

(b) FOR-PROFIT ACTIVITIES.—This Act shall apply with respect to employment and employment opportunities that relate to any employment position that pertains solely to a religious organization's for-profit activities subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

SEC. 10. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—(1) For purposes of this Act, the term "employment or employment opportunities" does not apply to the relationship between the United States and members of the Armed Forces.

(2) As used in paragraph (1), the term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating special rights or preferences for veterans.

SEC. 11. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act in the case of a claim alleged by an individual for a violation of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), or

(B) sections 302, 303, and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202, 1203, 1204), in the case of a claim alleged by such individual for a violation of such title or of section 302(a)(1) of such Act, respectively,

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title,

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (Public Law 104-1; 109 Stat. 3) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act,

(4) the Attorney General of the United States shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), or

(B) sections 302, 303, and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202, 1203, 1204),

in the case of a claim alleged by such individual for a violation of such title or of section 302(a)(1) of such Act, respectively, and

(5) the courts of the United States shall have the same jurisdiction and powers as such courts have to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title,

(B) sections 302, 303, and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202, 1203, 1204) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act, and

(C) the Congressional Accountability Act of 1995 (Public Law 104-1; 109 Stat. 3) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act.

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title,

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by such individual for a violation of such section, and

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of Congressional Accountability Act of 1995 (Public Law 104-1; 109 Stat. 3) in the case of a claim alleged by such individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to claims alleged by covered employees (as defined in section 101 of the Congressional Accountability Act of 1995 (Public Law 104-1; 109 Stat. 3)) for violations of this Act, title III of the Congressional Accountability Act of 1995 shall apply in the same manner as such title applies with respect to a claims alleged by such covered employees for violations of section 201(a)(1) of such Act.

SEC. 12. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the eleventh article of amendment to the Constitution of the United States from an action in a Federal court of competent jurisdiction for a violation of this Act. In an action against a State for a violation of this Act, remedies (including remedies at law and in equity) are available for the violation to the same extent as such remedies are available in an action against any public or private entity other than a State.

(b) LIABILITY OF THE UNITED STATES.—The United States shall be liable for all remedies (excluding punitive damages) under this Act to the same extent as a private person and shall be liable to the same extent as a non-public party for interest to compensate for delay in payment.

SEC. 13. ATTORNEYS' FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or the Commission, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including expert fees and other litigation expenses, and costs. The United States shall be liable for the foregoing the same as a private person.

SEC. 14. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this Act or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised, enjoyed, assisted, or encouraged the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 15. POSTING NOTICES.

A covered entity shall post notices for employees, applicants for employment, and members describing the applicable provisions of this Act in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e—10).

SEC. 16. REGULATIONS.

The Commission shall have authority to issue regulations to carry out this Act.

SEC. 17. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 18. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 19. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act and shall not apply to conduct occurring before such effective date.

SEC. 20. DEFINITIONS.

As used in this Act:

(1) The term "Commission" means the Equal Employment Opportunity Commission.

(2) The term "covered entity" means an employer, employment agency, labor organization, joint labor management committee, an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) applies, an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies, or an employing authority to which section 201(a) of the Congressional Accountability Act of 1995 (Public Law 104-1; 109 Stat.3) applies.

(3) The term "employer" has the meaning given such term in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)).

(4) The term "employment agency" has the meaning given such term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) The term "employment or employment opportunities" includes job application procedures, hiring, advancement, discharge, compensation, job training, or any other term, condition, or privilege of employment.

(6) The term "labor organization" has the meaning given such term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) The term "person" has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) The term "religious organization" means—

(A) a religious corporation, association, or society, or

(B) a college, school, university, or other educational institution, not otherwise a religious organization, if—

(i) it is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association, or society, or

(ii) its curriculum is directed toward the propagation of a particular religion.

(9) The term "sexual orientation" means homosexuality, bisexuality, or heterosexuality, whether such orientation is real or perceived.

(10) The term "State" has the meaning given such term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(ii)).

Pending consideration of said motion,

§87.11 POINT OF ORDER

Mr. CANADY made a point of order against the motion to recommit with instructions, and said:

"The motion to recommit is not germane to the bill. The bill relates solely to the subject of marriage. The motion to recommit seeks to add language which relates to employment discrimination to a bill dealing with marriage. Clearly, this is a proposition on a subject different from that under consideration, in violation of clause 7 of rule XVI, and I ask the chair to rule the motion to recommit out of order."

