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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

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, to amend Sections 17024.5 and 18521 of the



~~Revenue and Taxation Code~~, and to amend Section 3 of Chapter 447 of the Statutes of 2002, 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, as specified.~~ 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.

~~This bill would incorporate additional changes to Section 17024.5 of the Revenue and Taxation Code proposed by SB 1065, to become operative only if SB 1065 and this bill are chaptered and become effective on or before January 1, 2004, and this bill is chaptered last.~~

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,



1 regardless of their gender or sexual orientation, the opportunity to
2 obtain essential rights, protections, and benefits and to assume
3 corresponding responsibilities, obligations, and duties and to
4 further the state's interests in promoting stable and lasting family
5 relationships, and protecting Californians from the economic and
6 social consequences of abandonment, separation, the death of
7 loved ones, and other life crises.

8 (b) The Legislature hereby finds and declares that despite
9 longstanding social and economic discrimination, many lesbian,
10 gay, and bisexual Californians have formed lasting, committed,
11 and caring relationships with persons of the same sex. These
12 couples share lives together, participate in their communities
13 together, and many raise children and care for other dependent
14 family members together. Many of these couples have sought to
15 protect each other and their family members by registering as
16 domestic partners with the State of California and, as a result, have
17 received certain basic legal rights. Expanding the rights and
18 creating responsibilities of registered domestic partners would
19 further California's interests in promoting family relationships
20 and protecting family members during life crises, and would
21 reduce discrimination on the bases of sex and sexual orientation in
22 a manner consistent with the requirements of the California
23 Constitution.

24 (c) This act is not intended to repeal or adversely affect any
25 other ways in which relationships between adults may be
26 recognized or given effect in California, or the legal consequences
27 of those relationships, including, among other things, civil
28 marriage, enforcement of palimony agreements, enforcement of
29 powers of attorney, appointment of conservators or guardians, and
30 petitions for second parent or limited consent adoption.

31 SEC. 2. This act shall be known and may be cited as "The
32 California Domestic Partner Rights and Responsibilities Act of
33 2003."

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

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

38 (b) A domestic partnership shall be established in California
39 when both persons file a Declaration of Domestic Partnership with



1 the Secretary of State pursuant to this division, and, at the time of
2 filing, all of the following requirements are met:

- 3 (1) Both persons have a common residence.
- 4 (2) Neither person is married to someone else or is a member
5 of another domestic partnership with someone else that has not
6 been terminated, dissolved, or adjudged a nullity.
- 7 (3) The two persons are not related by blood in a way that
8 would prevent them from being married to each other in this state.
- 9 (4) Both persons are at least 18 years of age.
- 10 (5) Either of the following:
 - 11 (A) Both persons are members of the same sex.
 - 12 (B) One or both of the persons meet the eligibility criteria under
13 Title II of the Social Security Act as defined in 42 U.S.C. Section
14 402(a) for old-age insurance benefits or Title XVI of the Social
15 Security Act as defined in 42 U.S.C. Section 1381 for aged
16 individuals. Notwithstanding any other provision of this section,
17 persons of opposite sexes may not constitute a domestic
18 partnership unless one or both of the persons are over the age of
19 62.
- 20 (6) Both persons are capable of consenting to the domestic
21 partnership.
- 22 (c) “Have a common residence” means that both domestic
23 partners share the same residence. It is not necessary that the legal
24 right to possess the common residence be in both of their names.
25 Two people have a common residence even if one or both have
26 additional residences. Domestic partners do not cease to have a
27 common residence if one leaves the common residence but intends
28 to return.
- 29 SEC. 4. Section 297.5 is added to the Family Code, to read:
30 297.5. (a) Registered domestic partners shall have the same
31 rights, protections, and benefits, and shall be subject to the same
32 responsibilities, obligations, and duties under law, whether they
33 derive from statutes, administrative regulations, court rules,
34 government policies, common law, or any other provisions or
35 sources of law, as are granted to and imposed upon spouses.
- 36 (b) Former registered domestic partners shall have the same
37 rights, protections, and benefits, and shall be subject to the same
38 responsibilities, obligations, and duties under law, whether they
39 derive from statutes, administrative regulations, court rules,



1 government policies, common law, or any other provisions or
2 sources of law, as are granted to and imposed upon former spouses.

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

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

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, registered domestic partners shall be treated by
19 California law as if federal law recognized a domestic partnership
20 in the same manner as California law.

21 (f) Registered domestic partners shall have the same rights
22 regarding nondiscrimination as those provided to spouses.

23 (g) *Notwithstanding this section, in filing their state income tax*
24 *returns, domestic partners shall use the same filing status as is*
25 *used on their federal income tax returns, or that would have been*
26 *used had they filed federal income tax returns. Earned income may*
27 *not be treated as community property for state income tax*
28 *purposes.*

29 (h) No public agency in this state may discriminate against any
30 person or couple on the ground that the person is a registered
31 domestic partner rather than a spouse or that the couple are
32 registered domestic partners rather than spouses, except that
33 nothing in this ~~subdivision~~ *section* applies to modify eligibility for
34 long-term care plans pursuant to Chapter 15 (commencing with
35 Section 21660) of Part 3 of Division 5 of Title 2 of the Government
36 Code.

37 ~~(h)~~

38 (i) This act does not preclude any state or local agency from
39 exercising its regulatory authority to implement statutes providing
40 rights to, or imposing responsibilities upon, domestic partners.



1 ~~(i)~~
2 (j) This section does not amend or modify any provision of the
3 California Constitution or any provision of any statute that was
4 adopted by initiative.

5 ~~(j)~~
6 (k) This section does not amend or modify federal laws or the
7 benefits, protections, and responsibilities provided by those laws.

