

AMENDED IN ASSEMBLY JUNE 3, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 25, 2003

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 205**

**Introduced by Assembly Members Goldberg, Kehoe, Koretz,  
Laird, and Leno**

**(Principal coauthor: Assembly Member Wesson)**

(Principal coauthor: Senator Kuehl)

**(Coauthors: Assembly Members Berg, Bermudez, Chan, Chu,  
Diaz, Dymally, Firebaugh, Frommer, Hancock, Levine, Lieber,  
Longville, Lowenthal, Montanez, Nation, Nunez, Oropeza,  
Pavley, Simitian, Steinberg, Vargas, and Yee)**

(Coauthors: Senators Burton, Cedillo, Romero, and Vasconcellos)

January 28, 2003

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An act to amend Sections 297, 298, and 298.5 of, to add Sections 297.5, 299.2, and 299.3 to, to repeal Section 299.5 of, and to repeal and add Section 299 of, the Family Code, to amend Section 14771 of the Government Code, and to amend Section 18521 of the Revenue and Taxation Code, relating to domestic partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 205, as amended, Goldberg. Domestic partners.

Existing law provides for the issuance of a marriage license and specifies the rights and obligations of married persons.



Existing law also provides for the establishment and the termination of domestic partnerships. Existing law requires the Secretary of State to prepare and distribute forms for creating and terminating domestic partnerships. Existing law specifies the requirements for completing the form necessary to create a domestic partnership and provides that a violation of this provision is a misdemeanor.

This bill would enact the California Domestic Partner Rights and Responsibilities Act of 2003. The bill would modify the procedure and the accompanying form for terminating domestic partnerships, and require additional duties of the Secretary of State in relation, as specified. The bill would also revise the requirements for entering into a domestic partnership to require each person to consent to the jurisdiction of the superior courts of this state for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership. The bill would revise the provision described above making it a misdemeanor to violate the provision specifying the requirements for completing the form necessary to create a domestic partnership. The bill would instead specifically provide that filing an intentionally and materially false Declaration of Domestic Partnership would be punishable as a misdemeanor, thereby creating a new crime. By creating a new crime, this bill would impose a state-mandated local program.

This bill would extend the rights and duties of marriage to persons registered as domestic partners on and after January 1, 2005. The bill would provide that the superior courts shall have jurisdiction over all proceedings governing the dissolution of domestic partnerships, nullity of domestic partnerships, and legal separation of partners in domestic partnerships. These proceedings would follow the same procedures as the equivalent proceedings with respect to marriage. The bill would provide that a legal union validly formed in another jurisdiction that is substantially equivalent to a domestic partnership would be recognized as a valid domestic partnership in this state. The bill would require the Secretary of State to send a letter on 3 separate, specified occasions to the mailing address of registered domestic partners informing them of these changes, as specified. The bill would also require the Director of General Services, through the forms management center, to provide notice to state agencies, among others, that in reviewing and revising all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership be included. The



bill would also make related and conforming changes, including, but not limited to, a provision permitting registered domestic partners to file joint or separate state tax returns. The bill would further make specified provisions operative on January 1, 2005. The bill would impose a state-mandated local program by adding to the duties of county clerks.

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.

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. (a) This act is intended to help California move  
2 closer to fulfilling the promises of inalienable rights, liberty, and  
3 equality contained in Sections 1 and 7 of Article 1 of the California  
4 Constitution by providing all caring and committed couples,  
5 regardless of their gender or sexual orientation, the opportunity to  
6 obtain essential rights, protections, and benefits and to assume  
7 corresponding responsibilities, obligations, and duties and to  
8 further the state's interests in promoting stable and lasting family  
9 relationships, and protecting Californians from the economic and  
10 social consequences of abandonment, separation, the death of  
11 loved ones, and other life crises.

12 (b) The Legislature hereby finds and declares that despite  
13 longstanding social and economic discrimination, many lesbian,  
14 gay, and bisexual Californians have formed lasting, committed,  
15 and caring relationships with persons of the same sex. These  
16 couples share lives together, participate in their communities



1 together, and many raise children and care for other dependent  
2 family members together. Many of these couples have sought to  
3 protect each other and their family members by registering as  
4 domestic partners with the State of California and, as a result, have  
5 received certain basic legal rights. Expanding the rights and  
6 creating responsibilities of registered domestic partners would  
7 further California's interests in promoting family relationships  
8 and protecting family members during life crises, and would  
9 reduce discrimination on the bases of sex and sexual orientation in  
10 a manner consistent with the requirements of the California  
11 Constitution.

