



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: AB 101 (Discrimination Based on Sexual Orientation)

MEETING DATE: August 21, 1991

PREPARED BY: City Attorney

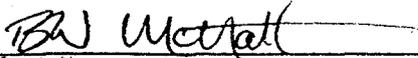
RECOMMENDED ACTION: Council consideration of attached draft legislation.

BACKGROUND INFORMATION: As directed by the City Council at its meeting of August 7, 1991, attached for consideration is a copy of AB 101, frequently referred to as the "Homosexual Bill of Rights".

The Council has been requested to adopt a formal position on this proposed legislation.

In essence, the proposed legislation would amend the California Fair Employment and Housing Act (Government Code Section 12900 et seq.) to address discrimination based on sexual orientation. The Act now prohibits discrimination in employment or housing on the basis of (among other things) race, religion, color, national origin, handicap, sex or age).

FUNDING: None



Bob McNatt
City Attorney

BM/vc

attachment

APPROVE: _____

THOMAS A. PETERSON
City Manager

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AMENDED IN ASSEMBLY JUNE 25, 1991

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL

No. 101

Introduced by Assembly Members Friedman, Willie Brown, Margolin Rees, , Roos, Archie-Hudson, Bates, Becerra, Bronzan, Burton, Campbell, Chacon, Connelly, Eastin, Farr, Filante, Gotch, Hannigan, Hayden, Isenberg, Lee, Moore Katz, Lee, Moore, Murray , Polanco, Roybal-Allard, Speier, Tanner, and Vasconcellos
(Coauthors: Senators Marks, Roberti, Rosenthal, and Watson)

December 4, 1990

An act to amend Sections 12920, 12921, 12926, 12927, 12930, 12931, 12935, 12940, 12944, 12955, 12993, and 12995 of the Government Code, relating to fair employment and housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 101, as amended, Friedman. Discrimination in employment and housing.

Under the California Fair Employment and Housing Act, it is an unlawful to engage in specified discriminatory employment practices to discriminate in employment practices, including hiring, promotion, and termination on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age. That act also makes it unlawful for the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, or ancestry; or sexual orientation of such that person, and provides for various other unlawful discriminatory housing practices.

The act also provides for various other unlawful practices

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in the areas of housing and employment and established remedies for the enforcement of its requirements.

This bill would amend the act to include sexual orientation, as defined, within the unlawful bases for discrimination in housing and employment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

410 P03

The people of the State of California do enact as follows:

I SECTION 1. Section --- of the Government Code

3 12920. It is hereby declared as the public policy of this
4 state that it is necessary to protect and safeguard *the* right
5 and opportunity of all persons to seek, *obtain*, and hold
6 employment without discrimination or abridgment on
7 account of race, religious creed, color, national origin,
8 ancestry, physical handicap, medical condition, marital
9 status, sex, age, or sexual orientation,

10 It is *recognized* that the practice of denying
11 employment opportunity and discriminating in the terms
12 of employment for such reasons foments *domestic strife*
13 and unrest, deprives the *state* of *the* fullest utilization of
14 its capacities for development and advance, and
15 substantially and adversely affects the interest of
16 employees, employers, and the *public* in general.

17 Further, the practice of discrimination because of race,
18 color, religion, sex, marital status, national origin,
19 ancestry, or sexual orientation in housing
20 accommodations is declared to be against public policy.

21 It is the purpose of this part to provide effective
22 remedies which will eliminate such discriminatory
23 practices

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24 *It is the intent of the Legislature that the application*
25 *of the employment provisions of this part to*
26 *discrimination based upon sexual orientation shall not be*
27 *interpreted to require the use of quotas.*

28 *The Legislature finds and declares that religious*
29 *associations and religious corporations not organized for*
30 *private profit are currently exempt from the prohibitions*

1 against employment discrimination contained in this
 2 part. It is the intent of the Legislature that the adding
 3 of this paragraph make no change in that exemption.

4 This part shall be deemed an exercise of the police
 5 power of the state for the protection of the welfare,
 6 health, and peace of the people of this state.

7 SEC. 2. Section 12921 of the Government Code is
 8 amended to read:

9 12921. The opportunity to seek, obtain and hold
 10 employment without discrimination because of race,
 11 religious creed, color, national origin, ancestry, physical
 12 handicap, medical condition, marital status, sex, age, or
 13 sexual orientation is hereby recognized as and declared
 14 to be a civil right.

15 SEC. 3. section 12926 of the Government Code is
 16 amended to read:

17 12926. As used in this part in connection with
 18 unlawful practices, unless a different meaning clearly
 19 appears from the context:

20 (a) "Age" refers to the chronological age of any
 21 individual who has reached his or her 40th birthday.

22 (b) "Employee" does not include any individual
 23 employed by his or her parents, spouse, or child, or any
 24 individual employed under a special license in a
 25 nonprofit sheltered workshop or rehabilitation facility.

26 (c) "Employer," except as hereinafter provided,
 27 includes any person regularly employing five or more
 28 persons, or any person acting as an agent of an employer,
 29 directly or indirectly; the state or any political or civil
 30 subdivision thereof and cities.

31 "Employer" does not include a religious association or
 32 corporation not organized for private profit.

33 (d) "Employment agency" includes any person
 34 undertaking for compensation to procure employees or
 35 opportunities to work.

36 (e) "Labor organization" includes any organization
 37 which exists and is constituted for the purpose, in whole
 38 or in part, of collective bargaining or of dealing with
 39 employers concerning grievances, terms or conditions of
 40 employment, or of other mutual aid or protection.

1 (f) "Medical condition" means any health impairment
2 related to or associated with a diagnosis of cancer, for
3 which a person has been rehabilitated or cured, based on
4 competent medical evidence.

