

Iowa Supreme Court Overturns Same-Sex Marriage Ban; GOP Pushes for Amendment

Written by Lynn Campbell
Friday, 03 April 2009 13:27

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In a unanimous decision, the Iowa Supreme Court on Friday upheld a district-court decision legalizing same-sex marriages, giving Iowa three weeks before it joins Massachusetts and Connecticut as the only states in the nation that allow gays and lesbians to marry. Vermont could also soon replace its first-in-the-nation civil-unions law with one that allows same-sex marriage beginning in September.

"We are firmly convinced the exclusion of gay and lesbian people from the institution of civil marriage does not substantially further any important governmental objective," the opinion stated. "The legislature has excluded a historically disfavored class of people from a supremely important civil institution without a constitutionally sufficient justification."

The case in question, *Varnum v. Brien*, was filed in December 2005 by Lambda Legal on behalf of six same-sex couples who sought to marry in Iowa. The lawsuit argues that constitutional rights to equal protection and due process make it unlawful to bar same-sex couples from marrying. A Polk County District Court judge in August 2007 ruled that it is unconstitutional to deny same-sex couples access to marriage; the Iowa Supreme Court upheld that ruling Friday.

"Today is a red-letter day for the state of Iowa," said Senator Matt McCoy (D-Des Moines), an openly gay legislator. "As a lifelong Iowan, I know that fair-minded people throughout our state support equality for all. I have never been more proud of all the Iowans who have worked continuously for the advancement of human rights for all."

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Republicans called for the legislature to immediately debate a constitutional amendment specifying that marriage between one man and one woman is the only legal union valid or recognized in the state. Constitutional amendments must be approved by two consecutive General Assemblies, followed by a vote of the people.

"I believe marriage is between one man and one woman and am disappointed in the ruling of the Supreme Court," said House Minority Leader Kraig Paulsen (R-Hiawatha). "In 1998, the legislature overwhelmingly passed bipartisan legislation protecting marriage as between a man and a woman. There is now a divide between the legislative and judicial branches, and Iowans should be permitted to weigh in and have the final say on this question."

Iowa Senate Majority Leader Mike Gronstal (D-Council Bluffs) on Thursday called it "exceedingly unlikely" that lawmakers will rush to pass legislation in the closing days of the session in reaction to the decision.

Gronstal and House Speaker Pat Murphy issued a joint statement Friday morning hailing the ruling: "Thanks to today's decision, Iowa continues to be a leader in guaranteeing all of our citizens' equal rights," they said. "The court has ruled today that when two Iowans promise to share their lives together, state law will respect that commitment, regardless of whether the couple is gay or straight."

Immense interest in the case increased traffic to the Iowa Supreme Court's Web site Friday morning, temporarily crashing the server.

Debate of Federal Deductibility Takes Center Stage

Iowa parents, businessmen, students, advocates for low-income people, and others joined with state lawmakers at the Iowa Capitol this week in a spirited debate over the merits of eliminating the ability of Iowans to deduct federal taxes from their state tax liability.

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Jeff Bean, a Cedar Rapids father of five young children, said during the public hearing that his family would pay \$600 to \$700 more under the legislation. Bean said he was irritated he had to take the time to come to the Capitol and defend federal deductibility.

"All we're doing is taking money from my family; my children and giving it to someone else," Bean said.

Trudy Caviness, an Ottumwa businesswoman, talked about her fears. "We would like to continue not to be taxed on tax," she said. "If we remove the federal deductibility, we may have to lay off some people. ... It looks like you're increasing the tax rates even though you are saying that we're lowering them."

Lana Ross of the Iowa Community Action Association, who said many of her clients are single parents who work at low-wage jobs, was among the handful who spoke in favor of the bill, which also increases selected tax credits.

"We commend this year's General Assembly for moving forward with this bill," Ross said. "The portion of the bill that we're excited about is Section 6, which increases the Earned Income Tax Credit from the current level of 7 percent to 8 percent and provides additional resources to hard-working, low-income Iowans."

During a subcommittee meeting, Andy Warren, state director of National Federation of Independent Business; Ed Failor Jr., president of Iowans for Tax Relief; Dave Roederer of the Iowa Chamber Alliance; and Ed Wallace of the Iowa Taxpayers Association spoke against the bill eliminating federal deductibility.

Failor called the reasons for eliminating federal deductibility disingenuous. He disputed assertions that the bill was about tax simplification, would make Iowa more attractive to businesses and would help middle-income Iowans. "We're going to take away your largest deduction," he said. "Doesn't make any sense."

