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**PROTECT OUR
CONSTITUTION**



FAX

Date: 8 / 14 / 98

To: Juliane Potter

From: Margot Friedman per David Smith

Total # of pages including cover: 3

Comments: If you have questions, David
will be at 808-739-6263 on
Monday. Mahalo!

800.386
5996



A mother searches for clues to find her missing daughter. A-4



Sky's the limit on sa

Each side says the other will capitalize on the state's ruling

BY MIKE YUEN
Star-Bulletin

You can be an ale voter or someone who has never been in Hawaii. But if you feel strongly about the proposed amendment to the state Constitution that would allow the Legislature to ban same-sex marriage, you can now give as much as you want to support or oppose the measure.

The state Campaign Spending Commission yesterday disclosed that the attorney general's office has issued an opinion that the state's law limiting contributions to \$1,000 to influence ballot questions such as the one on gay marriage is unconstitutional.

The four-page opinion, written by Deputy Attorney General Jon Itomura, cited two U.S. Supreme Court decisions.

In one, the high court ruled in 1981 that such a limit on political activity is contrary to the First Amendment.

Officials of organizations opposed to and in support of same-sex marriage said they don't expect to be beneficiaries of the commission's decision.

But they insisted that their adversaries will

"While we, of course, hope the change will increase our ability to fund-raise, given Hawaii's tough economy, we do not anticipate that effect," said Jennifer Diesman, a spokeswoman for the political action committee Save Traditional Marriage-US.

Diesman said the attorney general's opinion will make it easier for Protect Our Constitution to raise funds "through their big mainland donors."

Protect Our Constitution is affiliated with the Human Rights Campaign of Washington, D.C., the nation's largest gay-rights organization.

Jackie Young, campaign director of Protect Our Constitution, countered: "It will probably bring a tsunami of right-wing money from the Christian Coalition and James Dobson's Focus on the Family. We don't have that kind of network. We just want a level playing field."

Last month, the Christian Coalition's national and Hawaii offices went on the Internet to launch a \$1.5 million fund-raising drive for an advertising and grassroots campaign urging "yes" votes for the ballot measure.

Four national organizations that support legalized gay marriage have also gone on the Internet, hoping to raise \$1 million to quash the

proposed constitutional amendment.

Attorney Dan Foley, who represents three gay couples that sued the state for the right to marry, questioned whether the Campaign Spending Commission on its own can decide not to enforce a law it believes is unconstitutional.

"The Hawaii Supreme Court has ruled that an administrative agency cannot pass on the constitutionality of a statute. That's apparently what they did," said Foley, who was representing Protect Our Constitution yesterday.

But there was a positive element to the attorney general's opinion, Foley added. It helps Protect Our Constitution because disclosure requirements would still be retained in the law. That's the essence of the group's complaint against Hawaii Family Forum.

"All we're trying to do is not to limit speech, but let the public know who's paying for it. That's all we're asking," Foley said.

Kelly Rosati, an attorney who is also executive director of the Hawaii Family Forum, said disclosure is not required by Hawaii Family Forum because its radio spots are "educational" and not "advocacy."

"Foley's argument is nothing more than a red herring," Rosati said.

A14 • Friday, July 31, 1998

The Honolulu Advertiser •

Same-sex: Expensive campaign shaping up

FROM PAGE ONE

states and nations, your neighborhoods" the Web site message said. "They will file lawsuits in courts demanding that their marriages be legally recognized and liberal judges will grant those requests."

The Internet effort includes soliciting foreign money, which critics allege is illegal.

■ Protect Our Constitution, a local nonprofit political action committee that opposes the proposed amendment, has filed complaints with the state Campaign Spending Commission.

Protect Our Constitution was joined in the complaints by Protect Our Constitution/Human Rights Campaign, a local political action committee linked to the Human Rights Campaign gay and lesbian organization based in Washington, D.C.

They complained that the Christian Coalition, the Hawaii Christian Coalition and the Hawaii Family Forum failed to register as political action committees as they believe is required by law.

