

UNDER THE DOME

Berger to file bill to protect NC officials who refuse to conduct same-sex marriages

Posted by Lynn Bonner on October 21, 2014

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Sen. Phil Berger of Eden, N.C. presides over the morning session of the State Senate and debate of HB 366 on Wednesday July 30, 2014 in Raleigh, N.C.

ROBERT WILLETT — rwillett@newsobserver.com [Buy Photo](#)

Senate leader Phil Berger said Tuesday that he would introduce a bill that would protect the jobs of magistrates, registrars of deeds and their employees who refuse to officiate at weddings for members of the same-sex if their refusal is based on religious beliefs.

A magistrate in Berger's home county of Rockingham quit because he said marrying same-sex couples would violate his religious beliefs.

“The court’s expansion of the freedoms of some should not violate the well-recognized constitutional rights of others,” Berger said in a statement. “Complying with the new marriage law imposed by the courts should not require our state employees to compromise their core religious beliefs and First Amendment rights in order to protect their livelihoods.”

Chris Sgro, executive director of the gay-rights group Equality NC, said his group would fight such a bill, and the state’s business community would join in the effort.

“If Senator Berger insists on being an extremist and pushing unconstitutional legislation, we will be fully prepared to fight this at the legislature in tandem with the business community.”

He compared Berger’s proposal to anti-gay bills in Arizona, which the governor vetoed, and in Georgia, which stalled after businesses protested. Those bills centered on private businesses being able to refuse service to gays and lesbians. Berger’s bill would cover public employees.

After same-sex marriage became legal in the state, the Administrative Office of the Courts sent a memo to magistrates saying they could not refuse to marry same-sex couples because it would violate the equal protection clause of the U.S. Constitution. Refusal to perform the marriage of a same-sex couple is grounds for suspension, removal from office, and potentially, criminal charges, the memo said.

It was unclear Tuesday whether the bill Berger wants would extend to registrars of deeds who refuse to issue marriage licenses. A Berger spokeswoman said the bill’s specifics are still being worked out.

Tami Fitzgerald of the N.C. Values Coalition sent an email to registrars last weekend saying they could refuse to issue marriage licenses to same-sex couples by claiming “their First Amendment right not to violate their religious beliefs.”

Fitzgerald organized support for the state’s constitutional amendment banning same-sex marriage two years ago.

Major corporations stayed out of that fight.

Sgro said it would be different this time. “This is about the right to marry that we now have,” he said.

“They’re not going to be able to pass a law that trumps the Constitution or federal court orders.”

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