8 ~~(k)~~
9 (l) Where necessary to implement the rights of domestic
10 partners under this act, gender-specific terms referring to spouses
11 shall be construed to include domestic partners.

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

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

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

21 (2) The Secretary of State shall, by regulation, establish fees for
22 the actual costs of processing each of these forms, and the cost for
23 preparing and sending the mailings and notices required pursuant
24 to Section 299.3, and shall charge these fees to persons filing the
25 forms.

26 (c) The Declaration of Domestic Partnership shall require each
27 person who wants to become a domestic partner to (1) state that he
28 or she meets the requirements of Section 297 at the time the form
29 is signed, (2) provide a mailing address, (3) state that he or she
30 consents to the jurisdiction of the Superior Courts of California for
31 the purpose of a proceeding to obtain a judgment of dissolution or
32 nullity of the domestic partnership or for legal separation of
33 partners in the domestic partnership, or for any other proceeding
34 related to the partners’ rights and obligations, even if one or both
35 partners ceases to be a resident of, or to maintain a domicile in, this
36 state, (4) sign the form with a declaration that representations
37 made therein are true, correct, and contain no material omissions
38 of fact to the best knowledge and belief of the applicant, and (5)
39 have a notary public acknowledge his or her signature. Both
40 partners’ signatures shall be affixed to one Declaration of



1 Domestic Partnership form, which form shall then be transmitted
2 to the Secretary of State according to the instructions provided on
3 the form. Filing an intentionally and materially false Declaration
4 of Domestic Partnership shall be punishable as a misdemeanor.

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

6 298.5. (a) Two persons desiring to become domestic partners
7 may complete and file a Declaration of Domestic Partnership with
8 the Secretary of State.

9 (b) The Secretary of State shall register the Declaration of
10 Domestic Partnership in a registry for those partnerships, and shall
11 return a copy of the registered form and a Certificate of Registered
12 Domestic Partnership to the domestic partners at the mailing
13 address provided by the domestic partners.

14 (c) No person who has filed a Declaration of Domestic
15 Partnership may file a new Declaration of Domestic Partnership
16 or enter a civil marriage with someone other than their registered
17 domestic partner unless the most recent domestic partnership has
18 been terminated or a final judgment of dissolution or nullity of the
19 most recent domestic partnership has been entered. This
20 prohibition does not apply if the previous domestic partnership
21 ended because one of the partners died.

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

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

24 299. (a) A domestic partnership may be terminated without
25 filing a proceeding for dissolution of domestic partnership by the
26 filing of a Notice of Termination of Domestic Partnership with the
27 Secretary of State pursuant to this section, provided that all of the
28 following conditions exist at the time of the filing:

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

31 (2) There are no children of the relationship of the parties born
32 before or after registration of the domestic partnership or adopted
33 by the parties after registration of the domestic partnership, and
34 neither of the domestic partners, to their knowledge, is pregnant.

35 (3) The domestic partnership is not more than five years in
36 duration.

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

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



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

3 (5) There are no unpaid obligations in excess of the amount
4 described in paragraph (6) of subdivision (a) of Section 2400, as
5 adjusted by subdivision (b) of Section 2400, incurred by either or
6 both of the parties after registration of the domestic partnership,
7 excluding the amount of any unpaid obligation with respect to an
8 automobile.

9 (6) The total fair market value of community property assets,
10 excluding all encumbrances and automobiles, including any
11 deferred compensation or retirement plan, is less than the amount
12 described in paragraph (7) of subdivision (a) of Section 2400, as
13 adjusted by subdivision (b) of Section 2400, and neither party has
14 separate property assets, excluding all encumbrances and
15 automobiles, in excess of that amount.

16 (7) The parties have executed an agreement setting forth the
17 division of assets and the assumption of liabilities of the
18 community property, and have executed any documents, title
19 certificates, bills of sale, or other evidence of transfer necessary to
20 effectuate the agreement.

21 (8) The parties waive any rights to support by the other
22 domestic partner.

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

26 (10) Both parties desire that the domestic partnership be
27 terminated.

28 (b) The domestic partnership shall be terminated effective six
29 months after the date of filing of the Notice of Termination of
30 Domestic Partnership with the Secretary of State pursuant to this
31 section, provided that neither party has, before that date, filed with
32 the Secretary of State a notice of revocation of the termination of
33 domestic partnership, in the form and content as shall be
34 prescribed by the Secretary of State, and sent to the other party a
35 copy of the notice of revocation by first-class mail, postage
36 prepaid, at the other party's last known address. The effect of
37 termination of a domestic partnership pursuant to this section shall
38 be the same as, and shall be treated for all purposes as, the entry
39 of a judgment of dissolution of a domestic partnership.



1 (c) The termination of a domestic partnership pursuant to
2 subdivision (b) does not prejudice nor bar the rights of either of the
3 parties to institute an action in the superior court to set aside the
4 termination for fraud, duress, mistake, or any other ground
5 recognized at law or in equity. A court may set aside the
6 termination of domestic partnership and declare the termination of
7 the domestic partnership null and void upon proof that the parties
8 did not meet the requirements of subdivision (a) at the time of the
9 filing of the Notice of Termination of Domestic Partnership with
10 the Secretary of State.