12 (c) This act is not intended to repeal or adversely affect any  
13 other ways in which relationships between adults may be  
14 recognized or given effect in California, or the legal consequences  
15 of those relationships, including, among other things, civil  
16 marriage, enforcement of palimony agreements, enforcement of  
17 powers of attorney, appointment of conservators or guardians, and  
18 petitions for second parent or limited consent adoption.

19 (d) *This act is not intended to amend or modify any provision*  
20 *of the California Constitution or any provision of any statute that*  
21 *was adopted by initiative.*

22 (e) *Many of the laws of this state are intertwined with federal*  
23 *law, and the Legislature recognizes that it does not have the*  
24 *jurisdiction to control federal laws or the benefits, protections, and*  
25 *responsibilities related to them.*

26 SEC. 2. This act shall be known and may be cited as "The  
27 California Domestic Partner Rights and Responsibilities Act of  
28 2003."

29 SEC. 3. Section 297 of the Family Code is amended to read:

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

33 (b) A domestic partnership shall be established in California  
34 when *both persons file a Declaration of Domestic Partnership*  
35 *with the Secretary of State pursuant to this division, and, at the time*  
36 *of filing, all of the following requirements are met:*

37 (1) Both persons have a common residence.

38 (2) Neither person is married or a member of another domestic  
39 partnership that has not been terminated, dissolved, or adjudged a  
40 nullity.



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

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

4 (5) Either of the following:

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

6 (B) One or both of the persons meet the eligibility criteria under  
7 Title II of the Social Security Act as defined in 42 U.S.C. Section  
8 402(a) for old-age insurance benefits or Title XVI of the Social  
9 Security Act as defined in 42 U.S.C. Section 1381 for aged  
10 individuals. Notwithstanding any other provision of this section,  
11 persons of opposite sexes may not constitute a domestic  
12 partnership unless one or both of the persons are over the age of  
13 62.

14 (6) Both persons are capable of consenting to the domestic  
15 partnership.

16 ~~(7) Both persons file a Declaration of Domestic Partnership~~  
17 ~~with the Secretary of State pursuant to this division.~~

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

25 SEC. 4. Section 297.5 is added to the Family Code, to read:

26 297.5. (a) Registered domestic partners shall have the same  
27 rights, protections, and benefits, and shall be subject to the same  
28 responsibilities, obligations, and duties under law, whether they  
29 derive from statutes, administrative regulations, court rules,  
30 government policies, common law, or any other provisions or  
31 sources of law, as are granted to and imposed upon spouses ~~in a~~  
32 ~~civil marriage.~~

33 (b) Former registered domestic partners shall have the same  
34 rights, protections, and benefits, and shall be subject to the same  
35 responsibilities, obligations, and duties under law, whether they  
36 derive from statutes, administrative regulations, court rules,  
37 government policies, common law, or any other provisions or  
38 sources of law, as are granted to and imposed upon former spouses  
39 ~~in a civil marriage.~~



1 (c) A surviving registered domestic partner, following the  
2 death of the other partner, shall have the same rights, protections,  
3 and benefits, and shall be subject to the same responsibilities,  
4 obligations, and duties under law, whether they derive from  
5 statutes, administrative regulations, court rules, government  
6 policies, common law, or any other provisions or sources of law,  
7 as are granted to and imposed upon a widow or a widower ~~of a civil~~  
8 ~~marriage~~.

9 (d) The rights and obligations of registered domestic partners  
10 with respect to a child of either of them shall be the same as those  
11 of ~~married~~ spouses. The rights and obligations of former or  
12 surviving registered domestic partners with respect to a child of  
13 either of them shall be the same as those of former or surviving  
14 spouses ~~in a civil marriage~~.

15 (e) To the extent that provisions of California law adopt, refer  
16 to, or rely upon, provisions of federal law in a way that otherwise  
17 would cause registered domestic partners to be treated differently  
18 than spouses ~~in a civil marriage~~, registered domestic partners shall  
19 be treated by California law as if federal law recognized a domestic  
20 partnership in the same manner as California law.

