

## House rejects gay marriage ban

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By Lou Chibbaro Jr.

The U.S. House of Representatives defeated a proposed constitutional amendment to ban same-sex marriage July 18 following a 90-minute debate over whether same-sex unions would harm the institution of marriage.

The Marriage Protection Amendment received a majority vote of 236 House members in favor and 187 opposed, with one member voting "present" and nine members not voting. Supporters came up 46 votes short of the 282 votes, or two-thirds majority of those present, needed for approving a change in the Constitution.

The measure is "all for the purpose of pandering to a narrow political base," said Congresswoman Tammy Baldwin, a lesbian Democrat from Wisconsin. "This hateful and unnecessary amendment is unworthy of our great Constitution."

The vote came six weeks after the Senate decisively defeated the same amendment and nearly two years after both bodies voted down the amendment during the hotly contested 2004 presidential election.

When the House voted on the measure in 2004, it fell 49 votes short of passage. Then as now, the vote was largely along party lines, with most Republicans favoring the amendment and most Democrats opposing it.

Twenty-seven Republicans voted against the amendment, the same number as in 2004. In 2004, 36 Democrats crossed party lines to vote for the amendment; Tuesday, 34 did so.

"Republican House leaders have now failed twice in their shameful election year ploys using gay and lesbian families as punching bags," said Joe Solmonese, president of the Human Rights Campaign, a national gay political group that helped coordinated opposition to the amendment.

But supporters said the vote would make a difference when people go to the polls in November.

"The overwhelming majority of the American people support traditional marriage," said Rep. Marilyn Musgrave, the Colorado Republican who sponsored the amendment. "The people have a right to know whether their elected representatives agree with them."

The Marriage Protection Amendment was part of the "American Values Agenda," a collection of bills pushed by social conservatives and brought to the House floor by GOP leaders. The agenda items included a bill to protect the Pledge of Allegiance and a planned vote on President Bush's veto of a bill promoting embryonic stem cell research.

Bush has asked, and social conservatives demanded, that the gay marriage ban be considered in the months preceding this year's election.

The White House released a statement on the day of the vote urging passage of the amendment.

"When activist judges insist on redefining the fundamental institution of marriage for their states or potentially for the entire country, the only alternative left to make the people's voice heard is an amendment to the Constitution," President Bush is quoted as saying.

### 'No traction'

In 2004, House members voted in favor of the amendment by a margin of 227 to 186, with 20 members not voting. This week, 236 members voted for the measure, with just nine members not voting, giving the amendment nine more "yes"

votes than it received in 2004. Opponents picked up one more vote this time around, garnering 187 “no” votes compared to 186 in 2004.

Among the 20 House members who did not vote in 2004, 12 voted against the amendment this time. Three of the House members who did not vote in 2004 voted for the amendment Tuesday, with just one — Rep. Danny Davis (D-Ill.) once again missing the marriage vote.

Among the non-voters in 2004 who voted “no” this time, eight are Democrats and most opposed the amendment from the start. This suggests that the nine additional votes that backers of the amendment picked up this year represent a net gain in support, most likely from newly elected GOP House members.

“We don’t think supporters made any significant gain this time,” said HRC spokesperson Jay Smith Brown.

“In spite of intense lobbying, the right wing failed to get this appalling amendment through the House — just as it failed in the Senate,” echoed Matt Foreman, executive director of the National Gay & Lesbian Task Force. “Clearly there’s no traction in this issue.”

### **Momentum favors state bans**

The failure of efforts to amend the Constitution at the federal level has contrasted with successful attempts at changing state constitutions through ballot measures.

Forty-five states have passed either state constitutional amendments banning gay marriage or state statutes prohibiting same-sex couples from marrying. Even in Massachusetts, the only state that allows gay marriage, the state’s high court recently ruled that a proposed constitutional amendment to ban future gay marriages can be placed on the ballot.

“Our momentum in the states is extremely strong, and Washington is playing catch-up,” said Matt Daniels, president of the Alliance for Marriage.

Daniels, who was involved in drafting the Marriage Protection Amendment’s language, said it was essential that Congress eventually set a national standard. Members of Congress are “the only hope for seeing marriage protected in this country and they should be on the record,” he said.

But Congressman Barney Frank (D-Mass.), who is gay, said the amendment would prevent states such as his own, where thousands of same-sex couples have married over the past two years, from making decisions on what constitutes marriage.

“This amendment says that even if the people of Massachusetts, after four years of same-sex marriage being in existence, vote to ratify it by a majority, their vote does not count,” Frank said during the House debate on the amendment. “This amendment cancels out a referendum.”

Baldwin, who became the first open lesbian to win election to Congress, told her House colleagues during the debate that the amendment would, for the first time, change the U.S. Constitution so it would take away rights from citizens.

“I want to see the day when I can protect my family, my life partner of 10 years, through the same laws and with the same obligations, responsibilities and rights as can straight Americans,” she said.

“These are my aspirations, both as an American and a member of Congress, to see the Constitution that I have sworn to support and protect illuminating the path to justice and equality for more and more Americans,” she said.

### **Backers invoke plight of children**

Rep. Jack Kingston (R-Ga.), who led House debate in support of the amendment, said federal courts were threatening to overturn the Defense of Marriage Act, a 1996 law passed by Congress and signed by President Clinton that allows states to refuse to recognize same-sex marriages performed in other states.

Even if that statute were to be upheld in the courts, Kingston said, he and many other amendment supporters believe a

constitutional ban on same-sex marriage is needed.

“The purpose of this is to say that no government entity, legislative, executive or judicial, shall be allowed to alter the definition of marriage from one man and one woman,” he said.

Musgrave echoed the views of a number of her GOP House colleagues in linking the amendment to the protection of children.

“Within the institution of marriage, society offers special support and encouragement to the men and women who together make children,” she said. “Because marriage is deeply implicated in the interest of children, ... I urge my colleagues to support public policy that strengthens marriage and vote in favor of this amendment,” she said.

Congressman Jerrold Nadler (D-N.Y.), who led the debate in opposition to the amendment, joined Frank in challenging supporters to show how allowing gays to marry would harm the institution of marriage.

“I have been searching in vain for some indication of what might happen to my marriage, or to the marriage of anyone in this room, if loving couples, including couples with custody of children, are permitted to enjoy the blessings of matrimony,” he said.

“Is there a member of this House who believes that his or her own marriage would be destroyed by someone else’s same-sex marriage somewhere in America? I would welcome an explanation of what he or she thinks would happen to his or her marriage and why,” Nadler demanded.