J. MICHAEL CAREY
City Clerk

When making inquiries relative to this matter refer to File No.

CITY OF LOS ANGELES
CALIFORNIA

RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

98-0202
99-0908

PLACE IN FILES
JAN 24 2000
DEPUTY

January 21, 2000

Council Member Goldberg
Council Member Galanter
City Administrative Officer
Chief Legislative Analyst
City Attorney
Water and Power Department
Water and Power Commission
Attn: John Burmahln

Airport Department
Airport Commission
City Employees' Retirement System
Harbor Department
Harbor Commission
Personnel Department
Community Redevelopment Agency

RE: COMPLIANCE WITH THE PROVISIONS AND POLICIES OF THE EQUAL BENEFITS AND THE CONTRACTOR EVALUATION ORDINANCES

At the meeting of the Council held January 19, 2000, the following action was taken:

Attached report adopted	
Attached motion (Goldberg - Galanter) adopted	X
Attached resolution adopted ()	
Mayor concurred	
FORTHWITH	
Ordinance adopted	
Motion adopted to approve attached report	
Motion adopted to approve communication	
To the Mayor FORTHWITH	
Ordinance Number	
Publication date	
Effective date	

J. Michael Carey

City Clerk
bs

steno\980202

Recyclable and made from recycled waste.

#6

b

PERSONNEL COMMITTEE
Report/~~Communication~~ for Signature

Council File Number 99-0908

Committee Meeting Date 10/28/99

Council Date 11/17/99

COMMITTEE MEMBER	YES	NO	ABSENT
COUNCILMEMBER GOLDBERG, CHAIR	✓		
COUNCILMEMBER RIDLEY-THOMAS	✓		
COUNCILMEMBER FEUER	✓		

Remarks Equal Benefits Ord.

Rhoda Lukjaniec, Legislative Assistant II ---- Telephone 485-5732

32

TO CITY CLERK FOR PLACEMENT ON NEXT REGULAR COUNCIL AGENDA TO BE POSTED

#52 JAN 12 2000

MOTION

The Equal Benefits Ordinance (No.172908- 172911) was adopted by the Council on November 17, 1999 (C.F. 99-0908). The Mayor approved the ordinance on November 23, 1999. The ordinance became effective on January 9, 2000. The Council approved Ordinance allows domestic partners to seek health benefits from employers who already offer health benefits and have City contracts worth at least $5,000.

The Contractor Evaluation Ordinance (No.173018) was adopted by the Council on December 15, 1999 (C.F. 98-0202). The ordinance became effective on January 5, 1999. The Council approved Ordinance mandates the implementation of a contractor evaluation program to establish data bases on contractor performance. The ordinance indicates that the contractor evaluation program will assure that contractors are routinely evaluated in accordance with approved criteria. The evaluation data will be catalogued and readily accessible to and considered by contract awarding authorities prior to entering into contracts.

The abovementioned ordinances, however, need to be adopted by the City Proprietary Department Commissions (i.e. Departments of Water & Power, Harbor, and Airports), as well as the Community Redevelopment Agency (CRA) Board.

I THEREFORE MOVF that the Council request that effective immediately the City Proprietary Department Commissions (i.e. Departments of Water & Power, Harbor, and Airports) and its Department Management, as well as the Community Redevelopment Agency (CRA) Board take all necessary steps to fully implement, monitor, and comply with the provisions and policies of the Equal Benefits Ordinance (No. 172908-172911) and the Contractor Evaluation Ordinance (173018).

I FURTHER MOVE that the Council instruct the City Clerk to transmit this motion to the Commissions, Management and Board referenced above with attached copies of the Equal Benefits Ordinance and the Contractor Evaluation Ordinance.

PRESENTED BY _____
JACKIE GOLDBERG
Councilmember, 13th District

SECONDED BY _____

MO.
ADOPTED
JAN 19 2000
LOS ANGELES CITY COUNCIL

CLA-RRM\n\wp\cd13\EBO-proprietary.wpd

COUNCIL VOTE

19-Jan-00 10:40:48 AM, #3

Items For Which Public Hearings Have Not Been Held - Items 12-37
Voting on Item(s): 14-16,19,21,23,25-30,32-35
Roll Call

BERNSON	Absent
CHICK	Yes
FEUER	Yes
*GALANTER	Yes
GOLDBERG	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Absent
WACHS	Yes
WALTERS	Yes
FERRARO	Absent

Present: 12, Yes: 12 No: 0

J. MICHAEL CAREY
City Clerk

When making inquiries relative to this matter refer to File No.

CITY OF LOS ANGELES
CALIFORNIA

RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

99-0908

PLACE IN FILES

DEC 0 2 1999

DEPUTY

December 1, 1999

Civil Service Commission
Personnel Department
City Administrative Officer
City Attorney
Chief Legislative Analyst

Controller, Room 1200
Accounting Division, F & A
Disbursement Division
City Employees' Retirement System

RE: EQUAL BENEFITS ORDINANCES

At the meeting of the Council held November 17, 1999, the following action was taken:

Attached report adopted	X
Attached motion () adopted	
Attached resolution adopted ()	
Mayor concurred	
FORTHWITH	
(4) Ordinances adopted	X
Motion adopted to approve attached report	
Motion adopted to approve communication	
To the Mayor FORTHWITH	X
Ordinance Numbers	172908 thru 172911
Publication date	12-9-99
Effective date	1-9-00
Mayor vetoed	
Mayor approved	11-23-99
Mayor failed to act - deemed approved	
Findings adopted	
Negative Declaration adopted	
Categorically exempt	

J. Michael Carey

City Clerk
bs

steno\990908

12/1/99

Mayor's Time Stamp

RECEIVED
'99 NOV 19 P4:16
DEPUTY MAYOR

TIME LIMIT FILES
ORDINANCES

FORTHWITH

City Clerk's Time Stamp

RECEIVED
CITY CLERK'S OFFICE
99 NOV 19 PM 4:10
BY CITY CLERK
DEPUTY

COUNCIL FILE NUMBER 99-0908 COUNCIL DISTRICT _____

COUNCIL APPROVAL DATE November 17, 1999 LAST DAY FOR MAYOR TO ACT NOV 29 1999

ORDINANCE TYPE: ___ Ord of Intent ___ Zoning ___ Personnel ___ General

___ Improvement ____ LAMC X LAAC __ CU or Var Appeals - CPC No _____

4 ORDINANCES

SUBJECT MATTER:

172908 Add Section 10.8.2.1 to provide that City contractors and sub-contractors shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners.

172909 Amend Section 10.8.1 to add the definition of "Domestic Partners."

172910 Amend Section 22.359.1 to add enforcement of the Equal Benefits Ordinance to the powers and duties of the Office of Contract Compliance.

172911 Amend Section 10.8.2 to add "domestic partner status" to the list of prohibited forms of discrimination in City contracts.

RECOMMENDATIONS:	APPROVED	DISAPPROVED
PLANNING COMMISSION	____	____
DIRECTOR OF PLANNING	____	____
CITY ATTORNEY	X	____
CITY ADMINISTRATIVE OFFICER	X	____
PERSONNEL COMMITTEE	X	____
CHIEF LEGISLATIVE ANALYST	X	____

DATE OF MAYOR APPROVAL, DEEMED APPROVED OR *VETO: NOV 23 1999
*VETOED ORDINANCES MUST BE ACCOMPANIED WITH OBJECTIONS IN WRITING PURSUANT TO CHARTER SEC. 29

BY _____ DEPUTY

(CITY CLERK USE ONLY PLEASE DO NOT WRITE BELOW THIS LINE)

CITY CLERK

DATE RECEIVED FROM MAYOR 11-23-99 ORDINANCE NO. 172908, 172909, 172910, 172911

DATE PUBLISHED 12-9-99 DATE POSTED _____ EFFECTIVE DATE 1-9-2000

99 NOV 23 PM 2:46
CITY CLERK'S OFFICE
RECEIVED

ORD OF INTENT: HEARING DATE _____ ASSESSMENT CONFIRMATION _____

ORDINANCE FOR DISTRIBUTION: Yes [] No []

ORDINANCE NO. 172908

An ordinance adding Section 10.8.2.1 to the Los Angeles Administrative Code to provide that City contractors and sub-contractors shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Section 10.8.2.1 is hereby added to the Los Angeles Administrative Code to read as follows:

Sec. 10.8.2.1 Equal Benefits Ordinance.

a. **All Contracts: Equal Benefits Clause.**

No awarding authority of the City, shall execute or amend any contract with any contractor that discriminates in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits as well as any other benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, or an internal registry maintained by the contractor, subject to the provisions of this Section. In the event that the contractor's actual cost of providing a certain benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs. In addition, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor provides the employee with a cash equivalent to the direct expense to the employer of providing the benefit payment to a spouse or domestic partner, as applicable.

b. **Applicability.**

The requirements of this Section shall apply to (i) any of a contractor's operations within the City of Los Angeles; and (ii) a contractor's operations on real property outside of the City of Los Angeles owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract with the City; (iii) a contractor's operations elsewhere in the United States where the work is being performed for the City.

c. **Mandatory Provisions Pertaining to Equal Benefits.**

Every contract with or on behalf of the City of Los Angeles for which the consideration is in excess of $5,000 shall contain the following provisions which shall be designated as the Equal Benefits Provisions of such contract:

"A. During the performance of this contract, the contractor certifies and represents that the contractor will provide equal benefits to its employees with spouses and its employees with domestic partners.

1. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

"B. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices to the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Equal Benefits Provisions of this contract, and on their or either of their request to provide evidence that it has complied or will comply therewith.

"C. The failure of any contractor to comply with the Equal Benefits Provisions of this contract may be deemed to be a material breach hereof. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

"D. Upon a finding duly made that the contractor has breached the Equal Benefits Provisions of this contract, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder pursuant to the provisions of Section 386 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until it shall establish and carry out a program in conformance with the provisions hereof.

"E. Notwithstanding any other provisions of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

"F. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

"G. The equal benefits requirements of this section shall not apply to collective bargaining agreements in effect prior to the effective date of Section 10.8.2.1 of the Los Angeles Administrative Code. Amendments, extensions or other modifications of such collective bargaining agreements, occurring subsequent to the effective date of that section, shall incorporate the equal benefits requirements of that section."

"H. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City."

d. **Enforcement.**

In accordance with Division 22, Chapter 13, Article 10, of this Code, the Board of Public Works, Office of Contract Compliance is responsible for the enforcement of the equal benefits requirements, as referenced in this Section, or as otherwise required, of all City contracts. In enforcing this requirement, the Office of Contract Compliance will monitor, inspect, and investigate to insure that the contractor is acting in compliance with the equal benefits requirements of such City contracts. The Office of Contract Compliance shall promulgate rules and regulations and forms for the implementation of the Equal Benefits Provisions of this contract. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program. Each awarding authority shall cooperate to the fullest extent with the Office of Contract Compliance in their enforcement activities. The failure of any contractor to comply with the equal benefits provisions of a contract may be deemed to be a material breach of the contract.

e. **Non-applicability, Exceptions and Waivers.**

(1) The Office of Contract Compliance shall waive the requirements of this Section under the following circumstances:

A. Whenever the Office of Contract Compliance finds, upon the advice of the awarding authority, that there is only one prospective contractor willing to enter into a contract with the City for use of City property on the terms and conditions established by the City, or that the needed goods, services, construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City, or from doing business with any governmental agency based on any contract compliance requirements;

B. If the awarding authority certifies in writing to the Office of Contract Compliance that the contract is necessary to respond to an emergency which endangers the public health or safety and no entity which complies with the requirements of this Section capable of responding to the emergency is immediately available; provided that such certification must be made prior to the final approval of the contract.

C. Where the City Attorney certifies in writing to the Office of Contract Compliance that the contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of this Section.

(2) This Section shall not apply where the prospective contractor is a public entity and the Office of Contract Compliance finds that goods, services, construction services for a public work or improvement or interest in or right to use real property of comparable quality or accessibility as are available under the proposed contract are not available from another source, or that the proposed contract is necessary to serve a substantial public interest;

(3) This Section shall not apply where the awarding authority finds that the requirements of this Section will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement, provided that the awarding authority has made a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to authorize application of this Section.

(4) Upon the request of a potential contractor or upon the awarding authority's own initiative, after taking all reasonable measures to find an entity that complies with the law, and subject to the provisions of paragraph (5) below, the awarding authority may waive any or all of the requirements of this Section for any contract or bid package advertised and made available to the public, or any competitive or sealed bids received by the City as of the date of the enactment of this ordinance under the following circumstances:

A. Where the awarding authority determines that there are no qualified responsive bidders or prospective contractors who could be certified as being in compliance with the requirements of this Section and that the contract is for goods, a service or a project that is essential to the City or City residents; or

B. Where the awarding authority determines that transactions entered into pursuant to bulk purchasing arrangements through federal, state or regional entities which actually reduce the City's purchasing costs would be in the best interests of the City; or

C. Where the awarding authority determines that the requirements of this Section would result in the City's entering into a contract with an entity that was set up, or is being used, for the purpose of evading the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section.

(5) The waiver authority granted to awarding authorities in this Section shall be subject to the requirements that:

A. All proposed waivers must be submitted to the Office of Contract Compliance and the City Clerk. All proposed waivers must set forth the reasons the contracting officer is requesting the waiver, what steps were taken to find an entity that complies with this Section and why the waiver does not defeat the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section. Such waivers shall be subject to the prior approval of the Office of Contract Compliance, which shall take action approving or denying a proposed waiver within 30 days of receiving a notification of a proposed waiver from a contracting officer. If after 30 days the Office of Contract Compliance has taken no action on the proposed waiver the waiver shall be deemed approved. The City Clerk shall notify all Council members of the proposed waiver.

B. For any contract subject to approval by the Council, the awarding authority shall state in the approving resolution or other action whether any waiver under this section has been or is proposed to be granted for that contract; and

C. The Office of Contract Compliance shall conduct quarterly comprehensive reviews of the use of the waiver authority by awarding authorities and shall make a report to the Council. Awarding authorities which have exercised their waiver authority under this Section in the previous quarter must appear before the Council Committee before which the matter is calendared and report on the use of such waiver authority. If the Council finds abuse of waiver authority by an awarding authority under this section, either as a result of a report of the Office of Contract Compliance or upon its own initiative, the Council may by resolution transfer that waiver authority for that awarding authority to the

Office of Contract Compliance, to be exercised by the Office of Contract Compliance upon recommendation of the awarding authority under any or all of the circumstances enumerated in this section.