"By failing to file, we don't know who the money is coming from, how they are going to spend it, how much they're going to spend, where it's coming from — they could actually raise more than \$1.5 million ... yet they're not accountable if they're not registered," said Jackie Young, Protect Our Constitution campaign director.

Robert Matsumoto, a lawyer and spokesman for the Hawaii Christian Coalition, declined comment until he sees the complaint.

Under Hawaii law, political action committees must register

with the campaign spending commission within 10 days of receiving or spending \$1,000 in promotion of an issue. Those committees also must file reports on the names, addresses, occupations and employers of officers and of donors who contribute more than \$100. But organizations that sponsor "informational" advertising

— without taking a position — don't fall under the law.

That, according to Kelly Rosati, executive director of Hawaii Family Forum, is why her group isn't registered.

"The radio ads that began are educational and informational, not express advocacy," she said.

The Hawaii Family Forum

radio spot explains that voters will be asked to vote on the constitutional question. The ad then explains what Hawaii Family Forum believes a "yes," "no" or "blank" vote would mean.

Campaign spending commission staff said the Protect Our Constitution complaints would be reviewed.



The AFL-CIO lists its
endorsements of political
candidates. A-6

ne-sex fund raising

Complaint against PAC dismissed

By MIKE YUEN
Star-Bulletin

The state Campaign Spending Commission has dismissed complaints by gay activist Bill Woods, who claimed that Save Traditional Marriage-98, a leading political action committee opposed to same-sex marriage, had broken state law.

The panel yesterday also quashed a complaint against the recently reorganized Hawaii affiliate of the conservative Christian Coalition because it has since registered with the commission.

But it kept open its inquiry into whether the coalition's national office in Virginia must register and whether the Hawaii Family Forum is running "advocacy" radio spots that would force it to disclose its contributors.

The complaints against the Christian Coalition's offices and Hawaii Family Forum were filed by Protect Our Constitution and its affiliate PAC that is linked

to the Human Rights Campaign of Washington, D.C., the nation's largest gay-rights organization.

Woods' complaints stemmed from a \$100-a-person fund-raiser in November that Save Traditional Marriage hosted at which Stephen Covey, the best-selling self-help author, was featured.

The commission concluded that Covey provided voluntary personal services and was not required to register with the panel.

And since the PAC took "corrective action" by returning \$250 of the \$1,250 it had received from Hawaii's Future Today, which opposes same-sex marriage, there's no need to proceed against Hawaii's Future Today, the commission stated.

At issue was an apparent violation of the \$1,000 contribution limit to noncandidate committees, which the attorney general's office has since determined is unconstitutional.

Christian Coalition 'through pussyfooting'

By MIKE YUEN
Star-Bulletin

In addition to urging a "yes" vote on a proposed constitutional amendment that could ban same-sex marriage, the Hawaii Christian Coalition is now also urging late voters to approve the convening of a constitutional convention.

The move puts the coalition even more at odds with its adversary, the political action committee Protect Our Constitution, which was organized to oppose both measures. Late voters will vote on both

ballot issues Nov. 3.

"In short, we are going on offense," Hawaii Christian Coalition President Daniel McGivern said today. "We won't be punting. And when we're way ahead, we'll run up the score. We're through pussyfooting around."

McGivern said he is also urging clergy "to stand up in their pulpits and denounce the evils of homosexuality. Pastors need to show some guts and tell people how they are personally voting without telling their flocks how to vote, since that's illegal."

Same-sex campaign escalates

Local, outside groups mobilize for costly fight

By William Kresnak
Advertiser Capitol Bureau Chief

With Hawaii's general election still three months away, the fight over a proposed constitutional amendment that would allow the Legislature to ban same-sex marriage is heating up.

Earlier predictions that at least \$2 million could be spent by advocates on either side of the issue, with much of the money from the Mainland, may be accurate. No state campaign other than the governor's race is expected to be as costly.

And the early indications that Mainland interest groups will be involved in the campaign indicate the nation will be watching the same-sex marriage debate.

