

M O T I O N

Recently there has been a great deal of interest expressed in the enactment of domestic partnership legislation. Domestic partnership legislation would enable single adults to designate a significant other in a relationship who would be afforded partner or survivor status in society. The person so designated would be allowed visiting privileges in hospitals, the ability to be listed as a dependent and a beneficiary on insurance policies and to be afforded survivor benefits.

The legislation should include provisions to allow for tax dependent status where appropriate.

I THEREFORE MOVE that the Legislative Analyst and the City Attorney research the possibility and implementation of such an ordinance to provide domestic partnership status for residents in the City of Los Angeles and for all employees of the City of Los Angeles.

PRESENTED BY

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PEGGY STEVENSON  
Councilwoman, 13th District

SECONDED BY

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PAT RUSSELL  
Councilwoman, 6th District

April 26, 1985

JOEL WACHS  
Councilman, 2nd District

GOV. OPERATIONS

62

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**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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September 19, 1985

TO: Honorable Members of the  
Governmental Operations Committee

FROM: William R. McCarley  
Chief Legislative Analyst

DOMESTIC PARTNERSHIP LEGISLATION

SUMMARY

At the request of your Committee Chairperson, this office has obtained information on domestic partnership legislation of other cities, and has identified concerns which should be addressed if such legislation is to be implemented in the City of Los Angeles.

Domestic partnership legislation is an enactment which extends rights and benefits otherwise given to spouses and family dependents, to persons in non-spousal domestic relationships.

The Cities of West Hollywood and Berkeley, California have adopted domestic partnership ordinances, while Madison, Wisconsin has a proposed policy under consideration. This report summarizes these cities' policies, and lists possible elements of domestic partnership legislation for your consideration.

Among the possible elements of such legislation, a relative few may be adopted through action of the Council and Mayor. Others would require amendment of the City Charter, and a considerable number would require action by the Federal or State governments.

The impact of domestic partnership legislation cannot be specifically identified without policy direction on the elements to be included in this legislation.

RECOMMENDATION

That your Committee review the possible elements of a domestic partnership policy for the City of Los Angeles including those that are included as part of this report; and if your Committee wishes to proceed with such a policy, that the Chief Legislative Analyst in cooperation with the City Attorney and other involved departments present a report and specific actions required to implement such a policy.

BACKGROUND

Three cities have been found which either have or are actively considering domestic partnership legislation:

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West Hollywood, California has adopted an ordinance allowing persons to register domestic partnership status with the city. This registration confers visitation rights at health care and jail facilities to partners. The West Hollywood rent control ordinance also provides that renters may not be evicted solely because of domestic partnership status.

Berkeley, California has adopted a policy extending benefits to domestic partners of that city's employees, including such areas as medical and dental coverage, sick time and bereavement leave.

Madison, Wisconsin is considering a broader proposal which would define "alternative families" as those including two or more adults in a mutually supportive relationship, along with their dependent children. In any such family, spousal-type benefits could only be conferred on one other adult.

The Madison proposal extends to anyone who meets the criteria and wishes to register. It would require that businesses in that city extend spousal-type benefits, including such establishments as health care facilities, membership organizations, and in company personnel practices.

Copies of these cities' ordinances or proposed policies are attached for reference.

Following is a list of possible elements of a domestic partnership ordinance:

1. Hospital visiting rights.
2. Dependent/beneficiary status for insurance purposes.
3. Retirement survivor benefits.
4. Tax dependent status. (Note - points 1 through 4 are cited in motion on Council File No. 85-0726.)
5. Dependent status for family illness sick time and bereavement leave.
6. Jail visitation rights.
7. Rights in membership organizations as are extended to spouses.
8. Legally act for partner when partner is incapacitated (e.g., authorize medical care, conduct financial transactions).

9. Include in conflict of interest requirements as is done for spouse.
10. Same public housing rights as a spouse.
11. Change zoning laws where restrictions apply to non-related persons.
12. "Alternative family" concept allowing two or more adults.
13. Rights as guardian of partner's dependent children.

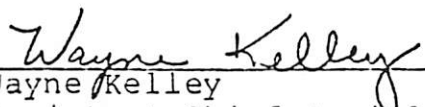
In considering such legislation, a primary decision to be made is whether it is to apply only to City employees or to the general public.

Four elements of this list are included in the Council motion: (1) hospital visiting rights, (2) dependent/beneficiary status for insurance, (3) retirement survivor benefits and (4) tax dependent status. None of these elements are under the direct control of the City Council and Mayor. Regulation of health care facilities, insurance matters and tax exemptions are areas of State and Federal jurisdiction. A change of retirement benefits would most directly require a Charter amendment, although it could be accomplished by court decision if the City established a registration system as done in West Hollywood and the courts extended the definition of dependent to include such persons.

In a March 1985 report, the City Administrative Officer estimated the cost of extending City employee (including DWP) health insurance benefits to domestic partners at \$1.7 to \$3.4 million annually. The costs of providing retirement survivor benefits, time off for family illness and bereavement leave were not estimated in the CAO report.