(6) Nothing in this section shall limit the right of the City to waive the provisions of this Article.

(7) This Section shall not apply to (i) the investment of trust moneys or agreements relating to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre-existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:

A. No person, entity or financial institution doing business in the City which is in compliance with this Section is capable of performing the desired transaction(s); or

B. The City will incur a financial loss which in the opinion of the Treasurer would violate his or her fiduciary duties.

This subparagraph shall be subject to the requirement that City moneys shall be withdrawn or divested at the earliest possible maturity date if deposited or invested with a person, entity or financial institution other than the U.S. government which does not comply with this Section.

(8) The General Manager of the Department of Water and Power may waive the requirements of this Section where the contractor is providing wholesale or bulk water or power, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or load scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the Department of Water and Power; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures; and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City of Los Angeles.

(9) The equal benefits requirements of this section shall not apply to any contracts, executed or amended prior to January 1, 2000 or to bid packages advertised and made available to the public, or any competitive or sealed bids received by the City, prior to January 1, 2000, unless and until such contracts are amended after January 1, 2000, and would otherwise be subject to this Section.

f. The provisions of this Section shall not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations of the United States of America.

g. **Severability.**

If any provision of this section is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

#49686

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, by a vote of not less than two-thirds of all of its members, at its meeting of NOV 17 1999.

J. MICHAEL CAREY, City Clerk

By Maria Kostenick
Deputy

Approved NOV 23 1999

Mayor

Approved as to Form and Legality

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

File No. 99-0908

Form-23

ORDINANCE NO. 172909

An ordinance amending Section 10.8.1 of the Los Angeles Administrative Code to add the definitions of "Domestic Partners."

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS

Section 1. Section 10.8.1 of the Los Angeles Administrative Code is hereby amended by adding the following subsection:

"Domestic partners" means, for purposes of this Article, any two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring, who live together, and who have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership. For purposes of this Article, domestic partners must be registered with a governmental entity pursuant to state or local law authorizing such registration or with a internal registry maintained by an employer of at least one of the domestic partners.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, by a vote of not less than two-thirds of all of its members, at its meeting of NOV 17 1999.

J. MICHAEL CAREY, City Clerk

By Marie Kostenick
Deputy

Approved NOV 23 1999

Mayor

Approved as to Form and Legality

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

File No. 99-0908

Form-23

ORDINANCE NO. 172910

An ordinance amending Section 10.8.2 of the Los Angeles Administrative Code to add "domestic partner status" to the list of prohibited forms of discrimination in City contracts.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Section 10.8.2 is hereby amended to read as follows:

Sec. 10.8.2. All Contracts: Non-discrimination and Equal Benefits Clause.

a. **Non-discrimination.**

Notwithstanding any other provision of any ordinance of the City of Los Angeles to the contrary, every contract which is let, awarded, or entered into with or on behalf of the City of Los Angeles, shall contain by insertion therein a provision obligating the contractor in the performance of such contract not to discriminate in his employment practices against any employee or applicant for employment because of the applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition. All subcontracts awarded under any contract mentioned in this section shall contain a like provision.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, by a vote of not less than two-thirds of all of its members, at its meeting of NOV 17 1999.

J. MICHAEL CAREY, City Clerk

By Maria Kostenick
Deputy

Approved NOV 23 1999

Mayor

Approved as to Form and Legality

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

File No. 99-0908

Form-23

ORDINANCE NO. 172911

An ordinance amending Section 22.359.1 of the Los Angeles Administrative Code to add the enforcement of the Equal Benefits Ordinance to the powers and duties of the Office of Contract Compliance.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS

Section 1. Section 22.359.1 of the Los Angeles Administrative Code is hereby amended by adding the following subsection:

(8) To ensure that each contractor doing business with the City complies with the equal benefits requirements applicable to their contract.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, by a vote of not less than two-thirds of all of its members, at its meeting of NOV 17 1999.

J. MICHAEL CAREY, City Clerk

By Maria Kostenick
Deputy

Approved NOV 23 1999

Mayor

Approved as to Form and Legality

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

File No. 99-0908

Form-23

File No. 99-0908

TO THE COUNCIL OF THE CITY OF LOS ANGELES

Your PERSONNEL COMMITTEE

reports as follows:

	Yes	No
Public Comments	XX	__

PERSONNEL COMMITTEE REPORT and four (4) ORDINANCES relative to the Equal Benefits Ordinance.

Recommendations for Council action, pursuant to Motion (Goldberg-Galanter):

1. PRESENT and ADOPT accompanying four (4)ORDINANCES to effectuate the following:

   a. Add Section 10.8.2.1 to the Los Angeles Administrative Code to provide that City contractors and sub-contractors shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners.

   b. Amend Section 10.8.1 of the Los Angeles Administrative Code to add the definition of "Domestic Partners".

   c. Amend Section 22.359.1 of the Los Angeles Administrative Code to add enforcement of the Equal Benefits Ordinance to the powers and duties of the Office of Contract Compliance.

   d. Amend Section 10.8.2 of the Los Angeles Administrative Code to add "domestic partner status" to the list of prohibited forms of discrimination in City contracts.

2. NOTE and FILE the October 25, 1999 joint City Administrative Officer and Chief Legislative Analyst report relative to the Equal Benefits Ordinance.

Fiscal Impact Statement: None submitted. Neither the City Administrative Officer nor the Chief Legislative Analyst has prepared a financial analysis of this matter.

Summary:

On August 16, 1999, the Committee considered a joint report from the CAO and CLA, prepared pursuant to Motion (Goldberg-Galanter) adopted May 21, 1999, relative to the projected impact of a City policy requiring all contractors, subcontractors, lessees and sublessees (collectively referred to as contractors) to provide the same benefits to their employees with domestic partners as provided to their employees with spouses. The Committee requested additional information regarding the types of benefits and coverage provided by City contractors, their feedback regarding the proposed policy and a review of the "Two-Year Report on the San Francisco Equal Benefits Ordinance". The response to this request for more information was considered at the Committee's October 28, 1999 meeting, in addition to Ordinances effectuating the equal benefits.

The CAO and CLA surveyed City contractors known to provide employee benefits. Information was requested on the types of benefits plans offered, including health and retirement benefits, levels of coverage offered, premiums for employee only coverage as well as coverage for employees with spouses/domestic partners, whether domestic partner benefits were offered, and the cost of providing such a program. Of 152 surveys, 52 contractors responded. Information on the responses is contained in the October 25, 1999 CAO/.CLA report on the Council File. Cost estimates of adding domestic partner medical benefits were obtained by examination of surveys from 17 contractors that do not provide domestic partner coverage, but provide a medical subsidy for all or part of the medical premium for spouse coverage. Contractors did not provide data on the cost of other benefit plans such as retirement and provided insufficient data on dental insurance plans.

The survey also asked contractors to share their comments and concerns about the proposed Equal Benefits policy. The CAO/CLA report that many were in support of the proposed policy. Two contractors gave suggestions on how to implement the Equal Benefits Ordinance from their experience with the City and County of San Francisco. Some contractors indicated they would not oppose the matter if it did not result in higher premiums. A small group were opposed for either moral reasons or because of a lack of knowledge about domestic partner benefits.

The City and County of San Francisco amended its Administrative Code in June 1997 to prohibit any agency of the City of San Francisco from entering into or amending any contract or lease with any contractor that discriminates in the provision of employee benefits (health benefits, retirement, bereavement leave, membership discounts, travel benefits, etc.) between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of employees. The policy applies to contractors with whom the City of San

Francisco does more than $5,000 of business per year and does not include subcontractors or sublessees.

In August 1999, San Francisco's Human Rights Commission (Commission) completed a two-year report on the status of the policy. The report, attached to the Council File, does not provide any economic data on the policy's fiscal impact. It does provide statistical data on the number of contractors that are in compliance as well as the number of waivers and exceptions that have been granted by the Commission. A summary of this data and the legal challenges to the San Francisco policy is provided in the October 25, 1999 joint CAO/CLA report.

The City Attorney, pursuant to Motion instructions, prepared four ordinances to effectuate a policy similar to San Francisco's. The primary ordinance provides for a mandatory inclusion of a provision in all City contracts, in excess of $5,000, prohibiting discrimination in the payment of benefits between employees of City contractors and subcontractors with spouses and employees with domestic partners. The City's current definition of "contract" includes leases. The ordinance incorporates language substantially similar to the ordinance enacted by San Francisco. The ordinance provides for waivers and exceptions in certain circumstances. The other three ordinances are supplemental, amending other parts of the Administrative Code to accommodate the provisions of the new policy.

At its meeting of October 28, 1999, the Committee approved the matter and now forwards it for Council consideration.

Respectfully submitted,

PERSONNEL COMMITTEE

RL
11/5/99
#990908

REPT 1 ORDS
ADOPTED
NOV 17 1999
LOS ANGELES CITY COUNCIL
TO THE MAYOR FORTHWITH

COUNCIL VOTE

17-Nov-99 10:25:36 AM, #4

ITEM NO. (6)
Voting on Item(s): 6
Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Yes
GALANTER	Absent
GOLDBERG	Absent
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Absent
SVORINICH	No
WACHS	Yes
WALTERS	Yes
*FERRARO	Yes

Present: 12, Yes: 11 No: 1

ADOPTED -

OVER ONE WEEK TO . . NOV. 24, 1999 -

RECONSIDERED

COUNCIL VOTE

17-Nov-99 10:38:28 AM, #10

ITEM NO. (6)
Voting on Item(s): 6
Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Yes
GALANTER	Absent
GOLDBERG	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Absent
SVORINICH	Absent
WACHS	Yes
WALTERS	Yes
*FERRARO	Yes

Present: 12, Yes: 12 No: 0

ADOPTED

PERSONNEL COMMITTEE
SUGGESTED NOTIFICATION OF COUNCIL ACTION

Council File No. 99-0908

- [ ] Council Member(s) _____
- [ ] Interested Department _____
- [x] Mayor ~~(with/without file)~~ ORDS
- [x] Board of Civil Service Commissioners
- [x] Personnel Department
- [x] City Administrative Officer
- [x] City Attorney
- [x] Chief Legislative Analyst
- [x] Controller
- [ ] Treasurer
- [ ] Information Technology Agency
- [x] Appropriate Pension System
- [x] Appropriate Bargaining Unit
- [ ] Jan Perry, Census 2000, CDD
- [ ] _____
- [ ] _____
- [ ] _____
- [ ] _____
- [ ] _____

CITY OF LOS ANGELES SPEAKER CARD

Date: 10.28.99

Council File No., Agenda Item, or Case No.: #3

I wish to speak before the Personnel Committee
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? (✓) For proposal ( ) Against proposal ( ) General comments

Name: CHRISTOPHER CALHOUN

Business or Organization Affiliation: L.A. GAY + LESBIAN CENTER

Address: 1625 N. SCHRADER BLVD. (Street) LOS ANGELES (City) CA (State) 90028 (Zip)

Business phone: 323 860 7352 Representing: L.A. GAY + LESBIAN CENTER

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER CARD

Date	Council File No., Agenda Item, or Case No.
10/28/99	#3

I wish to speak before the Personnel Committee

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? (✓) For proposal ( ) Against proposal ( ) General comments

Name: LETICIA P. GARRISON-MARTINEZ

Business or Organization Affiliation:

Address: 5724 CALHOUN AVE. VAN NUYS CA 91401
Street City State Zip

Business phone: 818/7867928 Representing: WHITE/MARTINEZ FAMILY

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW: ☐

Client Name: Phone #:

Client Address:
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

JAMES K. HAHN
CITY ATTORNEY

WRITER'S DIRECT DIAL: (213) 485-4096
FAX: (213) 485-6560
TTY:

Office of the City Attorney
Los Angeles, California

REPORT NO. R99-0380

NOV 17 1999

REPORT RE:

AN ORDINANCE ADDING SECTION 10.8.2.1
TO THE LOS ANGELES ADMINISTRATIVE CODE

The Honorable City Council
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

(Council File No. 99-0908 - not transmitted herewith.)

Honorable Members:

As we informed your Personnel Committee when it considered this matter, we have prepared and transmit herewith a revised draft of the "Equal Benefits Ordinance." The changes made subsequent to the Personnel Committee's review of the ordinance were minor wording changes and other technical changes necessitated by the City's own contracting requirements as set forth in existing Charter and Administrative Code provisions. Specifically, the ordinance has been revised to specify that it shall not apply where it would be in conflict with any law, rule or regulation of the United States of America.

The ordinance is not approved by this office as to form and legality because it purports to apply to the proprietary departments, which have independent contracting authority subject to the provisions of the Charter. We note also that under applicable law the provisions of this ordinance cannot be applied to contracts which are required to be competitively bid by the Charter or other applicable law.

Very truly yours,

JAMES K. HAHN, City Attorney

By _____

LESLIE E. BROWN
Assistant City Attorney

LEB:lh
#49679

JAMES K. HAHN
CITY ATTORNEY

WRITER'S DIRECT DIAL: (213) 485-4096
FAX: (213) 485-6560
TTY:

Office of the City Attorney
Los Angeles, California

REPORT NO. R99-0344

OCT 28 1999

RECEIVED
CITY CLERK'S OFFICE
99 OCT 28 AM 10:59
CITY CLERK
BY
DEPUTY

REPORT RE:

DRAFT OF EQUAL BENEFITS ORDINANCE

The Honorable Personnel Committee of the City Council
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

(Council File No. 99-0908 - transmitted herewith.)

Honorable Members:

Pursuant to your instructions, we have prepared and transmit herewith for your consideration a discussion draft of an ordinance adding Section 10.8.2.1 to the Los Angeles Administrative Code, entitled the "Equal Benefits Ordinance." The ordinance provides for the mandatory inclusion of a provision in all City contracts, valued in excess of $5,000.00, prohibiting discrimination in the payment of benefits between employees of City contractors and subcontractors with spouses and employees of City contractors and subcontractors with domestic partners. In accordance with the instructions from the Committee, the draft ordinance incorporates language substantially similar to that found in the Equal Benefits Ordinance enacted by the City and County of San Francisco which has been placed within the framework of existing Los Angeles Administrative Code provisions pertaining to City contracts.

