

## Hang on to your chads

by Laura Kiritsy  
associate editor  
Wednesday Jan 16, 2008

Activists in Florida have about two weeks to put a constitutional amendment banning same-sex couples from marrying on the general election ballot next November. If they succeed, the question could prove to be a factor in the presidential election.

Florida, along with Pennsylvania and Ohio, comprise the crucial Electoral College swing states in the presidential sweepstakes; with 27 electoral votes up for grabs, Florida is the biggest prize of the three. Since 1960, no candidate has won the White House without carrying two of those three states. In 2004, for instance, President George Bush won Florida and Ohio. And evidence strongly suggests that W's narrow two percent margin of victory over Democrat John Kerry in the latter state came courtesy of Ohio's anti-gay marriage amendment. So could an anti-gay marriage ballot initiative in Florida be an election-swinging boon to the GOP in 2008?

It depends on who the general election nominees are, say activists and observers who spoke with *Bay Windows* for this story. It also depends on how Democrats, who for the most part have not articulated their more nuanced positions on legal protections for same-sex relationships very well on the stump, deal with the issue. Most likely, however, the issue of marriage equality won't be as potent as it was in 2004, when the historic Goodridge ruling sparked a nationwide backlash -- led by the Republican Party -- that saw 11 states pass anti-gay marriage constitutional amendments on the same day that Bush won re-election.

"Gay marriage is not going to be a national issue like it was in 2004," says Daniel Smith, an associate professor and the interim director of the political campaigning program at the University of Florida. Foremost, Smith notes, unlike in 2004 Florida is the only state that will have a marriage amendment on the ballot come November.

Somewhat surprisingly, Republican Gov. Charlie Crist isn't so thrilled about that prospect anymore. Under his predecessor Jeb Bush, the Florida Republican Party dropped \$300,000 on the signature gathering efforts of Florida4Marriage.org, the group sponsoring the amendment, according to campaign finance reports. That's a pretty hefty chunk of the \$575,386 the group had raised as of last December. But shortly after he took office last year, Crist asked the state party to stop funding the effort, saying he wanted to focus on raising teacher salaries, trimming property taxes and combating climate change.

"It's not an issue that moves me," Crist recently told local reporters. (Crist, a divorced, single man who fended off rumors that he is gay during his campaign, did sign a petition supporting the amendment while he was running.) Of course the governor will likely be less laid back about the amendment if it starts looking like the presidential election outcome could hinge on Florida, as it infamously did in 2000.

In a similar vein, the presidential candidates have taken little notice of the amendment. After the mid-December announcement by Florida4Marriage.org, the sponsors of the amendment, that it had collected the more than 611,000 signatures necessary to put the measure on the ballot, only the GOP's Fred Thompson released a statement. "Florida's marriage amendment will have my

support in 2008," said Thompson, whose once buzzed-about campaign has failed to catch fire among the GOP's base of religious conservatives. Even Mitt Romney, who last September ran radio ads in Iowa condemning a ruling by a state court that ruled in favor of marriage equality and touting his support for a federal marriage amendment, had nothing to say. That's a far cry from Nov. 19, 2003 -- just one day after the Massachusetts Supreme Judicial Court released the *Goodridge* decision -- when *The New York Times* declared same-sex marriage "a thorny issue for 2004 race" in a story in which Christian Coalition President Robert Combs said, "This is not going to stop here -- this is going to be in the forefront for a long time to come." (Backers of the ballot amendment believed last month that they had collected enough signatures to get on the November ballot. But Florida election officials announced last week that a months-long internal audit of the signature count for the marriage amendment question and a second question governing land use showed that both campaigns had fallen short of the signatures needed. Florida4Marriage.org now has until Feb. 1 to collect approximately 22,000 signatures.)

### **Marriage still a 'powerful' wedge issue**

Peter Brown, assistant director of the Quinnipiac University Polling Institute, cautions against reading the lack of immediate response to the amendment by the presidential candidates as a signal that marriage as a wedge issue is dead. "If you're pinning your hopes on that," says Brown, "don't." Same-sex marriage remains "a very powerful issue," he says, and not just in a southern state like Florida. "I don't know what other states are putting it on the ballot, but if they get it on the ballot in Florida, it will certainly drive turnout."

