

Year in Review: The Gay Agenda in Congress

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by Bob Roehr

Political expectations were high at the start of the year. With Democrats in control of both houses of Congress, after more than a decade under Republican majorities, now was the time to move the GLBT legislative agenda forward. But the year ended with little to show and growing frustration, even bitterness, within the community.

The game plan was to pass hate crimes legislation in early spring, expanding coverage to include sexual orientation and gender identity. And when the political sky didn't fall, the freshman Democratic congressmen would be inoculated to vote for the Employment Non-Discrimination Act (ENDA) later in the year.

There were some minor delays in introducing the hate crimes bill in the House, but it passed May 3 by a vote of 237 to 180. Most people were too busy celebrating to notice that not enough Democrats voted for it to pass the bill; 14 voted against it and 6 did not vote at all. The margin of victory came from 25 Republicans who voted yes.

Sen. Ted Kennedy added Matthew Shepard's name to the bill when he introduced it in that chamber in the summer. As the legislative calendar filled, and rumblings of a presidential veto began to sound, Kennedy then decided that the best tactic would be to attach it to the Department of Defense (DoD) authorization. The Senate broke a filibuster 60 to 39 Sept. 27 and it moved forward.

But things came apart when the DoD measure came to a conference to resolve the differences in language between the two houses, and the Democratic leadership pulled the hate crimes amendment from the main bill on Dec. 6.

“We'd been assured by congressional leaders that attaching the provision to the larger bill was the only way to avoid a presidential veto,” said Matt Foreman, executive director of the National Gay and Lesbian Task Force. “We are deeply angered and disappointed by the decision to strip [out the] hate crimes provision.”

No ENDA in sight

ENDA didn't get rolling in the House until after Labor Day, with a hearing Sept. 5. All hell broke loose a few weeks later when openly gay Rep. Barney Frank, D-Mass., floated a trial balloon to remove protection for gender identity. Transgender advocates had fought long and hard to gain that inclusion.

Strong opposition from the GLBT community to Frank's proposal seemed to catch the Democratic leadership by surprise, forcing them to reconsider. A scheduled vote on the measure was delayed several times. The trans-inclusive coalition that came to be known as United ENDA grew to more than three hundred state and national community organizations.

But in the end, Speaker Nancy Pelosi decided that enough Democrats were fearful of voting for trans-inclusive legislation that a stripped down bill was moved through committee and on to the floor of the House. It passed the more limited measure Nov. 7 by a vote of 235 to 184.

Seven northeastern liberal Democrats voted against it because it did not include trans protection; 25 more conservative and Southern Democrats voted against it because it was too pro-gay. Again, the margin for victory was supplied by 35 Republicans.

The bill has not yet been introduced in the Senate. It is not clear whether the sponsors will choose more limited or trans-inclusive language.

The legislative ball was supposed to get rolling this year on repeal of the antigay military policy known as Don't Ask, Don't Tell. The plan was to reintroduce the measure in the House and begin the education process with hearings in that chamber, and to introduce it for the first time in the Senate.

Although the bill was reintroduced in the House on Feb. 28, 2007, neither hearings nor an introduction in the Senate happened. The surprise retirement of lead advocate Rep. Marty Meehan, D-Mass., stymied House action, and there still is no bill in the Senate.

Confirmations and money

The Democrats were supposed to be more sympathetic to GLBT views on appointments and appropriations. The results so far are at best a mixed bag.

The one judicial nominee gays and liberals zeroed in on was Leslie Southwick, who was nominated to a seat on the U.S. Court of Appeals for the Fifth Circuit, covering Mississippi, Louisiana, and Texas. Among the decisions he made while sitting on the Mississippi Supreme Court were ones opponents called racist and homophobic.

But Dianne Feinstein, D-Calif., joined all of the Republicans to keep Southwick's nomination from being bottled up in the Senate Judiciary Committee. And when it reached the floor Oct. 24, the Democrats could muster only 35 of the necessary 41 votes to maintain a filibuster.

The nomination of James Holsinger to be Surgeon General of the United States raised hackles for the antigay tract he had written for a committee considering the role of homosexuals within the United Methodist Church.

He faced tough questioning at a confirmation hearing on July 12, and his nomination appeared to be in limbo. Just before Thanksgiving, when rumors started to circulate that President Bush might make "recess appointments" while the Senate was away for the holiday, including Holsinger, Democratic Majority Leader Harry Reid (Nevada) pulled a parliamentary trick to technically keep the Senate in session and prevent any recess appointments being made.

AIDS advocates were hoping that Democratic control of Congress might loosen the purse strings and bring adequate funding for their programs. Those hopes did not last long as the Democrats adopted "pay-go" as their governing principle—all new spending had to be matched by cuts elsewhere, or tax increases, something they were politically loath to do.

Increases for AIDS programs were modest. And even those ended up being threatened by the failure to pass a budget that the President would sign, or barring that, to override his veto.

Appropriations chairman David Obey infuriated liberals with a \$21 million increase for abstinence-only education programs. Even the Republicans had not increased funding for them in the last two budgets. Obey hoped the pork would help build a majority to override a presidential veto, but the strategy failed.