



For San Luis Obispo and Santa Barbara Counties

February 17, 1997

Central Coast Commission for Senior Citizens

208 West Main Street, Suite B Santa Maria, CA 93454-5027 (805) 925-9554

Honorable Kevin Murray State Assembly State Capitol Sacramento, CA 95814

RE: AB 54

Board of Directors

- John Lemons, Morro Bay President
Bill Storm, San Luis Obispo Vice President
David Gorin, Santa Maria Secretary
Marjorie Johnson, Santa Barbara Treasurer

Members

- Catherine Campbell, Santa Maria
Harold Heidler, San Luis Obispo
Vincent Martinez, Santa Maria
Dennis Pankratz, Santa Maria
Stephen Stone, Santa Barbara
James C. Thomas, Morro Bay
D. Paul Wilson, Paso Robles
Bernard Zerr, Morro Bay

Advisory Council

- Irene Harter, Santa Maria Chairperson

Members

San Luis Obispo County

- Thomas Conroy
Lisa Evans
Marilyn Fairbanks
Nell Hughes
Barbara Mann
Kacy Matheny
Carmen Singh
Roy M. Smith
Kathleen Wafer

Santa Barbara County

- Beatrice Chenoweth
Lisa Marie Coffey
Lucille Gilbert
Jay Gordon
W.C. Jamison
Beverly Lynch
Mary Lou Parks
Jack Reitzen
Yvette M. Small
Minna E. Smith
Enid Sobors
Viola Vine
Eethyl Withers
Supervisor Tom Urbanske

Dear Mr. Murray,

Your letter dated January 17, 1997 has been received. You present information regarding AB 54, which you have introduced. AB 54 regards specific rights for domestic partners.

It is the intent of this letter to advise you of the decision of the Area Agency on Aging Advisory Council to support AB 54. As your records indicate, we also supported AB 2810, which was introduced in 1994.

This bills regards the rights of domestic partners. Older persons are clearly one of the prime beneficiaries of this bill. As you may know some older persons live together to avoid financial penalties imposed by retirement pensions for married couples. This in no way decreases their commitment to each other but does simplify their lives.

We believe that this bill presents a realistic view of today's family and indeed promotes the value of family. It would also give domestic partners conservatorship rights and a domestic partner option on the official State Will form.

The bill's designation of the authority of the patient to determine who can visit them in health care facilities is another feature that may benefit older persons. We believe it is a thoughtful legislative proposal and merits our supports. We are sending a copy of this letter to our locally elected state legislators so they know of our support of AB 54.

Thank you for your continued leadership with this legislation.

Sincerely,

Irene Harter

Irene Harter, Chair AAA Advisory Council

c: Assemblyman Brooks Firestone
Assemblyman Tom Bordonaro
State Senator Jack O'Connell

**COMMISSION ON AGING**

1020 9TH STREET, ROOM 260  
SACRAMENTO, CA 95814  
t) 322-5630



March 8, 1994

Honorable Richard Katz  
State Capitol, Room 3146  
Sacramento, CA 95814

Dear Assemblyman Katz:

The California Commission on Aging (CCoA), takes great pleasure in informing you of our support position for **AB 2810 Domestic Partners Registration** and **AB 2811 Domestic Partners Health Care**.

The Commission believes the bills could have a significant impact on the lives of many senior citizens in California who find themselves in a position of having to live together without entering into a formal legal arrangement. The reasons include Social Security provisions as well as many private pension plans which reduce benefits for a married couple. In other cases financial survival depends upon the sharing of limited incomes simply to meet rent and basic living expenses. These arrangements often lead to lasting relationships and bonds which can only be financially protected under the provisions in these bills.

Once again, the Commission offers our full support for AB 2810 and AB 2811. Please contact Robert MacLaughlin, Legislative Coordinator in our office at 916-322-5630 if you have questions about our position.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raymond C. Mastalish".

Raymond C. Mastalish, Chair

cc: Members, California Commission on Aging



**CALIFORNIA SENIOR LEGISLATURE**  
1020 Ninth Street, Room 260  
Sacramento, CA 95814 (916) 322-5630

February 25th, 1994

Honorable Richard Katz  
State Capitol, Room 3146  
Sacramento, CA 95814

Re: AB 2810 -- SUPPORT

Dear Assemblyman Katz,

The California Senior Legislature (CSL) supports AB 2810, which you recently introduced, related to domestic partnerships. Recognizing domestic partnerships and providing for various benefits for those partners, acknowledges what many older people have already discovered. Senior citizens have long been aware of the benefits of cohabitation and mutual dependence (whether financial, emotional, physical or otherwise) in order to improve the quality of their lives.

For instance, until 1989, the California Department of Housing and Community Development administered the Senior Citizen Shared Housing Program (SCSHP, for which the California Senior Legislature is currently pursuing re-authorization). The SCSHP helped match older people (who have excess living space) with others to share expenses and responsibilities. As the program developed, it became apparent that the participants' lifestyles were developing too. Their relationships began to transcend the conventional interpretation of "room-mates" or "friendships" and were more accurately described as "familial." Your AB 2810, if passed by the Legislature and signed by the Governor, would support and foster the mutually beneficial relationships that the SCSHP once encouraged. The bill also promotes and encourages self-determination an issue of tremendous concern among the elderly. AB 2810 would provide many opportunities for partners to contribute to, and support each other in order to maintain or enhance an elder's quality of life. Based on the principles you raise in AB 2810, the California Senior Legislature is pleased to support your effort.

If you have any questions regarding our position, please feel free to contact Robert MacLaughlin in our office at 916/322-5630.

Sincerely,

Senior Senator Laing Sibbet  
Chair, Joint Rules Committee  
California Senior Legislature

# CONGRESS OF CALIFORNIA SENIORS

February 28, 1994

Assemblyman Richard Katz  
State Capitol  
Sacramento, CA 95814

Re: AB 2810

Dear Assemblyman Katz:

The legislative committee of the Congress of California Seniors unanimously adopted a support position on AB 2810.

Our understanding of the legislation is that it provides appropriate safeguard for verifying the validity of the domestic partnership.

The bill will allow rights given to other relationships to be extended to domestic partners.

This legislation is right and is long overdue. We support passage of AB 2810 and authorize use of the "Congress of California Seniors" name in support thereof.

Sincerely,

  
Howard L. Owens, Legislative Director



# WL - CA

**OLDER WOMEN'S LEAGUE OF CALIFORNIA**

**P. O. BOX 188577 • SACRAMENTO, CA 95818**

**(916) 444-2526 • Fax (916) 441-1881**

MARCH 28, 1994

## **SUPPORT FOR ASSEMBLY BILL 2810**

Assembly Member Richard Katz  
State Capitol  
Sacramento, CA 95814

Dear Assembly Member Katz:

The Older Women's League supports your bills for domestic partnership. Two adults who live together and who have formed a lasting relationship should be given recognition and allowed to enjoy certain benefits.

At this time most of us find in our circles of friends people of different ages and different sexual orientations who live together and who have formed a lasting relationship. This is particularly true for older heterosexual couples who may be hampered from a marriage because of financial constraints or problems that have to do with financial benefits for their children. Two older widows also find that living together can make a much more satisfactory life, not only from the financial considerations but also from the needs of meeting the problems of daily living.

These people need such rights as hospital visitation, conservatorship, and the right to have their friendship recognized by society.

We believe that AB 2810 will give to all Californians the rights which many already enjoy because to their employment or their place of residence.

Yours truly,

Betty Perry  
President of the Older Women's League of California

# GRAY PANTHERS Of Sacramento



**age and youth in action**

925 PATRICIA WAY  
SACRAMENTO, CALIFORNIA 95864  
(916) 739-1540

March 24, 1994

Hon. Richard Katz  
California Assembly  
State Capitol  
Sacramento, CA 95814

Dear Assemblyman Katz:

We are writing in support of your Assembly Bills, AB 2810 and AB 2811.

The provisions in the bills recognize changing lifestyles and a sensitivity to those changes.

Too frequently, we have found, that when a significant other is hospitalized, it is not possible to be there to comfort. Your measures would assure that other than blood relatives have the right to be at the bedside of a sick or dying friend.

Although some of the issues are marred by unfeeling and intolerant persons, we believe that it is time to acknowledge alternatives in living.

Civilized society must advance and throw off prejudices which are unfitting in the modern world.

Sincerely,  
GRAY PANTHERS OF SACRAMENTO

*Frances Jones*  
Frances Jones  
Co-Chair



# Older Women's League

Sacramento Capitol Chapter  
P.O. Box 161646  
Sacramento, CA 95816

March 9, 1994

**URGENT: PLEASE NOTE THE SUPPORT OF AB 2810 AND AB 2811 BY THE  
OLDER WOMEN'S LEAGUE, CAPITOL CHAPTER**

Assembly Member Richard Katz  
3146 Capitol Building  
Sacramento, CA 95814

Dear Assembly Member Katz:

The Older Women's League is in full support of AB 2810, the domestic partners registration bill. Two adults who have formed a lasting relationship and commitment to each other should be recognized and allowed the benefits and responsibilities which go with sharing a life together. It can only add stability to their lives and strengthen their commitment.

