



● **Board of Directors**
Subcommittee on Organization and Personnel
Executive Committee

February 8, 2000 Board Meeting

8-5

Subject

Medical Insurance Coverage for Domestic Partners through Public Employees' Retirement System (PERS)

Description

In August 1998, the Board approved Board Letter 7-12, see [Attachment 2](#), extending certain insurance and leave benefits, including dental, vision, life, group accident, bereavement leave, special leave and Family and Medical Leave (FMLA), to employees who have an established domestic partner relationship. Medical coverage was not included at that time because the Public Employees' Medical and Hospital Care Act (PEMHCA) regulations did not provide coverage for domestic partners.

In April 1999, the Board voted to support Assembly Bill 107 (AB 107), see [Attachment 4](#), which extended health benefit plan coverage to domestic partners, see [Attachment 3](#). On September 9, 1999, Assembly Bill 26 (AB 26), see [Attachment 5](#), which is similar to AB 107, was passed, extending health benefit plan coverage for domestic partners through the Public Employees' Retirement System (PERS) to agencies electing to amend their PERS contract. Any amendments to the PERS contract would take effect as soon as administratively possible.

AB 26 requires California's Secretary of State to establish Declaration of Domestic Partnership forms for partners to formally register and terminate domestic partnerships. These documents are required for an eligible Metropolitan employee to receive domestic partnership health benefit plan coverage through PERS. According to AB 26, a domestic partnership is established when all of the following requirements are met:

- Both persons have a common residence
- Both persons agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership
- Neither person is married or a member of another domestic partnership
- The two persons are not blood-related, which would prevent them from being married to each other in this state
- Both persons are at least 18 years old
- Either of the following:
 - Both persons are of the same sex
 - Both persons are of opposite sexes but are over the age of 62

If Metropolitan's Board adopts the resolution ([Attachment 1](#)) to provide health benefit plan coverage for eligible employees' domestic partners, Metropolitan will enter into discussions with representatives from the four employee organizations: AFSCME Local 1902, Supervisors' Association, Management and Professional Employees' Association (MAPA), and the Association of Confidential Employees to provide this benefit.

Policy

Public Employees' Retirement System Contract

Board Options/Fiscal Impacts

Option #1

Approve Resolution Amending Public Employees' Retirement System Contract to Include Registered Domestic Partnerships Medical Coverage

Fiscal Impact: \$38,304 annually

Option #2

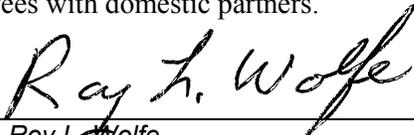
Maintain Current Public Employees' Retirement System Contract

Fiscal Impact: \$0

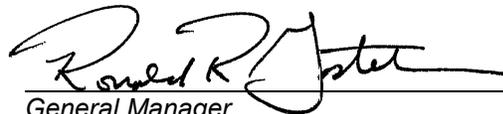
Staff Recommendation

Option #1

It is recommended that the Board approve the resolution amending the Public Employees' Retirement System contract. This decision is consistent with the Board's previously adopted position to provide other insurance and leave benefits to Metropolitan employees with domestic partners.



Roy L. Wolfe 1/11/00
Acting Manager, Corporate Resources Date



Ronald R. Jester 1/21/00
General Manager Date

Attachment 1 - Resolution

Attachment 2 – Board Letter 7-12

Attachment 3 – Board Letter 8-11

Attachment 4 – AB 107

Attachment 5 – AB 26

RESOLUTION ELECTING TO BE SUBJECT TO SECTION 22873
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT

- WHEREAS, (1) Government Code Section 22850 and/or 22850.3 provides the benefits of the Public Employees' Medical and Hospital Care Act to employees of local agencies contracting with the Public Employees Retirement System; and
- WHEREAS, (2) The Metropolitan Water District of Southern California, hereinafter referred to as Contracting Agency, is a local agency contracting with the Public Employees' Retirement System under the Act; and
- WHEREAS, (3) Government Code Section 22873 allows a Contracting Agency to provide benefits to the domestic partners of employees and annuitants of local agencies contracting under the Act upon proper application; and
- WHEREAS, (4) The Contracting Agency desires to obtain for its employees and annuitants the benefit of Section 22873 and to accept the liabilities and obligations of a contracting agency under the Section;

NOW THEREFORE, BE IT RESOLVED that the Contracting Agency elect, and it does hereby elect, to be subject to the provisions of Section 22873 of the Government Code.

Adopted at a meeting of the Board of Directors of the Metropolitan Water District of Southern California at Los Angeles on the 11th day of January 2000.

