HOUSE, No. 2613

By Ms. Wolf of Cambridge, petition of Alice K. Wolf, Elizabeth A. Malia, Paul C. Demakis, Byron Rushing, Salvatore F. DiMasi, Jarrett T. Barrios and other members of the General Court relative to equal employment benefits for public service employees. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO EQUAL EMPLOYMENT BENEFITS FOR PUBLIC SECTOR EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Paragraph (d) of section 2 of chapter 32A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:—
"Dependents", an employee's spouse or domestic partner, his unmarried children under 19 years of age, his spouse's or domestic partner's unmarried children under 19 years of age and any child 19 years of age or over who is mentally or physically incapable of earning his own living, provided that an additional premium is paid for the coverage of such handicapped child.

SECTION 2. Said section 2 of said chapter 32A, as so appearing, is hereby further amended by adding the following paragraph:—
(i) "Domestic Partner", an employee's or retiree's partner in a domestic relationship. Such a partnership shall meet the following criteria: (1) the employee or retiree and his partner reside in a common household and share financial responsibilities and expenses; (2) both the employee and partner are at least 18 years of age and competent to contract; (3) that the employee or retiree and his partner are not related by blood closer than would bar marriage in the commonwealth; (4) that the employee or retiree and his partner are not married to any other person; (5) that the partners intend to reside together indefinitely as the other's sole and exclusive domestic partner; and (6) the partners are in a relationship of mutual support, caring and commitment. The commission shall require each employee or retiree who receives benefits for his domestic partner to initially certify, and periodically recertify, his domestic partnership under the pains and penalties of perjury. Each such employee or retiree shall notify the commission of the termination of his domestic partnership. After notice and opportunity for a hearing, the commission shall cease to provide benefits under this chapter for the former domestic partner as of the date of the termination of the domestic partnership.

SECTION 3. Section 10B of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouses", in line 11, the following words:— or surviving domestic partners.

SECTION 4. Said section 10B of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 106, the following words:— or surviving domestic partner.

SECTION 5. Section 10C of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 6, the following words:— or domestic partner.

SECTION 6. Said section 10C of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 101, the following words:— or domestic partner.

SECTION 7. Section 10E of said chapter 32A, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:— For the purpose of this section, "dependent child" shall mean any child, whether natural, adoptive or a stepchild, of any such employee or the natural or adoptive child of such employee's domestic partner.

SECTION 8. Section 11 of said chapter 32A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Upon the death of an employee or retired employee insured under this chapter, the surviving spouse or surviving domestic partner, or the surviving dependent if there is no surviving spouse or surviving domestic partner, or the surviving dependent if the surviving spouse or the surviving domestic partner subsequently dies, may continue the group or general or blanket insurance providing hospital, surgical, medical, dental, and other health insurance until the remarriage of or entry into a new domestic partnership arrangement by said surviving spouse or surviving domestic partner, or if there be no surviving spouse or surviving domestic partner, until the surviving dependent becomes eligible for other group health insurance coverage; provided, however, that application for such insurance coverage shall be filed with the commission and a method for the payment of premiums shall he determined in accordance with its rules and regulations; and provided, further, that the commonwealth shall contribute the same per cent share of the total monthly premium rate for coverage under this section as the per cent share it contributes, pursuant to section 8 on behalf of retired employees, subject, where applicable, to reimbursement, as provided under section 10B, and that eligible person having elected coverage under this section shall pay the remainder premium or rate.

SECTION 9. Said section 11A of said chapter 32A, as so appearing, is hereby amended by inserting after paragraph (b) the following paragraph:—
(b½) In the event of the entrance into a domestic partnership by the employee or retiree referred to in paragraph (a), the former spouse thereafter shall have the right if so provided in said judgment, to continue to receive benefits as are available to the employee or retiree, by means of the addition of a rider to the family plan or contract, either of which may be at additional premium rates determined by the commission to be just and reasonably in accordance with the additional insuring risks involved.

SECTION 10. Section 12 of said chapter 32A, as so appearing, is hereby amended by inserting, after the word "spouse", in line 15, the following words:— or domestic partner.

SECTION 11. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "spouse", in line 18, the following words:— or surviving domestic partner.