5 (g) "On the bases enumerated in this part" means or
6 refers to discrimination on the basis of one or more of the
7 following: race, religious creed, color, national origin,
8 ancestry, physical handicap, medical condition, marital
9 status, sex, age, or sexual orientation.

10 (h) "Physical handicap" includes impairment of sight,
11 hearing, or speech, or impairment of physical ability
12 because of amputation or loss of function or coordination,
13 or any other health impairment which requires special
14 education or related services.

15 (i) "Religious creed," "religion," "religious
16 observance," "religious belief," and "creed" include all
17 aspects of religious belief, observance, and practice.

18 (j) "Sex" includes, but is not limited to, pregnancy,
19 childbirth, or medical conditions related to pregnancy or
20 childbirth.

21 (k) "Sexual orientation" means heterosexuality,
22 homosexuality, and bisexuality.

23 SEC. 4. Section 12927 of the Government Code is
24 amended to read:

25 12927. As used in this part in connection with housing
26 accommodations, unless a different meaning clearly
27 appears from the context:

28 (a) "Affirmative actions" means any activity for the
29 purpose of eliminating discrimination in housing
30 accommodations because of race, color, religion, sex,
31 marital status, national origin, ancestry, or sexual
32 orientation.

33 (b) "Conciliation council" means a nonprofit
34 organization, or a city or county human relations
35 Commission, which provides education, factfinding, and
36 mediation or conciliation services in resolution of
37 complaints of housing discrimination.

38 (c) "Discrimination" includes refusal to sell, rent, or
39 lease housing accommodations; includes refusal to
40 negotiate for the sale, rental, or lease of housing

1. ^a accommodations; includes representation that a housing
2. accommodation is not available for inspection, sale, or
3. rental when such housing accommodation is in fact so
4. available; includes any other denial or withholding of
5. housing accommodations; includes provision of inferior
6. terms, conditions, privileges, facilities, or services in
7. connection with such housing accommodations; includes
8. the cancellation or termination of a sale or rental
9. agreement; and includes the provision of segregated or
10. separated housing accommodations. The term
11. "discrimination" does not include refusal to rent or lease
12. a portion of an owner-occupied single-family house to a
13. person as a roomer or boarder living within the
14. household, provided that no more than one roomer or
15. boarder is to live within the household.

16. (d) "Housing accommodation" includes any
17. improved or unimproved real property, or portion
18. thereof, which is used or occupied, or is intended,
19. arranged or designed to be used or occupied, as the
20. home, residence, or sleeping place of one or more human
21. beings; but shall not include any accommodations
22. operated by a religious, fraternal, or charitable
23. association or corporation not organized or operated for
24. private profit; provided, that such accommodations are
25. being used in furtherance of the primary purpose or
26. purposes for which the association or corporation was
27. formed.

28. (e) "Owner" includes the lessee, sublessee, assignee,
29. managing agent, real estate broker or salesman, or my
30. person having any legal or equitable right of ownership
31. or possession or the right to rent or lease housing
32. accommodations, and includes the state and any of its
33. political subdivisions and any agency thereof.

34. SEC 5. Section 12930 of the Government Code is
35. amended to read:

36. 12930. The department shall have the following
37. functions, powers and duties:

38. (a) To establish and maintain a principal office and
39. such other offices within the state as are necessary to
40. carry out the purposes of this part.

AUG 09 '91 13:21

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410 P06

1 (b) To meet and function at any place within the state.

2 (c) To appoint attorneys, investigators, conciliators
3 and other employees as it may deem necessary; fix their
4 compensation within the limitations provided by law, and
5 prescribe their duties.

6 (d) To obtain upon request and utilize the services of
7 all governmental departments and agencies and, in
8 addition, with respect to housing discrimination, of
9 conciliation councils.

10 (e) To adopt, promulgate, amend, and rescind suitable
11 rules and regulations to carry out the functions and duties
12 of the department pursuant to this part.

13 (f) (1) To receive, investigate and conciliate
14 complaints alleging practices made unlawful pursuant to
15 Chapter 6 (commencing with Section 12940).

16 (2) To receive, investigate, and conciliate complaints
17 alleging a violation of Section 51 or 51.7 of the Civil Code.
18 The remedies and procedures of this part shall be
19 independent of any other remedy or procedure that
20 might apply.

21 (g) In connection with any matter under investigation
22 or in question before the department pursuant to a
23 complaint filed under Section 12960, 12961, or 12980:

24 (1) To issue subpoenas to require the attendance and
25 testimony of witnesses and the production of books,
26 records, documents, and physical materials.

27 (2) To administer oaths, examine witnesses under oath
28 and take evidence, and take depositions and affidavits.

29 (3) To issue written interrogatories.

30 (4) To request the production for inspection and
31 copying of books, records, documents, and physical
32 materials.

33 (5) To petition the superior courts to compel the
34 appearance and testimony of witnesses, the production of
35 books, records, documents, and physical materials, and
36 the answering of interrogatories.

37 (h) To issue accusations pursuant to Section 12965 or
38 12981 and to prosecute such accusations before the
39 commission.

40 (i) To issue such publications and such results of

1. investigations and research as in its judgment will tend to
 2. promote good will and minimize or eliminate
 3. discrimination in employment on the bases enumerated
 4. in this part and discrimination in housing because of race,
 5. religious *creed*, color, sex, marital status, national origin,
 6. ancestry, or sexual orientation.

7. (j) To investigate, approve, certify, decertify, monitor,
 8. and enforce nondiscrimination programs proposed by a
 9. contractor to be engaged in pursuant to Section 12990.

10. (k) To render annually to the Governor and to the
 11. Legislature a Mitten report of its activities and of its
 12. recommendations.

