



NEIL ABERCROMBIE
GOVERNOR

EXECUTIVE CHAMBERS
HONOLULU

Testimony in **support** of SB1
Relating to Equal Rights

Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Sharon Har, Vice Chair

Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

October 31, 2013
10:00 a.m. Auditorium

Chairs Rhoads and Luke, Vice Chairs Har, Nishimoto, and Johanson, and members of the Committees:

In June of this year, the United States Supreme Court ruled that a portion of the Defense of Marriage Act (DOMA) unlawfully discriminated against married same-sex couples by prohibiting the federal government from recognizing those marriages and by denying federal benefits and protections to those couples.

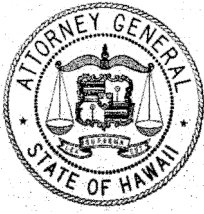
In light of the Supreme Court ruling, commencing October 1, 2013, federal agencies including the Department of Veterans Affairs, the Pentagon, the Internal Revenue Service, and the Department of Labor now recognize and extend federal benefits to married same-sex couples equal to the benefits that are offered to opposite-sex couples. I therefore asked for this special session to allow same-sex couples the opportunity to be afforded the same federal and state benefits and protections in the State of Hawaii as soon as possible.

Since I called for this special session on September 9th, the subject of this bill has generated continued discussion in our community about religious freedom. It is not the intent of the bill to force a member of the clergy to perform a wedding ceremony that goes against his or her religious beliefs. Similarly, it is not the intent of the bill to penalize a religious organization whose facilities are used for wedding ceremonies for their members and followers of their faith. I believe that the bill you are now considering is consistent with those ideals and is respectful of every individual's religious and personal beliefs.

While there are certainly a number of views on the issue of marriage, moving toward a path of equality is always the right thing to do.

I will defer to the State Attorney General, Hawaii Department of Health, and Hawaii Civil Rights Commission regarding legal issues, implementation issues, and details relating to public accommodations.

Mahalo for your time and attention to this very important issue.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE,
SECOND SPECIAL SESSION 2013**

ON THE FOLLOWING MEASURE:
S.B. NO. 1, RELATING TO EQUAL RIGHTS.

BEFORE THE:
HOUSE COMMITTEES ON JUDICIARY AND ON FINANCE

DATE: Thursday, October 31, 2013 **TIME:** 10:00 a.m.
LOCATION: State Capitol, Auditorium
TESTIFIER(S): David M. Louie, Attorney General

Chairs Rhoads and Luke and Members of the Committee:

This bill will allow marriage between two individuals without regard to gender within the State of Hawaii. The Department of the Attorney General strongly supports this important measure and urges the Legislature to pass it. To assist this Committee, this testimony is submitted to summarize the important legal implications of the bill and how the bill's provisions relate to existing law. In the Department's view, no amendments are necessary for the bill to accomplish the bills stated intent and purpose.

New Statutory Sections. Section 2 of the bill would add six new sections to the marriage statutes in, chapter 572, Hawaii Revised Statutes (HRS).

New section 572-A¹ provides that couples who are presently in a civil union or a reciprocal beneficiary relationship are permitted to seek licenses to marry each other without terminating the civil union or reciprocal beneficiary relationship first. The solemnization of their marriage to each other would automatically terminate their civil union or reciprocal beneficiary relationship. There would be no gap in the legal protections of either status. This section also provides that any rights held by couples who transition from either a reciprocal beneficiary relationship or a civil union to a marriage are deemed to have begun with the earlier legal status. This provision is very similar to section 572B-4.5, HRS, which was enacted as part of Act 267, Session Laws of Hawaii 2012, amending the civil unions law.

¹ The letter designation would be replaced by section numbers by the revisor of statutes if the bill becomes law.

New section 572-B provides that any gender-specific terms, such as "husband" or "wife," will be interpreted in a gender-neutral manner, when necessary to implement the rights, benefits, protections, and responsibilities of spouses under Hawaii law.

New section 572-C provides that parentage rights based on marriage shall be the same for all married persons regardless of the gender of the spouses. These rights include paternity, maternity, and parentage presumptions based on marriage.

New section 572-D provides that where state law relies on federal law defining marriage, same-sex spouses shall be treated for purposes of state law as if federal law treated them in the same manner as any other spouses. Before the United States Supreme Court's decision in United States v. Windsor, 133 S. Ct. 2675 (2013), the federal government did not recognize marriages between two individuals of the same sex. After Windsor, the federal government does recognize those marriages. Several federal agencies have determined that same-sex couples legally married in jurisdictions that recognize their marriages will be treated as married for purposes of federal benefits wherever they reside.² The implementation has been slower in some federal agencies than others. For that reason, this provision ensures that any cross-reference to federal law in Hawaii's laws does not deny same-sex spouses any right or privilege of marriage under State law.

New section 572-E provides that any clergy, minister, priest, or rabbi may refuse to solemnize any marriage, for any reason. In Hawaii, pursuant to section 572-12, HRS, all licensed solemnizers, except for state court judges, are members of the clergy and will be protected under this provision. Any person who refuses to solemnize any marriage under this section shall not be subject to any fine, penalty, injunction, administrative proceeding, or other civil liability. This provision recognizes and supports the constitutional right to free exercise of religion.

² See, e.g., Rev. Rul. 2013-17, 2013-38 I.R.B. 201 (U.S. Internal Revenue Service ruling that same-sex couples, legally married in jurisdictions that recognize their marriage, will be treated as married for federal tax purposes); U.S. Department of Labor Technical Release 2013-04, at 1 (Sept. 18, 2013) (recognizing "marriages to include same-sex marriages that are legally recognized as marriages under any state law"); Memorandum for Secretaries of the Military Departments Under Secretary of Defense for Personnel and Readiness, dated August 13, 2013 (extending benefits to same-sex spouses of military members).

New section 572-F provides that notwithstanding any other law to the contrary, religious organizations are not subject to any fine, penalty, injunction, administrative proceeding or civil liability for refusing to make its facilities or grounds available "for the solemnization of any marriage celebration," provided that the religious organization does not make its facilities or grounds available to the general public for a profit. As we read it, this provision is primarily aimed at protecting the religious organizations that are not in the business of performing weddings.

Amendments to Existing Sections. The bill would amend seven existing sections of the Hawaii Revised Statutes. Five of the amendments that address important legal points are discussed below:

Section 3 of the bill amends section 572-1, HRS. These amendments (1) remove the one-man-one-woman restriction, (2) expressly permit two individuals to marry without regard to gender, (3) make the prohibition on marrying close relatives gender neutral, and (4) provide that neither party to a marriage has a husband, wife, or civil union partner living, except as provided in new section 572-A (which allows current civil union partners or reciprocal beneficiaries to marry each other).

Section 4 of the bill amends section 572-3, HRS. This section governs the recognition of marriages performed elsewhere. This amendment clarifies that the State of Hawaii intends to recognize all marriages between two individuals of the same sex that are legal in the jurisdiction where they were entered. This would include marriages entered into in other States.

Section 7 of the bill amends section 572B-4, HRS, the refusal-to-solemnize provision from the civil unions law. This amendment removes the cross-reference to chapter 572 in this section and clarifies that the refusal-to-solemnize provision added by the bill for chapter 572 (new section 572-E, above) governs for marriages.

Section 8 of the bill amends section 572C-2, HRS. This section reflects the findings made when the reciprocal beneficiary law, Act 383, Session Laws of Hawaii 1997, was enacted, which provided that the 1997 Legislature's decision at that time was to limit marriage to between one man and one woman. In 1998, the people of Hawaii chose to amend the Hawaii Constitution to add section 23 to article I. This constitutional amendment expressly vested the authority to

legislate matters related to marriage in the Legislature. Therefore, the amendment to section 572C-2 removes statements that would be inconsistent with the intent and purpose of the bill.

Section 9 amends section 580-1, HRS. This provision governs the jurisdiction of the family courts over actions for annulment, divorce, and separation. The addition of subsection (b) provides that the Hawaii family courts will exercise jurisdiction over an action for annulment, divorce, or separation if neither party to the marriage resides in a jurisdiction that recognizes the marriage. This applies only to couples who were married under chapter 572 in this State. This situation may arise when same-sex couples travel to Hawaii to be married, but reside in a State that does not recognize their marriage.

Uncodified Session Law Added by the Bill. The bill would enact uncodified sections of session law to aid in the bill's implementation. By bill section number, these sections are as follows:

Section 10 enacts an uncodified session law. This provision states that any existing reciprocal beneficiary relationship or civil union entered into before the Act's effective date remains valid until terminated in accordance with applicable law. Under section 572C-4, HRS, only those couples who are prohibited from marrying can enter a reciprocal beneficiary relationship. If this bill becomes law, same-sex couples who are otherwise not prohibited from marrying (for example, due to family relationship) would not be allowed to enter reciprocal beneficiary relationships. This provision clarifies that existing reciprocal beneficiary relationships would be unaffected. For purposes of clarity and consistency, the same explicit protection is stated for existing civil unions.

Sections 11 enacts uncodified session law. This provision allows the Department of Health to make changes to internal procedures and forms to aid in the implementation of this Act.

Section 15. Under section 15, the bill, if enacted, would take effect on November 18, 2013.

We respectfully ask the Committee to pass this bill.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Committee on Judiciary

Committee on Finance

October 31, 2013

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

SB1, RELATING TO EQUAL RIGHTS.

1 **Department's Position:** COMMENTS

2 **Fiscal Implications:** None.

3 **Purpose and Justification:**

4 The purpose of Senate Bill 1 is to recognize marriages between individuals of the same sex, and extend
5 to same-sex couples the same rights, benefits, protections, and responsibilities of marriage that opposite-
6 sex couples receive.

7

8 The Department of Health is responsible for the administration and record keeping of Hawaii's public
9 health statistics, which includes the licensing and certification of marriages and civil unions officiated in
10 the State.

11

12 Enacted as currently drafted, DOH's in-person and online systems are prepared to accept applications
13 within a minimum of two weeks from the date of enactment, provided that the Effective Date falls on a
14 working Monday. However, any substantive amendments to this bill regarding licensure and

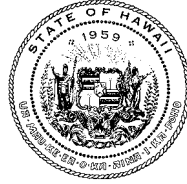
1 certification are likely to negatively impact system configuration, as well as quality assurance and end-
2 user testing which may diminish DOH's confidence in a smooth transition.

3

4 Thank you for the opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Judiciary

The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Monday, October 31, 2013

Time: 10:00 a.m.

Place: Auditorium, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 1 Relating to Equal Rights

This measure adds new sections to Chapter 572 of the Hawaii Revised Statutes (HRS) to recognize marriages between individuals of the same sex and to extend to same-sex couples the same rights, benefits, protections, and responsibilities of marriage that opposite-sex couples receive. The measure is effective on November 18, 2013.

The Department of Taxation (Department) supports this measure. Taxpayers must be legally married in order to obtain federal tax benefits such as the ability to file a joint income tax return. All couples, including same-sex couples, must be legally married to obtain other federal benefits such as health care, housing, family separation allowance, and veteran's benefits.

Prior to the United States Supreme Court decision in United States v. Windsor, 133 S. Ct. 2675 (2013), the Internal Revenue Service (IRS) was prohibited from recognizing as valid, same sex marriages for tax purposes under the Defense of Marriage Act (DOMA), (Pub.L. 104-199, 110 Stat. 2419 enacted September 21, 1996). In Windsor, the United States Supreme Court ruled Section 3 of DOMA to be unconstitutional, declaring it "a deprivation of the liberty of the person protected by the Fifth Amendment."

Consequently, the IRS announced that same sex couples that were married in a jurisdiction where such marriage is legal would be afforded the same rights and duties for federal tax purposes as any other married couple. This, however, does not apply to civil unions or domestic partnerships, as they are not marriages under applicable law.

Thank you for the opportunity to provide comments.



HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

October 31, 2013
State Capitol Auditorium
10:00 a.m.

To: The Honorable Karl Rhoads, Chair
Members of the House Committee on Judiciary

The Honorable Sylvia Luke, Chair
Members of the House Committee on Finance

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: S.B. No. 1

The Hawai'i Civil Rights Commission has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The Hawai'i Civil Rights Commission (HCRC) strongly supports the proposed marriage equality legislation, as offered in S.B. No. 1.

The HCRC also supports inclusion of a religious exemption for clergy who refuse to solemnize any marriage, as found in the proposed HRS § 572-E.

The HCRC further supports inclusion of a religious exemption for religious organizations that object on religious grounds to the use of religious facilities for the solemnization of any particular marriage, so long as the religious organization is not operating its facilities as a "public accommodation" within the meaning of HRS Chapter 489. However, when a religious organization, like any other organization, commercially offers its facilities to members of the

general public for the solemnization of or celebration of marriages, it is the HCRC's position that it should not be exempted from non-discrimination requirements imposed by HRS § 489-3's prohibition against discrimination based on race, sex, including gender identity or expression, sexual orientation, color, religion, ancestry, or disability. The HCRC opposes any exemption that diminishes protections against discrimination under our public accommodations law. Enactment of marriage equality legislation should not be a vehicle or excuse to weaken or diminish existing civil rights protections.

In this regard, the HCRC has serious concern over the proposed religious exemption found in the proposed HRS § 572-F, which diminishes state law protections against discrimination in public accommodations.

HCRC Support for S.B. No. 1 and Marriage Equality

To our credit, Hawai'i was the first state to seriously consider the issue of same-sex marriage, and more specifically, the denial of rights to same-sex couples that are recognized by law for married couples. In its 1993 landmark decision *Baehr v. Lewin*, the Hawai'i Supreme Court held that denial of the benefits accorded to married couples to same-sex couples, who could not obtain a license to marry, was sex-based discrimination in violation of the constitutional guarantee of equal protection, absent the showing of a compelling state interest. Now, twenty years later, the legislature is poised to make Hawai'i the 14th state, in addition to the District of Columbia, to recognize same-sex marriages. With enactment of this legislation, same-sex married couples in Hawai'i and their families will be entitled to federal rights, benefits, protections, and responsibilities that are and would be denied to them if state law continued to recognize only civil unions but not marriage for same-sex couples. With enactment of marriage equality legislation, Hawai'i lives up to its promise of equal treatment for all of its people.

It has been suggested that Hawai'i need not permit same-sex marriage because same-sex couples can travel out of state to marry in another state to secure the federal rights, benefits, protections, and responsibilities afforded to married couples, and then return to Hawai'i to enjoy the benefits of being married. This suggestion is flawed in two important respects, and should be rejected as a basis for denying equal marriage rights to Hawai'i's same-sex couples.

First, recently promulgated federal administrative policies providing equivalent federal tax treatment to same-sex couples who travelled to a state where their marriages are recognized

and then returned to Hawai‘i where they are not, do not provide stable civil rights protections to Hawai‘i’s same-sex couples. Those administrative policies could be reversed if a President opposed to same-sex marriage were elected.

More importantly, the suggestion that Hawai‘i’s opposite-sex couples be permitted to marry in Hawai‘i, while Hawai‘i’s same-sex couples can be required to travel nearly 2500 miles to get married, would impose gross inequality that violates basic notions of equal treatment. Considering travel costs, same-sex couples would, in essence, be levied the equivalent of a “marriage tax” that could amount to hundreds, if not thousands, of dollars to be able to exercise a basic civil right. This would impose a substantial financial burden on Hawai‘i same-sex couples, relegate them to second class citizenship, violate the fundamental right to equal protection, and dangerously erode Hawai‘i’s proud tradition of equality for all its people.

The HCRC strongly supports full civil rights protections for same-sex couples who want to marry, including the protection of Hawai‘i’s comprehensive law prohibiting discrimination in public accommodations.

Prohibited Discrimination in Public Accommodations and Religious Facilities

The State has a compelling interest in the elimination of discrimination in public accommodations.

HRS § 368-1 states:

The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, including gender identity or expression, sexual orientation, marital status, national origin, ancestry, or disability in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy.

The HCRC supports proposed religious exemptions for clergy who refuse to solemnize marriages and for religious organizations that refuse to make religious facilities available for solemnization of a marriage, if the religious facility is not a place of public accommodation. These exemptions can be found in our civil unions law, at HRS §§ 572B-4(c) and 572B-9.5, and in the proposed marriage equality bill offered earlier by Governor Abercrombie.

The HCRC has enforcement jurisdiction over the state law prohibiting discrimination in

public accommodations, HRS Chapter 489.

HRS § 489-3 prohibits discrimination in places of public accommodation based on race, sex, including gender identity or expression, sexual orientation, color, religion, ancestry, or disability.

“Place of public accommodation” is defined in HRS § 489-2, as: “[A] business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, and accommodations are extended, offered, sold or otherwise made available to the general public as customers, clients, or visitors.”

Religious facilities are not subject to the public accommodations law unless they offer goods, services, facilities, privileges, advantages, and accommodations to the general public. So, for example, if a church, temple, synagogue, mosque, or similar religious organization permits only its own member to use its facilities to solemnize or celebrate marriages, and does not offer the use of its facilities to the public, it would not violate HRS Chapter 489 by refusing to allow any non-members - including same-sex couples – to use its facilities to solemnize or celebrate a marriage. In that situation, the organization would not be operating a “public accommodation” within the meaning of HRS Chapter 489.

However, if a religious organization offers the use of its facilities to the public for solemnization or celebration of marriages, particularly if it charges income-producing fees for that use, the organization would be considered a “public accommodation” and would not be permitted to discriminate on any basis prohibited in HRS Chapter 489. In short, churches are free to discriminate as long as they do not operate a place of public accommodation. If offered for public use, the public accommodations law applies and unlawful discrimination is prohibited.

The public accommodations law is clear. It is a law of general applicability that serves a compelling state interest and does not target religion. Opening the door to broad or numerous exemptions to our state civil rights laws undermines the compelling state interest and invites constitutional challenges. It is not necessary to create exemptions to our civil rights laws to enact marriage equality legislation, and to do so will weaken existing civil rights protections, creating a slippery slope that leads to demands for additional exemptions.

The HCRC opposes proposals to create exemptions that weaken protections against

discrimination under our public accommodations law. For this reason, the HCRC does not support the proposed HRS § 572-F exemption for religious facilities, which will allow discrimination on the basis of sexual orientation (and all other protected bases) in places of public accommodations for solemnizations of marriage.

HCRC Concerns Regarding the Proposed HRS § 572-F

If the legislature chooses to keep the exemption for religious organizations and facilities along the lines provided in the proposed HRS § 572-F, the HCRC strongly urges clarification of the scope of the exemption, to narrow its focus and avoid claims of broad applicability that will erode the strong protections against discrimination in public accommodations effected by HRS Chapter 489.

The proposed HRS § 572-F reads:

§ 572-F Religious organizations and facilities; liability exemption under certain circumstances. Notwithstanding any other law to the contrary, no religious organization shall be subject to any fine, penalty, injunction, administrative proceeding, or civil liability for refusing to make its facilities or grounds available for solemnization of any marriage celebration under this chapter; provided that the religious organization does not make its facilities or grounds available to the general public for solemnization of any marriage celebration for a profit.

For purposes of this section, a religious organization accepting donations from the public, providing religious services to the public, or otherwise permitting the public to enter the religious organization's premises shall not constitute "for a profit."

(emphasis added).

HCRC concerns:

The scope of the exemption is unclear. The statutory language could be interpreted to include what might be considered “churches” in a generic sense – places of worship including, for example, mosques, synagogues, and temples – as well as “religious organizations”

generically, which could include nondenominational ministries, interdenominational and ecumenical organizations, and other entities whose principle purpose is the study or advancement of religion. Such interpretation would be consistent with a known standard, as developed in interpretation of the Internal Revenue Code. In S.B. No. 1, the exemption is narrowly drawn, because it only applies to refusal to solemnize any marriage, it is unclear whether the exemption extends to facilities that are owned, controlled, or operated by a religious organization (e.g., the YMCA, YWCA, Salvation Army, Catholic Diocese, etc.), and confusion could open the door to church-controlled entities asserting claims to the exemption. If the scope of the exemption is meant only to cover “churches,” as in places of worship, that should be clarified.

There is no definition of “for a profit.” “For a profit” is not defined, except in the negative, as the last sentence of HRS § 572-F explains what does not constitute “for a profit.” We understand that the intent of the statutory language is to capture those religious organizations that make substantial amounts of money in return for the use of their religious facilities – entering commerce by offering the use of the facilities for money.

With the “[n]otwithstanding any other law” language, the religious facilities exemption creates an exemption from our state law prohibiting discrimination in public accommodations, HRS Chapter 489, allowing discrimination in the use of religious facilities for solemnization of weddings, even if open to the public for that use, if not “for a profit”. The use of “for a profit” as a qualifying criteria for the exemption injects the concept of “for a profit” into the HCRC’s public accommodations statutory scheme.

The HRS § 489-2 definition of “place of public accommodation” is a “... business, accommodation, refreshment, entertainment, recreation or transportation facility of any kind, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the general public as customers, clients, or visitors.” Whether a facility is operated for a profit or whether the public is charged a fee is not relevant to coverage and jurisdiction over public accommodations.

The lack of a definition begs the question of whether “[not] for a profit” means “nonprofit,” and whether all churches and religious organizations are by definition, operation, and character not “for a profit.” If it is not the intent of the House to create such a broad

exemption for all nonprofit churches and religious organizations, that should be clarified.

In addition, the last sentence of HRS § 572-F states: “For the purposes of this section, a religious organization accepting donations from the public ... shall not constitute “for a profit.” This could arguably be read to allow an exemption for religious organizations that allow the use of their facilities for a substantial “suggested donation.”

Clarification is needed to avoid vagueness, ambiguity, and confusion. The HCRC suggests that the legislature might look to the State Department of Taxation (DoTax) interpretation of what church activities are exempt from excise taxes. DoTax focuses on whether the activity is religious or income-producing. “Fundraising activities” that generate income and are outside of the exempt purpose are taxable; the activity does not have to be profitable. *See*, Tax Facts 98-3, “Tax Issues for Hawaii Nonprofit Organizations”, November 1998. (Attachment A).

A 1997 DoTax Tax Advisory, “Tax Advisory on the Application of the General Excise Tax to Tourist Wedding Activities of Churches”, April 27, 1997, is instructive and useful. (Attachment B).

In that advisory, DoTax advises:

In performing traditional wedding ceremonies, a church is conducting an activity that is religious in nature. Accordingly, income received from the conduct of these ceremonies are generally considered exempt from the general excise tax. With the recent introduction of tourist “wedding” activities on church premises on a wholesale basis, questions have arisen as to whether the income derived from this activity qualifies for exemption from the general excise tax.

The test is whether the primary purpose of the tourist “wedding” activity is religious or fundraising in nature. If fundraising, the income derived from the activity will be subject to the 4 percent general excise tax. This determination is made on a case-by-case basis taking into account all of the facts involved.

For example, if the ceremony performed is in fact a wedding (as opposed to, say, a reenactment of one) conducted on church premises by the church minister, priest, or other officiator, then the activity will be considered religious

and not income-producing. On the other hand, if the weddings are arranged, packaged and conducted through a commercial entity without church involvement other than making available the use of church premises, the “wedding” activity will be considered fundraising in nature. Even though the wedding activity may be conducted by the church minister, priest, or other officiator, the activity can take on a commercial hue that is so predominant as to render it fundraising in nature (considering the size and frequency of the activity, how the activity is marketed, the amount of time and resources expended, and the amount of revenues derived from the activity).

* * * * *

Aside from tourist wedding activities, many church facilities are made available for use by other organizations, individuals, or community groups. Amounts charged for this use will be considered rental income subject to the 4 percent general excise tax. Whether it is called “rental,” “user donation,” “donation,” or by some other designation, the charge for the use of church facilities will as a general rule be considered fundraising in nature.

The DoTax approach is instructive in several ways:

In interpreting the General Excise Tax law, DoTax is considering what kind of exemption is required for religious activities, while enforcing its law of general applicability. They focus the inquiry on the nature of the activity.

DoTax narrowly focuses the scope of the exemption on the use of church premises. They articulate a standard and lay out a simple test.

And, DoTax makes it clear that all fundraising, regardless of whether for a profit or not, is not exempt, and disregards the designation of amounts charged or income as a “donation” in their analysis.

Suggested Language to Clarify the Scope of the S.B. No. 1 Religious Facility Exemption

As stated above, the HCRC opposes the establishment of an exemption for religious facilities that are places of public accommodation, which would diminish existing protection against discrimination in public accommodations.

If the legislature decides to include a religious exemption for religious facilities as provided in the S.B. No. 1 proposed HRS § 572-F exemption, the HCRC suggests the following language to clarify the scope of what is considered a qualifying religious facility, used for a religious purpose rather than public use for the purpose of producing income.

The suggested language eliminates the troubling “for a profit” language from the exemption criteria, importing a standard from the state tax code, HRS § 237-23(b)(3), relating to fundraising income (not “profit”). The last sentence of the S.B. No. 1 proposed HRS § 572-F exemption, regarding what shall not constitute “for a profit”, is also deleted.

Suggested draft language:

§ 572-F Religious organizations and facilities; liability exemption under certain circumstances. (a) A religious organization shall not be required to make a religious facility it uses for religious purposes available for solemnizations of any marriage; provided that the facility is not made available to the public for solemnizations of marriage for the primary purpose of producing income, even if that income is to be used for or in furtherance of a religious purpose.

For the purposes of this section, a religious organization’s “religious facility” means a place of worship, including, for example, a church, mosque, synagogue, or temple, and its facilities and grounds.

(b) a religious organization that refuses to make its religious facility available for solemnization of a marriage as provided in subsection (a) shall not be subject to any fine, penalty, injunction, administrative proceeding, or civil liability for the refusal.

CONCLUSION

The HCRC supports marriage equality and urges your favorable consideration of S.B. No. 1 to recognize same-sex marriages.

The HCRC also supports express religious exemptions for clergy and religious facilities that are used for religious activities and do not offer goods, services, or facilities to the general public, but opposes proposals to create exemptions that diminish protections against discrimination under our state public accommodations law. In that regard, the HCRC urges the legislature to amend S.B. No. 1 to eliminate or clarify the proposed HRS 572-F exemption.

Hawai'i Civil Rights Commission

Testimony RE: S.B. No. 1

Attachment A

Tax Facts 98-3, "Tax Issues for Hawaii Nonprofit Organizations", November 1998.



TAX FACTS

From the
State of Hawaii, Department of Taxation

November, 1998

TAX ISSUES FOR HAWAII NONPROFIT ORGANIZATIONS

98-3

Due to the generous nature of the people of Hawaii, we have a multitude of groups that are organized as "not-for-profit" in nature. Tax Facts No. 95-1, "All About the Hawaii Use Tax" and Tax Facts No. 96-1, "General Excise vs. Sales Tax" also may be helpful when reading this issue of Tax Facts. The Department has also issued a Tax Advisory on the application of the general excise tax (GET) to tourist wedding activities of churches dated April 21, 1997, that contains specific information about the GET exemption for churches and, in particular, their tourist wedding activities. The following are some of the commonly asked questions regarding the taxation of tax-exempt organizations.

