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# Religious Freedom Bill Is Tabled After an Amendment Wasn't Allowed to Be Presented

February 20, 2015 13:46 pm

by [Jon Richards](#) · [11 comments](#)

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Members of the Senate Judiciary Committee listen to the testimony of Jeff Graham of Georgia Equality.

Photo: Jon Richards

Senator Josh McKoon had likely hoped he could get SB 129, the Georgia Religious Freedom Restoration Act, through the Judiciary Committee quickly on Thursday. After all, he's the bill's sponsor as well as the committee chairman. But, after an hour of testimony by witnesses and discussion among committee members, his bill ended up being tabled after he refused to allow consideration of an amendment because it wasn't presented in a timely manner.

After hearing from more than a dozen witnesses who were fairly evenly divided in their support or opposition to the bill, the committee began its internal deliberations with Senate Majority Leader Bill Cowsert saying he would support the bill. He added that Senator McKoon had taken some unfair criticism for his bill, and that McKoon had no intention to discriminate. And indeed, the substitute bill McKoon brought to committee added an additional finding to the first section of the bill saying that government has an overriding interest in eliminating discrimination. However, a legislative finding that government is opposed to discrimination does not have the force of law. For that to be the case, appropriate wording would need to be inserted into Section 50-15A-4, where the list of other things the bill doesn't apply to lies.

And that, apparently was what an amendment Senator Cowsert intended to offer was supposed to do. In addition to invalidating discrimination as a legitimate religious exercise, his amendment would have included language making the welfare of a child a reason to invalidate a religious freedom claim.

When Cowsert attempted to offer his amendment, Chairman McKoon ruled it out of order because it

hadn't been offered 24 hours prior to the committee meeting, which is one of the committee's rules. An effort to suspend the rules and hear the amendment failed a committee vote. That prompted Cowser to point out that there had hardly been time since the bill was introduced to prepare an amendment, given that he hadn't seen the bill until late Tuesday afternoon. In the end, a motion by Senator Vincent Fort to table the bill passed, and the committee meeting ended.

Senator McKoon is in a bit of a difficult spot. After the failure of his religious freedom bill during the last session, he was advised to keep this year's version as close as possible to the federal RFRA, which has not been the cause of any of the parade of horrors those opposing McKoon's bill have envisioned. Yet, under Georgia law, persons include corporations. That's a concern to some who think that the resulting effect could let businesses make RFRA claims against Georgia law.

Yet placing a number of exceptions that could not be considered under the state's RFRA law has its own potential problems. What if someone were to claim the freedom to beat his wife because of his religion, and further that it must be OK because it's not in the prohibited list? What are the possible unintended consequences when something in the prohibited list conflicts with other state laws? And for that matter, what is the meaning of "discrimination?" It's a very broad term, that could be defined in many ways.

I haven't seen the amendment Senator Cowser planned to offer, and it's quite possible that it is more specific in terms of the types of discrimination it hopes to protect from claims of religious freedom.

If the purpose of Georgia's Religious Freedom Restoration Act is to require the government to prove it is using the least restrictive method of furthering its goals when someone claims that method interferes with their religious freedom, then limiting the types of claims someone could make under the law appears to be counterintuitive. Let the court decide whether the state or the religious claim has more weight.

That being said, if the state believes that there are certain populations that shouldn't be discriminated against in a RFRA claim, then pass separate legislation to make that population a protected class. Separate legislation also protects the class against discrimination that's not of a religious nature.

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blakeage80 [February 20, 2015 at 2:20 pm](#)

So, it sounds like Democrats saw their opening to slow this thing down and Sen Cowser, perhaps stung by his rejection, went along with it. Now it looks like he sided with Dems to slow down the bill. His response to an email sent this morning denies any of this and he emphatically restates his support.

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[John Konop February 20, 2015 at 3:37 pm](#)

.... “the right to act or refuse to act in a manner that is substantially motivated by a sincerely held religious belief.” .....

McKoon put the GOP in a no win situation. The above language in the bill would have been used by gay people for legal rights of marriage. Yet McKoon sold the bill as anti-gay marriage.

Finally, the bill as proposed would of open the door to massive lawsuits over Jim Crow type rules.....This would of been a massive black eye on the GOP....Can you imagine if cases came up over no blacks, Jews, gays.....on businesses based on the McKoon bill ie “sincerely held religious belief” as a defense? Combine this with changing demographics it would of been a major issue for the GOP in the next few election cycles. The sad part is McKoon is a lawyers and should of known better...I give Sen. Cowsert credit for acting like an adult, and putting Sen. McKoon in time out. It is shame that McKoon would put his PR political BS ahead of the party.