13. SEC. 6 Section 12931 of the Government Code is
 14. amended to read:

15. 12931. The department may also provide assistance to
 16. communities add persons therein in resolving disputes,
 17. disagreements, or difficulties relating to discriminatory
 18. practices based on race, religious creed, color, national
 19. origin, ancestry, physical handicap, medical condition,
 20. marital status, sex, age, or sexual orientation which impair
 21. the rights of persons in such communities under the
 22. Constitution or laws of the United States or of this state.
 23. The services of the department may be made available in
 24. cases of such disputes, disagreements, or difficulties only
 25. when, in its judgment, peaceful relations among the
 26. citizens of the community involved are threatened
 27. thereby. The department's services are to be made
 28. available only upon the request of an appropriate state or
 29. local public body, or upon the request of any person
 30. directly affected by any such dispute, disagreement, or
 31. difficulty.

32. The assistance of the department pursuant to this
 33. section shall be limited to endeavors at investigation,
 34. conference, conciliation, and persuasion.

35. SEC. 7. Section 12935 of the Government Code is
 36. amended to read:

37. 12935. The commission shall have the following
 38. functions, powers and duties:

39. (a) To adopt, promulgate, amend, and rescind suitable
 40. rules, regulations, and standards (1) to interpret,

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410 P05

AB 101

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commission

37 without pay.

38 (h) With respect to findings and orders made
39 pursuant to this part, to establish a system of published

1 and applying the provisions of this part.

2 (i) To issue publications and results of inquiries and
3 research which in its judgment will tend to promote good
4 will and minimize or eliminate unlawful discrimination.
5 Such publications shall include an annual report to the
6 Governor and the Legislature of its activities and
7 recommendations.

8 SEC. 8. Section 12940 of the Government Code is
9 amended to read:

10 12940. It shall be an unlawful employment practice,
11 unless based upon a bona fide occupational qualification,
12 or, except where based upon applicable security
13 regulations established by the United States or the State
14 of California:

15 (a) For an employer, because of the race, religious
16 creed, color, national origin, ancestry, physical handicap,
17 medical condition, marital status, sex, or sexual
18 orientation, of any person, to refuse to hire or employ the
19 person or to refuse to select the person for a training
20 program leading to employment, or to bar or to discharge
21 the person from employment or from a training program
22 leading to employment, or to discriminate against the
23 person in compensation or in terms, conditions or
24 privileges of employment.

25 (1) Nothing in this part shall prohibit an employer
26 from refusing to hire or discharging a physically
27 handicapped employee, or subject an employer to any
28 legal liability resulting from the refusal to employ or the
29 discharge of a physically handicapped employee, where
30 the employee, because of his or her physical handicap, is
31 unable to perform his or her duties, or cannot perform
32 those duties in a manner which would not endanger his
33 or her health or safety or the health and safety of others.

34 (2) Nothing in this part shall prohibit an employer
35 from refusing to hire or discharging an employee who,
36 because of the employee's medical condition, is unable to
37 perform his or her duties, or cannot perform those duties
38 in a manner which would not endanger the employee's
39 health or safety or the health or safety of others. Nothing
40 in this part shall subject an employer to any legal liability

410 P07

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1 resulting from the refusal to employ or the discharge of
 2 an employee who, because of the employee's medical
 3 condition, is unable to perform his or her duties, or
 4 cannot perform those duties in a manner which would
 5 not endanger the employee's health or safety or the
 6 health or safety of others.

7 (3) Nothing in this part relating to discrimination on
 8 account of marital status shall either (i) affect the right
 9 of an employer to reasonably regulate, for reasons of
 10 supervision, safety, security, or morale, the working of
 11 spouses in the same department, division, or facility,
 12 consistent with the rules and regulations adopted by the
 13 commission, or (ii) prohibit bona fide health plans from
 14 providing additional or greater benefits to employees
 15 with dependents than to those employees without or with
 16 fewer dependents. *Nothing in this part relating to*
 17 *discrimination on account of sexual orientation shall be*
 18 *interpreted to invalidate any marital status classification*
 19 *which is otherwise valid.*

20 (4) Nothing in this part relating to discrimination on
 21 account of sex shall affect the right of an employer to use
 22 veteran status as a factor in employee selection or to give
 23 special consideration to Vietnam era veterans.

24 (b) For a labor organization, because of the race,
 25 religious creed, color, national origin, ancestry, physical
 26 handicap, medical condition, marital status, or sex, or
 27 sexual orientation of any person, to exclude, expel or
 28 restrict from its membership the person, or to provide
 29 only second-class or segregated membership or to
 30 discriminate against any person because of the race,
 31 religious creed, color, national origin, ancestry, physical
 32 handicap, medical condition, marital status, sex, or sexual
 33 orientation of the person in the election of officers of the
 34 labor organization or in the selection of the labor
 35 organization's staff or to discriminate in any way against
 36 any of its members or against any employer or against any
 37 person employed by an employer.

38 (c) For any person to discriminate against any person
 39 in the selection or training of that person in any
 40 apprenticeship training program or any other training

program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or sexual orientation of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or sexual orientation, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly-related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code which prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(f) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or

1 coerce the doing of any of the acts forbidden under this
2 part, or to attempt to do so.

3 (h) For an employer, labor organization, employment
4 agency, apprenticeship training program or any training
5 program leading to employment, or any other person,
6 because of race, religious creed, color, national origin,
7 ancestry, physical handicap, medical condition, marital
8 status, sex, age, or sexual orientation, to harass an
9 employee or applicant. Harassment of an employee or
10 applicant by an employee other than an agent or
11 supervisor shall be unlawful if the entity, or its agents or
12 supervisors, knows or should have known of this conduct
13 and fails to take immediate and appropriate corrective
14 action. An entity shall take all reasonable steps to prevent
15 harassment from occurring. Loss of tangible job benefits
16 shall not be necessary in order to establish harassment.
17 The provisions of this subdivision are declaratory of
18 existing law, except for the new duties imposed on
19 employers with regard to harassment. For purposes of
20 this subdivision only, "employer" means any person
21 regularly employing one or more persons, or any person
22 acting as an agent of an employer, directly or indirectly,
23 the state, or any political or civil subdivision thereof, and
24 cities. However, "employer" does not include a religious
25 association or corporation not organized for private
26 profit. For other types of discrimination as enumerated in
27 subdivision (a), an employer remains as defined in
28 subdivision (c) of Section 12926. Nothing contained in
29 this subdivision shall be construed to apply the definition
30 of employer found in this subdivision to subdivision (a).