11 (d) The superior courts shall have jurisdiction over all
12 proceedings relating to the dissolution of domestic partnerships,
13 nullity of domestic partnerships, and legal separation of partners
14 in a domestic partnership. The dissolution of a domestic
15 partnership, nullity of a domestic partnership, and legal separation
16 of partners in a domestic partnership shall follow the same
17 procedures, and the partners shall possess the same rights,
18 protections, and benefits, and be subject to the same
19 responsibilities, obligations, and duties, as apply to the dissolution
20 of marriage, nullity of marriage, and legal separation of spouses
21 in a marriage, respectively, except as provided in subdivision (a),
22 and except that, in accordance with the consent acknowledged by
23 domestic partners in the Declaration of Domestic Partnership
24 form, proceedings for dissolution, nullity, or legal separation of a
25 domestic partnership registered in this state may be filed in the
26 superior courts of this state even if neither domestic partner is a
27 resident of, or maintains a domicile in, the state at the time the
28 proceedings are filed.

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

30 299.2. A legal union of two persons of the same sex, other
31 than a marriage, that was validly formed in another jurisdiction,
32 and that is substantially equivalent to a domestic partnership as
33 defined in this part, shall be recognized as a valid domestic
34 partnership in this state regardless of whether it bears the name
35 domestic partnership.

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

37 299.3. (a) On or before June 30, 2004, and again on or before
38 December 1, 2004, and again on or before January 31, 2005, the
39 Secretary of State shall send the following letter to the mailing
40 address on file of each registered domestic partner who registered



1 more than one month prior to each of those dates:

2

3 “Dear Registered Domestic Partner:

4

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

7 Effective January 1, 2005, California’s law related to the rights
8 and responsibilities of registered domestic partners will change
9 (or, if you are receiving this letter after that date, the law has
10 changed, as of January 1, 2005). With this new legislation, for
11 purposes of California law, domestic partners will have a great
12 many new rights and responsibilities, including laws governing
13 community property ~~and taxation~~, those governing property
14 transfer, those regarding duties of mutual financial support and
15 mutual responsibilities for certain debts to third parties, and many
16 others. The way domestic partnerships are terminated is also
17 changing. After January 1, 2005, under certain circumstances, it
18 will be necessary to participate in a dissolution proceeding in court
19 to end a domestic partnership.

20 Domestic partners who do not wish to be subject to these new
21 rights and responsibilities MUST terminate their domestic
22 partnership before January 1, 2005. Under the law in effect until
23 January 1, 2005, your domestic partnership is automatically
24 terminated if you or your partner marry or die while you are
25 registered as domestic partners. It is also terminated if you send to
26 your partner or your partner sends to you, by certified mail, a
27 notice terminating the domestic partnership, or if you and your
28 partner no longer share a common residence. In all cases, you are
29 required to file a Notice of Termination of Domestic Partnership.

30 If you do not terminate your domestic partnership before
31 January 1, 2005, as provided above, you will be subject to these
32 new rights and responsibilities and, under certain circumstances,
33 you will only be able to terminate your domestic partnership, other
34 than as a result of domestic partner’s death, by the filing of a court
35 action.

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

39

40 Sincerely,



1
2 The Secretary of State”

3
4 (b) From January 1, 2004, to December 31, 2004, inclusive, the
5 Secretary of State shall provide the following notice with all
6 requests for the Declaration of Domestic Partnership form. The
7 Secretary of State also shall attach the Notice to the Declaration of
8 Domestic Partnership form that is provided to the general public
9 on the Secretary of State’s Web site:

10
11 “NOTICE TO POTENTIAL DOMESTIC PARTNER
12 REGISTRANTS
13

14 As of January 1, 2005, California’s law of domestic partnership
15 will change.

16 Beginning at that time, for purposes of California law, domestic
17 partners will have a great many new rights and responsibilities,
18 including laws governing community property ~~and taxation~~, those
19 governing property transfer, those regarding duties of mutual
20 financial support and mutual responsibilities for certain debts to
21 third parties, and many others. The way domestic partnerships are
22 terminated will also change. Unlike current law, which allows
23 partners to end their partnership simply by filing a “Termination
24 of Domestic Partnership” form with the Secretary of State, after
25 January 1, 2005, it will be necessary under certain circumstances
26 to participate in a dissolution proceeding in court to end a domestic
27 partnership.

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

31
32 SEC. 11. Section 299.5 of the Family Code is repealed.

33 SEC. 12. Section 14771 of the Government Code is amended
34 to read:

35 14771. (a) The director, through the forms management
36 center, shall do all of the following:

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



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

5 (3) Provide assistance to state agencies for economical forms
6 design and forms art work composition and establish and supervise
7 control procedures to prevent the undue creation and reproduction
8 of public-use forms.

9 (4) Provide assistance, training, and instruction in forms
10 management techniques to state agencies, forms management
11 representatives, and departmental forms coordinators, and provide
12 direct administrative and forms management assistance to new
13 state organizations as they are created.

14 (5) Maintain a central cross index of public-use forms to
15 facilitate the standardization of these forms, to eliminate
16 redundant forms, and to provide a central source of information on
17 the usage and availability of forms.

18 (6) Utilize appropriate procurement techniques to take
19 advantage of competitive bidding, consolidated orders, and
20 contract procurement of forms, and work directly with the Office
21 of State Publishing toward more efficient, economical and timely
22 procurement, receipt, storage, and distribution of state forms.

23 (7) Coordinate the forms management program with the
24 existing state archives and records management program to ensure
25 timely disposition of outdated forms and related records.

26 (8) Conduct periodic evaluations of the effectiveness of the
27 overall forms management program and the forms management
28 practices of the individual state agencies, and maintain records
29 which indicate net dollar savings which have been realized
30 through centralized forms management.

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

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

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

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



1 (13) Establish a goal to reduce the existing burden of state
2 collections of public information by 30 percent by July 1, 1987,
3 and to reduce that burden by an additional 15 percent by July 1,
4 1988.