SECTION 12. Said section 12 of said chapter 32A, as so appearing, is further amended by inserting after the word "spouses", in line 23, the following words:— or surviving domestic partners.

SECTION 13. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "spouse", in line 40, the following words:— or surviving domestic partner.

SECTION 14. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "spouse", in line 61, the following words:— or insured surviving domestic partner.

SECTION 15. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "spouse", in line 75, the following words:— or surviving domestic partners.

SECTION 16. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "spouse", in line 80, the following words:— or surviving domestic partner.

SECTION 17. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "spouses", in line 90, the following words:— or surviving domestic partners.

SECTION 18. Said section 12 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word, "spouse", in line 126, the following words:— or surviving domestic partner.

SECTION 19. Section 13 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouses", in line 4, the following words:— or surviving domestic partners.

SECTION 20. Section 14 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 4, the following words:— or surviving domestic partner.

SECTION 21. Section 15 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 28, the following words:— or surviving domestic partner.

SECTION 22. Section 18 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouses", in line 2, the following words:— domestic partners.

SECTION 23. Said section 18 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 4, the following words:— , domestic partner.

SECTION 24. Said section 18 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouse", in line 5, the following words:— , domestic partner.

SECTION 25. Said section 18 of said chapter 32A, as so appearing, is hereby amended by inserting after the word "spouses", in line 16, the following words:— , domestic partners.

SECTION 26. Chapter 32B is hereby amended by inserting after section 9I, as so appearing, the following section:—
Section 9J. (a) For the purposes of this section, the word "dependents" shall have the meaning as specified in section 2 and shall also include: an employee's domestic partner, and an employee's domestic partner's unmarried children under 19 years of age. For the purposes of this section, the words "domestic partner" shall have the following meaning:— an employee's or retiree's partner in a domestic relationship. Such a partnership shall meet the following criteria: (1) the employee or retiree and his partner reside in a common household and share financial responsibilities and expenses; (2) that both the employee and partner are at least 18 years of age, and competent to enter into contract; (3) that the employee or retiree and his partner are not related by blood closer than would bar marriage in the commonwealth; and (4) that the employee or retiree and his partner are not married to any other person; (5) that the partners intend to reside together indefinitely as the other's sole and exclusive domestic partner; and (6) the partners are in a relationship of mutual support, caring and commitment. The appropriate public authority shall require each employee or retiree who receives benefits for his domestic partner to initially certify. and periodically recertify, his domestic partnership under the pains and penalties of perjury. Each such employee or retiree shall notify the

appropriate public authority of the termination of his domestic partnership. After notice and opportunity for a hearing, the appropriate public authority shall cease to provide benefits under this chapter for the former domestic partner as of the date of the termination of the domestic partnership.
(b) In any governmental unit, the domestic partners of employees or retirees shall be enrolled as eligible participants in the plan or plans of contributory group life insurance, group accidental death and dismemberment insurance, and group general or blanket hospital, surgical, medical, dental or other health insurance otherwise made available to dependents of employees or retirees. Any governmental unit shall be governed by the definition of domestic partner set forth in this section. In all other respects the provision of such insurance benefits shall be in accordance with the terms, rates and rules promulgated for employees or retirees and their spouses and dependents.
(c) In the event of the entrance into a domestic partnership by a group plan member or subscriber, the former spouse thereafter shall have the right, if so provided in said judgment, to continue to receive benefits as are available to the member or subscriber, by means of the additional premium rate determined by the appropriate public authority to be just and reasonable in accordance with the additional insuring risks involved.
A health district established under section 27A of chapter 111 by vote of the joint committee may adopt the provisions of this section.

This fact sheet was prepared by the Massachusetts Gay and Lesbian Political Caucus

DOMESTIC PARTNERSHIP FACT SHEET
S. 1344 / H. 2613

AN ACT RELATIVE TO EQUAL EMPLOYMENT BENEFITS FOR PUBLIC SECTOR EMPLOYEES

1. WHAT DOES THE BILL DO?

The bill enables domestic partners who are state or city employees and whose relationships qualify as domestic partnerships to receive health insurance from their employers. The bill amends the chapters of the statutes that pertain to insurance for public employees. Chapter 32A covers state employees, and Chapter 32B covers city, town, county, and district employees. The bill covers straight couples who are not married but who live together and as well as same-gender couples who meet domestic-partnership criteria.