1. What is the difference between "nonprofit" and "tax-exempt" organizations?

For federal income tax purposes (federal Internal Revenue Code of 1986 — the "IRC"), tax-exempt status is accorded to certain kinds of organizations whether they be corporations, associations, trusts, or other entities. To achieve tax-exempt status, the organization must be organized and operated in a manner that conforms to the requirements set out in the IRC in addition to those prescribed under state law. Some organizations must also apply for determination of their exempt status with the Internal Revenue Service ("IRS"). The federal rules are complex and explained in IRS Publication 557, "Tax-Exempt Status for your Organization."

These "tax-exempt" organizations include those that are organized as not-for-profit, such as corporations organized under Hawaii nonprofit corporation laws. However, merely organizing as a nonprofit entity does not necessarily mean that the IRS will recognize it as tax-exempt. Again, the IRC imposes additional requirements to achieve tax-exempt status.

2. How do we qualify for tax-exempt treatment under Hawaii tax laws?

Hawaii imposes two taxes that are potentially applicable to organizations seeking tax-exempt status—the income tax and the GET.

The organization will be exempt from Hawaii *income* tax if the organization qualifies for exemption for federal income tax purposes under the IRC. If the organization is the type that must obtain a determination of exempt status from the IRS, then Hawaii will follow the determination of the IRS in this regard. No separate determination is required for Hawaii income tax purposes from the Hawaii Department of Taxation. Organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes as described in IRC section 501(c)(3) are generally required to submit an application to the IRS to request recognition of exemption from federal income taxes. Certain organizations

are not required to obtain from the IRS a determination of their exempt status. These organizations are exempt from Hawaii income tax if they meet the requirements of the IRC section under which they claim to be exempt provided that Hawaii has adopted those IRC provisions. Hawaii has adopted the federal provisions of IRC section 501, except for IRC sections 501(c)(12), (15), and (16). IRC section 501(a) provides an exemption from federal income taxes to organizations described in IRC sections 501(c), 501(d), and 401(a). See IRS Publication 557 for procedures on how to apply for recognition of exempt status with the IRS.

3. We have been recognized as a tax-exempt organization by the IRS. When is our State income tax exemption effective?

The effective date for the exemption from Hawaii income taxes is the same as the effective date for federal purposes. You are not required to separately register or otherwise apply for recognition of exemption from the Hawaii Department of Taxation for *income* tax exemption purposes; however, as you will see in Question #6, you will need to do this for GET exemption purposes. As with the IRS, you must substantiate your organization's status as tax-exempt in the event that you are audited by the Hawaii Department of Taxation. If the organization is not required to file an application with the IRS, the effective date for Hawaii income tax will be the same date that the organization meets the requirements of the IRC section under which it is claiming to be exempt. In the event that the IRS revokes your exemption, Hawaii will treat the organization as taxable upon the effective date of that revocation.

4. We have been recognized as a tax-exempt organization by the IRS, what are my reporting requirements for Hawaii Income Tax purposes?

IRS publication 557 discusses the filing requirements and required disclosures of tax-exempt organizations for federal income tax purposes. If you are required to file Form 990-T with the IRS, you are required to file the corresponding Form

N-70NP and pay any tax due for Hawaii income tax purposes on this unrelated business income. Although you may be required to file a Form 990 or Form 990-EZ with the IRS, you are not required to file any corresponding information return for Hawaii income tax purposes. Private foundations, however, are required to file a copy of their federal filings with the Attorney General.

5. The IRS has stated that we must file Form 990-T for "unrelated business income". What type of income is this and do we have to file a return with Hawaii?

The IRS has issued guidelines regarding unrelated business income in IRS Publication 598, "Tax on Unrelated Business Income of Exempt Organizations". Hawaii follows the federal determination of unrelated business income for Hawaii income tax purposes. This refers to income from sales activity regularly carried on that is not in furtherance of an exempt purpose.

6. If we are treated as tax-exempt for income tax purposes, does this mean we also are exempt from paying the GET?

Not necessarily. The GET law provides that certain organizations created for purposes enumerated in sections 237-23(a)(3) through (6), of the Hawaii Revised Statutes (HRS), must apply for exemption from the payment of GET by filing Form G-6, Application for Exemption from the Payment of General Excise Taxes, with the Hawaii Department of Taxation. A one-time \$20 registration fee must be paid with Form G-6. If your organization already has paid the \$20 fee to obtain a general excise license number, you do not need to submit the \$20 registration fee — just fill in your GET license number on the Form G-6 in the box provided. See the Instructions for Form G-6 for a more detailed discussion of organizations which qualify to apply for a GET exemption.

7. We filed Form G-6 and received a letter approving the GET exemption for our organization. If approved, when is the exemption effective?

The law requires that the Form G-6 be filed within three (3) months of the commencement of business (with extensions of up to two (2) months for good cause). If the Form G-6 is filed within the required or extended period, the exemption shall apply to income earned from the date of commencement of business. If filed after this period, the exemption applies only to income received on or after the date the Form G-6 was filed. Once the exemption is allowed, no further application is necessary unless there is a material change in your objectives or operations.

8. If granted the exemption, is all of the income we now receive exempt from the GET?

It depends. Amounts received as dues, donations, or gifts are not included in gross income subject to the GET.

However, gross receipts derived from any activity the primary purpose of which is to produce income are subject to the GET even though used to fund the exempt purposes or activities of the organization. Consequently, gross income received from the conduct of any fundraising activity is subject to the GET. Other income may be exempt from the GET depending on the nature of the activity giving rise to the income in relation to the organization's stated exempt purpose (see Question #9).

9. What types of activities are considered "fundraising activities"?

In general, "fundraising activities" are activities conducted with the intention of generating income, and are outside of the organization's stated exempt purpose. The activity does not have to be profitable in order to be taxable, and can include gross receipts from a single event. (Do not confuse this with "unrelated business income" as defined for income tax purposes.)

Although casual sales are exempt from the GET, this exemption is not applicable to fundraisers. A fundraising activity would not be considered a "casual sale" since the activity is not a single occasional sale nor an incidental sale. It is an infrequent activity comprised of numerous sales or transactions, e.g., white elephant sales, fairs, bazaars, and the like. Furthermore, it does not matter that the items being sold were donated to the organization.

Example: An educational institution's stated purpose is "to educate students in an environment conducive to learning". The institution charges tuition to attend the institution and also sells learning materials. Occasionally, the institution has a fair or sells baked goods or other merchandise to raise funds for the institution to operate.

The gross income from the tuition and sale of learning materials is exempt from the GET since it is generated in the performance of the organization's stated exempt purpose. The gross income from the fair and other fundraising activities, although the income received from the activities is to be used in the fulfillment of the organization's stated purpose, is generated from activities outside the scope of the organization's stated purpose with the object of gain or economic benefit and is taxable for GET purposes.

10. If we are registered with the State as tax-exempt under the GET law, does this mean we also are exempt from paying the GET visibly passed on by a vendor when we purchase items from the vendor?

No. Because the GET is levied on the business receiving the income rather than on the customer, businesses still are subject to the GET on their sales to tax-exempt organizations. The business is not tax-exempt, even if the customer is. Therefore, tax-exempt organizations may have the GET visibly passed on to them when they buy goods and services. The

pass on of the GET is a matter of contract between the vendor and the tax-exempt customer.

11. Our organization rents out facilities it owns to other nonprofits, members, and the general public. Are these rents subject to the GET?

Yes. In general, when an organization leases or rents its facilities out to others, it is considered to be engaging in a business activity even if the rent may be just a cost recovery amount. Some organizations whose stated primary purpose is to provide facilities to the underprivileged or other exempt organizations may not be subject to the GET if they have been properly registered with the Department. See Question #6.

12. What type of income qualifies as donations and why aren't donations subject to the GET?

A donation is a gift which is voluntarily given without compensation or any expectation of return. Section 237-24(4), HRS, exempts "the value of all property of every kind and sort acquired by gift, bequest or devise". If a donor purchases a ticket for a dinner, concert, bowl of chili, or the like, the ticket sale is not a donation because something of value is being received for the donation. This remains true whether or not the donor has any intention of redeeming the ticket. Whether a receipt is a true donation depends on the circumstances of the activity involved, not on the name given to the transaction. For example, if an organization offers the use of its facilities in exchange for a "donation", the receipt will be treated as rental income subject to the GET.

13. We received payments for a benefit dinner. Why are we taxable on the gross amount and not just the amount designated as the cost of the dinner?

The rules for determining the amount of the contribution deductible for income tax purposes and the amount subject to the GET differ. For income tax purposes, federal rules permit under some circumstances the subtraction of the value of the goods or services provided by the charity from the total contribution to determine the deductible portion of the contribution. The GET, as a gross receipts tax, does not allow for such deductions to reduce the gross receipts subject to the GET even if a portion of the ticket price is considered a "donation".

14. We sell items and services which are donated to our organization. Are the amounts received from the sale of these donated items and services taxable for GET purposes?

Yes. The sale (including sales by auction) by a tax-exempt organization of donated items for fundraising purposes is an "activity the primary purpose of which is to produce income"; consequently, the gross proceeds derived from the activity is subject to the GET.

15. Does an activity have to be "profitable" in order for it to be subject to the GET?

No. See Questions #9 and #13.

16. We receive interest income from interest bearing checking and savings accounts. Are these amounts taxable for GET purposes?

The law provides that gross income subject to the GET includes, among other things, all receipts, actual or accrued by reason of the investment of the capital of the business engaged in, including interest. The contributions, donations, and dues received by the organization, as well as the income derived in conjunction with the organization's tax-exempt purpose and deposited in the bank, do not constitute "investment of the capital of a business in which engaged". A tax-exempt organization is not created for the purpose of making profits and, in theory, the interest received is deemed incidental to the primary purpose of depositing the monies in the bank for safekeeping, not for a business purpose, and consequently is not subject to the GET. However, interest earned from funds derived from an unrelated trade or business activity would be subject to the GET. See Question #5. (For a general discussion on the application of the GET to interest income, see Tax Information Release No. 42-74.)

17. If we are registered with the State as an exempt organization under the GET law, does this mean we also are exempt from paying the use tax?

No. Although section 237-23, HRS, exempts certain nonprofit organizations which have properly registered for exemption from the GET, the use tax law does not provide a corresponding exemption. The use tax levels the playing field for local merchants by requiring customers who acquire goods from out-of-state sellers to pay a tax on that purchase at the same rate that an in-state seller would have paid in GET if the sale had occurred in Hawaii. For more information on the use tax law, see Tax Facts No. 95-1, "All About the Hawaii Use Tax".

18. Where can we get additional information and assistance on how to start a nonprofit organization?

Act 120, Session Laws of Hawaii 1996, effective July 1, 1996, eliminated the requirement that charitable organizations register or file a statement of exemption with the Business Registration Division of the Department of Commerce and Consumer Affairs (DCCA) prior to soliciting funds in Hawaii. Act 120 did not eliminate the annual report requirements for foreign or domestic nonprofit corporations or any tax return filing requirements. For information on how to organize your nonprofit organization under Hawaii's Nonprofit Corporation Act (Chapter 415B, HRS), contact the Business Registration Division of the DCCA at (808)586-2727.

There also is a nonprofit organization which has an

assistance program to help individuals set up a nonprofit organization. Contact the Hawaii Community Services Council, Help for Nonprofits Program, 200 N. Vineyard

Boulevard, Suite 415, Honolulu, Hawaii 96817, or call them at (808) 521-3861.

STATE DISTRICT TAX OFFICE ADDRESSES & TELEPHONE NUMBERS

Website (Forms & Information)
<http://www.state.hi.us/tax/tax.html>

CD-ROM (Forms & Info)
Nominal Cost (Limited Supply)

Forms by Mail
808-587-7572
Toll-Free: 1-800-222-7572

Recorded Tax Updates
808-587-1234 and press 7700

Forms by FAX
Oahu 587-7572
Outside Oahu 808-678-9522 from
your fax machine

Telephone Devices for the Deaf (TDD)
Tax Service & Processing
808-587-1418
Toll-Free: 1-800-887-8974

Oahu District Tax Office
830 Punchbowl Street
P. O. Box 3559
Honolulu, HI 96811-3559

Maui District Tax Office
54 South High Street
P. O. Box 913
Wailuku, HI 96793-0913

Hawaii District Tax Office
75 Aupuni Street
P. O. Box 1377
Hilo, HI 96721-1377

Kauai District Tax Office
3060 Eiwa Street
P. O. Box 1688
Lihue, HI 96766-5688

Tax Information
Telephone No.: 808-587-4242
Jan.-April 20: 808-587-6515
Toll-Free: 1-800-222-3229
Fax No.: 808-587-1488

Telephone No.: 808-984-8500
Fax No.: 808-984-8522

Telephone No.: 808-974-6321
Fax No.: 808-974-6300

Telephone No.: 808-274-3456
Fax No.: 808-274-3461

The following publications are available from the Department of Taxation:

"An Introduction to the General Excise Tax"
"An Introduction to the Use Tax"
"An Introduction to the Tax Clearance Procedure"
Tax Facts 95-1: *"All About the Hawaii Use Tax"*
Tax Facts 96-1: *"General Excise vs. Sales Tax"*
Tax Facts 96-3: *"Tax Clearances Now Needed by Businesses Entering into State & County Contracts"*
Tax Facts 97-3: *"Starting a Business - Licenses and Taxes"*
Tax Information Release No. 21-69, *"General Excise Tax and Real Property Tax Exemptions as Applicable to Preschools or Day-Care Centers Operated by Churches"*
Tax Information Release No. 42-74, *"Application of the General*

Excise Tax to Interest Income"
Tax Information Release No. 89-6, *"General Excise Tax on the Fundraising Activities of Public School Sponsored Groups"*
Tax Information Release No. 89-13, *Application for Exemption from the General Excise Taxes for Nonprofit Organizations"*
Tax Information Release No. 91-2, *"Taxability of Gross Proceeds Received by a Nonprofit Organization From the Sale of Donated Services or Tangible Personal Property"*
Tax Information Release No. 91-4, *"Hawaii Tax Obligations of Nonprofit Organizations"*

Some of the information contained in this Tax Facts was obtained from the Internal Revenue Service Publication 557, *"Tax Exempt Status for Your Organization"*

Tax Facts is a publication of the Department of Taxation on tax subjects of current interest and is not intended to be a complete statement of the law. Subsequent developments in the law (legislation, rules, cases, etc.) should be consulted.

FOR MORE INFORMATION CONTACT: TAXPAYER SERVICES (808) 587-4242

Hawai'i Civil Rights Commission

Testimony RE: S.B. No. 1

Attachment B

"Tax Advisory on the Application of the General Excise Tax to Tourist Wedding Activities of Churches", April 27, 1997.

BENJAMIN J. CAYETANO
GOVERNOR

MAZIE HIRONO
LT. GOVERNOR



RAY K. KAMIKAWA
DIRECTOR OF TAXATION

SUSAN K. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION

PO BOX 259
HONOLULU, HI 96809

April 21, 1997

**TAX ADVISORY ON THE APPLICATION OF THE GENERAL EXCISE
TAX TO TOURIST WEDDING ACTIVITIES OF CHURCHES**

Recently, questions have been raised regarding the application of the general excise tax to the income received from tourist "wedding" activities on church premises. This advisory provides information about the general excise tax exemption for churches and, in particular, their tourist wedding activities.

Section 237-23(a), Hawaii Revised Statutes (HRS), provides that the general excise tax shall not apply to corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes.

Section 237-23(b), HRS, further provides that the exemption shall apply only to the fraternal, religious, charitable, scientific, educational, communal, or social welfare activities of such persons, and not to any activity the primary purpose of which is to produce income even though the income is to be used for or in furtherance of the exempt activities of such persons.

Section 237-23(c), HRS, provides that in order to obtain an exemption from the general excise taxes, the organization must file Form G-6, Application for Exemption from the Payment of General Excise Taxes, with the Hawaii Department of Taxation for approval.

The following discussion assumes that the church in question is organized and operated for a religious purpose, and has applied and received approval for exemption from the general excise tax.

In performing traditional wedding ceremonies, a church is conducting an activity that is religious in nature. Accordingly, income received from the conduct of these ceremonies are generally considered exempt from the general excise tax. With the recent introduction of tourist "wedding" activities on church premises on a wholesale basis, questions have arisen as to whether the income derived from this activity qualifies for exemption from the general excise tax.

The test is whether the primary purpose of the tourist "wedding" activity is religious or fundraising in nature. If fundraising, the income received from the activity will be subject to the 4 percent general excise tax. This determination is made on a case-by-case basis taking into account all of the facts involved.

April 21, 1997

Page 2

For example, if the ceremony performed is in fact a wedding (as opposed to, say, a reenactment of one) conducted on church premises by the church minister, priest, or other officiator, then the activity will be considered religious and not income-producing. On the other hand, if the weddings are arranged, packaged and conducted through a commercial entity without church involvement other than making available the use of church premises, the "wedding" activity will be considered fundraising in nature. Even though the wedding activity may be conducted by the church minister, priest, or other officiator, the activity can take on a commercial hue that is so predominant as to render it fundraising in nature (considering the size and frequency of the activity, how the activity is marketed, the amount of time and resources expended, and the amount of revenues derived from the activity).

We recognize that there maybe other factual circumstances not detailed in the preceding paragraph. In order to ensure that the correct reporting position is being taken on these activities, a church may ask the department for a ruling on its specific circumstances. A ruling is requested by submitting a Form A-7 to the department. Please call 587-7572, our forms line, and ask for the Form A-7 with instructions.

In general, the honoraria or fee that the minister, priest, or other officiator receives for performing the wedding ceremony is subject to the 4 percent general excise tax. However, where the honoraria or fee is turned over intact to the church and the wedding ceremony is not viewed as primarily fundraising, then the gross income will not be taxable under the general excise tax.

Aside from tourist wedding activities, many church facilities are made available for use by other organizations, individuals, or community groups. Amounts charged for this use will be considered rental income subject to the 4 percent general excise tax. Whether it is called "rental," "user donation," "donation," or by some other designation, the charge for the use of church facilities will as a general rule be considered fundraising in nature.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



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LESLIE WILKINS

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Executive Director
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235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

October 29, 2013

To: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice Chair
Members of the House Committee on Judiciary

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair
Members of the House Committee on Finance

From: Cathy Betts, Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Strong Support of SB 1, Relating to Equal Rights

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank the Committee for hearing this bill and for the opportunity to testify in support. The Commission strongly supports marriage equality for all in Hawaii. Just this year, the United States Supreme Court held that Section 3 of the federal Defense of Marriage Act (DOMA) constituted unlawful discrimination and thereby violated the United States Constitution.ⁱ While Hawaii has always been ahead of this curve (*see Baehr v. Lewin*)ⁱⁱ, our own civil unions are not recognized under federal law and same sex couples are not allowed to marry. In turn, our GLBT community members are not treated equally under the law and are discriminated against as a class.

The Commission believes that all people should be treated with equality and respect. Hostility and violence towards our GLBT community very closely mimics hostility and violence towards women. As women are punished for not acting “female enough”, or “acting too male” and venturing out of the close confines of gender roles, those who identify as GLBT are punished for either not closely conforming to strict and unrealistic gender roles or for being gender non-conforming through a heterosexual lens. Additionally, this homophobia reminds boys to “toughen up”, stop “acting like a girl” and otherwise eschew any stereotypically female traits. This provides a disservice to both men and women in all relationships and we know ultimately, that homophobia is rooted in sexism. Homophobia and sexism narrow our view of what constitutes “normal”, limiting the broad spectrum of differences in the ways people express their individual sexuality and sexual orientation.

Marriage, as a social and cultural institution, is always evolving. What began in “traditional marriage” as a contract for chattel and a transfer of property ownership—where fathers of women to be married “transferred” ownership of their daughters to another man for a fee (e.g. money, property, land, animals, etc.) has completely evolved to suit a different reality. We can remember a time when something as common as inter-racial marriage was viewed as “abnormal”, “unnatural” and against the will of God—social views that supported the notion that these marriages should be illegal.ⁱⁱⁱ As no surprise, these restrictions on marriage were shot down as being inconsistent with our 14th Amendment, Equal Protection Clause. Looking back on the landmark decisions building up to *Windsor*, our legislature has an opportunity to move towards a greater and more inclusive justice and equality for *all* of Hawaii’s people.

As Dr. Martin Luther King, Jr. poignantly stated, “The arc of the moral universe is long, but it bends towards justice.” We urge the Committees to continue on this path towards justice and pass marriage equality. We also urge the Committees to oppose any exemptions that weaken our public accommodations protections, which were enacted to prohibit discrimination. Thank you for your time and consideration.

ⁱ United States v. Windsor, 133 S. Ct. 2675 (2013).

ⁱⁱ Baehr v. Lewin, 74 Haw. 530, 852 P.2d 44 (1993).

ⁱⁱⁱ Loving v. Virginia, 388 U.S. 1 (1967).

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

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October 30, 2013

To: Chair Karl Rhoads, Chair Sylvia Luke, and members of the House
Committees on Judiciary and Finance,

From: Elena Cabatu, Hawaii County Commissioner, Hawaii State Commission on
the Status of Women

Re: Testimony in Strong Support of SB 1, Relating to Equal Rights

As the Hawaii County Commissioner on the Hawaii State Commission on the Status of Women, born and raised on Hawaii Island from a long line of Filipino-American and Japanese-American families, I would like to thank the Committees for hearing this bill. I stand with my fellow Commissioners representing every county in our great state in strong support of marriage equality for all in Hawaii.

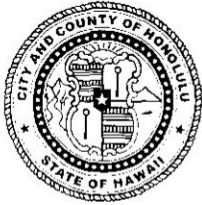
I would like to offer my family's story to illustrate the importance of your roles in supporting marriage equality and determining so many aspects of our lives. My partner, Theresa Gennette, and I will be celebrating 10 years together this coming November 5. I would like to share with you the following milestones:

- July 28, 2007: We celebrated our commitment ceremony in the company of our family and friends.
- January 18, 2012: We welcomed the birth our daughter Elsa Marie.
- July 3, 2012: We experienced a bitter-sweet milestone with Theresa's adoption of our daughter.

Elsa is the light of our lives and in the coming year or two, we hope to give her the greatest gift parents may give their first born: a sibling. While Theresa's adoption of Elsa was a joyful occasion marking her as Elsa's legal mother, we had to pay thousands of dollars to make this happen. Had Theresa been Thomas, we would not have experienced this inequality and Theresa's status as a legal parent would have been instant and unquestioned. From a personal perspective, our story and the milestones we have experienced are not much different from any other family.

From a financial perspective, however, we have paid thousands of dollars in state and federal taxes due to the fact that we have not been able to file jointly as married. We celebrated earlier this year when the U.S. Supreme Court ruled the federal Defense of Marriage Act (DOMA) as unlawful discrimination and thereby a violation of the U.S. Constitution. We have also seen this year the IRS follow suit to allow same-sex couples to file taxes jointly at the federal level.

It is not an overstatement or exaggeration to say members of these Committees hold our lives in their hands. You will determine equal rights for my family. You will determine if our future second child will be born in a new era of civil rights. You will also determine if Theresa and I will be able to be legally married next summer and be seen equal under the law among other married couples. The time for marriage equality is now. I urge members of these House committees to pass this bill, unamended. Thank you!



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
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IKAIKA ANDERSON

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Councilmember, District 3

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Fax: 808-768-1235

October 28, 2013

The Honorable Senator Clayton Hee, Chair
Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 407
Honolulu, HI 96813

The Honorable Representative Karl Rhoads, Chair
House Committee on Judiciary
Hawaii Capitol, Room 302
Honolulu, HI 96813

RE: Testimony in **support** of Senate Bill 1; Relating to Equal Rights

Dear Chairs Hee and Rhoads,

I am writing to you in **STRONG SUPPORT** of Senate Bill 1 (SB1).

When the United States Supreme Court made its ruling that a portion of the Defense of Marriage Act (DOMA) was unlawfully discriminatory the Federal government promptly moved to ensure that married same-sex couples were afforded the same benefits and protections as those in opposite-sex marriages have enjoyed for many decades.

However, in order for those in same-sex relationships to receive these reciprocal benefits they must be legally recognized as a 'married' couple. Marriage is a term that is used both religiously and legally to identify couples who have committed to each other and society to act as co-dependents and co-producers. Governments have long recognized the benefit of this cooperative relationship through the enactment of various economic and social benefits for married individuals.

I believe that all couples, who act as a cooperative in society, should be entitled to the same benefits that my wife, Lisa, and I enjoy. SB1 does not redefine the religious doctrine of 'marriage'. SB1 would clarify the legal definition for the purposes of

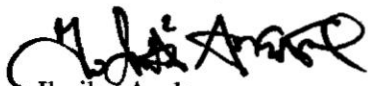
Senator Clayton Hee
Representative Karl Rhoads
Page 2

determining whether or not a couple, acting as a cooperative, should be entitled to the same benefits as existing cooperatives recognized under the current definition of 'marriage'.

While I do recognize and respect the concerns of the religious community that legislative efforts to recognize same-sex marriages may be perceived as an effort to redefine 'marriage' in the religious context, I believe that SB1 adequately protects the religious freedoms of religious institutions, their clergy and members. If additional changes are required to protect the freedoms of religious institutions, their clergy and members then I would support such changes provided that the freedoms of one group do not come at the expense of another.

Thank you for your attention and consideration.

Malama Pono,



Ikaika Anderson
Honolulu City Council, Vice-Chair
Councilmember, District 3

COMMITTEE ON JUDICIARY
COMMITTEE ON FINANCE

S. B. 1, Relating to Equal Rights
Thursday, October 31, 2013
10:00am

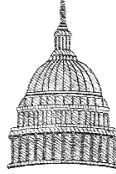
Aloha Chairs Rhoads and Luke, Vice Chairs Har, Nishimoto, and Johanson:

My name is Linda Schatz and I am here today to represent the Schatz family -- Brian and I -- in support of the S. B. 1, recognizing marriage for same sex couples.

Although Brian, as a United States Senator, respects the jurisdiction of the State Legislature, we decided as a family that we should be here today speaking on behalf of this measure. We support legislation that recognizes marriage for same-sex couples and applies provisions of law equally to all couples committing to a life partnership through marriage.

I am honored to be the family spokesperson today because the action you are considering is a bright moment for our State and an affirmative unfolding of history. We must remove long-standing barriers and as we offer the same rights and responsibilities to all couples wishing to make a full and complete life together.

Thank you for the opportunity to appear before you today and I humbly ask for your support of this measure.



CONGRESSWOMAN COLLEEN HANABUSA
FIRST DISTRICT
HAWAII

Chairs Luke and Rhoads; Vice Chairs Har, Johanson, and Nishimoto; and members of the Committees:

Thank you for this opportunity to present testimony in support of SB1, Hawaii's same-sex marriage law.

When the U.S. Supreme Court ruled in *United States v. Windsor* last summer, it changed our nation's conversation about marriage equality in very profound ways. In granting federal benefits to same sex couples who were legally married in states that allowed for those unions, the Court's decision was a great victory for many couples, but not all.