Very truly yours,

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

LEB:lh

#49091

JAMES K. HAHN
CITY ATTORNEY

WRITER'S DIRECT DIAL: (213) 485-4096
FAX: (213) 485-6560
TTY:

Office of the City Attorney
Los Angeles, California

REPORT NO. R99-0345

OCT 28 1999

REPORT RE:

AN ORDINANCE AMENDING SECTION 10.8.2 OF THE LOS ANGELES ADMINISTRATIVE CODE

RECEIVED
CITY CLERK'S OFFICE
99 OCT 28 AM 11:00
BY _____ CITY CLERK
DEPUTY

The Honorable City Council
of the City of Los Angeles
Room 615, City Hall
Los Angeles, California 90012

Honorable Members:

Pursuant to your instructions, we have prepared and transmit herewith, approved as to form and legality, an Ordinance amending Section 10.8.2 of the Los Angeles Administrative Code to add "domestic partner status" to the list of prohibited forms of discrimination in City contracts.

Very truly yours,

JAMES K. HAHN, City Attorney

By _____
LESLIE E. BROWN
Assistant City Attorney

LEB:lh

#49094

JAMES K. HAHN
CITY ATTORNEY

WRITER'S DIRECT DIAL: (213) 485-4096
FAX: (213) 485-6560
TTY:

Office of the City Attorney
Los Angeles, California

REPORT NO. R99-0346

OCT 28 1999

REPORT RE:

AN ORDINANCE AMENDING SECTION 10.8.1 OF THE LOS ANGELES ADMINISTRATIVE CODE

RECEIVED
CITY CLERK'S OFFICE
99 OCT 28 AM 10:59
BY _____ CITY CLERK
DEPUTY

The Honorable City Council
of the City of Los Angeles
Room 615, City Hall
Los Angeles, California 90012

Honorable Members:

Pursuant to your instructions, we have prepared and transmit herewith, approved as to form and legality, an Ordinance amending Section 10.8.1 of the Los Angeles Administrative Code to add the definitions of "Domestic Partners."

Very truly yours,

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

LEB:lh

#49093

JAMES K. HAHN
CITY ATTORNEY

WRITER'S DIRECT DIAL: (213) 485-4096
FAX: (213) 485-6560
TTY:

Office of the City Attorney
Los Angeles, California

REPORT NO. R99-0347

OCT 28 1999

REPORT RE:

AN ORDINANCE AMENDING SECTION 22.359.1 OF THE LOS ANGELES ADMINISTRATIVE CODE

RECEIVED
CITY CLERK'S OFFICE
99 OCT 28 AM 11:00
BY _____ CITY CLERK
DEPUTY

The Honorable City Council
of the City of Los Angeles
Room 615, City Hall
Los Angeles, California 90012

Honorable Members:

Pursuant to your instructions, we have prepared and transmit herewith, approved as to form and legality, an Ordinance amending Section 22.359.1 of the Los Angeles Administrative Code to add the enforcement of the Equal Benefits Ordinance to the powers and duties of the Office of Contract Compliance.

Very truly yours,

JAMES K. HAHN, City Attorney

By
LESLIE E. BROWN
Assistant City Attorney

LEB:lh

#49092

ORDINANCE NO. _____

An ordinance adding Section 10.8.2.1 to the Los Angeles Administrative Code to provide that City contractors and sub-contractors shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Sections 10.8.2.1 is hereby added to the Los Angeles Administrative Code to read as follows:

Sec. 10.8.2.1 Equal Benefits Ordinance.

a. **All Contracts: Equal Benefits Clause.**

No contracting agency of the City, or any department thereof, acting for or on behalf of the City, shall execute or amend any contract with any contractor that discriminates in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits as well as any benefits other than bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, or a internal registry maintained by the contractor, subject to the following conditions. In the event that the contractor's actual cost of providing a certain benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs. In addition, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor provides the employee with a cash equivalent.

NOT FOR CONSIDERATION

b. **Applicability.**

The requirements of this Section shall apply to (i) any of a contractor's operations within Los Angeles; and (ii) a contractor's operations on real property outside of Los Angeles owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract with the City; (iii) where the work is being prformed by a contractor for the City within the United States.

c. **Mandatory Provisions Pertaining to Equal Benefits.**

Every contract or subcontract with, or on behalf of the City of Los Angeles for which the consideration is in excess of $5,000 shall contain the following provisions which shall be designated as the Equal Benefits Provisions of such contract or subcontract:

"A. During the performance of this contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative that the contractor and each subcontractor hereunder will provide equal benefits to its employees with spouses and employees with domestic partners.

1. The contractor or subcontractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Equal Benefits Provisions of this contract, and on their or either of their request to provide evidence that it has or will comply therewith.

C. The failure of any contractor or subcontractor to comply with the Equal Benefits Provisions of this contract may be deemed to be a material breach hereof. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor or subcontractor in accordance with the provisions of Section 22.359.3 of the Los Angeles Administrative Code.

D. Upon a finding duly made that the contractor or subcontractor has breached the Equal Benefits Provisions of this contract, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor or subcontractor is an irresponsible bidder pursuant to the provisions of Section 386 of the Los Angeles City Charter. In the event of such determination, such contractor or subcontractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he shall establish and carry out a program in conformance with the provisions hereof.

E. Notwithstanding any other provisions of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

F. The Office of Contract Compliance shall promulgate rules and regulations and forms for the implementation of the Equal Benefits Provisions of this contract. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.

G. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

H. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to the payment of equal benefits by contractors, subcontractors or suppliers engaged in the performance of City contracts."

d. **Enforcement.**

In accordance with Division 22, Chapter 13, Article 10, of this Code, the Board of Public Works, Office of Contract Compliance is responsible for the enforcement of the equal benefits requirements, as referenced in this section, or as otherwise required, of all City contracts. In enforcing this requirement, the

Office of Contract Compliance will monitor, inspect, and investigate to insure that the contractor is acting in compliance with the equal benefits requirements of such City contracts. Each awarding authority shall cooperate to the fullest extent with the Office of Contract Compliance in their enforcement activities.

1. The failure of any contractor or subcontractor to comply with the equal benefits provisions of a contract may be deemed to be a material breach of the contract subject to the procedures and penalties set forth in this section, below.

e. **Non-applicability, Exceptions and Waivers.**

(1) The Office of Contract Compliance shall waive the requirements of this Section under the following circumstances:

A. Whenever the Office of Contract Compliance finds, upon the advice of the awarding authority, that there is only one prospective contractor willing to enter into a contract with the City for use of City property on the terms and conditions established by the City, or that the needed goods, services, construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City, or from doing business with any governmental agency based on any contract compliance requirements;

B. If the contracting department, board or commission certifies in writing to the Office of Contract Compliance that the contract is necessary to respond to an emergency which endangers the public health or safety and no entity which complies with the requirements of this Section capable of responding to the emergency is immediately available; provided that such certification must be made prior to the final approval of the contract.

C. Where the City Attorney certifies in writing to the Office of Contract Compliance that the contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of this Section.

(2) This Section shall not apply where the prospective contractor is a public entity and the Office of Contract Compliance finds that goods, services, construction services for a public work

or improvement or interest in or right to use real property of comparable quality or accessibility as are available under the proposed contract are not available from another source, or that the proposed contract is necessary to serve a substantial public interest;

(3) This Section shall not apply where the contracting officer finds that the requirements of this Section will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement, provided that the contracting officer has made a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to authorize application of this Section.

(4) Upon the request of a potential contractor or upon the contracting officer's own initiative, after taking all reasonable measures to find an entity that complies with the law, the contracting officer may waive any or all of the requirements of this Section for any contract or bid package advertised and made available to the public, or any competitive or sealed bids received by the City as of the date of the enactment of this ordinance under the following circumstances:

A. Where the contracting officer determines that there are no qualified responsive bidders or prospective contractors who could be certified as being in compliance with the requirements of this Section and that the contract is for goods, a service or a project that is essential to the City or City residents; or

B. Where the contracting officer determines that transactions entered into pursuant to bulk purchasing arrangements through federal, state or regional entities which actually reduce the City's purchasing costs would be in the best interests of the City; or

C. Where the contracting officer determines that the requirements of this Section would result in the City's entering into a contract with an entity that was set up, or is being used, for the purpose of evading the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section.

D. The waiver authority granted to contracting officers in this section 10.39.3(d) shall be subject to the requirements that:

(i) All proposed waivers must be submitted to the Office of Contract Compliance and the City Clerk. All proposed waivers must set forth the reasons the contracting officer is requesting the waiver, what steps were taken to find an entity that complies with this Section and why the waiver does not defeat the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section. Such waivers shall be subject to the prior approval of the Office of Contract Compliance, who shall take action approving or denying a proposed waiver within 30 days of receiving a notification of a proposed waiver from a contracting officer. If after 30 days the Office of Contract Compliance has taken no action on the proposed waiver the waiver shall be deemed approved. The City Clerk shall list the notice of the proposed waiver on the the next available Council agenda; and

(ii) Contracting officers report to the Office of Contract Compliance whenever such a waiver is granted within 5 days of granting the waiver; and

(iii) For any contract subject to approval by the Council, the contracting officer shall state in the approving resolution whether any waiver under this section has been or is proposed to be granted for that contract; and

(iv) The Office of Contract Compliance shall conduct quarterly comprehensive reviews of the use of the waiver authority by departments and shall make a report to the Council. Contracting officers who have exercised waiver authority under this section in the previous quarter must appear before a Council committee and report on their use of such waiver authority. If the Council finds

abuse of waiver authority by a department under this section, either as a result of a report of the Office of Contract Compliance or upon its own initiative, the Council may by resolution transfer that waiver authority for that department to the Office of Contract Compliance, to be exercised by the Office of Contract Compliance upon recommendation of the contracting officer under any or all of the circumstances enumerated in this section.

E. Nothing in this section shall limit the right of the City to waive the provisions of this Article.

(5) This Section shall not apply to (i) the investment of trust moneys or agreements relating to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre-existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:

A. No person, entity or financial institution doing business in the City which is in compliance with this Section is capable of performing the desired transaction(s); or

B. The City will incur a financial loss which in the opinion of the Treasurer would violate his or her fiduciary duties.

This subparagraph (5) shall be subject to the requirement that City moneys shall be withdrawn or divested at the earliest possible maturity date if deposited or invested with a person, entity or financial institution other than the U.S. government which does not comply with this Section.

(6) The General Manager of the Department of Water and Power may waive the requirements of this Section where the contractor is providing wholesale or bulk water or power, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or load scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the Department of Water and Power; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures; and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City of Los Angeles.

(7) The equal benefits requirements of this section shall not apply to any contracts, executed or amended prior to January 1, 2000 or to bid packages advertised and made available to the public, or any competitive or sealed bids received by the City, prior to January 1, 2000, unless and until such contracts are amended after January 1, 2000, and would otherwise be subject to this Section.

f. **Severability.**

If any provision of this section is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

draft

ORDINANCE NO. _____

An ordinance adding Section 10.8.2.1 to the Los Angeles Administrative Code to provide that City contractors and subcontractors shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Section 10.8.2.1 is hereby added to the Los Angeles Administrative Code to read as follows:

Sec. 10.8.2.1 Equal Benefits Ordinance.

a. **All Contracts: Equal Benefits Clause.**

No awarding authority of the City, shall execute or amend any contract with any contractor that discriminates in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits as well as any other benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, or an internal registry maintained by the contractor, subject to the provisions of this Section. In the event that the contractor's actual cost of providing a certain benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs. In addition, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor provides the employee with a cash equivalent to the direct expense to the employer of providing the benefit payment to a spouse or domestic partner, as applicable.

b. **Applicability.**

The requirements of this Section shall apply to (i) any of a contractor's operations within the City of Los Angeles; and (ii) a contractor's operations on real property outside of the City of Los Angeles owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract with the City; (iii) a contractor's operations elsewhere in the United States where the work is being performed for the City.

c. **Mandatory Provisions Pertaining to Equal Benefits.**

Every contract with or on behalf of the City of Los Angeles for which the consideration is in excess of $5,000 shall contain the following provisions which shall be designated as the Equal Benefits Provisions of such contract:

"A. During the performance of this contract, the contractor certifies and represents that the contractor will provide equal benefits to its employees with spouses and its employees with domestic partners.

1. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

"B. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices to the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Equal Benefits Provisions of this contract, and on their or either of their request to provide evidence that it has complied or will comply therewith.

"C. The failure of any contractor to comply with the Equal Benefits Provisions of this contract may be deemed to be a material breach hereof. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

"D. Upon a finding duly made that the contractor has breached the Equal Benefits Provisions of this contract, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder pursuant to the provisions of Section 386 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until it shall establish and carry out a program in conformance with the provisions hereof.

"E. Notwithstanding any other provisions of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

"F. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

"G. The equal benefits requirements of this section shall not apply to collective bargaining agreements in effect prior to the effective date of Section 10.8.2.1 of the Los Angeles Administrative Code. Amendments, extensions or other modifications of such collective bargaining agreements, occurring subsequent to the effective date of that section, shall incorporate the equal benefits requirements of that section."

"H. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City."

d. **Enforcement.**

In accordance with Division 22, Chapter 13, Article 10, of this Code, the Board of Public Works, Office of Contract Compliance is responsible for the enforcement of the equal benefits requirements, as referenced in this Section, or as otherwise required, of all City contracts. In enforcing this requirement, the Office of Contract Compliance will monitor, inspect, and investigate to insure that the contractor is acting in compliance with the equal benefits requirements of such City contracts. The Office of Contract Compliance shall promulgate rules and regulations and forms for the implementation of the Equal Benefits Provisions of this contract. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program. Each awarding authority shall cooperate to the fullest extent with the Office of Contract Compliance in their enforcement activities. The failure of any contractor to comply with the equal benefits provisions of a contract may be deemed to be a material breach of the contract.

e. **Non-applicability, Exceptions and Waivers.**

(1) The Office of Contract Compliance shall waive the requirements of this Section under the following circumstances:

A. Whenever the Office of Contract Compliance finds, upon the advice of the awarding authority, that there is only one prospective contractor willing to enter into a contract with the City for use of City property on the terms and conditions established by the City, or that the needed goods, services, construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City, or from doing business with any governmental agency based on any contract compliance requirements;

B. If the awarding authority certifies in writing to the Office of Contract Compliance that the contract is necessary to respond to an emergency which endangers the public health or safety and no entity which complies with the requirements of this Section capable of responding to the emergency is immediately available; provided that such certification must be made prior to the final approval of the contract.