The bill adds "domestic partner" to the definition of "dependents" which in the existing statutes is defined as a spouse and as various categories of children. The bill defines the criteria for domestic partnerships and outlines the procedures for establishing certification for a domestic partnership and for terminating the certification if the partnership comes to an end.

2. WHY IS THIS LEGISLATION NEEDED?

Equal Pay For Equal Work

Under current law, a public employee can include on his or her health insurance plan only a spouse and their minor, unmarried children. This means that the type and amount of benefits received by workers are in large measure determined by marital status. Since gay and lesbian employees cannot marry under state law, they cannot include their partners or their partner's children on their insurance plans, and therefore are discriminated against in their total compensation package. Gay and lesbian public employees do not receive equal pay for equal work.

As an example, imagine a young married state worker with two years on the job who has been married for only one year. Her benefits, which are worth about 20% of her total compensation package, will likely include health insurance for her new husband. Now imagine a lesbian state employee with 20 years on the job, who has been in a committed relationship for 20 years. She is not eligible for these same benefits and is thus being denied equal pay for equal work simply because of her sexual orientation.

Discrimination

The granting of health insurance benefits should not be driven by the employer's view of the employee's partner. For example, it would be wrong for an employer to deny health insurance to an employee's partner just because the employer did not approve of the partner's race, ethnicity, or religion. In a similar vein it is wrong to deny an employee's partner health insurance simply because the employer may disapprove of the partner's gender or the partner's marital status.

Competitive Labor Environment

Offering benefits for employees in domestic partnerships has become an essential feature in attracting and retaining employees in competitive public and private sector employment markets. State and municipal employers in Massachusetts are at a distinct disadvantage because they cannot offer competitive compensation packages that include domestic partnership health insurance benefits.

Across the country, over 100 state and local governments, including the states of Connecticut, New York, and Vermont offer DP benefits, as do 25% of the Fortune 500 private employers. State and municipal employers in the Commonwealth must compete with neighboring states and private employers throughout Massachusetts that offer domestic partnership benefits.

Urgency

Responding to these competitive pressures and their employees' needs, several Massachusetts cities and towns - Boston, Springfield, Cambridge, and others - have attempted local remedies through measures such as a Mayor's executive order extending domestic partnership benefits to municipal employees. Recent court rulings have struck down the Boston and Cambridge measures. The result is that municipal employees in domestic partnerships have lost important health insurance benefits for their families. The December 1999 Supreme Judicial Court ruling against the City of Boston noted that as a result of their ruling:

> ***"We recognize that some household members of some of Boston's employees may be without a critical social necessity, health insurance. That is a reality that must be addressed by the Legislature."***

3. WHAT DOES THE BILL COST?

Some opponents allege that adding these benefits will be too big a cost burden on the Commonwealth. But the actual experiences of both public and private sector employers, hundreds of whom have extended domestic partner benefits, clearly indicate no significant increases in costs and in most cases no increase at all.

4. HOW IS DOMESTIC PARTNERSHIP DETERMINED?

State employees seeking domestic partner benefits would be required to file an affidavit with the Group Insurance Commission certifying that their domestic partnership is one of mutual support, caring, and commitment and that they intend to remain in such a relationship; that the partners reside together; that their relationship is exclusive; and that they consider themselves to be family. Municipal employees would be required to file a similar affidavit with the appropriate entity within their town or city government.

5. WHAT IS THE HISTORY OF THIS BILL?

The bill was first introduced in 1992, sponsored by Senators Robert Havern and Diane Wilkerson and Representative Byron Rushing, and drafted by the Massachusetts Gay and Lesbian Political Caucus. It has been re-filed each year and has progressed further through the legislative process as many more elected officials and organizations have joined in support of the effort.

The Senate passed the bill twice – 1998 and 1999. The lead sponsors were Senators Wilkerson, Havern, Fargo, and Lees. Both times, the bill went to the House Committee on Ways and Means and was never voted on by the full House.

