

COUNCIL AGENDA: JULY 21, 2009

SUBJECT: COUNCILMEMBER REQUESTED AGENDA ITEM –
CONSIDERATION OF RESOLUTION IN OPPOSITION TO STATE
SENATE BILL 54 (LENO)

SOURCE: ADMINISTRATION

COMMENT: Councilmember Hamilton has requested that the Council consider the adoption of a resolution in opposition to State Senate Bill 54, authored by Senator Mark Leno (D – San Francisco/San Rafael).

According to Senator Leno's official homepage, S.B. 54 (sponsored by Equality California) has been amended to clarify that same-sex couples who married outside of California before Proposition 8 went into effect (November 5, 2008) would be recognized as married spouses in California. The bill also confirms that same-sex couples who marry outside California after November 5, 2008, or who plan to do so in the future, must receive the same rights, protections, benefits, obligations, and responsibilities afforded to opposite-sex spouses, with the sole exception of the designation of "marriage."

RECOMMENDATION: None

ATTACHMENTS: Senate Bill 54 – AMENDED

C/M BCD

Item No. 15

AMENDED IN ASSEMBLY JULY 15, 2009

AMENDED IN ASSEMBLY JULY 6, 2009

AMENDED IN ASSEMBLY JUNE 30, 2009

SENATE BILL

No. 54

Introduced by Senator Leno

(Coauthor: Senator Kehoe)

(Coauthors: Assembly Members Ammiano, *Brownley*, *Chesbro*, *Feuer*,
Lieu, and John A. Perez)

January 15, 2009

An act to amend Section 308 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Leno. Family law: out-of-state same-sex marriages.

Existing law provides that a marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state. Existing case law provides that, while on and after November 5, 2008, only marriage between a man and a woman is valid or recognized in California, marriages of same-sex couples that were performed prior to November 5, 2008, are valid.

This bill would provide that, notwithstanding any other provision of law, a marriage between 2 persons of the same sex contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state if the marriage was contracted prior to November 5, 2008.

Existing case law also recognizes that while, effective November 5, 2008, same-sex couples lack the right to enter into a relationship

designated “marriage,” they possess the right to the core set of basic substantive legal rights and attributes traditionally associated with marriage, including, the opportunity of an individual to establish an officially recognized and protected family possessing mutual rights and responsibilities and entitled to the same respect and dignity accorded a union traditionally designated as marriage.

This bill would specify that, notwithstanding any other provision of law, 2 persons of the same sex who contracted a marriage on or after November 5, 2008, that would be valid by the laws of the jurisdiction in which the marriage was contracted shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, as specified, as are granted to and imposed upon spouses; with the sole exception of the designation of “marriage.”

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

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

1 SECTION 1. Section 308 of the Family Code is amended to
2 read:

3 308. (a) A marriage contracted outside this state that would
4 be valid by the laws of the jurisdiction in which the marriage was
5 contracted is valid in this state.

6 (b) Notwithstanding any other provision of law, a marriage
7 between two persons of the same sex contracted outside this state
8 that would be valid by the laws of the jurisdiction in which the
9 marriage was contracted is valid in this state if the marriage was
10 contracted prior to November 5, 2008.

11 (c) Notwithstanding any other provision of law, two persons of
12 the same sex who contracted a marriage on or after November 5,
13 2008, that would be valid by the laws of the jurisdiction in which
14 the marriage was contracted shall have the same rights, protections,
15 and benefits, and shall be subject to the same responsibilities,
16 obligations, and duties under law, whether they derive from the
17 California Constitution, the United States Constitution, statutes,
18 administrative regulations, court rules, government policies,
19 common law, or any other provisions or sources of law, as are

1 granted to and imposed upon spouses; with the sole exception of
2 the designation of "marriage."

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