21 (f) No public agency in this state may discriminate against any  
22 person or couple on the ground that the person or couple is in a  
23 registered domestic partnership rather than ~~in a civil marriage~~  
24 ~~spouses~~.

25 (g) Registered domestic partners shall have the same rights  
26 regarding nondiscrimination as those provided to spouses ~~in a civil~~  
27 ~~marriage~~.

28 SEC. 5. Section 298 of the Family Code is amended to read:

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

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

37 (2) The Secretary of State shall, by regulation, establish fees for  
38 the actual costs of processing each of these forms, and the cost for  
39 preparing and sending the mailings and notices required pursuant



1 to Section 299.3, and shall charge these fees to persons filing the  
2 forms.

3 (c) The Declaration of Domestic Partnership shall require each  
4 person who wants to become a domestic partner to (1) state that he  
5 or she meets the requirements of Section 297 at the time the form  
6 is signed, (2) provide a mailing address, (3) state that he or she  
7 consents to the jurisdiction of the Superior Courts of California for  
8 the purpose of a proceeding to obtain a judgment of dissolution or  
9 nullity of the domestic partnership or for legal separation of  
10 partners in the domestic partnership even if one or both partners  
11 ceases to be a resident of, or to maintain a domicile in, this state,  
12 (4) sign the form with a declaration that representations made  
13 therein are true, correct, and contain no material omissions of fact  
14 to the best knowledge and belief of the applicant, and (5) have a  
15 notary public acknowledge his or her signature. Both partners'  
16 signatures shall be affixed to one Declaration of Domestic  
17 Partnership form, which form shall then be transmitted to the  
18 Secretary of State according to the instructions provided on the  
19 form. Filing an intentionally and materially false Declaration of  
20 Domestic Partnership shall be punishable as a misdemeanor.

21 SEC. 6. Section 298.5 of the Family Code is amended to read:

22 298.5. (a) Two persons desiring to become domestic partners  
23 may complete and file a Declaration of Domestic Partnership with  
24 the Secretary of State.

25 (b) The Secretary of State shall register the Declaration of  
26 Domestic Partnership in a registry for those partnerships, and shall  
27 return a copy of the registered form to the domestic partners at the  
28 mailing address provided by the domestic partners.

29 (c) No person who has filed a Declaration of Domestic  
30 Partnership may file a new Declaration of Domestic Partnership  
31 or enter a civil marriage with someone other than their registered  
32 domestic partner unless the most recent domestic partnership has  
33 been terminated or a final judgment of dissolution or nullity of the  
34 most recent domestic partnership has been entered. This  
35 prohibition does not apply if the previous domestic partnership  
36 ended because one of the partners died.

37 SEC. 7. Section 299 of the Family Code is repealed.

38 SEC. 8. Section 299 is added to the Family Code, to read:

39 299. (a) A domestic partnership may be terminated without  
40 filing a proceeding for dissolution of domestic partnership by the



1 filing of a Notice of Termination of Domestic Partnership with the  
2 Secretary of State pursuant to this section, provided that all of the  
3 following conditions exist at the time of the filing:

4 (1) The Notice of Termination of Domestic Partnership is  
5 signed by both domestic partners.

6 (2) There are no children of the relationship of the parties born  
7 before or after registration of the domestic partnership or adopted  
8 by the parties after registration of the domestic partnership, and  
9 neither of the domestic partners, to their knowledge, is pregnant.

10 (3) The domestic partnership is not more than five years in  
11 duration.

12 (4) Neither party has any interest in real property wherever  
13 situated, with the exception of the lease of a residence occupied by  
14 either party which satisfies the following requirements:

15 (A) The lease does not include an option to purchase.

16 (B) The lease terminates within one year from the date of filing  
17 of the Notice of Termination of Domestic Partnership.

18 (5) There are no unpaid obligations in excess of the amount  
19 which would preclude the filing of a summary dissolution  
20 pursuant to paragraph (6) of subdivision (a) of Section 2400, as  
21 adjusted by subdivision (b) of Section 2400, incurred by either or  
22 both of the parties after registration of the domestic partnership,  
23 excluding the amount of any unpaid obligation with respect to an  
24 automobile.

