

The rise and stall of Gay legislation

In election years, Gay bills are tossed, dodged like political bombs

by M. Jane Taylor

Anti-Gay legislation isn't always a measure of hostility toward Gay people. At election time, it can be a measure of how far a politician will go to get re-elected. Or, more accurately, it can be a measure of how far a politician *thinks* he or she has to go to curry favor with a conservative constituency or to avoid controversy that might backfire with voters.

Witness Alabama: On May 15, the *Blade* reported a tangled partisan controversy surrounding the passage of a bill to ban recognition of same-sex marriage in that state. Support for the bill really started growing, said David W. White of the Gay & Lesbian Alliance of Alabama, just as Democratic Lt. Gov. Don Siegelman began to emerge as the frontrunner in his gubernatorial campaign to oust Republican Gov. Fob James Jr. In a strange political twist, White noted, Republican lawmakers, who introduced the anti-Gay measure, were hoping Democrats would kill it so they could use Democratic opposition to the bill against Siegelman in his campaign.

"We caught wind that some Republicans were actually working against the [anti-Gay] bill," White told the *Blade*.

To prevent this from happening, a number of Democrats who did oppose the anti-Gay bill began helping garner support for the measure. It was, said White, a classic show of "dirty" politics. Then, as the session close grew near, right-wing Christians stepped up their anti-Gay media campaigns, forcing the Republicans to rally for the anti-Gay bill's passage. It passed on April 27 — when the Senate voted unanimously to approve the measure.

This sort of election year, side-swapping, partisan-playing frenzy on Gay civil rights is not unusual. A *Blade* survey of Gay-related legislation in the 50 statehouses found election year politics playing a large role in the outcome of pro- and anti-Gay civil rights measures in at least 15 of the 34 states considering such legislation this year, including Illinois, Colorado, and Michigan.

Many people might expect right-wing lawmakers in the more conservative states to hoist up a piece of anti-Gay legislation to ride with into fall elections. But during campaign time, even Gay-friendly legislators in liberal-leaning states take their battle stations and seem more ready than ever to cover their heads and duck the attack when it comes to Gay civil rights. Some explain it as being a necessary part of their job to represent their constituents, an explanation activists say is used more frequently in any given election year.

"It's an endless excuse," said Rita Addressa, executive director of the Philadelphia Lesbian & Gay Task Force. "If people say, 'This is an election year, I cannot support you,' the message is that standing up for the rights of a stigmatized minority doesn't count. ... It says, 'You are not worth my taking a risk.' And if we're not worth our legislators taking a risk today, we're not worth our legislators taking a risk tomorrow."

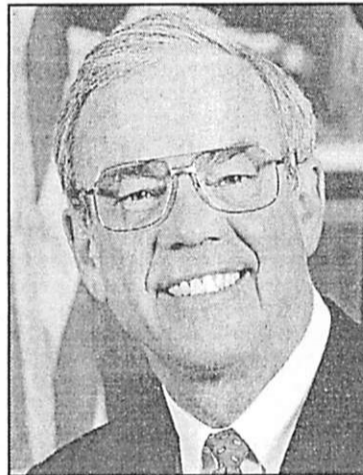
In Pennsylvania, Addressa stands at the helm of a movement pushing for the introduction of a comprehensive civil rights bill seeking to include sexual orientation and gender identity in its core principals. Since

September 1996, Gay activists have been holding community meetings and circulating a petition (currently signed by about 3,000 people) in support of the Pennsylvania civil rights measure.

Addressa said she hopes Democratic Sen. Allen Kukovich (Westmoreland) will introduce the bill on June 8, along with four other cosponsors in the Senate where one-third of its members are up for re-election. But, in the House, where everyone is up for re-election this year and 14 members have signed on as co-sponsors, the Task Force has had to delay the bill's introduction repeatedly because no one is willing to introduce the measure. Election year fear?

"Not one person has actually said that," said Addressa. "It doesn't mean that it isn't a deep-seated fear, but the truth is that it's an unfounded fear."

In Illinois, Gay activists say election year complications and partisan fighting impeded the movement of many bills there, including a Gay civil rights bill that died (along with 70 other pieces of legislation) in a dramatic April 1 debate as the session adjourned. All day, House Speaker Michael Madigan (D-Chicago) had been facing attacks from Republican members for an unrelated scandal that activists said



Kentucky Gov. Paul E. Patton (D) signed a pro-Gay hate crimes bill into law on April 14.

Republicans had latched onto as a means to rally voter support for their party. Wanting to end the stream of finger-pointing and critical, filibustering floor speeches, Madigan slammed down his gavel and called the session to an early close for spring break. The gavel killed the Gay civil rights bill, which Madigan himself cosponsored, as well as a number of other bills that required action before that day's end.

But Madigan turned traitor on Gay civil rights long before he slammed down his gavel to kill this year's bill, activists say. According to the Chicago Gay newspaper *Windy City Times*, lobbyists blame the speaker for the defeat of a similar bill last year. Already looking toward this year's elections, he reportedly commanded first-year legislators who represented swing districts not to support the measure for fear that a "yes" vote would hurt their chances for reelection this November.