That's the conventional wisdom -- that anti-gay marriage ballot amendments boost the turnout of social and religious conservatives who then cast ballots for conservative Republican candidates. But according to Smith, who co-authored a county-level analysis of 2004 voting patterns in Ohio and the battleground state of Michigan in order to gauge the effect that those marriage amendments in those states had on the presidential contest, when compared to voter turnout in the 2000 election, the amendments did not actually increase turnout, although it found a correlation between marriage amendment supporters and Bush voters.

"In sum, counties with higher levels of support for the measures banning same-sex marriage appear to have had greater support for Bush in 2004, though not higher turnout, compared with the 2000 election," the report states. In Ohio, where Bush eked out a victory with just 118,000 votes, "for every percentage point increase in the vote for Issue 1 [as the marriage amendment was known], support for Bush increased by two-tenths of a percentage point; support for Bush increased an additional tenth of a percentage point for every percentage point increase in density of evangelicals in a county," according to the study. Thus, the researchers concluded, "while there is no evidence that counties in Ohio with denser evangelical populations and support for Issue 1 had higher turnout, they did provide support for Bush in 2004 relative to other counties."

Smith says his analysis shows that the marriage issue did have "a substantial impact" in a toss-up state like Ohio in 2004. "Voters who looked at the issue as a key issue were supporting the president," he says. In other words, he explains, a white, female independent voter who didn't support the marriage amendment went for Kerry, while a similarly situated voter who supported the ban went for Bush. "It was kind of these swing voters that became very important to Bush's re-election in a key state like Ohio," Smith asserts. "It didn't necessarily bring them out to vote, but once these individuals were out to vote they then looked at the candidates through that lens."

The same cannot be said of Michigan, a state where the marriage amendment passed by a large margin but was won by Kerry, who was, at best, inconsistent on the marriage issue. The study notes that though counties with large populations of evangelicals and Catholics supported that state's marriage amendment, "Bush did not campaign on the issue in Michigan nearly as much as he did in Ohio."

Smith believes that Florida's marriage amendment will have "a marginal, if any effect" on the

2008 presidential contest. But it does give candidates a framework in which to address the issue. "That's how ballot issues work," he says. "They can focus issues. And sometimes those issues can help candidates and sometimes it can make candidates more vulnerable."

### **GOP candidates not as strong on marriage as Bush**

It's pretty clear that Bush was invulnerable on the marriage issue. Anyone who recalls the outcry after Kerry noted during a debate with Bush that Mary Cheney is a lesbian knows that the Democratic attempts to drag Vice President Dick Cheney's lesbian daughter into the debate backfired. And Bush has not only consistently opposed marriage equality, his administration has been outright hostile to all LGBT causes. The same, however, cannot be said of the leading GOP contenders, with the exception of Arkansas Gov. Mike Huckabee, a Baptist minister who has railed against the ills of homosexuality and whole-heartedly supported an anti-gay marriage amendment in his home state as governor.

It's easy to imagine Romney flogging the issue in Florida, despite the fact that his wandering positions on gay issues have been a constant source of derision for him in the primary race. He was a staunch supporter of VoteOnMarriage.org's proposed amendment to the Massachusetts constitution and since *Goodridge* has continuously boosted any and all federal and state amendments (including large cash donations to amendment efforts here and in South Carolina). But remember when his gubernatorial campaign in 2002 told *Bay Windows* that Romney didn't support a proposed Massachusetts marriage amendment to ban equal marriage and any other recognition for same-sex couples -- the very same thing the Florida amendment proposes -- because "Mitt believes it goes too far in that it would outlaw domestic partnership for non-traditional couples. That is something he is not prepared to accept." After all of Romney's flip-flopping, exaggerating and pandering on any number of issues, flogging the Florida amendment could give a Reaganesque "There you go again," moment to the Democratic nominee in the debates (Romney rival John McCain scored just such a moment in the last New Hampshire debate when he agreed that Romney really was "the candidate of change.").