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

11 (15) Delegate implementing authority to state agencies where
12 the delegation will result in the most timely and economical
13 method of accomplishing the responsibilities set forth in this
14 section.

15 The director, through the forms management center, may
16 require any agency to revise any public-use form which the
17 director determines is inefficient.

18 (b) Due to the need for tax forms to be available to the public
19 on a timely basis, all tax forms, including returns, schedules,
20 notices, and instructions prepared by the Franchise Tax Board for
21 public use in connection with its administration of the Personal
22 Income Tax Law, Senior Citizens Property Tax Assistance and
23 Postponement Law, Bank and Corporation Tax Law, and the
24 Political Reform Act of 1974 and the State Board of Equalization's
25 administration of county assessment standards, state-assessed
26 property, timber tax, sales and use tax, hazardous substances tax,
27 alcoholic beverage tax, cigarette tax, motor vehicle fuel license
28 tax, use fuel tax, energy resources surcharge, emergency telephone
29 users surcharge, insurance tax, and universal telephone service tax
30 shall be exempt from subdivision (a), and, instead, each board
31 shall do all of the following:

32 (1) Establish a goal to standardize, consolidate, simplify,
33 efficiently manage, and, where possible, reduce the number of tax
34 forms.

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

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



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

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

10 ~~SEC. 13. Section 17024.5 of the Revenue and Taxation Code~~
11 ~~is amended to read:~~

12 ~~17024.5. (a) (1) Unless otherwise specifically provided, the~~
13 ~~terms "Internal Revenue Code," "Internal Revenue Code of~~
14 ~~1954," or "Internal Revenue Code of 1986," for purposes of this~~
15 ~~part, mean Title 26 of the United States Code, including all~~
16 ~~amendments thereto as enacted on the specified date for the~~
17 ~~applicable taxable year as follows:~~

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983 . . .	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984 . . .	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985 . . .	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986 . . .	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988 . . .	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989 . . .	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990 . . .	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991 . . .	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992 . . .	January 1, 1992



- 1 ~~(J) For taxable years beginning on or after January 1,~~
- 2 ~~1993, and on or before December 31, 1996 January 1, 1993~~
- 3 ~~(K) For taxable years beginning on or after January 1,~~
- 4 ~~1997, and on or before December 31, 1997 January 1, 1997~~
- 5 ~~(L) For taxable years beginning on or after January 1,~~
- 6 ~~1998, and on or before December 31, 2001 January 1, 1998~~
- 7 ~~(M) For taxable years beginning on or after January 1,~~
- 8 ~~2002 January 1, 2001~~

9

10 ~~(2) Unless otherwise specifically provided, for federal laws~~
 11 ~~enacted on or after January 1, 1987, and on or before the specified~~
 12 ~~date for the taxable year, uncodified provisions that relate to~~
 13 ~~provisions of the Internal Revenue Code that are incorporated for~~
 14 ~~purposes of this part shall be applicable to the same taxable years~~
 15 ~~as the incorporated provisions.~~

16 ~~(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle~~
 17 ~~H (Repeal of Expired or Obsolete Provisions) of the Revenue~~
 18 ~~Reconciliation Act of 1990 (Public Law 101-508) modified~~
 19 ~~numerous provisions of the Internal Revenue Code and provisions~~
 20 ~~of prior federal acts, some of which are incorporated by reference~~
 21 ~~into this part. Unless otherwise provided, the provisions described~~
 22 ~~in the preceding sentence, to the extent that they modify provisions~~
 23 ~~that are incorporated into this part, are declaratory of existing law~~
 24 ~~and shall be applied in the same manner and for the same periods~~
 25 ~~as specified in the Revenue Reconciliation Act of 1990.~~

26 ~~(b) Unless otherwise specifically provided, when applying any~~
 27 ~~provision of the Internal Revenue Code for purposes of this part,~~
 28 ~~a reference to any of the following shall not be applicable for~~
 29 ~~purposes of this part:~~

30 ~~(1) Except as provided in Chapter 4.5 (commencing with~~
 31 ~~Section 23800) of Part 11 of Division 2, an electing small business~~
 32 ~~corporation, as defined in Section 1361(b) of the Internal Revenue~~
 33 ~~Code.~~

34 ~~(2) Domestic international sales corporations (DISC), as~~
 35 ~~defined in Section 992(a) of the Internal Revenue Code.~~

36 ~~(3) A personal holding company, as defined in Section 542 of~~
 37 ~~the Internal Revenue Code.~~

38 ~~(4) A foreign personal holding company, as defined in Section~~
 39 ~~552 of the Internal Revenue Code.~~