This bill can aid many older people widowed, divorced or alone who wish to share life with another but do not wish to marry for a variety of reasons. Their devotion to each other and desire to care for one another is strong but the legal and psychological ramifications of marriage may cause barriers. This situation is not uncommon. AB 2810 could deepen this commitment and give them some necessary legal rights--hospital visitation, conservatorship and the right to will property to one another.

AB 2811 is a necessary extension of AB 2810 by extending the meaning of "family member" to include persons who meet the local definition of "domestic partner" as related to the Public Employees' Medical and Hospital Care Act. We strongly support AB 2811 as well as AB 2810.

Sincerely,

Ruth Kletzing  
President

SENATE RULES COMMITTEE

AB 1059

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 445-6614

Fax: (916) 327-4478

THIRD READING

Bill No: AB 1059

Author: Migden (D)

Amended: 9/4/97 in Senate

Vote: 21

SENATE INSURANCE COMMITTEE : 6-3, 7/2/97

AYES: Rosenthal, Hughes, Johnston, Peace, Schiff, Sher

NOES: Johnson, Leslie, Lewis

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

ASSEMBLY FLOOR : 42-35, 6/2/97 - See last page for vote

SUBJECT : Domestic partners

SOURCE : The author

DIGEST : This bill requires health plans and health insurers that offer group coverage benefits to the dependents of an employee or subscriber to offer those benefits on the same terms to a domestic partner, as specified.

Senate Floor Amendments of 9/4/97 delete the definition of "domestic partners" used for the purpose of determining eligibility for domestic partner coverage by a health plan or a health insurer.

ANALYSIS : Existing law:

1.Provides for health insurance and health care benefits to spouses and dependents in a number of areas.

2.Prohibits discrimination based on marital status or sexual orientation in a number of contexts, including insurance.



**This bill:**

1. Requires health plans and health insurers that provide group coverage to provide the same benefits to the domestic partner of a subscriber or employee as they provide to dependents, and subject to the same terms and conditions.
2. Requires a health care service plan or a disability insurer that provides hospital, medical or surgical benefits for employees, subscribers or other persons entitled to elect coverage and their dependents to enroll as a dependent, upon application by the employer or group administration, as a domestic partner or the employee, subscriber or that other person.
3. Specifies that nothing in this bill is to be construed to expand the requirements of federal law which were added by the Consolidated Omnibus Budget Reconciliation Act of 1985.

Background : In 1984, the City of Berkeley was the first employer in the country to offer benefits to the domestic partners of its employees. In 1993, the Insurance Commissioner convened a task force to address the problem of unfair insurance discrimination against unmarried consumers. The Task Force report pointed out the discrimination that exists, and recommended recognition of domestic partnerships for insurance purposes. Now over 500 employers, including cities, states, universities, and private sector businesses, for example, IBM, Apple Computer, Disney, Bank of America, Genentech, Orrick, Time Warner and, most recently, the San Francisco 49ers, provide such benefits.

However, while many health plans offer this coverage to large employers, they often deny the benefit to smaller employers, with Kaiser being a notable exception. There appears to be no economic basis for excluding this coverage. In a number of cases, employers and insurers initially included a surcharge on domestic partnership coverage to address any potential adverse economic impact. Such surcharges have almost universally been dropped as experience shows that costs for domestic partners are nearly identical to costs for spousal coverage. Employer

fears of huge numbers of fraudulent claims also proved groundless.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes  
Local: Yes

SUPPORT : (Verified 9/5/97)

Aids Project Los Angeles  
California Church IMPACT  
California Labor Federation, AFL-CIO  
California Nurses Association  
California Optometric Association  
California School Employees Association

California School Employees Association  
 California Teachers Association  
 California Women's Law Center  
 City of Berkeley  
 City and County of San Francisco

Clergy:

John P. Bingham, Samaritan Counseling Center  
 Vincent Brady, Cathedral of the Blessed Sacrament  
 Donald G. Brown, Trinity Episcopal Cathedral  
 Carol M. Carter, Wesley United Methodist, First United

Methodist

Catherine M. Campbell, Hispanic Office, Episcopal  
 Diocese of Northern California, La Mission Hispana el  
 Divino Salvador

Barry F. Cavaghan, United Campus Ministry  
 Steven Fietz, First Christian Church  
 George E. Herbert, Westminster Presbyterian Church  
 George K. Meier, Pioneer Congregational Church  
 Jay K. Pierce, Central United Methodist Church  
 Carlos Schneider, St. John's Lutheran Church

Congress of California Seniors

East Bay Municipal Utility District  
 Kaiser Permanente Medical Care Program  
 LIFE Lobby

Older Women's League of California

Santa Barbara Stonewall Democratic Club  
 Spectrum Institute  
 Unity Pride Coalition of Ventura County

OPPOSITION : (Verified 9/5/97)

Capitol Resource Institute  
 Committee on Moral Concerns

ARGUMENTS IN SUPPORT : According to the author's office,  
 this bill was introduced to address the health insurance  
 concerns of unmarried couples. The Unruh Civil Rights Act,

as well as an explicit regulation applicable to the  
 business of insurance, prohibits discrimination based on an  
 individual's marital status or sexual orientation. Yet  
 some health plans currently offer benefits to spouses that  
 are not available to a person's unmarried partner. This  
 problem is particularly acute for same-sex couples who  
 cannot have their relationships recognized as marriages.  
 Elderly couples who form committed and exclusive  
 relationships share a similar problem. This bill helps  
 resolve the current inequity in law with respect to health  
 benefits. Unmarried couples will not be denied access to  
 health benefits for their partners solely because of their  
 sexual orientation or marital status.

The author argues that more than a decade of experience  
 with domestic partnership demonstrates that it is both  
 pro-civil rights and pro-business. A fast-growing list of  
 businesses is now offering domestic partner benefits to  
 their employees, including some insurance companies. It is  
 mostly smaller businesses that this bill would assist,  
 which is why the bill is intended to cover the Health  
 Insurance Plan of California. The author acknowledges  
 moral differences in the discussion of domestic

moral differences in the discussion of domestic partnership, and concerning same-sex couples in particular, but points out that nearly all religious denominations are re-examining their position.

Supporters present legal, health, social, religious and economic arguments in favor of the measure. On economic grounds, Spectrum Institute (SI) notes that virtually all the business-centered fears initially expressed about domestic partnership have failed to materialize. Experience has shown that the cost of providing domestic partner benefits is the same as or less than that of providing spousal benefits.

Smaller employers who want to compete for employees have a hard time finding insurers who will offer this coverage. The City and County of San Francisco cites the difficulties employers face in offering domestic partner health coverage because it is unavailable or too expensive. SI notes that this bill will make it easier for small businesses to compete for a valuable pool of employees.

Citing religious reasons in support, clergy from both the Protestant and Roman Catholic communities note that both the Old and New Testaments recognize a number of family forms. They argue it is possible to support the bill on moral, and specifically, on Biblical grounds. Moreover, they maintain that it is fundamentally just and right that

all persons have access to health coverage. The Life Lobby and the California Nurses Association emphasize the social importance of partnership to provide mutual protection. Because of the inability to enter a recognized marriage under state law, committed same-sex couples have long struggled within the legal system to protect one another. The societal expectation that, when one partner has a job, the other will be covered for health costs breaks down with same-sex couples. This not only creates hardships for both partners, but exacts a cost to the state. The state may be called upon to pick up the costs for the uninsured domestic partner. Various supporters also present the legal argument that this bill is a matter of civil rights and equal protection under the law.

ARGUMENTS IN OPPOSITION : The Committee on Moral Concerns opposes the bill, emphasizing five points. First, homosexual couples are simply friends, and should not be viewed as dependent on one another irrespective of their own assessment of the importance, intimacy and permanency of their relationship. Second, heterosexual couples who are unwilling to commit to a marital relationship should not be given taxpayer recognition. Third, roommates might sign up for these benefits, and the constitutional right to privacy would prevent the government from determining whether their relationship was more than just casual. Fourth, the cost to employers of domestic partnership benefits would result in lower wages, higher prices, loss of jobs and insurance coverage for other workers. Fifth, the historical family arrangement works best for society. The Capitol Resource Institute opposes this bill because it

would force insurance companies to offer domestic partner benefits to employers, which they can already do.