Today, same-sex couples in Hawaii do not have access to federal rights afforded other couples across the country because our state does not recognize same-sex marriage. It is simply untenable that any Hawaii resident would be treated as a second-class citizen as a result of our state's refusal to acknowledge the legitimacy of their union. Now, the remedy for that is in your hands.

I would like to add, however, that I come to you today as more than an attorney and a legislator. I am also a proud part of the Hawaii community, and I count myself fortunate for having enjoyed the privileges of its openness and diversity. We as a state and a community can no longer call ourselves a place of Aloha if we continue to tell these committed, loving couples that they do not deserve the right to celebrate their unions. Marriage equality is about more than rights. It is about respect and acceptance.

Our state's history on the question of marriage equality has not been perfect, but we have the capacity to learn from our past. Like many Americans, including President Obama, my own views have evolved. I have always believed in equal rights for our LGBT brothers and sisters and pushed for civil unions while serving as President of the Hawaii State Senate, but I now appreciate that *nothing less than full marriage equality is enough*.

Progress grows from those who are willing to stand up and speak for themselves and others. The Hawaii State Legislature has an opportunity to rise to the situation, demonstrate your respect for the rights of *all* of our citizens, acknowledge the power of diversity in our community, and offer full marriage equality in Hawaii. I encourage you to vote in support of SB1. All citizens of Hawaii deserve the freedom to marry the ones they love.

Mahalo.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a horizontal line and a vertical line crossing it.

Colleen Hanabusa



46-063 Emepele Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

TESTIMONY FOR SENATE BILL 1, RELATING TO EQUALITY

House Committee on Judiciary
Hon. Karl Rhoads, Chair
Hon. Sharon E. Har, Vice Chair

House Committee on Finance
Hon. Sylvia Luke, Chair
Hon. Scott Y. Nishimoto, Vice Chair
Hon. Aaron Ling Johanson, Vice Chair

Thursday, October 31, 2013, 10:00 AM
State Capitol, Auditorium

Honorable Chair Rhoads, Chair Luke and committee members:

I am Kris Coffield, representing the IMU Alliance, a nonpartisan political advocacy organization that currently boasts over 175 local members. On behalf of our members, we offer this testimony **in strong support of SB 1**, relating to equality.

Marriage equality is long overdue. Like Native Hawaiian self-determination or lobbying reform, the time for passing same-sex marriage in the islands isn't now. It was decades ago, when the consequences of discrimination—bullying against GLBT children, prejudice-inspired violence, and economic disenfranchisement, to name a few—gained public notice. One can plausibly argue that the time for equality has always been with us, since discrimination against any class of people is repugnant in any era. Period.

Today, we're in the reparative stage of the gay marriage struggle, in which the conversation hinges as much on redressing injustice as institutionalizing progressive social values. In the recently decided Supreme Court Case *United States v. Windsor*, for example, the plaintiff, Edith Windsor, argued that the Defense of Marriage Act unfairly forced her to pay \$363,053 in estate taxes by preventing the federal government from extending the tax's spousal exemption to same-sex couples. Windsor won, but isn't the only person to face unnecessary hardship because of biased legal codes.

A host of rights continue to be denied to unmarried gay citizens, including those involved in separate-but-equal civil unions. According to the Government Accountability Office, marital rights are the bridge to 1,138 federal protections, including social security survivor benefits,

expedited family-based immigration visas, spousal employment safeguards, and income tax exemptions. Even basic entitlements that support the financial well-being of families, like pension benefits and Medicaid provisions, are complicated by the lack of “marriage” being formally attached to a same-sex couple's relationship status.

In Hawaii, the number to remember is \$217 million. That's the potential value of the tourism boost the islands could reap if policymakers sow same-sex marriage into law, says a study performed by University of Hawaii economist Sumner La Croix. Of that amount, La Croix surmises that \$166 million would come from spending on marriage ceremonies and honeymoons, especially by visitors planning destination weddings. Approximately \$10.2 million would be generated in general excise tax revenue between 2014 and 2016, enough to improve children's learning growth by providing air conditioning to several of the state's hottest schools.

Economics aren't the primary reason local lawmakers should legalize same-sex weddings. Rather, ensuring the dignity of every person, regardless of sexual orientation, should be the state's main goal. Yet, as non-controversial as that may seem for a state that prizes and advertises its diversity, some religious conservatives are concerned that gay marriage runs afoul of scripture. Catholic Bishop Larry Silva recently stated that “not all discrimination is unjust.” Similarly, in a Facebook post to followers on July 2, New Hope pastor Wayne Cordeiro called the Supreme Court's June marriage equality decisions “immoral rulings,” stating, “If we tolerate immorality in our churches, we will see it endorsed in our country.” Silva's and Cordeiro's message is clear: religion, especially Christianity, condemns same-sex couples.

Contrary to the convictions of conservative Christian leaders, though, marriage equality passes the Biblical test. Perhaps the most oft-cited passages decrying homosexuality come from Leviticus, which purportedly bans laying with a man as with a woman. But Levitical laws also prohibit planting two different crops in the same field, clothes made from different fibers, and touching pigskin. So much for playing football in your favorite player's jersey. Sometimes, heterosexual relations between Adam and Eve in Genesis's creation stories are exalted as morally normative. Genesis makes no mention of same-sex sexuality, however, and has become a textbook case of people reading personal ideologies into a text that aren't present in the text itself.

Even in the New Testament, homosexuality fares fairly well. Jesus, the man on whom Christianity is based, never discusses same-sex relationships, instead devoting extensive time to helping the poor, sick, and socially outcast. In epistles to the Romans and Timothy attributed to the apostle Paul, the author appears to denounce homosexuality as immoral. Unfortunately for equality opponents, the Greek word translated as “homosexuals” in these verses is *arsenokoites*, which many Biblical scholars, including National Book Award winning author John Boswell, believe to have been coined by the author (there is no record of its usage before the Pauline letters) to refer only to young male prostitutes who were sexually exploited during Roman

temple rituals. While research about the term's meaning continues, one can hardly claim ambiguous, and possibly countervailing, ancient phrases as a sound basis for public policy.

With regard to the scope of the religious exemption contained in the bill, **we encourage you to refrain from weakening the state's public accommodations law.** Accordingly, we urge you to allow churches to refuse same-sex weddings at church facilities ***if and only if*** marital use of such facilities is restricted to church members and affiliated persons, and not used to operate for-profit marital businesses. We encourage you to use the following “public accommodations” language: Religious organizations and facilities; liability exemption under certain circumstances. a) A religious organization shall not be required to make a religious facility owned or leased by the religious organization available for solemnization of a particular marriage; provided that: (1) The religious facility is regularly used by the religious organization for religious purposes; (2) For solemnization of marriages pursuant to this chapter, the religious organization restricts use of the religious facility to its members; and (3) The religious organization does not operate the religious facility as a for-profit business. (b) A religious organization that refuses to make a religious facility available for solemnization of a marriage under subsection (a) shall not be subject to any fine, penalty, injunction, administrative proceeding, or civil liability for the refusal. (c) Nothing in this section shall be interpreted to exempt the owner or operator of any religious facility from the requirements of chapter 489 if the religious facility is a place of public accommodation as defined in section 489-2. We further urge you not to extend the exemption to facilities used “primarily” for profit, since this would allow discrimination at dual-use facilities and introduce vague terminology that could complicate application of the statute's protections.

By any measure, legalizing marriage equality furthers the interests of Hawaii's citizens, both gay and straight. Waiting, either for next year's legislative session or a vote on a constitutional amendment, merely delays the fulfillment of justice that's too long been denied. Mahalo for the opportunity to testify **in strong support of** this bill.

Sincerely,
Kris Coffield
Legislative Director

TESTIMONY OF

PATRICIA KOGE

USW Local 12-591 Unit Chair of the Hawaii Independent Energy

before the

HOUSE COMMITTEE ON JUDICIARY AND FINANCE

Thursday, October 31, 2013

10:00 a.m.

State Capitol, Auditorium

concerning SB 1

□RELATING TO EQUAL RIGHTS□

Chairperson Rhoads and Luke, Vice Chairs Har, Nishimoto and Johanson and fellow committee members:

The United Steelworkers (USW) Union Local 12-591 strongly supports SB 1, the granting of equal rights to same-sex couples concerning marriage equality.

The USW have a long history of standing up for the working class people on issues that affect our members and proudly support this bill. Passage of this bill will enable same-sex couples to receive the same Federal benefits (over 1,000) afforded heterosexual couples.

The USW stand with supporters of marriage equality because it is the □right□thing to do and gives our LGBTIQ members equal access to benefits, preserves their dignity and recognizes their relationships.

Other states that have enacted similar bills on marriage equality have rectified this grave injustice to our LGBTIQ community. Our hope is that our LGBTIQ members working in Hawaii will no longer have to live in fear of the uncertainties that exist without the protections of full marriage equality.

It is our sincere hope that members of our legislative body will remain strong and resist pressures from those who oppose this bill. Failure to pass this bill will continue to deprive Hawaii residents and USW members of their dignity and right to be treated equally. Now is the time to stand up to discrimination and pass marriage equality.

Thank you for giving me the opportunity to testify at your committee hearing.

TESTIMONY OF

PATRICIA KOGE

USW Local 12-591 Unit Chair of the Hawaii Independent Energy

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Thank you for giving me the opportunity to testify at your committee hearing.



League of Women Voters of Hawaii

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HOUSE COMMITTEE ON JUDICIARY
Rep. Carl Rhoads, Chair and Rep. Sharon Har, Vice Chair

HOUSE COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair, Rep. Scott Nishimoto, Vice-Chair, Rep. Aaron Ling Johanson,
Vice-Chair

Thursday, October 31, 2013, 10:00 A.M. State Capitol Auditorium

S.B. 1 Relating to Equal Rights

TESTIMONY

Beppie Shapiro, Legislative Committee member, League of Women Voters of Hawaii

Chairs Rhoads and Luke, Vice-Chairs Har, Nishimoto and Johanson and Committee Members:

The League of Women Voters of Hawaii strongly supports SB1 which recognizes marriage between two persons of the same sex in the State of Hawaii.

LEGAL RATIONALE FOR MARRIAGE EQUALITY

The US Constitution's Fourteenth Amendment, (Section 1) guarantees equal protection under the law stating "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

In most instances, the Supreme Court permits laws that do not treat people equally if the laws have a "rational basis" and a "legitimate purpose." The League speaks later in this testimony to "rational" arguments advanced in favor of restricting marriage to a man and a woman. As to 'legitimate purpose', in *Romer v. Evans* (1995) Justice Kennedy wrote for the majority "If the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare desire to harm a politically

unpopular group cannot constitute a legitimate governmental interest." ¹ The group in question was homosexuals

While Hawaii's Civil Unions law provides state benefits for same-sex couples, this is not the case for Federal benefits, such as income tax deductions; the ability to file joint taxes; the ability to receive a spouse's inheritance; preferential treatment under immigration laws; benefits such as health care to spouses of federal employees or veterans, and continuation of some benefits after death or divorce. How can Hawaii prohibit same sex marriage after this summer's U.S. Supreme Court ruling that invalidated DOMA restrictions on Federal benefits to same-sex couples?

Arguments based on religious principles or authority confuse civil marriage (which is licensed and regulated by the State), and religious marriage ceremonies conducted under the auspices of an organized religion. Same-sex couples may choose a civil marriage officiated by a judge, but if they seek religious ceremonies, the bill allows clergy/churches to choose whether or not to provide these ceremonies; many churches which support the proposed bill will presumably do so.

Since the proposed bill states that clergy will not be **required** to perform same-sex marriages, we think the first amendment rights of religious clergy to express disapproval by not sanctioning these marriages is upheld.

However, with regard to religious facilities, it is entirely appropriate that Hawaii's public accommodations law be applied if a religious organization operates its facility as a for-profit business, and/or allows non-members to use its facilities for weddings. This law protects our citizens from prejudicial exclusions.

We now call on the legislature to support and defend the U.S. Constitution, which by Supreme Court interpretation of the First Amendment Establishment clause includes the separation of church and state. We hope you will be able to separate religious belief and individual civil rights in this important situation.

"RATIONAL" ARGUMENTS AGAINST MARRIAGE EQUALITY

The 2010 U.S. Census reported that 27% of Hawaii's households headed by same-sex couples include children. Some opponents of marriage equality argue that children of same-sex parents experience a lower quality of life than children living with a male and female parent. However, "scientific research that has directly compared outcomes for children with gay and lesbian parents with outcomes for children with heterosexual parents has been consistent in showing that lesbian and gay parents are as fit and capable as heterosexual parents, and their children are as psychologically healthy and well-adjusted as children reared by heterosexual parents."² In general, children benefit from living in stable, two parent families. Having a clear legal relationship with both parents simplifies situations from school and medical emergencies to the death of a parent. Legal marriage will promote stable same-sex families both because of the

¹ http://www2.law.columbia.edu/faculty_franke/Gay_Marriage/Romer%20edited.pdf, accessed 9/22/13.

² <http://cdn.ca9.uscourts.gov/datastore/general/2010/10/27/amicus29.pdf>, accessed 9/22/13.

recognized commitment, and the enhanced financial security and physical and mental health which characterize married versus cohabiting couples.³

Others fear legalizing same-sex marriage encourages people who would otherwise be heterosexual to adopt a homosexual identity or “lifestyle”. Yet research documents that most gay men and many or most lesbians do not feel they had a choice in their sexual orientation. Further, sexual orientation is highly resistant to change.⁴

Another argument is that legalizing same-sex marriage would undermine the stability and functioning of society. The executive board of the American Anthropological Association published the following Statement in 2004: “The results of more than a century of anthropological research on households, kinship relationships, and families, across cultures and through time, provide no support whatsoever for the view that either civilization or viable social order depend upon marriage as an exclusively heterosexual institution. Rather, anthropological research supports the conclusion that a vast array of family types, including families built on same-sex partnerships, can contribute to stable and humane societies.”⁵

OUR CONCLUSION

The League of Women Voters believes there is ample legal precedent for same-sex marriage. The difference between a religious marriage ceremony and a civil marriage that is licensed and regulated by the State is now well-established. Importantly, this bill also speaks to the relationship of same sex couples to children within such a marriage. Here we strongly reject any notion that same-sex marriages place children in the family at higher risk than heterosexual marriages. We believe that economic research has documented that marriage equality will have economic benefits to Hawai‘i, with State of Hawaii and City and County of Honolulu general excise tax revenue projected to grow by \$10.2 million over the 2014-2016 period.⁶ The number of weddings, honeymoons, and anniversary celebrations would grow, increasing employment and tax revenue.

We hope the legislature will now have the political will to reject misplaced religious arguments in favor of protecting the civil rights of gay couples. Hawaii voters expect no less, having passed a Constitutional Amendment in the 1998 election, enabling the legislature to pass this bill: “The legislature shall have the power to reserve marriage to opposite-sex couples” HAW. CONST. ARTICLE I, SECTION 23. The League of Women Voters of Hawaii urges you to thoughtfully consider our reasoning and evidence, and to enact marriage equality.

³ <http://cdn.ca9.uscourts.gov/datastore/general/2010/10/27/amicus29.pdf>, accessed 9/22/13.

⁴ <http://www.theage.com.au/victoria/tick-for-samesex-families-20130605-2npxf.html#ixzz2faBoHsrB>, 6/5/2013.

⁵ <http://www.aaanet.org/issues/policy-advocacy/Statement-on-Marriage-and-the-family.cfm>; accessed 9/22/13).

⁶ Sumner LaCroix and Lauren Gabriel, “The Impact of Marriage Equality on Hawai‘i’s Economy and Government: An Update after the U.S. Supreme Court’s Same-Sex Marriage Decisions,” Research Paper from the Economic and Research Organization at the University of Hawaii, July 25, 2013.



Committee: Committees on Judiciary and Finance
Hearing Date/Time: Thursday, October 31, 2013, 10:00 a.m.
Place: Capitol Auditorium
Re: Testimony of the ACLU of Hawaii in Strong Support of S.B. 1, Relating to Equal Rights

Dear Chair Rhoads, Chair Luke, and Members of the Committees on Judiciary and Finance:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in strong support of S.B. 1, Relating to Equal Rights, which establishes the freedom to marry for same-sex couples in Hawaii.

We support S.B. 1 for a number of reasons. First and foremost, our community has engaged in the debate over same gender marriage for at least the past twenty years, and it is time for marriage equality in Hawaii. In 1993, the Hawaii Supreme Court issued its decision in *Baehr v. Lewin*, 74 Hawaii 530 (1993), and held that the state prohibition against same-gender marriage presumptively violated the Hawaii Constitution as unlawful sex discrimination under Article 1, Section 5. In the wake of *Baehr*, a number of groups in Hawaii and the rest of the nation mobilized in opposition same-gender marriage. The possibility that a state court could order that same-sex couples had the right to marry spurred passage of the federal Defense of Marriage Act (“DOMA”) as well as legislation and constitutional amendments in other states that defined marriage as between one man and one woman. DOMA functioned as a barrier to same-gender couples from attaining the 1,138 federal rights, responsibilities and protections that come with marriage.

Second, on June 26, 2013, the U.S. Supreme Court ruled § 3 of DOMA unconstitutional. Specifically, the Court held that, as applied to same-sex couples in lawful marriages under state law, § 3 impermissibly “violate[d] basic due process and equal protection principles applicable to the Federal Government” through the Fifth Amendment. *United States v. Windsor*, 133 S. Ct. 2675, 2693 (2013). Consequently, same-gender couples who are married in states that recognize marriage are entitled to the 1,138 federal benefits referenced above. This affirms the very real distinction between a civil union and a marriage – demonstrating that civil unions are an inferior status to marriage.

Third, the people of Hawaii cannot rely upon other states’ marriage equality laws to protect Hawaii residents. Of the 1,138 federal rights and benefits that attach to marriage, some (such as the right to file taxes jointly, immigration benefits, and some Medicare benefits for

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those in nursing homes) will apply regardless of the place of domicile; however, some of those rights and benefits *are not* available to individuals who live in a state like Hawaii that does not recognize the freedom to marry – even if those individuals were married in one of the fourteen states that does – including bankruptcy, FAFSA, FMLA, Medicaid, TANF, and Veteran Spousal Benefits. For many other benefits, such as SSI, the law is unclear. We simply do not know when (or if) Congress will act and/or federal agencies will enact rules to resolve these legal ambiguities, but it is clear that Hawaii families will continue to carry the weight of this uncertainty in their day-to-day lives for years to come, absent prompt action by the Hawaii Legislature. Furthermore, even if Hawaii residents *could* travel to another state to take advantage of the 1,138 federal rights and benefits that are available, they should not have to do so: some couples cannot afford to travel. Some who are elderly and/or have serious health conditions *cannot* travel. And even those who are healthy and financially secure enough to make the trip to the mainland should not have to spend thousands of dollars to marry – it is unfair, and causes dignitary harm.

Fourth, S.B. 1 reflects a proper balance between marriage equality and the protection of religious freedom. The bill currently contains two exemptions, one for refusal to solemnize and one for religious facilities. Consistent with both the federal and state constitutions, S.B. 1 protects the right of clergy to decide which marriages they will solemnize, according to the tenets of their faith. This right is absolute to clergy members. S.B. 1 also ensures that religious institutions that choose not to rent their facilities or grounds to the general public for a profit may continue to exclude anyone they wish. When the Legislature extended our nondiscrimination laws to protect against discrimination on the basis of sexual orientation 2006, it determined, after due consideration of public testimony, that once a business or organization opens its doors to the public and operates for a profit, it must treat everyone fairly, and no one should be turned away just because they are gay or lesbian. Allowing the freedom to marry is no reason to change these basic principles of fairness. The ACLU of Hawaii prepared a Q&A specific to the religious exemptions for the benefit of the public and the legislature. It is attached to this testimony for your ready reference.

Fourteen states and the District of Columbia already have the freedom to marry for same-sex couples. Religious freedom and a commitment to equal treatment coexist in all these states, and the same will happen in Hawaii; some states have narrower exemptions for religious organizations, and some have broader special exemptions. The differences in exemptions largely reflect differences in existing state nondiscrimination protections. The language of S.B. 1 adequately balances the goals of religious freedom and equality for Hawaii's families.

Chair Rhoads, Chair Luke, and Committee Members
October 29, 2013
Page 3 of 3

Thank you for this opportunity to testify.

Sincerely,



Lois K. Perrin
Legal Director
ACLU of Hawaii

The American Civil Liberties Union of Hawaii (“ACLU”) has been the state’s guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii.

The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy.

The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society’s most vulnerable members are denied, everyone’s rights are imperiled.

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October 29, 2013

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NOTICE OF HEARING

DATE: Thursday, October 31, 2013
TIME: 10:30 a.m.
PLACE: Auditorium – Chamber Level
State Capitol
415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF SB1
RELATING TO EQUAL RIGHTS**

Recognizes marriages between individuals of the same sex. Extends to same-sex couples the same rights, benefits, protections, and responsibilities of marriage that opposite-sex couples receive.

Dear Committee on Judiciary and Committee on Finance:

Many of you know me, Kathryn Xian, as an advocate of anti Human Trafficking legislation. As the director of the Pacific Alliance to Stop Slavery, I have met child victims of sex trafficking who are LGBT. They become sex trafficked due to their vulnerability as homeless youth. How do they become homeless?-- because of their rejection by their 'ohana-- rejection often fueled by religious homophobia. This spiritual

wounding is a form of child abuse which leads not only to youth homelessness but to drug abuse, depression, sexual exploitation, and teen suicide. *see graphic attached

These children do not receive support from their families or churches who unjustifiably condemn them for their sexuality. However, the issue before you is not a religious issue. It is an equal rights issue. Lawmakers must uphold the separation of church and state and honor the equal rights of all citizens; rights afforded to everyone after great historical struggle.

60 years ago the political upheaval was over race. Now we risk a backsliding into institutionalized discrimination, influenced by the religious right, by not recognizing the class disparity of the LGBT community.

Some argue that, unlike race, sexuality is a choice. It is not. Sexuality is an integral part of one's identity. Those who are not LGBT-identified have no right to define the identities of people in the LGBT community.

It is our priority, as a community, to ensure the protection, safety, and equal rights of all our people. Marriage Equality is an absolute necessity to establish that no class of people may be marginalized by the state and treated like second class citizens. It will also show LGBT-identified youth that the overall LGBT community has such equal protection by the state and that their rights shall be kept unadulterated regardless of their sexual orientation.

As a Christian, I respectfully ask you not to cast your vote based on the coercion of homophobic fundamental Christians but upon the premise of freedom, liberty and equality for all. It's time we start healing our diverse community as leaders tasked with the kuleana of protecting all citizens regardless of race, gender, class, or sexual orientation.

Thank you for hearing this much needed legislation.

Sincerely,

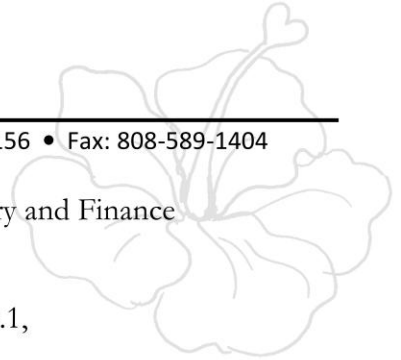


Kathryn Xian
Executive Director
Pacific Alliance to Stop Slavery



1350 S. King Street • Suite 309 • Honolulu, Hawaii 96814 • www.pphi.org • Phone: 808-589-1156 • Fax: 808-589-1404

To: Hawaii State House of Representatives Committees on Judiciary and Finance
Hearing Date/Time: Thursday, October 31, 2013, 10:00 a.m.
Place: Auditorium, Hawaii State Capitol
Re: Testimony of Planned Parenthood of Hawaii in support of S.B.1,
Relating to Equal Rights



Dear Chairs Rhoads and Luke and Members of the Committees on Judiciary and Finance,

Planned Parenthood of Hawaii writes in support of S.B.1, which seeks to recognize marriages between individuals of the same sex and extend to same-sex couples the same rights, benefits, protections and responsibilities of marriage that opposite-sex couples receive.

Planned Parenthood of Hawaii is dedicated to providing Hawaii's people with high quality, affordable and non-judgmental sexual and reproductive health care, education, and advocacy. We are proud to be a provider of health care, education and information for many in Hawaii's LGBT community.

We care deeply about the health of individuals, families and communities and we know that when people are truly cared for, their lives, their families, and their communities are better and healthier. Marriage equality *is* care and it will strengthen and enrich the lives of committed same-sex couples in Hawaii and provide stability for their families – to everyone's benefit.

Planned Parenthood of Hawaii was founded on principles of social justice. We support and respect the decisions of all people and families, regardless of their sexual orientation. We believe that individuals should be able to make their own choices about their health, their futures, their partners and who they marry. Until our LGBT patients and supporters enjoy the same rights as everyone else, we will continue to advocate for equal protection under the law.

Providing Hawaii with marriage equality is the right, just, and compassionate thing to do. It is time to join the 13 states and the District of Columbia that allow same-sex couples the freedom to marry the person they love. We respectfully call on you to pass S.B.1 and ensure marriage equality in Hawaii.

Thank you for this opportunity to testify.

Sincerely,
Andrea Anderson
CEO, Planned Parenthood of Hawaii

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1350 S. King Street, Suite 310
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KAUAI CLINIC
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HONPA HONGWANJI MISSION OF HAWAII

OFFICE OF THE BISHOP • 1727 PALI HIGHWAY • HONOLULU, HAWAII 96813 • PH: 522-9200 • FAX: 522-9209

Committee on Judiciary and Committee on Finance, SB1,
Thursday, October 31, 2013, 10:00 a.m.
Auditorium State Capitol, 415 South Beretania Street
Testimony-In Person

Re: Strong Support of SB1, Relating to Equal Rights

Dear Chair Representative Karl Rhoads and Committee on Judiciary and
Dear Chair Representative Sylvia Luke and Committee on Finance,

I would like to express my strong support of Senate Bill 1. The Honpa Hongwanji Mission of Hawaii is the largest Buddhist denomination in Hawaii with 33 temples throughout the State. For nearly 125 years, we have been sharing the message of an All-Inclusive Wisdom and All-Embracing Compassion which aspires for the peace and happiness of all existence. Guided by Great Wisdom and Compassion, we are encouraged to equally respect all people. The Honpa Hongwanji Mission of Hawaii's support of marriage equality is based on the equality of all people.

We believe that marriage equality is a basic civil right of any person. Further in any relationship, what is most important are the commitment, respect and trust that people bring to the relationship. The choice to marry the person you love is a freedom that should not be denied to anyone. Gay and lesbian couples wish to marry for similar reasons as anyone else – to make a lifetime commitment filled with love and fidelity to the person they love.

I believe that religious freedom is adequately protected by the bill. It is clear that no member of the clergy will be required to perform a wedding ceremony with which he or she does not agree. On the other hand, the passage of the bill will provide clergy the opportunity to marry all individuals who are deeply committed to each other. It is clear that some religious denominations will perform marriages for same-gender couples, and some will not, just as some houses of worship perform interfaith marriages and some will not. This bill does not change this fact.

