into law by Chief Executive Dan Onorato.

The ordinance establishes a seven-member Human Relations Commission to investigate allegations of discrimination within the county. The Commission also will investigate claims of discrimination based on other protected categories covered by state law. Members will be appointed by the County Executive with approval from the County Council to serve four-year terms. Any person claiming to be aggrieved by an unlawful discriminatory practice may file a written verified complaint with the Commission within 180 days of the alleged act of discrimination. The Commission will investigate.

The ordinance provides that if the investigation determines that probable cause exists to support allegations in the complaint, the Commission has the authority to conciliate the matter, hold hearings, seek injunctions and issue findings. The Commission may award backpay, reinstatement, other compensatory damages, front pay, and attorneys' fees to a complainant. In addition, within one year of the filing of the complaint, a complainant may file a lawsuit in state

court regardless of the Commission's ruling. The same remedies are available.

Local conservative advocacy groups and religious organizations opposed the original bill claiming that it infringed upon their religious freedom. Ultimately, the ordinance passed due to a late amendment that exempts all religious, charitable, fraternal and sectarian organizations from compliance. Sponsors of the bill called the 11th-hour amendment regrettable, but necessary for passage of the ordinance.

Allegheny County is not the first area in Pennsylvania to prohibit discrimination on these bases in the absence of a statewide ban. In 1983, Harrisburg became the first Pennsylvania municipality to prohibit both sexual orientation and gender identity discrimination. Later, similar laws were passed in Philadelphia, York, Scranton, Allentown, Easton, Lansdowne, Swarthmore, West Chester, Erie County, and New Hope, Pennsylvania. The City of Pittsburgh has prohibited discrimination on the basis of sexual orientation and gender identity and expression since 1997. Thus, the Allegheny County Ordinance will only extend this protection to individuals in Pittsburgh's suburbs.

In March 2009, State Representative Dan Frankel introduced House Bill 300, which would amend the Pennsylvania Human Relations Act to end discrimination in public spheres such as employment, housing, credit and public accommodations on the basis of sexual orientation and gender identity and expression. Similar bills have been introduced in the past without success, but HB 300 has a record 79 co-sponsors from both parties. The bill is currently before the House Appropriations Committee, and it is expected to be considered later this year.

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