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Spitzer Says He Would Do What Pataki and Courts Have Not

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By DANNY HAKIM

ALBANY, July 6 — Attorney General Eliot Spitzer said on Thursday that he would draft and propose legislation to legalize gay marriage in New York State if elected governor in November. His comments came after the State Court of Appeals deferred to the Legislature on the issue, leaving the fate of gay marriage in New York to elected officials.

Although the right of gay couples to marry has widespread support among Democrats, it has little chance in the Republican-led Senate, with the majority leader, Joseph L. Bruno, reiterating his opposition on Thursday.

Any possibility of changing the law in New York State could hinge on the ability of Democrats to overturn the 35-27 Republican majority in the Senate, a development that many in politics do not see as likely in November. Mr. Bruno, however, has been known to change his mind, and gay-rights advocates and lawmakers said his views on civil rights for gay people had shifted markedly during the nearly dozen years he has been majority leader.

Supporters of gay marriage rights in New York have often pinned their hopes on the courts to legalize such unions, perhaps mindful of the opposition of Gov. George E. Pataki. Now that the courts have rebuffed them, the effort to change the law through legislative means may gain new steam, particularly with Mr. Pataki leaving office.

Mr. Spitzer, who holds a commanding lead in opinion polls in the race for governor, restated his support even though his office had argued against gay marriage in its official capacity representing the executive branch.

"I believe same-sex marriage should be constitutional, should be legal, should be authorized statutorily," he said on Thursday. "I think in New York there is recognition that this is the right thing to do from a civil rights perspective, and whether that will be sufficient in both the Assembly and the Senate, we'll have to wait and see, but it is something I will draft and propose."

Mr. Spitzer's signal that he will actively back the legislation could help its prospects among Albany lawmakers, although many Republicans remain committed to defeating such legislation.

The Republican candidate for governor, John Faso, praised the court's ruling and said, "If elected governor, I will work to ensure that marriage remains a relationship between a man and a woman."

The Nassau County executive, Thomas R. Suozzi, Mr. Spitzer's Democratic challenger, said he did not support gay marriage, but hoped "we can come together to find other ways to provide gay and lesbians in long-term committed relationships the same economic rights and legal protections."

The measure is not even a foregone conclusion in the overwhelmingly Democratic Assembly, where gay marriage bills have stalled for several years, though approval there is far more likely than in the Senate.

"The Court of Appeals decision is going to put this issue on the front burner for the Legislature, so while there has not

been a focused effort to move the bill out of committee in the past, that changed this morning," said Assemblyman Richard N. Gottfried of Manhattan, the sponsor of a gay marriage bill.

"I would suspect there would be a strong majority for the bill on the floor of the Assembly, but I don't know if anyone has done a head count," he added.

Advocates have been frustrated that the Assembly has not already passed legislation. "Their excuse has been they've been waiting on the courts," said Matt Foreman, executive director of the National Gay and Lesbian Task Force and the former executive director of the Empire State Pride Agenda, the main lobbying group for gay rights in the state.

"The reality is there has been no leadership on this issue, or very little," he said.

Bryan Franke, a spokesman for Speaker Sheldon Silver of the Assembly, said: "The speaker plans to take up the issue of gay marriage with his conference. He thinks it's premature to talk about the matter without first discussing it with the members of the Assembly."

But the main battleground would certainly be in the Senate, which has emerged as the unpredictable force in Albany as its Republican leadership courts more moderate voters in the efforts to remain in power.

"I am opposed to gay marriage because I believe in the sanctity of marriage between a man and a woman," Mr. Bruno said on Thursday.

But he has softened his stance considerably over the years. When he became majority leader in 1994, Mr. Bruno rescinded domestic partner benefits for Senate staff members and also repeatedly blocked hate crimes legislation from coming to a floor vote. But he later reinstated domestic partner benefits and supported hate crime legislation.

In 2002, he spoke out in favor of the long-stalled Sexual Orientation Nondiscrimination Act, known as Sonda, saying, "Maybe I have become more enlightened."

"I am going to vote for this legislation to express tolerance, antidiscrimination, and just to recognize that people have the right to live their lives as they see fit," he added at the time.

Senator Thomas K. Duane, a Manhattan Democrat who is gay, said of Mr. Bruno, "He has absolutely evolved in his thinking, and without his support, hate crimes, Sonda, would not have come to the floor."

"On the issue of marriage, he never made a commitment to me, but he never closed off a discussion, and he never tried to dissuade me," he added.

Mr. Foreman said Mr. Bruno had moved "180 degrees on his empathy for gay people, but he will not move before the Assembly does."

Political pressure, and money, should not be discounted.

While the Conservative Party has opposed gay marriage, gay donors have been flexing their financial muscle. Alan Van Capelle, the executive director of the Empire State Pride Agenda, said his group's political contributions grew from \$40,000 two years ago to an expected \$300,000 this year, including contributions to candidates and spending on voter outreach. Recipients have included Senator Michael A. L. Balboni, a Nassau County Republican, who has sponsored legislation supported by the gay-rights groups. The group has also been courting and receiving support from major union leaders.

"Undoubtedly, this is going to be a major debate that we are going to have to take up in the next session," said Senator Nicholas A. Spano of Yonkers, another Republican who has sponsored legislation supported by the gay rights groups in the past.

"There's no doubt this will be a difficult debate," said Mr. Spano, who said he supports domestic partnerships but has "not

taken a position on gay marriage."

Karen James and Jennifer Medina contributed reporting for this article.