This bill expands religious freedom and rights to more people in our Nation through our State. I believe it is in the spirit of our great Nation and our Aloha State to welcome, embrace and provide for all people. I know our ministers would welcome the opportunity to perform weddings for same-gender couples as it also affirms our spiritual values. True Compassion and Aloha includes all!

I humbly ask for your support for same-gender couples having the right to marry in Hawaii.

Thank you for this opportunity to testify.

With gratitude and respect,

Eric T. Matsumoto

Bishop

Honpa Hongwanji Mission of Hawaii

From: Jeff Hong
Sent: Tuesday, October 29, 2013 4:27 PM
To: 'repluke@capitol.hawaii.gov'; 'reprhoads@capitol.hawaii.gov'
Subject: Strong Support SB 1 - Good for Technology Business and Hawaii Families

To the Members of the Judiciary and Finance Committee,

Thank you for the opportunity to provide testimony. As the owner of a Hawaii based technology company I strongly support SB1. For technology businesses this bill reduces taxes, eases administrative burden, and enhances my ability to hire.

- **Tax Reduction** – Benefits paid to Civil Union partners are taxable compensation. The bill will allow me to reduce Federal Income taxes paid on these benefits as they can be supplied tax free.
- **Ease Administrative Burden** – I currently have to manage benefits for employees, spouses, dependents, Civil Union partners, and the dependents of the civil union partners. Applying these benefits as both taxable and non-taxable compensation is a nightmare.
- **Enhancing the Workforce** – I employ people locally, on the west coast, and internationally. A high technology workforce is very mobile and distributed with many options for choosing a place to live. Openly discriminating against same sex families cripples my ability to hire from places that provide a more welcoming environment to their citizens. It discourages many information technology people from wanting to work in a place where their fellow employees are not treated fairly.

On a personal level an important federal benefit granted by this legislation are the opportunities provided for non-citizen spouses.

I met my partner Jason Alcock in November 2002 while on vacation in Sydney. We met through mutual friends at a party thrown to welcome the out-of-town visitors. Our relationship blossomed, I was lucky that as a technology employee I had flexibility to work remotely and build a long distance relationship. After two extended passports, packed with 11 years of stamps, Jason is currently living in Hawaii as the Director of the Louis Vuitton Store at Ala Moana.

We had signed up as reciprocal beneficiaries and augmented it by completing our estate planning. We did not take advantage of entering into a Civil Union as it lacked a critical legal component; the ability for me to bring Jason into the US as my spouse.

Jason's employer has sponsored his US work visa. If anything happened with Jason's employment he would need to return to Australia. We had to create "Plan B" for leaving Hawaii in case he could not stay permanently. I am in the process of obtaining permanent residency in Australia. Australia will grant me this immigration status based on our de facto marriage.

The recent DOMA decision eliminates the need for "Plan B". Jason and I will marry in the US soon. As part of a family spanning five generations in Hawaii I would love to have our wedding here. Marriage will allow us to ensure that Jason can choose to remain in Hawaii regardless of his employment status.

The tragedy of failing to pass this legislation is that we will be forced to fly to California to seek legal refuge for benefits our home State of Hawaii is denying.

Why should the State of Hawaii place this additional burden on members of our island community?

This legislation is good for business and allows families to stay in Hawaii. I urge passage of this bill.

Mahalo,

Jeff Hong
Chief Technology Officer
Techmana LLC
808-398-6738

Submitted By	Organization	Testifier Position	Testifying in Person
Charis Logan	Moanalua Gardens Missionary Church	Oppose	Yes

Comments: I would like to respectfully oppose this bill. As I have read over SB1, I have found a few areas that concern me and my family. Under section 572-B, it says that all gender specific terminology shall be construed in a gender-neutral manner and shall apply to all sources of law. This alarms me because it is here that I see that this bill will now affect our education system. Not only will it change all language to be gender-neutral, I believe that it will have to completely change all educational curriculum. I also believe that it won't just stop with the language being changed but will evolve to mean that gender is not defined by genitalia but by preferences. I have worked with preschool and early elementary age students and know how impressionable children are at that age. I believe that all the ambiguity will only cause more confusion and may even cause unnecessary confusion. There are things as a parent that I would like to reserve the right to not have my child learn certain things in school, and would rather discuss with my child at home. The other issue in the bill that alarmed me was in section 572C-2. I firmly believe that marriage is a sacrament of the church and is between one man and one woman. I was appalled to read that the "Legislature acknowledges that there are many individuals who have significant personal, emotional, and economic relationships with another individual yet are prohibited by legal restrictions from marrying." The example given was a widowed (which earlier was deemed as a gender specific word) mother and her unmarried son. I do not believe that opening this up is detrimental to the good of our society. I do not believe that this is the best solution to areas of concern, whether economic or personal. I respectfully ask you to consider these concerns as you make your decision. I am not against giving rights to same sex couples, but would ask that we instead amend civil unions to include federal rights. Thank you very much

T 808-723-9154

FROM THE DESK OF

«FIRST» KAIWI LUM

October 31, 2013
Hulumanu Foundation
10am State Capitol Auditorium
Bradford Kaiwi Lum
1611 Keeaumoku Street #202
Honolulu, Hawaii 96822
hawaiianbl@yahoo.com

Testifying in support of SB1

Aloha, Judiciary Chairman Representative Karl Rhoads and Vice Chairman Representative Sharon E Har

My name is Bradford Kaiwi Lum and I testify in strong support of SB1. I'm requesting that the Judiciary Committee to recognize marriages to same-sex couples the same rights, benefits, protections and responsibilities of marriage that opposite couples receive.

Native Hawaiians have historically and traditionally embraced the concepts of relationship that all people are equal including same sex relationships. When the missionaries arrived in 1820 they introduced extremely conservative moral austerities upon the native people as well as the concept of sin relating to sex. Hula was the most prominent and obvious cultural practice it was almost extinguished because of the ability to be aroused by such body movements.

Mahu were in fact viewed by ancient hawaiians as a normal element of social culture that preceded missionary arrivals, thus Mahu were regarded as legitimate and contributing members of society. Aunty Mary Kawena Pukui believes that 'aikane homosexuality is not wrong, forbidden or even evil in ancient Hawaii. She wrote in her book 'Olelo Noeau, He 'Aikane He Puana Na Ke Onaona 'aikane is a nest of the fragrance and sweet indeed is a good friend. Aunty Malia Craver have said we live in a confused and crazy world, disconnected from the valuable teachings of our po'e (people) and our Kūpuna (elders) of Hawaii. Historian Lilikala Kame'eleihiwa says that our ali'i and high ranking chiefs had references to different ways in which a Hawaiian man could increase his personal mana through same sex relationships with the ali'i.

In conclusion, they were gender variant people in polynesia since the 1700's. What changed was the way in which people came to viewed and treated. Intolerance turned into acceptance and acceptance turned into intolerance. This means

same sex marriage should be part of our native Hawaiian past and ought to be part of our society and part of the definition of “ohana” family. Many local families today include someone who is LGBTQ and sometimes it is hard for us to come out to our family, communities and its hard for our bothers and sisters as island people to talk about sex and same-sex relationships. What gives us strength as island people is the hawaiian value Hanohano (tolerance) , Ha‘aheo (pride), and most important Aloha (love). This brings us back not to discount our past legacy and as a small island community let us not ostracize people who are different. This is about Kūlena (responsibility) and malama taking care of each other and Ho‘omalua protecting all people in Hawaii.

Sincerely Yours, Bradford Kaiwi Lum

To: House Committee on Judiciary and Finance

Hearing Date/Time: Thursday, October 31, 2013, 10:00 a.m.

Place: Capitol Auditorium

Re: Strong Opposition of SB1

I am writing to voice my opposition to Bill SB1.

I am asking you to allow the people to decide on the issue of marriage as I believe the legislature is going against the will of the people. I support equality for all including the rights of conscience and religious freedom, which I ask you to respect as our elected leaders.

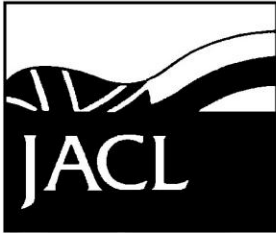
I am opposed to the most contentious social issue in our history being decided virtually in one week and ask that you please uphold the principles of democracy and the democratic process which are being disregarded in this special session.

This bill should be given due process during the regular session where it can properly be vetted and examined as all other bills. The people who elected you to serve as their voices should have a say in public policy that will forever obliterate thousands of years of indigenous and non-native culture, customs and traditions. Your "yes" vote in special session is clearly a NO vote to democracy!

Thank you for the opportunity to testify.

Stanford Brown

Honolulu, HI 96825



JAPANESE AMERICAN CITIZENS LEAGUE

HONOLULU CHAPTER

P.O. BOX 1291, HONOLULU, HAWAII 96807

PHONE: 523-8464 EMAIL: jaclhon@gmail.com WEBSITE: www.jaclhonolulu.org

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House Committee on Judiciary
House Committee on Finance
Thursday, October 31, 2013, 10:00 a.m.
Hawaii State Capitol – Auditorium

Testimony in **STRONG SUPPORT of SB 1**, Relating to Equal Rights

Dear Chair Rhoads Vice-Chair Har, Chair Luke, Vice-Chair Nishimoto, Vice-Chair Johanson and Committee members:

The Japanese American Citizens League (JACL) Honolulu Chapter is in strong support of Senate Bill 1, which ensures marriage equality while adequately protecting religious freedom.

JACL is the nation's oldest and largest Asian Pacific American civil rights organization with over 20,000 members. We have a long history of supporting marriage equality. In 1964 the JACL submitted an amicus brief in the U.S. Supreme Court case of *Loving v. Virginia* in which interracial couples were allowed to marry. In 1994, the JACL national council affirmed the position that marriage is a fundamental human right that should be guaranteed to all, which made the JACL the first non-gay organization to support marriage equality. In 1998, JACL was a leader in the Protect Our Constitution effort. It was then that the people of Hawaii voted to let the Legislature decide this critical issue.

We affirm JACL's mission to secure and maintain the civil rights of Japanese Americans and all others who are victimized by injustice and bigotry. Then, as now, JACL believes that inequity in the rights granted to married couples by a state is inconsistent with our state and federal constitution.

We urge you to pass SB 1 because discrimination against any group of people has no place in our society.

Respectfully submitted,

Liann Ebesugawa
President



Suite 1201 Fort Street Tower
745 Fort Street Mall
Honolulu, HI 96813

October 29, 2013

Karl Rhoads
Chair, House Committee on Judiciary
Sylvia Luke
Chair, House Committee on Finance
Hawaii State Capitol, Auditorium
415 S. Beretania Street
Honolulu, Hawaii 96813

Hearing Date: October 31, 2013
Hearing Time: 10:00 a.m.
Opposed to SB1
Testifying in Person
On behalf of Hawaii Family Advocates

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Re: **TESTIMONY IN OPPOSITION TO SB 1 RELATING TO EQUAL RIGHTS**

Dear Honorable Chairs Rhoads and Luke and Members of the Committee on Judiciary and Committee on Finance:

My name is Jim Hochberg and I have been a civil rights attorney in Honolulu for decades and I am currently the president of Hawaii Family Advocates, a C4 organization which is the chair of the Coalition To Let The People Decide On Marriage. My testimony strongly opposes passage of SB1 or any other bill that would redefine marriage from the unique union of one man and one woman. As Section 8 of SB1 reveals on page 12, in 2011 this same legislature passed Act 1 creating civil unions which contains a legislative finding that “the people of Hawaii choose to preserve the tradition of marriage as a unique social institution based upon the committed union of one man and one woman.” And that “marriage should be subject to restrictions such as prohibiting respective parties to a valid marriage contract . . .” This 2011 reflection of the 1998 constitutional amendment overwhelmingly voted for 70% of the population is being deleted from our statutes in SB1. The legislature cannot know whether the people of Hawaii changed their desire to reserve marriage to opposite sex couples unless the legislature puts the question to a vote by the people.

The content of SB1 is utterly unconstitutional for many reasons, and in addition to that, it seeks to satisfy adults at the expense of the children that may be in these same-sex households. Changing the parentage assumptions to be the same regardless of the gender of the married couple is absurd. A lesbian spouse of a child’s mother cannot be the child’s father. Ever.

In addition, for the native Hawaiian community this causes additional problems, but I will allow them to raise the concerns in detail. The special divorce provision for homosexual couples will cause a drain on the tax base of the state,

Hochberg Testimony Opposed
To SB1
October 29, 2013

burden the tax payers of the state, and increase the cost of the family court with the elimination of the requirements that divorcing spouses must be domiciled and physically present in the state for the family court to have jurisdiction over the divorce.

Suite 1201 Fort Street Tower, Honolulu, HI 96813
745 Fort Street Mall
Honolulu, HI 96813

SB1 unconstitutionally exposes people of faith that believe that homosexuality is not an alternative lifestyle, but one that has extremely negative consequences for those that support it. The proponents of same sex unions, across the country and in western Europe bring discrimination complaints against these people of faith for declining to participate in celebrations of same sex unions based on their consciences prohibit them from participating. There are many industries involved in wedding, including, planners, florists, bakers, tailors, photographers and make-up artists. All of them use their creative talents to assist with the presentation of the event. Each of these individuals possesses from the United States Constitution, the right of conscience that cannot be infringed by the State of Hawaii. Based on SB1, it appears the legislator who introduced the bill believes that rights of conscience only belong to church organizations, but not to the members who have these jobs and sit in the pews. The fact is that the religious organizations benefit from the individual rights of conscience because the members imbue the religious organization with the individual's corporate conscience protection rights. SB1 is woefully deficient in this regard. Under Hawai'i law, every photographer, baker, florist, and printer that serves weddings will have to also serve same-sex weddings, even if the owner has a sincerely held religious belief that same-sex marriage is wrong and that it is wrong for him or her to endorse or promote one. It is not only clergy and churches that have First Amendment rights; everyday citizens do, too. When the government forces someone to act in a way that goes against his or her sincerely held religious beliefs that compulsion violates the First Amendment.

Consider the case of Elaine Huguenin, the owner of Elaine Photography in New Mexico. That state does not recognize same-sex marriage, but it has a law against discrimination that, like Hawai'i's, forbids sexual orientation discrimination and does not provide a religious exemption. Elaine's business regularly photographed weddings. She was asked by a same-sex couple to photograph their commitment ceremony, which they viewed as being the same as a wedding. Elaine, though, believes that the Bible teaches that marriage is only the union of a man and a woman and that all other intimate relationships are immoral. She also believes that it would be wrong for her to participate in and promote a same-sex marriage by taking pictures that presented the marriage in a positive light. Elaine would have gladly provided other photography services for people who identified as homosexual. For instance, she would have done a portrait, or photographed a birthday party or a graduation celebration. But she could not in good conscience photograph a same-sex wedding. She believed doing so would be displeasing to God. So Elaine declined, and the same-sex couple found another photographer at the same price who, they later admitted, did a great job for them.

Suite 1201, Fort Street Tower, 745 Fort Street Mall | Honolulu, Hawaii 96813
Phone: 808-429-4872 | E-Mail: info@hawaiifamilyadvocates.org | www.hawaiifamilyadvocates.org

Hochberg Testimony Opposed
To SB1
October 29, 2013

But they filed a discrimination complaint against Elaine anyway, even though they were happy with the photographer they selected, and there were plenty of photographers who wanted to photograph their ceremony. Elaine was then hauled before a human rights commission, and then into court. And the courts ruled that Elaine discriminated, because the law does not contain a specific exemption for people to decline to participate in same-sex weddings for religious reasons.

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Hawai'i's nondiscrimination law is the same as New Mexico's in every important respect. It bans discrimination because of sexual orientation and it does not provide an exemption for business owners who have religious objections to participating in, or promoting, a same-sex ceremony. To provide adequate religious protections, the Bill should explicitly state that no person or business shall be required to provide services for same-sex weddings if doing so would violate their faith. That is what the First Amendment requires. But without that protection, people of faith in the wedding-services industry are vulnerable and at risk. The federal appeals court ruled in June, 2013, that businesses do in fact religious liberty rights that protect the business from compulsion to violate the sincerely held religious beliefs of the owners. See the 10th Circuit Court of Appeals opinion in the Hobby Lobby case.

While SB1 protects religious clergy from liability for refusing to solemnize a same sex marriage, SB1 offers no protection to non-clergy members of the public that are also authorized by the state to solemnize marriages, such as judges and others so licensed. These non-clergy authorized solemnizers are absolutely unprotected. To the extent such a person is also a person with sincerely held religious beliefs that lead that person to refuse to solemnize a same sex marriage, the person would be unprotected by this statute.

SB1 also fails to adequately protect churches and other religious organizations from liability for declining requests to use church properties for same sex celebrations. In order to qualify for the protection, a church must "not make its facilities or grounds available to the general public for solemnization of any marriage celebration for a profit." The State of Hawaii, Department of Commerce and Consumer Affairs registers organizations that are for profit as either partnerships, limited liability companies or for-profit corporations. All charities (including churches) are registered as non profit corporations. Since all churches must be non-profit corporations under state law to received real estate tax exemptions, no church could have a "profit". This qualifier then is quite odd and looks like the registration of the church corporation is not the deciding factor. The Bill then states the negative that "accepting donations from the public, providing religious services to the public, or otherwise permitting the public to enter the religious organization's premises"

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does not constitute "for a profit". What exactly does that phrase mean? How will the Civil Rights Commission determine whether the church qualifies? Will a financial audit of the church be necessary? Bill, § 572-F.

The language is simply not clear. We do not know. It will ultimately be sorted out by the courts. And that leaves churches vulnerable and at risk. Marriage is a church sacrament, something the First Amendment protects from government interference. The government has absolutely no business ordering the church to conform its sacrament to the state's desire in order to qualify for the protections under this statute.

Churches will be forced to rent their properties for same-sex weddings. According to the Executive Director of the Hawaii Civil Rights Commission, in an October 17, 2013 Response to Inquiries, the "threshold analysis is similar to the determination of whether a facility is a private club or a place of public accommodation." If the religious organization offers the use of the facility to the general public as customers, clients or visitors, the HCRC has already opined in writing that it will be considered a place of public accommodation. Any church that falls under that reading by the HCRC will be required to allow same-sex couples to host their weddings on its properties.

Many churches offer other organizations the use of the church buildings and property that are consistent with the mission and ministry of the church. The Boy Scouts, 12 step recovery programs, athletic teams and others, often meet in churches. What the Executive Director seems to not understand is that religious organizations cannot be subject to the public accommodations law because it prohibits discrimination on the basis of, among other things, religion. Every religion discriminates on that basis.

The HCRC seems to believe that if a religious organization allows its facilities to be used for community meetings or rents space on a contract basis to a provider it would result in that church being deemed a public accommodation and liable to punishment for violating the non-discrimination provisions of the Public Accommodations law. According to the HCRC, such a church will be required to allow same-sex couples to marry there or be subject to liability for claims for refusing a same sex marriage.

If Hawai'i passes this Bill as written, it will be among the worst states for protecting religious freedom. The other state laws that have worse religious exemption than the proposed bills, should not be compared to Hawaii at this time. Those state legislatures negotiated the religious exemption AFTER a court or vote had already mandated same sex marriage. Unlike Hawaii at this time, the negotiating power of the proponents and opponents of the religious exemption were not equal because whether to have same sex marriage or not was not part of the negotiations. The last three states to

negotiate the religious exemption were simultaneously negotiating whether or not to allow same sex marriage. Under equal bargaining power, the religious exemptions in those three states are the most favorable to people of faith and their organizations.

But it really does not matter what other states have chosen to do. What matters is what Hawai'i chooses to do. And Hawai'i must decide: does it want to be a state where religious freedom is trampled, or a state where it is protected? This Bill, as written, tramples the religious freedom of churches, religious organizations, religious non-clergy licensed solemnizers and people of faith who own businesses in the wedding-industry. Hawai'i should protect religious freedom, not trample it.

Sincerely,

JAMES HOCHBERG

JH/lz

**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF
HAWAII**

October 28, 2013

Thursday, October 31, 2013 – 10:00 a.m.
House's Committee on Judiciary
House's Committee on Finance
Hawaii State Capitol
Capitol Auditorium
415 South Beretania Street
Honolulu, HI 96813

RE: STRONG SUPPORT for Senate Bill 1 – Relating to Equal Rights

Aloha Chairpersons Rhoads and Luke, Vice Chairs Har, Nishimoto and Johanson and fellow committee members,

Mahalo for the opportunity to testify in strong support of Senate Bill 1, the Marriage Equality Act of 2013, on behalf of the Gay, Lesbian, Bisexual, Transgender Caucus of the Democratic Party of Hawaii's (GLBT Caucus) over 1,000 members and supporters.

When the Supreme Court of the United States (SCOTUS) ruled in Windsor v. US that Section 3, of the so-called Defense of Marriage Act, was unconstitutional it made Federal Benefits available to all legally wedded gay and lesbian couples. In the subsequent rules and memos released from the IRS, the US Department of Labor and other federal agencies it was made clear that most if not all rights, benefits and responsibilities bestowed by the Federal Government to married couples would not be available to any couple, same-sex or opposite sex, if they were in a Civil Union, Domestic Partnership or Reciprocal Beneficiary. These are just a handful of reasons why the Caucus strongly supports the passage of Senate Bill 1 and why it is so important.

For example without access to Federal Benefits, LGBT couples cannot file joint Federal Taxes returns. They are also denied Social Security death and survivor benefits, and immigration rights, along with well over 1,100 benefits, rights and responsibilities.

Hawaii's LGBT couples are in a very unique position given that all you have to do is be married in one of the now 14 states that has Marriage Equality to get access to those Federal Benefits. Which means that justice and equality for LGBT couples is ONLY available to those couples that can afford to travel as well as take time off of work to one of those 14 states to get married. Justice and equality should not only be available to those that can afford to travel.

GLBT Caucus Testimony is Strong support of
Senate Bill 1 – Relating to Equal Rights

As for the notion that you should pass another Constitutional Amendment to “let the people decide” the issue of Marriage Equality. It is our belief that this would ultimately not pass constitutional muster. For this would be putting the rights of the LGBT community, a minority, in the hands of the majority and this is something that the courts have ruled against, time and time again. The 1998 constitutional amendment was very clear, as was the decision of those voters, that the decision regarding Marriage Equality should be left in your hands and not left to the whim of the electorate.

The GLBT Caucus opposes any all changes to the existing Public Accommodation laws. All religious entities already have the best exemption and that is called the First Amendment of the US Constitution. This amendment ensures that no ordained minister will ever have to perform any ceremony that goes against his or her religious beliefs. It also ensures that no religion will have to rent out their places of worship. But when any religious group decides to use their places of worship as moneymaking entities by offering them for rent to the public, that being any non-member of their religion, then they have voluntarily entered into a public trust. That trust is encapsulated in Hawaii’s Public Accommodations law, which states that no one can discriminate against anyone based on the State and Federally protected classes. This also goes for any membership driven society, like the Boy Scouts.

The GLBT Caucus agrees with the adage that ‘Loves makes a family’, but we know that Marriage Equality is desperately need to protect our families, ALL our families. We say all families because everyone has a member of their family that is a member of the LGBT community. While it is true not all families accept and welcome their LGBT family members, we are there nonetheless, and we deserve justice and equality just like everyone else.

So for all these reasons we ask that you support and pass Senate Bill 1 and make Marriage Equality a reality in the Aloha State, it is the right thing to do.

Mahalo nui loa,

Michael Golojuch, Jr.
GLBT Caucus Chair and
Male Rep. to the State Central Committee of the Democratic Party of Hawaii

Oct 31, 10:00am
House Judiciary and Finance Committee
Re: Bill □SB1
Hawaii State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Subject: Testimony in Opposition of Proposed Hawaii Marriage Equality Act of 2013

I would like to testify in person.

Russ Higa
3355-a Pinao Street
Honolulu, HI 96822

Dear Members of the House Committee,

My name is Russ Higa and I am born and raised in Hawaii. We all agree that this same-sex bill is a very important matter. So why is there such a rush to have it passed quickly in a special session? For important matters such as these our leaders need to take the time to gather all the facts, to look all the various perspectives, to study the consequences, and then make a well thought through decision.

Have you taken the time to study if in fact people are born as homosexuals? Are you certain that a family with two mothers or two fathers will not harm the children of that relationship? Honestly, would you freely endorse your grandchildren not having a father or a mother and instead have two mothers or two fathers? If the studies are inconclusive or debatable should you move forward with such uncertainty? I am asking that you take the time to do the research before moving forward with a bill that many believe will be very harmful for the people of Hawaii.

If you study American history and I'm sure you all did, you know that the Pilgrims came to America because they were persecuted for their religious beliefs. The Pilgrims left England seeking religious liberty. America was founded on the premise that all people, whether Buddhist, Jewish, Hindu, Muslim, or Christian, could freely worship their God, and live out their faith without persecution. This bill as it is written will severely limit the religious freedom of the people of Hawaii and open the door for Hawaii's o'hana to be persecuted for their religious beliefs. Until you can create a bill that will protect equality to all the people of Hawaii, I recommend that you kill the bill.

May God bless you and the people of Hawaii!

Sincerely,

Russ Higa



To: The House Judiciary Committee
The House Finance Committee

From: Mike M. Lwin
New Hope Leeward
94-050 Farrington Highway □A1
Waipahu HI 96797
(808) 678-3778

Subject: Testimony in Opposition to Special Session and SB 1

Aloha Chair Rhoads, Chair Luke and Members of Both the House Committees on Judiciary and Finance:

By way of introduction, I am the Senior Pastor of **New Hope Leeward** □ a church of 5,000 in weekend attendance in Waipahu - and Director of **New Hope International Ministries** □ a network of 130 churches with over 25,000 in membership.

I am writing to voice our organization's opposition to Bill SB1.

I am asking you to allow the people to decide on the issue of marriage as I believe the legislature is going against the will of the people. I support equality for all including the rights of conscience and religious freedom, which I ask you to respect as our elected leaders.

I am opposed to the most contentious social issue in our history being decided virtually in one week and ask that you please uphold the principles of democracy and the democratic process which are being disregarded in this special session.

This bill should be given due process during the regular session where it can be properly vetted and examined as all other bills. The people who elected you to serve as their voices should have a say in public policy that will forever obliterate thousands of years of indigenous and non-native culture, customs and traditions.

Your "yes" vote in special session is clearly a NO vote to democracy!

Thank you for the opportunity to testify as a concerned organization in Hawaii.



HAWAII CATHOLIC CONFERENCE

6301 Pali Highway
Kaneohe, HI 96744-5224

Online Submittal

Hearing on: Thursday, October 31, 2013
Capitol Auditorium, 10:00 a.m.