- 1 ~~(5) A foreign investment company, as defined in Section~~
2 ~~1246(b) of the Internal Revenue Code.~~
- 3 ~~(6) A foreign trust, as defined in Section 679 of the Internal~~
4 ~~Revenue Code.~~
- 5 ~~(7) Foreign income taxes and foreign income tax credits.~~
- 6 ~~(8) Section 911 of the Internal Revenue Code, relating to~~
7 ~~United States citizens living abroad.~~
- 8 ~~(9) A foreign corporation, except that Section 367 of the~~
9 ~~Internal Revenue Code shall be applicable.~~
- 10 ~~(10) Federal tax credits and carryovers of federal tax credits.~~
- 11 ~~(11) Nonresident aliens.~~
- 12 ~~(12) Deduction for personal exemptions, as provided in~~
13 ~~Section 151 of the Internal Revenue Code.~~
- 14 ~~(13) The tax on generation skipping transfers imposed by~~
15 ~~Section 2601 of the Internal Revenue Code.~~
- 16 ~~(14) The tax, relating to estates, imposed by Section 2001 or~~
17 ~~2101 of the Internal Revenue Code.~~
- 18 ~~(e) (1) The provisions contained in Sections 41 to 44,~~
19 ~~inclusive, and 172 of the Tax Reform Act of 1984 (Public Law~~
20 ~~98-369), relating to treatment of debt instruments, shall not be~~
21 ~~applicable for taxable years beginning before January 1, 1987.~~
- 22 ~~(2) The provisions contained in Public Law 99-121, relating to~~
23 ~~the treatment of debt instruments, shall not be applicable for~~
24 ~~taxable years beginning before January 1, 1987.~~
- 25 ~~(3) For each taxable year beginning on or after January 1, 1987,~~
26 ~~the provisions referred to by paragraphs (1) and (2) shall be~~
27 ~~applicable for purposes of this part in the same manner and with~~
28 ~~respect to the same obligations as the federal provisions, except as~~
29 ~~otherwise provided in this part.~~
- 30 ~~(d) When applying the Internal Revenue Code for purposes of~~
31 ~~this part, regulations promulgated in final form or issued as~~
32 ~~temporary regulations by “the secretary” shall be applicable as~~
33 ~~regulations under this part to the extent that they do not conflict~~
34 ~~with this part or with regulations issued by the Franchise Tax~~
35 ~~Board.~~
- 36 ~~(e) Whenever this part allows a taxpayer to make an election,~~
37 ~~the following rules shall apply:~~
- 38 ~~(1) A proper election filed with the Internal Revenue Service~~
39 ~~in accordance with the Internal Revenue Code or regulations~~
40 ~~issued by “the secretary” shall be deemed to be a proper election~~



1 for purposes of this part, unless otherwise provided in this part or
2 in regulations issued by the Franchise Tax Board.

3 (2) A copy of that election shall be furnished to the Franchise
4 Tax Board upon request.

5 (3) To obtain treatment other than that elected for federal
6 purposes, a separate election shall be filed at the time and in the
7 manner required by the Franchise Tax Board.

8 (f) Whenever this part allows or requires a taxpayer to file an
9 application or seek consent, the rules set forth in subdivision (e)
10 shall be applicable with respect to that application or consent.

11 (g) When applying the Internal Revenue Code for purposes of
12 determining the statute of limitations under this part, any reference
13 to a period of three years shall be modified to read four years for
14 purposes of this part.

15 (h) When applying, for purposes of this part, any section of the
16 Internal Revenue Code or any applicable regulation thereunder, all
17 of the following shall apply:

18 (1) References to “adjusted gross income” shall mean the
19 amount computed in accordance with Section 17072, except as
20 provided in paragraph (2).

21 (2) (A) Except as provided in subparagraph (B), references to
22 “adjusted gross income” for purposes of computing limitations
23 based upon adjusted gross income, shall mean the amount required
24 to be shown as adjusted gross income on the federal tax return for
25 the same taxable year.

26 (B) In the case of registered domestic partners filing a joint
27 return under Section 18521, adjusted gross income for purposes of
28 computing limitations based upon adjusted gross income, shall
29 mean the total of the amount required to be shown as adjusted gross
30 income on the federal tax return for the same taxable year of each
31 registered domestic partner.

32 (3) Any reference to “subtitle” or “chapter” shall mean this
33 part.

34 (4) The provisions of Section 7806 of the Internal Revenue
35 Code, relating to construction of title, shall apply.

36 (5) Any provision of the Internal Revenue Code that becomes
37 operative on or after the specified date for that taxable year shall
38 become operative on the same date for purposes of this part.



1 ~~(6) Any provision of the Internal Revenue Code that becomes~~
2 ~~inoperative on or after the specified date for that taxable year shall~~
3 ~~become inoperative on the same date for purposes of this part.~~

4 ~~(7) Due account shall be made for differences in federal and~~
5 ~~state terminology, effective dates, substitution of “Franchise Tax~~
6 ~~Board” for “secretary” when appropriate, and other obvious~~
7 ~~differences.~~

8 ~~(i) Any reference to a specific provision of the Internal~~
9 ~~Revenue Code shall include modifications of that provision, if any,~~
10 ~~in this part.~~

11 ~~SEC. 13.5. Section 17024.5 of the Revenue and Taxation~~
12 ~~Code is amended to read:~~

13 ~~17024.5. (a) (1) Unless otherwise specifically provided, the~~
14 ~~terms “Internal Revenue Code,” “Internal Revenue Code of~~
15 ~~1954,” or “Internal Revenue Code of 1986,” for purposes of this~~
16 ~~part, mean Title 26 of the United States Code, including all~~
17 ~~amendments thereto as enacted on the specified date for the~~
18 ~~applicable taxable year as follows:~~

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983 . . .	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984 . . .	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985 . . .	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986 . . .	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988 . . .	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989 . . .	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990 . . .	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991 . . .	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992 . . .	January 1, 1992



- 1 ~~(J) For taxable years beginning on or after January 1,~~
- 2 ~~1993, and on or before December 31, 1996 January 1, 1993~~
- 3 ~~(K) For taxable years beginning on or after January 1,~~
- 4 ~~1997, and on or before December 31, 1997 January 1, 1997~~
- 5 ~~(L) For taxable years beginning on or after January 1,~~
- 6 ~~1998, and on or before December 31, 2001 January 1, 1998~~
- 7 ~~(M) For taxable years beginning on or after January 1,~~
- 8 ~~2002 January 1, 2001~~

9

10 ~~(2) Unless otherwise specifically provided, for federal laws~~
 11 ~~enacted on or after January 1, 1987, and on or before the specified~~
 12 ~~date for the taxable year, uncodified provisions that relate to~~
 13 ~~provisions of the Internal Revenue Code that are incorporated for~~
 14 ~~purposes of this part shall be applicable to the same taxable years~~
 15 ~~as the incorporated provisions.~~

