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Push for same-sex marriage in N.J. faces uncertain future

By Cynthia Henry

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Judith Ford and Yvonne Mazzola rushed to a judge in 2007, as soon as New Jersey made civil unions legal.

The couple, who previously had entered into a civil union in Vermont, already had New Jersey domestic partnership papers. The Cumberland County residents were confident that this next step would qualify Mazzola for coverage on Ford's employer-sponsored health insurance.

Instead, Ford's company rejected her request - leading the couple to new worries that a serious illness could jeopardize their now-joint estate.

Nothing short of marriage will close such loopholes, said Ford, who once believed it didn't matter what a same-sex union was called if it guaranteed the same rights enjoyed by heterosexual couples.

She hopes the New Jersey Legislature will pass a same-sex marriage bill before the end of this legislative session, but the political winds have shifted.

Momentum had been building toward a vote on marriage equity, "but a few things have changed - namely the election," said Ben Dworkin, director of the Rebovich Institute of New Jersey Politics at Rider University.

Gov.-elect Christopher J. Christie's promise to veto such a measure means the window for passage will close in January for at least four years, Dworkin said. Democrats have the majority in both houses, but some party members in typically Democratic counties, such as Gloucester, where Christie won reportedly have become less comfortable taking on divisive issues.

Garden State Equality - the state lobby for the lesbian, gay, bisexual, and transgender community - raised \$50,000 at 11 "emergency action meetings" on Nov. 5 to promote the group's position, said chair Steven Goldstein.

The National Organization for Marriage, which has spent about a half-million dollars nationally to overturn gay marriage, has focused on New Jersey since Maine voters reversed that state's same-sex marriage law on Nov. 3.

Assembly Speaker Joseph J. Roberts Jr. (D., Camden) and Senate President Richard Codey (D., Essex) said last week that they would allow the Legislature to debate a bill on marriage for gay and lesbian couples only if it were assured of passage. They will gauge support immediately after the Legislature returns on

Monday, Roberts and Codey said.

In the Senate, which has 23 Democrats and 17 Republicans, "my guess is that they're not sure of the vote," said Ingrid Reed, director of the New Jersey Project at Rutgers Eagleton Institute of Politics.

In light of the recent setback in Maine and in California, where voters overturned gay marriage last fall, Reed said that local proponents - including bill sponsor Sen. Loretta Weinberg (D., Bergen) - don't want to risk a loss in New Jersey, where the issue has come so far.

In 2006, the state Supreme Court charged the Legislature with granting same-sex couples rights equal to marriage, leaving terminology to legislators. They created "civil unions," modeled on Vermont's law.

"One of the things we've seen is that language does matter," Roberts said. "The question is: Do we give [civil union] more time or act now?"

Foes of the measure believe they speak for the majority of New Jersey voters.

"Gov. Corzine said he was the marriage-equality candidate, and he lost," said Len Deo, president of the New Jersey Family Policy Council. "We truly believe that there is a definite agenda to radically redefine marriage."

In its literature, the council warns that changing the law would drive up health-care costs, introduce inappropriate material into sex-education curriculums, and endanger religious free speech.

In a poll the organization conducted in 2007, Deo said, "New Jerseyans said same-sex couples have a right to live as they choose, but they do not have a right to redefine marriage for the rest of society."

In April, however, Quinnipiac University, an independent polling organization, found state voters in support of a law that would allow gay couples to marry, 49 percent to 43 percent. In the same poll three years ago, voters opposed same-sex marriage.

Ford and Mazzola considered dissolving their civil union to protect their assets. Instead, they decided to pay \$462 a month for Mazzola's health-care coverage.

"Some people think marriage should be reserved for a man and a woman. I understand that feeling," Ford said.

That's why she initially didn't care what the Legislature called same-sex unions. But then "we hit this loophole" involving family health care, she said.

In Massachusetts, which legalized same-sex marriage in 2004, employers have seemed uncomfortable differentiating among types of spouses, said Sally Goldfarb, professor of family law at Rutgers University-Camden. In New Jersey and other states with civil unions, although obligated by law, employers have demonstrated little inclination to extend coverage, she said.

"It appears the difference in terminology makes a difference," Goldfarb said.

Laurin Stahl, 52, of Woodbury, was sedated for a routine test at Cooper University Hospital in Camden. To be safe, she said, she alerted nurses that her partner would be in the waiting room.

Do you have your civil-union certificate with you? the nurse asked.

"Do you carry your wedding license?" Stahl said she replied, noticing the nurse's wedding ring.

"Why is the bar always raised for us?" Stahl wondered in an interview last week.

"The interpretation of *civil union* is up to the institution," Stahl said. "Marriage isn't open to interpretation. People get that."

In December, the nonpartisan New Jersey Civil Union Review Commission, established by the Legislature when the law passed, concluded that "the separate categorization established by the Civil Union Act invites and encourages unequal treatment of same-sex couples and their children." It found overwhelming evidence that the public would not recognize civil union as the equivalent of marriage with the passage of time.

"The state of Vermont had civil union for almost 10 years and reached the conclusion it just wasn't working," Goldfarb said. Vermont's state legislature legalized same-sex marriage in April.

But Deo noted that the heads of various state agencies told the New Jersey commission that civil unions were being successfully implemented. After nearly 4,200 civil unions by same-sex couples, only eight formal complaints had been filed with the Division of Civil Rights, he said.

New Jersey's Legislature "should allow the voters to have a say on something as important as the future of marriage, instead of this clear attempt at forcing this through," said Brian Brown, executive director of the National Organization for Marriage.

Putting same-sex marriage to a popular vote is unlikely because, unlike other states, New Jersey lacks an easy mechanism for getting such questions on ballots, said Dworkin, of the Rebovich Institute.


"This is really something that's going to be decided by the courts or the Legislature," he said.

Christie could have as many as four opportunities to appoint state Supreme Court justices, which also could affect the long-term fate of the issue, he said.

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