C. Where the City Attorney certifies in writing to the Office of Contract Compliance that the contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of this Section.

(2) This Section shall not apply where the prospective contractor is a public entity and the Office of Contract Compliance finds that goods, services, construction services for a public work or improvement or interest in or right to use real property of comparable quality or accessibility as are available under the proposed contract are not available from another source, or that the proposed contract is necessary to serve a substantial public interest;

(3) This Section shall not apply where the awarding authority finds that the requirements of this Section will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement, provided that the awarding authority has made a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to authorize application of this Section.

(4) Upon the request of a potential contractor or upon the awarding authority's own initiative, after taking all reasonable measures to find an entity that complies with the law, and subject to the provisions of paragraph (5) below, the awarding authority may waive any or all of the requirements of this Section for any contract or bid package advertised and made available to the public, or any competitive or sealed bids received by the City as of the date of the enactment of this ordinance under the following circumstances:

A. Where the awarding authority determines that there are no qualified responsive bidders or prospective contractors who could be certified as being in compliance with the requirements of this Section and that the contract is for goods, a service or a project that is essential to the City or City residents; or

B. Where the awarding authority determines that transactions entered into pursuant to bulk purchasing arrangements through federal, state or regional entities which actually reduce the City's purchasing costs would be in the best interests of the City; or

C. Where the awarding authority determines that the requirements of this Section would result in the City's entering into a contract with an entity that was set up, or is being used, for the purpose of evading the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section.

(5) The waiver authority granted to awarding authorities in this Section shall be subject to the requirements that:

A. All proposed waivers must be submitted to the Office of Contract Compliance and the City Clerk. All proposed waivers must set forth the reasons the contracting officer is requesting the waiver, what steps were taken to find an entity that complies with this Section and why the waiver does not defeat the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section. Such waivers shall be subject to the prior approval of the Office of Contract Compliance, which shall take action approving or denying a proposed waiver within 30 days of receiving a notification of a proposed waiver from a contracting officer. If after 30 days the Office of Contract Compliance has taken no action on the proposed waiver the waiver shall be deemed approved. The City Clerk shall notify all Council members of the proposed waiver.

B. For any contract subject to approval by the Council, the awarding authority shall state in the approving resolution or other action whether any waiver under this section has been or is proposed to be granted for that contract; and

C. The Office of Contract Compliance shall conduct quarterly comprehensive reviews of the use of the waiver authority by awarding authorities and shall make a report to the Council. Awarding authorities which have exercised their waiver authority under this Section in the previous quarter must appear before the Council Committee before which the matter is calendared and report on the use of such waiver authority. If the Council finds abuse of waiver authority by an awarding authority under this section, either as a result of a report of the Office of Contract Compliance or upon its own initiative, the Council may by resolution transfer that waiver authority for that awarding authority to the

Office of Contract Compliance, to be exercised by the Office of Contract Compliance upon recommendation of the awarding authority under any or all of the circumstances enumerated in this section.

(6) Nothing in this section shall limit the right of the City to waive the provisions of this Article.

(7) This Section shall not apply to (i) the investment of trust moneys or agreements relating to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre-existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:

A. No person, entity or financial institution doing business in the City which is in compliance with this Section is capable of performing the desired transaction(s); or

B. The City will incur a financial loss which in the opinion of the Treasurer would violate his or her fiduciary duties.

This subparagraph shall be subject to the requirement that City moneys shall be withdrawn or divested at the earliest possible maturity date if deposited or invested with a person, entity or financial institution other than the U.S. government which does not comply with this Section.

(8) The General Manager of the Department of Water and Power may waive the requirements of this Section where the contractor is providing wholesale or bulk water or power, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or load scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the Department of Water and Power; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures; and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City of Los Angeles.

(9) The equal benefits requirements of this section shall not apply to any contracts, executed or amended prior to January 1, 2000 or to bid packages advertised and made available to the public, or any competitive or sealed bids received by the City, prior to January 1, 2000, unless and until such contracts are amended after January 1, 2000, and would otherwise be subject to this Section.

f. The provisions of this Section shall not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations of the United States of America.

g. **Severability.**

If any provision of this section is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

#49686

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

J. MICHAEL CAREY, CITY CLERK

By _____
Deputy

Approved _____

_____
Mayor

File No. _____

FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

RECEIVED
CITY CLERK'S OFFICE
99 OCT 25 PM 1:28
CITY CLERK
BY _____
DEPUTY

Date: October 25, 1999

To: The City Council

From: William T Fujioka, City Administrative Officer UTF
Ronald F. Deaton, City Legislative Analyst RFD&AK

Subject: **IMPACT OF ~~DOMESTIC PARTNER~~ EQUAL BENEFITS ORDINANCE UPDATE**

On August 16, 1999, the Personnel Committee considered a joint report from the City Administrative Officer and Chief Legislative Analyst on the projected impact of a City policy that would require all contractors, subcontractors, lessees and sublessees (collectively referred to as contractors) to provide the same benefits to their employees with domestic partners as they provide to employees with spouses (C.F. 99-0908). Committee members requested additional information as to the types of benefits and coverage provided by current City contractors and their feedback regarding the proposed policy. Staff was also asked to review the "Two-Year Report on the San Francisco Equal Benefits Ordinance" and to report back with any relevant findings.

SURVEY RESULTS

A survey was conducted of City contractors known to provide employee benefits. They were extracted from a database used by the Living Wage unit which is considered the best list of contractors in the City. The size of the companies surveyed range from one employee to 1,951 employees. The survey sought information on the types of benefit plans, including health and retirement benefits and levels of coverage offered to employees. It also asked about domestic partner benefits coverage to determine how many companies already offer it and to obtain information on the cost of providing such a program. In addition, the survey obtained information on medical and dental premiums for employee only coverage as well as coverage for employee and spouse/domestic partner.

Of 152 surveys, 52 contractors responded, which is a response rate of 34%. Of those that responded to the survey, 12 (23%) currently offer domestic partner benefits. Only one of those has a domestic partner benefits policy that applies to same-sex couples only. Nine (17%) of the respondents offer benefits to employees only, 27 (52%) offer benefits to spouses and/or family members, two (3.8%) do not provide any benefits at all and two respondents did not provide sufficient information (see table).

	Employee + Domestic Partner/Spouse	Employee + Spouse	Employee Only	No Benefits
No.	12	27	9	2
% of total no. of respondents	23%	52%	17%	3.8%

A little more than half (52%) of the respondents also provide retirement benefits and/or additional plans such as disability, employee assistance program (EAP), life, and accidental death and dismemberment (AD&D) insurance. Less than half (48%) of the respondents provide a dental insurance plan.

Of the 27 respondents that provide medical benefits to spouses, 11 (21%) require the employee to pay for the additional cost to cover his/her spouse, 12 (23%) share the cost with their employees to cover a spouse, and 5 contractors (9.6%) pay for the full premium amount for spouse coverage.

Medical Insurance Cost Estimates

To obtain cost estimates of adding domestic partner medical benefits, staff examined the surveys from contractors that do not provide domestic partner coverage but provide a medical subsidy that covers part or all of the medical premium for spouse coverage. That includes 17 contractors from the survey. Contractors did not provide data regarding the cost of other benefit plans such as retirement and provided insufficient data on dental insurance plans. Therefore, those costs were not available.

Based upon the survey group, the average cost to add each domestic partner is as follows:

Size of company (no. of employees)	Weighted avg. annual cost per spouse/domestic partner
1-25	$2,100
26-100	N/A (employee paid plans only in survey group)
more than 100	$2,174

Staff estimates that 3% of the employee population within a company participates in domestic partner benefits, which is the participation rate experienced at the City as well as the City and County of San Francisco. The estimated cost for an employer

would be 3% of the workforce of the employer multiplied by the weighted average annual cost per employee.

The cost estimates do not include administrative costs that would be associated with administering and adding a new benefit. The long term affects on premium rates and employers' cost will depend on the enrollment and claims experience of the insurance plans from adding domestic partners. The financial impact on contractors can be mitigated by allowing them to pass on the additional costs, wholly or in part, to the covered employees.

A majority (67%) of the contractors that currently provide domestic partner benefits contribute to the cost of covering a domestic partner. These contractors indicated that the cost of providing domestic partner benefits was the same as the cost for providing spouse coverage. It is unclear how many employees are participating in the programs.

The survey covered only a portion of the total number of contractors and contractors that provide employee benefits. Therefore, the survey results may not be an accurate indicator of the full fiscal impact of the domestic partner ordinance (DPO). However, based on our assumptions, it does provide a best guess with the limited information available.

Contractors' Reaction

In the survey, the contractors were asked to share their comments and concerns about the proposed DPO. Many were in support of the policy. Two contractors even gave suggestions on how to implement the DPO from their experience with the City and County of San Francisco. Some contractors indicated that there would be no opposition to the DPO as long as it did not result in higher premiums. A small group opposed the DPO for either moral reasons or because of their lack of knowledge about domestic partner benefits.

TWO-YEAR REPORT ON THE SAN FRANCISCO EQUAL BENEFITS ORDINANCE

Background

The City and County of San Francisco amended Chapter 12B of its Administrative Code in June 1997, to prohibit any agency of the City from entering into or amending any contract or lease with any contractor that discriminates in the provision of employee benefits (health benefits, retirement, bereavement leave, membership discounts, travel benefits, etc.). The Code requires that its contractors may not discriminate between employees with domestic partners and employees with spouses and/or between the

domestic partners and spouses of employees. It applies to contractors with whom the City does more than $5,000 of business per year and it does not include subcontractors or sub-lessees.

The Human Rights Commission completed a two-year report on August 12, 1999, on the progress of the policy. The report did not include any economic data on the policy's fiscal impact. However, it did provide statistical data on the number of contractors that are in compliance as well as the number of waivers and exceptions that have been granted by the Commission.

City contractors may comply with the Equal Benefits Ordinance in the following ways:

- By offering employee benefits that do not discriminate between spouses and domestic partners.
- By offering no employee benefits that extend to spouses or domestic partners (or to employees because they have a spouse or domestic partner).
- By carrying no employees on their payroll.

Waivers and exceptions may also be made in certain instances. Contractors are provided waivers and exceptions when:

- There is only one source for a needed good or service or only one party with an interest in real property.
- There is an emergency that threatens the public health or safety.
- A public entity offers the City needed goods or services of a quality or accessibility that is unavailable from another source.
- There are multiple sources for a needed good, service or interest in real property but none is willing to comply.
- A transaction entered into through a bulk purchasing arrangement established by a governmental or regional entity would actually reduce the City's purchasing costs and would be in the City's best interest.

Experience

San Francisco estimates that 30,000 domestic partners have taken advantage of the domestic partner ordinance through the programs offered by City contractors. There are 2,300 City contractors offering domestic partner benefits. As of June 30, 1999, 8,005 contractors submitted compliance paperwork to the San Francisco Human Rights Commission. Of those, 5,510 are finalized. 5,101 (92.73%) have been found to be in compliance. 400 (7.27%) are out of compliance. Of those complying with the Equal Benefits Ordinance (5,001), 46% comply by offering nondiscriminatory benefits, 33% comply by offering no employee benefits, and 21% comply because they have no employees.

In the first 13 months of implementation of the Equal Benefits Ordinance (June 1, 1997 though June 30, 1998), San Francisco City departments have requested 1,474 waivers. 617 were approved. During the 2nd year of implementation (July 1, 1998- June 30, 1999), City departments requested a total of 1,393 waivers, of which 389 were approved.

Some businesses experienced difficulties in the provision of medical benefits when the Equal Benefits Ordinance was enacted in San Francisco. To resolve this problem, the San Francisco Chamber of Commerce developed a group insurance plan which was made available to any member businesses, regardless of their size. To further assist contractors, the Human Rights Commission maintains a list of insurance providers willing to offer domestic partner coverage to their customers. The list has over 100 carriers and reflects carriers in all 50 states and the District of Columbia.

Legal Decisions

As previously reported there have been numerous lawsuits challenging the legality of San Francisco's policy. In Air Transportation Association (ATA), et. al. v. City and County of San Francisco, et. al., the Court placed jurisdictional limitations on San Francisco and held that the City could no longer apply the ordinance to a contractor's nationwide operations. The Court also ruled that where the City acts as a regulator, the ERISA guidelines preempt the ordinance. After attempts to file an injunction failed with respect to non-ERISA benefits, United Airlines announced that it would be offering domestic partner benefits and would limit benefits to opposite-sex couples for employees in San Francisco.

Two other challenges have been made. One lawsuit, involving an electrical contracting business that alleged it was denied a contract because of their refusal to comply with the ordinance was voluntarily dismissed. The Court upheld the ordinance in another lawsuit that alleged that the company was denied a contract because its anti-gay beliefs prohibited it from complying with the ordinance.

WTF:RFD:SC:RM:sr
16sr0957

PERSONNEL COMMITTEE, **SPECIAL MEETING**

MONDAY, AUGUST 16, 1999

ROOM 315, CITY HALL - 1:30 PM
200 NORTH MAIN STREET, LOS ANGELES, CA 90012

AUG 19 1999

MEMBERS: COUNCILMEMBER JACKIE GOLDBERG, Chair
COUNCILMEMBER MARK RIDLEY-THOMAS
COUNCILMEMBER MIKE FEUER

(Sandra L. Grange - Legislative Assistant - 213-485-4836)

Note: Assistive listening devices are available at the meeting; upon 24 hour advance notice, other accommodations, such as sign language interpretation, and translation services will be provided. Contact the Legislative Assistant listed above for the needed services. TDD available at (213) 485-4735.

FILE NO.	SUBJECT
	(1)
99-0908	Motion (Goldberg-Galanter) relative to an analysis by the City Administrative Officer and Chief Legislative Analyst on the projected impact of a City policy that would require all contractors, subcontractors, lessees and sublessees that either provide goods or services to the City or enjoy the use of City-owned real property to offer comparable employee benefits to those of their employees with domestic partners, as they offer to their employees with spouses, drafting of an appropriate ordinance and related matters.
	Fiscal Impact Statement Submitted: No.

DISPOSITION Continued for 30 days and, in the interim, the City Atty to prepare ordinance incorporating SF's that contains language accepting domestic partners either on an internal register or government register; use of "equal benefits" ordinance & not just domestic partner. CLA/CAO gather more data on the 1,000 companies & lessees as to the benefits they provide & to whom; how many would comply; how many @ no cost would still be in compliance; employers' concerns; any info from the SF ord that is relevant.

