



News from  
**Councilmember Todd Gloria**

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City of San Diego ▪ District Three

**NEWS RELEASE**

For immediate release: June 10, 2010

Contact: Katie Keach, 858-245-7673

**Councilmember Gloria Proposes Equal Benefits Ordinance**

*The Same Benefits Would Need to be Offered to Domestic Partners and Spouses of Companies Contracting with the City*

*SAN DIEGO, CA (June 10, 2010)* – Councilmember Todd Gloria today proposed an Equal Benefits Ordinance for the City of San Diego.

In a memorandum sent to the City Council, Mayor Jerry Sanders and City Attorney Jan Goldsmith, Councilmember Gloria recommended the parameters and rationale for an EBO:

The purpose of an EBO is equal treatment. To comply with such a law, a contractor that offers health insurance and other benefits to employees' spouses must offer equivalent coverage to employees' domestic partners. An EBO would not require City contractors to begin offering benefits not previously offered. If a contractor does not offer benefits to married employees, it is not required to offer benefits to employees in domestic partnerships.

"The intent of an EBO is to bring the City's contracting practices in line with non-discrimination laws, prohibiting City contractors from discriminating against employees based on sexual orientation and marital status," said Councilmember Gloria. "The policy goal is 'equal pay for equal work.' Employees of City contractors should have the same access to benefits regardless of whether the employee's household is organized around his or her marriage or domestic partnership."

Councilmember Gloria requested the issue be docketed for consideration by the City Council and that the City Attorney guide the Council about potential amendments to the Municipal Code for the proposed ordinance's implementation. Council President Ben Hueso has agreed to docket the item at the June 30, 2010 Rules Committee meeting.

The full memo is attached.

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**OFFICE OF COUNCILMEMBER TODD GLORIA  
COUNCIL DISTRICT THREE**

**M E M O R A N D U M**

**DATE:** June 10, 2010

**TO:** Mayor Jerry Sanders  
City Attorney Jan Goldsmith  
Council President Ben Hueso

**FROM:** Councilmember Todd Gloria, Third Council District *Todd Gloria*

**SUBJECT:** Equal Benefits Ordinance

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**Background**

In 1997, San Francisco became the first city to implement an Equal Benefits Ordinance (EBO) which requires all contractors doing business with the city to offer employees in a domestic partnership the same benefits offered to married employees.

Today, the State of California has in place an EBO along with several cities and counties throughout the United States:

- Atlanta, GA
- Berkeley, CA
- Broward County, FL
- King County, WA
- Los Angeles, CA
- Miami Beach, FL
- Minneapolis, MN
- Oakland, CA
- Olympia, WA
- Portland, ME
- Sacramento, CA
- Salt Lake City, UT
- San Francisco, CA
- San Mateo County, CA
- Seattle, WA
- Tumwater, WA

**Policy Goal**

The purpose of an EBO is equal treatment. To comply with such a law, a contractor that offers health insurance and other benefits to employees' spouses must offer equivalent coverage to employees' domestic partners. An EBO would not require City contractors to begin offering benefits not previously offered. If a contractor does not offer benefits to married employees, it is not required to offer benefits to employees in domestic partnerships.

The intent of an EBO is to bring the City's contracting practices in line with non-discrimination laws, prohibiting City contractors from discriminating against employees based on sexual

orientation and marital status. The policy goal is "equal pay for equal work." Employees of City contractors shall be paid the same total compensation (i.e. have the same access to benefits), regardless of whether the employee's household is organized around his or her marriage or domestic partnership.

**Recommendation**

Attached is a summary of the Equal Benefits Ordinance I propose. I request that this issue be docketed for City Council discussion and consideration. Additionally, I seek the City Attorney's leadership and guidance in bringing forth amendments to the appropriate sections of the San Diego Municipal Code for implementation of an EBO.

San Diego continues to lead in promoting mutual respect and understanding among all people by protecting basic human rights and creating an atmosphere that promotes amicable relationships among all members of our community. To further San Diego's rich history of civil rights, the City of San Diego should implement an EBO and put the City's purchasing power to work to further equity for all. Through our contracting process, we can assure that companies who choose to do business with the City equalize the total compensation between similarly situated spouses and those with domestic partners.

I look forward to working with you on this endeavor.

TG:pi

## **CITY OF SAN DIEGO EQUAL BENEFITS ORDINANCE**

This Equal Benefits Ordinance (EBO) requires that City contractors who provide benefits to employees with spouses must provide the same benefits to employees with domestic partners.

### **Applicability**

This Ordinance covers all City contracts. This includes agreements for grants, services, the purchase of goods, construction, and leases.

This Ordinance applies to the following:

- Any contractor that has an agreement with the City.
- All of the City contractor's other operations located within the City limits, even if those operations are not involved in the City agreement.
- Any of the contractor's operations if they are on property owned by the City, or on property that the City has a right to occupy.
- The contractor's employees located elsewhere in the United States but outside of the City limits if those employees are performing work on the subject City agreement.

This Ordinance requires the contractor to:

- Certify that equal benefits will be provided to employees with spouses and to employees with domestic partners.
- Post a copy of the following statement in an area frequented by employees: "During the performance of a Contract with the City of San Diego, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners."
- Allow the City access to records so that the City can verify compliance with the Ordinance.

This Ordinance applies to all benefits offered by an employer. This includes, for example, bereavement leave, family medical leave, medical, dental, and vision benefits, membership or membership discounts, moving expenses, travel and relocation benefits, and retirement plans.

### **Exceptions & Waivers**

Waivers may be granted in the following situations:

- The contractor is the only provider of a needed good or service.
- The contractor is the only bidder or contractor willing to enter into an agreement with the City for use of City property.
- The agreement is necessary to respond to an emergency situation that endangers the public health or safety, and no contractor that complies with the law is immediately available.
- The agreement involves specialized litigation as certified by the City Attorney's Office.
- The contractor is a public entity providing a good, service, or access to real property that is not available from any other source.
- The contractor is a public entity and the good or service is necessary to serve a substantial public interest.
- The application of the Ordinance would conflict with the terms or conditions of a grant agreement with a public agency.

- The agreement is essential to the City or the City's residents and no other contractor that complies with the Ordinance is available.
- The agreement is for a bulk purchasing agreement through City, federal, state, or regional entities that reduce the City's purchasing cost.
- The agreement involves the investment of certain types of monies, or instances in which the City will incur a financial loss that would violate its fiduciary duties.

This Ordinance does not apply to any collective bargaining agreement (CBA) that was in effect prior to the Ordinance becoming applicable to the contractor. However, in order to contract with the City, the contractor must agree that if the CBA is subsequently amended, extended, or otherwise modified, the contractor will propose to the union that the requirements of the Ordinance be incorporated into the CBA. If the contractor agrees to do so, the contractor may be granted Provisional Compliance status allowing the contractor to begin working on the City agreement. When the Provisional Compliance status expires, the contractor must verify for the City the steps taken to come into compliance with the EBO.

### **Enforcement**

The City of San Diego's Administration Department would be responsible for the enforcement of the EBO.

If the contractor fails to comply with the ordinance:

- The action may be deemed as a material breach of contract;
- Awarding authority may cancel, terminate or suspend, in whole or in part, the contract;
- Monies due or to become due under the contract may be retained by the City until compliance is achieved;
- City may also pursue any and all other remedies lawfully allowed.