  
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William J. Speedie  
Analyst

Approved:

  
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Wayne Kelley  
Assistant Chief Legislative Analyst

Attachments: West Hollywood, CA Ordinance  
Berkeley, CA Policy  
Madison, WI Proposal



CITY OF LOS ANGELES  
INTER-DEPARTMENTAL CORRESPONDENCE

Date: March 4, 1985

To: Zev Yaroslavsky, Councilman, Fifth District, Attn: Alisa Katz

From: Keith Comrie, City Administrative Officer *KBC*

Subject: EXTENSION OF CITY EMPLOYEE DEPENDENT  
BENEFITS TO DOMESTIC PARTNERS

You have raised the question of the extension of employee dependent benefits to non-spousal stable domestic relationships. This issue has arisen in past negotiations with City employee units but was never pressed. Inquiries of health insurance companies in 1980 revealed that some City insurers would accept the concept if an adequate definition of the relationship could be developed. Other insurers, such as Kaiser, were very negative about the proposal, citing administrative difficulties.

We can only speculate as to the number of employees who might elect this coverage. Data on employee marital status is updated on a voluntary basis by each individual employee. The varieties of lifestyles and ways that employees structure their job benefits also make it difficult to develop any reliable data. We can use our health insurance enrollment statistics as an indication of the number of single employees. However, many working husbands and wives select less than two-party or full family coverage in order to split the cost of health insurance between employers. Additionally, some people who are enrolled at the two-party or family rate are single, head of household and thus provide coverage for children or other dependents. Some of these employees might elect domestic partnership coverage.

The County Regional Planning Commission has provided an estimate that 6.3% of the population lives in "non-family" households (1980 Census). There is no way to know if these are college roommates or domestic partners or if there might not be other Census categories in which domestic partners might be counted. Thus, we are using an estimate of 5-10% as the best indicator of the number of people living in such arrangements. Applying these percentages to the 40,000 City employees (including DWP), there could be 2,000 - 4,000 employees who would be eligible to apply for these benefits. For health insurance alone, the additional costs would be between \$1.7 - \$3.4 million. Other dependent-related benefits, such as time off for family illness and bereavement leave, would mean additional costs to the City.

The most important cost implication for this change in the definition of spouse would be in the area of the retirement benefits. A Charter amendment would be needed to provide such an extension outright. However, if the City established an affidavit relating to

non-spousal domestic partnerships as outlined below, future court rulings might extend such definition to retirement benefits without such an amendment. These considerations should be studied carefully before a decision is made.

The cities of Berkeley and West Hollywood have recently acted on this issue. Berkeley has been directed to study the issue and develop a plan for adoption in March, 1985. West Hollywood has passed an ordinance which will be effective in mid-March. Both municipalities require a statement or affidavit which sets forth the following criteria:

That the partners:

1. Are not related by blood that would preclude marriage in California,
2. Are not married or related by marriage,
3. Share the common necessities of life,
4. Are eighteen years or older,
5. Are competent to enter a contract,
6. Are the sole domestic partner of each other,
7. Are responsible for each other's welfare,
8. Will notify the City of any change in the partnership,
9. Have not already claimed a domestic partner.

The employee and the partner must file the statement of domestic partnership. If a partnership ceases and the employee so notifies the city, a new statement cannot be filed until six months after the termination notification is filed. Berkeley has additional language regarding employee liability for false statement on the affidavit and also advises the partners that they consult an attorney on other legal ramifications of the statement, notably, potential "palimony" suits.

Attached is the language developed by representatives of the Deputy City Attorneys Unit in 1980. The determination criteria are clearly spelled out but the determination process is not. If such a system were begun in the City, the review procedure and appeal process would have to be established.

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Attachment

64

Currently, providers of health and dental insurance permit coverage of an employee's spouse and unmarried children under a specified age. It is proposed that coverage be extended to an employee's "spouse or a person with whom the employee cohabits in a stable relationship." "Cohabit" means to live together as family partners.

In determining whether a stable relationship exists, employer and provider can require that the employee provide information concerning the following: (1) length of cohabitation; (2) any express agreement, written or oral, to live as family partners; (3) extent to which employee and cohabitor hold themselves out to others as family partners; (4) extent to which income and expenses are shared; and (5) whether employee and cohabitor have assumed joint responsibility for the care and guidance of a child. In addition, employee should be permitted to provide any other information which employee believes is relevant evidence of a stable relationship.

Employer and provider shall then determine whether it can reasonably be concluded that a stable relationship exists. No one category of information should be determinative; the assessment would be made based on all the information available. If it can reasonably be concluded that a stable relationship exists, coverage would be extended; if not, coverage would be denied.

An appeal process for cases where coverage is denied should be devised within the Employee Benefits Division of the Personnel Department, or perhaps under the auspices of the Board of Civil Service Commissioners.