TWO YEAR REPORT

ON

THE SAN FRANCISCO EQUAL BENEFITS ORDINANCE

SAN FRANCISCO
HUMAN RIGHTS COMMISSION
August 12, 1999

Marivic S. Bamba
Executive Director

Report prepared by:

Cynthia G. Goldstein, Contract Compliance Officer

with assistance from
other members of the staff of

The Lesbian Gay Bisexual Transgender & HIV Division

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AUG-14-99 03:57 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 2/24

TABLE OF CONTENTS

Executive Summary 4

I. Introduction 4

A. A Brief History of the Domestic Partnership Movement in the U.S. 5
B. A Brief History of the San Francisco Equal Benefits Ordinance 7

II. Overview of the Equal Benefits Ordinance 7

A. What the Law Requires 7
Equal Pay for Equal Work 7
Domestic Partner Defined 8
Reasonable Measures 8
Jurisdiction 8

B. Implementation Efforts 8
Role of the Human Rights Commission 8
Education and Outreach 8
Helping Businesses Find Insurance Coverage 9
Determining Compliance 9
Implementation Challenges 9

C. Rules of Procedure 10
Building in Flexibility 10
Recognizing Different Options for Compliance 10
Addressing Other Issues 10

III. Compliance Experience 11

A. Compliance Statistics 11
B. Covered Employees 11
C. Company Size 11
D. Geography 11
E. Insurance Industry Response 12
F. Union Response 12
G. Waivers and Exceptions 12

IV. Related Legislative Activity 14
A. Contracting Legislation 14
B. Other Domestic Partner Legislation 15

AUG-14-99 03:57 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 3/24

1. State of California 15
2. City and County of San Francisco 15

V. Lawsuits and Congressional Challenges 16
A. Lawsuits 16
1. Air Transport Ass'n v. City and Cty of San Francisco 16
Jurisdictional Limitations 16
Benefits Covered by the Law 16
2. P.M. & M. Electric v. City and Cty of San Francisco 17
3. S.D. Myers, Inc. v. City and Cty of San Francisco 17

B. Congressional Challenges 18

VI. Impact of Ordinance 18

VII. Current Challenges 18

Appendices
Appendix A Twenty Largest Complying Companies 19
Appendix B Resource Materials 20
Resource Materials Order Form 21

AUG-14-99 03:58 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 4/24

EXECUTIVE SUMMARY

On June 1, 1997, revisions to San Francisco Administrative Code sections governing nondiscrimination in City contracts took effect, creating the first such program in the United States designed to end discrimination in employee benefits for employees with domestic partners. The success of the Ordinance two years later is seen in the ever-growing number of employers across the country that offer domestic partner benefits. This success has been brought about by the vision of community and City leaders, the dedicated efforts of many City departments, the responsiveness of the insurance industry and an understanding by the business community that nondiscriminatory employment practices make good business sense.

At the time the Equal Benefits Ordinance took effect, approximately 500 companies nationwide offered domestic partner benefits to their employees. As of June 30, 1999, that number has increased dramatically. There are now over 2300 City contractors offering domestic partner benefits, and this number does not reflect the many companies across the country that have followed suit even though they don't contract with the City.

City contractors offering domestic partner benefits employ a nationwide pool of approximately one million (1,000,000) people. With actuarial statistics showing an enrollment rate in private sector domestic partner medical benefits averaging three percent, that means there are approximately 30,000 people now covered by employer-sponsored medical plans as a result of the Equal Benefits Ordinance.

Currently, of the 5501 compliance declarations that have been fully reviewed as of this date, 93% comply with the requirements of the Equal Benefits Ordinance.

City contractors may comply with the Ordinance in one of three ways: (1) offer employee benefits that don't discriminate between spouses and domestic partners; (2) offer no employee benefits that extend to spouses or domestic partners (or to employees because they have a spouse or domestic partner); or (3) by carrying no employees on their payroll. To date, out of all complying companies, 46% comply by offering nondiscriminatory benefits, 33% comply by offering no employee benefits, and 21% comply because they have no employees.

The Ordinance has had a tremendous impact in the availability of domestic partner insurance coverage. To assist City contractors in their efforts to comply, the Commission compiled a list of insurance providers offering domestic partner coverage to employee groups. Research conducted prior to the effective date turned up only 14 insurance companies willing to provide this coverage. By June 30, 1999, the Commission has identified over 130 insurance companies who have joined the domestic partner insurance market. Recently, the statewide insurance pool created for small businesses (2 to 50 employees) began to offer domestic partner coverage to its 8,000 participating employers, potentially covering an additional 150,000 employees in California alone.

AUG-14-99 03:58 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 5/24

The impact of this growth in the insurance industry has been felt across the country as all businesses, not just those seeking City contracts, have a larger and more competitive insurance market from which to purchase domestic partner coverage. In addition, the options available to small businesses have increased dramatically, making it much more feasible for these businesses to provide coverage for small employee groups.

There have been three lawsuits challenging the Ordinance. Two of the challenges have stemmed from religious-based objections to the Ordinance, and have been supported by televangelist Pat Robertson's legal foundation, the American Center for Law and Justice. The third lawsuit, brought on behalf of a group of the nation's major airlines, asserts that the Ordinance oversteps the City's legislative authority. Because of the outstanding skill and dedication of the City Attorney's Office and outside counsel, the Ordinance has survived these challenges with great success.

As the litigation moves through the Court system toward resolution, and the success of the compliance effort remains strong, other Cities have begun to develop policies similar to the Ordinance. They have heard the challenge emanating from San Francisco: there is more that City governments can do to advance and protect the rights of domestic partners.

AUG-14-99 03:58 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 6/24

I. INTRODUCTION

A. A Brief History of the Domestic Partnership Movement in the U.S.

The status of legal marriage confers many rights and responsibilities upon the married couple. A 1996 U.S. General Accounting Office report cited 1,049 different benefits given to married people by the federal government alone. For example, marriage dictates what taxes must be paid, who can adopt a child, the transfer and inheritance of property, and who can make medical decisions for an incapacitated loved one. It also governs the provision of certain employee benefits.

Employment-based benefits such as medical insurance coverage, retirement benefits and leave programs comprise 30-40% of the average employee's total compensation. Because same-sex couples are denied the right to marry under the laws of all 50 United States, they are in effect denied the benefits associated with that legal status.

In the mid 1970s, a few same-sex couples went to their local county clerk's office and asked to be issued marriage licenses. They were denied. When litigating these denials failed, other means of garnering recognition for same-sex relationships were sought. As a result of the ensuing discussion regarding how to get same-sex relationships to be recognized by the government and employers, the concept of domestic partners was developed.

In 1982, the term "domestic partner" was first used in a lawsuit filed by HRC employee Larry Brinkin. Mr. Brinkin, then an employee of Southern Pacific Railway, had recently suffered the loss of his partner of eleven years. When he was denied the three days of paid bereavement leave given to married employees, he filed suit with the assistance of the ACLU. Mr. Brinkin lost his case. Despite a great deal of evidence to the contrary, the judge agreed with his employer's claim that there was no way to know if his relationship was legitimate. Later that same year, the City and County of San Francisco Board of Supervisors attempted to enact a domestic partner registry. Diane Feinstein, who was Mayor at the time, vetoed that effort.

In 1985 the City of Berkeley became the first municipality in the country to enact a domestic partner registry and the first employer to offer domestic partner benefits. During the years that followed, progressive nonprofit organizations and businesses, such as the ACLU and the Village Voice, joined Berkeley in offering domestic partner benefits to their employees. After several attempts, in 1991 San Francisco's registry was finally enacted; later that year the City began offering domestic partner benefits to its employees. Today, there are at least 44 municipal or state domestic partner registries across the country, and that number is growing.

AUG-14-99 03:58 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 7/24

B. A Brief History of the San Francisco Equal Benefits Ordinance

With the increasing number of employers, both public and private, offering domestic partner benefits, community activists began looking at new ways to increase the recognition of same-sex couples. Litigation efforts were renewed in the fight for same-sex marriage, and individuals denied employee or other benefits because of the unequal legal status of their domestic partnerships began using the legal system to advocate for themselves. On the legislative front, people in San Francisco began looking at the possibility of expanding the local laws addressing discrimination against domestic partners.

After working closely with members of the Harvey Milk Lesbian Gay Bisexual Transgender Democratic Club and other interested community groups, and receiving public testimony, the San Francisco Board of Supervisors on November 4, 1996, passed a law that, in an unprecedented way, attempted to address one aspect of this discrimination. This law, which amended the City's Nondiscrimination in Contracts Ordinances (Chapters 12B and 12C of the Administrative Code), prohibits the City from entering into contracts or leases with any business that discriminates between employees with spouses and employees with domestic partners with respect to any benefits they provide. On December 8, 1996, Mayor Willie L. Brown, Jr. signed these amendments into law. To allow for the development of implementation and enforcement tools, the effective date of the Ordinance was June 1, 1997.

Known as "The Equal Benefits Ordinance," these amendments require City contractors to provide the same benefits to their employees with spouses and their employees with domestic partners, as well as to the spouses and domestic partners of employees. Compliance with the Ordinance also requires that each City contractor agree to not discriminate in employment or against members of the public on the basis of a specified list of protected categories.

Charged with implementing the Ordinance, the Human Rights Commission, in conjunction with several other City departments and community and business groups, created a flexible implementation plan designed to recognize the business reality of making benefits changes. Resource materials and implementation guidelines were developed to assist businesses to comply.

II. Overview of the Equal Benefits Ordinance

A. What the Law Requires

Equal Pay for Equal Work. The main premise of the Equal Benefits Ordinance is equal treatment. Employees with spouses and employees with domestic partners should receive the same total compensation: salary plus benefits. Benefits provided by the employer directly to the spouse or domestic partner should be provided equally. The law does not require City contractors to begin offering benefits not previously offered. Instead, if a

AUG-14-99 03:59 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 8/24

City contractor offers benefits to the spouse of an employee (such as medical insurance), or to an employee because he or she is married (such as bereavement leave taken because of the death of a spouse or parent-in-law), then the City contractor must offer the same benefits to the domestic partners of an employee or to the employee with a domestic partner. Of course, if a business offered benefits to domestic partners and not spouses, that discrimination also would have to end before a City contract could be awarded.

Domestic Partner Defined. The ordinance defines the term "domestic partner" to mean any person whose domestic partnership is currently registered with a governmental domestic partnership registry. The ordinance requires nondiscriminatory benefits for both same- and opposite-sex couples.

Reasonable Measures. Where ending discrimination is outside a contractor's control, the contractor may still comply with the law by taking all reasonable measures to end discrimination and by offering a cash equivalent to those employees for whom providing benefits equally is not possible. For example, if no insurance company was willing to sell domestic partner medical insurance to an employer, the employer could comply with the Ordinance by paying the employee with a domestic partner the same amount of money the employer would pay toward the medical insurance premium for an employee's spouse.

Jurisdiction. Originally, the law was written to apply to the entire U.S. operation of a company with whom the City is contracting. This was modified by an April 1998 U.S. District Court decision (discussed in section V.A.1., below). Current compliance standards mandate that nondiscrimination take place (1) at a contractor's locations in San Francisco, (2) at a contractor's locations on City-owned property located outside of San Francisco (such as at San Francisco International Airport or Hetch Hetchy Reservoir), and (3) anywhere else in the U.S. where work related to the City's contract is being performed. Despite this change in the Ordinance, the vast majority of companies still choose to comply at all of their U.S. locations. Subcontractors are not required to comply, nor are contractors with whom the City does less than $5,000 of business per year.

B. Implementation Efforts

Role of the Human Rights Commission. As the City department responsible for enforcing the City's previously existing nondiscrimination laws, including Administrative Code Chapters 12B and 12C, the responsibility of implementing and enforcing the Ordinance was given to the Human Rights Commission. The Commission outlined a strategy that sought to implement the Ordinance in a business-friendly manner with a streamlined approach designed to ease compliance efforts of City departments and City contractors.

Education and Outreach. To inform the public about the change in the law, and to educate contractors and City departmental personnel, the first phase of implementation

AUG-14-99 03:59 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 9/24

focused on education and outreach. Written materials were prepared and distributed and a series of educational workshops were held at which City contractors and departmental personnel were given detailed information about the requirements of the ordinance. Commission staff fielded thousands of telephone calls with individual businesses seeking compliance information.

To sustain this outreach and education effort, the Commission maintains a website where resource materials, compliance forms and the relevant Administrative Code chapters are available. In addition, a Corporate Mentors Program was initiated to provide research data and resources to companies that are considering whether to extend benefits to domestic partners. Such research data includes access to information about corporate professionals who have successfully completed the evaluation and compliance process.

Helping Businesses Find Insurance Coverage. Prior to the enactment of the Ordinance, some businesses seeking to provide domestic partner medical coverage, especially small businesses, experienced difficulty finding an insurance company willing to issue such a policy. To address this deficit and the increased need for such insurance created by the Ordinance, the San Francisco Chamber of Commerce developed a group insurance plan that was made available to any of its member businesses, regardless of size. To complement this effort, the Human Rights Commission held an insurance fair prior to the Ordinance's effective date, bringing together businesses seeking to add domestic partner coverage with a dozen insurance providers which offer domestic partner insurance coverage. In an effort to continue this assistance, the Commission maintains a list of insurance providers willing to offer domestic partner coverage to their customers. This list has over 100 carriers and reflects carriers in all 50 states and the District of Columbia.

Determining Compliance. In order to determine whether a particular City contractor complies with the Ordinance, a series of forms was developed. One of these forms was designed as a Declaration and must be completed by all contractors seeking to demonstrate compliance. For most contractors, supporting documentation must also be submitted, such as a copy of the eligibility section of their insurance policy which verifies equal coverage, and copies of personnel policies. A comprehensive database was designed to capture all of the information gathered from contractors and to communicate this information on a daily basis to the City's contracting officers through an interface with the City's mainframe computer.

Implementation Challenges. In addition to maintaining a large volume of files and a complex database, Commission staff must review compliance documents and evaluate a variety of employment policies for compliance. This involves learning the intricacies of pension and medical plans, as well as other benefit policies. Further, compliance efforts include working with companies reluctant to end their discriminatory practices. As a result, staff must address the frustrations of companies that would prefer to enter into contracts without deference to the City's contracting requirements.