Signed _____
Phillip Pace, Chairman

Signed _____
Dawn Chin, Executive Secretary

7-12

August 18, 1998

To: Board of Directors (Organization and Personnel Committee--Action)

From: General Manager _____

Submitted by: Izetta Birch _____
 Director of Human Resources

Subject: Domestic Partner Benefits

RECOMMENDATION(S)

It is recommended that the General Manager be authorized to:

1. Amend Metropolitan’s contracts for dental, vision, life, and group accident insurance programs to permit enrollment of domestic partners; and
2. Amend Metropolitan’s Administrative Code Sections 6229, Special Leave; and 6248, Bereavement Leave to include domestic partners in the definition of immediate family member as detailed in Exhibit A; and
3. Establish a new Administrative Code Section 6233, Domestic Partners, which defines the criteria outlining a domestic partnership as reflected in Exhibit B.

EXECUTIVE SUMMARY

In the past several years, various employers throughout the United States have extended insurance and benefit programs to domestic partners of their employees. A detailed survey has been completed of employers who provide domestic partner benefits to assess the level of employee participation and the potential costs associated with providing such benefits. In order to maintain a competitive edge in its recruitment and retention of a highly qualified and diverse workforce and in light of the findings revealed in the survey, the General Manager is proposing that Metropolitan amend its existing dental, vision, life, and group accident insurance contracts to allow coverage for domestic partners. It is also proposed that domestic partners be included in the definition of immediate family member for purposes of bereavement leave and special leave, which is paid sick leave used for absences of up to three days to care for specified family members.

DETAILED REPORT

Requests were received from the Gay and Lesbian Employees Association of Metropolitan (GLEAM) and from two of the directors on Metropolitan's Board to address the issue of extending various benefits to domestic partners. Metropolitan's bargaining representatives, AFSCME Local 1902, the Management and Professional Employees Association, Supervisors' Association, and the Association of Confidential Employees have agreed with this issue in concept as long as the existing benefit programs provided by MWD are not diminished if domestic partners are included.

Many U. S. employers offer benefits to domestic partners of their employees. A survey has been conducted of several employers in the State of California which provide domestic partner benefits; many of these are public employers. Survey data included applicable domestic partner benefits, employee participation, and the cost of implementation. A list of California employers that currently extend benefits to domestic partners can be found in Exhibit C.

The Cities of Berkeley and West Hollywood were two of the first employers in the United States to offer benefits to domestic partners. Their programs both began in 1985 and have been programs at which other employers have looked when considering offering domestic partner benefits to their employees. Like most employers surveyed, domestic partner benefits under both cities extend to same sex and opposite sex partners.

Several of the employers surveyed extend domestic partner benefits for medical and dental insurance. Metropolitan contracts with CalPERS for its medical insurance under the Public Employees' Medical and Hospital Care Act (PEMHCA); however, PEMHCA regulations do not currently permit enrollment of domestic partners. Assembly Bill 427 (Knox) was introduced in 1997. This bill would, if passed, allow PEMHCA the option of offering medical insurance to domestic partners. At this time, therefore, medical insurance for domestic partners is not being proposed at Metropolitan.

In addition, many surveyed employers also extend bereavement leave, sick leave, and/or vision care benefits to domestic partners and allow their employees to take family leave under the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) to care for a domestic partner with a serious health condition.

The General Manager is proposing that Metropolitan's existing contracts for dental, dependent vision, life insurance, and group accident insurance be amended to permit enrollment of domestic partners. It is further proposed that the Administrative Code sections authorizing Special Leave and Bereavement Leave be amended to include domestic partners in the definition of immediate family members as reflected in Exhibit A. In addition, it is proposed that a new Administrative Code section be established outlining the criteria for domestic partnership as reflected in Exhibit B. It is recommended that a domestic partnership be defined as one where two adults of the same or opposite sex have chosen to share their lives indefinitely in an exclusive and committed relationship to the same extent as married persons, reside together, and share a mutual obligation of support for the basic necessities of life. Each employee who requests benefit coverage for a domestic partner will be required to complete a declaration form to certify domestic partnership, and employees will be required to complete a declaration of the termination of such partnership where applicable (Exhibits D and E).

Analysis of survey findings indicates that providing benefits, such as those proposed by the actions currently being recommended, has a minimal, if any, adverse cost impact. Overall, claims experience of those agencies surveyed has not revealed a higher level of utilization by domestic partners than by other family members. In fact, several studies indicate that there is no additional financial risk to employers. These findings were stated by the Cities of Laguna Beach, Los Angeles, San Francisco and West Hollywood, and from studies done by the City University of New York (CUNY), Hewitt Associates, and the Society for Human Resources Management (SHRM).