25 (6) The total fair market value of community property assets,  
26 excluding all encumbrances and automobiles, including any  
27 deferred compensation or retirement plan, is less than the amount  
28 which would preclude the filing of a summary dissolution  
29 pursuant to paragraph (7) of subdivision (a) of Section 2400, as  
30 adjusted by subdivision (b) of Section 2400, and neither party has  
31 separate property assets, excluding all encumbrances and  
32 automobiles, in excess of that amount.

33 (7) The parties have executed an agreement setting forth the  
34 division of assets and the assumption of liabilities of the  
35 community property, and have executed any documents, title  
36 certificates, bills of sale, or other evidence of transfer necessary to  
37 effectuate the agreement.

38 (8) The parties waive any rights to spousal support.



1 (9) The parties have read and understand a brochure prepared  
2 by the Secretary of State describing the requirements, nature, and  
3 effect of terminating a domestic partnership.

4 (10) Both parties desire that the domestic partnership be  
5 terminated.

6 (b) The domestic partnership shall be terminated effective six  
7 months after the date of filing of the Notice of Termination of  
8 Domestic Partnership with the Secretary of State pursuant to this  
9 section, provided that neither party has, before that date, filed with  
10 the Secretary of State a notice of revocation of the termination of  
11 domestic partnership, in the form and content as shall be  
12 prescribed by the Secretary of State, and sent to the other party a  
13 copy of the notice of revocation by first-class mail, postage  
14 prepaid, at the other party's last known address. The effect of  
15 termination of a domestic partnership pursuant to this section shall  
16 be the same as, and shall be treated for all purposes as, the entry  
17 of a judgment of dissolution of a domestic partnership.

18 (c) The termination of a domestic partnership pursuant to this  
19 section does not prejudice nor bar the rights of either of the parties  
20 to institute an action to set aside the termination for fraud, duress,  
21 mistake, or any other ground recognized at law or in equity. A  
22 court shall set aside the termination of domestic partnership and  
23 declare the termination of the domestic partnership null and void  
24 upon proof that the parties did not meet the requirements of  
25 subdivision (a) at the time of the filing of the Notice of Termination  
26 of Domestic Partnership with the Secretary of State.

27 (d) The superior courts shall have jurisdiction over all  
28 proceedings relating to the dissolution of domestic partnerships,  
29 nullity of domestic partnerships, and legal separation of partners  
30 in a domestic partnership. The dissolution of a domestic  
31 partnership, nullity of a domestic partnership, and legal separation  
32 of partners in a domestic partnership shall follow the same  
33 procedures, and the partners shall possess the same rights,  
34 protections, and benefits, and be subject to the same  
35 responsibilities, obligations, and duties, as apply to the dissolution  
36 of marriage, nullity of marriage, and legal separation of spouses  
37 in a marriage, respectively, except as provided in subdivision (a),  
38 and except that, in accordance with the consent acknowledged by  
39 domestic partners in the Declaration of Domestic Partnership  
40 form, proceedings for dissolution, nullity, or legal separation of a



1 domestic partnership registered in this state may be filed in the  
2 superior courts of this state even if neither domestic partner is a  
3 resident of, or maintains a domicile in, the state at the time the  
4 proceedings are filed.

5 SEC. 9. Section 299.2 is added to the Family Code, to read:

6 299.2. ~~(a) A domestic partnership is not invalid because one~~  
7 ~~or both of the partners has at any time changed his or her gender.~~

8 ~~(b) A legal union of two persons of the same sex, other than a~~  
9 marriage, that was validly formed in another jurisdiction, and that  
10 is substantially equivalent to a domestic partnership as defined in  
11 this part, shall be recognized as a valid domestic partnership in this  
12 state regardless of whether it bears the name domestic partnership.