On Nov. 3, Hawaii voters will be asked to approve or reject a change to the state constitution to make it read: "The Legislature shall have the power to reserve marriage to opposite-sex couples."

Legislators decided to put the issue on the ballot in order to head off a state Supreme Court ruling that could legalize same-

ELECTION
'98



sex marriage. A Circuit Court judge ruled the state must issue marriage licenses to gay and lesbian couples, but the ruling was put on hold

while the matter was appealed to the state Supreme Court.

The high court has yet to rule on the issue.

The latest developments in the debate involve:

■ Hawaii Family Forum, a nonprofit group "committed to the preservation and strengthening of families in Hawaii" launched 60-second radio ads to "educate" the public about the amendment question. Hawaii Family Forum is associated with James Dobson's Focus on the Family in Colorado Springs, Colo.

■ The national Christian Coalition and its affiliate, Hawaii Christian Coalition, according to the national group's Web site, are trying to raise \$1.5 million to pump into advertising and grass-roots efforts.

"... If it happens in Hawaii, gay couples will flock there to marry and honeymoon — and then return to their home

See Same-sex, Page A14

A BILL FOR AN ACT

PROPOSING A CONSTITUTIONAL AMENDMENT RELATING TO MARRIAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to propose an
2 amendment to article I of the Constitution of the State of
3 Hawaii, to clarify that the legislature has the power to reserve
4 marriage to opposite-sex couples.

5 The legislature finds that the unique social institution of
6 marriage involving the legal relationship of matrimony between a
7 man and a woman is a protected relationship of fundamental and
8 unequal importance to the State, the nation, and society. The
9 legislature further finds that the question of whether or not the
10 state should issue marriage licenses to couples of the same sex
11 is a fundamental policy issue to be decided by the elected
12 representatives of the people. This constitutional measure is
13 thus designed to confirm that the legislature has the power to
14 reserve marriage to opposite-sex couples and to ensure that the
15 legislature will remain open to the petitions of those who seek a
16 change in the marriage laws, and that such petitioners can be
17 considered on an equal basis with those who oppose a change in
18 our current marriage statutes.

by adding a new section to be designated and to
3 read as follows:

4

"MARRIAGE

5 Section 23. The legislature shall have the power to reserve
6 marriage to opposite-sex couples."

7 SECTION 3. The question to be printed on the ballot shall
8 be as follows:

9 "Shall the Constitution of the State of Hawaii be amended to
10 specify that the legislature shall have the power to reserve
11 marriage to opposite-sex couples?"

12 SECTION 4. New constitutional material is underscored.

13 SECTION 5. This amendment shall take effect upon compliance
14 with article XVII, section 3, of the Constitution of the State of
15 Hawaii.

“Shall the
Constitution of the
State of Hawaii be
amended to specify
that the Legislature
shall have the power
to reserve marriage to
opposite sex
couples?”

**PROTECT OUR
CONSTITUTION**



FAX

Date: 8 / 20 / 98

To: Julianne Potter

From: Margot per David Smith

Total # of pages including cover: 3

Comments: Sorry - I forgot to include
our brochure, Mahalo!

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If there are any problems receiving this fax, please contact our office as soon as possible. Thank you.

**870 Kapahulu Blvd., Suite 110
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ORGANIZATIONS

African American Association of Hawaii
Afro-American Lawyers Association
Ahupua'a Action Alliance
Alliance for Equal Rights
American Civil Liberties Union of Hawaii
American Friends Service Committee
Church of the Crossroads-Social Action Committee
First Unitarian Church of Honolulu
Hawaii Association of International Buddhists
Hawaii Ecumenical Coalition
Hawaii Green Party
Hawaii State Commission on the Status of Women
Hawaii Women's Political Caucus
Japanese American Citizens League
League of Women Voters
Marriage Project-Hawaii
Na Loio No Na Kanaka
Native Hawaiian Legal Corporation
Pacific Families Network
Parents Family Friends of Lesbians & Gays
Rainbow Peace Fund
Temple Bet Shalom
University of Hawaii Professional Assembly