AUG-14-99 04:00 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 10/24

C. Rules of Procedure

To define some of the essential terms of the Ordinance and to further its goal of implementing the Ordinance in a business-friendly manner, the Commission developed Rules of Procedure that both informed the contracting public of the details of compliance and recognized the business reality of benefits changes.

Building in Flexibility. The Rules recognize that an instant end to discrimination in benefits is not always possible. They were written to accommodate a contractor that is committed to ending discrimination but needs time to make the necessary changes to its benefits policies. For instance, a contractor may prefer to wait until its next open enrollment before benefits are implemented so it doesn't have to incur the cost and disruption of a change in benefits in the middle of the plan year. This is especially true of large companies that must communicate changes and enrollment procedures to a large group of employees. Delay also may be warranted where substantial change is needed to a contractor's personnel policies, or where benefits are governed by a collective bargaining agreement.

Recognizing Different Options for Complying. The Rules recognize that as long as discrimination is stopped, compliance can mean different things to different contractors. Some contractors comply with the requirements of the Ordinance by offering benefits to a broader group of individuals, in addition to or instead of spouses and domestic partners. For example, Bank of America has created a policy that, in addition to spouses and domestic partners, extends some benefits to "other individuals if the relationship with [the employee] is especially close and it would be normal for them to turn to [the employee] for care and assistance." Some contractors comply by offering benefits on a basis unrelated to both marital status and domestic partner status, for instance by allowing each employee to select one adult living in their household to receive benefits. Other contractors comply by providing no benefits that extend to spouses or domestic partners; or by providing no employee benefits whatsoever.

Addressing Other Issues. The Rules articulate the acceptability of a contractor creating an internal domestic partnership registry for employees to use who do not have access to, or prefer not to use a governmental registry, so long as governmental registration also is honored. The Rules also explain that verification of domestic partnership should only be made to the same extent as verification of marriage. Further, it is not enough for a contractor to institute benefits; the contractor must also inform its employees of the availability of such benefits. The Rules explain the procedures to be followed when waiver of the Ordinance is sought, set out the contractor's obligation to make all reasonable efforts to comply, and explain the payment of a cash equivalent when compliance is not possible.

AUG-14-99 04:00 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 11/24

III. Compliance Experience

A. Compliance Statistics

As of June 30, 1999, 8005 contractors have submitted compliance paperwork to the Commission. Of the Declarations received, the status of 5510 has been finalized. Of those, 5101 (92.73%) have been found to be in compliance (having ended any existing discrimination in the provision of benefits), and 400 (7.27%) have been found to be out of compliance. Of the complying contractors, 2328 (45.64%) offer nondiscriminatory benefits to their employees, 1682 (32.97%) do not offer any benefits to their employees, and 1091 (21.39%) do not have any employees.

These statistics reflect companies complying throughout their U.S. operations. Compliance information for companies that have limited their compliance geographically or have limited the benefits offered in a nondiscriminatory manner (as allowed by the April 1998 District Court ruling) is captured separately. Since the Court's ruling changed compliance requirements, only 27 companies have elected to comply on a limited basis and continue discriminating in certain locales or with respect to certain benefits. This represents only .01% of the total number of companies complying with the Ordinance by offering nondiscriminatory benefits, and .005% of all complying companies.

B. Covered Employees

Contractors offering nondiscriminatory benefits employ approximately one million individuals nationwide. With actuarial statistics indicating an enrollment rate in domestic partner medical benefits offered to both same and opposite sex couples averaging 3% in the private sector, this means that nearly 30,000 domestic partners have taken advantage of this benefit through the programs offered by City contractors.

C. Company Size

Twenty-eight large companies (5000 or more employees), 106 medium sized companies (500 to 4999 employees) and 2078 small companies (under 500 employees) comply by offering nondiscriminatory benefits.

D. Geography

Complying companies may be found in at least 41 states and the District of Columbia, and in over 700 cities across the country. Eighty-eight percent are located in California, with approximately 43% in San Francisco. Companies offering nondiscriminatory benefits can be found in at least 33 states and the District of Columbia.

Number of Complying Companies in Each State
EMBED Word.Picture.8

AUG-14-99 04:01 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 12/24

E. Insurance Industry Response

In 1997, when the Ordinance first went into effect, the Commission was able to identify only 14 insurance providers willing to offer domestic partner coverage. As of the date of this report, over 129 companies now offer such benefits.

A significant change in the California domestic partners insurance market took place on July 1, 1999. Until earlier this year, the State of California operated an insurance plan designed to address the difficulty small businesses face in obtaining quality medical benefits at an affordable price. Serving about 8,000 companies with 150,000 employees and dependents, the Health Insurance Plan of California (HIPC) refused to include domestic partner coverage in its plan, even though the insurance carriers who served the plan offer this coverage elsewhere. As a result of a legislative mandate, HIPC recently was privatized. Now called Pacific Health Advantage, it is being operated by the Pacific Business Group on Health, a San Francisco firm that has worked with the state's largest employers to negotiate insurance plans. One of the first changes made to the plan was the inclusion of domestic partner coverage as a plan option.

While the practice is declining, some insurance companies still impose surcharges on companies adding domestic partner coverage. The actuarial data gathered since the domestic partners benefits were first offered in 1985 clearly demonstrate that such a charge is unfounded. In fact, in the vast majority of cases, the insurance claims filed by domestic partners are less costly than those filed by spouses. Also, insurance companies routinely require additiona. qualifying criteria and documentation from domestic partners. Often requiring that the partners complete an affidavit, requirements can include demonstration of financial interdependence (joint lease or mortgage, joint bank accounts, insurance policies with partners named as beneficiary) and that the partners have lived together for a certain amount of time (usually from 6 to 18 months). These requirements are not imposed on married couples, who often become eligible for benefits (by simply stating they have married) on the very day they marry, without regard to their financial situation.

F. Union Response

Because many employees receive benefits through their collective bargaining agreements or through union trust funds, contractors and the Commission have tried to persuade unions to include domestic partner benefits in their agreements. To date, at least 35 unions have changed their policies to include domestic partner coverage.

G. Waivers and Exceptions

To allow the City to continue to conduct needed business where there are no contractors willing to comply, the Ordinance includes the opportunity for City departments to request that waivers be applied in certain circumstances. Use of the majority of these waivers is

AUG-14-99 04:01 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 13/24

contingent upon an effort to get the prospective contractor to comply and on the Human Rights Commission's review and approval.

Waivers are permissible where:

* there is only one source for a needed good or service or only one party with an interest in real property;

* there is an emergency that threatens public health or safety;

* a public entity offers the City needed goods or services of a quality or accessibility that is unavailable from another source;

* there are multiple sources for a needed good, service or interest in real property but none is willing to comply;

* a transaction entered into through a bulk purchasing arrangement established by a governmental or regional entity would actually reduce the City's purchasing costs and would be in the City's best interest;

* it is necessary to avoid conducting business with an entity that was set up or is being used for the purpose of evading the intent of the Ordinance.

In the first 13 months of implementation (June 1, 1997 – June 30, 1998), City departments requested 1,474 waivers, as follows:

Sole Source
520 approved
56 denied
15 withdrawn

Emergency
11 approved
2 denied
2 withdrawn

Public Entity
42 approved

Multiple Non-compliant Prospective Contractors
43 approved
1 withdrawn

Bulk Purchasing Arrangement
1 approved

In addition, 781 Blanket Sole Source Forms (HRC-12B-104) were filed by at least 26 different departments.

AUG-14-99 04:01 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 14/24

In the second year of implementation (July 1, 1998 – June 30, 1999), City departments requested a total of 1,393 waivers, as follows:

Sole Source
284 approved
8 denied
2 withdrawn

Emergency
6 approved

Public Entity
33 approved

Multiple Non-compliant Prospective Contractors
66 approved

In addition, 994 Blanket Sole Source Forms were filed by over 27 different departments.

The decrease in the total number of waivers requested and granted from the first fiscal year (which includes 13 months) to the second can be attributed to an increase in the number of compliant contracting sources. The increase in the number of Blanket Sole Source forms filed in the second year can be attributed to this form's introduction part-way through the first fiscal year.

To further reduce the use of non-compliant contractors, outreach needs to be conducted to industries where no compliant entities are found. A concerted effort to educate non-complying companies could be undertaken, sending them letters each time a waiver is sought that reinforces the low-cost and high-value of ending discrimination in benefits and offers the City's assistance with compliance. In addition, non-compliant companies, especially those that serve the general public, can be publicly identified and encourage to comply through a published list of non-compliant companies.

IV. Related Legislative Activity

A. Contracting Legislation

As news of the Ordinance's success has spread, the Commission has begun receiving inquiries from other jurisdictions considering the adoption of similar provisions. On July 1, 1998, the San Francisco Redevelopment Agency implemented contracting rules almost identical to those contained in the Ordinance. On May 17, 1999, the San Francisco County Transportation Authority adopted a similar policy, which went into effect on July 1, 1999.

The first jurisdiction outside of San Francisco to enact similar legislation was Broward County, Florida, the county encompassing the city of Ft. Lauderdale. Taking a slightly different approach, that law, which was enacted in January 1999, gives an advantage in

AUG-14-99 04:02 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 15/24

bidding to businesses offering domestic partner benefits. To date, legal challenges to Broward County's efforts have failed; however, opponents have stated their intent to pursue their legal claims on appeal.

The Cities of Berkeley, Los Angeles and Seattle are actively pursuing the enactment of legislation similar to the Equal Benefits Ordinance. Commission staff has assisted in this effort by providing resource information and expertise to representatives from both cities. Consideration of Equal Benefits legislation is taking place in a variety of other cities, including New York, West Hollywood and Boston.

B. Other Domestic Partner Legislation

1. State of California.

The California legislature currently is considering several bills that would significantly impact the rights of domestic partners. Currently pending measures include:

SB 75, that would:
- establish a state-wide domestic partnership registry for same-sex couples
- provide health facility visitation rights to domestic partners
- provide domestic partners eligibility for health insurance benefits through the Public Employees Retirement System

AB 901, that would:
- amend the California Personal Income Tax Law to provide to employees with domestic partners the same tax benefit now available to employees with spouses, allowing an exclusion from gross income tax for certain costs of medical care, employer-provided health or accident insurance and health insurance costs of self-employed individuals

SB 118, that would:
- amend the California Family Rights Act to allow employees time off work to care for an "individual who depends on the employee for immediate care and support"

2. City and County of San Francisco.

In March 1998, Mayor Brown issued an executive order mandating that domestic partners and spouses be treated equally by City departments serving the public. In August 1998, San Francisco amended its nondiscrimination laws to prohibit public accommodations discrimination based on domestic partner & marital status. In July 1999, legislation was enacted that prohibits discrimination, in any City programs and services, between members of the public with spouses and those with domestic partners. This ordinance also requires City departments to include the term "domestic partner" wherever the term "spouse" is used on City forms. A second piece of legislation passed that month permits anyone authorized by state law to perform marriage ceremonies (such as members of the clergy) to also perform domestic partner ceremonies.

AUG-14-99 04:02 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 15/24

V. Lawsuits and Congressional Challenges

A. Lawsuits

Three lawsuits have been filed against the City challenging the legality of the Ordinance.

1) Air Transport Association, et. al. v. City and County of San Francisco, et. al.

The first was filed by the Air Transport Association, representing a collection of the nation's largest airlines. Claims raised in their complaint include allegations that the Ordinance violates preemption language found in the Employee Retirement Income Security Act (ERISA), the Airline Deregulation Act and the Railway Labor Act, as well as that the Ordinance violates the Due Process and Commerce Clauses of the U.S. Constitution and sections of the California Constitution and City Charter.

After a motion for summary judgment was filed by the ATA, a hearing was held before Judge Claudia Wilken in Federal District Court. A partial decision was issued on April 10, 1998 upholding the ordinance in large part, and created two areas of limited application with respect to particular types of City contractors.

Jurisdictional limitations. The Court decision held that the City could no longer enforce the Ordinance with respect to a contractor's operations throughout the United States. While it is still City policy to encourage contractors to comply throughout their entire operations, the City can only require compliance in a contractor's operations located (a) in San Francisco; (b) on real property outside of San Francisco owned by the City or which the City has a right to occupy; and (c) elsewhere in the United States where work relating to a City contract is being performed.

Benefits covered by the law. For a limited number of contractors, the April 1998 court decision also created some changes in what benefits the Ordinance may cover. When the City is acting as an ordinary consumer of goods and services, as compared to acting as a regulator, it can require that contractors provide all benefits, including health and pension benefits, in a nondiscriminatory way.

For companies such as the airlines, the Court found that the City is acting as a regulator because it owns and operates the Airport, which the Court described as similar to a monopoly. Based on the Court's interpretation of the preemption provisions and case law associated with ERISA, which governs employer-sponsored medical and pension benefits, in situations where the City acts as a regulator, it cannot require that contractors provide nondiscriminatory health and pension benefits.

The second part of the case addressed the provision of benefits not covered by ERISA, such as bereavement leave, family medical leave, and company discounts (such as the flight benefits offered by the airlines). The Court established a test requiring the airlines

AUG-14-99 04:02 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 17/24

to show that providing these non-ERISA benefits would burden them so heavily that their routes in and out of San Francisco would be impacted. In a decision issued by Judge Wilken on May 27, 1999, the City's ability to enforce the provision of non-ERISA benefits was upheld; the Court found that the airlines had not met their burden.

Attorneys for the airlines filed a motion with the Court to enjoin this decision until the case could be heard on appeal. On July 2, 1999, the City won its motion opposing an injunction. The Court's order stated that "the public has a strong interest in preventing discrimination, and the denial of equal compensation causes significant injury both to the public and to the individuals employed by [the Airlines]." The airlines appealed the denial of the injunction as well as the Court's ruling on the merits of the case. On July 30, the U.S. Court of Appeals for the Ninth Circuit once again denied the Airlines' request. Within hours, United Airlines, one of the nation's largest airlines and the largest airline-employer in San Francisco, announced that it would be offering domestic partners benefits to the same-sex partners of its employee population worldwide. United further stated that benefits for opposite-sex couples would be limited to employees in San Francisco and might be withdrawn if a Court decision allows them to do so. It also announced that, along with the rest of the airlines, United would be continuing its appeal of the Court's rulings. A few days later, American Airlines followed suit.