DATE: October 29, 2013

TO: House Committee on Judiciary
Rep. Karl Rhoads, Chair
Rep. Sharon Har, Vice Chair

House Committee on Finance
Rep. Sylvia Luke, Chair
Rep. Scott Nishimoto, Vice Chair
Rep. Aaron Johanson, Vice Chair

From: Walter Yoshimitsu, Executive Director

Re: Strong Opposition SB 1 Relating to Equality (Redefining Marriage)

Mahalo for the opportunity to testify. I am Walter Yoshimitsu, **representing the Hawaii Catholic Conference**. The Hawaii Catholic Conference, the public policy office of the Roman Catholic Church in the State of Hawaii under the current leadership of Bishop Larry Silva, has for many years come before this legislature to express its profound opposition to the legal recognition of same-sex civil unions and marriages within our state. The Conference's opposition to legal recognition of these forms of relationship is based not only on the religious teachings of the Catholic Church, but also out of the church's concern for the potentially negative sociological impact such relationships may eventually have on society.

The Catholic Church opposes the redefinition of marriage based on the clear understanding that the complementarity of man and woman is intrinsic to the meaning of marriage. The word marriage describes the exclusive and lifelong union of one man and one woman with the possibility, in many cases, of generating and nurturing children. Other unions exist, but they are not marriage.

In marriage, a husband and a wife make a public and reciprocal commitment, assuming duties to society, to themselves, and to their children. Society and the law reciprocate by bestowing on traditional marriage a privileged status that recognizes the essential role that families play in society. The family, based on marriage, is a natural institution that is prior to the state. As such, the reservation of marriage to the union of one man and one woman is a fact of nature, not a social prejudice.

The Church is also concerned that its religious freedom and conscience rights, both individually and collectively, continue to be protected. We fail to see how this bill takes these concerns adequately into account.

In recognition of the critical role marriage plays in the well-being of future generations and a stable society, the Church advocates for public policies that protect traditional marriage and promote the security of the family. Because of this, our diocese will continue to strongly advocate for the definition of marriage as the union of one man and one woman.



First Unitarian Church of Honolulu

A Unitarian Universalist Welcoming Congregation
2500 Pali Highway, Honolulu, Hawaii 96817
Tel: 808-595-4047 Fax: 808-595-4037

Rev. Dr. Jonipher Kwong
Minister

Dave Hafner
President, Board of Directors

October 29, 2013

To: House Finance and Judiciary Committee
Hearing Date/Time: Thursday, October 31, 2013, 10:00 a.m.
Place: Capitol Auditorium

Re: Strong Support of SB1, Relating to Equal Rights

Aloha e Members of the Committee on Finance and Judiciary:

For two decades, Hawai'i has been debating the issue of marriage equality. For over six decades, our movement (Unitarian Universalism), has settled this debate by performing the first recorded same-gender blessing in New York during the 1950s. We have been advocating for marriage equality in almost every state since because our faith compels us to, not in spite of it.

We are part of a five-century tradition advocating for religious freedom. While we recognize each denomination can marry whomever they want to, with your help, those of us who have already been marrying same-gender loving couples for decades will finally have the freedom to do so here in Hawai'i as well.

Over the years, we have witnessed a sea change in public opinion. Our very own President Barack Obama, who went to Sunday School at the First Unitarian Church of Honolulu, eventually realized Civil Unions were not enough after witnessing the lives and loves of his gay and lesbian friends. I'm convinced many here in Hawai'i have experienced a similar transformation because we know of someone who is LGBT in our 'ohana.

The time to act is now. Together, we can ensure LGBT families are protected from the lack of protection when a partner is sick in the hospital, tax benefits that would make a huge financial impact, and even the effects of bullying. Every time we treat someone as second-class citizens, we diminish the human spirit and harm the rest of society. With you kokua, we can build stronger families in a society where the spirit of aloha prevails.

I urge you on behalf of Unitarian Universalists throughout Hawai'i Nei to pass marriage equality expeditiously.

Aloha no,

The Rev. Dr. Jonipher Kūpono Kwong
Minister



National Association of Social Workers Hawaii Chapter

October 29, 2013

To: Representative Karl Rhoades, Chair - Committee on Judiciary
Representative Sharon E. Har, Vice Chair, and Members of the Judiciary
and
Representative Sylvia Luke, Chair – Committee on Finance
Representative Scott Y. Nishimoto, Vice Chair, and Representative Aaron Ling Johanson, Vice Chair,
and Members of the Finance Committee

From: National Association of Social Workers, Hawaii Chapter

Re: Special Session SB 1, Relating to Equal Rights

Date: Monday, October 31, 2013 Time: 10:00 a.m. Location: State Capitol Auditorium

Representative Rhoades, Chair, and members of the Judiciary Committee and Representative Sylvia Luke, Chair, and members of Finance Committee, my name is Marty Oliphant and I am the Executive Director of the National Association of Social Workers (NASW), Hawaii Chapter. NASW is in **STRONG SUPPORT of SB 1** which will extend the same rights and responsibilities of same-sex partners in marriages.

The social work profession has consistently fought for social justice, equality, and constitutional protections for Hawaii's most vulnerable individuals and groups. Along with other social justice and civil rights advocates, social workers have played an indispensable role in preserving freedom and ensuring opportunity for all. Social workers believe that lesbian, gay, bisexual and transgender persons deserve the same protections and opportunities in their work, family, career and health equal to other members of society.

NASW encourages the adoption of laws that recognize inheritance, insurance, same-sex marriage, child custody, property, and other rights in lesbian, gay, bisexual, and transgender relationships. The Association firmly believes that all federal protections and responsibilities available to legally married people in the United States should be available to people who enter same sex unions (including domestic partnerships, civil unions, and same sex marriages).

Furthermore, NASW promotes equal protection under the law, and strongly supports the full implementation of existing civil rights legislation and its application to women; to people of color; and to gays, lesbians, bisexuals, and transgender people. And, because we believe that everyone is entitled to equal opportunity — regardless of age, disability, gender, language, race, religion, or sexual orientation — NASW endorses local, state, and federal policies and programs that give all people equal access to the resources, services, and opportunities that they require.

Approximately nine million adults in the United States—or three percent of the population—identify as lesbian, gay, bisexual, and transgender (LGBT) individuals. Discrimination and prejudice directed against any person on the basis of sexual orientation, gender or gender identity, whether real or perceived, are damaging to the social, emotional, psychological, physical, and economic well-being of the affected individuals. NASW believes that same-gender couples should be afforded the same respect and rights as other-gender couples. Discrimination and prejudice directed against any group is damaging to the well-being of society as a whole.

NASW strongly supports SB 1. Please pass this bill. Thank you.

My name is Michael Abagon a resident of Mililani and a pastor of a southern Baptist Church. I stand before you representing my wife Cristina and my three sons, Micah, Miko and Michak. I oppose SB1.

SB1 protects one group and disregards the other. It protects gays but does not protect religions who believe that marriage is between a man and a woman. For 222 (Dec. 15, 1791 – 2013) years, since the existence of the 1st amendment, there had been religions who have rationally discriminated on the basis of their creed or conscience. Has it destroyed America? Did we lose our morality? SB1 does not have clear languages that protect these churches.

This bill ignores the nature of most churches. Most churches are in the business of weddings because any heterosexual relationships who wish to make right before God are to wed. Passing the bill will open these churches to litigation because they rationally discriminate towards homosexuals.

The Public Accommodations Law disregard the fact that there are churches who exists not just for its members but for its community. Why? Because many churches see the reason for their existence as beyond their members. You must protect these churches who sees the community as the reason for their existence.

SB1 is a guise. It is not about equality at all, but empowering the few to socially reengineer society. Opponents of Prop 8 in California claim it has no effect on public schools yet preschools and daycare hold “Coming Out Day” and allow TransAction Gender-Bender Read Aloud that reads stories of “gay” or transgender twists to include “Jane and the Beanstalks” without notice to parents¹.

SB1 empowers Gay militants² who will turn public education as their laboratory. They will turn classrooms venues to explore issues of homosexuality, they will force schools to sanction extracurricular activities in which gay culture is the focus and they will impose textbooks that acknowledge homosexual relationships that are not suitable for younger children³. They will institute Gay-days in public schools in the guise of fighting “intolerance.” They will push for “gay, lesbian, bisexual and transgender appreciation days” in middle school and elementary school. They will force children to cross-dress and discuss sex change as young as elementary years. SB1 should be rewritten to prohibit these occurrences.

¹ Chelsea Schilling, “School Holds Surprise ‘Gay’ Day for Kindergartners” . <http://www.wnd.com/2008/10/78829/> Published 10/22/2008.

² **Militant gays** is a **Militant gays** is a term to describe the intolerant behavior of [homosexual activists](#) that seek to intimidate, suppress, vandalize, and assault anybody that opposes their [homosexual](#) movement. Militant gays seek civil rights, [marriage for their same-sex partners](#), adoption of children, and federal and state benefits. They try to indoctrinate younger generations, organize protests to further their agenda and oppose traditional family values. Harmless Christians are almost always their target. ^[1]

Militant gays have powerful allies including [Democrats](#), Hollywood, Big Media and last but not least lawyers. When they are denied their agenda by legal means or through the [democratic](#) process, the results are mob assaults, death threats ^{[2][3]} and vandalism. ^[4] http://www.conservapedia.com/Militant_gays

³ Gay Rights Battlegrounds Spread to Public Schools by Michael Janofsky. The NY Times. Published June 9, 2005. http://www.nytimes.com/2005/06/09/education/09clash.html?pagewanted=all&_r=0

SB1 empowers Gay militants to bash anyone that doesn't agree with them. Unfortunately, these Gay militants does not spread morality, but they spread profanity. A few months ago at Magic Island while I was walking my children to Red Cross Swimming, Gay parades were assembling and some were sensually acting publicly, men to men and women to women. This public lewdness⁴ is common to such gathering.

I ask that you oppose SB1. Thank You.

⁴ Public Lewdness: Laws & Penalties by criminaldefenselawyer.com.
<http://www.criminaldefenselawyer.com/crime-penalties/federal/Public-Lewdness.htm>



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Chair

Commission on Community Building

Dr. Ha'aheo Guanson

October 31, 2013

To: House Committee on Judiciary

Rep. Karl Rhoads, Chair Rep. Sharon E. Har, Vice Chair

To: House Committee on Finance

Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair Rep. Aaron Ling Johanson, Vice Chair

Testimony In Support of SB1 RELATING TO EQUAL RIGHTS

Dear Representative Karl Rhoads, Representative Sylvia Luke, and Members of the Judiciary and Finance Committees,

As Chair of the Commission on Human Concerns of The Interfaith Alliance Hawaii (TIAH), I testify in SUPPORT of Senate Bill 1. I urge it be adopted unamended.

The Commissions of TIAH comment on aspects of human, ethical and community concerns, in accord with position statements adopted by TIAH. This includes comment on freedom to marry – or not – under law, in accord with diverse religious beliefs. TIAH members include individuals who find same-gender marriage contrary to their beliefs, as well as members who support, perform rites for and recognize same-gender marriages.

SB1 will enact true equal rights for same-gender loving couples, while respecting and protecting religious diversity in Hawaii. Under current law, ministers and religious organizations are constrained by a legal definition of marriage that comports with some religions' teachings, but conflicts with other religions' teachings. We firmly believe that the state and federal governments have no place in defining the sanctity of some traditions to the exclusion of others.

In SB1 we understand a consideration of religious exemption is a concern. An exemption should not compromise nondiscrimination protections in public accommodations law. Meanwhile, First Amendment rights already protect religious activity. SB1 adequately clarifies that First Amendment rights of ministers and religious organizations are protected for religious activities and not-for-profit use of religious facilities.

Religious freedom is protected in a diverse State by nondiscrimination in public accommodations for business activities. Freedom of faith in a diverse State is threatened, if businesses and public accommodations discriminate against customers based on religion or sexual orientation. An exemption should not be expanded into for-profit activities.

We support SB1 and ask it be approved unamended. Thank you for opportunity to testify.

Respectfully,
Reverend Douglas Pyle
*Chair, Commission on Human Concerns
The Interfaith Alliance Hawaii*

**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF HAWAII**

TESTIMONY IN SUPPORT OF SB1 – EQUAL RIGHTS

TO: COMMITTEE ON JUDICIARY

Representative Karl Rhoads, Chair; Representative Sharon Har, Vice Chair

Committee Members: Representatives Della Au Belatti, Tom Brower, Rida T. R. Cabanilla, Mele Carroll, Ken Ito, Derek S. K. Kawakami, Chris Lee, Clift Tsuji, Jessica Wooley, Bob McDermott, Cynthia Thielen

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice Chair; Representative Aaron Ling Johanson, Vice Chair

Committee Members: Ty J. K. Cullen, Mark J. Hashem, Kaniela Ing, Jo Jordan, Richard H. K. Onishi, Gregg Takayama, James Kunane Tokioka, Justin H. Woodson, Kyle T. Yamashita, Beth Fukumoto, Gene Ward

HEARING DATE & TIME: Monday, October 31, 2013, 10:00 a.m.

PLACE: Auditorium, State Capitol, 415 South Beretania Street

I WILL testify in person.

To the Committees on Judiciary and Finance:

When I testified before the legislature regarding civil unions, I stated that civil unions would be “a reasonable step towards full marriage equality.” At that time the Defense of Marriage Act was still in full force. Therefore, equality under State law was as close to “equal” as we could get until the Defense of Marriage Act was repealed or declared unconstitutional.

In 2013 the Caucus felt it was timely to enact marriage equality, because the United States Supreme Court granted *certiorari* on two “gay marriage” cases: the Prop. 8 case and the DOMA case. Legal pundits were in agreement that Section 3 of DOMA would probably be declared unconstitutional.

In June 2013, the Supreme Court issued its ruling in the DOMA case. As predicted, the Court held that Section 3 of the Defense of Marriage Act “is in violation of the Fifth Amendment,” because it fails to provide equal protection under the law. *United States v. Windsor*, 133 S. Ct. 2675 (2013). The next to last sentence in the decision reads, “This opinion and its holding are confined to those lawful marriages.” *Id.* at 2696. With this restrictive language, it was clear that the court did not intend to extend federal recognition to “marriage equivalents,” such as, civil unions or domestic partnerships.

As soon as the decision was issued, advocates began the quest for a special session. The urgency was fueled by three main factors: 1) there would be damages to many couples if marriage equality was not enacted by the end of the tax year, December 31, 2013; 2) there is a lawsuit against the state on this

issue, which would be rendered moot if marriage equality is enacted – the mounting attorney fees could be stemmed; 3) UH Manoa Professor Sumner La Croix issued his study showing the boon to tourism, which would more than offset the cost of a special session. Since the regular session would not begin until the third Wednesday in January 2014, a special session seemed timely and cost effective.

From a purely legalistic point of view, we have equality at the State level. Therefore, what we are seeking from the State is access to the word “marriage,” so that we get equality at the federal level and access to over 1300 federal rights, benefits, protections and responsibilities. In effect, there is no legal change at the state level, except those areas where recognition by the federal government impacts the states, *e.g.*, ERISA.

At the Senate hearing there was a mini tempest over the number of rights that are granted if one marries in another state and returns to Hawaii. Lee Yarborough, attorney and CPA, clarified that issue in his testimony later that evening. He testified that of the 1,138 federal rights, benefits, protections and responsibilities, ONLY THREE are based on place of celebration, the other 1,135 are either based on domicile or the status is unclear as to whether or not the right will be granted based on celebration or domicile. Example, you live in Hawaii, you go to Iowa to marry, you return to Hawaii. You will pick up three federal rights: IRS filing, immigration (sponsoring someone to come into the U.S.) and veterans benefits for spouses. Social Security survivor benefits are NOT included!

Even with the IRS, the federal estate tax exemption would not be available to spouses, which was the precise issue decided in the DOMA case. The current federal estate tax law is that one spouse can leave an UNLIMITED amount tax free to the surviving spouse, provided that the couple is legally married and the recipient spouse is a U. S. citizen. In *Windsor* a lesbian couple married in Canada, then returned to New York, where their Canadian marriage was recognized. The Supreme Court said that if the State recognizes the marriage, so should the federal government. The Court ordered the IRS to refund Edith Windsor the \$363,053 she paid in federal estate tax. If Windsor and her partner were living in Hawaii, Edith Windsor would have to pay the \$363,053 in federal estate tax, because their marriage would not be recognized here in Hawaii.

Think of the financial impact this has on Hawaii. If you are wealthy enough to pay federal estate tax, you not only need to marry elsewhere, you need to live elsewhere. Our current law encourages wealthy same-sexed couples to live elsewhere!

As indicated in the Supreme Court opinion, “marriage” is more than the 1,138 federal rights, benefits, protections and responsibilities: it also carries with it recognition. That recognition, in and of itself, grants a power to same-sex unions not conveyed by “civil unions”. For example, if you tell someone you are “married,” the bond between you and your spouse is clear and unequivocal. That is not true for “civil unions partners.” Further, as a couple travels, those jurisdictions recognizing same-sex marriage will recognize the couple as married. Those jurisdictions may or may not recognize a civil union as a “marriage equivalent.” **Think of the impact on tourism, because the marriage of the visiting couple is not recognized in Hawaii. Mo’ bettah to travel to New York, California, Washington, Canada, most countries in Europe, selected countries in South America ... the Union of South Africa!**

The Supreme Court also noted that with the word “marriage” comes “dignity”, a term used frequently by Justice Kennedy in his majority opinion. In his analysis of the effects of DOMA, Justice Kennedy wrote:

DOMA's principal effect is to identify a subset of state-sanctioned marriages and make them unequal. The principal purpose is to impose inequality, not for other reasons like governmental efficiency.... DOMA undermines both the public and private significance of state-sanctioned same-sex marriages; for it tells those couples, and all the world, that their otherwise valid marriages are unworthy of federal recognition. This places same-sex couples in an unstable position of being in a second-tier marriage. The differentiation demeans the couple, whose moral and sexual choices the Constitution protects, see *Lawrence*, 539 U. S. 558, and whose relationship the State has sought to dignify. And it humiliates tens of thousands of children now being raised by same-sex couples. *Id.* at 2694.

The process identified by Justice Kennedy is being used by opponents to this bill. By expanding the exemptions to the public accommodations law, they would like to "identify a subset of state-sanctioned marriages and make them unequal." Their purpose for these exemptions is not religious freedom, because they want to expand the exemptions to commercial uses. "Their principal purpose is to impose inequality." Allowing businesses to refuse to accommodate same-sex marriages, creates "a second-tier marriage." It "demeans the couple, whose moral and sexual choices" are protected by the State and Federal Constitutions. (*Hawaii Constitution*, Article I, Sections 3, 4 and 5; *Lawrence*, 539 U. S. 558, respectively). It will have the long-term effect of humiliating the children being raised by same-sex couples as the children struggle to understand why their parents are being denied service by businesses "open to the public."

If you expand the religious exemption, I fear the State will put itself on a collision course with the Hawaii Civil Rights Commission, the State Supreme Court and the U .S. Supreme Court.

Public accommodation means a business must accommodate the public. A public accommodation may not pick and choose which portions of the public to serve. We in the lesbian, gay, bisexual and/or transgender (LGBT) communities have "accommodated" those who have demeaned us since time immemorial. Perhaps this is an opportunity for our opponents to learn a few accommodation skills!

Not once have opponents suggested that welcoming and affirming churches should be able to deny service to couples who believe exclusively in traditional marriage. Not once have opponents suggested that LGBT caterers, hairdressers, florists, musicians ... should be allowed to deny service to churches or businesses who recognize marriage only between one man and one woman. There is no *quid pro quo* in their "compromise." Thus, it is clear that their motive is to perpetuate inequality and attempt to strip us of the dignity that the Legislature has granted.

It is for good reason that our public accommodations law has few exceptions. In the Senate Hearing the Hawaii Civil Rights Commission registered its opposition to the existing religious exemption in the bill. Widening the exemption will undoubtedly increase their opposition.

As shown above, widening the exemption is a slippery slope. If we allow exemptions for gay marriage, why stop there? Shall we require separate sections in our busses based on ethnicity? Should we have separate sections in restaurants based on religious affiliation? Should we refuse former enemies from visiting the Arizona Memorial? Should we allow vegetarians to refuse to serve hamburgers, based on their religious beliefs? Clearly not!

To address some of the concerns raised in the Senate Hearing, which have taken us afield from the bill at hand:

- **The bill does not change the definition of marriage;** that section remains untouched.

[§572-1.5] Definition of marriage. Whenever used in the statutes or other laws of Hawaii, "marriage" means the union licensed under section 572-1. [L 1994, c 217, §2]

- It does, however, change the requisites for marriage, *i.e.*, what it takes to qualify for a marriage license, as set forth in “§572-1 Requisites of valid marriage contract.” While this may seem like splitting hairs, it is significant. It focuses us on the real purpose of this bill: granting a marriage license. There is nothing in this bill that requires churches to change their definition of marriage. It is up to each church to define that term, and the bill supports those First Amendment Rights.
 - We do not need to further protect churches from this change in the law. The churches have already demonstrated that they can cope with discrepancies between the law and their tenets. Some churches do not recognize divorce. Some do not recognize marriages to members outside the faith. The churches can cope with same-sex marriage the same way they cope with divorce and marriages outside the faith: ignore them. The First Amendment and SB1 protect them in doing so.
 - As for changing the law regarding the requisites of marriage, it would appear that this has been done a number of times already as shown in the notes following §572-1: [L 1872, c 23, §1; am L 1903, c 28, §1; am L 1907, c 42, §1; am L 1913, c 8, §1; RL 1925, §2943; RL 1935, §4630; am L 1935, c 185, §1; am L 1937, c 59, §1; am L 1939, c 122, §1; RL 1945, §12351; am L 1949, c 53, §29; am L 1953, c 79, §1; RL 1955, §323-1; am L 1965, c 232, §1; HRS §572-1; am L 1969, c 152, §1; am L 1970, c 9, §1; am L 1972, c 182, §1 and c 192, pt of §1; am L 1978, c 74, §1; am L 1981, c 202, §1; am L 1984, c 119, §1; am L 1994, c 217, §3; am L 1997, c 52, §5; am L 2012, c 267, §4]. I have not researched each of these changes, but it is clear that our request is not the first!
 - More importantly, there are many churches that support marriage equality and would like to perform same-sex marriages. Currently it is illegal to do so! By passing SB1, each church and each minister may decide whether to perform same-sex marriages – **or not**. Churches will more freedom, not less.
- **This bill does not require that homosexuality be taught in the schools.** The subject of school curriculum is not addressed in this bill. If there are changes in the curriculum, those changes will be subject to public hearings. Objections can be raised at that time.
 - **This bill does not legalize polygamy, bestiality or pedophilia.** These subjects are not addressed in this bill. If the opponents want to present their “slippery slope” arguments, they need to introduce a bill, which expands the requisites to include these groups. Those arguments are not relevant to this bill.
 - **Let the people decide.** The courts decided in 1993 that denying a marriage license based on gender was unconstitutional. Then the legislature stripped us our judicial victory, and punted to the people under the banner of “let the people decide.” In 1998, after a campaign fraught with lies about the LGBT community and rampant with fear tactics, the people voted to let the

legislature decide. In 2013 the legislature is at the threshold of legalizing same-sex marriage – the very rights granted to us 20 years ago by the courts. Our opponents again want to let the people decide. They want to repeat the fear-mongering campaigns of 1998 (which they have already started anew in 2013). The process of passing the constitutional amendment was divisive. Many of my friends never recovered from the hatred, slander and libel perpetuated in the name of Hawaii’s future. We do not need to let the people decide, because people who voted for the bill either did not read the bill (which clearly allowed for the possibility that the legislature may at a later date legalize same-sex marriage) or did not understand the bill or did not expect that the legislature would ever legalize same-sex marriage.

- **Ua mau ke ea o ka aina i ka pono.** It is ironic that these words are being used as the reason to deny same-sexed marriage. This phrase has been attributed to King Kamehameha III. While I do not know what his stand would be on same-sex marriage, the following facts would seem to indicate that he would be more likely to support it than to oppose it:
 - King Kamehameha III was progressive: his legacy was to modernize the laws and introduce the first Hawaii Constitution in 1840, which opened with a statement about equality. "God hath made of one blood all nations of men to dwell on the earth, in unity and blessedness. God has also bestowed certain rights alike on all men and all chiefs, and all people of all lands;"
 - King Kamehameha III was torn between his Christian upbringing and Hawaiian traditions;
 - King Kamehameha III did not have a “traditional marriage” of one man and one woman: he had more than one wife;
 - His nephew, King Kamehameha IV, was a devoted member of St. Andrews Episcopal Church;
 - St. Andrews is an Episcopal Church and the Episcopal Church supports marriage equality.
<http://www.staradvertiser.com/s?action=login&f=y&id=229439971&id=229439971>

I have drifted far afield in responding to the Senate testimony in opposition.

We must stay focused on the bill at hand. The LGBT community is asking you, the government, to grant us a marriage license, so that we can have full equality under the law – the equality granted to us initially by the Hawaii Supreme Court twenty years ago.

My prediction is that if we can ever get through these sideshows on who can marry, the institution of marriage will be strengthened. I will not list for you all our opponents who have later been exposed by secret lovers, in airports and parks, etc. All this flap about who can marry has cheapened the institution of marriage and made a mockery of a very important personal, moral and legal decision. As members of the LGBT community come forward to marry, even though they have been together for *decades*, it sends a clear signal to our youth that marriage is an institution that has value.

Even though there are only 14 states that recognize marriage, and many of them have only recently allowed for it, the national divorce statistics support my theory. **Massachusetts, the first state to have same-sex marriage, has the lowest divorce rate in the country! Washington, D. C., which also has same-sex marriage, has the second lowest divorce rate in the country.** Note that **of the top ten**

jurisdictions with the lowest divorce rates, six (6) have same-sex marriage! The states with same-sex marriage rank as follows:

By rate of divorce		By date of same-sex marriage legalization	
#1	Massachusetts (May 17, 2004)	#1	Massachusetts (May 17, 2004)
#2	Washington, DC (Mar. 10, 2012)	#13	Connecticut (Nov. 12, 2008)
#4	Iowa (Apr. 24, 2009)	#4	Iowa (Apr. 24, 2009)
#5	New York (July 24, 2011)	#22	Vermont (Sep. 1, 2009)
#9	Maryland (Jan. 1, 2013)	#29	New Hampshire (Jan. 1, 2010)
#10	Minnesota (Aug. 1, 2013)	#5	New York (July 24, 2011)
#11	New Jersey (Oct. 21, 2013)	#2	Washington, DC (Mar. 10, 2012)
#13	Connecticut (Nov. 12, 2008)	#37	Washington (Dec. 9, 2012)
#17	Rhode Island (Aug. 1, 2013)	#42	Maine (Dec. 29, 2012)
#22	Vermont (Sep. 1, 2009)	#9	Maryland (Jan. 1, 2013)
#29	New Hampshire (Jan. 1, 2010)	N/A	California (June 28, 2013)
#31	Delaware (July 1, 2013)	#31	Delaware (July 1, 2013)
#37	Washington (Dec. 9, 2012)	#10	Minnesota (Aug. 1, 2013)
#42	Maine (Dec. 29, 2012)	#17	Rhode Island (Aug. 1, 2013)
N/A	California (June 28, 2013)	#11	New Jersey (Oct. 21, 2013)

<http://www.floatingpath.com/2013/03/09/massachusetts-lowest-divorce-rate-nation/>

Conversely, those with the highest divorce rates tend to oppose same-sex marriage; only 1 of the 10 allows for same-sex marriage: Nevada (Constitutional Amendment), Arkansas (Constitutional Amendment and State Law – CASL), Wyoming (State Law), West Virginia (State Law), Idaho (CASL), Oklahoma (CASL), Kentucky (CASL), Alaska (CASL), Maine (Legalized same-sex marriage on 12/29/2012 – less than a year!), Florida (CASL).

