

Phoenix bans sexual orientation discrimination

by Dinita L. James

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The Phoenix City Council voted to amend its human relations ordinance yesterday (February 26, 2013) to include lesbian, gay and transgendered persons as well as disabled individuals among the groups protected from employment discrimination. The 5-3 vote came after a nearly five-hour public hearing before an estimated 500 people in the city's historic Orpheum Theatre.

Phoenix Mayor Greg Stanton had fast-tracked the amendment, which was something of a sleeper, until opponents, including the Catholic Diocese of Phoenix, mobilized in the week before the vote. Phoenix had voted down a similar proposal 21 years ago.

The Phoenix vote came just six days after the Flagstaff City Council approved on first reading that city's first-ever civil rights ordinance, which also would include those with different sexual orientation and gender identity among the groups protected from discrimination in employment and public accommodation. Flagstaff's ordinance is expected to come up for a second reading and final vote in two weeks.

The Phoenix ordinance will be enforced by the city's Equal Opportunity Department, which has a staff of investigators to probe complaints. Proponents of the amendment emphasized that the City's first enforcement mechanism is mediation. However, employers found to be in violation of the ordinance are subject to criminal prosecution, with a maximum penalty of a \$2,500 fine.

The new Phoenix ordinance applies to all employers within the city limits with even one worker. In addition to banning employment discrimination, the ordinance bars bias in housing and public accommodations. There is no corresponding protection for sexual orientation or gender identity or expression in federal or Arizona law, although Tucson has had a similar ordinance in effect since 1999.

The amended protection for disabled individuals covers employment and public accommodations, as the existing ordinance already banned discrimination on the basis of disability in housing. The effect of the disability provisions is to extend the protections of the federal Americans with Disabilities Act (ADA) and its Arizona counterpart, which apply to businesses with 15 or more employees, to Phoenix businesses that have just one worker.

We will provide a full report on the Phoenix and Flagstaff ordinances in the April 2013 edition of the *Arizona Employment Law Letter*.

Dinita L. James, the partner in charge of Gonzalez Saggio & Harlan LLP's Phoenix office, is the editor of Arizona Employment Law Letter. You can reach her at dinita_james@qshllp.com or 602-840-3301.