The majority of employers surveyed indicate that the employee participation rate in domestic partner benefits ranged between 0.5 and 4.0 percent. Based on Metropolitan's current employee population, this could result in from 9 to 76 employees who might elect to cover domestic partners. The approximate cost of providing benefits

to domestic partners was derived by estimating the number of employees who might participate and the approximate cost of the benefits provided. Metropolitan's estimated cost to add domestic partner benefits as proposed herein could range from \$6,804 to \$57,456 per year as shown in Exhibit F.

DLW/dlw

Attachments

1292bo.doc

8-11

March 26, 1999

To: Board of Directors (Communications and Legislation Committee--Action)

From: General Manager _____

Submitted by: Izetta E. Birch _____
Director of Human Resources

Subject: Express support for AB 107 (Knox and Villaraigosa) --Public Employees Health Benefits: Domestic Partners

RECOMMENDATION(S)

It is recommended that the Board express support for Assembly Bill 107 (AB 107 Knox and Villaraigosa - Los Angeles). AB 107, if passed, will extend health benefits plan coverage to domestic partners.

EXECUTIVE SUMMARY

Last year, the Board adopted to extend certain insurance and leave benefits to employees who have an established domestic partner relationship. As of January 1, 1999, employees are able to enroll their domestic partner in several benefit plans such as dental, vision, life and group accident insurance. Additionally, the definition of family member has been amended to include a domestic partner as an eligible family member for the purposes of using bereavement leave, special leave, and Family and Medical leave (FMLA). Notwithstanding, medical insurance is a benefit that has not been extended to domestic partners. Because the administration of the Metropolitan's employees' health insurance is managed by California Public Employees' Retirement System (CalPERS).

Metropolitan, as a member of CalPERS, contracts its medical insurance under the Public Employees' Medical and Hospital Care Act (PEMHCA). Medical insurance benefits are provided to Metropolitan employees, annuitants and their family members. The PEMHCA regulations do not permit employers to include a domestic partner as a family member. However, Assembly members Knox and Villaraigosa have introduced a bill, AB 107, that will amend the PEMHCA to provide state and local employers with the option to include domestic partner within the definition of family member. AB 107, if passed, would authorize Metropolitan to extend medical insurance coverage to the domestic partners of Metropolitan's employees and annuitants.

Staff requests that the Board adopt a position supporting AB 107. Support of this bill will be consistent with the Board's previously adopted position to provide limited insurance and leave benefits to Metropolitan employees with domestic partners.

DETAILED REPORT

In September 1998, the Board adopted to extend certain insurance and full leave benefits to employees who have an established domestic partner relationship. The Board action resulted in amending existing contracts with various benefit providers such as dental, vision, life, and group accident insurance to permit enrollment of domestic partners. Additionally, certain provisions of the Administrative Code were amended to include domestic partner in the definition of family member for the purposes of utilizing bereavement leave, special leave, and Family and Medical leave (FMLA). These changes became effective January 1, 1999. At this time, 20 employees have enrolled their domestic partners.

Currently, the only insurance benefit not provided to employees' domestic partner is medical insurance. Because current PEMHCA regulations do not permit enrollment of domestic partners. Assembly members Knox and Villaraigosa have introduced a bill, AB 107, that would amend the PEMHCA to allow state and local employers to elect to include domestic partner within the definition of family member. Domestic partnership, as defined in the bill, exists when all of the following conditions occur:

- both persons have a common residence,
- one of the persons is enrolled as an employee or annuitant of an employer contracting with the Board (PERS) for health benefits coverage,
- both persons share the common necessities of life and agree to be jointly responsible for each other's basic living expenses during the domestic partnership,
- neither person is married nor a member of another domestic partnership,
- the two persons are not related by blood in a way that would prevent them from being married to each other in this state,
- both persons are at least 18 years of age, and
- both persons file a certificate of eligibility (a form designated by the PERS Board).

The above definition is similar to the definition currently used by Metropolitan. Metropolitan allows employees to enroll a domestic partner in its benefit plans by using a Metropolitan-provided Benefit Enrollment/Change Form and a Declaration of Domestic Partnership.

In the event that AB 107 is passed and Metropolitan's Board adopts this provision to provide medical coverage for employees' domestic partners, Metropolitan will then enter into discussions with representatives from the four employee organizations: AFSCME Local 1902, Supervisors Association, Management and Professional Employees Association (MAPA), and the Association of Confidential Employees to provide this benefit. Upon adoption of AB107 an amendment will be required to the District's current contract with CalPERS and will be brought to the board in the form of a resolution.

