

SENATE BILL NO. 1

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1 with my recommendations for reconsideration.

Neither the United States Constitution nor the New Jersey State Constitution contain a right to same-sex marriage. In 2006, in Lewis v. Harris, while holding that there is no fundamental constitutional right to same-sex marriage, the New Jersey Supreme Court ruled that same-sex couples must be afforded the same rights and benefits that are statutorily given to their heterosexual counterparts. While there is no fundamental constitutional right for individuals of the same sex to marry, same-sex couples now have the rights and benefits enjoyed by, and burdens and obligations borne by, married couples. Through enactment of P.L.2006, c.103, which provides same-sex couples in a civil union all the statutory rights, benefits, and obligations afforded to married couples, the Legislature granted those benefits statutorily. Since its passage, thousands of same-sex couples have entered into civil unions. During that time, some citizens of our State have continued to engage in an open, honest, and passionate discussion on what, if any, further changes to the civil union law are appropriate.

Now, just five years later, Senate Bill No. 1 seeks to eliminate civil unions and allow couples of the same gender to be married. While the wisdom of, or need for, same-sex marriage can be debated, it is beyond dispute that such a step represents a profoundly significant societal change. The framers of our State Constitution created the referendum process in Article IX

as the sole mechanism by which the Constitution can be amended to consider precisely such important issues. I have repeatedly encouraged, and continue to ask that, the Legislature trust the people of New Jersey and seek their input by allowing our citizens to vote on the question of same-sex marriage. This path of amending the State Constitution, which embraces our most cherished democratic ideals and is enshrined in our guiding legal document, is the only way to amend our Constitution and the best way to resolve the issue of same-sex marriage in our State.

It is also important to understand the nature of the problems with the State's civil union law that Senate Bill No. 1 seeks to remedy. Since 2007, the New Jersey Division on Civil Rights has received over 1,300 complaints related to disability, over 1,200 complaints related to race, and hundreds of complaints in each of the protected areas of national origin, age, and sex. During this same time period, the Division on Civil Rights received only 13 complaints related to civil unions. To be clear, discrimination in the law's application must not be tolerated, and any complaint alleging a violation of a citizen's rights is unacceptable. However, the limited number of complaints regarding civil unions confirms that New Jersey's civil union law has been effective.

The testimony provided to the Legislature during hearings on Senate Bill No. 1 suggested that some in the State may lack a sufficient understanding of all the statutory rights and benefits afforded to those in a civil union. Accordingly, I recommend that the bill be revised to create an Ombudsman for Civil Unions in the Department of Law and Public Safety. The Ombudsman will be charged with increasing awareness of the law regarding civil unions and will provide a clear point of contact

for those who have questions or simply concerns that the law is not being followed. The Ombudsman will coordinate awareness efforts in consultation with the Division on Civil Rights and the Department of Health and Senior Services. Further, the Ombudsman will be required to report any evidence of allegations that a person or entity is not complying with the law with respect to civil unions. The Ombudsman for Civil Unions will thus provide an appropriate supplement to our existing protections against discrimination, and serve as a worthy advocate to increase awareness of New Jersey's strong civil union law that provides the same rights and benefits of those in a marriage.

The equality of treatment afforded by New Jersey's robust civil union law under the supervision of the new Ombudsman will carry on New Jersey's strong tradition of tolerance and fairness. Likewise, presenting the issue of same-sex marriage to the people for decision is the only available way to amend our Constitution. I urge the Legislature to embrace both principles by concurring with the recommended changes to Senate Bill No. 1, and sharing the question of same-sex marriage with the public through referendum this year.

I herewith return Senate Bill No. 1 and recommend that it be amended as follows:

<u>Page 2, Title, Line 1:</u>	Delete "marriage" insert "civil unions"
<u>Page 2, Title, Lines 1-2:</u>	Delete "revising various parts of the statutory law"
<u>Page 2, Title, Lines 2-3:</u>	Delete "Title 37 of the Revised Statutes, and repealing section 94 of P.L.2006, c.103" and insert "Chapter 17B of Title 52 of the Revised Statutes"
<u>Page 2, Section 1, Lines 8-9:</u>	Delete in their entirety
<u>Page 2, Section 2, Line 11:</u>	Delete "2." and insert "1."