16 ~~(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle~~
 17 ~~H (Repeal of Expired or Obsolete Provisions) of the Revenue~~
 18 ~~Reconciliation Act of 1990 (Public Law 101-508) modified~~
 19 ~~numerous provisions of the Internal Revenue Code and provisions~~
 20 ~~of prior federal acts, some of which are incorporated by reference~~
 21 ~~into this part. Unless otherwise provided, the provisions described~~
 22 ~~in the preceding sentence, to the extent that they modify provisions~~
 23 ~~that are incorporated into this part, are declaratory of existing law~~
 24 ~~and shall be applied in the same manner and for the same periods~~
 25 ~~as specified in the Revenue Reconciliation Act of 1990.~~

26 ~~(b) Unless otherwise specifically provided, when applying any~~
 27 ~~provision of the Internal Revenue Code for purposes of this part,~~
 28 ~~a reference to any of the following is not applicable for purposes~~
 29 ~~of this part:~~

30 ~~(1) Except as provided in Chapter 4.5 (commencing with~~
 31 ~~Section 23800) of Part 11 of Division 2, an electing small business~~
 32 ~~corporation, as defined in Section 1361(b) of the Internal Revenue~~
 33 ~~Code.~~

34 ~~(2) Domestic international sales corporations (DISC), as~~
 35 ~~defined in Section 992(a) of the Internal Revenue Code.~~

36 ~~(3) A personal holding company, as defined in Section 542 of~~
 37 ~~the Internal Revenue Code.~~

38 ~~(4) A foreign personal holding company, as defined in Section~~
 39 ~~552 of the Internal Revenue Code.~~



- 1 ~~(5) A foreign investment company, as defined in Section~~
2 ~~1246(b) of the Internal Revenue Code.~~
- 3 ~~(6) A foreign trust, as defined in Section 679 of the Internal~~
4 ~~Revenue Code.~~
- 5 ~~(7) Foreign income taxes and foreign income tax credits.~~
- 6 ~~(8) Section 911 of the Internal Revenue Code, relating to~~
7 ~~United States citizens living abroad.~~
- 8 ~~(9) A foreign corporation, except that Section 367 of the~~
9 ~~Internal Revenue Code shall be applicable.~~
- 10 ~~(10) Federal tax credits and carryovers of federal tax credits.~~
- 11 ~~(11) Nonresident aliens.~~
- 12 ~~(12) Deduction for personal exemptions, as provided in~~
13 ~~Section 151 of the Internal Revenue Code.~~
- 14 ~~(13) The tax on generation skipping transfers imposed by~~
15 ~~Section 2601 of the Internal Revenue Code.~~
- 16 ~~(14) The tax, relating to estates, imposed by Section 2001 or~~
17 ~~2101 of the Internal Revenue Code.~~
- 18 ~~(e) (1) The provisions contained in Sections 41 to 44,~~
19 ~~inclusive, and 172 of the Tax Reform Act of 1984 (Public Law~~
20 ~~98-369), relating to treatment of debt instruments, is not applicable~~
21 ~~for taxable years beginning before January 1, 1987.~~
- 22 ~~(2) The provisions contained in Public Law 99-121, relating to~~
23 ~~the treatment of debt instruments, is not applicable for taxable~~
24 ~~years beginning before January 1, 1987.~~
- 25 ~~(3) For each taxable year beginning on or after January 1, 1987,~~
26 ~~the provisions referred to by paragraphs (1) and (2) shall be~~
27 ~~applicable for purposes of this part in the same manner and with~~
28 ~~respect to the same obligations as the federal provisions, except as~~
29 ~~otherwise provided in this part.~~
- 30 ~~(d) When applying the Internal Revenue Code for purposes of~~
31 ~~this part, regulations promulgated in final form or issued as~~
32 ~~temporary regulations by “the secretary” shall be applicable as~~
33 ~~regulations under this part to the extent that they do not conflict~~
34 ~~with this part or with regulations issued by the Franchise Tax~~
35 ~~Board.~~
- 36 ~~(e) Whenever this part allows a taxpayer to make an election,~~
37 ~~the following rules shall apply:~~
- 38 ~~(1) A proper election filed with the Internal Revenue Service~~
39 ~~in accordance with the Internal Revenue Code or regulations~~
40 ~~issued by “the secretary” shall be deemed to be a proper election~~



1 for purposes of this part, unless otherwise provided in this part or
2 in regulations issued by the Franchise Tax Board.

3 (2) A copy of that election shall be furnished to the Franchise
4 Tax Board upon request.

5 (3) (A) Except as provided in subparagraph (B), in order to
6 obtain treatment other than that elected for federal purposes, a
7 separate election shall be filed at the time and in the manner
8 required by the Franchise Tax Board.

9 (B) (i) If a taxpayer makes a proper election for federal income
10 tax purposes prior to the time that taxpayer becomes subject to the
11 tax imposed under this part or Part 11 (commencing with Section
12 23001), that taxpayer is deemed to have made the same election for
13 purposes of the tax imposed by this part, Part 10.2 (commencing
14 with Section 18401), and Part 11 (commencing with Section
15 23001), as applicable, and that taxpayer may not make a separate
16 election for California tax purposes unless that separate election is
17 expressly authorized by this part, Part 10.2 (commencing with
18 Section 18401), or Part 11 (commencing with Section 23001), or
19 by regulations issued by the Franchise Tax Board.