Estimated costs of extending health benefit coverage to employees' domestic partners will be presented to the Board as soon as appropriate. Costs will depend on the number of employees who elect to enroll their domestic partners. According to previous surveys conducted by Human Resources, employee participation rate ranges between 0.5 to 4.0 percent. This rate translates to a total number of enrollees

from 10 to 80 based on Metropolitan's current employee population. Given the anticipated participation rate between 10 and 80 employees and Metropolitan's current medical contribution rate of 90% of PERS-Care premium, the annual cost of providing this benefit will range from \$29,520 to \$236,160. Costs will be funded through Metropolitan's general fund.

PS/ps
1303bo.doc

Attachments
R:\PA\AB107.PDF

Attachment 4

**The following 5 pages are an attachment to
Board Letter 8-5**

AMENDED IN ASSEMBLY MAY 24, 1999
AMENDED IN ASSEMBLY MARCH 10, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 107

Introduced by Assembly Members Knox and Villaraigosa

December 22, 1998

An act to add Article 9 (commencing with Section 22867) to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, relating to the Public Employees' Medical and Hospital Care Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 107, as amended, Knox. Public employees' health benefits: domestic partners.

The existing Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to provide health benefits plan coverage to state and local public employees and annuitants and their family members.

This bill would authorize the state and local employers to elect to include within the definition of "family member," domestic partners, as defined, who have submitted certificates of eligibility to the board. This bill would require forms containing specified information to be filed under penalty of perjury, thereby extending the scope of the existing crime of perjury and imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 9 (commencing with Section
2 22867) is added to Chapter 1 of Part 5 of Division 5 of Title
3 2 of the Government Code, to read:

4
5 Article 9. Domestic Partners

6
7 22867. It is the purpose of this article to provide
8 employers the ability to offer health care coverage
9 through this part to the domestic partners of their
10 employees and annuitants.

11 22868. For this part only, and only for the purposes of
12 providing health care coverage pursuant to this part, a
13 domestic partner is an adult in a domestic partnership as
14 defined in Section 22869 who has submitted to the system
15 on a form designated by the board a certificate of
16 eligibility pursuant to Section 22872.

17 22869. For this part only, and only for the purposes of
18 providing health care coverage pursuant to this part, a
19 domestic partnership exists when all of the following
20 occur:

- 21 (a) Both persons have a common residence.
- 22 (b) One of the persons is enrolled as an employee or
- 23 annuitant of an employer contracting with the board for
- 24 health benefits coverage.
- 25 ~~(c) Both persons share the common necessities of life~~
- 26 ~~and agree to be jointly responsible for each other's basic~~
- 27 ~~living expenses during the domestic partnership.~~



1 (c) Both persons agree to be jointly responsible for
2 each others basic living expenses incurred during the
3 domestic partnership.

4 (d) Neither person is married nor a member of
5 another domestic partnership.

6 (e) The two persons are not related by blood in a way
7 that would prevent them from being married to each
8 other in this state.

9 (f) Both persons are at least 18 years of age.

10 (g) Both persons file a certificate of eligibility
11 pursuant to Section 22872.

12 22870. (a) For the purposes of this part only, a
13 domestic partnership shall terminate when any of the
14 following occurs:

15 (1) One partner gives or sends to the other partner a
16 notarized, written notice that he or she is terminating the
17 partnership.

18 (2) One of the domestic partners dies.

19 (3) One of the domestic partners marries.

20 (4) The domestic partners no longer have a common
21 residence. A temporary separation resulting from work-,
22 education-, or health-related requirements shall not
23 constitute the cessation of a common residence.

24 (b) Upon termination of the partnership, the
25 employee or annuitant shall notify the board by filing, on
26 a form designated by the board, a certification of
27 termination of eligibility. The form shall include a
28 statement whereby the employee or annuitant shall
29 certify under penalty of perjury that he or she has notified
30 his or her domestic partner of the termination of the
31 partnership. All benefits provided by this article shall
32 cease as of the last day of the month following the receipt
33 of the certification of termination of eligibility.

34 (c) No person who was a member of a domestic
35 partnership that was terminated pursuant to this section
36 shall be eligible for health coverage pursuant to this
37 article until at least six months after the effective date of
38 the certification of termination of eligibility that
39 terminated the previous partnership.