ASSEMBLY FLOOR :

AYES: Alquist, Aroner, Bowen, Brewer, Brown, Caldera, Cardenas, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Floyd, Gallegos, Hertzberg, Honda, Keeley, Knox, Kuehl, Kuykendall, Lempert, Martinez, Mazzoni, Migden, Murray, Napolitano, Ortiz, Papan, Perata, Scott, Shelley, Strom-Martin, Sweeney, Thomson, Torlakson, Villaraigosa, Vincent, Wayne, Wildman, Wright, Bustamante  
NOES: Ackerman, Aguiar, Alby, Ashburn, Baldwin, Battin, Baugh, Bordonaro, Bowler, Campbell, Cardoza, Frusetta, Goldsmith, Granlund, Havice, House, Kaloogian, Leach, Leonard, Margett, McClintock, Miller, Morrissey, Morrow, Olberg, Oller, Pacheco, Poochigian, Prenter, Pringle, Runner, Takasugi, Thompson, Washington, Woods  
NOT VOTING: Baca, Machado, Richter

DLW:ctl 9/5/97 Senate Floor Analyses  
SUPPORT/OPPOSITION: SEE ABOVE  
\*\*\*\* END \*\*\*\*

AB 54  
Page 1

Date of Hearing: April 2, 1997

ASSEMBLY COMMITTEE ON JUDICIARY  
Martha Escutia, Chair

AB 54 (Murray) - As Amended: March 31, 1997

SUBJECT: DOMESTIC PARTNERSHIP.

KEY ISSUE: SHOULD THE STATE ADOPT A STATUTORY SCHEME FOR THE REGISTRATION OF DOMESTIC PARTNERS?

SUMMARY: This bill would authorize state recognition of domestic partners. Among other things, it requires that domestic partners share a common residence, agree to be jointly responsible for each other's basic living expenses, be at least 18 years of age, and file a Declaration of Domestic Partnership (DDP) with the Secretary of State. It also requires health facilities to allow a patient's domestic partners and relatives of a domestic partner. Specifically, this bill:

- 1) Defines domestic partners and provides that a domestic partnership shall be established when all of the following occur:
  - a) Both persons have a common residence.
  - b) Both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership.
  - c) Neither person is married or a member of another domestic partnership.
  - d) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.
  - e) Both persons are at least 18 years of age.
  - f) Both persons file a Declaration of Domestic Partnership (DDP) with the Secretary of State.
- 2) Provides for the registration of domestic partners with the Secretary of State by: a) requiring the Secretary of State to provide forms for establishing and terminating domestic partnerships; and b) allowing the Secretary of State to establish, regulate and charge fees for the actual costs of processing the above forms.
- 3) Prohibits a person from filing a new DDP until at least six months after the date that a Notice of Termination of Domestic Partnership (NTDP) has been filed with the Secretary of State (unless the previous domestic partnership ended as the result of the death of one of the partners).
- 4) Requires health facilities to allow a patient's domestic

AB 54  
Page 2

partners, the children of the patient's domestic partner, and the domestic partner of a patient's parent or child to visit with the patient.

- 5) Adds references to domestic partners to the numerous references to a spouse, other relatives or the spouses of other relatives throughout the Probate Code provisions regarding conservatorship and statutory wills (e.g., Probate Code sections providing who shall receive notice of proceedings; who may qualify as, or nominate, a conservator; whose living expenses may be paid from the estate of a conservatee; and who may be named as a beneficiary in a statutory will).

EXISTING LAW:

- 1) Does not provide for state recognition of unmarried individuals.
- 2) Provides a statutory scheme within the Probate Code for the appointment, description of rights and responsibilities, and termination of appointment of conservators and guardians.
- 3) Provides for a statutory will with appropriate forms.
- 4) Does not require health facilities to allow non-family members to visit with a patient.

FISCAL EFFECT: Unknown

COMMENTS: This bill essentially mirrors legislation introduced by Assemblyman Katz and vetoed by the Governor in 1994 (AB 2810) and reintroduced by Assemblyman Katz and held in this Committee in 1995 (AB 627) to provide for the statutory recognition of domestic partners in California.

According to the 1990 U.S. Census report, there were a total of 10,399,700 households in California. Of these, 495,223 (approximately 5%) consist of unmarried couples. Of the households consisting of unmarried couples: a) 93% are opposite-sex couples; and b) 7% are same-sex couples.

There are approximately 35,000 senior citizen couples in California, which constitutes approximately 7% of the total number of unmarried partners.

According to the author, the growing numbers of non-traditional families make the recognition of domestic partnerships increasingly imperative. The author states:

"While there is much talk today about the need for strong families and family values, most of this talk fails to recognize that there are currently hundreds of thousands of families in California that do not consist of a married couple. We simply cannot afford to ignore these families."

We simply cannot afford to ignore these families."

AB 54  
Page 3

The California Medical Association (CMA) supports those provisions of the bill that establish rights for non-marital partners in the conservatorship process and permit hospital visitation. CMA states that:

"Recognizing the changing nature of interpersonal relationships, many hospitals have already changed their visitation policies and no longer restrict visitors to 'immediate family only.' It is the position of CMA that all health care facilities should remove such restrictions. There is no acceptable justification that exists for refusing a sick or dying individual the emotional comfort of visits from a non-spousal partner or companion."

The California State Employees' Association (CSEA) states that a growing number of state employees, and Californians as a whole, are living in family relationships that do not mirror the traditional ideal. Many households are headed by single women; others include emotional and financial partnerships between two people who have not married, whether of the same or opposite sex. CSEA states that this bill simply would recognize that the family unit exists in more than one form.

California National Organization for Women (NOW) believes this bill will ensure that cohabitating couples are treated like families. NOW states that this bill provides for the protection of committed, loving families.

LIFE, California's Lesbian/Gay and AIDS Lobby states that under current law gay and lesbian couples may not enter into civil marriage contracts. Yet, many lesbian and gay couples need to enter into a state recognized civil contract to properly care for each other and their children. This bill would provide these unmarried couples with the option of registering as domestic partners, affording each: hospital visitation rights and conservatorship rights.

They have found that the impact of not having a state sanctioned relationship can be devastating. If a partner is hospitalized, the other partner does not have hospital visitations rights or the right to make decisions regarding care. Under current law the partner, regardless of the length of the relationship or commitment, has the legal standing of a roommate. With regard to conservatorship, one's family has the jurisdiction to obtain legal custody of a person before the long-term partner. In the climate of homophobia that many gay and lesbian couples must live in, the threat of separation becomes real when long-term disease or mental incapacity becomes an issue. Recognized domestic partner policy is crucial for committed couples who have no other options.

Planned Parenthood Affiliates of California (PPAC) strongly supports this bill. They believe this legislation would encourage

supports this bill. They believe this legislation would encourage the supportive public climate necessary to ensure social, economic, and political rights for all individuals.

AB 54

Page 4

The American Civil Liberties Union (ACLU) believes that this bill will "begin the process of ending marital status discrimination in current state law." The ACLU concludes that this legislation will recognize the "reality of the family relationships of many of our state's residents and ending the disadvantageous treatment now afforded these non-married couples."

The California Nurses Association (CNA) also supports this bill, stating that many persons reside with and have a deep, caring relationship with another person who for whatever reason is not their spouse or family member.

The National Association of Social Workers (NASW) believes that "the least California can do for all people is legally empower them to rely on one another in health care emergencies and other critical situations."

The Traditional Values Coalition (Coalition) opposes this bill because the Coalition believes it lays the foundation for the overturning of the marriage codes in all 50 states which they say is a stated objective of the Gay and Lesbian Task Force. The Coalition claims that there are economic considerations, once you offer domestic partners legal status, and many businesses will be hurt. In opposing domestic partnerships, the Coalition argues that "there is more likely to be greater understanding of the need for extramarital outlets between two men than between a man and a woman." They also state that "there is no expectation or intent that these relationships be monogamous such as is expected of spouses."

The Committee on Moral Concerns (CMC) opposes this bill because it believes the recognition of domestic partnerships devalues family commitment and lends an air of legitimacy to the "most dangerous lifestyle in America." CMC asserts there are three categories of people who will use the provisions of this bill and makes the following claims:

- a) The most numerous group who will register under this bill, would likely be homosexual and lesbian couples. As it relates to them, they argue there is no primary caretaker/primary breadwinner relationship as with married couples. Each already is free and able to get his or her own job, write a will and live with whom he or she pleases. For this group, they claim, there is no need for this bill.
- b) The second group of individuals who CMC states will register as domestic partners are heterosexual couples. However, they argue, if these traditional couples are unwilling to commit to each other in a real marriage, the taxpayer supported state government should not commit to their relationship either.



- c) The last group whom CMC predicts will register are roommates. CMC states that it would be a violation of the constitutional right to privacy to attempt to determine the intimacy level of roommates to see if they fall into one of the first two categories. Therefore, they will be covered by various

AB 54  
Page 5

domestic partner job benefits that will follow if this bill becomes law.

The Secretary of State opposes this bill because he argues it is inappropriate for his state agency to develop and operate a filing program for domestic partnership registration. He also argues that the bill does not provide adequate funds to offset substantial costs he says his office will incur to develop regulations and distribute and process domestic partnership forms.

Issues:

- 1) Should the filing of domestic partnerships be made at the local rather than state level?

In opposing this bill, the Secretary of State urges the bill be amended to require that domestic partnerships be filed at the local level rather than at the Secretary of State's Office. He states his office is not familiar with the filing and recording of these types of "vital statistics," whereas localities have traditionally recorded and maintained these records. He also notes that currently the cities of North Hollywood, Sacramento, and San Francisco provide for filing of domestic partnerships with their city or county record units. In addition, he suggests that requiring domestic partners to register with the state rather than localities would be more burdensome for them than the procedure provided married couples, "who can walk into a local governmental facility to obtain a marriage license."