31 (i) For an employer, labor organization, employment
32 agency, apprenticeship training program, or any training
33 program leading to employment, to fail to take all
34 reasonable steps necessary to prevent discrimination and
35 harassment from occurring.

36 (j) For an employer or other entity covered by this
37 part to refuse to hire or employ a person or to refuse to
38 select a person for a training program leading to
39 employment or to bar or to discharge a person from
40 employment or from a training program leading to

1 employment, or to discriminate against a person in
2 compensation or in terms, conditions, or privileges of
3 employment because of a conflict between the person's
4 religious belief or observance and any employment
5 requirement, unless the employer or other entity
6 covered by this part demonstrates that it has explored
7 any available reasonable alternative means of
8 accommodating the religious belief or observance,
9 including the possibilities of excusing the person from
10 those duties which conflict with his or her religious belief
11 or observance or permitting those duties to be performed
12 at another time or by another person, but is unable to
13 reasonably accommodate the religious belief or
14 observance without undue hardship on the conduct of
15 the business of the employer or other entity covered by
16 this part. Religious belief or observance, as used in this
17 section, includes, but is not limited to, observance such as
18 a Sabbath or other religious holy day or days, and
19 reasonable time necessary for travel prior and
20 subsequent to a religious observance.

21 SEC. 9. Section 12944 of the Government Code is
22 amended to read:

23 12944. (a) It shall be unlawful for a licensing board to
24 require any examination or establish any other
25 qualification for licensing which has an adverse impact on
26 any class by virtue of its race, creed, color, national origin
27 or ancestry, sex, age, medical condition, physical
28 handicap, or sexual orientation, unless such practice can
29 be demonstrated to be job related.

30 Where the commission, after hearing, determines that
31 an examination is unlawful under this subdivision, the
32 licensing board may continue to use and rely on such
33 examination until such time as judicial review by the
34 superior court of the determination is exhausted.

35 If an examination or other qualification for licensing is
36 determined to be unlawful under this section, that
37 determination shall not void, limit, repeal, or otherwise
38 affect any right, privilege, status, or responsibility
39 previously conferred upon any person by such
40 examination or by a license issued in reliance on such

1 examination or qualification.

2 (b) It shall be unlawful for any licensing board, unless
3 specifically acting in accordance with federal equal
4 employment opportunity guidelines or regulations
5 approved by the commission, to print or circulate or
6 cause to be printed or circulated any publication, or to
7 make any non-job-related inquiry, either verbal or
8 through use of an application form, which expresses,
9 directly or indirectly, any limitation, specification, or
10 discrimination as to race, religious creed, color, national
11 origin, ancestry, physical handicap, medical condition,
12 sex, age, or sexual orientation, or any intent to make any
13 such limitation, specification, or discrimination. Nothing
14 in this subdivision shall prohibit any licensing board from
15 making, in connection with prospective licensure or
16 certification, an inquiry as to, or a request for information
17 regarding, the physical fitness of applicants if that inquiry
18 or request for information is directly related and
19 pertinent to the license or the licensed position the
20 applicant is applying for.

21 (c) It is unlawful for a licensing board to discriminate
22 against any person because such person has filed a
23 complaint, testified, or assisted in any proceeding under
24 this part.

25 (d) It is unlawful for any licensing board to fail to keep
26 records of applications for Licensing or certification for a
27 period of two years following the date of receipt of such
28 applications,

29 (e) As used in this section, "licensing board" means
30 any state board, agency, or authority in the State and
31 Consumer Services Agency which has the authority to
32 grant licenses or certificates which are prerequisites to
33 employment eligibility or professional status.

34 SEC. 10. Section 12955 of the Government Code is
35 amended to read:

36 12955. It shall be unlawful:

37 (a) For the owner of any housing accommodation to
38 discriminate against any person because of the race,
39 color, religion, sex, marital status, national origin,
40 ancestry, or sexual orientation of such person.

410 P09

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AUG 09 '91 13:25

1 (b) For the owner of any housing accommodation to
2 make or to cause to be made any written or oral inquiry
3 concerning the race, color, religion, sex, marital status,
4 national origin, ancestry, or sexual orientation of any
5 person seeking to purchase, rent or lease any housing
6 accommodation.

7 (c) For any person to make, print, or publish, or cause
8 to be made, printed, or published any notice, statement,
9 or advertisement, with respect to the sale or rental of a
10 housing accommodation that indicates any preference,
11 limitation, or discrimination based on race, color,
12 religion, sex, marital status, national origin, ancestry, or
13 sexual orientation or an intention to make any such
14 preference, limitation, or discrimination.

15 (d) For any person subject to the provisions of Section
16 51 of the Civil Code, as that section applies to housing
17 accommodations, as defined in this part, to discriminate
18 against any person because of race, color, religion, sex,
19 marital status, national origin, ancestry, or sexual
20 orientation with reference thereto.

21 (e) For any person, bank, mortgage company or other
22 financial institution to whom application is made for
23 financial assistance for the purchase, organization, or
24 construction of any housing accommodation to
25 discriminate against any person or group of persons
26 because of the race, color, religion, sex, marital status,
27 national origin, ancestry, or sexual orientation of such
28 person or persons, or of prospective occupants or tenants,
29 in the terms, conditions, or privileges relating to the
30 obtaining or use of any such financial assistance.