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Roederer congratulated lawmakers for recognizing the need to look at Iowa's tax structure, but encouraged them to look deeper at how they're treating higher-income Iowans, as well. With current federal tax rates, the bill would lower taxes for two-thirds of Iowans, but would increase taxes for most of those making more than \$125,000.

Jan Laue of the Iowa Federation of Labor AFL-CIO and Victor Elias of Iowa Fiscal Partnership spoke in favor of the plan to eliminate federal deductibility.

"The way this one is being done, it is going to provide a tax cut to the vast majority of working Iowans," Laue said. "For too long, we have put too much emphasis on those at the top end, and they've been getting all the breaks."

Elias called the legislation "a good first step." He said the majority of Iowans would get some reduction in their tax rates, and Iowa's income tax system would no longer be tied to federal tax policy.

"I think if you recall, the last time we had a major income tax change in the law of this magnitude was in the mid-'90s. The vast majority of that benefit went to the top 20 percent of income earners," Elias said. "This is a balancing act going back toward the middle class. It holds up to our tax principles of fairness."

Republicans argued repeatedly that the plan outlined by Democrats to eliminate federal deductibility unfairly picks winners and losers.

"There are winners and losers in each bracket," said Representative Thomas Sands (R-Columbus Junction). "A high percentage of individual losers are in the lower brackets. We don't feel that it's right to pick winners and losers - all Iowans deserve to win."

According to Democrats' calculations, the changes in House File 807 would for tax year 2010 translate to 655,813 winners (48 percent) who would pay less tax, 220,493 who would see no change (16.1 percent), and 490,693 who would pay more tax (36 percent).

Hundreds Removed from Public Hearing

About an hour into a public hearing at the Iowa Capitol over a proposal to eliminate federal deductibility, House Speaker Murphy ordered state troopers to remove hundreds of people from the House galleries after they refused to stop applauding, booing, and hissing.

"We require decorum in this chamber. We don't expect to have applauding and loud screaming and yelling," Murphy said. "We do and I do reserve the right to clear the chamber under any circumstances. The chair of this public hearing has requested the chamber cleared, and that is final. Please have the state troopers escort people from the galleries."

More than 500 people packed the Capitol Tuesday night, largely in opposition to a plan that would eliminate the ability of Iowans to deduct their federal tax payments when calculating state tax liability. They wore red T-shirts from Iowans for Tax Relief that stated, "No tax on a tax."

They booed and hissed supporters of the legislation and applauded opponents. They were reprimanded several times by House Ways & Means Chair Paul Shomshor, but the boos and applause continued. Murphy came out, ordered that decorum be kept, and threatened to clear the chamber, but the applause continued.

The final straw came when Greg Baker, a University of Iowa student and state chair of the College Republicans of Iowa, told lawmakers: "Please quit messing up this state."

The crowd burst into applause. Shomshor pounded the gavel and ordered people removed from the galleries at 8:27 p.m. Murphy came out to enforce the order, which was immediately followed by angry shouts from the audience. "This is our House!" one shouted. "We pay you!" said another. "You're fired!" said a third person.

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Only the 40 or so who signed up to speak were allowed to stay, along with lawmakers and those on the House floor. The public hearing on House File 807 resumed about 10 minutes later. "I have never been in a house where the tenants evicted the landlord," Tim Morgan of Newton commented.

The final speaker at the public hearing, Ryan Rhodes, said at 9:45 p.m.: "You've turned all of these people into activists. People are mad now."

Republican Party of Iowa Chair Matt Strawn described the removal of hundreds of people from the public hearing as "an unprecedented display of political arrogance" by Murphy.

But House Democratic spokesperson Dean Fiihr said people at the public hearing were warned repeatedly that applause, booing, and hissing aren't allowed at public hearings and that the chamber would be cleared if it continued.

Iowa Democratic Party Chair Michael Kiernan said the protests were "orchestrated" by the Republican Party and Iowans for Tax Relief and were "designed to mock the process."

Budget Cuts Expected to Spur Hundreds of Layoffs

A health-and-human-services budget that cuts \$112 million and serves the most vulnerable populations of the state will lead to a reduction of 250 to 400 Department of Human Services employees.

"We're talking about ... field operations -- everything from case managers, direct services, and administrative," said Senator Jack Hatch, chair of the legislature's joint health-and-human-services budget subcommittee.

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A proposed spending plan that cuts 12.8 percent to most areas of public health, human services, elder affairs, and veterans affairs cleared its first hurdle this week with an 8-6 vote by the subcommittee. The budget reduces money for field services by \$6.2 million, which translates into a \$13-million decrease because of federal matching money.