- 2) Should the proposed statutory registration scheme pre-empt local ordinances?

As noted above, several local governments already provide for the filing of domestic partnerships. In prior versions of this legislation, a provision had been added stating the state registration scheme shall, from some date forward, pre-empt all local ordinances covering domestic partners except those that offer rights in addition to those provided under the state scheme.

The author's office has indicated a willingness to adopt an amendment in committee clarifying that the state registration process shall pre-empt all local domestic partner ordinances except those that offer rights in addition to those provided under the state scheme.

Prior Related Legislation: AB 167 of 1991 (Burton): Would have removed the requirement that individuals who wish to marry be of opposite sexes. Held in the Assembly Judiciary Committee.

opposite sexes. Held in the Assembly Judiciary Committee.

AB 2810 of 1994 (Katz): Original version of this legislation. Vetoed by the Governor, who wrote in his veto message that "the changes sought can all be made without creating in law a substitute for marriage."

AB 627 of 1995 (Katz): Reintroduction of original legislation.

AB 54  
Page 6

Held in this Committee.

AB 1982 of 1995 (Knight): Would have prohibited California from recognizing same gender marriages from other states. Dropped by the author in the Senate.

SB 1159 (Hayden) and AB 1209 (Knox) of 1995: Would have allowed CalPERS to recognize domestic partners for health benefits. Died in PERS Committee.

SB 2075 of 1996 (Haynes): Similar to AB 1982 of 1995. Died on the Senate Floor.

AB 3332 of 1996 (Kuehl): Would have provided domestic partner benefits for school employees under CalPERS and STRS. Died in PERS Committee.

Current Related Legislation: AB 427 (Knox): Same as AB 1209 of 1995.

AB 800 (Margett): Prohibits California from recognizing same gender marriages from other states should they become legal.

AB 1059 (Migden): Requires health insurers to offer domestic partnership benefits under their plans.

SB 841 (Hayden): Prohibits the state from contracting with any contractor that does not provide domestic partner benefits that are of equal value to those benefits provided to spouses.

SB 911 (Knight): Identical to AB 800.

REGISTERED SUPPORT / OPPOSITION:

Support

Opposition

American Assoc. of Retired Persons	Committee on Moral Concerns
Older Women's League of CA	Bill Jones, Secretary of State
American Civil Liberties Union	Grace Lutheran Church & School
CA Medical Assoc.	God's Family Church
National Assoc. of Social Workers	Traditional Values Coalition
CA's Lesbian/Gay & AIDS Lobby	Fellowship of Fundamental
Baptists	
& Institute	of Northern CA
CA School Employees Assoc.	Hamilton Square Baptist Church
Faculty Assoc. of CA Community	Lucerne Christian Conference
Center	



AB 427  
Page 1

Date of Hearing: January 7, 1998

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL  
SECURITY  
Mike Honda, Chair

AB 427 (Knox) - As Amended: January 5, 1998

SUBJECT : Public employees' health benefits: domestic partners.

SUMMARY : Provides employers whose employees participate in the CalPERS health care program (PEMHCA) the option to extend health benefits coverage to the domestic partners of their employees and annuitants.

Specifically, this bill :

- 1) Authorizes contracting agencies to elect to include within the definition of "family member" persons who meet the definition of "domestic partner" of an employee or annuitant of the contracting agency when that person is duly registered as domestic partner. Requires election forms containing specified information to be filed under penalty of perjury.
- 2) Provides for this option only upon election by the employer (who contracts for PEMHCA coverage). May apply to employees of state, local public agencies and schools. The option to elect is also available to the following employers: California State University, the Judicial Council, the Senate and the Assembly.
- 3) Requires employees to notify CalPERS upon the termination of the domestic partnership. Employees who fail to notify CalPERS are liable for costs incurred after the partnership is terminated.
- 4) Defines a domestic partnership, exclusively for the purpose of providing PEMHCA coverage, as meeting all the following criteria:
  - a) Both persons have a common residence.
  - b) One of the persons is enrolled as an employee or annuitant of a contracting employer.
  - c) Both persons share the common necessities of life and agree to be jointly responsible for each other's basic living expenses during the domestic partnership.
  - d) Neither person is married nor a member of another domestic partnership.

EXISTING LAW : The Public Employees' Medical and Hospital Care Act (PEMHCA), authorizes the Board of Administration of the Public Employees' Retirement System (CalPERS) to provide health benefits plan coverage to state and local public employees and annuitants and their family members.

FISCAL EFFECT

- 1) According to CalPERS, because so many different factors go into determining the cost to purchase health care for PERS members, it is difficult to predict what impact the addition of domestic partners to the pool will have. Published data for employers who have implemented domestic partner coverage indicate that there is no increase in utilization costs.
- 2) According to CalPERS, enactment of this measure would result in one-time administrative costs of \$45,000 for start-up.

COMMENTS

- 1) Sponsor and Purpose This bill is sponsored by the City of West Hollywood, who believes it will strengthen and protect families by promoting better health care for those in committed lasting relationships. The author points out that over 100 major U.S. employers provide domestic partner health benefits, including Levi-Strauss, Apple Computer, the Bay Area Rapid Transit District, and Stanford University. The San Francisco 49ers have recently announced a domestic partners plan for their team members and other employees.
- 2) Optional Nature of Coverage This bill is optional, so that a CalPERS public agency that does not wish to cover domestic partners is not required to do so.
- 3) Domestic Partnership Protection in Public Agencies Public agencies entrusted with the health care needs of their work force have become more responsive to changing needs of every kind of the employee family. Over 53 public agencies in the country concerned with health care have included domestic partner protections in their health care plans. These include cities such as Los Angeles, San Francisco, Berkeley, and educational agencies like Stanford University and The University of Chicago.
- 4) Domestic Partnership Protection in the Private Sector The use of domestic partnership is widespread in the private sector. According to the sponsor, actuarial data shows that the pay out rate for health insurance policies of domestic partners is no higher than the pay out rate for other family members. Businesses which use domestic partnership range from numerous small and medium size businesses to many notable Fortune 500 corporations including such names as AT&T, Apple Computer, Bank of America, Levi-Strauss, Kaiser, HBO, MCA/Universal, Microsoft, The New York Times, Sprint, and Warner Brothers. In addition, domestic partners of employees are already recognized by the following organizations in the United States and Canada:
  - a) 50 organizations with full benefits that have publicly traded stocks
  - b) 210 private sector companies offer full benefits
  - c) 16 private sector companies offer partial benefits
  - d) 66 colleges and universities offer full benefits
  - e) 17 colleges and universities offer partial benefits

5) Arguments in Support Supporters contend that this measure is

AB 427  
Page 3

necessary to acknowledge the different types of families that exist, and that access to quality health care should be a basic right of all Americans and should be expended to domestic partners. They point out that increasing the "covered lives" in health programs has the general effect of reducing costs.

6) Arguments in Opposition Opponents contend that the state does not recognize domestic partnerships, and should not extend to those partnerships any "imprimatur" of support. The Traditional Values Coalition states: "State establishment of these quasi-relationships is unhealthy for the culture."

REGISTERED SUPPORT / OPPOSITION :

Support

American Federation of State, County and Municipal Employees  
City of West Hollywood (Sponsor)  
California Faculty Association  
California Federation of Teachers  
California Independent Public Employees Legislative Council, Inc.  
California National Organization for Women  
California Professional Firefighters  
California Public Employees' Retirement System  
California School Employees Association  
California State Employees Association  
California Teachers Association  
Congress of California Seniors  
County of Santa Cruz Board of Supervisors  
East Bay Municipal Utility District  
First Christian Church  
HIV Network  
Laborers' International Union of North America  
League of California Cities  
Planned Parenthood Affiliates of California  
Service Employees International Union  
State Employees Trades Council

Opposition

California Catholic Conference  
Committee on Moral Concerns  
Department of Personnel Administration  
God's Family Church  
Grace Lutheran Church & School  
Morning Star Christian Fellowship  
North American Airlines  
Traditional Values Coalition  
Vina Community Baptist Church  
Yosemite Lakes Community Church  
"Your's for Life Ministries, Inc."

Analysis prepared by : Clem Meredith / aper&ss / (916) 322-4320

AB 3332  
Page 1

Date of Hearing: April 24, 1996

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYEES, RETIREMENT & SOCIAL  
SECURITY

Howard Kaloogian, Chairman

AB 3332 (Kuehl) - As Amended: April 15, 1996

**SUMMARY:** Defines "surviving spouse" to include a domestic partner of a school member or retiree. Specifically, this bill:

- 1) Extends eligibility to domestic partners for pre-retirement family allowances and survivor continuance benefits under the Public Employees' Retirement System (CalPERS) and the State Teachers' Retirement System (STRS).
- 2) Provides the specific criteria which must be met to establish a domestic partnership and defines the conditions upon which a partnership is terminated.
- 3) Applies only to school districts that elect to provide this benefit.

