



OPINION: SAME-SEX MARRIAGE POSES NO POLITICAL THREAT TO GOV. CHRISTIE

CARL GOLDEN | OCTOBER 2, 2013

Governor already has effective strategies mapped, regardless of how the issue plays out



While New Jersey's gay community is understandably encouraged by the recent Superior Court decision declaring a prohibition on same-sex marriage unconstitutional, the cold reality is that the stronger hand is still held by its chief opponent, Gov. Chris Christie.

The conventional wisdom in the immediate aftermath of the decision by Mercer County Judge Mary Jacobson was that it posed a political dilemma for the governor. As is so often the case, conventional wisdom collapses upon closer examination.

Whatever the outcome, the political damage to Christie will be insignificant.

As expected, Christie's office announced its intention to appeal the decision to the State Supreme Court and will presumably ask for a stay of the order while the appeals process moves forward. Jacobson's decision granted marriage rights to same-sex couples as of October 21.

A schedule for hearing the appeal is unclear at this point, despite a call by Senate Democrats for the court to take it up immediately and hand down a decision prior to October 21. Christie also asked the court for an expedited process. Whether the court will do so before the November election is problematic, possibly pushing a decision into 2014.

And, despite expressions of optimism concerning an effort in the lame-duck session to override Christie's veto of legislation to legalize same sex marriage, the outlook for success is uncertain.

Republicans in the Senate will remain united in opposition to an override and, ironically, Judge Jacobson's ruling provides some additional cover by allowing opponents to argue that the Legislature should wait until the matter is resolved by the court rather than act before the judicial process concludes.

Seven years ago, the Supreme Court found that same sex couples were denied many of the benefits enjoyed by heterosexual couples, but left it to the Legislature to decide on a remedy and what it should be designated. The result was recognition of civil unions rather than marriage.

The legal landscape has been altered since then by the action of the U. S. Supreme Court in overturning the federal Defense of Marriage Act, a ruling cited by Judge Jacobson in her decision.

The court could reiterate its earlier finding of unequal application of benefits and again defer to the Legislature to resolve the issue, a decision that would most likely delay action until the new Legislature takes office in January.

If, as anticipated, Democrats retain control of both houses and if, as expected, Christie wins reelection, legislation to confer marriage rights on same-sex couples will be approved, Christie will veto it, his action will be sustained, and the Legislature will be left with little recourse but to accept the Governor's recommendation for a referendum in November 2014.

However, should the Supreme Court uphold Judge Jacobson's decision, Christie -- as has become his custom -- will attack it as another example of judicial activism, an unwarranted intrusion into the prerogatives of the legislative and executive branches of government.

If, as Democrats have charged, Christie's opposition to same-sex marriage is part of a grander scheme to appeal to the more conservative wing of his party as he pursues national ambitions in 2016, the eventual outcome of the issue in New Jersey will do him no harm.

Should the court return the matter to the Legislature, Christie will be in a position to block any action while continuing to demand a referendum. National conservative leaders will take notice and be satisfied that Christie shares their view.

At the same time, if the court upholds the right of marriage decision, Christie will be able to engage in court-bashing (an activity which delights conservatives in any event) while reinforcing his image as someone who fought the good fight but was powerless to stop judicial overreach.

Despite efforts by Democratic gubernatorial candidate Barbara Buono to use the governor's opposition as a campaign issue, it hasn't gained traction with an electorate whose focus is on matters of economic growth, job creation, and property taxes.

In poll after poll, same-sex marriage barely registers as an issue of concern and Christie has maintained a consistent 20- to 30-point lead over her, an edge that cuts across party, age, gender, and ethnic lines.

Even though polls reveal support for same-sex marriage, they also show strong support for permitting voters to make the decision in a referendum. So, while Christie may be in the minority in terms of general support, his recommendation for placing it on the ballot enjoys majority backing. It is perceived by a great many voters as a reasonable let-the-people decide exercise in democracy.

At the moment, the governor is in a position of strength on the issue, and the suggestion that he's in a difficult political dilemma appears to be more wishful thinking than anything else.

Same-sex marriage will, at some point, become a reality in New Jersey and deservedly so. Experience in the other states where it has been legalized suggests that it has not undermined traditional marriage or led to social upheaval. What was anathema 25 years ago is accepted today.

In the meantime, Christie has played the politics masterfully.

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