Representative Dave Heaton (R-Mount Pleasant), said he was concerned about the impact on field staff and those who work at institutions such as the Toledo Juvenile Home, Eldora Training School; Civil Commitment Unit for Sex Offenders; mental-health institutes in Cherokee, Clarinda, Independence, and Mount Pleasant; and the Woodward Resource Center.

"Those who hired last will be laid off first," Heaton said. "These are the workers who have direct contact with our clients, and I'm really concerned about the impact it's going to have."

Meanwhile, the legislature's joint justice-system budget subcommittee this week approved a proposed budget that cuts \$21.3 million from corrections, public safety, and the judicial branch. Iowa's judicial branch and Department of Public Safety would take a 1.8-percent across-the-board cut, while other areas of the justice system would see larger cuts up to 9 percent.

At least one lawmaker called the additional 1.8-percent, \$2.9-million cut next year to the judicial branch unacceptable.

"In a civilized society, it is unacceptable to be shutting down our courthouses," said Senator Rob Hogg, a Cedar Rapids attorney and a Democrat. "It interferes with the administration of justice. This budget is unacceptable."

Hogg noted that courthouses in Iowa's 99 counties are already closing eight times this fiscal year between February and June. He predicted that under the proposed budget for Fiscal Year 2010, courthouses would have to lay off employees plus undergo the maximum 20 furlough days.

Subcommittee chair Representative Todd Taylor (D-Cedar Rapids) acknowledged that

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additional cuts to the judicial branch would cause layoffs and additional furloughs next year. But "I would argue that federal stimulus dollars could come back and we could define them as public safety," he said.

Under the justice-system budget, the state prison in Fort Madison would take an 8.1-percent cut and would lose a minimum-security facility called "Farm 3," while the prison in Clarinda would take an 8.6-percent cut and lose a minimum-security facility called "The Lodge."

"Those seem like the things that we ought to keep funding," said Representative Richard Anderson (R-Clarinda). "We're shooting ourselves in the foot."

Meanwhile, education would take an 8.33-percent across-the-board reduction in Fiscal Year 2010, under a plan approved by a joint education budget subcommittee. Certain funds would be cut entirely, including appropriations for the Senior Year Plus program, the Jobs for America's Grads program, the Entrepreneurs with Disabilities program, and community-college interpreters for the deaf.

The All Iowa Opportunity scholarships would take a 36.48-percent reduction, while funding for college work study would be cut entirely to the tune of \$980,075. Work-study funding, like many other areas facing cuts in the education general fund, could be eligible for federal stimulus dollars.

Finally, State Auditor David Vaudt wrote a letter this week to chairs of the legislature's administration and regulation budget subcommittee, protesting a proposed 26.6-percent budget cut to his office. Vaudt said coupled with the 3.5-percent reduction imposed this year, the office would be taking a total cut of 30 percent.

"This drastic reduction, along with other language included in the appropriation bill to control AOS [auditor of state] operations, would not only hamstring AOS's ability to serve as the taxpayer's watchdog, it would also result in several extremely detrimental consequences for Iowa," he wrote.

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Vaudt said consequences could include the state losing its AAA bond rating, billions of dollars of federal funds being placed in jeopardy, local governments being prevented from freely using the state auditor for their routine audits and investigations of misappropriations, and breaking the legislature's commitment to ensure that another CIETC salary scandal never happens again.

Rural Officials Decry Impact of Court Travel Cuts

Proposals to allow voluntary furloughs of Iowa's 350 judges and magistrates, and voluntary judicial travel without reimbursement, cleared a first hurdle this week in the legislature.

The action came after officials from rural Iowa called upon Chief Justice Marsha Ternus and the legislature to make changes needed to provide equal access to justice across the state. A county supervisor, police chief, small-business owner, and attorneys this week joined state lawmakers in lamenting the impact that budget cuts and a 60-percent reduction in judicial travel has had on rural Iowa.

Esther Dean, an attorney who's vice chair of the Muscatine Board of Supervisors, said the travel restriction means Muscatine only gets a district court judge 12 days of the month, while Cedar and Jackson counties only get a judge four days of the month.

"We are effectively denying citizens timely access to the court system," Dean said. "Several can't afford to go to another county to have access to the court system."

Tipton attorney Douglas Simkin described a situation last month in which several people had to travel to Clinton at their clients' expense for a 15-minute court hearing. "This is a denial of justice to the people who can least afford it," he said.

