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State lawmakers back Prop. 8 challenge

By Lisa Leff, Associated Press

SACRAMENTO ---- A legislative committee on Tuesday endorsed legal efforts to overturn California's voter-approved ban on same-sex marriage, as gay rights activists worked the halls of the Capitol to try to get the full Legislature on record as opposing Proposition 8.

After hearing conflicting and often emotional testimony about who deserves the last say on the marriage question, the Assembly Judiciary Committee voted 7-3 in favor of a resolution stating that citizens lacked the authority to put the gay marriage ban directly to voters.

Supporters of the resolution, authored by Assemblyman Tom Ammiano, D-San Francisco, said that because the November measure stripped same-sex couples of a right they already enjoyed, it should have been up to the Legislature to decide whether to submit it to a popular vote. That is the process California has for making significant changes to the state Constitution.

"Some rights are so fundamental in our federal and state Constitution, we don't allow them to be changed by a simple majority vote," said **Assemblyman Dave Jones, D-Sacramento**, who voted in favor of the resolution, adding that interracial marriages would have remained illegal for decades if left to public opinion instead of the courts.

Prop. 8 passed with 52 percent of the vote in November. By amending the state Constitution, it overturned the California Supreme Court decision last year that legalized same-sex marriage.

The Supreme Court has scheduled oral arguments for March 5 on a series of lawsuits seeking to overturn Prop. 8. The suits say the ballot measure was improperly enacted and is itself unconstitutional because it singles out a minority group for discrimination.

Assemblyman Steve Knight, a Palmdale Republican who serves on the Judiciary Committee and voted against the resolution, said he thought it was premature for lawmakers to weigh in on the pending case.

"This should not be something that comes before this committee as a resolution saying the Legislature believes they are the big boys and will tell you what to do," Knight said.

Several speakers at Tuesday's hearing said they objected to legislators attempting to circumvent "the will of the people."

"A majority of voters, your constituents, have voted to define marriage as being between a man and a woman," Cindy Walters of Victorville told committee members.

Since advocates are arguing that a two-thirds vote of the Legislature was required to qualify the gay marriage ban for the ballot, they want to have lawmakers on the record agreeing with that position when the Supreme Court begins its deliberations, said Geoffrey Kors, executive director of the gay rights group Equality California.

"It's important that the Legislature makes it clear that they are not OK with having their

power usurped,” Kors said.

The resolution goes next to the full Assembly. The state Senate is scheduled to consider a companion measure in coming weeks.

Gay marriage supporters fanned out through the Capitol on Tuesday hoping to lobby budget-weary lawmakers into supporting them.

Bryce McAnally, 28, of Olivehurst, stopped in to see his state senator, Sam Aanestad, R-Grass Valley, but did not make it past the receptionist, who informed him that Aanestad would be voting against the resolution. McAnally said he had never lobbied anyone before and found the experience daunting.

“It’s a personal issue, so people tend to get emotional on both sides,” he said.