

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing and Adoption of Resolution No. 331 Supporting Marriage Equality and Approval of Referendum 74
DEPARTMENT:	City Manager's Office
PRESENTED BY:	Eric Bratton, Management Analyst
ACTION:	<input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion

PROBLEM/ISSUE STATEMENT

Council has requested that this item be placed on the City Council agenda for consideration. The attached resolution would declare City Council support for marriage equality in Washington State and more specifically express support for approval of Referendum 74.

State law permits legislative bodies to vote on a resolution to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view. *RCW 42.17.130*. A public hearing has been scheduled and appropriately advertised for the purpose of receiving comment on Resolution No. 331 supporting marriage equality and approval of Referendum 74 on the November 6 general election ballot.

BACKGROUND

In 1996, the United States Congress passed the Defense of Marriage Act (DOMA) and President Clinton signed it into law. DOMA defines marriage for federal purposes as a legal union between one woman and one man. In addition, under DOMA no U.S. state (or other political subdivision) is required to recognize a same-sex relationship as a marriage even if the relationship is considered a marriage in a another state.

Soon after passage of DOMA, states began passing laws and amending their constitutions to define marriage as a union between one woman and one man. In 1998, the Washington State Legislature passed the state's version of DOMA restricting marriage to one man and one woman. In 2005, the State Supreme Court ruled against marriage equality for same-sex couples and upheld Washington's DOMA.

Domestic Partnerships in Washington State

During the 2007 legislative session, the Washington State Legislature passed the first state-wide domestic partnership law allowing same-sex couples in Washington the right to enter into domestic partnerships. The domestic partnership law granted a limited number of the rights granted to married couples in Washington State. In 2008, the

legislature expanded domestic partnerships to include more of the rights and responsibilities afforded to marriage.

In April 2009, the Washington State Legislature expanded the domestic partnership law so that all of the rights, responsibilities, and obligations accorded to state-registered same-sex partners be equivalent to those of married spouses. At the same time, the legislature specifically acknowledged that a domestic partnership was not a marriage.

Immediately after the expanded domestic partnership law was enacted, opponents began gathering signatures to place a referendum on the ballot to overturn it. Enough signatures were acquired to place Referendum 71 on the November 2009 ballot. Referendum 71 asked voters to approve or reject the law passed by the legislature. In November 2009, Washington State voters approved Referendum 71, thereby upholding the expanded domestic partnership law, by a margin of 53% to 47%.

Marriage Equality in Washington State

During the 2012 legislative session, the Washington State Legislature passed Engrossed Substitute Senate Bill 6239 relating to marriage equality. On February 13, 2012, Governor Chris Gregoire signed the bill into law, ending discrimination in marriage based on gender and sexual orientation in Washington and allowing all persons in Washington state the freedom to marry on equal terms, while also respecting the religious freedom of clergy and religious institutions to determine for whom to perform marriage ceremonies and to determine which marriages to recognize for religious purposes.

However, immediately after the Governor signed the bill into law, opponents of marriage equality filed notice with the Washington State Secretary of State's Office that they intended to gather enough signatures to place a referendum on the general election ballot to reject the bill. On June 12, 2012, the Secretary of State certified that enough signatures had been turned-in from Washington voters to place Referendum 74 on the November 6 general election ballot. Referendum 74 asks Washington voters to approve or reject the marriage equality law passed by the Legislature and signed by the Governor. The law has been stayed until the results of the election have been determined.

RECOMMENDATION

Staff recommends that the City Council first hold a public hearing to receive comments on Resolution No. 331 supporting marriage equality and approval of Referendum 74 and urging citizens to vote yes on November 6, 2012 and then adopt Resolution No. 331.