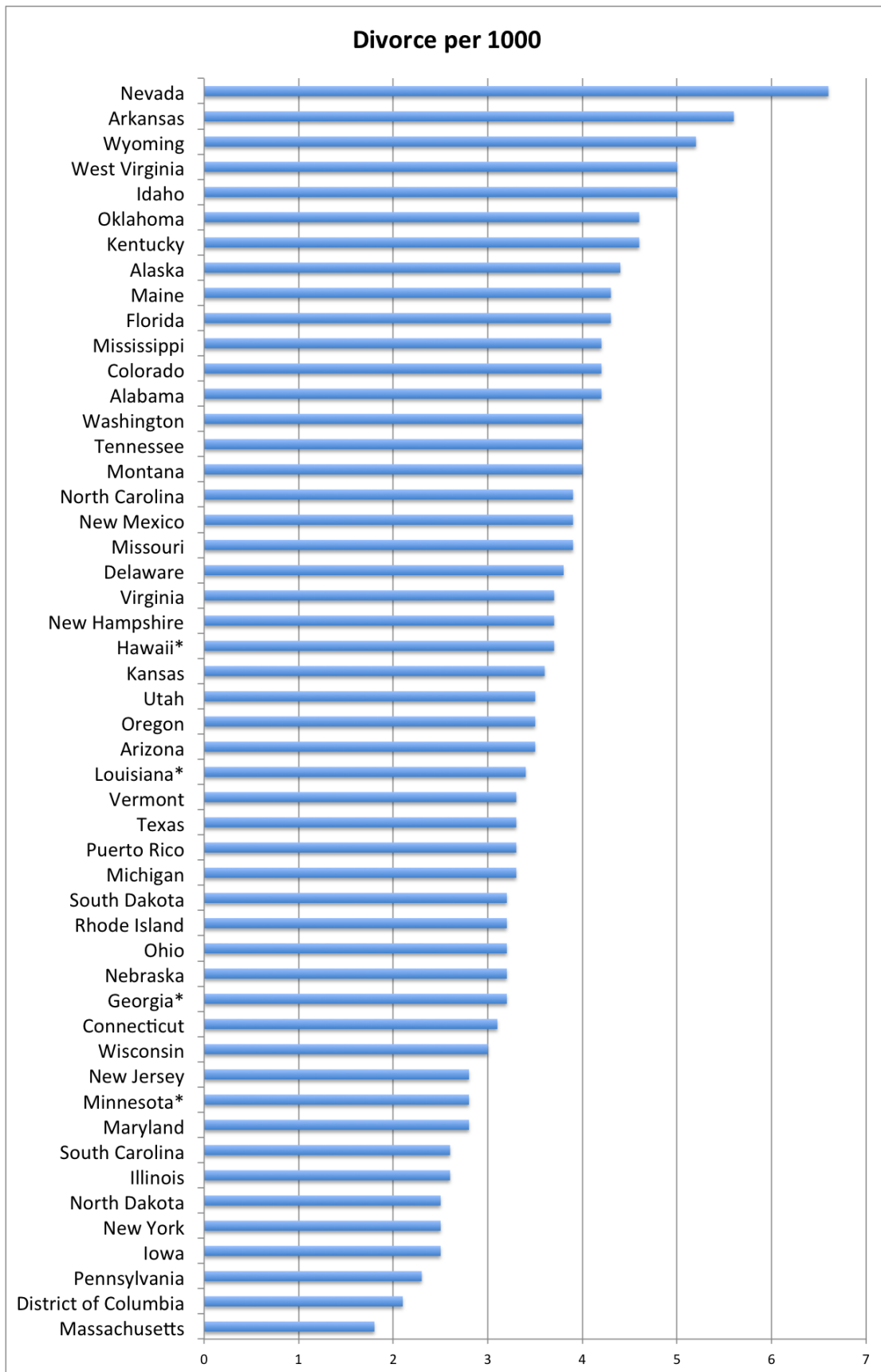
Please pass the marriage equality bill without amendment. It provides explicit protections for ministers and churches. No further amendment is needed. If some members of the House feel that changes to the public accommodations law are required, let that be taken up in regular session. It is not a time-sensitive issue, like the passage of SB1. It is yet another irony that opponents feel that the marriage equality bill is being rushed, yet they have no qualms about expanding the public accommodations law, which has been well settled for several years. The ramifications of modifying the public accommodations law goes well beyond the marriage business.

Thank you for this opportunity to testify.

Very truly yours,



Jo-Ann M. Adams, Esq., Legislative Liaison





Thursday, October 31, 2013, 10:00 AM
State Capitol Auditorium

House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice Chair

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

TESTIMONY IN STRONG SUPPORT OF SB1 RELATING TO EQUAL RIGHTS

Chairs, Vice Chairs and Members of the House Committees on Judiciary and Finance:

Thank you for the opportunity to submit testimony in STRONG SUPPORT of SB1 RELATING TO EQUAL RIGHTS.

The Democratic Party of Hawai'i has long supported the Cause of Equality for our brothers and sisters in the LGBT Community, first in pursuit of Civil Unions, and now in the fight for Marriage Equality. At our 2012 State Convention the collective delegation, which included representatives from every district on every island, voted to reaffirm that support by passing Resolution NAT 2012-02: Support for Marriage Equality, whose action items read as follows:

Be it resolved, That the Democratic Party of Hawai'i finds the current state statute defining marriage as solely the union between one man and one woman to be unfair and inconsistent with our fundamental belief that all citizens are entitled to be treated equally under the law; and be it further

Resolved, That the Democratic Party Hawai'i calls upon our Hawai'i legislators to pass legislation to ensure that all families are treated equally under the law as required by the Constitution of the State of Hawai'i; including but not limited to, equal access to marriage licenses

We are here today to do just that, to call upon our legislators to bring Hawai'i statute into proper alignment with the Constitution of the State of Hawai'i. Passage of this bill is the necessary step forward to do so.

Ultimately, we must view this struggle as what it is: the defining Civil Rights Issue of our time. Let us show that we are ready to embrace this as change for the better.

Thank you again for calling this Special Session and allowing us to testify in STRONG SUPPORT of SB1 RELATING TO EQUAL RIGHTS.

Mahalo a nui loa,

Dante K. Carpenter
Chairman
Democratic Party of Hawai'i

DEMOCRATIC PARTY OF HAWAII

404 Ward Ave., Suite 200 • Honolulu, HI 96814 • (808) 596-2980 • www.hawaiidemocrats.org



HONOLULU



Honolulu Pride

92-954 Makakilo Dr. #71, Kapolei, HI 96707 ▼ (808) 672-9050 - T ▼ (808) 672-6347 - F

honoluluprideparade@gmail.com ▼ www.honolulupride.org

**Dedicated to bringing together Honolulu's LGBTQIA community
to honor and celebrate Pride.**

October 28, 2013

Thursday, October 31, 2013 – 10:00 a.m.
House's Committee on Judiciary
House's Committee on Finance
Hawaii State Capitol
Capitol Auditorium
415 South Beretania Street
Honolulu, HI 96813

RE: STRONG SUPPORT for Senate Bill 1 – Relating to Equal Rights

Aloha Chairpersons Rhoads and Luke, Vice Chairs Har, Nishimoto and Johanson and fellow committee members,

Honolulu Pride is Hawaii's oldest and largest lesbian, gay, bisexual, transgender, queer, questioning, and intersex (LGBTQI) pride organization in the State of Hawai'i. We are testifying in STRONG SUPPORT of Senate Bill 1.

Very rarely do you see a bill that comes through the legislature that will right a wrong, protect a vulnerable community, save lives and make the State of Hawaii money. These are some of the reasons that Honolulu Pride supports the Hawaii Marriage Equality Act of 2013.

The area we would like to focus the remainder of our testimony on is the fact that this bill has the chance to save lives. We have heard that a 'major' draw back of this bill is that it will tell people, especially kids, that it is "okay to be gay". We do not see it as a draw back at all; we view this as a major selling point.

Imagine if Tyler Clementi, Raymond Chase, Asher Brown, Seth Walsh, Billy Lucas and Cody Barker had heard that being it is okay to be gay, they just might be with us today. Who are those, you ask. They are all LGBT youth that committed suicide all in just one month because they were bullied. Keep in mind that these are just the ones that made the news, there hundreds if not thousands of suicides by LGBT youth and adults every year. They kill them selves because they are bullied for being who they were born to be! They are told they are less than their straight counterparts and not deserving of justice and equality.

They hear these messages from their bullies, by those that are fighting against equality and by their government when marriage equality is denied them. By making Marriage Equality a reality here in Hawaii you will be able to help save lives.

Our community has been waiting 20 years for this bill to become a reality and we hope that you will help make that happen. So for all these reasons we ask that you say YES to justice and YES to life and pass SB 1, un-amended.

Mahalo for the opportunity to testify.

Rob Hatch
Legislative Representative



**HAWAII
UNITED
FOR MARRIAGE**

Committee: Committees on Judiciary and Finance
Hearing Date/Time: Thursday, October 31, 2013, 10:00 a.m.
Place: Capitol Auditorium
Re: *Testimony of Hawaii United for Marriage in Strong Support of S.B. 1,
Relating to Equal Rights*
From: Jacce Mikulanec

Dear Chair Rhoads, Chair Luke, and Members of the Committees on Judiciary and Finance:

I write on behalf of Hawaii United for Marriage in strong support of S.B. 1, Relating to Equal Rights, which establishes the freedom to marry for same-sex couples in Hawaii.

Hawaii United for Marriage (HUM) is a statewide coalition of religious congregations and clergy, businesses, labor unions, community organizations, and individuals. HUM has secured the following endorsements for the freedom to marry in Hawaii: (1) over 70 faith leaders and organizations; (2) Governor Abercrombie, the entire federal delegation of Hawaii and numerous elected officials; (3) over 75 community organizations; (4) 12 labor unions; (5) over 200 local businesses; (6) seven media outlets; and (7) hundreds of individuals and attorneys. Lists of each of these groups are attached to this testimony for your convenience. As illustrated by the diverse and overwhelming support for marriage equality, the fact is that Hawaii is ready.

Marrying the person you love is a basic freedom. Committed couples and their families, regardless of their sexual orientation, should all have the same rights and protections. Gay and lesbian couples want to marry for the same reasons as anyone: to make a lifetime promise of love, commitment, and responsibility to each other. Marriage is unique, there's nothing else like it. And marriage says `ohana in a way that civil unions simply do not.

We respectfully urge you to pass S.B. 1. The time is now.

Thank you for this opportunity to testify.

Sincerely,

Jacce Mikulanec, JACL – Honolulu Chapter
Founding member of Hawaii United for Marriage

Faith

United for Marriage Equality in Hawaii



Rev. Bill Albinger (Episcopal)
 Donald Armstrong (Jewish, Conservative)
 Rev. Dr. Michael Arase-Barham (Episcopal)
 Ken Aronowitz, Cantor (Jewish)
 Rev. David J. Baar (Episcopal)
 Rev. Stan Bain (Methodist)
 Very Rev. Walter Brownridge (Episcopal)
 Sister Joan Chatfield (Catholic)
 Church of the Crossroads
 Rev. Joshua Clough (Methodist)
 The Church of the Holy Apostles
 Rev. Samuel Cox (Methodist)
 Tom Van Culin (Episcopal)
 Rev. Mary David (Buddhist)
 Rev. Sam Domingo (Methodist)
 Father Nick Eyre (Ecumenical Catholic)
 First Unitarian Church of Honolulu
 Rt. Rev. Robert Fitzpatrick (Episcopal)
 Rev. Angela Freeman (Lutheran)
 Rev. Fritz Fritschel (Retired ELCA Clergy)
 Former Bishop Yoshiaki Fujitani (Retired, Honpa
 Hongwanji Mission)
 Rev. Darren Galindo (Unitarian)
 Gandhi International Institute for Peace
 Rev. Carolyn Martinez Golojuch (Native American
 Spiritualist)
 Paul Gracie (Jewish, Reform)
 Rev. Canon Brian Grieves (Episcopal)
 Rev. Kerry Grogan (Disciples of Christ)
 Rev. Michael Grogan (Disciples of Christ)
 Jade Guess (Unitarian)
 Rev. Keith Harding (Episcopal)
 Rev. John Heidel (United Church of Christ)
 Rev. Blayne Higa (Buddhist)
 Father Moki Hino (Episcopal)
 Honolulu Friends Meeting, Religious Society of
 Friends (Quaker)
 Rev. Margie Hyatt (Unity)
 Rev. Earl Ikeda (Buddhist)
 Father Jack Isbell (Ecumenical Catholic)

Rev. Kevin Kline (Lutheran)
 The Very Rev. Father Drew A. Kovach, MD
 (Inclusive Orthodox)
 Rev. Dr. Catherine Ishida (Unitarian)
 Konko Mission of Honolulu
 Rev. Kevin Kuniyuki (Buddhist)
 Rev. Dr. Jonipher Kuponon Kwong (Unitarian)
 Rev. George Lee (Episcopal)
 Rev. Jeff Lilley (Lutheran)
 Rev. Paul Lillie (Episcopal)
 Rev. Kyle Lovett (United Church of Christ)
 Bradford Lum (Buddhist/Hawaiian)
 Rev. Neal MacPherson (United Church of Christ)
 Rev. Rona Managayayam (Methodist)
 Rev. Tim Mason (Lutheran)
 Bishop Eric Matsumoto (Buddhist)
 Rev. Irene Matsumoto (Buddhist)
 Rev. Bob Miyake-Stoner (Methodist)
 Rev. Nobuko Miyake-Stoner (Methodist)
 Rev. Bob Nakata (Methodist)
 Rev. Dr. John T. Norris – Fmr. ED, Hawaii Council
 of Churches
 Rev. Mary Paik (United Church of Christ) Bonnie
 Prebula (Lic. Hawaii Minister)
 Randy Reynoso (United Church of Christ)
 Rev. Barbara Grace Ripple (Methodist)
 Rabbi Peter Schaktman (Jewish, Reform)
 Rev. Sky St. John (Unity)
 Rev. Nayer Taheri (Unitarian/Muslim)
 Rev. Dr. Todd Z. Takahashi (Shinto)
 Unitarian Universalists of West Hawaii (Kailua-
 Kona)
 Unitarian Universalists of Puna
 Unity Church of Hawaii
 Robert Bley-Vroman (Quaker)
 A. Joris Watland (Lutheran)
 Dr. Mel White
 Renie Wong-Lindley (Quaker)
 Rev. Edna Yano (Shinto)
 Rev. Liz Zivanov (Episcopal)

Elected Officials

United for Marriage Equality in Hawaii



Governor Neil Abercrombie
Former Governor John Waihee
U.S. Sen. Mazie Hirono
U.S. Sen. Brian Schatz
U.S. Rep. Tulsi Gabbard
U.S. Rep. Colleen Hanabusa
Sen. Rosalyn Baker
Sen. Kalani English
Sen. Will Espero
Sen. Gilbert Kahele
Sen. Michelle Kidani
Sen. Suzanne Chun Oakland
Sen. Russell Ruderman
Sen. Laura Thielen
Rep. Della Au Belatti
Rep. Tom Brower
Rep. Denny Coffman
Rep. Faye Hanohano
Rep. Kaniela Ing
Rep. Chris Lee
Rep. Nicole Lowen
Former Rep. Jim Shon
Rep. Mark Takai
Rep. Cynthia Thielen
Former Rep. & Vice Speaker Jackie Young
Hawaii County Councilperson Margaret Wille
Former Honolulu City Council Chair Gary Gill
Honolulu Mayor Kirk Caldwell
Honolulu Councilperson Ikaika Anderson
Honolulu Councilperson Stanley Chang
Former Honolulu Councilperson Stephen A. Holmes
Honolulu Councilperson Ann Kobayashi

Community Organizations

United for Marriage Equality in Hawaii



ACLU of Hawaii
Advocates for Public Interest Law (APIL), University of Hawaii, William S. Richardson School of Law
Afro-American Lawyers Association
Ahupua'a Action Alliance
Aloha Tennis Association
Americans for Democratic Action Hawaii
American Immigration Lawyers Association, Hawaii Chapter
American Unity Fund
Anti-Defamation League
Aloha Bears
Babes Against Biotech
Blazing Saddles Hawaii
Chaminade University Gay Straight Alliance
Democratic Party of Hawaii
Dignity Honolulu
Equality Hawaii
Equality Hawaii Action Fund
Equality Hawaii Foundation
Freedom to Marry
Gay Men's Chorus of Honolulu
Gill Action Fund
GLBT Caucus of the Democratic Party of Hawaii
Green Party of Hawaii
Gregory House Programs
Harm Reduction Hawaii
Hawaii Advocates for Consumer Rights
Hawaii Appleseed Center for Law and Economic Justice
Hawaii Association of Immigration Attorneys
Hawaii Commission on the Status of Women
Hawaii Independent Democrats
Hawaii Island HIV/AIDS Foundation
Hawaii LGBT Legal Association (HLLA)
Hawaii Martin Luther King, Jr. Coalition
Hawaiian National Communications Corporation
Hawaii National Lawyers Guild
Hawaii Peace & Justice (formerly AFSC – Hawaii)
Hawaii People's Fund
Hawaii State Democratic Women's Caucus
Hawaii Women in Filmmaking
Honolulu Pride
Human Rights Campaign

'Iolani Gay Straight Alliance
Japanese American Citizens League (JACL)
KAHEA, The Hawaiian-Environmental Alliance
Kokua Council
Libertarian Party of Hawaii
Life Foundation
Laulima Equality
Maui Peace Action
Maui Pride
Marriage Equality USA
MoveOn.org
National Asian Pacific American Bar Association (NAPABA) Hawaii Chapter
National Association of Social Workers, Hawaii Chapter
National Employment Lawyers Association (NELA) – Hawaii
Oahu County Democratic Party
OutServe – SLDN
Pacific Alliance to Stop Slavery
PFLAG – Kauai
National Lawyers Guild – Hawaii Chapter
PFLAG – Oahu
Planned Parenthood of Hawaii
Progressive Democrats of Hawaii
Storytellers Everywhere
UH – Manoa Department of Political Science
UH – Manoa Ethnic Studies
UH – Manoa Graduate Student Organization
UH – Manoa Graduate Student Sociological Association
UH – Manoa John A. Burns School of Medicine, Partnership for Social Justice (UH JABSOM PSJ)
UH – Manoa Kua'ana Native Hawaiian Student Services
UH – Manoa Lambda Law Student Association
UH – Manoa LGBT Student Services
UH – Manoa Women's Center
Women's Chorus of Honolulu
World Can't Wait
Young Democrats of Hawaii
YWCA - Hawaii Island
YWCA - Kaua'i
YWCA - Oahu

Labor

United for Marriage Equality in Hawaii



Hawaii Nurses Association, OPEIU Local 50

Hawaii Regional Council of Carpenters

Hawaii State Teachers Association (HSTA)

Hawaii State Teachers Staff Organization (HSTSO)

International Association of Machinists and Aerospace Workers (IAMAW), Local Lodge 1998

Musicians' Association of Hawaii, Local 677 AFM

Pride at Work Hawaii

SAG-AFTRA (Screen Actors Guild)

UNITE HERE! Local 5

United Food & Commercial Workers Local 480

United Steelworkers International Union Local 12-0059

Businesses

United for Marriage Equality in Hawaii



808 Skate
808 Sparklez
A&B Party Rentals
Acupoint Hawaii
Akamai Foot Doctor, LLC
Albiola Photography
Ali'i Bluffs Windward Bed
and Breakfast
Allegra Performing Arts
Algood Consulting
Algood Living, LLC
Aloha Guest House
Aloha Labradors
Aloha Lobster
Aloha Toe Rings
Aqua Resorts
Arna Unlimited
Anytime Taxi
Art by Caitlin Hood
Asa Flowers
As Seen on TV Store – Hawaii
As Spirit Moves
A White Orchid Wedding, Inc.
Bacchus
Banyan Tree Sanctuary & Vacation
Rentals
Banzai Sushi
Barrio Vintage
Basique Threads
Beauty & Brains Salon
Best Day Ever Hawaii
Betty's Beach Cafe
Bevy
Big Island Tattoo
Blank Canvas
Blue Dragon Bodywork
BookkeeperVirtual.com
Kelli Bullock Photography
Café @ La Plage
The Catering Connection
Catering from Soup to Nuts
Celestial Natural Foods

Ceramic Designs by Albert
Ceramic Tile Plus
Chai's Island Bistro
Chelsea
Chinatown Music Studios
Chrysalis Counseling and
Consulting
Coconut Grove Music
Communications Pacific
The Creating CoPOWERment
(r) Center, LLC
CrimmCoSocial
The Crouching Lion Bar & Grille
Da Local Banana
Derek Daniels Productions
Design Response
Divine Maui
Do's Formal
Tiana Dole, Reiki Practitioner
Double Dare
Down Beat Diner
Earth Island Medicine
EGGSaCTLY
Elements of U
Events International
Evo Investment Advisors, Ltd.
Exclusively Yours Design
Fern Grotto Inn
Fighting Eel
Flags Flying
Flower Fair
Fred's Mexican Cafe
Fusion Waikiki
gayhawaiiweddings.net
Genius Lounge
Genius Outfitters
Grass Shack Rentals & Parties
Green Ti Boutique & Massage,
LLC
Greens & Vines
Guava Shop
Hale Ohia Cottages

Haleiwa Art Gallery
Hana Roberts ND
Hanai Mala'ai
Happiness Hawaii
Harbor View Center
Hastings Luan & Roth
Hawaiian Aloha Blessings
Hawaii Weddings
Hawaii Island Retreat
Hawaiian Islands Candle Company
Hawaii Stone & Tile
Hello Makana
Help-U-Sell Honolulu Properties
Hibiscus Lady Nursery
Hiking Hawaii
Hitched on Maui
Holly's Hand-Made
Holuakoa Cafe
Honolulu Box Office
Ho'okupu Designs, Inc.
Peggy Hopper Gallery
House of Aria
Huggo's
Huggo's On The Rocks
Hula's Bar and Lei Stand
I Do Hawaiian Weddings &
Civil Unions
I Love Country Cafe
In Between Waikiki
In Concierge Services
Island Art Gallery
Island Heritage Realty
Island Keepsakes
Island Olive Oil
Island Soul Entertainment
Jackie Rey's Ohana Grill
Ryan Jacobie Salon
Java Cafe
Jeannemarie Photography
Juniroa Productions
Jungle Gems
Kailua Massage Therapy

Businesses

United for Marriage Equality in Hawaii



Kalani Oceanside Retreat
Konalani, Inc.
Kauai Calls!
Kauai Country Inn
Kauai Island Weddings
Ke'ie Cafe
Kimble Mead Designs
Kissed By Maui, LLC
Kohana Ili
Kona Impact
Kona Rock and Mineral
Ktown Tattoo
La Muse
Scott Larimer, RA,
Coldwell Banker Pacific
Properties
Latitudes, Purveyors of
Tommy Bahama Home
Lava Lava Beach Club
Gigi Lee Photography
Leis of Hawaii
Rhoady Lee Architecture & Design
(RLAD)
Life Centered Acupuncture Care
Little Gay Book
Little India
Loading Zone
LoJax
Loden & Conahan, LLC
Louis Pohl Gallery
Love Your Lawn
Lucky Belly
Scott MacGowan, RA,
Coldwell Banker Pacific
Properties
Manutea Nui E
Mahina Pizza
Maria Bonita Restaurant
Marry Me Maui
Mary Z's
The Mask-querade Bar
Maui Natural Bee

Maui Natural Medicine & Physical
Therapy
Maui Property Realty
Maui Real Estate & Fung Sui
Maui Sunseeker LGBT Resort
Maui Tax Advisors
Maui Wedding Cakes, Inc.
Maui Wedding Group
Maui Wedding Photography
Daryl Millard Gallery
Morning Brew
Donald Munro, Realtor
Niu Health Chiropractic
Oahu Glass
Oasis Cafe
Ocean View Chiropractic
Office Pavilion
Ola Kai, Ltd.
Ono Nuts
Otto Cake
Over Easy Down Under
Owens & Co.
Para Mercantile
Paracord Maui
Paradise Gourmet Catering
Penny Palmer Photography
Perfectly Planned Hawaii
PhynxPhyr Visions
Pineapple County
Planet Surf
Poiupu Plantation Resort, LLC
Pride Ink
Psychotherapy Office of Alan
R. Spector, LCSW
Puddle Duck Portraits
A Rainbow in Paradise
Rainbow Weddings
Raw Dog Hawaii
Red Pineapple
Relax Therapeutic Massage
Revere & Associates
Rachel Robertson Photography

Andrew Rose Gallery
Clare M. Rountree, PD.D, LLC
Royal Hawaiian Weddings
RT's Service, LLC
Rubber Stamp Plantation
Screen Pro of Hawaii
Simple Joy Vegetarian
Small & Mighty Marketing
Smith's Union Bar
Solar Rayes Hawaii
Starr Properties
Sterling Silver Productions
Still and Moving Center
Super Citizen
Surrounds Me
Sweet Creations by Dian Athena
Swim Pro
Tasty Ventures, LLC
Techmana, LLC
The Soap Cellar
Therapeutic Hands of Ross
The Tea Farm
Tom Moffatt Productions
Tower Hill Resources
Treasure Island Gallery
Twelve Tribes
Two Chicks in a Hammock, LLC
Under a Hula Moon
Undersea Expeditions, LLC
Valley Isle Gymnastics
Vintage Green Farms
Vintage Surfboards
Waikiki Mint Limeade
Waiialae Performing Arts Company
Robert Watkins Emergency Group
West Maui Counseling Center
The Winam Studio

Media

United for Marriage Equality in Hawaii



eTurboNews
eXpression! Magazine
The Hawaii Independent
Hispanic Hawaii News
Honolulu Star Advertiser
Maui News
Odyssey Magazine Hawaii

Individuals

United for Marriage Equality in Hawaii



Hokulani Aikau
Jim Albertini
James Aldrin
Nancy Aleck
Jiro Arase-Barham
Amy Agbayani
Maite Anasagasti
Barbara A. Ankersmit
Mary Tuti Baker
George P. Barbour, Jr. & Richard A.
Rodriguez
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Holly Berlin
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Bettina Brown
Michelle Brown
Duyen Bui
Nomi Carmona
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Scott Foster
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Dominique Gere
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Lalil Chin Sakuma
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Jeese Smith
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Elizabeth Stone
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Sylvia Wan
Valentina Watson
Natalie Wilson
Matthew Winter
Bennett Wisniewski
Robin Wurtzel
Georgette Yaindl
Eric Yamamoto
Wendy Yamamoto
Lee Yarbrough
Edmund Yee
Mark Yee
Cathleen Yonahara
Colin Yost
Moana Yost
Alexa Zen

Headquarters



HONPA HONGWANJI MISSION OF HAWAII

1727 PALI HIGHWAY / HONOLULU, HAWAII 96813 / PH: 522-9200 / FAX: 522-9209

House Committee on Judiciary
House Committee on Finance
Thursday, October 31, 2013, 10:00 a.m.
Capitol Auditorium

Re: Written Testimony in Strong Support of SB1, Relating to Equal Rights

Dear Chair Rhoads, Chair Luke and Members of the Committees on Judiciary and Finance:

I am writing in strong support of SB 1. The Honpa Hongwanji Mission of Hawaii is the largest Buddhist denomination in Hawaii and we have provided spiritual guidance for nearly 125 years. Our Shin Buddhist teaching provides guidance on how to live mindfully with an awareness of universal compassion which embraces and uplifts all people equally without exception. We dedicate our lives to nurturing compassion and we work daily to promote social justice for all people. We believe that the issue of marriage equality is one of basic civil rights and that it is morally just to provide equal rights and responsibilities to loving, committed same-gender couples.