I get Erick Erickson also a lawyer wants ratings.....BTW makes his living that way....Sen. McKoon should act like an adult, and represent the people first....This is about our state....not ratings for a radio show.

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[Jon Richards February 20, 2015 at 3:59 pm](#)

John:

I have not seen Senator McKoon sell this bill as anti gay marriage. Same for Rep. Teasley.

Your second point also makes no sense. Discriminating on the basis of race or religion is already illegal under Federal and state law, and the government has a compelling interest in enforcing that law. So your remarks about Jews and Blacks aren't valid. As far as gays go, that's the point of my last paragraph. As things stand now, discrimination on the basis of sexual orientation is perfectly legal in Georgia, RFRA or not. If the General Assembly wants to make that discrimination illegal, it should do so in a standalone bill.

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[benevolus February 20, 2015 at 4:02 pm](#)

OK, so then what IS the point of this bill?

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[John Konop February 20, 2015 at 4:11 pm](#)

Jon,

I like you....but it was clear as a bell on threads Mr. McKoon commented on he never corrected any of the anti gay marriage, no gays, no blacks....comments..... Also I have social conservative friends....this was pushed as an anti gay marriage bill. As far as the house version it had different language....and did not have, “the right to act or refuse to act in a manner that is substantially motivated by a sincerely held religious belief.”, which clearly opens the door....ask and lawyer....BTW I asked numerous lawyers... all told me a first year law school student would of seen the issues with the wording in the McKoon bill.

BTW, the case McKoon put on the first thread was a zoning case. A church did not want to follow the proper parking rules and building type...McKoon, seemed rather clear his bill would be used to violate property owners rights via religious reasons....all they have to show is “sincerely held religious belief”.

Finally, at the end much of his bill would of been overruled by the SC....Not after a bunch of PR political BS...One can only conclude this was for grandstanding or McKoon does not understand the law. Why else did McKoon add the extra language?

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[oscardagr ch February 20, 2015 at 5:00 pm](#)

Land use and Zoning are covered already by RLUIPA

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[Andrew C. Pope February 20, 2015 at 5:39 pm](#)

John,

Not correcting your hypotheticals does not equate to an admission of

your hypotheticals. It's like concluding that Craig James killed 5 hookers based on the fact he's never expressly denied allegations that he murdered five innocent women, with hearts of gold mind you, back in the early 80s.

This is a terrible bill, but not for the reasons you list. Also, let's stop assuming lawyers, myself excluded, are all-knowing. Hearing Erick on the radio the past few weeks has severely diminished my regard for a Mercer law degree... not that Nancy Grace was doing the school's reputation any favors to begin with.

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blakeage80 [February 20, 2015 at 4:04 pm](#)

John, I see where you could interpret my comment as anti-Cowsert and my comments on the other thread as pro-Erickson. They aren't that. I don't really know what to make of it all. I was just reporting what both had said in both email and twitter interactions earlier today.

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John Konop [February 20, 2015 at 4:14 pm](#)

Sorry, I was just trying to clarify, the rough situation Sen. Cowsert was put in, as well as the party by Sen. McKoon.

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Will Durant [February 20, 2015 at 3:47 pm](#)

Perhaps Senator McKoon should take his good intentions to the Transportation Committee. They need all the pavement they can get.

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Jon Richards [February 20, 2015 at 5:06 pm](#)

We received this statement from Senator Cowsert this afternoon, which is reprinted in its entirety:

I'm not sure what information you may have heard but for the record, I am very much in favor of the bill. I voted in favor of a similar bill in Judiciary Committee during the last legislative session and intend to support it again this year. The motion to table the bill on Thursday was not an attempt to kill the legislation, just a way to give the committee time to consider an amendment in order to thoroughly review and perfect it prior to a vote.

The author of the bill has specifically stated on several occasions that this bill is not intended to discriminate. The amendment that I proposed simply stated that government has a compelling interest in protecting children from abuse and neglect and to prevent unlawful discrimination. This amendment is to prevent misinterpretation of the bill by others who have falsely claimed that it is intended to permit or justify abuse of children or unlawful discrimination.

Any suggestions that my amendment is intended to kill the legislation, to water down the purpose of the bill, or in any way to divert the bill's stated purpose are untrue.

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