20 (ii) If a taxpayer has not made a proper election for federal
21 income tax purposes prior to the time that taxpayer becomes
22 subject to tax under this part or Part 11 (commencing with Section
23 23001), that taxpayer may not make a separate California election
24 for purposes of this part, Part 10.2 (commencing with Section
25 18401), or Part 11 (commencing with Section 23001) unless that
26 separate election is expressly authorized by this part, Part 10.2
27 (commencing with Section 18401), or Part 11 (commencing with
28 Section 23001), or by regulations issued by the Franchise Tax
29 Board.

30 (iii) This subparagraph applies only to the extent that the
31 provisions of the Internal Revenue Code or the regulation issued
32 by the Internal Revenue Service authorizing an election for federal
33 income tax purposes apply for purposes of this part, Part 10.2
34 (commencing with Section 18401) or Part 11 (commencing with
35 Section 23001).

36 (f) Whenever this part allows or requires a taxpayer to file an
37 application or seek consent, the rules set forth in subdivision (e)
38 shall be applicable with respect to that application or consent.

39 (g) When applying the Internal Revenue Code for purposes of
40 determining the statute of limitations under this part, any reference



1 to a period of three years shall be modified to read four years for
2 purposes of this part.

3 (h) When applying, for purposes of this part, any section of the
4 Internal Revenue Code or any applicable regulation thereunder, all
5 of the following shall apply:

6 (1) References to “adjusted gross income” shall mean the
7 amount computed in accordance with Section 17072, except as
8 provided in paragraph (2).

9 (2) (A) Except as provided in subparagraph (B), references to
10 “adjusted gross income” for purposes of computing limitations
11 based upon adjusted gross income, shall mean the amount required
12 to be shown as adjusted gross income on the federal tax return for
13 the same taxable year.

14 (B) In the case of registered domestic partners filing a joint
15 return under Section 18521, adjusted gross income for purposes of
16 computing limitations based upon adjusted gross income, shall
17 mean the total of the amount required to be shown as adjusted gross
18 income on the federal tax return for the same taxable year of each
19 registered domestic partner.

20 (3) Any reference to “subtitle” or “chapter” shall mean this
21 part.

22 (4) The provisions of Section 7806 of the Internal Revenue
23 Code, relating to construction of title, shall apply.

24 (5) Any provision of the Internal Revenue Code that becomes
25 operative on or after the specified date for that taxable year shall
26 become operative on the same date for purposes of this part.

27 (6) Any provision of the Internal Revenue Code that becomes
28 inoperative on or after the specified date for that taxable year shall
29 become inoperative on the same date for purposes of this part.

30 (7) Due account shall be made for differences in federal and
31 state terminology, effective dates, substitution of “Franchise Tax
32 Board” for “secretary” when appropriate, and other obvious
33 differences.

34 (i) Any reference to a specific provision of the Internal
35 Revenue Code shall include modifications of that provision, if any,
36 in this part.

37 SEC. 14. Section 18521 of the Revenue and Taxation Code is
38 amended to read:



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

4 ~~(2) If the Franchise Tax Board determines that the filing status~~
5 ~~used on the taxpayer's federal income tax return was incorrect, the~~
6 ~~Franchise Tax Board may, under Section 19033 (relating to~~
7 ~~deficiency assessments), revise the return to reflect a correct filing~~
8 ~~status.~~

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

12 ~~(b) In the case of an individual who is not required to file a~~
13 ~~federal income tax return for the taxable year, that individual may~~
14 ~~use any filing status on the return required under this part that he~~
15 ~~or she would be eligible to use on a federal income tax return for~~
16 ~~the same taxable year if a federal income tax return was required.~~

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

20 ~~(1) An active member of the armed forces or any auxiliary~~
21 ~~branch thereof.~~

22 ~~(2) A nonresident for the entire taxable year who had no income~~
23 ~~from a California source.~~

24 ~~(d) Notwithstanding subdivision (a), registered domestic~~
25 ~~partners, as described in Section 297 of the Family Code and who~~
26 ~~are registered as domestic partners as of the close of the taxable~~
27 ~~year, may either file a joint return or file separately by applying the~~
28 ~~standards applicable to married couples under federal income tax~~
29 ~~law. A separate return filed by a domestic partner of a registered~~
30 ~~domestic partnership shall be subject to the same conditions and~~
31 ~~limitations applicable to the separate return of a married~~
32 ~~individual.~~

33 ~~(e) Except for taxpayers described in subdivisions (c) or (d), for~~
34 ~~any taxable year with respect to which a joint return has been filed,~~
35 ~~a separate return shall not be made by either spouse or domestic~~
36 ~~partner after the period for either to file a separate return has~~
37 ~~expired.~~

38 ~~(f) No joint return may be made if the husband and wife or the~~
39 ~~domestic partners have different taxable years; except that if their~~
40 ~~taxable years begin on the same day and end on different days~~



1 ~~because of the death of either or both, then a joint return may be~~
2 ~~made with respect to the taxable year of each. The above exception~~
3 ~~does not apply if the surviving spouse remarries or the surviving~~
4 ~~domestic partner enters a new domestic partnership before the~~
5 ~~close of his or her taxable year, or if the taxable year of either~~
6 ~~spouse or domestic partner is a fractional part of a year under~~
7 ~~Section 443(a) of the Internal Revenue Code.~~