For the 2001 – 2002 legislative session, the lead Senate sponsors are Senators Havern and Wilkerson; the lead House sponsors are Representatives Wolf, Malia, Demakis, Rushing, Barrios, and DiMasi.

6. WHICH PUBLIC EMPLOYEES WOULD BE COVERED?

All state and municipal employees would be eligible to apply for these benefits. The Public Service Committee amended the bill in the last session to make benefits for domestic partners of municipal employees a "Local Option." This would require that municipalities must first choose to accept this new state law in order for their employees to be eligible. We believe strongly that this bill should **not** be a "Local Option" because:

a. It is unfair to argue that this would cost cities and towns more. Why? When a city hires, for example, Mary Smith, it probably assumes that she is heterosexual and therefore could be married and have several children. The city would then have to provide health insurance for the entire family. If, however, it turns out that Mary Smith is lesbian and has a domestic partner, the city will then have to cover only two, instead of a much larger family. So the city's costs have not increased; they have decreased.

b. Cities and towns should not be given a choice of whether or not they would like to opt to discriminate or opt to not discriminate. Health insurance is an important employee benefit and access to it ought not be driven by prejudice.

7. WHO OFFERS DOMESTIC PARTNERSHIP BENEFITS?

According to a 1999 Survey of Human Resources professionals by the Society for Human Resource Management and Commerce Clearing House Inc:

- Domestic partner benefits are viewed as more effective in enticing new managers and line workers than such perks as 401(k) plans, hiring bonuses and the option to telecommute.
- Domestic partner benefits are the most effective recruitment tool in enticing new executive hires.

Seven states offer health insurance benefits to domestic partners of state employees:

Connecticut	Vermont	California	Oregon
New York	Maine	Washington	

Approximately 100 Municipalities across the country offer health insurance benefits for employees' domestic partners, including:

Albany, NY	Denver, CO	Philadelphia, PA
Albuquerque, NM	Gainesville, FL	Phoenix, AZ
Ann Arbor, MI	Hartford, CT	Portland, ME
Baltimore, MD	Ithaca, NY	Providence, RI
Bar Harbor, ME	Los Angeles, CA	Rochester, NY
Bloomington, IN	Madison, WI	San Diego, CA
Chapel Hill, NC	Mansfield, CT	Tucson, AZ
Chicago, IL	Olympia, WA	All cities & towns, VT

More than 125 colleges and universities (private Massachusetts colleges and universities are listed in italics) offer health insurance benefits for employees' domestic partners, including:

Amherst College	Iowa State University	Swarthmore College
Bentley College	Johns Hopkins University	Syracuse University
Bowdoin College	*Lesley College*	Trinity College
Brandeis University	*Massachusetts Institute of Technology*	*Tufts University*
Brown University	Michigan State University	Tulane University
Bucknell University	New York Law School	University of Iowa
California Institute of Technology	New York University	University of Maine System
Carnegie Mellon University	*Northeastern University*	University of Michigan
Clark University	Northwestern University	University of Minnesota
Columbia University	Oberlin College	University of New Mexico
Connecticut State University	Princeton University	University of Pennsylvania
Cornell University	Rice University	University of New Hampshire
City University of New York	Rochester Institute of Technology	Vanderbilt University
Dartmouth College	*Simmons College*	Wake Forest University
Duke University	*Smith College*	*Wellesley College*
Emerson College	Southern Methodist University (SMU)	Wesleyan University
Harvard University	*Springfield College*	*Wheaton College*
Hofstra University	Stanford University	*Williams College*
Illinois Wesleyan University	State University of New York (SUNY)	Yale University

Over 50 private sector employers based in Massachusetts offer health insurance benefits for employees' domestic partners, including:

Bain & Company
Banyan Systems
Beth Israel Medical Center
Bingham Dana, LLP
Blue Cross/Blue Shield of Massachusetts
Bose Corporation
Boston Consulting Group
Boston Globe Company (New York Times Co.)
Brown, Rudnick, Freed & Gesmer
Cambridge Technology Partners
Cape Air
Children's Hospital of Boston
Choate, Hall & Stewart
Codman Square Health Center
Dana Farber Cancer Institute
Digital Equipment Corp. (COMPAQ)
Digitas LLC
EMC Corporation **(Fortune 500)**
Fish & Richardson PC
FleetBoston Financial **(Fortune 500)**
Foley, Hoag & Eliot, LLP
Goulston & Storrs
Hale & Dorr
Harcourt General Inc.
Harvard Pilgrim Health Care Inc.
Hill & Barlow
Informio, Inc.
Interleaf (Broadvision, Inc)
International Data Corporation
John Hancock Financial Services **(Fortune 500)**
Lotus Development (IBM)
Massachusetts Financial Services
MassMutual Financial Group
Millipore Corporation
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo
Monitor Company
New England Medical Center
Partners Healthcare
Peabody & Arnold
Phoenix Media/Communications Group
Primix Solutions
Reebok International
Ropes & Gray
Smith & Hawken
Sonesta International Hotels
Teradyne
Testa, Hurwitz & Thibeault, LLP
The Gillette Company **(Fortune 500)**
Thinking Machines
Tufts Healthcare Plan
Wainwright Bank
Wang Global
WGBH Public Television
Worcester Telegram

Over 3,000 private sector employers across the country, including 25% of the Fortune 500, offer health insurance benefits to their employees' domestic partners. A very short list of these well known companies includes:

ABC
American Airlines
Aetna
America OnLine/Time Warner
American Airlines
American Express
AT&T
Barnes & Noble
Bell Atlantic
Bell South
Booz, Allen and Hamilton
British Petroleum
CBS
Charles Schwab and Company
Chase Manhattan Bank
Chevron
Cisco
Coca Cola
Compaq
CVS
Daimler Chrysler Corporation
Deloitte & Touche
Delta Airlines
Walt Disney
Eastman Kodak
Eddie Bauer Inc
Episcopal Church
Fannie Mae
Ford Motor Company
General Mills
General Motors
Hewlett-Packard
Honeywell
IBM
International Monetary Fund (IMF)
KPMG Peat Marwick
Lucent Technologies
Microsoft
New York Times
Northwest Airlines
Pacific Bell
PricewaterhouseCooper
Prudential
Shell Oil
SmithKline Beecham
Southwest Airlines
United Airlines
Upjohn
US Airlines
Viacom Inc.
VISA

4

The Commonwealth of Massachusetts
HOUSE OF REPRESENTATIVES
STATE HOUSE, ROOM 473G, BOSTON 02133-1054

REP. ALICE K. WOLF
REPRESENTING THE PEOPLE
OF NORTH AND WEST CAMBRIDGE
STATE HOUSE TEL. (617) 722-2070
STATE HOUSE FAX (617) 722-2817
DISTRICT TEL. (617) 868-9653
E-Mail: Rep.AliceWolf@hou.state.ma.us

Committees on:
Education, Arts and Humanities
Housing and Urban Development
LEGISLATIVE AIDES
DANA S. REICHMAN
Dana.Reichman@hou.state.ma.us
TRELLIS STEPTER
Trellis.Stepter@hou.state.ma.us

To: The Mayor and Members of the Cambridge City Council
From: Representative Alice K. Wolf akw
Re: Domestic Partnership Benefits Hearing
Date: June 18, 2001

The bill I filed with others to extend health-care benefits to the domestic partners of all state and municipal employees (H. 2613) will be heard before the Joint Committee on Public Service next Tuesday, June 26 at 1:00 pm in room A-2.

I thought you might like to testify in person or submit written testimony on behalf of the bill. It is expected to be among the first pieces of legislation taken up that day. Please send written testimony to the attention of House Chair Brian Dempsey and Senate Chair Brian Joyce, Joint Committee on Public Service, Room 473B, State House, Boston, MA 02133. Alternatively, you could send your statement directly to me and I will circulate it.

Attached please find the text of the bill and a fact sheet. If you have any questions, please feel free to contact me, or my aide Dana Reichman, anytime.

269 S

Communication #4

A communication was received from Representative Alice K. Wolf, regarding House No. 2613 extending health-care benefits to the domestic partners of all state and municipal employees which will be heard on Tuesday, June 26, 2001 at 1:00 P.M. in room A-2 before the Joint Committee on Public Service.

In City Council June 25, 2001

PLACED ON FILE