1 22871. Notwithstanding any other provision of law, a
2 domestic partner shall be included in the definition of a
3 family member for purposes of Sections 22777, 22778,
4 subdivision (a) of Section 22791, Sections 22811, 22811.5,
5 22811.6, 22812, 22813, 22815, subdivision (c) of Section
6 22816, Sections 22816.3, 22816.35, 22817, 22819, 22823,
7 subdivision (a) of Section 22825, subdivision (a) of
8 Section 22825.1, Section 22825.7, paragraph (1) of
9 subdivision (b) of Section 22840.2, subdivision (f) of
10 Section 22840.2, subdivision (b) of Section 22856, and
11 Section 22859.

12 22871.1. Notwithstanding Section 22871 or any other
13 provision of law, a domestic partner shall not be included
14 in the definition of a family member for purposes of
15 subdivisions (e) and (f) of Section 22754, subdivision (a)
16 of Section 22811.6, and Section 22821.

17 22871.2. Notwithstanding subdivision (f) of Section
18 22754 or any other provision of law, a domestic partner
19 shall be considered to be a family member for purposes
20 of Section 22810 except that a domestic partner shall not
21 be considered a family member for purposes of continued
22 health coverage eligibility upon the death of the
23 employee or annuitant.

24 22872. (a) In order to receive any benefit provided
25 by this article, an employee or annuitant and his or her
26 domestic partner shall complete, have notarized, and file
27 on a form designated by the board, a certificate of
28 eligibility.

29 (b) The form shall also include a signed statement
30 indicating that the employee or annuitant agrees that he
31 or she may be required to reimburse the employer, their
32 designated health services plan, and the system, for any
33 expenditures made by the employer, their designated
34 health services plan, and the system, for medical claims,
35 processing fees, administrative charges, costs, and
36 attorney's fees on behalf of the domestic partner if any of
37 the submitted documentation is found to be incomplete,
38 inaccurate, or fraudulent.



1 22873. (a) Any employer may, at its option, offer
2 health benefits pursuant to this article, to the domestic
3 partners ~~of all~~ of its employees and annuitants.

4 (b) The employer shall notify the board, in a manner
5 prescribed by the board, that it is electing to provide
6 health care coverage through this article to the domestic
7 partners of its employees and annuitants.

8 (c) The employer shall provide to the system any
9 information deemed necessary by the board to determine
10 eligibility under this article.

11 22874. Notwithstanding any other provision of law,
12 this article shall not be construed to extend any vested
13 rights to any person nor be construed to limit the right of
14 the Legislature to subsequently modify or repeal any
15 provision of this article.

16 22875. This article shall apply to (a) *only those*
17 *employees who are members of bargaining units which*
18 *have signed a memorandum of understanding between*
19 *their employer and the recognized employee*
20 *organization to adopt the benefits accorded under this*
21 *article, and (b) to the members of the Public Employees’*
22 *Retirement System who are employed by the Assembly,*
23 *the Senate, the Judicial Council, and the California State*
24 *University only if the Assembly Rules Committee, the*
25 *Senate Rules Committee, the Judicial Council, and the*
26 *Board of Trustees of the California State University,*
27 *respectively, make this section applicable to their*
28 *employees.*

29 SEC. 2. No reimbursement is required by this act
30 pursuant to Section 6 of Article XIII B of the California
31 Constitution because the only costs that may be incurred
32 by a local agency or school district will be incurred
33 because this act creates a new crime or infraction,
34 eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section
36 17556 of the Government Code, or changes the definition
37 of a crime within the meaning of Section 6 of Article
38 XIII B of the California Constitution.

O



Attachment 5

**The following 15 pages are an attachment to
Board Letter 8-5**

Assembly Bill No. 26

Passed the Assembly September 9, 1999

Chief Clerk of the Assembly

Passed the Senate September 9, 1999

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to add Division 2.5 (commencing with Section 297) to the Family Code, to add Article 9 (commencing with Section 22867) to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, and to add Section 1261 to the Health and Safety Code, relating to domestic partners.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, Migden. Domestic partners.

(1) Existing law sets forth the requirements of a valid marriage, and specifies the rights and obligations of spouses during marriage.

This bill would provide that a domestic partnership shall be established between 2 adults of the same sex or, if both persons are over the age of 62 and meet specified eligibility criteria, opposite sexes, who have a common residence and meet other specified criteria and would provide for the registration of domestic partnerships with the Secretary of State. The bill would also specify procedures for the termination of domestic partnerships. The bill would prohibit a person who has filed a Declaration of Domestic Partnership from filing a new declaration until at least 6 months has elapsed from the date that a Notice of Termination of Domestic Partnership was filed with the Secretary of State in connection with the termination of the most recent domestic partnership, except where the previous domestic partnership ended because one of the partners died or married.