McCain supported the failed marriage amendment in his home state of Arizona, while consistently opposing the federal marriage amendment. Then there's that interview with *Hardball*'s Chris Matthews, readily available on YouTube, in which McCain says he has no problem with gay marriage, so long as it's not legal. Paging John McKerry.

Rudy Giuliani, who has been campaigning heavily in Florida during the primary race, would probably stand to gain the most by coming out in favor of the amendment, given the current lack of enthusiasm for his candidacy among hard-core social conservatives (Pat Robertson's endorsement notwithstanding) who see him as too socially liberal. **Should Giuliani win the GOP nomination, says Matt Foreman, executive director of the National Gay and Lesbian Task Force, "I think the amendment could be helpful in bringing out right-wing voters who otherwise would not get to the polls because of their disenchantment with the Republican nominee."**

Smith thinks Giuliani would be "hard pressed" if he does go down the road of supporting the amendment. "He'd be looking like a flip-flopper on this issue," he says. After all, here's a guy who shacked up with a gay couple after leaving his second wife for the woman that would become his third, signed domestic partnership legislation as mayor of New York, flip-flopped away from his past support for civil unions and conditions his support for a federal marriage amendment on whether "three, four, five, six states," legalize equal marriage. "Again, he might very well do it just to shore up [conservative voters]," Smith theorizes "But it also brings up the scarlet letter H of hypocrisy." Maybe Rudy should leave the Karl Rove playbook on the shelf.

It looks as if Huckabee is the only guy with unassailable credibility on the issue. But should he be the nominee, Smith points out, he's probably not going to gain much by touting his support for the amendment to Florida voters, since amendment supporters are already his people. "Mike

Huckabee doesn't need a gay marriage measure to harden his credentials on social conservatism," says Smith, "In fact it could have a negative effect for Republicans if you have a candidate who's way out there [on social issues]." Or as Democratic political consultant Michael Goldman handicaps Huckabee, "Even though he seems so pleasant, he's clearly a dinosaurs-walked-with-men kinda guy."

Judging from the Republican candidates' records, should Florida again become a serious battleground, the playing field might be a little more level if the GOP tries to use the marriage amendment as a wedge.

### **Democrats need to find their voice on marriage**

But Dems have long walked the tightrope between opposing marriage equality and not wanting to piss off the gays, an important constituency of the Party. In 2004, the marriage amendments significantly frayed that tightrope as the Democratic Party sought to shore up the LGBT vote while emphasizing its opposition to marriage equality to the mainstream. Kerry notoriously came out in favor of a Massachusetts amendment during primary season in 2004, as he sought to distance himself from the *Goodridge* ruling, which caused outcry in the LGBT community and resulted in some gay donors requesting a refund of their campaign contributions. He made matters worse during the general election -- and bolstered his flip-flopper cred -- when he came out in favor of Missouri's marriage amendment believing it allowed for civil unions, then retracted his support for the amendment in an interview with *Bay Windows* contributor Lisa Keen when he learned it didn't.

So how might Florida's amendment impact the Democratic nominee this time around? **Foreman says that depends on the national Democratic Party. "I certainly hope that the Democratic Party doesn't do what it has done repeatedly in the past and that is stick its head in the sand and pretend like these marriage amendments are not on the ballot," says Foreman. The Florida amendment and all the ones before, he says, aren't just about marriage. "They're about partisan politics, and I think the Democratic Party machinery needs to recognize that and do everything it can to offset the potential harm that the amendment could cause to Democratic candidates."**

Asked if the Democratic Party was concerned about the presence of an anti-gay marriage ballot initiative in a swing state during this year's election, Democratic National Committee spokesman Damien LaVera stated, "It's not surprising that Republicans would try to revive the Karl Rove/George Bush playbook. But I don't think it's going to work this time." The issues that concern voters in Florida and across the country, LaVera added, are the war in Iraq, healthcare, jobs and paying their bills. Attempts to distract from those issues said LaVera, "just aren't going to work this year. So we're convinced that when voters go to the polls in November they're going to look at the choice between a Democrat who offers change and Republican who offers four more years of President Bush's failed leadership and they're going to elect a Democrat."

Probably not exactly the battle cry for which Foreman was hoping.