**FISCAL EFFECT:** This bill increases the number of persons eligible for benefits and therefore increases costs. It is difficult to project how many school districts will elect to be subject to this bill's provisions, however, the normal cost rate will be increased due to the addition of a new population not included in the current experience of CalPERS and STRS. CalPERS estimates the cost of extending this benefit to its school employees is \$1.4 million annually. STRS is unable to estimate the cost of extending this benefit to its school employees. There will also be additional administrative costs to both CalPERS and STRS to extend this benefit.

**BACKGROUND:** According to this bill's author, the number of people living in committed non-marital relationships has increased dramatically, but California law regarding CalPERS and STRS does not adequately reflect these changes in society. Consequently, similarly situated couples and families receive disparate and unfair treatment where retirement and health benefits are concerned. This bill seeks to mitigate this unequal treatment by allowing domestic partners of public school employees to receive retirement benefits equivalent to those received by married spouses of public school employees.

**ARGUMENTS IN SUPPORT:** This bill allows California public school districts to join the hundred's of employers who have begun to address the disparity in benefits for married and non-married cohabitants by providing these benefits to their employees. Many committed non-marital relationships include dependent children of one or both of the partners. Often, one unemployed partner stays at home and does not qualify for employer-provided benefits. The same justifications for extending family benefits to spouses of



AB 3332

Page 2

employees and their dependent children exist for extending family benefits to domestic partners and their dependent children. This bill is a small step towards fairness in this regards.

AB 3332  
Page 3

ARGUMENTS IN OPPOSITION: There are three categories of people who will seek the benefits extended in this bill. The first is same-sex couples. Same-sex couples are friends, not dependents. Each individual is free and able to obtain his or her own employment and benefits.

The second group to seek these benefits is heterosexual couples. If these couples are unwilling to commit to each other in marriage, the taxpayer-supported public agencies should not commit to their relationship either.

The third group to benefit from this bill is roommates. It is a violation of an individual's right to privacy to attempt to determine the intimacy level of roommates to verify whether they fall into one of the first two categories. Therefore, roommates could also seek this benefit.

Employers, public and private, have long recognized the advantage of covering an employee's dependents. A handful of private employers extend benefits to their employees' domestic partners, but the overwhelming majority of employers in California refuse to do so.

The historical family arrangement has always worked best for society. Public employers should not extend benefits to and affirm the lifestyles and living arrangements of unmarried couples, particularly on the shoulders of taxpayers.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers  
California Independent Public Employees Legislative Council, Inc.  
California School Employees Association  
California Teachers Association  
LIFE  
Older Women's League of California  
Service Employees International, AFL-CIO, CLC  
United Teachers Los Angeles

Opposition

Capitol Resource Institute  
Committee on Moral Concerns

Analysis prepared by: Michael J. D'Arelli / aper&ss / 322-4320

# DOMESTIC PARTNERSHIP

## A SECULAR INSTITUTION FOR NONMARITAL HOUSEHOLDS

*Domestic partnership was conceived as a gender-neutral relationship open to any two single adults regardless of sex or sexual orientation; recent attempts to limited it to same-sex couples distort the concept.*

This packet includes letters and articles discussing the use of sexist definitions of domestic partnership, which at one time or another have been considered by the cities of Milwaukee, Chicago, Philadelphia and San Francisco.

These materials show that domestic partnership was not intended as a substitute form of marriage for same-sex couples; it was always envisioned to be a family unit open to any two adults living together in a nonmarital household.

This philosophy of inclusion is based on several fundamentals:

The constitutional right of privacy protects the freedom of choice of single adults to form the family unit which they believe best serves their needs.

Discrimination on the basis of marital status, sex, and sexual orientation should be eliminated from public policies and private-sector programs.

Limiting domestic partnership to same-sex couples, on the theory that opposite-sex couples have the option of matrimony, ignores the millions of opposite-sex cohabitants who, for reasons of their own, do not wish to marry.

A gender-based limitation on domestic partnership not only shows disrespect for family diversity and freedom of choice, but it reinforces existing marital status discrimination.

Denying domestic partnership protections and benefits to adults who are living with a person of the opposite sex is blatant sex discrimination, which has the effect of denying these benefits to the majority of domestic partners.

Cost has never been considered to be a legal excuse to discriminate. Nonetheless, the fiscal impact of expanding employee benefits programs to include all domestic partners regardless of gender is negligible. Also, public registries do not cost taxpayers anything.

# **Law Office of Thomas F. Coleman**

**Post Office Box 65756, Los Angeles, CA 90065  
(213) 258-5831 / Fax 258-8099**

May 7, 1997

Hon. Kevin Murray  
State Assembly  
Sacramento, California

Re: Amendments to AB 54

Dear Assemblyman Murray:

First of all, I would like to thank you for introducing AB 54. The bill is necessary and will help many unmarried couples who need basic humanitarian protections in times of illness or death.

As you recall, I was the lead witness when the bill was heard in the Assembly Judiciary Committee. I also submitted a comprehensive report to each committee member, showing the need for this bill. I followed up by submitting reports to possible swing votes on the Appropriations Committee.

Moving this bill forward has been a team effort. A coalition was built several years ago when the first bill of this kind was carried by Assemblyman Katz. That coalition involves groups of senior citizens, religious leaders, and gay and lesbian groups. That coalition has stood together, side by side, during each legislative session. In fact, seniors have taken a major role at committee hearings. Although the seniors groups understand and support the rights of same-sex couples, their main concern is for their largest constituency -- opposite-sex couples who have reached their golden years.

So far, you have done an excellent job in moving the bill through the Assembly committees. Now the bill will face a crucial vote in the full Assembly. Even though you are close to getting a majority to support the bill, it is possible that you will not be able to muster sufficient votes among Assembly Democrats to get the bill passed this year. As a result, you are no doubt feeling some anxiety and are looking for ways to get four or five more members to support the bill. In that regard, I am informed that you are considering possible amendments that might change their minds.

This is a crucial test for you and for Life Lobby, the primary sponsor of AB 54. Some members of the Assembly may want you amend the bill so that it only applies to same-sex couples. Others may want you to insert legislative findings that specify that it is the public policy of the state to promote heterosexual marriage even though certain concessions are being made to people who can't legally marry. Amendments of this nature should be rejected. They would cause more harm than you could possibly imagine.

*Assemblyman Murray*

*AB 54*

*January 25, 1998*

*Page 2*

Cutting opposite-sex unmarried couples out of the bill would do serious political harm and could even render the bill unconstitutional.

Imagine the anger of seniors groups if you proposed or even accepted such an amendment. They would justifiably feel that they had been stabbed in the back and thrown out of the boat by the captain because merely because the seas were getting turbulent. They would wonder whether they had been used as pawns and window dressing all these years, in order to disguise what was really only a gay rights agenda.

Such an amendment would put Life Lobby in a predicament. Should they support a bill that dumps the seniors (and undermine a continuing working coalition with seniors on other bills) or should they withdraw their support for the bill and leave you standing alone? This would be a difficult decision. It is one that you should not put them in.

And what would you, or Life Lobby, gain by such a short-sighted move? Two or three votes in the Assembly? But maybe you would lose two or three votes in the Senate by making AB 54 a gay rights bill.

Does anyone seriously think that the Governor would be more likely to sign AB 54 if it were a "homosexual rights" bill? Will dropping seniors from its scope cause the Governor to look more favorably on the bill? I took the time today to call one of the founders of Log Cabin to ask him these questions. He laughed at the thought that the Governor would be more likely to sign AB 54 if seniors were dropped and if you turned it into a gay rights bill.

You may have to do what Willie Brown did with the Consenting Adults Bill which decriminalized sodomy and oral sex in private between consenting adults. He introduced it year after year, for seven years, until he could get it passed and signed by the Governor. He did not amend the bill to drop unmarried opposite-sex couples from its scope. He did not endorse a philosophy that only married couples should have sexual privacy rights -- and, by the way, since same-sex couples can't get married, well, we will let them have privacy rights too -- but that straight couples should have to get married to avoid criminal sanctions. His bill included all adults, married or single, gay or straight.

Right now, AB 54 is a clean bill. It should stay that way, even if it does not pass this year. This is a long-range struggle and short term gains should not dominate political strategy.

Some of the amendments that you are considering could have devastating legal effects that would hurt unmarried couples, including same-sex couples, in many other ways.

THOMAS F. COLEMAN

*Assemblyman Murray*

*AB 54*

*January 25, 1998*

*Page 3*

There are many laws in California that prohibit marital status discrimination in employment, housing, insurance, credit, etc. Some day the courts in California will be required to decide whether these laws protect unmarried couples from discrimination or whether they merely protect unmarried individuals. If AB 54 were amended to specify that it is the public policy of the state to promote heterosexual marriage, or that heterosexual marriage is the preferred family institution, such a policy statement could prompt the courts to interpret these marital status nondiscrimination laws narrowly rather than liberally. This would hurt many constituencies, including the gay and lesbian community.