Approved By: City Manager **DT** City Attorney **FC**

ATTACHMENT A: Resolution 331

ATTACHMENT B: Engrossed Substitute Senate Bill 6239

RESOLUTION NO. 331

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, SUPPORTING MARRIAGE EQUALITY IN WASHINGTON STATE AND APPROVAL OF REFERENDUM 74

WHEREAS, the City of Shoreline believes that all individuals, regardless of gender or sexual orientation, should be granted the freedom to marry; and

WHEREAS, marriage equality is essential for the establishment and protection of strong healthy families and relationships; and

WHEREAS, on February 13, 2012, Governor Chris Gregoire signed Engrossed Substitute Senate Bill 6239 ending discrimination in marriage based on gender and sexual orientation, while respecting the religious freedom of religious institutions to determine for whom to perform marriage ceremonies; and

WHEREAS, on June 12, 2012, the Washington Secretary of State's Office certified that enough signatures had been turned-in from Washington voters placing Referendum 74 on the ballot; and

WHEREAS, Referendum 74 asks Washington voters to approve or reject Engrossed Substitute Senate Bill 6239 concerning marriage for same-sex couples, modified domestic-partnership law, and religious freedom; now therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, AS FOLLOWS:

Section 1. The City Council of the City of Shoreline fully supports marriage equality in Washington State and supports approval of Referendum 74, ending discrimination in marriage based on gender and sexual orientation in the State of Washington.

ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 4, 2012.

Keith A. McGlashan, Mayor

ATTEST:

Scott Passey, City Clerk

RECEIVED
FEB 13 2012

Office of Secretary of State

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6239

62nd Legislature
2012 Regular Session

Passed by the Senate February 1, 2012
YEAS 28 NAYS 21

President of the Senate

Passed by the House February 8, 2012
YEAS 55 NAYS 43

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6239** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6239

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Senate Government Operations, Tribal Relations & Elections (originally sponsored by Senators Murray, Pflug, Hobbs, Litzow, Kohl-Welles, Ranker, Tom, Harper, Pridemore, Keiser, Kline, Regala, Eide, Rolfes, McAuliffe, Brown, Nelson, Chase, Fraser, Frockt, Conway, Kilmer, and Prentice; by request of Governor Gregoire)

READ FIRST TIME 01/27/12.

RECEIVED
FEB 13 2012

Office of Secretary of State

1 AN ACT Relating to providing equal protection for all families in
2 Washington by creating equality in civil marriage and changing the
3 domestic partnership laws, while protecting religious freedom; amending
4 RCW 26.04.010, 26.04.020, 26.04.050, 26.04.060, 26.04.070, 26.60.010,
5 26.60.030, 26.60.090, and 1.12.080; adding new sections to chapter
6 26.04 RCW; adding a new section to chapter 26.60 RCW; adding a new
7 section to chapter 26.33 RCW; adding a new section to chapter 74.13
8 RCW; adding a new section to chapter 74.15 RCW; creating new sections;
9 and providing a contingent effective date.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 **Sec. 1.** RCW 26.04.010 and 1998 c 1 s 3 are each amended to read as
12 follows:

13 (1) Marriage is a civil contract between ((~~a male and a female~~))
14 two persons who have each attained the age of eighteen years, and who
15 are otherwise capable.

16 (2) Every marriage entered into in which either ((~~the husband or~~
17 ~~the wife~~)) person has not attained the age of seventeen years is void
18 except where this section has been waived by a superior court judge of

1 the county in which one of the parties resides on a showing of
2 necessity.

3 (3) Where necessary to implement the rights and responsibilities of
4 spouses under the law, gender specific terms such as husband and wife
5 used in any statute, rule, or other law must be construed to be gender
6 neutral and applicable to spouses of the same sex.

7 (4) No regularly licensed or ordained minister or any priest, imam,
8 rabbi, or similar official of any religious organization is required to
9 solemnize or recognize any marriage. A regularly licensed or ordained
10 minister or priest, imam, rabbi, or similar official of any religious
11 organization shall be immune from any civil claim or cause of action
12 based on a refusal to solemnize or recognize any marriage under this
13 section. No state agency or local government may base a decision to
14 penalize, withhold benefits from, or refuse to contract with any
15 religious organization on the refusal of a person associated with such
16 religious organization to solemnize or recognize a marriage under this
17 section.