INDIVIDUALS

Jackie Young	Robi Kahakalau
Al and Jane Nakatani	Jack Law
Bishop (Ret.) Yoshiaki Fujitani	George Lee
Rev. Darrow Aiona	Colbert Matsumoto
Amy Agbayani	Sen. Mike McCartney
Wally and Christine Amos	Ah Quon McElrath
Rabbi Barrack	David McEwan, M.D.
Marilyn Bornhorst	Albert Miyasato
George Chaplin	Alan Murakami
Anson Chong	Wendy Mow-Taira
Gary Gill	Tom Ramsey
Tom Gill	Maj. Gen. (Ret.) Walter Tagawa
Ku'umeaaloha Gomes	Drusilla Tanaka
Thomas Fujikawa	Allicyn Hikida Tasaka
Susan Ichinose	Andrew Winer
Louise Ing	Marjorie Ziegler

Our constitutional rights are what unite all of us in Hawaii. They reflect the spirit of *aloha* which enables us to live together in spite of our differences.

Now those rights are under attack. Powerful outside interest groups have come to Hawaii. They want to pass a Constitutional Amendment that would single out one group for different treatment by giving the legislature the power to change the Bill of Rights. If passed, it would, for the first time, take away rights that people already possess.

To everyone who cares about individual freedom, this is a very dangerous precedent. If the State Constitution can be amended to deny the rights of one unpopular group, who might be next? The same people who are supporting the Constitutional Amendment also seek to undermine other protections through a Constitutional Convention that would cost up to \$12 million. It could threaten the rights of other groups such as women, Native Hawaiians and working people. Many of us still remember the last time our rights were ignored and abused by powerful politicians.

The original drafters of our Constitution got it right. They enshrined the promise of equal protection under the law for all of us. Keep the promise by voting NO on the Constitutional Amendment on November 3.

VOTE NO

on the Constitutional
Amendment that gives
power to the legislature
to limit individual rights.

Resolution passed at the Democratic Party
Convention:

WHEREAS, The Democratic Party supports a
strong Bill of Rights in the Hawaii Constitution for
its citizens, and

WHEREAS, The Hawaii Supreme Court is the
final arbiter of the Bill of Rights, and

WHEREAS, The Democratic Party opposes any
attempt to take rights away from citizens that are
guaranteed in the Bill of Rights, and now, therefore

BE IT RESOLVED by the 1998 Hawaii State
Democratic convention that we reaffirm our
support for the protections offered by Article I of
the Constitution of the State of Hawaii, and

BE IT FURTHER RESOLVED that we oppose any
constitutional amendment to take away rights
under Hawaii's Bill of Rights.

Paid for by Protect Our Constitution/
Human Rights Campaign
870 Kapahulu Avenue #110
Honolulu, Hawaii 96816
telephone: (808) 739 6263
email: poc@luau.net

**PROTECT OUR
CONSTITUTION**



www.poc-hawaii.org

THE CONSTITUTION WAS WRITTEN TO PROTECT RIGHTS,



MEMORANDUM

TO: Julian Potter, Community Empowerment Board
FROM: Roberta Achtenberg, Esq.
DATE: December 24, 1998
RE: Review of California Marriage Initiative in preparation for a
phone call with Vice President Gore

Earlier this month it was announced that an initiative to block recognition of same-sex marriages, sponsored by Pete Knight, (R) Palmdale, had qualified for either the March or November 2000 ballot. It is possible, though unlikely, that Governor Wilson will call a special election before leaving office. If so, the initiative would be voted on in 1999, guaranteeing that the civil rights community would have insufficient time to raise money and do the necessary organizing.

For four years Knight has attempted, unsuccessfully, to pass anti-gay marriage legislation in the California Assembly. After repeated failures he, in concert with the Capitol Resource Institute and the Family Research Council, made the decision to use California's initiative process. Unfortunately, there is a long history in California of using the initiative process to scapegoat minority populations. In 1978, the Briggs Initiative, if passed, would have prohibited lesbians and gay men from being employed as public school teachers. More recently, Proposition 187 in 1995 cut off health and education benefits to illegal immigrants, and Proposition 209 in 1997 eliminated state-side affirmative action programs.