Daisy Wingert, who owns Daisy's on the Square floral and gift shop in Tipton, said the cuts have affected businesses, too. "The courthouse is like a magnet bringing people into town," she said.

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State Representative Jeff Kaufmann (R-Wilton) suggested that Ternus and the Iowa Supreme Court are playing political games by not allowing Iowa judges to travel on their own dime, even if they've volunteered to do so.

"We are not asking; the judges are volunteering," Kaufmann said. "I know of two specific districts where judges have volunteered to waive their travel fees, have stated that publicly, and they have been told that they cannot do that. I not only call that bad policy, I call that some of that political leveraging in our justice system that's not tolerable to our constituents."

Representative Nathan Reichert (D-Muscatine) added: "A lot of times, ... we'll see in tough times [that] departments will play games with closing very key services of their department in order to gain some political edge and get more funding for their department in the next budget cycle. Let's not play political games. Let's make justice work. Let's make state government work."

But State Court Administrator David Boyd denied that the courts are playing politics. "I guess all I can do is simply deny it," he said. "That's not the issue. The court wasn't trying to make a particular statement. ... We simply had to find ways to reduce our budget in Fiscal Year '09."

Boyd said there are liability issues that go with voluntary travel. "I know it sounds simple that either litigants or lawyers or even the county could possibly pay for that, but in Iowa, justice is not for sale," he said. "We're not going to do something that gives the appearance that if you've got money, we'll take that as opposed to someone who doesn't."

State Senator Apologizes for Using Epithet

Iowa Senator Jack Hatch apologized this week and publicly asked for forgiveness on the Senate floor for using the racially derogatory "N" word last week in frustration over an insurance exchange being stripped out of a health-care-reform bill he championed.

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Hatch later characterized a press conference he held on the issue with black lawmakers Wayne Ford (D-Des Moines) and Ako Abdul-Samad (D-Des Moines) and leaders of the NAACP and Black Ministerial Alliance not as damage control, but as "continuing education" for comments he made.

"If we just let this pass by, there will be another politician coming in front of this public saying he is sorry and then slipping away," said Hatch (D-Des Moines). "This is way too important for that. This is not just something we can slip under the rug. There was a character deficit in me that came out in that moment."

Hatch said the comments were "about the process" and not directed toward anyone. He met with Ford, Abdul-Samad, and the other leaders, apologized, and proposed that they "keep the dialogue open" and have "a series of seminars or forums."

Linda Carter-Lewis, president of the Des Moines branch of the NAACP, said that "Senator Hatch, along with his apology, has agreed to and is very interested in working with us to personally grow from this and to help others benefit and grow from this mistake," she said. "We must not let this set us back or divide us. We must grow and change for the better together."

The Reverend Keith A. Ratliff Sr., NAACP state director for Iowa and Nebraska, said using racially derogatory language is never appropriate, and being under pressure or being upset can't be used as an excuse.

Possible Democratic Challenger to Grassley Emerges

Democrat Bob Krause used the podium at a recent Des Moines luncheon to launch an exploratory committee for a campaign against U.S. Senator Chuck Grassley and to call out the incumbent for being "a bit disingenuous" about the role he's played in the current economic crisis.

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Krause said Grassley was at the forefront of the movement in the late 1990s to do away with legislation that acted as "firewall safeguards" and prevented insurance companies and banks from engaging in the high-risk business practices that ultimately led to the current industry panic.

"Please remember that Senator Grassley was the one that opened the barn door and let the cattle out at AIG," Krause said. "That repeal is what created the AIG debacle."

Krause became the first Democrat to formally take steps to challenge Grassley in the 2010 midterm election, hoping that the early launch will allow him time to raise the money necessarily to wage a campaign against the five-term incumbent Republican.

"We as a team can reach a threshold of viability that will make people throughout the nation realize Senator Grassley is vulnerable and can be beaten," Krause said. "That threshold is about \$1.5 million for a challenger."

Grassley reported \$2.8 million cash on hand for his re-election as of December 31. He's held eight fundraisers between Election Day and the early part of January, with 10 more scheduled.

On Thursday, Grassley cast his 10,000th U.S. Senate vote, a milestone that's only been reached by 28 other senators, including nine serving today. Grassley holds the record for the longest streak of successive votes among current senators, having cast 5,473 consecutive votes. Grassley last missed a vote in July 1993, when he accompanied President Bill Clinton to Iowa to inspect flood damage.

This weekly summary comes from IowaPolitics.com, an online government and politics news service. IowaPolitics.com staff contributed to this report.