13 SEC. 10. Section 299.3 is added to the Family Code, to read:

14 299.3. (a) On or before June 30, 2004, and again on or before  
15 December 1, 2004, and again on or before January 31, 2005, the  
16 Secretary of State shall send the following letter to the mailing  
17 address on file of each registered domestic partner who registered  
18 more than one month prior to each of those dates:

19

20 “Dear Registered Domestic Partner:

21

22 This letter is being sent to all persons who have registered with  
23 the Secretary of State as a domestic partner.

24 Effective January 1, 2005, California’s law related to the rights  
25 and responsibilities of registered domestic partners will change  
26 (or, if you are receiving this letter after that date, the law has  
27 changed, as of January 1, 2005). With this new legislation, for  
28 purposes of California law, domestic partners will have a great  
29 many new rights and responsibilities, including laws governing  
30 community property and taxation, those governing property  
31 transfer, those regarding duties of mutual financial support and  
32 mutual responsibilities for certain debts to third parties, and many  
33 others. The way domestic partnerships are terminated is also  
34 changing. After January 1, 2005, under certain circumstances, it  
35 will be necessary to participate in a dissolution proceeding in court  
36 to end a domestic partnership.

37 Domestic partners who do not wish to be subject to these new  
38 rights and responsibilities MUST terminate their domestic  
39 partnership before January 1, 2005. Under the law in effect until  
40 January 1, 2005, your domestic partnership is automatically



1 terminated if you or your partner marry or die while you are  
2 registered as domestic partners. It is also terminated if you send to  
3 your partner or your partner sends to you, by certified mail, a  
4 notice terminating the domestic partnership, or if you and your  
5 partner no longer share a common residence. In all cases, you are  
6 required to file a Notice of Termination of Domestic Partnership.

7 If you do not terminate your domestic partnership before  
8 January 1, 2005, as provided above, you will be subject to these  
9 new rights and responsibilities and, under certain circumstances,  
10 you will only be able to terminate your domestic partnership, other  
11 than as a result of domestic partner's death, by the filing of a court  
12 action.

13 If you have any questions about any of these changes, please  
14 consult an attorney. If you cannot find an attorney in your locale,  
15 please contact your county bar association for a referral.

16  
17 Sincerely,

18  
19 The Secretary of State”

20  
21 (b) From January 1, 2004, to December 31, 2004, inclusive, the  
22 Secretary of State shall provide the following notice with all  
23 requests for the Declaration of Domestic Partnership form. The  
24 Secretary of State also shall attach the Notice to the Declaration of  
25 Domestic Partnership form that is provided to the general public  
26 on the Secretary of State's Web site:

27  
28 “NOTICE TO POTENTIAL DOMESTIC PARTNER  
29 REGISTRANTS  
30

31 As of January 1, 2005, California's law of domestic partnership  
32 will change.

33 Beginning at that time, for purposes of California law, domestic  
34 partners will have a great many new rights and responsibilities,  
35 including laws governing community property and taxation, those  
36 governing property transfer, those regarding duties of mutual  
37 financial support and mutual responsibilities for certain debts to  
38 third parties, and many others. The way domestic partnerships are  
39 terminated will also change. Unlike current law, which allows  
40 partners to end their partnership simply by filing a “Termination



1 of Domestic Partnership” form with the Secretary of State, after  
2 January 1, 2005, it will be necessary under certain circumstances  
3 to participate in a dissolution proceeding in court to end a domestic  
4 partnership.

5 If you have questions about these changes, please consult an  
6 attorney. If you cannot find an attorney in your area, please contact  
7 your county bar association for a referral.”

8

9 SEC. 11. Section 299.5 of the Family Code is repealed.

10 SEC. 12. Section 14771 of the Government Code is amended  
11 to read:

12 14771. (a) The director, through the forms management  
13 center, shall do all of the following:

14 (1) Establish a State Forms Management Program for all state  
15 agencies, and provide assistance in establishing internal forms  
16 management capabilities.

17 (2) Study, develop, coordinate and initiate forms of  
18 interagency and common administrative usage, and establish basic  
19 state design and specification criteria to effect the standardization  
20 of public-use forms.

21 (3) Provide assistance to state agencies for economical forms  
22 design and forms art work composition and establish and supervise  
23 control procedures to prevent the undue creation and reproduction  
24 of public-use forms.

25 (4) Provide assistance, training, and instruction in forms  
26 management techniques to state agencies, forms management  
27 representatives, and departmental forms coordinators, and provide  
28 direct administrative and forms management assistance to new  
29 state organizations as they are created.

30 (5) Maintain a central cross index of public-use forms to  
31 facilitate the standardization of these forms, to eliminate  
32 redundant forms, and to provide a central source of information on  
33 the usage and availability of forms.

