

Testimony Before the Ohio House Civil Justice Committee

February 4, 2020

Holly Gross, Vice President of Government Relations

Columbus Chamber of Commerce

H.B. 396: Ohio Fairness Act

Chair Hambley Vice Chair Patton, Ranking Minority Member Brown, and members of the House Civil Justice Committee, thank you for the opportunity to provide written testimony in support of House Bill 396.

Founded in 1884, the Columbus Chamber (Chamber) is the leading voice of business within the 11-county Columbus Region (Franklin, Delaware, Union, Fairfield, Licking, Knox, Logan, Madison, Morrow, Marion, Pickaway), representing more than 2,000 members employing over 500,000 workers across all industry sectors. While most of the largest companies in town are investors in our Chamber, more than 80 percent of our members have less than 100 employees, and it is through the lens of the small business owner that we review and advocate on legislation.

The Chamber's mission is to advance a thriving Columbus region. The primary principles of our Public Policy Agenda aim to achieve this mission by advocating to ensure a predictable regulatory environment, foster a competitive business climate, and support policies to attract and retain a diverse and inclusive workforce.

That's why our Chamber was proud to lead the way as Ohio's first to join Ohio Business Competes (OBC), a non-partisan coalition of businesses committed to achieving nondiscrimination policies at the state level. In determining whether to make this issue a legislative priority, our Chamber conducted a robust vetting process through our Government Affairs Steering Committee, who felt it was important to obtain a vote of the Small Business Council. After recommendations from both authorities, the measure was approved by our full board of directors.

H.B. 369 adds "sexual orientation" and "gender identity or expression" to the covered characteristics that can be the basis for unlawful discriminatory practices included in Ohio's existing civil rights statutes and other provisions of current law. Under the bill, an employer may not limit, segregate, or classify its employees or job applicants in any way that would deprive an individual of employment or otherwise adversely affect the status of the individual as an employee because of their sexual orientation and gender identity or expression. It also adds protections in cases of public accommodation, housing, lending and credit reporting, and within educational institutions. The bill does not infringe upon the First Amendment of the U.S. Constitution or the Ohio Constitution, and all existing religious protections remain intact.

The data proves and affirms that LGBT-inclusive policies benefit a business' bottom line and its ability to attract and retain talent. In fact, 88 percent of respondents of a U.S. Chamber of Commerce survey of U.S. employers publicly support LGBT equality<sup>1</sup>.

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<sup>1</sup> <https://www.uschamberfoundation.org/sites/default/files/Chamber-Inclusion-00o-compressed.pdf>

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With unemployment rates at record lows levels (3.3% in the Columbus MSA<sup>2</sup>), the war for talent poses a real challenge for business owners. Businesses are increasingly looking for ways to attract top talent and retain current talent. Workplace cultures of inclusion and acceptance are of the utmost importance for workers, with 80 percent of respondents in a 2017 Deloitte study saying that inclusion is an important factor in choosing an employer. 72 percent of respondents also said that they would leave an organization for one they believe is more inclusive. In order for employers of all sizes to attract the best and brightest, fostering inclusive workplace practices is essential in ensuring success with the next generation of the workforce.

Ohio's top employers, including those represented on our board and committees, already have inclusive and nondiscrimination policies in place. We hope that raising awareness of the cultural and economic benefits of this issue will encourage more companies to follow their lead, especially because businesses overwhelmingly report that such policies cost next to nothing and help drive a competitive edge. However, until these protections are ubiquitous in the workplace and in society, Ohio should join the 21 other states plus the District of Columbia that have enacted laws to ensure employees and consumers are protected from being denied jobs, housing and services based upon perceived sexual orientation and gender identity or expression.

And while many employers can and do have formal policies on the books to protect against discrimination within their own four walls, they are still at risk of losing good workers who remain legally vulnerable to discrimination in housing and places of public accommodation. That's why these provisions of H.B. 369 are integral to the employer community's support for the bill.

The Columbus Chamber and our members recognize and value the power of diversity. We are committed to helping all of Central Ohio thrive, which includes anyone that has faced barriers in trying to live, work, or otherwise flourish here. According to a 2015 Gallup poll, Greater Columbus is home to the 15th largest LGBTQ population in the country.<sup>3</sup> We believe the absence of statewide anti-discrimination protections puts our region and our state at a competitive disadvantage. H.B. 369 will help to retain talented LGBTQ workers that wish to remain and feel welcome, attract the best and brightest, increase workplace diversity, strengthen relationships among businesses and consumers, and ultimately grow Ohio's economy. The legislation will also serve as another tool for Ohio to use as we compete on a national level for mega economic development projects and as forward-thinking businesses seek to invest in Ohio, a factor we *know* is considered by companies as part of their site selection process.

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<sup>2</sup> November 2019 BLS data

<sup>3</sup> <http://www.dispatch.com/content/stories/local/2015/03/23/gallup-poll.html>



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The Columbus Chamber opposes varied local ordinances that create a patchwork of regulations that are complicated and difficult for businesses operating in multiple jurisdictions to comply with. While the City of Columbus is one of 28 municipalities that have already enacted these nondiscrimination protections, we support one uniform statewide statute that will provide greater clarity and consistency for our members.

Furthermore, there is an inconsistent patchwork of legal protections that vary across the states. The Federal Courts of Appeals have issued contradictory holdings on whether Title VII of the Civil Rights Act of 1964 prohibits discrimination based on sexual orientation and gender identity, an issue that is being considered by the United States Supreme Court this term. However, Title VII only covers about half of the nation's employees and only applies to discrimination in *employment*. The Legislature should know that the U.S. Supreme Court in *Masterpiece* made it clear that state laws of this nature are not per se unconstitutional, and in fact, were deemed "unexceptional." Therefore, the medley of judicial decisions and local ordinances, coupled with the absence of a federal law that explicitly protects LGBT people from discrimination in employment, housing, and places of public accommodation, paves the way for the Ohio General Assembly to act to provide legal certainty to Ohio businesses on this issue, and make it known that our state is open to all.

For the aforementioned reasons, the Columbus Chamber urges your support of the legislation and encourages this committee to advance H.B. 369.

Thank you for your consideration, and I'm happy to answer any questions you may have.