31 (f) For any owner of housing accommodations to
32 harass, evict, or otherwise discriminate against any
33 person in the sale or rental of housing accommodations
34 when the owner's dominant purpose is retaliation against
35 a person who has opposed practices unlawful under this
36 section, informed law enforcement agencies of practices
37 believed unlawful under this section, or has testified or
38 assisted in any proceeding under this part. Nothing
39 herein is intended to cause or permit the delay of an
40 unlawful detainer action.

410 P10

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1 (g) For any person to aid, abet, incite, compel, or
2 coerce the *doing* of any of the acts or practices declared
3 unlawful in this section, or to attempt to do so.

4 SEC. 11. Section 12993 of the Government Code is
5 amended to read:

6 12993. (a) The provisions of this part shall be
7 construed liberally for the accomplishment of the
8 purposes thereof. Nothing contained in this part shall be
9 deemed to repeal any of the provisions of the Civil Rights
10 Law or of any other law of this state relating to
11 discrimination because of race, religious creed, color,
12 national origin, ancestry, physical handicap, medical
13 condition, marital status, sex, age, or sexual orientation.

14 (b) Nothing contained in this part relating to
15 discrimination in employment on account of sex or
16 medical condition shall be deemed to affect the operation
17 of the terms or conditions of any bona fide retirement,
18 pension, employee benefit, or insurance plan, provided
19 such terms or conditions are in accordance with
20 customary and reasonable or actuarially sound
21 underwriting practices.

22 (c) While it is the intention of the Legislature to
23 occupy the field of regulation of discrimination in
24 employment and housing encompassed by the provisions
25 of this part, exclusive of all other laws banning
26 discrimination in employment and housing by any city,
27 city and county, county, or other political subdivision of
28 the state, nothing contained in this part shall be
29 construed, in any manner or way, to limit or restrict the
30 application of Section 51 of the Civil Code.

31 SEC. 12. Section 12995 of the Government Code is
32 amended to read:

33 12995. Nothing contained in this part relating to
34 discrimination in housing shall be construed to:

35 (a) Affect the title or other *interest* of a person who
36 purchases, leases, or takes an encumbrance on a housing
37 accommodation in good faith and without knowledge
38 that the owner or lessor of the property has violated any
39 provision of this part.

40 (b) Prohibit any postsecondary educational

- 1 institution, whether private or public, from providing
2 housing accommodations reserved for either male or
3 female students so long as no individual person is denied
4 equal access to housing accommodations, or from
5 providing separate housing accommodations reserved
6 primarily for married students or for students with minor
7 dependents who reside with them.
- 8 (c) Prohibit selection based upon factors other than
9 race, color, religion, sex, marital status, national origin,
10 ancestry, or sexual orientation.
- 11 (d) Promote housing accommodations on a
12 preferential or quota basis.

City of Lancaster

44933 North Fern Avenue
Lancaster, California 93535
805-723-6000



May 7, 1991

Honorable Pete Wilson
Governor
State of California
State Capitol, First Floor
Sacramento, CA 95814

Rev. Henry W. Means
Mayor
Wm. C. Pursley
Vice Mayor
Arlene Rodde
Councilman
George Lee Roof
Councilman
George S. Thompson
Councilman
Harold L. Schilling
City Manager

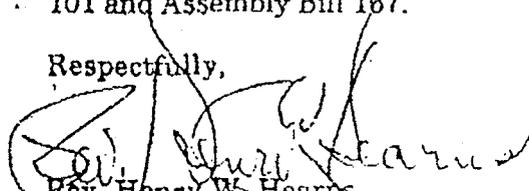
Dear Governor Wilson:

Two bills, Assembly Bill 101 and Assembly Bill 167, are presently working their way through the legislative process and are expected to soon appear on your desk. We would urge you to veto these bills because we sincerely believe that the changes in law they propose threaten the traditional family unit and traditional family values.

The traditional family is and has been the foundation of our society. We fear that the extension of extraordinary privileges to behavior-based groups, as these two measures propose, poses an unacceptable threat to the traditional family unit and traditional family values. The housing privileges proposed to be extended under Assembly Bill 101 exceed the protections afforded families with children! Legitimizing marriages between and among members of the same sex is a concept alien to those who embrace traditional family values.

In support of traditional family values, on May 6, 1991, the Lancaster City Council voted unanimously to express its vigorous opposition to Assembly Bill 101 and Assembly Bill 167. Because of the expected negative affects these measures will have on the family, we urge you to veto Assembly Bill 101 and Assembly Bill 167.

Respectfully,


Rev. Henry W. Means
Mayor

Christian Community Concerns

August 6, 1991

Council Member Randy Snider
P.O. Box 3006
Lodi, CA 95241

Dear Mr. Snider:

AB 101, the hanosexual bill, is steamrolling through the state legislature and is gaining momentum very fast.

Enclosed is some information on the bill to bring you up-to-date as to the status of this bill, and the implications to the churches if this bill becomes law.

AB 101 passed the State Assembly on June 28, and is now on the Senate Side. It passed the Senate Judiciary Committee several weeks ago and next will be heard in **The** Senate Appropriations Committee probably on August 19. If it passes there it will go for a vote on the Senate Floor and then to the Governor's desk for signature.

Regardless of how a person feels towards the hanosexual cannunity, this is a bad law. There is absolutely no canpelling reason why we need **AB 101**, except to advance the real agenda of the hanosexual community, which is to force straight America to accept their deviant life style.

Our churches, and the Christian community at large are very concerned, and are watching very closely the activity surrounding this bill.

As the director of Christian Community Concerns I am asking that you as our city council stand with us in opposing this bill.

Last year, on October 17, the City Council took a position to support the Alcohol Industry by opposing proposition 134, and supporting proposition 126, the alcohol tax initiatives, because they felt it would be harmful to the Lodi Wine Industry.

AB 101, if passed, would be equally harmful to the churches. I would hope that you would recognize the serious implications this bill will pose, and join with us in opposing it.