**Foreman says he'd like to see the DNC arm their candidates with accurate information about the amendment, which, because it also bans legal protections resembling marriage, could also impact older heterosexual couples living in domestic partnerships in Florida municipalities -- such as Broward County, Key West, Miami Beach and Palm Beach County -- that offer domestic partner benefits to both same- and opposite-sex couples. It's not just a gay issue, it's an "ugly, partisan and straight- couple-hurting amendment," says Foreman. "I think the Democratic Party needs to educate its candidates on what this is really about and how they can talk about it."**

**Is Foreman hopeful that the Democrats can speak more coherently than they have in the past to the issue of legal protections for same-sex couples? "I actually think that all of the Democratic presidential candidates have shown a lot more comfort talking about this**

**issue this cycle than they did the last cycle," he says. "They have not had that deer in the headlights response that they had so frequently in prior cycles. So that's a hopeful sign."**

One notable sign of progress is that the leading Democratic candidates have stopped responding to questions on the issue by first emphasizing their opposition to same-sex marriage. In a statement to *Bay Windows* regarding Florida's marriage amendment, John Edwards's campaign spokeswoman Audrey Waters said that Edwards "believes that all couples in committed, long-term relationships should have the same rights, benefits, and responsibilities, whether they are straight couples or same-sex couples." She noted Edwards's support for civil unions, repealing the Defense of Marriage Act (DOMA) and equal treatment for same-sex couples under federal immigration laws. Lastly, said Waters, "Edwards believes the right president could lead the country toward consensus around equal rights and benefits for all couples in committed, long-term relationships and he opposes divisive Constitutional amendments to ban same-sex marriages."

That's a shift in tone from his response to the Goodridge decision during his 2004 presidential campaign, when he stated, "As I have long said, I believe gay and lesbian Americans are entitled to equal respect and dignity under our laws. While I personally do not support gay marriage, I recognize that different states will address this in different ways, and I will oppose any effort to pass an amendment to the United States constitution in response to the Massachusetts decision."

Likewise, Sen. Hillary Clinton's campaign released a statement that also emphasized her support for protecting same-sex couples rather than her opposition to same-sex marriage, in addition to coming out squarely against the Florida amendment: "Hillary Clinton has been a strong supporter of civil unions and opposes legislation that would deny gay and lesbian couples access to the same rights as all Americans," said the campaign. "The Florida Amendment and similar state amendments would be a serious step back."

Sen. Barack Obama hasn't taken an official position on Florida's amendment, said Stampp Corbin, who co-chairs Obama's National LGBT Leadership Council. Corbin also noted Obama's support for federal recognition of civil unions, his opposition to a federal marriage amendment and his support for repealing DOMA. "He also has a position from the bully pulpit that says he does not believe in discrimination against same-sex couples," said Corbin, although he also noted that Obama believes marriage should be between a man and a woman. While Corbin noted that Obama sees marriage is a states' rights issue, when pressed on whether that, combined with Obama's view that marriage should be limited to opposite-sex couples, leaves the door open for Obama to come out in favor of the Florida amendment, Corbin emphatically replied that it did not. "I don't want to mischaracterize the senator and I don't want you to get the wrong impression. When I say 'bully pulpit' I would fully expect that writing into a state constitution that same-sex couples do not have the ability to be in recognized relationships would not be something he would support."

Noting that the amendments have been used effectively in the past to energize Republican voters, Corbin criticized Republican attempts to do the same thing again in Florida in order to keep the White House. Then he touched on Obama's main campaign themes of change and unity, which may help the senator deflect confrontations on the issue should he become the nominee: "That is not change. This is a repeat. There is no change in how they're going about this. ... That is the politics of divisiveness that the Barack Obama campaign stands against."

Either way, says Brown, the Quinnipiac pollster, it'll be a polarizing campaign. "My guess is that the Democratic nominee will try to make this issue less a factor because there's no upside to the Democratic candidate in this one. Either you're going to make the gay community unhappy if you're not sufficiently with them or you're going to make the general electorate, which is generally suspicious of gay marriage, unhappy if you appear to be endorsing [same-sex marriage]. Democrats to some degree are between a rock and a hard place on the issue."

This time around, Republicans might be, too.