

**ASSEMBLY BILL**

**No. 2761**

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**Introduced by Assembly Members Steinorth and Low**

February 19, 2016

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An act to amend Section 400 of, and to repeal Section 400.1 of, the Family Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2761, as introduced, Steinorth. Marriage.

Existing law enumerates persons who are authorized to solemnize a marriage, including current Members of the Legislature, constitutional officers of this state, Members of Congress of the United States who represent a district within this state, elected mayors, and county supervisors.

This bill would additionally authorize former Members of the Legislature and constitutional officers of this state, former Members of Congress of the United States who represented a district within this state, and current and former elected officials of a city, county, or city and county, to solemnize a marriage. The bill would make conforming changes.

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

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

1 SECTION 1. Section 400 of the Family Code is amended to  
2 read:

1 400. Although marriage is a personal relation arising out of a  
 2 civil, and not a religious, contract, a marriage may be solemnized  
 3 by any of the following who ~~is~~ *are* 18 years of age or older:

4 (a) A priest, minister, rabbi, or authorized person of any religious  
 5 denomination. A person authorized by this subdivision shall not  
 6 be required to solemnize a marriage that is contrary to the tenets  
 7 of his or her faith. Any refusal to solemnize a marriage under this  
 8 subdivision, either by an individual or by a religious denomination,  
 9 shall not affect the tax-exempt status of any entity.

10 (b) A judge or retired judge, commissioner of civil marriages  
 11 or retired commissioner of civil marriages, commissioner or retired  
 12 commissioner, or assistant commissioner of a court of record in  
 13 this state.

14 (c) A judge or magistrate who has resigned from office.

15 (d) Any of the following judges or magistrates of the United  
 16 States:

17 (1) A justice or retired justice of the United States Supreme  
 18 Court.

19 (2) A judge or retired judge of a court of appeals, a district court,  
 20 or a court created by an act of Congress the judges of which are  
 21 entitled to hold office during good behavior.

22 (3) A judge or retired judge of a bankruptcy court or a tax court.

23 (4) A United States magistrate or retired magistrate.

24 (e) ~~A legislator~~ *Member of the Legislature* or constitutional  
 25 officer of this state or a Member of Congress *of the United States*  
 26 who represents a district within this state, ~~while that person holds~~  
 27 ~~office.~~ *or a former Member of the Legislature or constitutional*  
 28 *officer of this state or a former Member of Congress of the United*  
 29 *States who represented a district within this state.*

30 (f) *A person that holds on formerly held an elected office of a*  
 31 *city, county, or city and county. The official shall obtain and review*  
 32 *from the county clerk all available instructions for marriage*  
 33 *solemnization before the official first solemnizes a marriage.*

34 (g) *A city clerk of a charter city or serving in accordance with*  
 35 *subdivision (b) of Section 36501 of the Government Code, while*  
 36 *that person holds office. The city clerk shall obtain and review*  
 37 *from the county clerk all available instructions for marriage*  
 38 *solemnization before the city clerk first solemnizes a marriage.*

39 SEC. 2. Section 400.1 of the Family Code is repealed.

1     ~~400.1. In addition to the persons specified in Section 400;~~  
2     ~~marriage may also be solemnized by a county supervisor, the city~~  
3     ~~clerk of a charter city or serving in accordance with subdivision~~  
4     ~~(b) of Section 36501 of the Government Code, or a mayor of a~~  
5     ~~city elected in accordance with Article 3 (commencing with Section~~  
6     ~~34900) of Chapter 4 of Part 1 of Division 2 of Title 4 of the~~  
7     ~~Government Code, while that person holds office. The county~~  
8     ~~supervisor, the city clerk, or mayor shall obtain and review from~~  
9     ~~the county clerk all available instructions for marriage~~  
10    ~~solemnization before the county supervisor, the city clerk, or mayor~~  
11    ~~first solemnizes a marriage.~~

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