34 (6) Utilize appropriate procurement techniques to take  
35 advantage of competitive bidding, consolidated orders, and  
36 contract procurement of forms, and work directly with the Office  
37 of State Publishing toward more efficient, economical and timely  
38 procurement, receipt, storage, and distribution of state forms.



1 (7) Coordinate the forms management program with the  
2 existing state archives and records management program to ensure  
3 timely disposition of outdated forms and related records.

4 (8) Conduct periodic evaluations of the effectiveness of the  
5 overall forms management program and the forms management  
6 practices of the individual state agencies, and maintain records  
7 which indicate net dollar savings which have been realized  
8 through centralized forms management.

9 (9) Develop and promulgate rules and standards to implement  
10 the overall purposes of this section.

11 (10) Create and maintain by July 1, 1986, a complete and  
12 comprehensive inventory of public-use forms in current use by the  
13 state.

14 (11) Establish and maintain, by July 1, 1986, an index of all  
15 public-use forms in current use by the state.

16 (12) Assign, by January 1, 1987, a control number to all  
17 public-use forms in current use by the state.

18 (13) Establish a goal to reduce the existing burden of state  
19 collections of public information by 30 percent by July 1, 1987,  
20 and to reduce that burden by an additional 15 percent by July 1,  
21 1988.

22 (14) Provide notice to state agencies, forms management  
23 representatives, and departmental forms coordinators, that in the  
24 usual course of reviewing and revising all public-use forms that  
25 refer to or use the terms spouse, husband, wife, father, mother,  
26 marriage, or marital status, that appropriate references to domestic  
27 partner, parent, or domestic partnership are to be included.

28 (15) Delegate implementing authority to state agencies where  
29 the delegation will result in the most timely and economical  
30 method of accomplishing the responsibilities set forth in this  
31 section.

32 The director, through the forms management center, may  
33 require any agency to revise any public-use form which the  
34 director determines is inefficient.

35 (b) Due to the need for tax forms to be available to the public  
36 on a timely basis, all tax forms, including returns, schedules,  
37 notices, and instructions prepared by the Franchise Tax Board for  
38 public use in connection with its administration of the Personal  
39 Income Tax Law, Senior Citizens Property Tax Assistance and  
40 Postponement Law, Bank and Corporation Tax Law, and the



1 Political Reform Act of 1974 and the State Board of Equalization's  
2 administration of county assessment standards, state-assessed  
3 property, timber tax, sales and use tax, hazardous substances tax,  
4 alcoholic beverage tax, cigarette tax, motor vehicle fuel license  
5 tax, use fuel tax, energy resources surcharge, emergency telephone  
6 users surcharge, insurance tax, and universal telephone service tax  
7 shall be exempt from subdivision (a), and, instead, each board  
8 shall do all of the following:

9 (1) Establish a goal to standardize, consolidate, simplify,  
10 efficiently manage, and, where possible, reduce the number of tax  
11 forms.

12 (2) Create and maintain, by July 1, 1986, a complete and  
13 comprehensive inventory of tax forms in current use by the board.

14 (3) Establish and maintain, by July 1, 1986, an index of all tax  
15 forms in current use by the board.

16 (4) Report to the Legislature, by January 1, 1987, on its  
17 progress to improve the effectiveness and efficiency of all tax  
18 forms.

19 (c) The director, through the forms management center, shall  
20 develop and maintain, by December 31, 1995, an ongoing master  
21 inventory of all nontax reporting forms required of businesses by  
22 state agencies, including a schedule for notifying each state agency  
23 of the impending expiration of certain report review requirements  
24 pursuant to subdivision (b) of Section 14775.

25 SEC. 13. Section 18521 of the Revenue and Taxation Code is  
26 amended to read:

27 18521. (a) (1) Except as otherwise provided in this section,  
28 an individual shall use the same filing status that he or she used on  
29 his or her federal income tax return filed for the same taxable year.

30 (2) If the Franchise Tax Board determines that the filing status  
31 used on the taxpayer's federal income tax return was incorrect, the  
32 Franchise Tax Board may, under Section 19033 (relating to  
33 deficiency assessments), revise the return to reflect a correct filing  
34 status.