18 (5) No religious organization is required to provide
19 accommodations, facilities, advantages, privileges, services, or goods
20 related to the solemnization or celebration of a marriage.

21 (6) A religious organization shall be immune from any civil claim
22 or cause of action, including a claim pursuant to chapter 49.60 RCW,
23 based on its refusal to provide accommodations, facilities, advantages,
24 privileges, services, or goods related to the solemnization or
25 celebration of a marriage.

26 (7) For purposes of this section:

27 (a) "Recognize" means to provide religious-based services that:

28 (i) Are delivered by a religious organization, or by an individual
29 who is managed, supervised, or directed by a religious organization;
30 and

31 (ii) Are designed for married couples or couples engaged to marry
32 and are directly related to solemnizing, celebrating, strengthening, or
33 promoting a marriage, such as religious counseling programs, courses,
34 retreats, and workshops; and

35 (b) "Religious organization" includes, but is not limited to,
36 churches, mosques, synagogues, temples, nondenominational ministries,
37 interdenominational and ecumenical organizations, mission

1 organizations, faith-based social agencies, and other entities whose
2 principal purpose is the study, practice, or advancement of religion.

3 **Sec. 2.** RCW 26.04.020 and 1998 c 1 s 4 are each amended to read as
4 follows:

5 (1) Marriages in the following cases are prohibited:

6 (a) When either party thereto has a (~~wife or husband~~) spouse or
7 registered domestic partner living at the time of such marriage, unless
8 the registered domestic partner is the other party to the marriage; or

9 (b) When the (~~husband and wife~~) spouses are nearer of kin to each
10 other than second cousins, whether of the whole or half blood computing
11 by the rules of the civil law(~~or~~

12 ~~(c) When the parties are persons other than a male and a female~~)).

13 (2) It is unlawful for any (~~man to marry his father's sister,~~
14 ~~mother's sister, daughter, sister, son's daughter, daughter's daughter,~~
15 ~~brother's daughter or sister's daughter; it is unlawful for any woman~~
16 ~~to marry her father's brother, mother's brother, son, brother, son's~~
17 ~~son, daughter's son, brother's son or sister's son~~) person to marry
18 his or her sibling, child, grandchild, aunt, uncle, niece, or nephew.

19 (3) A marriage between two persons that is recognized as valid in
20 another jurisdiction is valid in this state only if the marriage is not
21 prohibited or made unlawful under subsection (1)(a)(~~(1)(c)~~) or (2)
22 of this section.

23 (4) A legal union, other than a marriage, between two individuals
24 that was validly formed in another state or jurisdiction and that
25 provides substantially the same rights, benefits, and responsibilities
26 as a marriage, does not prohibit those same two individuals from
27 obtaining a marriage license in Washington.

28 (5) No state agency or local government may base a decision to
29 penalize, withhold benefits from, license, or refuse to contract with
30 any religious organization based on the opposition to or refusal to
31 provide accommodations, facilities, advantages, privileges, service, or
32 goods related to the solemnization or celebration of a marriage.

33 (6) No religiously affiliated educational institution shall be
34 required to provide accommodations, facilities, advantages, privileges,
35 service, or goods related to the solemnization or celebration of a
36 marriage, including a use of any campus chapel or church. A
37 religiously affiliated educational institution shall be immune from a

1 civil claim or cause of action, including a claim pursuant to chapter
2 49.60 RCW, based on its refusal to provide accommodations, facilities,
3 advantages, privileges, service, or goods related to the solemnization
4 or celebration of a marriage under this subsection shall be immune for
5 civil claim or cause of action, including a claim pursuant to chapter
6 49.60 RCW.

7 **NEW SECTION.** **Sec. 3.** "Religious organization" as defined in this
8 chapter must be interpreted liberally to include faith-based social
9 service organizations involved in social services directed at the
10 larger community.