Ms. JACKSON-LEE was recognized to speak to the point of order and said:

"Madam Speaker, with great pain in my heart, I would maintain that we are germane, and it is with deepest regrets and great pain that I hear that human dignity is not germane. But at this point, Madam Speaker, with this pain and this disappointment, I will not contest the point of order."

The SPEAKER pro tempore, Ms. GREENE, said:

"The gentlewoman of Texas [Ms. JACKSON-LEE] concedes the point of order, and the point of order of the gentleman from Florida [Mr. CANADY] is sustained."

Mr. BERMAN moved to recommit the bill to the Committee on Appropriations with instructions to report the bill back to the House forthwith with the following amendment:

Page 3, line 24, at the end of the bill, add the following new section to the legislation:

"SEC. 4. STUDY OF THE DIFFERENCES IN BENEFITS, RIGHTS AND PRIVILEGES AVAILABLE TO PERSONS IN A MARRIAGE AND TO PERSONS IN A DOMESTIC PARTNERSHIP.

"(a) GENERAL ACCOUNTING OFFICE STUDY.—The General Accounting Office shall undertake a study of the differences in the benefits, rights and privileges available to persons in a marriage and the benefits, rights and privileges available to persons in a domestic partnership resulting from the non-recognition of domestic partnerships as legal unions by State and Federal laws.

"(b) REQUIREMENTS OF STUDY.—The General Accounting Office shall—

"(1) conduct a comprehensive review of Federal statutes and administrative regulations, rulings, and determinations to compile an inventory of Federal benefits, rights and privileges available to persons in a marriage and to determine whether such Federal benefits, rights, and privileges are also available to persons in a domestic partnership;

"(2) analyze the impact of Federal statutes and administrative regulations, rulings, and determinations on the private sector to determine whether those statutes, rules, regulations, and determinations influence the private sector to make benefits, rights, and privileges available to persons in a marriage which are not available to persons in a domestic partnership;

"(3) survey State property, testamentary, probate, insurance, credit, and contract laws to determine whether a difference exists in their usefulness to address the legal needs of persons in a marriage and their usefulness to address the legal needs of persons in a domestic partnership;

"(4) survey the laws of other major industrialized countries to determine whether there is a difference in those countries between the government benefits, rights and privileges available to persons in a marriage and the governmental benefits, rights and privileges available to persons in a domestic partnership; and

"(5) conduct such further investigation and analysis as it deems necessary to study the differences in the benefits, rights and privileges available to persons in a marriage and the benefits, rights and privileges available to persons in domestic partnerships resulting from the non-recognition of domestic partnerships as legal unions by State and Federal laws.

"(c) REPORT.—Not later than October 1, 1997, the General Accounting Office shall submit to the President and to the Congress a report of its findings pursuant to the study conducted under this section.

"(d) ASSISTANCE IN COMPLETING THE STUDY AND REPORT.—

"(1) ASSISTANCE FROM OTHER AGENCIES.—The General Accounting Office may secure directly from any Federal department or agency such information as may be necessary to complete the study and report required by this section.

"(2) DETAILED PERSONNEL.—On the request of the Comptroller General, the head of any Federal department or agency is authorized to detail, without reimbursement, any personnel of that department or agency to the General Accounting Office to assist it in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil services status or other privilege of the individual.

"(3) ASSISTANCE FROM ATTORNEY GENERAL.—The Attorney General of the United States shall provide the General Accounting Office with such administrative and support services as the Comptroller General may request to complete the study and report required by this section.

"(e) DEFINITION.—For the purposes of this section, the term 'domestic partnership' means two persons committed to an interpersonal relationship with each other, other than marriage, which has been acknowledged through a publicly established governmental procedure, through a privately enforceable written agreement, or through other documents executed by those persons which evidence their intention to commit to an interpersonal relationship with each other."

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Ms. GREENE, announced that the nays had it.