Right now, you have my support for an inclusive bill. You also have the support of many seniors groups. If you create a "gays only" bill, you will not only lose my support but, as a matter of conscience, I will have to work vigorously to oppose the bill. I can only guess how the seniors groups will respond if they are dumped.

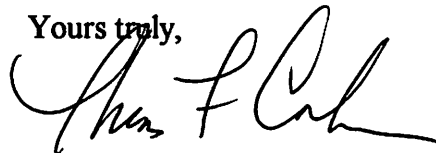
Stick with a political philosophy of inclusion. The gay community cannot fault you if you maintain a principled approach as you try to get this bill passed. They will understand.

I spoke with Laurie McBride, executive director of Life Lobby. She informed me that Life did not seek these amendments and she was very uncomfortable with them. I'm sure that many other supporters of the bill would feel the same way.

Anyway, I hope that you do not give in to the temptation to exclude opposite-sex couples and turn the bill into special interest legislation in order to gain a few votes. Such a move may appear strategically sound at first glance, but I can assure you that in the long run it will do more harm than good. There are 10 million single adults in California. Why not carry a bill that will help the largest number of people possible?

If you would like to discuss any of this, please feel free to call me. I trust that after you give the matter further thought that you will decide to keep your bill inclusive.

Yours truly,



Thomas F. Coleman

## 'GAYS ONLY' PARTNER PROPOSAL REEKS OF SEX, MARITAL STATUS DISCRIMINATION

San Francisco Supervisors Leslie Katz and Susan Leal want to water down new protections for domestic partners before a city contractor nondiscrimination law takes effect next month. They appear ready to sacrifice protection for straight couples at the altar of gay rights.

As the new law is currently written, corporations that have contracts with the city must give domestic partners, both same-sex and opposite-sex couples living together as a family unit, the same employee benefits that they give to married spouses. The purpose of the contractor law is to prevent city funds from subsidizing businesses that discriminate on the basis of sex, marital status, and sexual orientation in their employee benefits plans.

The Katz-Leal "gays only" proposal is being pushed by a local business lobby known as the Committee on Jobs. To the committee and its supervisor-allies, maximizing profit is apparently more important than minimizing discrimination.

The timing of the "gays only" proposal is strange. Just when the law as originally written is beginning to have a positive effect, a special interest lobby wants to subvert it.

Bank of America, Chevron, PG& E, and Catholic Charities, have announced they will comply with the law and will offer benefits to extended families, including unmarried couples, regardless of the gender of the partners.

Katz and Leal stirred up a firestorm of political protest only a few weeks ago when they tried to add a "gays only" amendment to the contractor nondiscrimination law. When Supervisor Tom Ammiano balked at the idea and city hall was flooded with angry phone calls, the proposal was withdrawn by Katz and Leal and pronounced dead by Ammiano.

This time, Katz is proceeding more timidly. She has asked the city attorney for an opinion on whether a law that protects same-sex couples from discrimination, but allows employers to deny benefits to unmarried opposite-sex couples, would be legal.

The answer should be obvious. Discrimination on the basis of gender is illegal under state law. It is also unconstitutional.

If the Katz-Leal deal is accepted by a majority of supervisors and the mayor, the city will be engaging in blatant sex discrimination. Two cities

that have tried the same-sex only approach to domestic partner benefits -- Chicago and Philadelphia -- are now embroiled in litigation over the exclusion of opposite-sex unmarried couples.

But, legal or not, it would be politically counterproductive to divide the community at a time when the new contractor law is under attack by the airline industry. Jeff Sheehy, president of the Harvey Milk Lesbian/Gay/Bisexual Democratic Club, has strongly criticized the proposal to exclude straight people from the city contractor law.

Proponents of the "gays only" proposal cite cost as a reason for opposing a more inclusive law. However, their financial fears are contradicted by studies showing that medical costs increase only by about one percent when employers provide coverage to same-sex *and* opposite-sex couples.

Amending the law to allow discrimination against opposite-sex domestic partners would be a slap in the face to thousands of unmarried heterosexual adults who live or work in San Francisco.

More than 60 percent of adults who reside in San Francisco are unmarried -- and most of them are straight. Only one-third of the city's households contain a married couple.

If the board of supervisors and the mayor give the business lobby what it wants, they will be telling straight workers who seek equal benefits to "get married or get lost." This would undermine respect for family diversity and put a gaping hole in the city's broad civil rights agenda.

Making benefits -- about 30% of the total compensation package -- hinge on marital status also undermines the constitutional right of privacy which protects the *freedom of choice* to marry or not to marry. An employee's compensation should not vary depending on how that choice is exercised.

Equal pay for equal work is one of the prime goals of the domestic partnership movement. Unmarried straight employees work just as hard as their married or gay counterparts. They deserve equality in the benefits they receive, even if their family units don't fit the traditional "Ozzie and Harriet" model.

-- Thomas F. Coleman  
May 17, 1997

# **SPECTRUM INSTITUTE**

*A Non-Profit Corporation Promoting Respect For Human Diversity*

December 2, 1997

Ward Connerly  
Connerly & Associates, Inc.  
2215 21st Street  
Sacramento, CA 95818

---

*Thomas F. Coleman*  
*Executive Director*  
*Family Diversity Project*

---

Re: Proposal to eliminate discrimination from  
the health benefits plan adopted last month

Dear Regent Connerly:

I read in several newspapers that you and regent Davis, and possibly other regents, intend to introduce a proposal to the Board of Regents in January to eliminate discrimination from the domestic partner plan adopted by the regents last month. I hope these news accounts are correct.

As you know, the state Labor Commissioner ruled that the City of Oakland's "same-sex only" health benefits plan constitutes illegal sexual orientation discrimination in violation of state law. The city appealed that decision, but lost its administrative appeal. Enclosed is a copy of the decision of the Director of the Department of Industrial Relations affirming the Labor Commissioner's ruling.

In an attempt to circumvent the Labor Commissioner's ruling, legal counsel to the University suggested an amendment to President's Atkinson's "same-sex only" proposal. The amendment, which added certain blood relatives to the plan, was adopted by the board.

When I saw what the board had done, I decided to do some legal research in order to determine the ramifications of the new plan. After completing my research, I was stunned by the absurdity of the plan, not to mention its invasion of privacy and other illegalities.

I am enclosing an op-ed article which I will be submitting to various publications. I am also including some relevant statutes and cases. Please feel free to share the article with the other regents.

If there is anything that I can do to assist you in gaining support for your "proposal of inclusion," please let me know.

Very truly yours,



THOMAS F. COLEMAN  
Executive Director



# Domestic Dispute

## Benefits Should Not Be Denied to Opposite-Sex Partners

By Thomas F. Coleman

The University of California regents recently decided to extend health benefits to some domestic partners of employees and retirees but not to others. By adopting a plan that excludes unrelated opposite-sex partners, little did the regents know what a legal mess they were creating.

The new plan gives domestic-partner health benefits only to "competent adults over the age of 18 in a long-term, committed domestic relationship who are precluded from marriage because they are of the same sex or incapable under California law of a valid marriage because of family relationship." The omission of opposite-sex partners from the new plan has two major legal flaws.

First, the last-minute advice of the university's attorney to add close blood relatives to a "same-sex only" plan proposed by the university's president is an obvious smoke screen intended to cover up sexual-orientation discrimination. Courts can see through such camouflage. But more important than that, the plan violates the constitutional privacy rights of unmarried employees and retirees.

The right of privacy not only protects people from the unwarranted collection or dissemination of confidential information, it also protects the freedom of choice of individuals in making highly personal decisions, such as those involving marriage, family, procreation and child rearing. The plan approved by the regents violates this freedom of choice aspect of the right of privacy.

The university is now telling employees and retirees that if they have the legal option of marrying their domestic partner, they must do so or the partner won't be added to the university's health plan. It apparently does not matter to the regents that unmarried employees or retirees may have strong personal, philosophical, political, economic or even religious reasons for not wanting to marry a household member.

Are the regents aware that, under California law, a male employee may legally marry his widowed stepmother or his unmarried stepsister? Or that a female retiree may marry her stepson or stepbrother? Do the regents know that an adopted male may marry his adoptive mother who is divorced or widowed? Or that a retiree may marry her adopted grandson? Did anyone advise the regents that brothers and sisters in a foster family are legally allowed to marry in California?

The absurdity of the situation is made more evident when one considers the same-sex vs. opposite-sex criteria. A male employee must marry a stepmother in order to put her on the university health plan, but a stepfather could be a domestic partner because he would be of the same sex as the employee. A female retiree would have to marry her adopted grandson in order to enroll him in the new plan, but her adopted granddaughter would qualify as a same-sex domestic partner.

The regents have no business intruding into private family relationships of university employees or retirees in

this manner. Most unmarried employees would not want to change the nature of their relationship with a relative to that of a husband or a wife. And why should they have to do so in order to obtain health benefits? Imposing such a requirement violates the right of privacy of employees and retirees, not to mention the right to equal protection of the law.

