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FOR YOUR INFORMATION

Times-News

Twin Falls, Idaho

Thursday March 9, 2017

by Nathan Brown

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Abortion foes hope repealing law now will let them ban later

BOISE — A bill to legalize a form of abortion passed the Idaho House Wednesday — a strategic move the bill’s anti-abortion supporters hope will preserve the state’s options to ban the procedure later.

The bill, if it becomes law, repeals two laws passed in 2015 banning the use of telemedicine, or consulting with the prescribing doctor online rather than in person, to prescribe abortion pills. Planned Parenthood sued over the ban, and they and the state reached a settlement in January saying the case would be dropped if the ban is repealed before the end of the legislative session. If it isn’t, U.S. District Court Judge B. Lynn Winmill will enter a ruling voiding the laws.

For the Republicans in the House, most of whom are strongly anti-abortion, it was a difficult vote, and some audibly choked up as they debated. However, the supporters said, a vote to repeal would mean there isn’t a court ruling that could threaten similar bans in other states, and that Idaho would preserve its options to ban the procedure in the future.

“This may be the most difficult thing I have ever done in this place,” said Rep. Tom Loertscher, R-Iona.

Loertscher said voting “Yes” means regrouping to fight again, not surrendering, comparing it to George Washington’s retreat during the Revolutionary War after his defeat at the Battle of Long Island.

“You don’t storm the gate,” said Rep. Greg Chaney, R-Caldwell, comparing it to the slow battle over civil rights that transpired between the 1896 Plessy vs. Ferguson and 1954 Brown vs. Board of Education U.S. Supreme Court rulings. “You wait until you have the terrain and the support and the troops to make your attack successful.”

The bill passed 52-18, with all the Democrats and a handful of Republicans voting “No.” The three-page bill was read in full because Rep. Heather Scott, R-Blanchard, objected to waiving reading — bills are very rarely read in full, although this is the second time this week it has happened — and the first two pages of the bill largely consist of a defense of the Legislature’s actions, including statements about the risks of medication abortions that advocates for its legality say are not supported by the facts.

Rep. Melissa Wintrow, D-Boise, said it was a sad day for her as well that a bill containing such “inaccurate and false findings” was passing the House in International Women’s Day. At least two Democrats, she and Rep. John McCrostie of Garden City, walked out while the bill was being read.

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“The bill findings are inaccurate, they do not reflect all of Idaho and probably not all of this body,” she said. “Not every Idahoan believes this is constitutional.”

Some Republicans have been blaming Attorney General Lawrence Wasden’s office for the state’s legal defeat, saying they no longer have grounds to win the case because the Legislature’s intent in passing the laws was not adequately reflected in the court record. Rep. Vito Barbieri, R-Dalton Gardens, said the Legislature doesn’t have an effective check on the other branches of government.

“Though my countenance is calm and my words are measured, in my heart I am wildly gesticulating,” he said. “I am passionately pleading, and I am crying deep crocodile tears for the devastation, the destruction, the blood and the death of the abortion industry that is supported by the judicial and executive branches.”

Majority Leader Mike Moyle, R-Star, said he was uncomfortable with voting yes but saw it as the only way to address the issue in the future. He suggested the Legislature could use its power of the purse to address Barbieri’s separation of powers concerns.

“Take their darn money,” he said. “We set their budgets. You want to fix it, you know how to fix it.”

Hours later, the state’s Constitutional Defense Fund, which consists of the governor, the attorney general, the Speaker of the House and the Senate President Pro Tem, met and voted to approve paying Planned Parenthood a little more than \$151,000 in legal fees as part of the settlement.

Assistant Chief Deputy Attorney General Brian Kane, who was at the meeting, declined to comment on what some House Republicans have been saying about his office’s handling of the case.

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