In 2010, the governing body of the Honpa Hongwanji Mission of Hawaii adopted a resolution supporting equal rights for same-gender couples because we believe that the freedom to marry the person you love is a basic freedom that should not be denied to anyone. Gay and lesbian couples get married for similar reasons as everyone else – to make a lifetime promise of love, commitment and fidelity to the person they love. According to our teachings, gender is not what is important, but rather the commitment and respect that all people, regardless of their gender, brings to their relationship that is most essential.

We believe that religious freedom is adequately protected in this bill. It is clear that no member of the clergy will be required to perform a wedding ceremony with which he or she disagrees. Some religious denominations will perform marriages for same-gender couples, and some will not, just as some houses of worship perform interfaith marriages and some will not. This bill does not change that. This protection applies to all religious institutions regardless of how they are organized or where they worship. Again, it is clergy who will always get to decide which weddings they will officiate. Our ministers would welcome the opportunity to perform weddings for same-gender couples as it affirms our spiritual values.

We humbly ask for your support for same-gender couples having the right to marry as a step towards ensuring that everyone in our society is treated equally and with compassion.

With gratitude,

Rev. Blayne Higa
Chair
Committee on Social Concerns
Honpa Hongwanji Mission of Hawaii



Dear Chair Rhoads and Luke, and Vice Chairs Har, Nishimoto and Johanson,

My name is Christopher Stump, Chair for Student Network for Action and Progress and we support Senate Bill 1, Relating to Equal Rights.

Student Network for Action and Progress is a group dedicated to bringing the issues that affect youth of today to the attention of lawmakers. Overwhelmingly we have heard the voice of the youth that wish to see marriage equality for everyone regardless of sexual orientation.

As Hawai'i moves closer to passing marriage equality, it is important to notice the trends across the nation, and how younger voters feel about this issue. We are your constituents, and the majority opinion is that equality is the right thing to do. These voices that testify here today in support, will be voters for many years into the future, it is important to listen to what the youth have to say, and listen to the issues that are important to them.

In closing, Student Network for Action and Progress supports Senate Bill 1, and we hope you do the same

Christopher Stump

Chair

Student Network for Action and Progress

Musicians' Association of Hawaii

LOCAL No. 677, American Federation of Musicians



BRIEN MATSON
President

JAMES F. MOFFITT
Vice President

STEPHEN DINION
Secretary-Treasurer

October 28, 2013
RE: S.B. No 1

To All Concerned:

The Musicians' Association of Hawaii, Local 677 stands in support of S.B. NO. 1, The Hawaii Marriage Equality Act of 2013.

As a labor union we have always stood fast with our fellow Unions in the fight for equal rights for those in the workplace, and we stand with the AFL-CIO, the AFM, and a large number of local unions here in Hawaii, in support of marriage for all people who wish to marry, not "some of the people."

Because LGBT couples are not allowed to legally marry in this state, they are denied a large number of the same rights that opposite sex couples are entitled to, and this is a tragedy for the people denied these rights, as well as for the state of Hawaii, and our country.

We urge you to pass S.B. 1.

Sincerely,

Brien Matson
President

EQUALITY HAWAII

Thursday, October 31, 2013
10 a.m. • Capitol Auditorium

Testifying in Support of SB1, Relating to Equal Rights

Representative Rhoads, Representative Har, Representative Luke, Representative Nishimoto, Representative Johanson and the House Judiciary and Finance Committee members:

Equality Hawaii, the state's largest family of LGBT advocacy and education organizations, stands strongly in support of SB1, a bill extending marriage equality to loving, committed couples throughout the state.

This bill is more than just legislation. It represents the culmination of more than 20 years of discussion in Hawaii, marking an opportunity to end of decades of discrimination endured by same-sex couples, replacing the discrimination with the hopes, dreams and love offered by the freedom to marry.

It is time for marriage equality. From emancipation to women's suffrage and the Civil Rights Act, every generation has a defining, civil rights moment in history where how we treated each other as human beings moved forward to a kinder, just place for human kind. Marriage equality is this generation's defining moment ... a time when the best concepts of understanding, aloha and how we treat each other come forward to move us all to a kinder, more just, more human place as a society.

It is time for marriage equality. Recent polls by QMark and local media organizations reflect that a majority of Hawaii residents support allowing same-sex, loving, committed couples to share in the dream of entering into a lifetime promise to protect, cherish and honor each other until death due them part. This bill does not redefine or change marriage. It simply extends this time-honored display of love to people who have been denied this fundamental right for too long.

It is time for marriage equality as an issue of faith. A growing number of faith leaders have endorsed marriage equality and ask that you respect their religious freedom to perform these loving unions. We have heard about the religious freedom of those against marriage equality, but those same voices never talk about the restrictions current law places on the faiths that support the freedom to marry.

It is time for marriage equality as good business. Hawaii has made destination weddings an industry and economic studies by University of Hawaii economists show that each day without marriage equality, Hawaii loses more than \$10.2 million a year and \$200,000 a day in tourism revenue ... money our economy desperately needs in these turbulent times.

It is time for marriage equality so that couples like two of our members, a couple that has been together for more than 30 years, do not have to fly to California to ensure that they can provide each other with all the rights and benefits the federal government offers to married couples. Without marriage equality, we are sending a message to Hawaii residents that - for same-sex couples - only those with the economic means to fly to the mainland are deserving of their full federal rights.

It is time for marriage equality so that members like Kim do not have to get permission for funeral services for her partner after a seven-year battle with cancer. Or members like Tom, who has terminal prostate cancer and is too ill to travel to realize a dying wish to finally marry the man that stood by him in sickness and health.

It is time for marriage equality so that members like Valerie, an expectant mother, can honor her and her parents' wishes that their grandchild is born into a "real" family with parents whose marriage is recognized by their home state, not just Canada.

It is time for marriage equality so that members like Todd and Gus, Jeff and Darrin, Joshua and Jonathan, Kimi and Diane and Paul that are raising healthy, well-adjusted children do not have to explain to their kids why the people waving the signs do not believe they are a family and do not want their mommies and daddies to be married.

It is time for marriage equality so that the next generation of gay and lesbian youth do not endure the psychological and self-esteem damage of growing up believing that their love is "second class" and undeserving of the ultimate display of love.

It is time for marriage equality as an unfilled promise. Hawaii launched the marriage equality movement more than 20 years ago. Instead of continuing our state's tradition of setting the standard for living aloha in a paradise for equality and inclusion, we let 14 states and 16 nations on five continents pass us by. It is time for Hawaii to complete this circle and grant the freedom to marry to all loving, committed couples in our state.

Again, we stand in strong support of this bill. The time has come for this committee, this legislature and this state to stand on the right side of history and claim its proper place as a leader in civil rights, social justice and aloha.

Please support this bill with your "yes" vote.

Mahalo,
Josh Frost, Co-Chair, Equality Hawaii
Scott Larimer, Co-Chair, Equality Hawaii
Travis Knott, Co-Chair, Equality Hawaii Foundation
Gigi Lee, Co-Chair, Equality Hawaii Foundation
Jacce Mikulanec, Co-Chair, Equality Hawaii Action Fund
Donald L. Bentz, Executive Director



O'AHU COUNTY COMMITTEE DEMOCRATIC PARTY OF HAWAII

October 31, 2013

Aloha Chair Rhoads, Vice Chair Har, Chair Luke, and Vice Chairs Nishimoto and Johanson:

I am submitting this testimony in support of SB 1, Relating to Equal Rights (Marriage Equality), in my capacity as Chair of the O'ahu County Democrats of the Democratic Party of Hawai'i.

Our State Legislature routinely considers matters of great import for Hawaii and all of her people. Every now and then, however, a piece of legislation is brought to the fore that crosses the line from important to fundamental. SB 1 is just such a piece of legislation as it addresses basic issues of human rights, self-determination, and the freedom to love whom you want.

In 1967, the Supreme Court of the United States, in the appropriately titled case of Loving v. Virginia, held that Virginia's "Racial Integrity Act of 1924," which prohibited marriage between people classified as "white" and people classified as "colored," was unconstitutional. Chief Justice Earl Warren's decision for a unanimous court held in part that "[m]arriage is one of the 'basic civil rights of man,' fundamental to our very existence and survival . . . [t]o deny this fundamental freedom on so unsupportable a basis as the racial classifications . . . is surely to deprive all the State's citizens of liberty without due process of law."

Although Loving overturned a prohibition against interracial marriages between black people and white people, those prohibitions reflected a racial animus that surely extended to any type of so-called mixed marriages. Imagine what our state would look like under such a construct. There are likely few people in this room right now who can claim only one ethnic heritage. That diversity has made Hawaii strong. It has made us beautiful. It has made us an example for the rest of the world of what can be accomplished, through the aloha spirit, when two consenting adults love each other and commit to each other, and are not denied that right simply because someone else doesn't approve of their marriage.

Who you love should not be defined and limited by what you are.

DOMA has been overturned. President Barack Obama, Hawaii's native son, did us proud as the first sitting American President to go on record supporting marriage equity. And in May of this year it was reported that 53% of Americans say the law should recognize same-sex marriages, the third consecutive reading of 50% or above in Gallup polling over the past year.

Some have opposed this bill arguing that a parade of horrors will follow if it is passed. We know instinctively that is not true, but, fortunately, we don't need to rely on mere instinct. This is no experiment. It has already been tried and tested. And it has worked.

As of October 2013, fourteen states (California, Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Washington), the District of Columbia, several counties in New Mexico, and seven Native American

tribal jurisdictions – covering 33% of the US population – issue marriage licenses for same-sex couples. Oregon recognizes same-sex marriages performed in other states. Society has not broken down in those states. Opposite sex couples have not stopped getting married in those states. Rates of child abuse have not increased in those states. All that has happened is that more families have been solidified through the bonds of marriage. More educated, productive couples have moved to those states that value their relationships, and as a result those states have seen their economies strengthen, according to reports from organizations ranging from the Congressional Budget Office to CNN Money.

Marriage equity is the right thing to do. It's also the smart thing to do for Hawaii's economy. That's a powerful combination.

Section 5-7.5 of the Hawaii Revised Statutes provides that “[i]n exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature . . . may contemplate and reside with the life force and give consideration to the ‘Aloha Spirit.’”

We believe that extending equal rights to all is within the keeping of the Aloha Spirit.

Finally, marriage equity is part of the platform of the Democratic Party of Hawai‘i. That is why the State Central Committee of the Democratic Party of Hawai‘i passed a resolution on August 24, 2013 asking this body pass marriage equity legislation during a special session. Therefore, I end this testimony with a simple thank you. Thank you for taking up this issue. Thank you for providing hope to loving couples all across Hawaii that soon they too may be able to proudly proclaim their love through marriage, rather than be relegated to some "less than" status. Thank you for having the courage and vision to make this possible.

Mahalo nui loa,

Joshua Wisch
Chair, O‘ahu County Democrats of the Democratic Party of Hawai‘i

Submission to House of Representatives

COMMITTEE ON JUDICIARY

Rep Karl Rhoads, Chair
Rep. Sharon Har, Vice Chair

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Scott Y Nishimoto, Vice Chair
Rep. Aaron Johanson, Vice Chair

Bill #: SB1 RELATING TO EQUAL RIGHTS

Recognizes marriages between individuals of the same sex. Extends to same-sex couples the same rights, benefits, protections, and responsibilities of marriage that opposite-sex couples receive.

DATE: Thurs, October 31, 2013
TIME: 10:00 a.m.
PLACE: Auditorium
State Capitol
415 South Beretania Street

Submitted by: Phil Lees, President

Organization: P.E.A.C.E. – Public Education Advocates for Christian Equity

Request to Testify in person has been requested.

Effect of Same Sex Marriage on the Education System in Ontario, Canada

Contents

- a) Intro Letter.....p. 3**
- b) Executive Summary p. 4 – 6
- c) Sample Lesson Progressionp. 7
- d) Timeline of Events – Before and
After Same Sex Marriage in Canada.....p. 8 – 20
- e) How Did this Happen? Special Interest Group
– Targeting Schools..... p. 21 – 25
- f) Appendix..... p. 26 - ...

Introductory Letter

Dear Representatives of Hawaii:

As you consider this important legislation, I want to thank you for the opportunity to share the effects same sex marriage has had on the education system in Ontario.

In 2005 Canada approved same sex marriage and as an educator I experienced the change that took place in our education system. As an educator (teacher, consultant, teacher certification instructor, and consultant/curriculum and policy writer for the Ministry of Education) I experienced the change. In 2009 I left education to assist faith families who have children in the public school system where the school environment has become increasingly challenging and at times hostile to people of faith. I attempt to work with schools, school boards, and churches to build understanding within school boards of the needs of the faith community who send their child to the public education system.

At the request of Representative Gene Ward, pastors, and citizens from the state of Hawaii, I have been touring this fine state, sharing how families, with children in the education systems in Ontario, Canada, have been impacted since the passage of same sex marriage in Canada.

It has been a privilege to speak with more than 3000 attendees (so far) at the meetings, share on radio and tv programs, present at the legislature information hearing and meet with numerous Representatives of the House and Senate. I have been asked by the attendees/citizens of this fine state, particularly the citizens on the out islands of Molokai, Kauai, Maui, who do not have the resources to get to the office in the state house, to share with you their concerns;

- this legislation will change thousands of years of indigenous culture
- the special session does not allow for enough time for citizens to be involved in the process, and they find that to be undemocratic

What I share, colleagues in other jurisdictions (Britain, Australia, Tazmania, and various US states) confirm experiencing a similar a pattern of effect in their state, province, or country, and identify the same interest group influencing for the goals of one organization.

Although the submission is fairly detailed, the executive summary (pages 4 – 6) provides a summary

Pages 6 – 20 are a summary of images, along with some explanatory notes, from the power point that I have shared. For the purposes of the hearing I have limited the content to the 'effect on the system'. While touring the beautiful islands of Hawaii, many have shared that much of this is now present in your schools.

Pages 21 – 26 provide information about how all this is being implemented.

Thank you for the privilege to share. It is my hope that the legislators will be able to find a way to meet the needs of the LGBT community, the faith community, and the rest of the citizens of Hawaii. I remain open to serve the legislators and citizens of the state of Hawaii to this end.

Sincerely,

Phil Lees, President

PEACE Ontario

Executive Summary

Effect of Same Sex Marriage on the Education System in Ontario, Canada

- 1) I am testifying today in opposition of SB 1. The current exemption, and any effort to provide such protections will NOT protect your **First Amendment** rights of:
- freedom of religion (prohibiting Congress from establishing a religion and protecting the right to free exercise of religion),
 - freedom of speech,
 - freedom of assembly.

As an educator (teacher, education consultant, teacher certification instructor, consultant and policy writer for the Ministry of Education for the Province of Ontario) from Ontario, Canada I have been asked to share how our freedoms, particularly as they relate to students, parents and staff in our education systems, have been trumped by sexual orientation rights since the passage of same sex marriage in 2005.



In 2005, the approval of same sex marriage in Canada was the tipping point for curriculum change.

All schools now must:

- **offer Gay Straight Alliance Clubs (middle and secondary),**
- **integrate into all subjects and grade levels affirmative LGBT lifestyle messaging and activities**
- **organizations renting school facilities must sign an agreement to operate by the provincial code of conduct** (state sanctioned code written by the Ontario Human Rights Commission). Churches renting school facilities are required to their doctrine.

The Gay Straight Alliance Clubs create a welcoming environment for students who self-identify as gay bi-sexual, transgendered, however, have often resulted in a learning environment which has become less welcoming for other students:

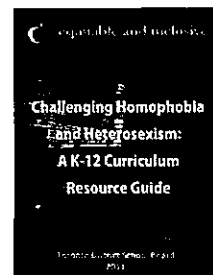
- during lunch time GSA fundraising activities, students who do not purchase a rainbow bracelet (even if the reason is they do not have the \$2) have been identified as homophobic
- student assemblies, organized by the school GSA club, with presenters from the LGBT community organizations, has included a message that undermines the Holy writings and teaching of faith community
- students requesting to have a faith-oriented club, designed to positively enhance the school environment, are denied because administrative endorsement of the faith club would be an endorsement of the value system of the students (even if that value is not part of the instruction and activities of the club) which is in opposition to the GSA

As I have toured the islands, some students have shared they feel intimidated by some of the GSA club activities.

Sexualized Curriculum Integrated into every subject, every grade level

Prior to Same Sex Marriage in 2005, sensitive curriculum was limited to health class. As a result, it was possible to inform parents and provide reasonable opt-out accommodations.

After Same Sex Marriage (2005) sensitive curriculum, including activities from which many faiths are required to abstain, is now integrated into all subjects and all grade levels, beginning in kindergarten. Details that follow outline the policies, regulations and legislation that took place from 2005 - 20012.



In 2011 a teacher resource guideline was produced which is referred to and recommended by the Ministry of Education. *Challenging Homophobia and Heterosexism* has 12 lessons at each learning level directing teachers to involve children in instruction and activities that are sensitive to the values of many families. Some of the classroom learning involves activities from which different faiths are required to abstain.

Student OPT-OUT / Accommodations

Ontario - The Frequently Asked Questions section (pages 9 and 10) of the same document provides the following guidelines:

- Schools and teachers will NOT send notes or permission slips home about sensitive topics
- A child cannot have their child accommodated out of such instruction based on religious grounds
- Teachers cannot seek accommodation from teaching materials that contradict their religious beliefs

As a result of SSM, school districts have ruled parents do **not have the right to know about sensitive curriculum** taught

A striking example of this is the *Tourloukis v Hamilton Wentworth District School Board*. Parents of children in kindergarten and grade 2, requested advanced notice when planned curriculum (lessons, assemblies, planned activities) involving their children, dealt with content his faith requires to abstain from (e.g., moral relativism, occultic principles and practices, instruction on sex education, instruction affirming alternative sexual lifestyles). To this request the school told the parents they will not inform. The school system is working to create an inclusive environment, and to accommodate his request would be an endorsement of discrimination.



S. Tourloukis – must challenge school decision in court.

British Columbia In the spring of 2006 a homosexual couple, Murray and Peter Corren, reached agreement with the Ministry of Education settling their complaint against the government under the Human Rights Code. The complaint involved the lack of sexual orientation content of curriculum taught in the province's schools. The settlement agreement provided the Correns with significant, extensive and ongoing input, consultation and review of required changes to school curriculum that address sexual orientation and homophobia issues. Groups representing Christian values have not yet been permitted the same level of input. Christian parents have raised concerns about what the revised curriculum will cover, and the inability to "opt out" or withdraw their children, on religious grounds, from classrooms where this curriculum will be taught.

(See **HOMOSEXUAL RIGHTS: THE EVOLVING TRUMP CARD**

[HTTP://WWW.KUHNCO.NET/?ACTION=D7_ARTICLE_VIEWER_VIEW_ARTICLE&JOIN_ID=226479&TEMPLATE=NEWS_ARTICLE.HTM7](http://www.kuhnco.net/?ACTION=D7_ARTICLE_VIEWER_VIEW_ARTICLE&JOIN_ID=226479&TEMPLATE=NEWS_ARTICLE.HTM7))

<http://www.realwomenofcanada.ca/publications/analysis-reports/human-rights-canadian-overview/>

Conclusion

The people of Ontario are feeling 'Reverse Discrimination', which is allowed under EQUITY programs.

Section 2 of the Canadian Charter of Rights and Freedoms lists the same fundamental freedoms as the First Amendment. However our Ontario Human Rights Commission policy regarding competing rights states:

- Our laws guarantee rights such as freedom of expression as well as protection against discrimination and harassment based on gender, creed, sexual orientation and disability
- no rights are absolute and no one right is more important than another right
- See more at: <http://www.ohrc.on.ca/en/book/export/html/6575#sthash.q1aukrfr.dpuf> has stated that <http://www.ohrc.on.ca/en/book/export/html/6575>

Since same sex marriage each of these freedoms has been severely limited in schools.

Freedom of Conscience and religion – teachers and students must participate in programs, even if they include activities from which the faith requires them to abstain.

Freedom of thought, belief, opinion and expression – students and staff are told even diplomatic communication of opinion, belief, and thought, even when backed with evidence (e.g. when discussing homosexual activity, providing medical evidence to encourage caution) is not allowed if such would offend a person who identifies with alternative sexuality.

Freedom of peaceful assembly and association – students are not allowed to have faith clubs, or meet at the flag pole to pray. Citizens who are part of a faith group are discouraged from renting school facilities.

To avoid such losses of freedom in Hawaii elected representatives must carefully study the long term effects (positive and negative) of same sex marriage, including input from all stakeholders.

Legislative protections are necessary for both sides of this issue.

Respectfully submitted

Phil Lees, President

P.E.A.C.E. (Public Education Advocates for Christian Equity)

PO Box 306, Binbrook, On L0R 1P0

Sample Lesson Progression

1) Any Primary Grade

- Teacher reads a book such as “Gloria Goes to Gay Pride”
- Teacher discusses different kinds of love and families.
- Magazines with pictures of gay and lesbian couples are provided
- Children make a collage of pictures of different kinds of love and families (men passionately kissing men and women passionately kissing women)
- Collages are used to decorate class during Gay Pride Week and transgender day.

2) Gr. 2 Unit – Both/And

Students are taught that their gender has more to do with clothes you wear, and activities in which you participate

In a Toronto Sun news article entitled, ‘Warmington: Serious Gender Bender,’ dated October 16, 2013, writer Joe Warmington began his article with: “There are no rules for being a boy or a girl” — slogan on a TDSB poster. So now the Toronto District School Board is telling kids they don’t have to be boys or girls?”

read the full article at:

<http://www.torontosun.com/2012/09/24/warmington-serious-genderbender>

3) Gr. 3 Mock SSM Ceremony

The teacher reads a story like “Daddy’s Wedding, or the King & King” and talks about marriage can be between two people of the same sex. Some classrooms then participate in a mock same sex mass wedding ceremony, and then celebrate with cake and ice cream.

4) Anal and Oral Sex

7th and 8th grade sex ed curriculum includes information about conception and heterosexual activity (anal and oral sex). Education officials have stated, “To not discriminate against LGBT, the new curriculum includes references to homosexual sex.”

Education After Same Sex Marriage...

- Sexual lifestyle messaging integrated into all subjects, all grade levels
- GSA Clubs mandatory (high schools and middle schools)
- Faith Clubs are often not allowed – because their values discriminate against GSA
- Parental requests to be informed about sensitive curriculum - not respected
- Diplomatic disagreement in classrooms (student and teacher) even when supported with medical evidence, is considered homophobia
- Teachers are told there are no religious accommodations for them on the job
- Students are allowed to use the washroom, change room, and shower facilities that are consistent with their gender, not their anatomical sex



There are No Rules for being a Boy or a Girl



Timeline of Events – Before and After Same Sex Marriage in Canada

1980's - 2004 Before Same Sex Marriage


BEFORE SSM
Sensitive Curriculum ... 1980's

<i>Offensive Books</i>	<i>Reasons</i>
• <i>Of Mice and Men</i>	Profanity
• <i>Go Ask Alice</i>	Profanity, drug use, sexual situations
• <i>Lord of the Flies</i>	Profanity, sexuality, racial violence
• <i>Bridge to Terabithia</i>	Profanity, Disrespect children, show to adults
• <i>To Kill a Mockingbird</i>	Profanity, racial slurs
• <i>The Catcher in the Rye</i>	Profanity, prostitution, depression
• <i>Harry Potter Series</i>	Use of witchcraft, fear that fantasy and reality could become confused for children, violence
• <i>The Color Purple</i>	Explicit sexuality, profanity, violence, use of drugs

**Is Nothing New ...
 ...Schools Accommodated**

1980's – Some Offensive Novels Sensitive curriculum is not new. In the 1980's there were some novels that some parents found offensive. When parents or the student expressed concern, they were accommodated with an alternative novel.

BEFORE SSM
Sensitive Curriculum ... 1990's
 1990's Comprehensive...



Background Thinking
Kids are going to be sexually active so we better teach them how to do it safely.

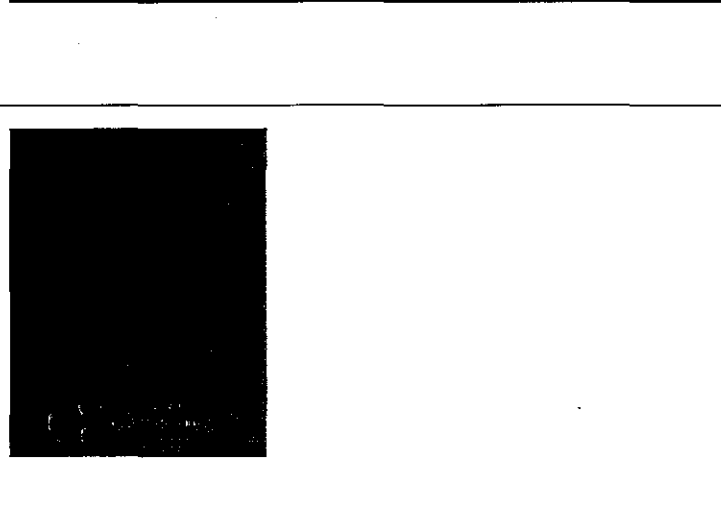
- Contraceptives
- Homosexuality
- Anal / oral sex

NOTE

- SUPPLEMENTARY, NOT approved curriculum
- When parents expressed concern ...
 - schools have authority to go beyond gov't curriculum
 - schools will accommodate families

1990's Comprehensive Sex Education
 Not required curriculum, but teacher unions, teacher training through the training facilities recommended additional curriculum. The background thinking was, children *are going to be sexually active so we better teach them how to do it safely. At this time, teachers who felt this additional information should be added to the curriculum would provide information about*

- Contraceptives
- Homosexuality, Anal / oral sex




Parents were accommodated and just like in Hi, schools were required to send a letter home informing families of sensitive curriculum.