Thank-you very much for your consideration.

Sincerely,



Ken Owen
Director



Traditional Values Coalition

CHAIRMAN
Rev. Louis P. Sheldon

March 27, 1391

Assemblyman Terry Friedman
Chairman, Assembly Labor and Employment Committee
State Capitol
Sacramento, CA 95814

RE: Opposition to AB 101

Dear Assemblyman Friedman:

The Traditional Values Coalition opposes AB 101 because it, along with its companion bill AB 167 (same sex marriages), seeks to fulfill the real homosexual agenda -- use the power of the state to gain full acceptance of the homosexual lifestyle and garner special recognition and privileges.

Numerous historic statements, such as the Bill of Rights and the 14th Amendment of our Constitution, grant civil liberties and equal rights to ALL Americans. For a few special groups, Civil Rights laws have been devised to redress legitimate and substantial discrimination related injuries not addressed by existing law. Though such laws are powerful and coercive, they currently have the broad support of the public, legislatures, and courts because the groups having access to them have, after years of evidence gathering and public debate, been carefully chosen.

To be among those receiving protection, a group must be identified as a "discrete and insular minority" (Chief Justice Stone, U.S. Supreme Court, 1938). AB 101 would raise homosexuality to the same legal and protected status as true insular and discreet minorities. It would take away resources from serious legitimate civil rights cases which would thereby do a significant dis-service to those seeking remedy from true racial and religious discrimination.

To be considered for special protection, a class of individuals must meet ALL of the following criteria: exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group; show that they are a minority or politically powerless; have as a class of individuals, endured substantial injury. Alternatively, the individual or group could demonstrate that the statutory classification at issue burdens a fundamental right.

The following includes some of the rationale federal courts have cited when refusing to grant homosexuals special recognition and privileges:

1) Homosexuality is not an immutable characteristic; it is behavioral. Hence, it is fundamentally different from traits such as race, gender, or alienage, which define existing minority groups.

2) The homosexual community does have political power. Many elected public officials are openly homosexual, their political action committees raise millions of dollars and their political lobbyies influence congress and state legislatures.

3) The homosexual community has not endured substantial injury. There is no evidence that homosexuals encounter the kind of systematic, arbitrary, and irrational discrimination many ethnic groups endured for years. The atrocities which led up to the 1964 Civil Rights Act simply do not exist today against homosexuals. There are no seperate restaurants, drinking fountains or restrooms for homosexuals.

The U.S. Supreme Court ruled in Bowers v Hardwick, 1986 that homosexual behavior is not a fundamental right protected by the Constitution. In that decision the Court stated that to protect homosexual sodomy would require the eventual protection of other deviant sexual behaviors such as incest. The Court said, "We are unwilling to travel down that road." People's intuition, that giving special recognition and privileges to homosexuals is the first step in a much larger agenda, is in fact backed up by the highest court in the land.

Homosexuality is a matter of choice. Research by Masters and Johnson, Dr. John Money of Johns Hopkins School of Medicine, Dr. Charles Socarides of the Albert Einstein College of Medicine and Dr. George Rekers of University of South Carolina shows that homosexuality is based on environmental factors. This is a fact which even the homosexual LIFE Lobby cannot refute; nor can it conclusively demonstrate that homosexuality is genetic. Realizing this and the negative political ramifications associated with it, the LIFE Lobby dismisses the issue of "choice of behavior" as irrelevant.

Much of our current legislation, school curriculum and government programs regarding homosexuality depends upon scientifically inaccurate and fraudulent data. Many studies prove this point. Kinsey, Sex and Fraud, by Drs. Reisman and Eichel, show that the Kinsey Study of 1948, upon which some conclusions about homosexuality are based, is fraudulent.

The oft-quoted figure of a 10% homosexual population is one of the inaccurate conclusions. The University of Chicago's

National Opinion Research Corporation (NORC) has shown that the homosexual population is actually less than 1% of the overall population, Moreover, because homosexuality is caused by environmental factors such as rape, molestation, dysfunctional families, etc,, the number of homosexuals in society is not a consistent percentage of the population,

Furthermore, initial analysis of data from several studies and state run departments shows that complaints of discrimination based on sexual orientation were small in number; even fewer were proved.

In summary, there is no compelling need for AB 101. Nor are there compelling arguments that justify legislating minority status to homosexual behavior or sanctioning the legitimacy of the true homosexual agenda.

Sincerely,

Rev. Louis P. Sheldon
Chairman

LPS/sr

TVC TVC

Traditional Values Coalition

CHAIRMAN
Rev Louis P Sheldon

AB 101 FACT SHEET

AB 101:

- * Amends the Fair Employment and Housing Act:
 - adds "sexual orientation" to the list of specially protected minority classifications that cannot be considered for housing and employment purposes.
- * Raises homosexuality to full status as a protected civil right:
 - Removes heterosexuality from center stage as the norm and consensus for society.
 - Provides homosexuals special minority rights based solely upon their choice of sexual behavior.
- Forces religious institutions and charitable organizations to employ homosexuals and bisexuals:
 - Applies to all non-sectarian staff. (Does not apply to clergy.)
 - Includes all paid and volunteer positions.
- * Does not let a person who rents out a home or room(s) refuse housing to an applicant because he/she is a homosexual.
- * Diverts scarce resources from legitimate minorities and serious civil rights cases.

Arguments In Opposition To AB 101:

- * There is no compelling need for the bill:
 - Homosexuals already enjoy the same legal rights as other Americans do. {Enumerated in the Bill of Rights and the Constitution.}
 - State documented data confirm this lack of need:
 - a. State Personnel Board (SPB) data taken between 1986 and 1989 show that out of 4,200 total complaints, legitimate discrimination complaints based on sexual orientation amounted to only .29% of all SPB complaints.

b. Department of Fair Employment and Housing (DFEH) data taken between 1987 and 1990 show that out of 30,900 total complaints, legitimate discrimination based upon sexual orientation amounted to .032% of all DFEH complaints.