Rick Garcia of the Illinois Federation for

Human Rights said this year's bill still has one chance — during the "veto session" in late fall — after elections are over — when legislators go back and deal, mainly, with bills that get sent back by the governor. During that time, Garcia said, legislators may introduce new bills or tack them onto those bills that have been vetoed.

"You have a little more wiggle room than you do in the regular session," Garcia said. "And it might work to our advantage." Garcia said some legislators may return from the November elections feeling more secure in their districts and, therefore, more willing to vote for the Gay civil rights bill.

Dodging controversy

Both an anti-Gay marriage bill and a pro-Gay civil rights bill were thwarted in Nebraska's election year session. Scott Winkler of Citizens for Equal Protection, a Gay lobbying organization, said no members of the legislature were willing to pick up the ball on either issue. Both bills died while sitting idle in committees when the legislative session ended on April 14.

Winkler said the anti-Gay marriage bill's sponsor, Sen. Jim Jensen (I-Douglas), is up for reelection this year and decided that this was not the issue to run on. Other senators gave Jensen a "strenuous grilling" during committee hearings on the bill, said Winkler, and Jensen backed off. Winkler said he thinks Jensen "didn't want to go through that process again and that the speaker of the bipartisan, unicameral legislature is new and didn't want to 'engage in that battle.'"

Activists in Colorado said a Republican attempt to dodge controversial issues in an election year resulted in at least one battle win for Gays when, on May 1, Rep. Marilyn Musgrave (R) withdrew her bill to ban recognition of same-sex marriages in the state. But a pro-Gay bill that would have added sexual orientation, disability, and age to Colorado's existing hate crimes statute also failed for the second year in a row in the House Appropriations Committee on April 9. Proposed by Rep. Penfield Tate (D-Denver), the bill was brought forward by a coalition of groups supporting Gays, seniors, and people with disabilities.

"Perpetrators of hate violence commit these crimes because they think we won't fight back and that no one cares enough to protect us," said Sue Anderson, executive director of the statewide Gay civil rights organization Equality Colorado. "Our elected officials have again made a clear statement that they, indeed, don't care," Anderson said. "This sends a frightening message to both perpetrators and victims."

A pro-Gay bill on hate crimes in Michigan has been stalled by elections and remains in limbo according to Sean Kosofsky, who heads up the lobby efforts for the Triangle Foundation. Kosofsky said the bill has widespread support in both the House and Senate, but elections are complicating matters because legislators are preoccupied with their campaigns. He said Michigan legislators have term limits, and many representatives whose terms are now up have started running for Senate seats in their districts — causing a lot of in-party fighting. But activists also believe the



Rick Garcia hopes Illinois legislators will return from fall elections willing to vote for a Gay civil rights bill.

Michigan House Democratic leadership is resistant to letting any bills which are even remotely controversial come up until after the elections.

An anti-Gay adoption-related bill is stalled in the South Carolina statehouse, and Gay activists are hoping it will stay that way until it is buried by the crush of bills at the end of the two-year legislative session June 2. Introduced last year, the bill would change South Carolina adoption law to say that no child may be adopted by or placed in foster care "with a person who is homosexual or bisexual." Activists said a similar bill passed the House by an overwhelming margin in a previous session and was subsequently killed in the Senate by a much closer margin. Since then, Gay activists said, two of their main Senate supporters have gone and the House has grown even more conservative.

Pete Tepley of the South Carolina Gay & Lesbian Pride Movement said he doesn't think this year's elections are affecting the outcome of this bill in the way that the 1996 elections prompted lawmakers to rush to approve South Carolina's anti-Gay marriage law. In 1996, Tepley said, several lawmakers were afraid the right-wing Christian ad campaign pushing for the same-sex marriage ban would characterize them as "anti-family" if they did not support the bill.

But that fear "may have been misplaced," Tepley said, "because I think every incumbent who was up for reelection [and] who voted against the bill won. I don't know anybody who lost because of it."

Meanwhile, a candidate for South Carolina commissioner of agriculture is decrying homosexuality and same-sex marriages as a threat to family farms in what Gay civil rights advocates are calling a desperate campaign tactic, according to the Associated Press.

"We can't have farming based on Bob and Bob being married and a new definition of marriage," said Jim Gordon, a real estate developer seeking the Republican nomination in a three-way primary June 9, as quoted by the AP. "I see the cultural upheaval we're in right now as an attack against farming. The homosexual movement, which has come to South Carolina, needs to be reversed."

In other business ...

Despite the election year wranglings in many states, there has been some movement on a number of Gay-related bills in

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some state legislatures.

After some pre-election anti-Gay attacks earlier this legislative session in Kentucky, Gay activists are celebrating what they say is the first pro-Gay legislation ever passed out of their statehouse — a bill stipulating increased penalties for hate crimes motivated by a victim's race, religion, national origin, or sexual orientation. It was approved April 2.