- Page 2, Section 2, Line 12: Delete "Six" and insert "While several"
- Page 2, Section 2, Lines 12-13: Delete ", together comprising 35 million Americans,"
- Page 2, Section 2, Line 13: After "marry" insert "as a matter of state law, neither the United States Constitution nor the New Jersey State Constitution contain a right to same-sex marriage"
- Page 2, Section 2, Line 21: Delete "to attempt to provide" and insert "that provides for, on equal terms,"
- Page 2, Section 2, Line 24: After "c." insert "In Lewis v. Harris, the Court recognized that the New Jersey State Constitution did not require the Legislature to designate a same-sex relationship as "marriage," and specifically provided that the Legislature could create a parallel structure which uses a title other than "marriage.""
- Page 2, Section 2, Line 24: Before "The Legislature" insert "d."
- Page 2, Section 2, Line 24: Delete "and the Governor responded to the" and insert "fulfilled the mandate in"
- Page 2, Section 2, Line 25: Delete "decision"
- Page 2, Section 2, Line 26: After "State" insert "and provided committed same-sex couples in a civil union all of the statutory rights, benefits, and obligations afforded to married couples"
- Page 2, Section 2, Lines 27-45: Delete in their entirety
- Page 3, Section 2, Lines 1-15: Delete in their entirety
- Page 3, Section 2, Line 16: Delete "j." and insert "e."
- Page 3, Section 2, Lines 16-17: Delete "in order to comply with Lewis v. Harris,"
- Page 3, Section 2, Lines 17: Delete "therefore cannot" and insert "remains committed to its implementation and enforcement."
- Page 3, Section 2, Lines 18-19: Delete in their entirety

- Page 3, Section 2, Line 20: Delete "k." and insert "f."
- Page 3, Section 2, Line 20: Delete "marriage" and insert "union"
- Page 3, Section 2, Line 24: Delete "l." and insert "g. In order to ensure that there is a thorough understanding throughout the State that the existing law with respect to those in a civil union is equal to the law for those in a marriage, it is appropriate to establish an Ombudsman for Civil Unions in the Department of Law and Public Safety, who will be charged with increasing awareness of the law regarding civil unions and will provide a clear point of contact for those who have questions about the law or concerns that the law is not being properly recognized or followed."
- Page 3, Section 2, Line 24: Delete "It is the intent of the Legislature in enacting this bill to end"
- Page 3, Section 2, Lines 25-48: Delete in their entirety
- Page 4, Section 2, Lines 1-6: Delete in their entirety and insert "2. There is established in the Department of Law and Public Safety an Ombudsman for Civil Unions who shall be a person qualified by training and experience to perform the duties of the office. The Ombudsman for Civil Unions shall be appointed by and shall serve at the pleasure of the Attorney General."
- Page 4, Section 3, Line 8: Delete "(New Section) "Marriage" means the legally recognized" and insert "The Ombudsman for Civil Unions shall be responsible for, in consultation with the Division on Civil Rights and the Department of Health and Senior Services, increasing awareness that the same statutory rights, benefits, and obligations apply whether a couple is in a civil union or a marriage. The Ombudsman may take such actions as he deems appropriate to increase awareness, including, but not limited

to, coordinating awareness programs throughout the State, offering training programs to public and private entities on the law on civil unions, and maintaining an informational website on civil unions. The Ombudsman shall report any evidence or allegations that a person or entity is not complying with the law with respect to civil unions to the appropriate authority."

- Page 4, Sections 3-6, Lines 9-48: Delete in their entirety
- Page 5, Sections 7-9, Lines 1-48: Delete in their entirety
- Page 6, Sections 9-11, Lines 1-17: Delete in their entirety
- Page 6, Section 12, Line 19: Delete "12." and insert "4."
- Page 6, Section 12, Line 19: Delete "on the 60th day following" and insert "immediately."
- Page 6, Section 12, Lines 20-22: Delete in their entirety

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Charles B. McKenna

Chief Counsel to the Governor