The bill would require the Secretary of State to prepare forms for the registration and termination of domestic partnerships, distribute these forms to each county clerk, and require the Secretary of State to establish, by regulation, and charge fees for processing these forms. The bill would require these forms to be available to the public at the office of the Secretary of State and each county clerk. A Declaration of Domestic Partnership



would be required to be accompanied by a specified declaration of veracity. Violation of this requirement would be a misdemeanor. By creating a new crime and by increasing the duties of the county clerk, the bill would impose a state-mandated local program.

The bill would also preempt, on and after July 1, 2000, any local ordinance or law that provides for the creation of a domestic partnership, as specified, except that a local jurisdiction may retain or adopt policies or laws that offer rights to domestic partners within the jurisdiction and impose duties that are in addition to the rights and duties established by state law, as specified.

(2) Existing law does not specify requirements concerning patient visitation in all health facilities.

This bill would require a health facility to allow a patient's domestic partner and other specified persons to visit a patient, except under specified conditions.

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

This bill would authorize the state and local employers to offer health care coverage and other benefits to domestic partners, as defined, who have submitted certificates of eligibility or Declarations of Domestic Partnership to the board.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, with regard to certain mandates, no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates



determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to retain the right of hospitals and other health care facilities to establish visitation policies in reasonable and appropriate circumstances. In enacting this legislation, it is the intent of the Legislature to provide hospitals and other health facilities with the authority to administer those policies in a manner that applies equally to spouses, registered domestic partners, and other immediate family members.

SEC. 2. Division 2.5 (commencing with Section 297) is added to the Family Code, to read:

DIVISION 2.5. DOMESTIC PARTNER
REGISTRATION

PART 1. DEFINITIONS

297. (a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(b) A domestic partnership shall be established in California when all of the following requirements are met:

(1) Both persons have a common residence.

(2) Both persons agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership.

(3) Neither person is married or a member of another domestic partnership.

(4) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.

(5) Both persons are at least 18 years of age.

(6) Either of the following:



(A) Both persons are members of the same sex.

(B) Both persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless both persons are over the age of 62.

(7) Both persons are capable of consenting to the domestic partnership.

(8) Neither person has previously filed a Declaration of Domestic Partnership with the Secretary of State pursuant to this division that has not been terminated under Section 299.

(9) Both file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division.

(c) “Have a common residence” means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

(d) “Basic living expenses” means, shelter, utilities, and all other costs directly related to the maintenance of the common household of the common residence of the domestic partners. It also means any other cost, such as medical care, if some or all of the cost is paid as a benefit because a person is another person’s domestic partner.

(e) “Joint responsibility” means that each partner agrees to provide for the other partner’s basic living expenses if the partner is unable to provide for herself or himself. Persons to whom these expenses are owed may enforce this responsibility if, in extending credit or providing goods or services, they relied on the existence of the domestic partnership and the agreement of both partners to be jointly responsible for those specific expenses.



PART 2. REGISTRATION

298. (a) The Secretary of State shall prepare forms entitled “Declaration of Domestic Partnership” and “Notice of Termination of Domestic Partnership” to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and shall charge these fees to persons filing the forms.

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (4) have a notary public acknowledge his or her signature. Both partners’ signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Violations of this subdivision are punishable as a misdemeanor.

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form to the domestic partners at the address provided by the domestic partners as their common residence.



(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership until at least six months after the date that a Notice of Termination of Domestic Partnership was filed with the Secretary of State pursuant to subdivision (b) of Section 299 in connection with the termination of the most recent domestic partnership. This prohibition does not apply if the previous domestic partnership ended because one of the partners died or married.

PART 3. TERMINATION

299. (a) A domestic partnership is terminated when any one of the following occurs:

(1) One partner gives or sends to the other partner a written notice by certified mail that he or she is terminating the partnership.

(2) One of the domestic partners dies.

(3) One of the domestic partners marries.

(4) The domestic partners no longer have a common residence.

(b) Upon termination of a domestic partnership, at least one former partner shall file a Notice of Termination of Domestic Partnership with the Secretary of State by mailing a completed form to the Secretary of State by certified mail. The date on which the Notice of Termination of Domestic Partnership is received by the Secretary of State shall be deemed the actual termination date of the domestic partnership, unless termination is caused by the death or marriage of a domestic partner, in which case the actual termination date shall be the date indicated on the Notice of Termination of Domestic Partnership form. The partner who files the Notice of Termination of Domestic Partnership shall send a copy of the notice to the last known address of the other partner.