2) P. M. & M. Electric v. City and County of San Francisco, et. al.

The second lawsuit was filed by an electrical contracting business that alleged it would be denied City contracts because of its refusal to comply with the Ordinance. The attorneys representing the company were connected to the American Center for Law and Justice, a non-profit legal organization associated with televangelist Pat Robertson. Their causes of action were very similar to those raised by the airlines. Because the company had never sought a City contract, the case was voluntarily dismissed based on the company's lack of standing.

3) S.D. Myers, Inc. v. City and County of San Francisco, et. al.

The third lawsuit was filed in December 1997 by an Ohio-based company claiming they were denied a City contract because their anti-gay religious beliefs preclude their compliance with the Ordinance. The causes of action are similar to those filed in the earlier two suits, and like the second plaintiff, they are represented by the American Center for Law and Justice. On May 27, 1999, the U.S. District Court issued a decision upholding the application of the Equal Benefits Ordinance to this contractor. Contrary to the arguments made on behalf of S.D. Myers, the Court found that California's marriage and community property laws do not override the City's ability to enact legislation that protects the rights of domestic partners and spouses. An appeal of this decision has been filed with the U.S. Court of Appeals for the Ninth Circuit.

AUG-14-99 04:03 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 18/24

B. Congressional Challenges

On July 29, 1998, the U.S. House of Representatives voted 214-212 to amend a housing appropriations bill to prevent the City from spending any federal housing money to implement the Equal Benefits Ordinance. Frank Riggs, who at the time was the outgoing Republican Representative from Windsor, CA, initiated the attempt. At risk was $260 million in federal HUD and VA funds. This amendment was dropped during the House-Senate conference.

VI. Impact of the Ordinance

The Equal Benefits Ordinance has created major changes across the country. In the past twenty-five months of implementation, the Ordinance has propelled the issue of domestic partner benefits from the fringe toward center-stage of the employee benefits discussion. It has created a new market in the insurance industry, to which well over one hundred insurers from across the country have responded. It has become an issue for unions to address, as more and more union members and their employers are seeking recognition for domestic partners.

Close to a million people work for companies offering domestic partner coverage as part of the City's program, which means that approximately 30,000 domestic partners receive medical insurance coverage as a result. And hundreds of individuals grieving over the death of a loved-one, or facing the need to care for a loved-one who has a serious illness, now are guaranteed the time they need to do so, without fear of discrimination or reprisal.

San Francisco's demonstrated commitment to conducting business only with companies that do not discriminate is contagious. Other Cities are developing similar programs, which will continue to increase the number of people eligible for equality at work and will continue to prompt companies across the country to end their discriminatory practices.

VII. Current Challenges

The Equal Benefits Ordinance's great success leads to more that can be done in this fight for equality. In addition to continuing to assist other jurisdictions with their analysis and adoption of similar legislation, the Human Rights Commission and City officials must work to reduce the number of waivers used. This can be done by focused outreach to industries where compliance is low, and by continuing to enlist the support of other City departments in order to step up their role in fostering compliance with the contractors they frequent. Nondiscrimination in contracting can be a policy adopted by private industry as well as the government, and the City can play a role in educating business owners and interested employee groups about that possibility. The problem of insurance companies imposing surcharges, while diminishing, still exists. The City can play a role in working with the insurance industry and state insurance regulators to curb this unfounded practice. A similar role can be played in working to eliminate the imposition of additional qualifying requirements on domestic partners seeking insurance coverage.

AUG-14-99 04:03 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 19/24

APPENDIX A

Twenty Largest Complying Companies

Name of Company	No. of Employees
Bank of America/NationsBank	167,000
Wells Fargo Bank/Norwest Bank	100,000
Hewlett-Packard	65,000
Chase Manhattan Bank	51,000
Pacific Bell	45,000
Xerox Corporation	40,000
IKON Office Solutions	35,000
Digital Equipment Corp	26,000
SmithKline Beecham	20,000
KMPG Peat Marwick	19,000
Danka Corporation	15,000
State Street Corporation	13,000
Follett Campus Resources	10,000
Parsons Corporation	10,000
Union Bank of California	10,000
Wang Laboratories	10,000
Service America Corporation	8,313
Cisco Systems	8,000
Booz Allen & Hamilton	6,000
Nextel of California	6,000

AUG-14-99 04:03 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 20/24

APPENDIX B
Resource Materials

Domestic Partner Registry Chart – provides overview of domestic partnership registries across the United States; lists how to register, rights and responsibilities involved.

Corporate Mentors Program – a pool of corporate directors and human resources personnel who have completed the Equal Benefits compliance process and are willing to speak with representatives from other companies where domestic partner benefits and Equal Benefits compliance are being considered.

Equal Benefits Brochure – answers frequently asked questions and provides list of resource materials and website address.

Insurance List – a reference guide to insurance companies from across the United States that are willing to write insurance policies inclusive of domestic partner coverage. The list currently includes companies in all fifty states and the District of Columbia.

Overview – a four page overview of the Equal Benefits Ordinance, compliance requirements, litigation challenges and available resources.

Quick Reference Guide to Equal Benefits Compliance – answers frequently asked questions and assists reader with completing basic forms and identifying documents required for compliance.

Resource Materials Booklet

* Fact Sheets – provides in-depth information on providing nondiscriminatory health insurance and pension plans to employees with spouses and employees with domestic partners, and the tax implications of doing so.

* Sample Policies – provides model language for employers looking to:
  - Create or modify leave and nondiscrimination policies
  - Establish an affidavit of domestic partnership
  - Explain the tax consequences of some domestic partners benefits

Rules of Procedure – implementation guidelines adopted by the Human Rights Commission that establish compliance criteria and provide useful information on a wide variety of compliance-related topics.

Six Month Report – issued January 6, 1998, this report gives a detailed summary of the Commission's implementation efforts and the compliance experience of the Ordinance's first six months.

Website – found at www.ci.sf.ca.us/sfhumanrights this site offers access to compliance forms, resource materials and the text of San Francisco Administrative Code Chapters 12B and 12C.

AUG-14-99 04:04 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 21/24

Resource Materials Order Form

Name: _____

Company: _____

Address: _____

Telephone Number: _____

Please check which items you would like mailed to you and indicate quantity. Don't forget to include your name, address, and telephone number. Many of these items are available on the City's website at www.ci.sf.ca.us/sfhumanrights.

	Item	Quantity
_____	Domestic Partner Registry Chart	_____
_____	Corporate Mentors Program Information	_____
_____	Equal Benefits Brochure	_____
_____	Insurance List	_____
_____	Ordinances: S.F. Admin. Code Chapter 12B	_____
	S.F. Admin. Code Chapter 12C	_____
_____	Overview of Equal Benefits Ordinance	_____
_____	Quick Reference Guide to Equal Benefits Compliance	_____
_____	Resource Materials Booklet	_____
_____	Rules of Procedure	_____
_____	Six Month Report	_____

Return this form to: San Francisco Human Rights Commission
25 Van Ness Avenue, Suite 800
San Francisco, CA 94102-6033

Or return via facsimile to: 415-431-5764

PAGE 22/24 ID:2139370601 FROM:LAMBDA LEGAL DEFENSE/L.A.

Many compliant companies have multiple locations not reflected here. The numbers and locations reported reflect the mailing address information given by companies to the City and do not include branch offices where equal benefits also are provided.

Numbers without parentheses indicate total number of compliant companies in each state; numbers within parentheses indicate compliant companies offering nondiscriminatory benefits. The slight variation in the numbers reflected in this chart as compared to the compliance statistics above is due to a database conversion taking place at the time this report is being prepared.

This is true, in part, because there are fewer pregnancy and childbirth-related medical expenses associate with domestic partners.

The month of June 1997 has been incorporated into the first year of experience to account for the fact that the Ordinance was enacted on June 1, 1997, one month before the start of the City's fiscal year.

Waivers are usually withdrawn because the contractor came into compliance.

This form was developed to address the repetition of waiver requests for items that would routinely be approved as a sole source, such as subscriptions to professional journals or certain governmental permits and licensing fees.

Both the Redevelopment Agency and the Transportation Authority are quasi-state entities with Commissioners or committee members appointed by the San Francisco Mayor or Board of Supervisors.

AB 26 and AB 107 contain similar provisions.

AUG-14-99 04:04 FROM:LAMBDA LEGAL DEFENSE/L.A. ID:2139370601 PAGE 24/24

FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

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BY _____
DEPUTY

Date: August 13, 1999

To: The City Council

From: William T Fujioka, City Administrative Officer
Ronald F. Deaton, Chief Legislative Analyst

Subject: **IMPACT OF DOMESTIC PARTNER BENEFITS ORDINANCE**

On May 21, 1999, the Council approved a motion (Goldberg-Galanter) requesting a joint CAO/CLA report analyzing the potential impact of a City policy requiring all contractors, subcontractors, lessees and sublessees (collectively referred to as contractors) to provide the same benefits to employees with domestic partners as they provide to employees with spouses (C.F.99-0908). This proposed domestic partner ordinance (DPO) is similar to an ordinance passed by the City and County of San Francisco in 1997.

There is insufficient data at this point to determine specific financial or economic impact on the City and its contractors. To obtain a thorough assessment of the potential financial impact of implementing a domestic partner ordinance, more time and resources are required. Based on San Francisco's early experience, which is described in the attachment (San Francisco also expects to release a formal review of its experience this month) and the City's own experience providing domestic partner benefits, the DPO could have financial impact on the City's contractors and the City itself.

Impact on Contractors

It is unclear how many of the City's contractors would be affected since only those who provide benefits to spouses would be required to expand their benefits. Staff reviewed the database of contractors under development by the Living Wage Unit. Even though it is not complete yet, this database is considered the best list of contractors in the City. It contains information on approximately 1,000 contractors. Of those contractors, only 156 provide employee health benefits. No information is collected on retirement or other benefits.

Financial impact on contractors could come from increased health care and retirement costs, and the cost of administering these benefits. There may be cost associated with reporting requirements, but that should be minimal.

Health Care

The initial cost of adding domestic partner coverage should not be significant when combined with existing health insurance plans. Kaiser Permanente, a leading health care provider, indicated that it does not charge any additional premium for the inclusion of domestic partner benefits If all of the organization's health care providers cover domestic partners as well. The long-term impact, if any, on premium rates will depend on the enrollment and claims experience of the insurance plans from adding domestic partners.

Enrollment should be low. Research conducted by the Segal Company has shown that the enrollment in domestic partner benefits in the private sector is generally less than 1%, with a small minority being same-sex couples. The low enrollment is due to a variety of reasons. An employee will incur additional income taxes on the value of the benefit for a domestic partner or domestic partner' s children under the Internal Revenue Code. Furthermore, both members of same-sex couples are likely to be employed and already receive coverage through their own employers. Also, studies have shown that same-sex couples are less likely to enroll in this coverage than opposite-sex couples because of fear of openly disclosing their sexual orientation, even though the information is considered confidential.

The City started providing domestic partner health benefits in 1994. Currently, out of 34,000 employees, 1,100 (3%) have registered for and are receiving domestic partner benefits. The majority (84%) of the domestic partners is opposite-sex couples. The Personnel Department estimates the additional cost of the domestic partner coverage to be $2.1 million per year, which is 1.5% of the total premiums paid.

Claims experience is specific to the organization and its employees. Only a consultant with expertise in health and welfare benefits could estimate the potential cost of extending benefits to domestic partners. Small employers would generally incur greater per capita cost than larger employers. Also, there will be greater or lesser cost depending on how a domestic partner is defined. The City uses the concept of marital status as the basis of eligibility. Domestic partners must have lived together for at least one year, must not be related, their relationship must be exclusive, and they must be jointly responsible for each other's welfare and financial obligations. San Francisco moved away from this concept and allows any adult living with the employee to be declared a domestic partner, including relatives. Presumably, this would increase the claims experience due to adverse selection (registration for the benefit because there is an immediate or imminent need for services) and therefore, the cost.

Although the cost to health plans may be minimal, there are additional costs related to administering the benefit such as changing plan documents and policies, defining the policy, and coordinating income tax issues for domestic partners.

Allowing them to pass on additional costs, wholly or in part, to the covered employees can mitigate the impact on contractors.

Retirement Benefits

There is less information available for retirement benefits than health benefits. Few employers provide domestic partner retirement benefits, even if they provide domestic partner health care benefits. The City has provided domestic partner benefits to civilian employees since 1996. It was one of the first employers to do so. (Domestic partner benefits for sworn employees are being negotiated.) Qualified domestic partners are treated as spouses for retirement benefit purposes.

When the City instituted domestic partner retirement benefits for civilian employees, the cost was estimated at between $370,000 and $1.8 million annual cost. This was based on the assumption that domestic partners would increase the number of surviving spouses by 1% to 5%. The retirement system does not track the actual cost of the benefit.

The City's experience is not a good predictor of the cost of this benefit in the private sector because City employees are not covered by Social Security. Social Security constitutes the sole or major component of most private sector retirement plans. Social Security coverage is not affected by the DPO. Only supplemental benefits, which many employers do not provide, would fall under the ordinance. Furthermore, many supplemental plans are defined contribution plans, which do not provide an additional spouse benefit.

Ability to Comply

Large employers, especially those with employees outside California, may have the most trouble complying with the DPO. These companies often have operations nationwide and are reluctant to change their benefit plans for the whole company to include domestic partner benefits. They are also reluctant to provide special benefits to only a portion of the workforce out of concern that the rest of the employees will want equal treatment. Medium companies may be able to comply more readily because they have smaller, more flexible operations, which can accommodate changes in benefits. Smaller firms may comply because they do not provide benefits at all or provide them only for the employee.

Impact on the City Contracting Process

Based on preliminary information from San Francisco, the DPO may discourage some qualified competitive bidders and contractors, who believe they cannot comply with the ordinance, from responding to bids and Requests for Proposal. As a result, there may be fewer bidders from which to choose and less competition.

Notwithstanding available exemptions and waivers in its policy, San Francisco has experienced this phenomenon; while businesses have been willing to comply with its ordinance, it has come at a higher cost in some cases. San Francisco had to discontinue the low bid provider of office supplies because the contractor would not comply with the ordinance. Furthermore, San Francisco may be seeing a shift to local vendors and small business that are more apt to comply with the ordinance for the reasons stated above. The shift to local vendors may increase costs to the City, but have a concomitant benefit for the local economy.