8 ~~(g) In the case of the death of one spouse or domestic partner~~
9 ~~or both spouses or domestic partners the joint return with respect~~
10 ~~to the decedent may be made only by the decedent's executor or~~
11 ~~administrator; except that, in the case of the death of one spouse~~
12 ~~or domestic partner, the joint return may be made by the surviving~~
13 ~~spouse or domestic partner with respect to both that spouse or~~
14 ~~domestic partner and the decedent if no return for the taxable year~~
15 ~~has been made by the decedent, no executor or administrator has~~
16 ~~been appointed, and no executor or administrator is appointed~~
17 ~~before the last day prescribed by law for filing the return of the~~
18 ~~surviving spouse or domestic partner. If an executor or~~
19 ~~administrator of the decedent is appointed after the making of the~~
20 ~~joint return by the surviving spouse or domestic partner, the~~
21 ~~executor or administrator may disaffirm the joint return by~~
22 ~~making, within one year after the last day prescribed by law for~~
23 ~~filing the return of the surviving spouse or domestic partner, a~~
24 ~~separate return for the taxable year of the decedent with respect to~~
25 ~~which the joint return was made, in which case the return made by~~
26 ~~the survivor shall constitute his or her separate return.~~

27 ~~SEC. 15.~~

28 ~~SEC. 13.~~ Section 3 of Chapter 447 of the Statutes of 2002 is
29 amended to read:

30 Sec. 3. On or before March 1, 2003, the Secretary of State
31 shall send the following letter to the mailing address on file of each
32 registered domestic partner who registered prior to January 1,
33 2003:

34 “Dear Registered Domestic Partner:

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

37 As of July 1, 2003, California's law of intestate succession will
38 change. The intestate succession law specifies what happens to a
39 person's property when that person dies without a will, trust, or
40 other estate plan.



1 Under existing law, if a domestic partner dies without a will,
2 trust, or other estate plan, a surviving domestic partner cannot
3 inherit any of the deceased partner's separate property. Instead,
4 surviving relatives, including, for example, children, brothers,
5 sisters, nieces, nephews, or parents may inherit the deceased
6 partner's separate property.

7 Under the law to take effect July 1, 2003, if a domestic partner
8 dies without a will, trust, or other estate plan, the surviving
9 domestic partner will inherit the deceased partner's separate
10 property in the same manner as a surviving spouse. This change
11 will mean that the surviving domestic partner would inherit a third,
12 a half, or all of the deceased partner's separate property, depending
13 on whether the deceased domestic partner has surviving children
14 or other relatives. This change does not affect any community or
15 quasi-community property that the deceased partner may have
16 had.

17 This change in the intestate succession law will not affect you
18 if you have a will, trust, or other estate plan.

19 If you do not have a will, trust, or other estate plan and you do
20 not wish to have your domestic partner inherit your separate
21 property in the manner provided by the revised law, you may
22 prepare a will, trust, or other estate plan, or terminate your
23 domestic partnership.

24 Under existing law, your domestic partnership is automatically
25 terminated if you or your partner married or died while you were
26 registered as domestic partners. It is also terminated by you
27 sending your partner or your partner sending to you by certified
28 mail a notice terminating the domestic partnership, or by you and
29 your partner no longer sharing a common residence. In all cases,
30 you are required to file a Notice of Termination of Domestic
31 Partnership with the Secretary of State in order to establish the
32 actual date of termination of the domestic partnership. You can
33 obtain a Notice of Termination of Domestic Partnership from the
34 Secretary of State's office.

35 If your domestic partnership has terminated because you sent
36 your partner or your partner sent to you a notice of termination of
37 your domestic partnership, you must immediately file a Notice of
38 Termination of Domestic Partnership. If you do not file that notice,
39 your former domestic partner may inherit under the new law.
40 However, if your domestic partnership has terminated because you



1 or your partner married or you and your partner no longer share a
2 common residence, neither you nor your former partner may
3 inherit from the other under this new law.

4 If you have any questions about this change, please consult an
5 estate planning attorney. If you cannot find an estate planning
6 attorney in your locale, please contact your county bar association
7 for a referral.

8

9

10 Sincerely,

11

12 The Secretary of State”

13

14 ~~SEC. 16.~~

15 ~~SEC. 14.~~ The provisions of Sections 3, 4, 5, 6, 7, 8, 9, 11, and
16 14 and 11 of this act shall become operative on January 1, 2005.

17 ~~SEC. 17.~~

18 ~~SEC. 15.~~ This act shall be construed liberally in order to
19 secure to eligible couples who register as domestic partners the full
20 range of legal rights, protections and benefits, as well as all of the
21 responsibilities, obligations, and duties to each other, to their
22 children, to third parties and to the state, as the laws of California
23 extend to and impose upon spouses.

24 ~~SEC. 18.~~

25 ~~SEC. 16.~~ The provisions of this act are severable. If any
26 provision of this act is held to be invalid, or if any application
27 thereof to any person or circumstance is held to be invalid, the
28 invalidity shall not affect other provisions or applications that may
29 be given effect without the invalid provision or application.

30 ~~SEC. 19.~~ Section 13.5 of this bill incorporates amendments to
31 Section 17024.5 of the Revenue and Taxation Code proposed by
32 both this bill and SB 1065. It shall only become operative if (1)
33 both bills are enacted and become effective on or before January
34 1, 2004, (2) each bill amends Section 17024.5 of the Revenue and
35 Taxation Code, and (3) this bill is enacted after SB 1065, in which
36 case Section 13 of this bill shall not become operative.

37 ~~SEC. 20.~~

38 ~~SEC. 17.~~ No reimbursement is required by this act pursuant
39 to Section 6 of Article XIII B of the California Constitution for
40 certain costs that may be incurred by a local agency or school



1 district because in that regard this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

7 However, notwithstanding Section 17610 of the Government
8 Code, if the Commission on State Mandates determines that this
9 act contains other costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code. If the statewide cost of the
13 claim for reimbursement does not exceed one million dollars
14 (\$1,000,000), reimbursement shall be made from the State
15 Mandates Claims Fund.

