

TO: CHAMBER MEMBERSHIP

FROM: BOARD OF DIRECTORS

SUBJECT: CITY OF SAN ANTONIO NON-DISCRIMINATION ORDINANCE

STATUS: ADOPTED



DATE: 08/22/13

STATEMENT:

The Greater San Antonio Chamber of Commerce supports non-discrimination policies that protect individuals from discrimination on the basis of race, color, religion, national origin, sex, age or disability. We also believe that protections should include individuals who may be discriminated against for their sexual orientation, gender identity or veteran status; therefore, The Chamber supports the City of San Antonio's proposed Non-Discrimination Ordinance.

BACKGROUND:

The City of San Antonio's first Non-Discrimination Ordinance was passed in 1994. Currently, 96% of the top Fortune 500 companies include employment protections for Lesbian, Gay, Bisexual, and Transgender (LGBT) employees. In fact, several companies in San Antonio, both large and small, have already included similar employment protections.

Five of the state's largest cities, including Austin, Dallas, El Paso, Ft. Worth, and Houston, all have similar LGBT protections in place. Throughout the United States, over 180 cities have enacted protections prohibiting discrimination against LGBT individuals such as Atlanta, Baltimore, Cincinnati, Memphis, and Phoenix. In addition, 21 states and the District of Columbia have passed laws prohibiting employment discrimination based on sexual orientation and/or gender identity.

CURRENT POLICY:

The City's current Non-Discrimination Policy prohibits discrimination on the basis of race, color, religion, national origin, sex, age, or disability.

PROPOSED POLICY:

The proposed ordinance additionally prohibits discrimination on the basis of sexual orientation, gender identity and veteran status in the areas of city employment, city contracts and subcontracts, appointments to Boards and Commissions, Discriminatory Housing Practices and Places of Public Accommodation. A Place of Public Accommodation includes every business within the city, whether wholesale or retail, which is open to the general public and offers, for compensation, any product, service or facility. The term "Place of Public Accommodation" includes, but is not limited to, all taverns, hotels, motels, apartment hotels, apartment houses, restaurants or any place where food or beverages are sold, retail and wholesale establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses and all public conveyances, as well as the stations or terminals thereof. The proposed ordinance also updates outdated terminology in the current policy by changing the term "handicap" to "disability."

CONCERNS:

As the City Council considers the Non-Discrimination Ordinance, The Chamber has concerns with the following:

- 1) Excluding the National Guard and Reserves in "veteran" status as such individuals are often called on tours of duty for an extended period of time;
- 2) The impact of the proposed language on contracts and inter-local agreements with Bexar County and the surrounding suburban cities;

IMPACT ON BUSINESSES:

The Ordinance, if adopted, will require all City of San Antonio contracts, exclusive of the contracts exempted from the scope and application of SBEDA Ordinance No. 2010-06-17-0531; contracts for the City's lease, purchase or sale of real property, and documents incidental thereto; shall contain that the contractor or vendor understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, natural origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law.

In regard to religious corporations, associations, societies or educational institutions or an educational organization operated, supervised or controlled in whole or in substantial part by a religious corporation, association or society does not violate the Non-Discrimination Policy by limiting employment or giving a preference in employment to members of the same religion.

The proposed ordinance does prohibit discrimination in Places of Public Accommodation which includes, but is not limited to taverns, hotels, motels, apartment hotels, apartment houses, restaurants or any place where food or beverages are sold, retail and wholesale establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses and all public conveyances, as well as the stations or terminals thereof.

REASONS FOR SUPPORT OF THIS STATEMENT:

1. The City is always vying for talent for our workforce, and by expanding the City's current non-discrimination policies; it diminishes impediments, widens the talent pool, and positions San Antonio as a diverse and welcoming city for all.
2. There are no added employment regulations on businesses operating within the city that do not contract with the City of San Antonio, unless the business is a Place of Public Accommodation.
3. There is no impact to the City's budget thus not placing a financial burden on the community.

REASONS FOR OPPOSITION OF THIS STATEMENT:

1. Businesses that do not have such discrimination protections are no longer able to obtain a contract with the City, unless they choose to comply with the Non-Discrimination Ordinance.
2. The protected classes in the proposed ordinance are duplicative of existing federal Equal Employment Opportunity Commission (EEOC) law.
 - a. The EEOC has held that discrimination against an individual because that person is transgender is discrimination because of sex and therefore is covered under Title VII of the Civil Rights Act of 1964. *See Macy v. Department of Justice*
 - b. The EEOC has also found that claims by lesbian, gay, and bisexual individuals alleging sex-stereotyping state a sex discrimination claim under Title VII.

IMPLEMENTATION: The Chamber will communicate this position to members of City Council, the media, and Chamber membership through *The Chamber Today*.