35 (3) If either spouse was a nonresident for any portion of the  
36 taxable year, a husband and wife who file a joint federal income  
37 tax return shall be required to file a joint nonresident return.

38 (b) In the case of an individual who is not required to file a  
39 federal income tax return for the taxable year, that individual may  
40 use any filing status on the return required under this part that he



1 or she would be eligible to use on a federal income tax return for  
2 the same taxable year if a federal income tax return was required.

3 (c) Notwithstanding subdivision (a), a husband and wife may  
4 file separate returns under this part if either spouse was either of  
5 the following during the taxable year:

6 (1) An active member of the armed forces or any auxiliary  
7 branch thereof.

8 (2) A nonresident for the entire taxable year who had no income  
9 from a California source.

10 (d) Notwithstanding subdivision (a), registered domestic  
11 partners may either file a joint return or file separately by applying  
12 the standards applicable to married couples under federal income  
13 tax law.

14 (e) Except for taxpayers described in subdivisions (c) or (d), for  
15 any taxable year with respect to which a joint return has been filed,  
16 a separate return shall not be made by either spouse or domestic  
17 partner after the period for either to file a separate return has  
18 expired.

19 (f) No joint return may be made if the husband and wife or the  
20 domestic partners have different taxable years; except that if their  
21 taxable years begin on the same day and end on different days  
22 because of the death of either or both, then a joint return may be  
23 made with respect to the taxable year of each. The above exception  
24 does not apply if the surviving spouse remarries or the surviving  
25 domestic partner enters a new domestic partnership before the  
26 close of his or her taxable year, or if the taxable year of either  
27 spouse or domestic partner is a fractional part of a year under  
28 Section 443(a) of the Internal Revenue Code.

29 (g) In the case of the death of one spouse or domestic partner  
30 or both spouses or domestic partners the joint return with respect  
31 to the decedent may be made only by the decedent's executor or  
32 administrator; except that, in the case of the death of one spouse  
33 or domestic partner, the joint return may be made by the surviving  
34 spouse or domestic partner with respect to both that spouse or  
35 domestic partner and the decedent if no return for the taxable year  
36 has been made by the decedent, no executor or administrator has  
37 been appointed, and no executor or administrator is appointed  
38 before the last day prescribed by law for filing the return of the  
39 surviving spouse or domestic partner. If an executor or  
40 administrator of the decedent is appointed after the making of the



1 joint return by the surviving spouse or domestic partner, the  
2 executor or administrator may disaffirm the joint return by  
3 making, within one year after the last day prescribed by law for  
4 filing the return of the surviving spouse or domestic partner, a  
5 separate return for the taxable year of the decedent with respect to  
6 which the joint return was made, in which case the return made by  
7 the survivor shall constitute his or her separate return.

8 SEC. 14. The provisions of Sections 3, 4, 5, 6, 7, 8, 9, 11, and  
9 13 of this act shall become operative on January 1, 2005.

10 SEC. 15. This act shall be construed liberally in order to  
11 secure to eligible couples who register as domestic partners the full  
12 range of legal rights, protections and benefits, as well as all of the  
13 responsibilities, obligations, and duties to each other, to their  
14 children, to third parties and to the state, as the laws of California  
15 extend to and impose upon ~~those who enter a civil marriage~~  
16 *spouses*.

17 SEC. 16. The provisions of this act are severable. If any  
18 provision of this act is held to be invalid, or if any application  
19 thereof to any person or circumstance is held to be invalid, the  
20 invalidity shall not affect other provisions or applications that may  
21 be given effect without the invalid provision or application.

22 SEC. 17. No reimbursement is required by this act pursuant  
23 to Section 6 of Article XIII B of the California Constitution for  
24 certain costs that may be incurred by a local agency or school  
25 district because in that regard this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.

31 However, notwithstanding Section 17610 of the Government  
32 Code, if the Commission on State Mandates determines that this  
33 act contains other costs mandated by the state, reimbursement to  
34 local agencies and school districts for those costs shall be made  
35 pursuant to Part 7 (commencing with Section 17500) of Division  
36 4 of Title 2 of the Government Code. If the statewide cost of the  
37 claim for reimbursement does not exceed one million dollars



- 1 (\$1,000,000), reimbursement shall be made from the State
- 2 Mandates Claims Fund.

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