(c) A former domestic partner who has given a copy of a Declaration of Domestic Partnership to any third party in order to qualify for any benefit or right shall, within 60 days of termination of the domestic partnership, give or send to the third party, at the last known address



of the third party, written notification that the domestic partnership has been terminated. A third party who suffers a loss as a result of failure by the domestic partner to send this notice shall be entitled to seek recovery from the partner who was obligated to send it for any actual loss resulting thereby.

(d) Failure to provide the third-party notice required in subdivision (c) shall not delay or prevent the termination of the domestic partnership.

PART 4. LEGAL EFFECT

299.5. (a) The obligations that two people have to each other as a result of creating a domestic partnership are those described in Section 297. Registration as a domestic partner under this division shall not be evidence of, or establish, any rights existing under law other than those expressly provided to domestic partners in this division and Section 1261 of the Health and Safety Code.

The provisions relating to domestic partners provided in this division and Section 1261 of the Health and Safety Code shall not diminish any right under any other provision of law.

(b) Upon the termination of a domestic partnership, the partners, from that time forward, shall incur none of the obligations to each other as domestic partners that are created by this division and Section 1261 of the Health and Safety Code.

(c) The filing of a Declaration of Domestic Partnership pursuant to this division shall not change the character of property, real or personal, or any interest in any real or personal property owned by either domestic partner or both of them prior to the date of filing of the declaration.

(d) The filing of a Declaration of Domestic Partnership pursuant to this division shall not, in and of itself, create any interest in, or rights to, any property, real or personal, owned by one partner in the other partner, including, but not limited to, rights similar to community property or quasi-community property.



(e) Any property or interest acquired by the partners during the domestic partnership where title is shared shall be held by the partners in proportion of interest assigned to each partner at the time the property or interest was acquired unless otherwise expressly agreed in writing by both parties. Upon termination of the domestic partnership, this subdivision shall govern the division of any property jointly acquired by the partners.

(f) The formation of a domestic partnership under this division shall not change the individual income or estate tax liability of each domestic partner prior to and during the partnership, unless otherwise provided under another state or federal law or regulation.

PART 5. PREEMPTION

299.6. (a) Any local ordinance or law that provides for the creation of a “domestic partnership” shall be preempted on and after July 1, 2000, except as provided in subdivision (c).

(b) Domestic partnerships created under any local domestic partnership ordinance or law before July 1, 2000, shall remain valid. On and after July 1, 2000, domestic partnerships previously established under a local ordinance or law shall be governed by this division and the rights and duties of the partners shall be those set out in this division, except as provided in subdivision (c), provided a Declaration of Domestic Partnership is filed by the domestic partners under Section 298.5.

(c) Any local jurisdiction may retain or adopt ordinances, policies, or laws that offer rights within that jurisdiction to domestic partners as defined by Section 297 or as more broadly defined by the local jurisdiction’s ordinances, policies, or laws, or that impose duties upon third parties regarding domestic partners as defined by Section 297 or as more broadly defined by the local jurisdiction’s ordinances, policies, or laws, that are in addition to the rights and duties set out in this division, and the local rights may be conditioned upon the



agreement of the domestic partners to assume the additional obligations set forth in this division.

SEC. 3. Article 9 (commencing with Section 22867) is added to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, to read:

Article 9. Domestic Partners

22867. It is the purpose of this article to provide employers the ability to offer health care coverage through this part to the domestic partners of their employees and annuitants.

22868. For this part only, and only for the purposes of providing health care coverage pursuant to this part, a domestic partner is an adult in a domestic partnership, as defined in Section 22869, with a person enrolled as an employee or annuitant of an employer contracting with the board for health benefits coverage, who has submitted to the system a certificate of eligibility pursuant to Section 22872 or a valid Declaration of Domestic Partnership filed pursuant to Division 2.5 (commencing with Section 297) of the Family Code.

22869. For purposes of this part, a “domestic partnership” shall be two people who meet all of the criteria set forth in Section 297 of the Family Code.

22871. Notwithstanding any other provision of law, a domestic partner shall be included in the definition of a family member for purposes of Sections 22777, 22778, subdivision (a) of Section 22791, Sections 22811, 22811.5, 22812, 22813, 22815, subdivision (c) of Section 22816, Sections 22816.3, 22817, 22819, 22823, subdivision (a) of Section 22825, subdivision (a) of Section 22825.1, Section 22825.7, paragraph (1) of subdivision (b) of Section 22840.2, subdivision (f) of Section 22840.2, subdivision (b) of Section 22856, and Section 22859.