* Homosexuals do not qualify as legal minorities:

- The Supreme Court ruled that to be protected as a "discrete and insular" minority, a group must exhibit immutable characteristics, be politically powerless, and have endured substantial injury.
- Homosexuality is not an immutable characteristic, it is a behavioral choice.
- The homosexual community has considerable political power.
- The homosexual community has not endured substantial injury--there are no separate restaurants, restrooms or drinking fountains for homosexuals.

* Homosexual behavior is not a fundamental right:

- The Supreme Court ruled in Bowers v Hardwicke, 1986, that homosexual behavior is not a fundamental right protected by the Constitution.

* It is unfair and insulting to those minorities whose status is valid, permanent and irreversible.

* Homosexuality is a matter of choice:

- Science generally agrees that homosexuality is based upon familial and environmental factors rather than genetics.
- No homosexual gene has ever been identified.
- It is a decision not a destiny.
- There are recovered homosexuals; are there likewise recovered blacks, hispanics, etc..

* At most, only 3% of the population is homosexual.

- National Opinion Research Corporation, a University of Chicago group which develops statistics for the U.S. government, shows that less than 1% of the population is homosexual.
- Center for Disease Control studies estimate that maybe 3% of the population is homosexual.

* It is a direct assault on the traditional family and the heterosexual ethic.

- * It takes away the legal and moral rights of others:
 - Forces people to comply with the state's determination that homosexuality is a legitimate and protected behavior,
 - Restricts a person's religious rights and moral conscience.

- * Homosexuality is a risk to the public health:
 - Homosexuals claim their lifestyle is a healthy and viable alternative to heterosexuality, but can this be true when we consider that homosexual men account for:
 - a. **80%** of all California **AIDS** cases,
 - b. **50%** of all U.S. cases of syphilis, gonorrhea of the throat and intestinal infections,
 - c. a rate of hepatitis B infection **20-50** times greater than heterosexuals.

- * Homosexuality often leads to other deviant sexual behaviors such as pedophilia or bestiality.

- * In the future, "sexual orientation" can be expanded to include pedophilia, bestiality, sado-masochism and cross-generational sex (incest).

- * Prior experience shows that supporters of this bill say one thing to get passage then do another, revealing their true agenda,

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688-7841

March 26, 1991

Reverend Louis P. Sheldon
Traditional Values Coalition
Suite 350
100 So. Anaheim Blvd.
Anaheim, CA 92805

Re: AB101

Dear Reverend Sheldon:

As you know from past contacts, I have been active in the legal representation of various Christian ministries in the area of employment rights. I am writing to you to briefly register my concerns about AB101 which would add sexual orientation to the protected categories under the Fair Employment and Housing Act.

In my opinion, this bill would pose grave legal concerns to Christian ministries such as schools which oppose on Biblical grounds heterosexual, bisexual or homosexual lifestyle practices which are unchaste. My reasoning is as follows:

1. There are only nine religious nonprofit tax exempt organizations in the state who have been determined to be exempt from the jurisdiction of the Department of Fair Employment and Housing ("DFEH") pursuant to the religious employer exemption of Government Code section 12926(c). Only two of these exempted organizations are educational institutions.
2. To be determined exempt, a religious nonprofit tax exempt organization has to be charged with a violation of the Fair Employment and Housing Act ("FEHA") and must raise its claim that it is not an employer subject to the Act. As you can see from the attached enforcement memorandum of the DFEH, that exemption does not just occur on the presentation of documentation of religious organizational status and tax-exemption, DFEH makes further and, in my opinion, unconstitutionally intrusive inquiry into the beliefs and practices of the organization and its board and employees.
3. Many religious organizations more concerned with mission than with organizational details may not have paid attention to the organizational prerequisites for the exemption, and may be caught unawares. For instance, I recently encountered

.Reverend Louis Sheldon

March 26, 1991

Page 2

a Catholic college which had mistakenly organized itself as a public benefit nonprofit corporation rather than a religious nonprofit corporation, thus losing the benefits of the religious employer exemption,

4. The mechanism for obtaining exemption is in the nature of a legal defense rather than an affirmative process to establish the religious nonprofit status of the organization. I believe that the legislative history of Government Code section 12926(c) shows that if an entity was organized as a religious nonprofit corporation or association and had obtained tax-exempt status, it was to be exempt from the Act. The DFEH, however, requires further proof of religious orientation of the corporation unwilling to apply the standards of the law. Many claims of religious exemption when made as a defense are made in the harsh light of publicity such as the recent claims of the homosexual professor against Christ college in Irvine or the priest-professor at Loyola University who married without renouncing his vows. The heavy media attention creates extra burdens which leads to political pressure not to give the exemption to the claiming organization.

There are provisions under Title IX of the Federal Civil Rights Act that allow religious colleges or universities to apply to the Secretary of Education in advance for determination that these organizations are exempt from provisions of that law due to religious objections to abortion and birth control coverage in student health plans. Religious organizations should be given a similar mechanism under the FEHA to obtain an affirmative determination of religious exemption even before any charges are made.

5. The addition of the sexual orientations of heterosexuality, bisexuality and homosexuality to the categories protected by law from discrimination while requiring religious organizations to prove their religious orientation to obtain exemption from the same law is, in effect, stating the religious practice is the aberration and that homosexuality or bisexuality are the normal standard of the law. It will open up churches and ministries to legal claims of bigotry for simply holding to one of the most traditional and basic of spiritual values -- the integrity of the heterosexual relationship within the sanctity of marriage. This is basic to Christian belief because it is the very metaphor expressing the ideal between Christ and His Church. This may be an obvious point, but it cannot be overemphasized. If this amendment is passed, member churches and ministries can expect persecution for basic beliefs.