Reaction from City contractors is mixed. Staff contacted a small number of City contractors to determine what benefits they provide. During these discussions, some of the contractors expressed concern about having to comply with another requirement. They indicated that they would have to incorporate the cost of administering and implementing new benefits into their bids and contracts. One contractor with less than 10 employees stated that she would have to reconsider bidding for any future contracts if the City were to implement more requirements. Conversely, another contractor stated that his company had already complied with the domestic partner ordinance in San Francisco and did not see a problem complying here.

The City may also incur administrative costs related enforcing the DPO. However, these may be minimal since the City already monitors contracts for similar provisions.

Significant Legal Precedents and Rulings

Numerous lawsuits have been filed against the San Francisco Domestic Partner ordinance. The most notable case, Air Transport Association (ATA) vs. City and County of San Francisco, challenged San Francisco's ability to apply the domestic partner ordinance to health care and retirement plans covered by ERISA. The ATA includes the nation's largest airlines including United Airlines, which was one of the first lessees to renew its lease with the San Francisco Airport. The federal court upheld the ordinance in large part, but determined that ERISA guidelines preempt the ordinance where the City acts a regulator (e.g. operator of the airport); in such cases, the contractor is exempted. Therefore, the DPO may have limited application at the Airport and Harbor Departments. (Note: San Francisco exempts utilities.)

The court also ruled in ATA that the ordinance can only be applied to employees of contractors who either directly provide services, or live or work in San Francisco or on City-owned property elsewhere. San Francisco intended its ordinance to pertain to all contractor employees regardless of where they were located.

Many employers only offer domestic partner benefits to same-sex couples as a way to limit enrollment. Employers often do not extend benefits to unmarried opposite-sex couples because this group has a legal avenue to benefits - marriage.

Recommendation

A study conducted by an expert in economic analysis and/or health and welfare benefits should be able to better determine the financial impact of implementing the DPO. The consultant would survey all known contractors to determine level of benefits and project changes in cost. In addition, contractors may be more willing to discuss the impact of the DPO with the consultant rather than staff because they may view staff as biased. Therefore, we recommend that a study be conducted by a consultant with this expertise.

In addition, the effectiveness of the ordinance should be considered. For example, there is no benefit to employees if the only companies that can comply are those that do not provide employee benefits. The consultant could evaluate whether the DPO would have the unintended effect of: 1) discouraging large contractors from submitting bids and proposals, and 2) giving an advantage to contractors that do not provide benefits.

Fiscal Impact Statement

The cost of the study is estimated to be $50,000.

WTF:SC:vrw

Attachment

13vw205.99

City and County of San Francisco "Equal Benefits" Ordinance

BASIC PROVISIONS

In 1997, the City and County of San Francisco amended Chapter 12B of its Administrative Code to prohibit any agency of the City from entering into or amending any contract or lease with any contractor that discriminates in the provision of employee benefits (health benefits, retirement, bereavement leave, membership discounts, travel benefits, etc.). The Code requires that its contractors may not discriminate between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of employees. It applies to contractors with whom the City does more than $5,000 of business per year and it does not include subcontractors or sub-lessees.

The Ordinance defines "domestic partner" as any person whose domestic partnership is currently registered with a governmental domestic partnership registry that includes both same-sex and opposite-sex couples. A contractor's internal registry is also acceptable so long as the contractor also honors the government registry.

According to the Human Rights Commission, the department responsible for enforcing the Ordinance, the law does not require contractors to offer benefits not previously offered. Instead, it requires that to the extent a contractor provides benefits to spouses of employees, those same benefits must be offered to domestic partners and visa versa; contractors may not offer benefits to one group and not the other.

OPTIONS

The rules were modified after learning that some contractors were discriminating by offering domestic partner benefits to same-sex couples only. As a result, contractors may elect to extend their benefits to individuals other than employees' spouses and domestic partners. Also, contractors may elect to provide benefits on a basis unrelated to both marital and domestic partner status, by allowing each employee to designate a legally domiciled member of the employee's household to receive spousal equivalent benefits. Of course, contractors can also be considered compliant by not offering any benefits to spouses or domestic partners, or by not offering any benefits at all.

SPECIAL PROVISIONS

The Ordinance provides that if the cost of offering benefits to one group is more expensive over another, the excess cost can be passed on to the group for whom providing benefits costs more. After they have taken reasonable measures, contractors may also elect to give employees' domestic partners the cash equivalent of the benefit if the contractor is

unable to obtain a plan that covers domestic partners. Additionally, extensions in the period for compliance may be provided to: 1) contractors that are under collective bargaining agreements with unions and cannot change their benefits until the next negotiations or 2) to contractors that must wait until the next open enrollment to avoid disruption of their health plans by adding domestic partner benefits.

WAIVERS AND EXCEPTIONS

The requirements can be waived where a contractor is the sole provider of a needed good or service, or is needed to resolve an emergency that threatens public health or safety. A waiver is also available for public entities that provide goods or services that are not available or of the same quality in the private sector, or where all contractors that could provide a needed good or service refuse to comply.

EXPERIENCE

According to the Compliance Officer of the Human Rights Commission, 5,000 (out of approximately 10,000) contractors are currently in compliance with the Ordinance and of those in compliance, 2,300 offer domestic partner benefits. Included in the number of compliant contractors are sole proprietors (no employees) and contractors that do not provide any benefits to their employees.

The Commission has seen an increase in the number of insurance providers that provide domestic partner coverage and an increase in the number of providers willing to extend this coverage to small employers (2-50 lives). As a result, more companies have been able to obtain domestic partner coverage in order to comply with its Ordinance.

While the Human Relations Commission reports that on the whole, the response to the Ordinance has been positive, numerous lawsuits have been filed challenging the legality of the Ordinance. As reported by the Commission, in Air Transport Association (ATA) vs. City and County of San Francisco, the complaint included allegations that the Ordinance violates preemption language found in the ERISA, the Airline Deregulation Act, and the Railway Labor Act, and that it violates the Due Process and Commerce Clauses of the U.S. Constitution and City Charter. The ATA includes the nation's largest airlines including United Airlines, who was the first to renew its lease with the San Francisco Airport when the Ordinance took effect. Federal Express filed a similar claim.

The Director of Purchasing Department stated that larger companies (more than 5,000 employees) have greater difficulty with complying with the Ordinance than smaller companies. Large companies often have operations nationwide that are reluctant to change their benefit plans to include domestic partner benefits because of the impact company-wide. Although the Ordinance only applies to employees who work in locations in San Francisco, on City owned property outside of San Francisco, or elsewhere in the United States that perform work related to a City contract, these large contractors do not wish to change benefits for only a selected group of employees and not to provide

domestic partner coverage for the remainder of the employees.

Office Depot, for example, which provides the lowest prices for office supplies, could not comply with the nondiscrimination requirements when its legal counsel advised that it should not provide domestic partner benefits only to employees associated with the City contract. Consequently, the Purchasing Department could no longer contract with Office Depot. The Department was able to find an alternative local vendor who was willing to comply with the Ordinance but who charges more for its goods and services.

Medium size companies (more than 500 employees) have been the most willing to comply, according to Purchasing Director. Many of the smaller companies are also able to comply by not providing any employee benefits.

FISCAL IMPACT

The fiscal impact of the Ordinance has not been tracked and no financial analysis is available. There is anecdotal evidence of San Francisco losing bids from competitive bidders because of the requirements of the Ordinance. The Director of Purchasing stated that he was aware of at least six instances where vendors, who may have been a competitive bidder, did not respond to a Request for Proposal because of the domestic partner coverage requirements. He further stated that he believes there are also a number of unreported instances. They have not verified or recorded the potential loss to the City.

A representative of the San Francisco's Controller's office also indicated that several departments have complained of having to contract with more expensive contractors because of the Ordinance requirements. One Department reported that it has to purchase cast iron pipes through a broker at a much higher price because cast iron manufacturers were non-compliant. Ironically, the broker purchases the cast iron pipes from many of the same non-compliant manufacturers.

The Purchasing Director indicated that they have noticed a shift of business to the local vendors. Local vendors are more inclined to comply with the equal benefits provision, in part because many of them are smaller businesses that either do not offer any benefits or do not provide coverage for spouses. He also indicated that contractors that have complied with the Ordinance have added the cost of the domestic partner coverage to their contracts; the extent to which this has occurred is unknown.

J. MICHAEL CAREY
City Clerk

When making inquiries relative to this matter refer to File No.

CITY OF LOS ANGELES
CALIFORNIA

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

RICHARD J. RIORDAN
MAYOR

C.F. 99-0908 with file

May 25, 1999

Hon. James K. Hahn
City Attorney
Room 1800, City Hall
MAIL STOP: 140

Dear Mr. Hahn:

On May 21, 1999, the City Council referred the motion (Goldberg - Galanter) to the Personnel Committee. The motion requests your office to prepare an ordinance for consideration concurrently with a report to be prepared by the City Administrative Officer and Chief Legislative Analyst. The ordinance is to require all contractors, subcontractors, lessees and sublessees that either provide goods or services to the City of Los Angeles or enjoy the use of City-owned real property, to offer comparable employee benefits to those of their employees with domestic partners similar to San Francisco's Administration Code, Chapter 12B. The Personnel Committee Chair would like this ordinance prepared within 45 days. Attached is a copy of the above motion.

Please submit all written materials to the Office of the City Clerk, Room 615, City Hall, Mail Stop: 160.

Very truly yours,

Sandra L. Grange

Sandra L. Grange
Legislative Assistant
Personnel Committee

SLG

Attachment

c: Council Member Jackie Goldberg
Attn: Gerald Gubatan

Mr. Ronald Deaton
Chief Legislative Analyst
Attn: Roberto Mejia

MOTION

The City of Los Angeles currently has contracts for goods and services with hundreds of independent contractors employing thousands of workers. Because the City of Los Angeles receives the benefit of these employees' labor, and in keeping with the City's commitment to equality of opportunity and treatment in the workplace, the City only enters into contracts with businesses that agree not to discriminate in their employment practices based on the "race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status or medical condition" of their respective employees. (Los Angeles Administrative Code, Section 10.8.2.)

MAY 21 1999

In 1996 and 1997, the City and County of San Francisco enacted measures recognizing that employee benefits constitute a significant part of employee compensation, and that discrimination based on marital status in the provision of such benefits results in unfair disparities among similarly situated workers (SF Admin.Code Chap. 12B). Accordingly, San Francisco limits eligibility for city contracts to those applicants for contracts which agree to provide comparable benefits to all of their similarly situated employees; in most instances, this involves provision of benefits to employees with domestic partners that are comparable to the benefits provided to employees with spouses. The San Francisco ordinance imposing this limitation was challenged in federal court and, in April of 1998, it was upheld in relevant part. (Air Transport Ass'n v. City and County of San Francisco, 992 F.Supp.1149,76 Fair Empl.Prac.Cas. (BNA) 1108.)

Recognizing that "unmarried couples constitute an increasing proportion of American households, including those within Los Angeles County," and that a mechanism for allowing couples to give public notice to their relationships will provide a valuable service both to the persons in those relationships and to society generally, the County of Los Angeles is establishing a countywide public registry of domestic partnerships for those who live or work within Los Angeles County.

In light of the number of unmarried couples who live and work within Los Angeles, and in keeping with the City of Los Angeles' longstanding commitment to workplace equity, it would be appropriate for the City of Los Angeles to consider expanding the scope of Section 10.8.2 of the Los Angeles Administrative Code to forbid discrimination based upon marital status in the provision of employee benefits, in order to insist that companies which receive the benefit of city contracts cease this form of unfair employment discrimination. The countywide registry of domestic partnerships will assist in the successful implementation of such an ordinance.

Prior to enactment of such an ordinance, however, City staff should analyze the impact of such a proposal and present a report to the City Council for its consideration.

I THEREFORE MOVE, that the City Council request that the City Administrative Officer (CAO) and the Chief Legislative Analyst (CLA) prepare and present a report to the City Council within 45 days analyzing the projected impact of a City policy that would require all contractors, subcontractors, lessees and sublessees that either provide goods or services to the City of Los Angeles or enjoy the use of City-owned real property, to offer comparable employee benefits to those of their employees with domestic partners as they offer to their employees with spouses.

I FURTHER MOVE, that the City Council request that the City Attorney prepare and present an ordinance for consideration concurrently with the above report which would require all contractors, subcontractors, lessees and sublessees that either provide goods or services to the City of Los Angeles or enjoy the use of City-owned real property, to offer comparable employee benefits to those of their employees with domestic partners as they offer to their employees with spouses, similar in effect to San Francisco Administrative Code Chapter 12B.

PRESENTED BY: Jackie Goldberg
JACKIE GOLDBERG
COUNCILMEMBER, 13TH DISTRICT

SECONDED BY: Rita Walters

CLA-RM\n\wp\cd13\domesticpartners

J. MICHAEL CAREY
City Clerk

When making inquiries relative to this matter refer to File No.

C.F. 99-0908

CITY OF LOS ANGELES
CALIFORNIA

RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

May 25, 1999

Mr. Paul Cauley, Acting
City Administrative Officer
Room 1500, City Hall
MAIL STOP: 130

Mr. Ronald F. Deaton
Chief Legislative Analyst
Room 512, City Hall
MAIL STOP: 136

Gentlemen:

On May 21, 1999, the Council referred motion (Goldberg-Galanter) to the Personnel Committee. The motion requests your offices to prepare a report, within 45 days, that analyzes the projected impact of a City policy that would required all contractors, subcontractors, lessees and sublessees that either provide goods or services to the City or enjoy the use of City-owned real property, to offer comparable employee benefits to those of their employees with domestic partners. The Personnel Committee wishes to consider this concurrently with an ordinance that the City Attorney has been requested to prepare. Attached is a copy of the motion.

Please submit all written materials to the Office of the City Clerk, Room 615, City Hall, Mail Stop: 160.

Very truly yours,

Sandra L. Grange

Sandra L. Grange
Legislative Assistant
Personnel Committee

SLG

Attachment

c: Council Member Jackie Goldberg
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Mr. James K. Hahn

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PRESENTED BY: Jackie Goldberg

JACKIE GOLDBERG
COUNCILMEMBER, 13TH DISTRICT

SECONDED BY: Rita Walters

CLA-RM\n\wp\cd13\domesticpartners

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MAY 21 1999
PERSONNEL

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JACKIE GOLDBERG
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