22871.1. Notwithstanding Section 22871 or any other provision of law, a domestic partner shall not be included in the definition of a family member for purposes of subdivisions (e) and (f) of Section 22754, subdivision (a) of Section 22811.6, and Section 22821.



22871.2. Notwithstanding subdivision (f) of Section 22754 or any other provision of law, a domestic partner shall be considered to be a family member for purposes of Section 22810, except that a domestic partner shall not be considered a family member for purposes of continued health coverage eligibility upon the death of the employee or annuitant.

22871.3. If an employee or annuitant has a domestic partner who is an employee or annuitant, each domestic partner may enroll as an individual. No person may be enrolled both as an employee or annuitant and as a family member. A family member may be enrolled with respect to only one employee or annuitant.

22872. (a) In order to receive any benefit provided by this article, an employee or annuitant shall present the board with proof in a manner designated by the board that the employee or annuitant and his or her domestic partner have filed a valid Declaration of Domestic Partnership pursuant to Division 2.5 (commencing with Section 297) of the Family Code.

(b) The employee or annuitant shall also provide a signed statement indicating that the employee or annuitant agrees that he or she may be required to reimburse the employer, their designated health services plan, and the system, for any expenditures made by the employer, their designated health services plan, and the system, for medical claims, processing fees, administrative charges, costs, and attorney's fees on behalf of the domestic partner if any of the submitted documentation is found to be incomplete, inaccurate, or fraudulent.

(c) The employee or annuitant shall notify the employer or CalPERS when a domestic partnership has terminated, as required by subdivision (c) of Section 299 of the Family Code.

22873. (a) Any employer or contracting agency may, at its option, offer health benefits pursuant to this article, to the domestic partners of its employees and annuitants.

(b) The employer or contracting agency shall notify the board, in a manner prescribed by the board, that it is



electing to provide health care coverage through this article to the domestic partners of its employees and annuitants.

(c) The employer or contracting agency shall provide to the system any information deemed necessary by the board to determine eligibility under this article.

22874. Notwithstanding any other provision of law, this article shall not be construed to extend any vested rights to any person nor be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this article.

22875. This article shall apply to any of the following:

(a) Represented state employees who are members of a bargaining unit or who retired from a bargaining unit only if (1) there is a signed memorandum of understanding between the state and the recognized employee organization to adopt the benefits accorded under this article and (2) the Department of Personnel Administration makes this article simultaneously applicable to all eligible annuitants retired from the bargaining unit. This article shall not apply to active state employees who are members of a state bargaining unit unless it also applies to eligible annuitants retired from that bargaining unit.

(b) Members of the Public Employees' Retirement System who are employed by the Assembly, the Senate, and the California State University only if the Assembly Rules Committee, the Senate Rules Committee, and the Board of Trustees of the California State University, respectively, make this section applicable to their employees.

(c) Members of the Public Employees' Retirement System who are state employees of the judicial branch, and judges and justices who are members of the Judges' Retirement System or the Judges' Retirement System II, if the Judicial Council makes this section applicable to them.

(d) Employees excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) upon adoption by the Department



of Personnel Administration of regulations to implement employee benefits under this article for those state officers and employees excluded from, or not otherwise subject to the Ralph C. Dills Act. Regulations adopted or amended pursuant to this section shall not be subject to review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.

22876. The board may establish a one-time special enrollment period to permit currently enrolled employees and annuitants whose domestic partners will be eligible for family member status pursuant to this article to enroll those domestic partners.

22877. An employer may require an employee or annuitant or his or her domestic partner to be financially responsible for any increased cost of covering the domestic partner that exceeds the normal employer contribution rate resulting from the decision of that employer to offer health coverage to domestic partners of employees and annuitants pursuant to this article.

SEC. 4. Section 1261 is added to the Health and Safety Code, to read:

1261. (a) A health facility shall allow a patient's domestic partner, the children of the patient's domestic partner, and the domestic partner of the patient's parent or child to visit, unless one of the following is met:

(1) No visitors are allowed.

(2) The facility reasonably determines that the presence of a particular visitor would endanger the health or safety of a patient, member of the health facility staff, or other visitor to the health facility, or would significantly disrupt the operations of a facility.

(3) The patient has indicated to health facility staff that the patient does not want this person to visit.

(b) This section may not be construed to prohibit a health facility from otherwise establishing reasonable restrictions upon visitation, including restrictions upon the hours of visitation and number of visitors.



(c) For purposes of this section, “domestic partner” has the same meaning as that term is used in Section 297 of the Family Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved _____, 1999

Governor