2000 – Affirmative LGBT story books integrated into the classroom
 Again this was supplementary material that teachers would bring into the classroom. Primary grade teachers were exposed to this type of material through a training video titled, "Its Elementary". Such books were considered sensitive by many faith families because it presents concepts to their children that conflicts with the teaching of the home. Parents who asked to be informed about such instruction were accommodated and informed so that parents could talk to their children about

how this information applies to them as a child of faith being raised in a secular, multi-worldview society. Parents were respected and accommodated.

Sensitive Curriculum - BEFORE SSM

Before		After
1980		2005
<p>1980'S - Some Novels 1990'S</p> <ul style="list-style-type: none"> • Comprehensive Sex Ed ... Anal / Oral Sex • LGBT Alternative Family Instruction • Few H.S. had GSA clubs... strong LGBT advocacy in community 	<p>SUPPLEMENTARY</p> <p>NOT in the CURRICULUM</p>	

Sensitive issues in schools prior to SSM was limited to some novels and supplementary curriculum brought into the classrooms if the teacher thought it was a good idea. Very little was mandated in curriculum.

Parents who asked to be informed and accommodated, their wishes were respectfully addressed.

Just like Hi, The Ministry of Education had a policy requiring families to be informed before sexual health curriculum was being covered since this is sensitive curriculum.

2005 – Canadian Courts Affirm Same Sex Marriage



2006 – 2008 – School Boards were mandated to implement sexual orientation policies

Sexual Orientation Policies were designed to “ensure that all policies, guidelines, procedures and practices including but not limited to classroom practices, day-to-day operations and communication practices, are anti-homophobic and anti-heterosexist.” (See sample school board sexual orientation policy at <http://www.hwdsb.on.ca/wp-content/uploads/2012/05/Sexual-Orientation-Directive.pdf>)

These policies led curriculum considerations including integration of affirmative sexual alternative lifestyle messaging.

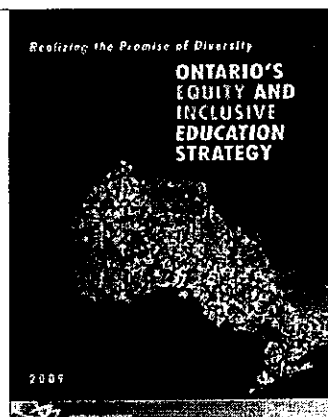
This became a very controversial stage as the more urban school boards would bring in experts on the issue. The approach taken by the academic experts was often more of “imposing change” rather than desiring to work together with others in the community to develop a co-operative plan to recognize the needs of this group and build an environment that within the community.

**2009 - Bill 157
Safety In Schools Act**

Requires schools and school boards to build positive relations with the LGBT community. This is only a concern when special interest groups are using this as an opportunity to influence inside the school. And this has happened in some schools.

Principal's responsibilities – New requirements include principals must report to parents when a child has been seriously bullied, unless, in the principal's assessment doing so would not be positive. The terminology used during teacher seminars is, "if the principal is concerned the parent may not honor the feelings of the child". Then the principal is to send the child to positive homosexual counselling without informing the parent.

See video link
http://bill157.apandrose.com/en_CA/principals/



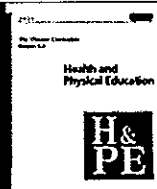
2009 – Equity and Inclusive Education Strategy

This document is a terms of reference document for revising all curriculum to make it more inclusive.

There have been many concerns with the document, the most significant being the document has specific examples of how we will accommodate and respect the LGBT community, but explanation about accommodating other more traditional communities is lacking.

After SSM- Revise Curriculum

- Grade 1: Students identify genitalia of male and female
- Grade 2/3: sexual orientation and gender identity
- Grade 4: puberty and its physical and social changes
- Grade 6: personal pleasure, masturbation, vaginal lubrication and wet dreams
- Grade 7: sex acts such as oral sex and anal intercourse



2010 – Health Curriculum

Sexual health units were of concern to traditional parents. So much so that the curriculum was pulled just before an election.

The controversial components that were supplementary information became mandated. New premier has promised to ramp it up and further ramp up implementation of LGBT integrated curriculum

After SSM – Revising Curriculum

Equitable and inclusive

Challenging Homophobia
and Heterosexism:
A K-12 Curriculum
Resource Guide

Ontario Public School Board
2011

- Teacher Resource document
- Free!! Available via internet and inclusive education wksp
- 12 sample lessons at each level
- how to integrate LGBT messaging into all subjects K- 12.

FAQ (p. 10) Teachers not to inform families of sensitive lessons

This teacher resource document has 12 samples activities at each learning level to guide teachers on how to integrate LGBT messaging at each learning level.

Although produced by the TDSB, it is the exemplar referenced by the Min. of Ed., teacher unions, and LGBT presenters instructing as part of inclusive education seminars.

Freely downloadable on the internet

Page 10 Frequently Asked Questions

“Should schools send notes or permission slips home before starting any classroom work on LGBT issues?

Answer - No

Can a parent Have their child accommodated Out ...?

Answer – No

Can teachers seek accommodation from teaching materials that may contradict their religious beliefs?

Answer – No.

After SSM

BILL 13 - What is the Intent?

“The [Liberal government’s] goal of this Bill is to change attitudes and behaviours, and change them for good”.

2nd Reading Speech, Dec. 7th, 2011

Hon. Laurel Broten
Minister of Education

... And once we fix the secular public and Catholic schools, private schools are next

Barbara Hall, Ontario Human Rights Commission

Re Home Schooling – Alberta legislation to prevent home school from integrating faith in daily instruction. Legislation died because an election was called

Bill 13 Accepting Schools Act passes in the Ontario Provincial Legislature.

During her second reading speech, Minister of Education Laurel Broten, made it very clear, the reason for bullying of gays in our schools was because of the norm and values of society, and “the goal of his Bill is to change attitudes and behaviours and change them for good.

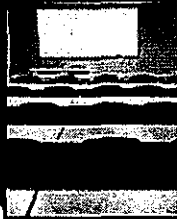
Barbara Hall, Ontario Human Rights Commissioner also stated, once public and Catholic schools are fixed private schools will be next.

At the same time, the Alberta government was pushing through legislation to limit homeschoolers from using materials that refer to their faith during instruction time – bill died on the floor because and election was called.

After SSM

Accepting Schools Act – Strategies to Change Values

- 1) GSA Student Club Activities
- 2) Sexual-Lifestyle curriculum (K – Gr 12)
- 3) School rental agreements -
Churches, renting school space, must
operate on principles dictated by the
Human Rights Commission – provincial
code of conduct.



To change the traditional norms and values of society, the A.S. Act is structured with 3 strategies targeting this goal.

- 1) Student Club Activities – which affirm the sexual lifestyle direction
- 2) Sexual-Lifestyle curriculum (K – Gr 12) – which integrates into each subject positive LGBT messages.
- 3) Rental agreements limited to entities that abide by the provincial code of conduct – ie. churches will park their faith/values at the door.

After SSM -GSA Clubs

Club based on sexual activity preference

(Lesbian gay bi-sexual, transgendered, two-spirited, intersexed, queer, questioning)

- leadership role in educating students about discrimination
- mentored by supportive staff and LGBT community leaders
 - organize school assemblies, bring in speakers.

View Youtube video of LGBT leader and GSA club promoter, Dan Savage, speaking at a high school assembly – IN THE UNITED STATES.

GSA Clubs mandated in every school.

Bill 13 states,

Every board shall support pupils who want to establish and lead activities and organizations ... (d) activities or organizations that promote the awareness and understanding of, and respect for, people of all sexual orientations and gender identities, including organizations with the name gay-straight alliance or another name.

Will GSA Clubs be used to undermine the values of traditional-minded students?

Well, I guess we should examine how they are, or could be used.

First of all, let's look at the leading US LGBT activist, Dan Savage, a high school GSA club promoter, and the founder of the "It Get's Better Project" is seen here speaking to an assembly of high school students

See

www.youtube.com/watch?v=ao0k9qDsOvs

After SSM - Student Clubs

Concerns

Same message in Canada ...

Evidence



Dan Savage.- U.S. LGBT Activist – Bible is No Longer Relevant



Laura Wolfson, LGBT activist, spoke at a GSA Sponsored Assembly for all students at Parkside Highschool – Same Strategy as Savage - Bible is no longer relevant!

The same approach taken by Savage, was reported to be employed by a speaker, Laura Wolfson at Parkside High School.

See article

<http://www.lifesitenews.com/news/ontario-school-hosts-school-wide-gsa-assembly-gay-speaker-re-interprets-bib/>

The incident, as reported in Lifesite News, was not denied by the local school board, was similar in approach to the Savage presentation, where the speaker used a negative interpretation of Old testament Scripture to claim that scripture is no longer relevant, and undermines the values of traditional-minded Christians to defend the position of homosexuals, bisexuals, and other alternative sexual lifestyles.

Students in school have also reported:

- Over promotion ... GSA club is announced every day on the announcements, and posters in every corner in halls, rainbow door hangers on many classroom doors, etc.
- GSA club members sell promotional materials (rainbow bracelets at lunch) when a student does not purchase they have been called 'homophobe'



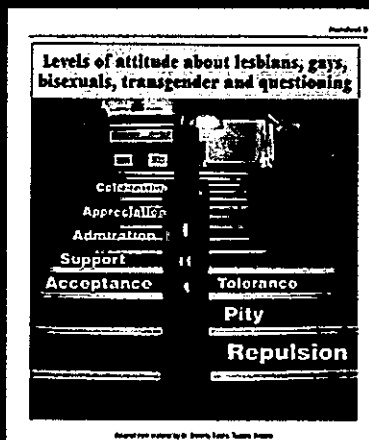
Sample posters in schools

After SSM – Sexualized Curric.

Banks Continuum

Challenging Homophobia and Heterosexism: A K-12 Curriculum Resource Guide

Challenging Homophobia and Heterosexism: A K-12 Curriculum Resource Guide



- progressive attitude conditioning activities

The instruction in the document is based upon the Banks Continuum, which instructs teachers to transform children's values through properly planned and orchestrated attitude conditioning activities.

A poster from the 2009 BC Teachers' Federation Conference demonstrates the goal, to change children's attitudes from merely tolerating and accepting people who are different to getting them to support, admire, appreciate, and celebrate those values.

Two slide later a series of lessons activities that demonstrate a progression of attitude conditioning.

After SSM – Sexualized Curric.

Community units	primary students will learn about alternative families
Music Class	new songs about alternative families, Gay Pride Parades, etc
Drama class	Students portray LGBT issues
Math	family problems
Literature	novels include homosexual focus
Text books	must contain disproportionate representation of LGBT to be approved for use
Queer Hero strategy	acknowledging the S.O. of successful academics, heroes in classes
	Transgender Days Pride week/parades

Challenging Homophobia and Heterosexism: A K-12 Curriculum Resource Guide

People often ask, how can this be integrated into all subjects, every grade level?

Community units... primary students will learn about alternative families

Music Class ...new songs about alternative families, attending Gay Pride Parades, etc

Pride week/parades in schools

Drama class assignments portraying LGBT issues

Math class problems will include alternative family situations

Queer Hero strategy – Ministry of Ed term meaning the sexual orientation of successful academics and heroes will be revealed if they are other than heterosexual.

Literature – novels to include homosexual focus

After SSM – Sexualized Curric.

Gr. 1

Read - Story to the Class

Discussion – about different kinds of love and families

Assignment – demonstrate your understanding by making a collage

Attitude Progression Activity 1

Grades 1, 2, 3 teachers are recommended to read a book such as "Gloria Goes to Gay Pride". Then the teacher engages the children in a discussion about different kinds of love and families.

To demonstrate their learning students are to cut make a collage by cutting out pictures from magazines about different kinds of love, different families, and Gay Pride Parades (children are told Gay Pride is a celebration of different kinds of families).

Collages can be used to decorate the class for pride week, where classes will be judged on transgender day.

After SSM – Sexualized Curric.

Unit – Both / And ... Boy ? Girl ? – You Decide

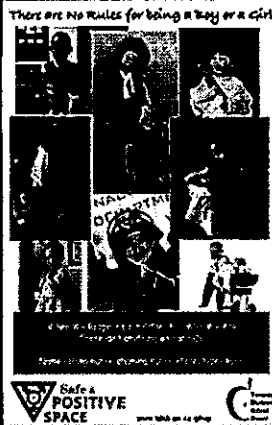
Gender has more to do with ...

- clothes you wear
- music you listen to
- activities you like to do.

Gender is not permanent but fluid...
..... It changes throughout life

Cross-dressing centre

- Students dress and live as a different gender
- Talk, draw and write about it



Attitude Progression Activity 2

UNIT – BOTH / AND

Children are introduced to Gender Fluidity. Read a book about a person who likes to try different clothes and activities.

In this unit children learn Gender has more to do with your interests, the clothes you wear, the activities you like to do.

Your gender is not permanent and you may change your gender as you progress through life.

Students are exposed to a Cross-dressing centre where

- Students encouraged to dress and live as a person of a different gender
- Boys pretend to be a girl
- Girls pretend to be a boy

And then share how they feel.

After SSM – Sexualized Curric.

Gr. 3 Unit: Community and Families

2 moms 2 dads 1 mom+1 dad
1 mom 2 dads, etc.



Same-Sex Wedding Ceremony

- Students choose the same sex classmate to marry
- Person dressed as clergy performs ceremony
- Celebrate with cake and ice cream

Attitude Progression Activity 3

Grade 3 Teacher reads Daddy's Wedding, We have a discussion about different kinds of family structures (multiple dads, moms, etc.).

Wouldn't it be great to marry a best friend. If you could do that who would you marry. Find someone of the same sex you would like to marry, ask them.

A person dressed as clergy, officiates the mass SSM ceremony, and students celebrate with cake and ice cream.

After SSM – Who's In Charge....

Planned Parenthood to Bolster Sex Ed



"Anna Penner and David Udayasekaran, of Planned Parenthood, will work to make sex ed just a little bit queerer, by developing a resource with and for lesbian, gay, bisexual, trans and queer youth."

Whereas curriculum input from the parents was considered in the past.

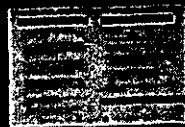
The sexual diversity departments of the university teacher training centres and large school boards, attract people with a vested interest.

Queering sex education is designed to provide resources for lesbian, trans, bisexual, gay and queer youth.

The materials however are circulated throughout.

After SSM – Sexualized Curric.

Intended to Change our Children's Values?

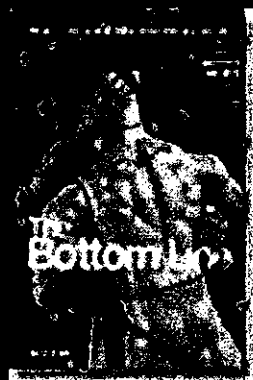


The result is materials such as shown that has was reported to be in a grade 7 classroom. When found, school board and some parents defended the teacher, stating it has safe sex information.

After SSM – Sexualized Curric.

Manuals dealing with sexual activities.

Provided under the title safe sex information



Bottom Line manual – is an example from England of the types of materials that are being approved for use in secondary level schools.

After SSM is approved these kind of materials become acceptable. Legislators must decide if this is acceptable. If not, then how will it be prevented.

Governor said the curriculum will reflect the laws – therefore it is unavoidable.

Please see hardcopy attached.

After SSM – Sexualized Curric.

Sex Support Information on School Board Website

- School board web link offers kinky (vegetarian) sex advice



<http://www.sunnewsnetwork.ca/sunnews/canada/archives/2012/09/20120927-112308.html>

At least one school board has been found to have sex links on the website available for students.

After SSM – Sexualized Curric.

- “When with your partner you can could suck, kiss, touch, bite, fondle, nibble, squeeze and lick someone’s body, nipples, calves, toes, neck” and other areas.
- It talks of masturbation in front of the mirror, acting out fantasies and using sex toys.”
- “Play with your own or someone else’s a-- or vagina, put your fingers, dildoes, vegetables, or butt plugs into them”

School Board Defense ... this is not being forced on students... some students need/want this information.

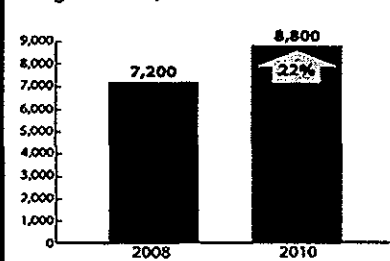


School boards defense – please see power point image.

Health Caution

CDC: Increase in New HIV Infections

Figure 3: Estimated New HIV Infections among MSM Aged 13-24, 2008-2010



CDC
“new infections among young MSM (aged 13-24) increased 22 percent from in 2010”
<http://www.cdc.gov/nchhstp/newsroom/docs/2012/HIV-Infections-2007-2010.pdf>

Our public health department agrees that as we expose students, it does lead to increased sexual activity. The school is not advocating for children to have sex, but we found that as you expose it does lead to increased activity.

My concern is that Centre for disease control stats show “new infections among young MSM (aged 13-24) increased 22 percent.”
<http://www.cdc.gov/nchhstp/newsroom/docs/2012/HIV-Infections-2007-2010.pdf>.

Health Caution

Diagnoses of HIV Infection among Young Males & Transmission Category 2011 – United States (CDC)

Transmission Category	13 – 19 yrs		20 – 24 yrs	
	No.	%	No.	%
Male to Male sexual contact	1,664	92.8	6354	90.8
Injection drug use (IDU)	23	1.4	117	1.7
Male to Male sexual contact and IDU	3.7	2.1	232	3.3
Heterosexual contact	6.7	3.7	294	4.2
Other	0	0	0	0
Total	1,794	100	6998	100

<http://www.cdc.gov/nchhstp/newsroom/docs/2012>

CDC also indicates that over 90% of new HIV diagnosed infections result from male to male sexual contact.

Sensitive Curriculum - BEFORE SSM



Before

After

1980 2005

Legislated
In the
CURRICULUM

Some Novels

- Comprehensive Sex Ed ... Anal / Oral Sex
- LGBT Alternative Family Instruction
- All H.S. & middle schools must offer GSA clubs...
- Persons/entities using/renting school facilities shall follow the provincial code of conduct (park faith at door)

With the passage of same sex marriage has led to the following:

Direct Effects

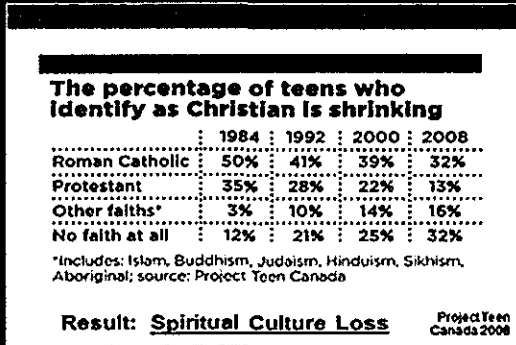
- Mandate GSA Clubs
- Sexual lifestyle messaging integrated all subjects all grade levels
- Persons/entities using/renting school facilities shall park their faith/doctrine at the door follow the provincial code of conduct

Indirect Effects

- Students requesting to organize a faith clubs are often refused because the assumed values are not consistent with GSA
- Student/staff diplomatic disagreement in classrooms, even during health class discussions where a student provides medical evidence to caution will be considered homophobia.
- Parental rights to be informed about sensitive curriculum is being removed
- Washroom/change room use in some school boards is now based on gender identity
- Increased sexual experimentation by students
- Teachers/students (and I) – have been told we are to park our faith at the school entrance and put on the faith/cloak of the Ontario Human Rights Commission's provincial code of conduct

– what happened to freedom of religion, and conscience?

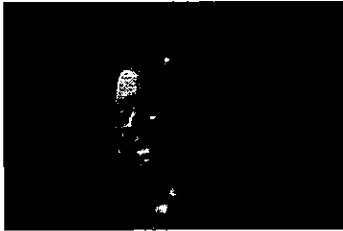
Result - Affect on Spiritual Culture?



People of faith have expressed concern because over the same period of time (1980s – Post SSM) there has been a significant spiritual culture loss. Faith communities desire to have the same consideration as the LGBT community.

BUT – Equity does not mean equality. Equity means we can put in place policies, procedure, legislation to address a disadvantaged group, even if it discriminates against the majority.

As a result of SSM, school districts have ruled parents do **not** have the right to know about sensitive curriculum taught in the classrooms, even if it conflicts with their family and faith values.



S. Turloukis – must challenge school decision in court.

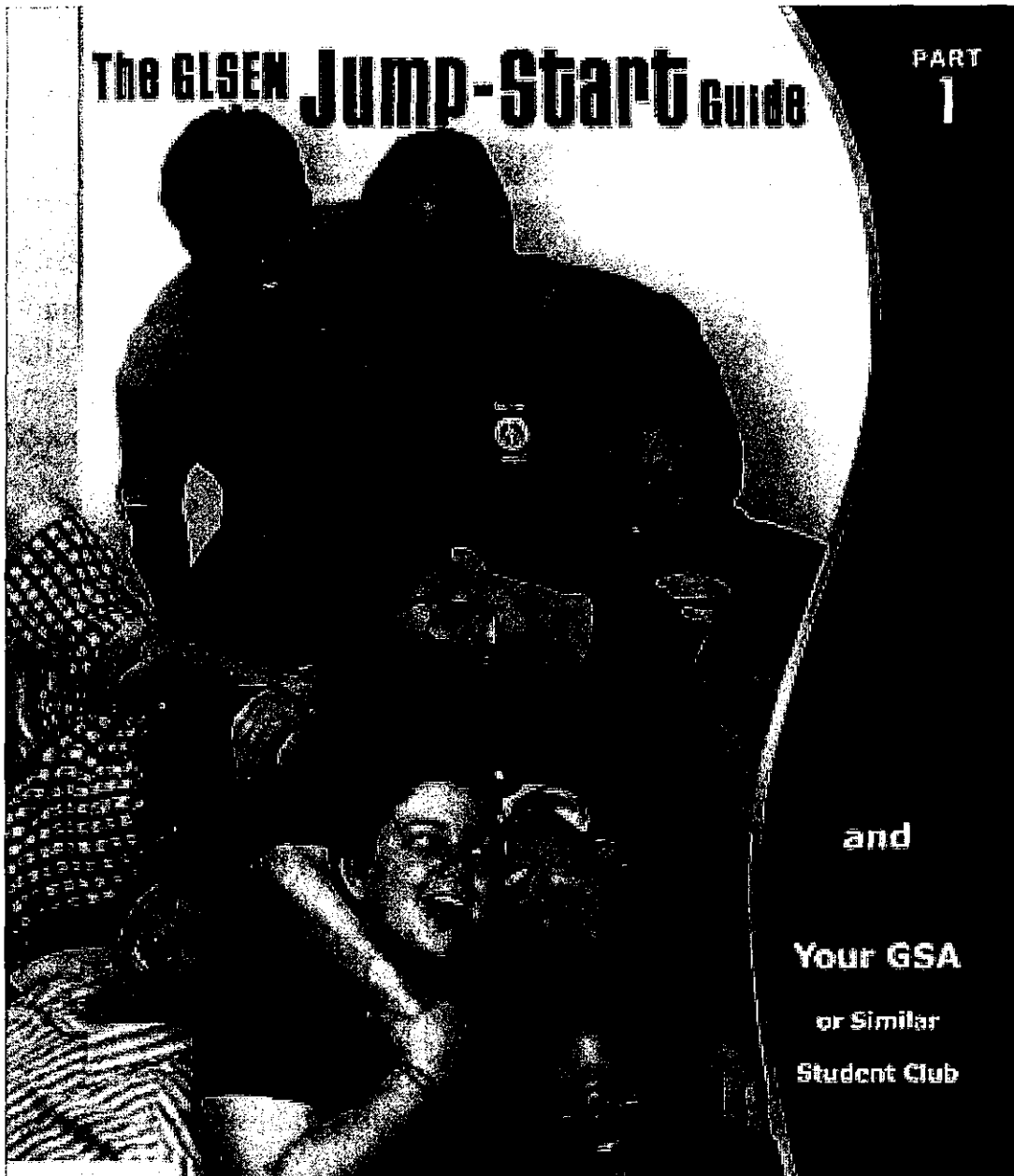
A striking example of this is Mr. & Mrs. Torouloukis, parents of children in grades kindergarten and grade 2, who requested advance notice when planned curriculum (lessons, assemblies, planned activities) involving his child, dealt with content his faith teaches to abstain (e.g., moral relativism, occultic principles and practices, instruction on sex education, instruction affirming alternative sexual lifestyles). To his request the school told him, “they will not inform him. The school system is working to create an inclusive environment and to accommodate his request would be an endorsement of discrimination.”

See link about this story.

<http://www.lifesitenews.com/news/christian-dad-fighting-for-parental-rights-smearred-in-local-press>

How Did Has this Happened?

Significant Interest Group – targets schools



How Did Has this Happened?

Significant Interest Group – targets schools

In this section I will help legislators understand where the pressure is coming from. Colleagues in England, Australia, Tazmania, and many states agree that one particular interest group is directing the influence on schools and pressuring from same sex marriage through the legislatures and judicial systems complements the long term plan to influence schools.

Before SSM – Influencer of Education

1990 – GLSEN

(Gay Lesbian Straight Education Network)

Mission: End discrimination, based on sexual orientation, gender identity and gender expression in K-12 schools.



Community Oppression...
Example: a lesbian attends a house of worship that teaches homosexuality is a sin.

In the 1990's GLSEN was founded by a group of 70 homosexual teachers. The mission to end discrimination based on sexual orientation and gender identity ... in K-12 schools.

We would agree with the goal, but implementation has been from a dominant position not from a group willing to work with all stakeholders in the community and develop a solution that respects all.

GLSEN create a manual that to achieve their goals. Manual includes organizational plans for GSA club establishment, growth, etc.

See example of oppression. Religion is a target.

Before SSM – Influencer of Education



1990 - 2007 GLSEN Founder & CEO Kevin Jennings

(President Obama's former Safe Schools Czar)
Graduate – Radford High School, Honolulu

- Bullied in school
- Self identified as homosexual
- Began his career as a teacher

“use the word **“safety”** as a **“calling card”** to further the **organization's goals in schools.**”



Who founded GLSEN? Please see slide.

Note – in Manual Jennings says “Safety” will be the calling card to further the organization’s goals in schools.

The focus is singular – the organization’s goals, not for the betterment of society, children.

Before SSM — Influencer of Education

Queering Education Advancing the Dialogue about Sexualities and Schooling

William J. Letts II and James I. Sears

Forward

“Children learn prejudice from many sources— their families, the media, religious institutions...

But the fact remains that schools are the place where children spend most of time ...”

By Kevin Jennings



Chapters..

- ‘Locating a Place for Gay and Lesbian Themes in Elementary’
- ‘It’s Okay to be Gay’ Interrupting Straight Thinking in the English Classroom

1998 – published book “Queering Elementary Education – Advancing the Dialogue about Sexualities and Schooling”

Forward by Jennings makes it clear the intent is to target students in schools to obtain their goals – legislature needs to insist that as we solve this important issue, input from all public school stakeholders is necessary – it is only fair.