11 **Sec. 4.** RCW 26.04.050 and 2007 c 29 s 1 are each amended to read
12 as follows:

13 The following named officers and persons, active or retired, are
14 hereby authorized to solemnize marriages, to wit: Justices of the
15 supreme court, judges of the court of appeals, judges of the superior
16 courts, supreme court commissioners, court of appeals commissioners,
17 superior court commissioners, any regularly licensed or ordained
18 minister or any priest, imam, rabbi, or similar official of any
19 (~~church or~~) religious (~~denomination~~) organization, and judges of
20 courts of limited jurisdiction as defined in RCW 3.02.010.

21 **Sec. 5.** RCW 26.04.060 and 1975-'76 2nd ex.s. c 42 s 25 are each
22 amended to read as follows:

23 A marriage solemnized before any person professing to be a minister
24 or a priest (~~of any~~), imam, rabbi, or similar official of any
25 religious (~~denomination~~) organization in this state or professing to
26 be an authorized officer thereof, is not void, nor shall the validity
27 thereof be in any way affected on account of any want of power or
28 authority in such person, if such marriage be consummated with a belief
29 on the part of the persons so married, or either of them, that they
30 have been lawfully joined in marriage.

31 **Sec. 6.** RCW 26.04.070 and Code 1881 s 2383 are each amended to
32 read as follows:

33 In the solemnization of marriage no particular form is required,
34 except that the parties thereto shall assent or declare in the presence

1 of the minister, priest, imam, rabbi, or similar official of any
 2 religious organization, or judicial officer solemnizing the same, and
 3 in the presence of at least two attending witnesses, that they take
 4 each other to be (~~husband and wife~~) spouses.

5 NEW SECTION. Sec. 7. A new section is added to chapter 26.04 RCW
 6 to read as follows:

7 For purposes of this chapter, "religious organization" includes,
 8 but is not limited to, churches, mosques, synagogues, temples,
 9 nondenominational ministries, interdenominational and ecumenical
 10 organizations, mission organizations, faith-based social agencies, and
 11 other entities whose principal purpose is the study, practice, or
 12 advancement of religion.

13 **Sec. 8.** RCW 26.60.010 and 2007 c 156 s 1 are each amended to read
 14 as follows:

15 Many Washingtonians are in intimate, committed, and exclusive
 16 relationships with another person to whom they are not legally married.
 17 These relationships are important to the individuals involved and their
 18 families; they also benefit the public by providing a private source of
 19 mutual support for the financial, physical, and emotional health of
 20 those individuals and their families. The public has an interest in
 21 providing a legal framework for such mutually supportive relationships,
 22 whether the partners are of the same or different sexes, and
 23 irrespective of their sexual orientation.

24 (~~The legislature finds that same sex couples, because they cannot~~
 25 ~~marry in this state, do not automatically have the same access that~~
 26 ~~married couples have to certain rights and benefits, such as those~~
 27 ~~associated with hospital visitation, health care decision making, organ~~
 28 ~~donation decisions, and other issues related to illness, incapacity,~~
 29 ~~and death. Although many of these rights and benefits may be secured~~
 30 ~~by private agreement, doing so often is costly and complex.))~~

31 The legislature (~~also~~) finds that the public interest would be
 32 served by extending rights and benefits to (~~different sex~~) couples in
 33 which either or both of the partners (~~is~~) are at least sixty-two
 34 years of age. While these couples are entitled to marry under the
 35 state's marriage statutes, some social security and pension laws
 36 nevertheless make it impractical for these couples to marry. For this

1 reason, chapter 156, Laws of 2007 specifically allows couples to enter
 2 into a state registered domestic partnership if one of the persons is
 3 at least sixty-two years of age, the age at which many people choose to
 4 retire and are eligible to begin collecting social security and pension
 5 benefits.

6 The rights granted to state registered domestic partners in chapter
 7 156, Laws of 2007 will further Washington's interest in promoting
 8 family relationships and protecting family members during life crises.
 9 Chapter 156, Laws of 2007 does not affect marriage or any other ways in
 10 which legal rights and responsibilities between two adults may be
 11 created, recognized, or given effect in Washington.