The exclusion of *unrelated* opposite-sex partners also violates their right of privacy, in addition to being sex and sexual-orientation discrimination. Many divorced or widowed retirees live with an unrelated domestic partner of the opposite sex. For a variety of reasons, they may want to be domestic partners rather than married spouses. That is why many seniors groups — the American Association of Retired Persons, the Older

Women's League, the California Senior Legislature and the Gray Panthers — support domestic partnership benefits for same-sex and opposite-sex couples.

It is irrational to recognize a same-sex couple as a family unit for purposes of university health benefits, but to exclude an unmarried man and woman who have a child. If the university considers the former to be a family, then why not

**The** regents have no business intruding into private family relationships of university employees or retirees in this manner.

the latter?

Perhaps the man wishes to marry, but the woman is reluctant to do so because her previous marriage was abusive and she has not fully recovered from the trauma of that relationship. Or maybe the couple plans to marry but has deliberately chosen an engagement period of two or more years.

Possibly the woman wants to marry, but the man is an atheist and believes that so-called civil marriage is a quasi-religious rite. After all, marriage is a religious sacrament. State-created civil marriage is really no different than would be an attempt by the government to institute "civil baptism" or "civil confession," labels that would carry religious overtones despite use of the term "civil."

In the long run, the only sensible and legal approach for the regents to take would be one similar to that used by Bank of America in which each employee can select one adult member of his or her household — a spouse, a domestic partner of the same or opposite sex, or a close blood relative who is dependent on the employee.

Such a plan would satisfy the principle of equal pay for equal work, giving each employee the same health-benefits compensation, regardless of his or her family configuration. It would also avoid implicating the university in discrimination on the basis of sex, sexual orientation or marital status. And, above all, it would end the absurdity of telling employees or retirees that, to get health benefits for their loved ones, they must marry their stepparent, adopted grandchild, foster sibling or other relative whom they are technically able to marry.

Lt. Gov. Gray Davis and Regent Ward Connerly have said that they will introduce a proposal at the next meeting of the regents to eliminate the cloud of illegality hovering over the current plan.

One simple way out of this mess would be for the regents to allow any two single persons living together as domestic partners to qualify, as long as they satisfy other legitimate and gender-neutral eligibility criteria.

Moving blindly forward with the current definition will not only lead to absurd results, it will trigger costly lawsuits.

Thomas F. Coleman, a Los Angeles attorney focusing on right of privacy issues and marital status and sexual orientation discrimination, has been executive director of the governor's Commission on Personal Privacy and a member of the California Legislature's Joint Select Task Force on the Changing Family.

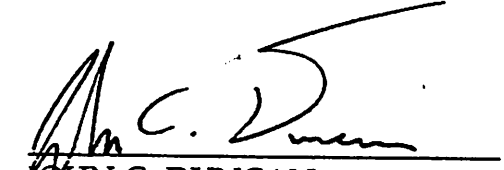
BEFORE THE DIRECTOR OF  
THE DEPARTMENT OF INDUSTRIAL RELATIONS

In the Matter of the Complaint of:	)	
	)	Case No. 99-02937
Majid Y. Ayyoub	)	
Complainant,	)	
	)	
Against	)	DETERMINATION ON
	)	APPEAL FROM DECISION
City of Oakland	)	OF THE STATE LABOR
Respondent	)	COMMISSIONER

Upon the filing of a timely appeal of the Decision of the Labor Commissioner in the above-captioned matter, the Director of the Department of Industrial Relations has reviewed the appeal, the Decision, the case file and the papers and documents filed in the course of the investigation and, based on that review, finds substantial evidence to support the Decision.

The Decision of the Labor Commissioner is hereby adopted in its entirety.

DATED: 11/14/97

  
 \_\_\_\_\_  
 JOHN C. DUNCAN  
 Acting Director

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF LABOR STANDARDS ENFORCEMENT  
BEFORE THE LABOR COMMISSIONER

**COPY**

In the Matter of )  
The Complaint of )  
Majid Yacoub Ayyoub )  
Complainant, )  
against )  
City of Oakland )  
Respondent. )

No. 99-02937

DECISION

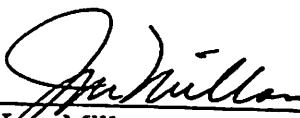
The Labor Commissioner of the State of California hereby adopts the Summary of Facts and Conclusions appended hereto and issues the following Decision:

The Respondent, City of Oakland, is directed to remedy the violation of Labor Code Section 1102.1 by taking the following actions immediately:

1. Extend the employer-paid medical insurance benefits provided to same-sex registered domestic partners to all registered domestic partners;
2. Reimburse Complainant for costs he has incurred due to Respondent's failure to provide such benefits, in the amount of \$868.15, plus any additional costs incurred for coverage or medical expenses from October 1, 1997, through the date of compliance with the above;
3. Cease and desist from any further discrimination.

Failure to comply with this Decision within ten (10) days of the date of receipt will result in the Labor Commissioner filing an action to enforce the Decision.

Date: 10/27/97

  
Jose Millan  
State Labor Commissioner

Either party may, within ten (10) days, seek review of this Decision by writing the Director, Department of Industrial Relations, 45 Fremont St., Suite 3270, San Francisco, CA 94105. The appeal shall set forth specifically and in full detail the grounds upon which the appealing party considers the Labor Commissioner's Decision to be unjust or unlawful, and every issue to be considered by the Director.

The Complainant is further advised that he has a right to bring an action against the employer in the appropriate court of law.

INVESTIGATION OF COMPLAINT

of

Majid Yacoub Ayyoub

Against

City Of Oakland

Case Number 99-02937

Ellen Shaffer  
Discrimination Complaint Investigator

Division Of Labor Standards Enforcement  
Oakland District Office

## SUMMARY OF FACTS

Complainant Majid Yacoub Ayyoub has been employed by the City of Oakland (hereinafter "Respondent") since September of 1990. He works as a Resident Engineer in Respondent's Office of Public Works, and earns approximately \$27.00 per hour.

Complainant alleges that he has been denied access to employer-paid health insurance benefits for his domestic partner, in violation of Labor Code Section 1102.1, because of his sexual orientation.

Respondent denies that its policy regarding domestic partner benefits is discriminatory.

In February of 1993, Respondent adopted a policy extending its vision and dental benefit plans to registered domestic partners of non-sworn City employees. The policy defined domestic partnership as "a relationship between two cohabiting, unmarried and unrelated people, regardless of gender, who, being over 18 years of age, have resided together for at least six (6) months prior to the filing of a Declaration of Domestic Partnership form, and who share responsibility for the common living expenses of food, shelter, and medical care." The policy provides that if a domestic partnership is ended, an employee may not file another Declaration of Domestic Partnership until one year after filing a formal notification of termination of the previous partnership.

Complainant filed a "Declaration of Domestic Partnership" with Respondent on January 14, 1995, declaring that he and his female domestic partner met the specified qualifications. Respondent approved the registration, and extended dental and vision care benefits to Complainant's domestic partner.

Respondent adopted a policy, effective January 1, 1997, which provided medical care coverage for registered domestic partners (with premium contributions made by Respondent). Complainant applied for the coverage for his domestic partner, but was denied the coverage because his partner was not of the same gender as he. Respondent's position is that the policy extending medical benefits only applies to same-sex domestic partners.

In its initial response to an internal complaint filed by Complainant regarding the denial of coverage, Respondent summarized its position as follows:

Please be advised that the City Council has determined that by giving same sex domestic partners of employees access to medical benefits through the public registration process, it is making its gay and lesbian employees, who have no option to marry, whole and equal with the same benefits as are available to heterosexual employees who have the option of marrying.

In its response to the instant complaint, Respondent elaborated on this position, stating:

Now all employees who have intimate life partners have the opportunity to have the City pay the medical premium for that partner: the distinction between heterosexuals and homosexual employees is that heterosexual employees, having the right to marry, must exercise that right demonstrating the long-held social approbation of marriage as an index of commitment and presumed familial stability. Homosexuals, denied the opportunity to marry, have no right to exercise: however, they are no longer penalized by the City for being denied an opportunity to marry based on their sexual orientation. The bottom line is that the City's practice, established through City Council Resolution 73204 C.M.S., remedies discrimination rather than creates it.

Complainant asserts that the effect of Respondent's policy is to deny him a benefit available to other similarly-situated employees, solely because of his sexual orientation.

Complainant has paid a total of \$624.00 in premiums to obtain medical coverage for his domestic partner for the period from January 1, 1997, through October 1, 1997, and continues to pay the premiums at the current rate of \$70.00 per month. In addition, documentation submitted by Complainant indicates that from January 1, 1997, through October 1, 1997, his partner incurred medical expenses which would have been covered by Respondent's domestic partner insurance plan, in the amount of \$244.15.

## CONCLUSIONS

In order to establish that a violation of Labor Code Section 1102.1 has occurred, Complainant must show that he was discriminated against or treated differently in some aspect of employment because of his sexual orientation or perceived sexual orientation.