Mr. BERMAN demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 164 negative } Nays 249

- Martini, Matsui, McCarthy, McDermott, McHale, McKinney, Meek, Menendez, Millender-McDonald, Miller (CA), Mink, Moakley, Mollohan, Moran, Morella, Murtha, Nadler, Neal, Oberstar, Obey, Olver, Owens, Pallone, Pastor, Payne (NJ), Pelosi, Pryce, Rangel, Reed, Richardson, Rivers, Rose, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schroeder, Schumer, Scott, Serrano, Shays, Skaggs, Slaughter, Stark, Stokes, Studds, Stupak, Thomas, Thurman, Torkildsen, Torres, Torricelli, Towns, Upton, Velazquez, Vento, Ward, Waters, Waxman, Williams, Wilson, Woolsey, Wynn, Yates, Zimmer

NAYS—249

- Allard, Arney, Bachus, Baesler, Baker (CA), Baker (LA), Ballenger, Barcia, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bevill, Billarakis, Bishop, Bliley, Boehlert, Boehner, Bonilla, Bono, Boucher, Browder, Brownback, Bryant (TN), Bunn, Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Canady, Chabot, Chambliss, Chapman, Chenoweth, Christensen, Chrysler, Clement, Coble, Coburn, Collins (GA), Combest, Condit, Cooley, Costello, Cox, Cramer, Crane, Crapo, Creameans, Cubin, Cunningham, Danner, de la Garza, Deal, DeLay, Diaz-Balart, Dickey, Dingell, Doolittle, Dornan, Doyle, Dreier, Duncan, Edwards, Ehrlich, English, Evans, Everrett, Ewing, Fawell, Fields (TX), Flake, Fowler, Franks (CT), Franks (NJ), Frisa, Funderburk, Gallegly, Ganske, Gekas, Geren, Gillmor, Goodlatte, Goodling, Gordon, Goss, Graham, Greene (UT), Gutknecht, Hall (TX), Hamilton, Hancock, Hansen, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Heineman, Herger, Hilleary, Hoekstra, Hoke, Holden, Hostettler, Houghton, Hunter, Hutchinson, Hyde, Inglis, Istook, Johnson (SD), Johnson, Sam, Jones, Kaptur, Kasich, Kelly, Kim, King, Kingston, Klink, Knollenberg, LaHood, Largent, Latham, LaTourette, Laughlin, Lewis (CA), Lewis (KY), Lightfoot, Linder, Lipinski, Livingston, LoBiondo, Lucas, Manton, Manzullo, Mascara, McCollum, McCrery, McHugh, McInnis, McIntosh, McKeon, McNulty, Metcalf, Meyers, Mica, Miller (FL), Minge, Molinari, Montgomery, Moorhead, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Ortiz, Orton, Oxley, Packard, Parker, Paxon, Payne (VA), Peterson (FL), Peterson (MN), Petri, Pickett, Pombro, Pomeroy, Porter, Portman, Poshard, Quillen, Quinn, Radanovich, Rahall, Ramstad, Regula, Riggs, Roemer, Rogers, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Royce, Salmon, Sanford, Saxton, Scarborough, Schaefer, Schiff, Seastrand, Sensenbrenner, Shadegg, Shaw, Shuster, Siskisky, Skeen, Skelton, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Spratt, Stearns, Stenholm, Stockman, Stump, Talent, Tanner, Tate

187.12

[Roll No. 315]

YEAS—164

- Abercrombie, Ackerman, Andrews, Baldacci, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Bilbray, Blumenauer, Blute, Bonior, Borski, Brown (CA), Brown (FL), Brown (OH), Bryant (TX), Campbell, Cardin, Castle, Clayton, Clinger, Clyburn, Coleman, Collins (IL), Collins (MI), Conyers, Coyne, Cummings, Davis, DeFazio, DeLauro, Dellums, Deutsch, Dicks, Dixon, Doggett, Dooley, Durbin, Ehlers, Engel, Eshoo, Farr, Fattah, Fazio, Filner, Foglietta, Brown (OH), Forbes, Fox, Frank (MA), Frelinghuysen, Furse, Gejdenson, Gephardt, Gilchrest, Gilman, Gonzalez, Green (TX), Greenwood, Gunderson, Gutierrez, Harman, Hastings (FL), Hefner, Hilliard, Hinchey, Hobson, Horn, Hoyer, Jackson (IL), Jackson-Lee (TX), Jacobs, Jefferson, Johnson (CT), Johnson, E. B., Kanjorski, Kennedy (MA), Kennedy (RI), Kennelly, Kildee, Kleczka, Klug, Kolbe, Lantos, Lazio, Leach, Levin, Lewis (GA), Lofgren, Lowey, Luther, Maloney, Markey, Martinez