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Rep. Teasley trying to pass religious liberty bill again

by Ricky Leroux
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MARIETTA — A controversial "religious liberty" bill in the Georgia General Assembly this year drew state lawmakers into a national conversation about discrimination.

Although the measure failed to pass, the Marietta lawmaker who proposed it said he plans to bring it back in the 2015 legislative session.

State Rep. Sam Teasley (R-Marietta) said his bill is a "modest, common sense measure" to ensure state and local governments cannot infringe upon a person's right to religious expression.

"The primary function of the bill is to place a restriction on government's ability to unnecessarily burden a person's free exercise of religion," Teasley explained.

Despite the First Amendment in the Constitution guaranteeing a citizen's freedom of religion, Teasley said several U.S. Supreme Court decisions have resulted in a complex web of statutes and precedents on the issue.

Before 1990, if an individual thought the government was infringing upon their right to freedom of religion, they could sue, and in court, the burden was on the government to prove it had a good reason for the infringement. A 1990 Supreme Court decision shifted that burden onto the individual, however, meaning the citizen had to prove in court that their rights were being denied.

Then, a 1993 federal law called the Religious Freedom Restoration Act shifted the burden back to the government, requiring the government provide a compelling state interest if it infringes upon a person's religious freedom, but a 1997 Supreme Court decision resulted in the law not being applicable at the state level.

"The reason why I'm proposing this is that the citizens of Georgia don't have that protection where government must demonstrate that it has a compelling government interest (to infringe upon religious freedom)," Teasley said. "There are 30 states in the country that do, and we're one of the 20 that don't."

Teasley said every state bordering Georgia has a similar law to the one he's proposing, as well as several states in the northern part of the country, including Pennsylvania, Connecticut and Illinois.

"For what it's worth, State Sen. Barack Obama voted for this matter back in 1998 when he was a member of the (Illinois) State Senate," Teasley added.

State Rep. Stacey Evans (D-Smyrna) opposed Teasley's bill in the last legislative session and said while she would need to read his new bill before saying how she would vote on it, if the bill substantially similar to his previous bill, she would be against it as well.

"There's just all sorts of problems with this (bill) that I think — we just don't need to go down this road," she said. "I still haven't heard the overwhelming reason why we need this bill in the first place."

Evans said the bill could result in situations such as a florist citing religious grounds to refuse to serve someone if the flowers would be used at a gay couple's wedding or a pharmacist refusing to sell birth control for religious reasons.

"These are just examples we're able to come up with off the top of our head, and I think there are lots of things we aren't even thinking about — unintended consequences," she said.

Teasley counters the florist example isn't related to his bill. He said sexual orientation is not a protected class a under federal law — race, national origin, gender and religious affiliation are — so it's a moot point.

"Currently, a business owner can reject business for anything other than the protected classes that are listed out in federal code. Now, I personally think it is inappropriate for a business owner to reject business — and frankly don't think many business owners would reject business — based on somebody's sexual orientation," he said.

Working with the opposition

Teasley's bill faced stiff opposition in the previous legislative session: Delta and The Home Depot spoke out against the bill, as did members of the lesbian, gay, bisexual and transgender community who feared it could result in discrimination against them.

Teasley said when the bill began to stir up controversy, he made the decision to "pull back" and leave the bill lying for the rest of the session and spend time after the session meeting with those who had a problem with the bill.

"So I've done that over these last eight or nine months: meet with the different concerned parties on this issue and work to do a better job on my end of educating," Teasley said.

One of the biggest voices against the bill came from Atlanta-based Delta Air Lines, which released a statement saying the bill would allow businesses to discriminate against LGBT individuals. Teasley said he has met with representatives from Delta and attempted to assure them the bill would have no effect on the business community.

"I feel like we've had an encouraging, ongoing dialogue," Teasley said, adding the Delta representative told him in their last meeting the airline had not taken a position on the 2015 version of the bill.

Teasley refutes the notion his bill would result in discrimination against the LGBT community.

"I think I've demonstrated through the language of the bill it doesn't do that," he said.

Teasley said he got the impression from this meetings with the LGBT community that their opposition to the bill is that it would create a "slippery slope" and could lead to discriminatory laws. He said no one has been able to identify specific language in his bill which could lead to discrimination of any kind.

"That's most certainly not my intent," Teasley said. "As a man of faith myself, I believe that everyone, regardless of their belief system, deserves to be treated with dignity and respect."

Evans expressed a similar sentiment, but added while it might not be his intent, it will be the result.

"I don't think (Teasley) means to discriminate or legalize discrimination with this bill, but that's what the bill will do, and that's why I oppose it," she said.

The Georgia Municipal Association also expressed concerns about the bill in the last session, which Teasley said surprised him because his bill was a "pretty modest" protection.

"This is, in my view, a very natural complement to the First Amendment," Teasley said. "We're not plowing new ground here. So yeah, it does surprise me a little bit that they would react that way because, again, the idea of protecting religious expression is something our country was founded on."

A history of religious freedom laws

"Up until 1990, the understanding of how government would interact with a person is that it had to pass what we call this 'balancing test' between what is a compelling government interest and it being the least restrictive means necessary of accomplishing that interest," Teasley said.

Teasley cited two U.S. Supreme Court cases that affirmed this balancing test: 1963's Sherbert v. Verner and 1972's Wisconsin v. Yoder. The Sherbert case is credited with creating the balancing test: Sherbert could not find a job because her religious beliefs prohibited work on a Saturday and her unemployment compensation claim was denied as a result.

The court ruled the denial infringed on Sherbert's right to religious freedom because the government did not have a "compelling state interest" to deny the unemployment compensation claim.

The Yoder case found that Amish children could not be forced to attend public school after eighth grade because doing so would violate their religious beliefs. The court ruled the Amish's right to freedom of religion trumps the state's interest in educating the children.

Teasley said these cases set the standard for the relationship between the government and the exercise of freedom of religion until another Supreme Court

case — 1990's Employment Division of Oregon v. Smith — essentially "had the practical effect of removing that balancing test."

In response to that decision, a new law was passed.

"So in 1993, the U.S. Congress passed the Religious Freedom Restoration Act almost unanimously — unanimously out of the House, 97-3 out of the Senate — (and was) signed into law by President Bill Clinton, which restored into code that balancing test," Teasley said.

The law was intended to apply to all levels of government, Teasley said, but a 1997 Supreme Court Decision ruled Congress could not enforce the law on the state and local level.

Teasley said he has changed his bill for the upcoming legislative session and modeled it on the federal RFRA statute.

"The original language of the bill has been changed to be almost directly word for word the federal statute," Teasley said. "So it reduces the amount of new language out there for people to go 'What does this mean?' You have a bill that is made up of almost entirely of language that has been out there for 20 years. People know what it means."