Respondent acknowledges that sexual orientation is a factor—indeed, *the* determining factor—in determining whether an employee is eligible for employer paid medical insurance benefits covering a registered domestic partner. Respondent argues, however, that its policy is non-discriminatory, for two reasons. First, Respondent contends, the policy was enacted to *remedy* historic discrimination against gay and lesbian employees, who cannot ordinarily obtain insurance coverage for their partners because they cannot legally marry. Secondly, Respondent argues, Complainant and other heterosexual employees can obtain equal benefits simply by exercising their right to marry their partners.

Respondent's position fails to address the discriminatory impact of its policy.

The fact that Respondent enacted the policy in order to address historic discrimination against gay and lesbian workers, while laudable, has no bearing on the question of whether the policy, as enacted and applied, does in itself discriminate on the basis of sexual orientation. And Respondent's contention that heterosexual employees could marry, and thereby obtain equivalent benefits, begs the question. Complainant's argument is that he should not have to be married to obtain the same employment benefits as an unmarried co-worker of a different sexual orientation.

Respondent's policies and practices regarding registration of domestic partners are neutral with respect to sexual orientation, and domestic partners are defined as two cohabiting people, *regardless of gender*, who meet certain criteria. The fact that Respondent has, for several years, extended dental and vision care benefits to all registered domestic partners of qualified City employees is evidence that such benefits can be administered in a manner which does not differentiate based on the sexual orientation of the partners. Having created the gender and orientation-neutral category

of "domestic partner," Respondent has offered no legitimate explanation for offering certain employment benefits to some domestic partners and not others.

Respondent's policy of providing employer-paid medical insurance benefits to registered domestic partners of the same gender but not those of different gender discriminates against heterosexual employees, in violation of Labor Code Section 1102.1.



## RECOMMENDATION

There being sufficient evidence to establish a violation of Labor Code Section 1102.1, it is recommended that the Respondent be ordered to remedy that violation by taking the following actions:

1. Extend the employer-paid medical insurance benefits provided to same-sex registered domestic partners to all registered domestic partners;
2. Reimburse Complainant for costs he has incurred due to Respondent's failure to provide such benefits, in the amount of \$868.15, plus any additional costs incurred for coverage or medical expenses from October 1, 1997, through the date of compliance with the above;
3. Cease and desist from any further discrimination.

# Unequal Rights for Many Oakland Couples

By Thomas F. Coleman

**T**HE STATE'S labor commissioner recently ordered Oakland to include opposite-sex unmarried couples in the city employees' domestic partners health care program. The city has refused.

The City Council's decision to give employees greater or lesser benefits compensation based on their marital status is an insult to the majority of citizens in Oakland. According to 1990 census figures, 54.4 percent of adults in Oakland are not married. Only 34.5 percent of Oakland's households contain a married couple.

Does the council realize that it is telling the majority of its city's residents that they must get married to obtain equal rights there?

A group of progressive community leaders in Oakland once had a vision of creating public policies based on an understanding that we live in a diverse society. They believed that respect for freedom of choice, including over personal decisions regarding family structure, should be the hallmark of government action.

Several of those leaders formed an organization that produced a "Family Bill of Rights" in 1989. Among its principles is the premise that government should not condition employment benefits on the marital status of an employee and his or her family partner. The cur-

rent members of the council apparently never received this message.

It is interesting that when the city first extended dental and vision benefits to domestic partners of city employees, no distinction was made between straight couples and gay couples. Domestic partnership was open to all unmarried couples who met certain eligibility criteria.

The council's more recent decision to give medical benefits to the domestic partners of gay and lesbian city workers but not to the unmarried partners of heterosexual workers smacks of political favoritism. Apparently, politicians thought it enough to try to appease the most vocal and politically active portion of the domestic partner constituency — gays and lesbians.

Who is promoting the politics of division in Oakland? It seems unlikely that leaders in the gay and lesbian rights movement would encourage or even support such "wedge" politics.

Most of the legal gains made by gays are the result of coalition politics. Coalitions formed by gays, singles, seniors,

women, and people with disabilities have generally been responsible for the passage of domestic partner ordinances in a dozen California municipalities.

The continuing success of such coalitions is threatened when politicians tempt one group to break ranks by offering its members, and no others, domestic partner protection. The Oakland City Council's desire to eliminate discrimination against same-sex couples should be applauded. However, the politically divisive process it is using should not be condoned.

In San Francisco, gay and lesbian leaders rejected such counterproductive tactics by refusing to support a business lobby's efforts to water

down the then-recently enacted law banning city contractors from benefits discrimination. As a result, the Board of Supervisors held firm and demanded that employers give all domestic partners, same-sex and opposite-sex, the same benefits they give to married couples.

Treating unmarried same-sex partners more favorably than unmarried opposite-sex partners violates state laws

prohibiting discrimination based on gender, sexual orientation, and marital status. It is also an insult to gays and lesbians in Oakland. Even if same-sex marriage were legalized tomorrow, many same-sex couples would choose domestic partnership rather than marriage. Would gays then be divided into two camps — one of married couples worthy of all spousal benefits, and one of domestic partners unworthy of such benefits?

If unmarried opposite-sex partners are willing to sign the identical affidavit of family commitment that now entitles same-sex partners to medical benefits, why should the city object? It certainly can't be because of cost. Studies show that when domestic partner provisions are offered to both same-sex and opposite-sex couples, less than 1 percent of the work force signs up for such benefits.

The council's stubbornness surely is not supported by public opinion. Most people want to see health care provided to everyone, and they believe that all workers are entitled to equal pay for equal work.

The council should take immediate steps to ensure that all domestic partners of city employees are eligible for the city-subsidized medical benefits plan. The failure to do so is likely to result in the use of state and local taxpayer dollars on unnecessary and protracted litigation. Those funds would be better spent on worthwhile programs.

*Thomas F. Coleman has been an attorney for 24 years. His law practice has concentrated heavily on cases involving marital status and sexual orientation discrimination.*



BY THE CHRONICLE

# ***AMERICAN ASSOCIATION FOR PERSONAL PRIVACY***

18 OBER ROAD, PRINCETON, NEW JERSEY 08540 / (609) 924-1950

January 26, 1998

Mayor Elihu M. Harris  
One City Hall Plaza  
Third Floor  
Oakland, CA 94612

Re: Exclusion of opposite-sex couples  
from domestic partner medical benefits

Dear Mayor Harris:

This association has been monitoring legal and political developments throughout the United States concerning domestic partnership benefits. As a result, we have seen many news articles in the past few months about the situation in Oakland. (See enclosures.)

We are disturbed that your city council originally extended dental and vision benefits to all domestic partners regardless of gender, but then abruptly changed course from a policy of inclusion to one of exclusion. Oakland is the *only* governmental entity in California that has adopted a "gays only" domestic partner health benefits plan.

From reading various news articles, we are aware that your state Labor Commissioner has ruled that Oakland's exclusion of heterosexual couples from its medical benefits plan violates California law. We are also aware that Oakland's administrative appeal was denied. Nonetheless, for some unknown reason, Oakland has refused to obey the Labor Commissioner's order.

From monitoring the status of pending legislation in Sacramento, we have discovered that both of Oakland's state legislators have supported *inclusive* domestic partnership laws which do not discriminate on the basis of gender or sexual orientation.

Assembly Bill 1059 would require insurance companies and HMOs to extend health service plans to employers who choose to adopt domestic partnership benefits plans. The bill's definition of "domestic partnership" includes same-sex and opposite-sex couples. Assembly-member Dion Aroner and Senator Barbara Lee both voted in favor of this inclusive bill. (See attached bill and vote summary.)

Senate Bill 841 would require state contractors to offer employment benefits to domestic partners of their employees on the same terms as they offer benefits to married couples. The bill defines "domestic partners" so as to include same-sex and opposite-sex couples. Senator Barbara Lee voted in favor of this bill. (See attached bill and vote summary.)

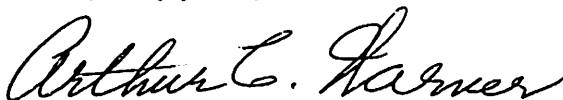
*AMERICAN ASSOCIATION  
FOR PERSONAL PRIVACY  
Oakland City Council  
January 26, 1998  
Page Two*

It is also noteworthy that the bill pending in Congress, which would extend health benefits to domestic partners of federal workers, includes opposite-sex as well as same-sex couples in its definition of "domestic partnership." (See enclosed press release.) Co-sponsors of the bill include several members of Congress from California, including Congresswoman Nancy Pelosi from your region.

This association promotes the freedom of choice of all adults to form the family unit which they believe best suits their personal needs. Some will choose to marry. Some will create a family household with an opposite-sex domestic partner. And others will form a same-sex family unit. The fundamental right of privacy protects the freedom to make such a choice, without economic or legal discrimination. This right should be respected by government employers.

It would be appropriate for the city council to delete the gender restriction from its medical benefits plan. Doing so will not only make Oakland conform to state legal requirements, but it will also harmonize your city's domestic partnership program with all other municipal plans of this nature in California.

Very truly yours,



Dr. Arthur C. Warner  
Director