"It was a corner-turner for us as a state because, for the first time, we have something pro-active for us," said Gay activist Maria Price, director of the Kentucky Fairness Alliance.

The bill passed the House on March 2 by a vote of 93-0 and moved over to the Senate, where it was passed on March 26 by a vote of 36-0. It then went into a conference committee for agreement on amendments. On April 2, the House approved the bill reported out of conference committee by 87-1, and the Senate adopted it with a vote of 31-0. Governor Paul E Patton (D) signed it on April 14.

On April 2, Gov. Patton also signed a bill banning recognition of same-sex marriage in Kentucky, saying that if Gay couples want to live together "then that's their business."

Price told the *Blade* that many of the legislators who voted in favor of the anti-Gay marriage bill were secretly against it and that they told Gay lobbyists that had to vote in favor of the bill to please their constituents because this is an election year.

In Hawaii, where voters will decide in November whether the legislature should have the power to limit marriage to opposite-sex couples, the legislature voted to once again put a question on the ballot asking whether or not to hold a constitutional convention. Voters rejected such a request in 1996, and Gay civil rights advocates say they oppose this ballot question as well, since proponents of a constitutional convention want to use it to amend the constitution to oppose same-sex marriage.

Introduced by House Speaker Joseph M. Souki (D) on Jan. 12, the measure passed the House on Feb. 18 by a vote of 47-0, and passed the Senate on April 14 by a vote of 25-0. It was then sent back to the House for final approval, from which it was ultimately passed on April 29 by a vote of 41-0. Governor Benjamin J. Cayetano (D) has yet to take action on the bill. Meanwhile, in Rhode Island, a loosely organized coalition of Gays and people with disabilities have pushed a sodomy repeal bill the farthest it has ever gone in that statehouse. The House passed the bill on Thursday, May 7, by a vote of 49-40.

"It's the first time in the last 15 years in which it's gotten out of committee, let alone passed in the House," said Kate Monteiro, president of the Rhode Island Alliance for Lesbian & Gay Civil Rights. "For the first time, we have a great deal of support from the disabled community. It's really that community that has made the difference."

Rhode Island's sodomy law calls for a prison sentence of between seven and 20 years for persons convicted of "abominable and detestable crimes against nature," including oral and anal sex. It has been on the books since 1896.

Monteiro said her group did outreach to people with disabilities and told them that

Rhode Island's sodomy law applies to everyone — whether they're married, single, Gay, or straight — and may disproportionately affect some people with disabilities.

"For many paraplegics and quadriplegics, oral sex is their primary form of sexual expression, and that's considered a felony in Rhode Island," Monteiro said. "Members from the disabled community and related organizations signed on [to the sodomy repeal effort] and testified. This had never happened before because we had never approached them to ask for help."

The sodomy repeal bill is scheduled for discussion and a possible vote in the Rhode Island Senate Judiciary Committee on Thursday, May 21.

Activists around the country continue to watch a bill in Oklahoma that seeks to prohibit Gays from working in public schools. The bill started out as a measure to prevent people convicted of sex crimes from working or teaching in public schools. After passing the Senate, it was amended in the House to also prohibit school districts from hiring anyone "who is a known homosexual or Lesbian" as a school support employee or employee of a private business under a school district contract. The amended version passed the House unanimously on April 2. The Senate later rejected the House amendment, and the bill is now in a conference committee, where Gay activists say they have promises from the Democratic leadership in both houses that the anti-Gay language will be removed.

Bill count ...

As of May 11, the *Blade* survey of state legislatures has found at least 121 Gay-related bills introduced in 34 statehouses: 62 are pro-Gay in nature, and 61 are anti-Gay. Of those bills for which the sponsor is known, Democrats sponsored at least 49 pro-Gay bills and at least four anti-Gay bills, while Republicans sponsored at least six pro-Gay bills and at least 48 anti-Gay bills.

Fifteen states have considered same-sex marriage bans this session, and four states have considered pro-Gay marriage bills. Eleven states have considered some sort of Gay civil rights legislation, and one state has considered a bill to reverse or block Gay civil rights. Bills calling for increased penalties for hate crimes motivated by a victim's sexual orientation have been considered in 14 states; sodomy repeal bills in seven states; pro-domestic partner bills in three states, and anti-domestic partner bills in six states. At least five states have considered bills to ban Gay people from adopting children or from serving as foster parents. Three states have considered some sort of pro-Gay education bills, while five states have considered anti-Gay education bills. Two states have considered bills seeking to expand obscenity laws, which are often used against Gays. Of the six states that considered other miscellaneous Gay-related bills this session, two states have considered pro-Gay bills and four states have considered anti-Gay bills.

The *Blade* also found at least 76 HIV/AIDS related bills introduced in 21 statehouses this session. ▼

Kai Wright, Rhonda Smith, Nicholas Boggs, and Christine Dinsmore contributed to this report.