Reverend Louis Sheldon
March 26, 1991
Page 3

I have also given some thought to my earlier comments to you about the California Supreme Court decision in Rojo v. Kliger and U. S. Supreme Court decision in Smith vs. Oregon Department of Employment and their possible impact if the proposed AB101 is passed. While these decisions pose problems to churches, they really do not provide direct reasons for opposing this legislation, in my opinion.

I hope the information is helpful to you and may assist you in informing churches and ministries that AB101 poses a real threat to their institutions,

Very truly yours,



Kent A. Hansen

KAH:lc

cc: Dr. Paul Kienel

6.1. Sheldon

JOHN WAIHEE
RECORDS



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ATTORNEY GENERAL

CORINNE E. A. WATANABE
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(808) 548-4748
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March 19, 1991

The Honorable Gene Ward
Representative, Twenty-Second District
The Sixteenth Legislature
State of Hawaii
State Capitol, Room 415
Honolulu, Hawaii 96813

Dear Representative Ward:

Re: S.B. No. 1811, S.D. 1

This letter is in response to your written request wherein you asked for our interpretation of section 378-3 exemption (5) as it relates to S.B. No. 1811.

It is our opinion that, under the First Amendment of the United States Constitution (the separation of church and state), members of the clergy (ministers, associate ministers, pastors, etc.) are exempt from the provisions in S. B. 1811.

However, non-sectarian employees of the church, church-sponsored activities or programs are not exempt. This would include secretaries, janitors, gardeners, teachers, etc. The church may, however, give preference to hiring certain individuals based upon religion or denomination, but can not otherwise discriminate based upon race, national origin, gender, and, under S.B. No. 1811, sexual orientation.

Please call me at x6-11282 if you have any further questions on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Warren Price, III".

Warren Price, III
Attorney General

WP/SRH
3/19/91

Council opposes 'Nickel a Drink'

By TAMARA ADAMSKI
News-Sentinel staff writer

Lodi City Council members took a strong stance against Proposition 134 — the "Nickel a Drink Tax" — that will appear on the Nov. 8 ballot.

At their regularly scheduled Wednesday night meeting, council members listened to City Attorney Bob McVey's review of both Proposition 134 and Proposition 126, which, he said, would be called the alcohol industry's response to Prop. 134.

Following McVey's presentation, several Lodi grape growers and vintners encouraged council members to vote against Prop. 134 and in favor of Prop. 126, claiming that the "Nickel a Drink Tax" would wreak economic havoc on

Council member David Hinchman agreed with Lucas. "The small wineries, like we have around Lodi, are going to suffer a tremendous impact."

The council did not take a stance for or against Prop. 126.

Though unable to take any action on non-agenda items, council members listened to unscheduled public comment regarding a number of oak trees that were chopped down along Vicksburg.

Lodi High School teacher Barbara O'Brien and three of her students spoke in favor of a city ordinance to protect mature oak trees, such as those that were destroyed east of town. "The remaining two trees have not yet been cut down and all efforts should be made to stop the

when Berndt Tree Service cut them down.

Council members agreed to support the ordinance making two oak trees and give City Manager Tom Peterson the task of finding out what could be done to save them.

In other business, council members approved a recommendation by the Planning Commission to petition the Industrial Commission to allow increased use of industrial buildings along the Lodi-Sacramento Highway. The commission also approved a recommendation by the Planning Commission to petition the Industrial Commission to allow the use of industrial buildings for other purposes. The commission also approved a recommendation by the Planning Commission to petition the Industrial Commission to allow the use of industrial buildings for other purposes.

The Zoning Ordinance amendments provided relief for existing homes on South Sacramento

of Lodi.

Mark Gabriella, vice president of wine making at Guild Winery said, "If 134 passes, we will employ fewer people and we will purchase fewer grapes."

Guild employs 190 people at its two Lodi plants and buys approximately 20,000 tons of Lodi grapes each year.

Tamara Lucas, who owns the Lucas Winery on Davis Road in Lodi said that Prop. 134 would put her winery out of business.

"I feel like we're getting slaughtered," Lucas said. "It will put small people like me out of business."

But, while Lucas encouraged council members to vote in favor of Prop. 126, she said she felt it was simply the lesser of two evils.

She said that both propositions are asking the wine industry to answer for other properties whose use of alcohol and drugs as well

Council member Jim Pinkerton agreed, saying that the trees Wood cut on property that his ancestors had owned more than 100 years ago. "It's tough to see them go," Pinkerton said.

Mayor Randy Snider read from a letter sent to the council by the Lodi Garden Section of the American Association of University Women. "The city council should work toward the goal of saving and protecting the trees."

While technically within Lodi city limits, the remaining oak trees are on a portion of land considered a state highway right-of-way.

According to Assistant City Engineer Richard Prima, the trees that were chopped down were removed by the Berndt Tree Service of Lodi under contract with the Claude C. Wood Co. to make way for a sidewalk required by the city.

Prima said the Claude C. Wood Co. did not have state permits to start work on the project

at a number of each young property owners in the area were having trouble selling their homes. Lending institutions were providing reasonable loans to buyers because of concerns that the city would not allow the homes to be rebuilt if more than 50 percent of the home was destroyed by fire or natural disaster.

Loretta Churchill, who owns property on South Sacramento Street, said homes in that area of town provided affordable housing, yet were the most expensive homes in town because of high lending costs.

On its regular calendar, council members agreed to reallocate \$16,450 of 1990-1991 Community Development Block Grants to fund the construction of a new kitchen for the Senior Service Agency. The countywide agency provides food for the Meals on Wheels programs, but its kitchen was under construction.

Police

Seen a crime? Call Crime Stoppers, 333-6771

Animal rights activists charged

SACRAMENTO (MNS) — Two brewing over the break-in at the Northern Californians charged University of Oregon researcher