The text of the Knight Initiative is as follows:

"Only marriage between a man and a woman is valid
or recognized in California."

It could be argued that in the November 1998 election, not one member of Congress lost his or her seat because of opposition to anti-gay or anti-marriage measures whereas many anti-gay candidates lost or had slim margins of victory. It could also be argued that President Clinton's endorsement of DOMA suppressed his numbers among the gay and lesbian constituency in the 1996 presidential election -- a constituency which had been key in 1992.

On the other hand, such pro-gay office holders as Senator Barbara Boxer and Governor-Elect Gray Davis continue to state publicly their support of gay and lesbian rights and their opposition to gay marriage.

NB, Neither Davis nor Boxer has yet taken a position on the Knight Initiative.

PROTECT OUR CONSTITUTION



KEY MESSAGES

- Constitutional protections that ensure the rights of all people in Hawaii could be placed in jeopardy if the constitutional amendment passes. If the constitution can be changed to deny one group of Hawaii residents a right the Supreme Court say they have, the constitution can be changed to deny rights to others just as easily.
- The constitutional amendment, if passed, actually will for the first time in the history of this country, change a state's bill of rights to take away a right that the Supreme Court has determined people have.
- Supporters of the amendment are actually advocating giving the power of the Supreme Court to interpret the state's constitution to the legislature. In fact, they are actually attempting to overrule the Supreme Court. If they can successfully overrule a decision of the Supreme Court because the decision or the people it benefits are unpopular, it will set a dangerous precedent that could impact others.
- The amendment denies the promise of equal protection under our constitution to all Hawaii citizens by creating an exception for one group of people.
- The same people who are supporting the constitutional amendment are seeking to undermine constitutional protections through a constitutional convention. A constitutional convention would cost \$12 million and opens up the possibility that the rights of other groups could be harmed such as labor, native Hawaiians, women and other groups.

QUESTIONS AND ANSWERS

Q: Isn't same-gender marriage the issue?

A: That's only part of it. The real issue is that our constitution should provide equal protection to all people in Hawaii and no one should be singled out for discrimination. The issue might be marriage today, but who is next?

Q: Isn't this just a ban on same-gender marriage?

A: No. This amendment actually gives the legislature the power to decide this constitutional issue. In fact it is about the legislature trying to overrule the Supreme Court.

Q: Isn't it true that the framers of Hawaii's original constitution never intended that same-gender marriage should be legal when they included protections against discrimination

based on sex?

A: The original intent of the constitution was to have all Hawaii citizens treated equally and fairly. The framers of the constitution were very clear that the Supreme Court would interpret the constitution and not the legislature. The constitutional amendment is what violates the intent of the framers by giving the legislature the power to over rule the Supreme Court.

Q: Aren't you hiding behind the constitution in order to make same-gender marriage legal?

A: No one hides behind the constitution. The constitution is there to protect the rights of all citizens and that's what this campaign is about.

Q: Does your group support same-gender marriage?

A: Some people in our group do and some people don't, however we are all in agreement that giving the power of the Supreme Court to interpret the state's constitution to the legislature is wrong and sets a dangerous precedent.

Q: Isn't a constitutional convention part of the democratic process and doesn't it ensure that the people have a voice.

A: Not exactly. Even the legislators who voted to place the question on the ballot said there's no compelling reason to hold a convention now. A constitutional convention would be cost \$12 million and be dominated by special interests pursuing special agendas, which could be harmful to native Hawaiians, labor, women, and other groups.

OTHER GROUPS, OTHER RIGHTS AT RISK

- Labor - collective bargaining, the establishment of the initiative system in Hawaii that is being used in other states to gut labor's political influence.
- Women - a women's right to choose continues to be under assault in the legislature year after year.
- Native Hawaiians - the Office of Hawaiian Affairs was created by the 1978 Constitutional Convention and could be in jeopardy if a new convention was convened. In addition gathering rights are a major concern.