12 **Sec. 9.** RCW 26.60.030 and 2007 c 156 s 4 are each amended to read
 13 as follows:

14 To enter into a state registered domestic partnership the two
 15 persons involved must meet the following requirements:

16 (1) Both persons share a common residence;

17 (2) Both persons are at least eighteen years of age and at least
 18 one of the persons is sixty-two years of age or older;

19 (3) Neither person is married to someone other than the party to
 20 the domestic partnership and neither person is in a state registered
 21 domestic partnership with another person;

22 (4) Both persons are capable of consenting to the domestic
 23 partnership; and

24 (5) Both of the following are true:

25 (a) The persons are not nearer of kin to each other than second
 26 cousins, whether of the whole or half blood computing by the rules of
 27 the civil law; and

28 (b) Neither person is a sibling, child, grandchild, aunt, uncle,
 29 niece, or nephew to the other person (~~and~~

30 ~~(6) Either (a) both persons are members of the same sex; or (b) at~~
 31 ~~least one of the persons is sixty-two years of age or older)).~~

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.60 RCW
 33 to read as follows:

34 (1) Partners in a state registered domestic partnership may apply
 35 and receive a marriage license and have such marriage solemnized

1 pursuant to chapter 26.04 RCW, so long as the parties are otherwise
2 eligible to marry, and the parties to the marriage are the same as the
3 parties to the state registered domestic partnership.

4 (2) A state registered domestic partnership is dissolved by
5 operation of law by any marriage of the same parties to each other, as
6 of the date of the marriage stated in the certificate.

7 (3)(a) Except as provided in (b) of this subsection, any state
8 registered domestic partnership in which the parties are the same sex,
9 and neither party is sixty-two years of age or older, that has not been
10 dissolved or converted into a marriage by the parties by June 30, 2014,
11 is automatically merged into a marriage and is deemed a marriage as of
12 June 30, 2014.

13 (b) If the parties to a state registered domestic partnership have
14 proceedings for dissolution, annulment, or legal separation pending as
15 of June 30, 2014, the parties' state registered domestic partnership is
16 not automatically merged into a marriage and the dissolution,
17 annulment, or legal separation of the state registered domestic
18 partnership is governed by the provisions of the statutes applicable to
19 state registered domestic partnerships in effect before June 30, 2014.
20 If such proceedings are finalized without dissolution, annulment, or
21 legal separation, the state registered domestic partnership is
22 automatically merged into a marriage and is deemed a marriage as of
23 June 30, 2014.

24 (4) For purposes of determining the legal rights and
25 responsibilities involving individuals who had previously had a state
26 registered domestic partnership and have been issued a marriage license
27 or are deemed married under the provisions of this section, the date of
28 the original state registered domestic partnership is the legal date of
29 the marriage. Nothing in this subsection prohibits a different date
30 from being included on the marriage license.

31 NEW SECTION. Sec. 11. A new section is added to chapter 26.04 RCW
32 to read as follows:

33 If two persons in Washington have a legal union, other than a
34 marriage, that:

35 (1) Was validly formed in another state or jurisdiction;

36 (2) Provides substantially the same rights, benefits, and
37 responsibilities as a marriage; and

(3) Does not meet the definition of domestic partnership in RCW 26.60.030, then they shall be treated as having the same rights and responsibilities as married spouses in this state, unless:

(a) Such relationship is prohibited by RCW 26.04.020 (1)(a) or (2); or

(b) They become permanent residents of Washington state and do not enter into a marriage within one year after becoming permanent residents.

Sec. 12. RCW 26.60.090 and 2011 c 9 s 1 are each amended to read as follows:

A legal union, other than a marriage, of two persons (~~(of the same sex)~~) that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under this chapter, shall be recognized as a valid domestic partnership in this state and shall be treated the same as a domestic partnership registered in this state regardless of whether it bears the name domestic partnership.

Sec. 13. RCW 1.12.080 and 2011 c 9 s 2 are each amended to read as follows:

For the purposes of this code and any legislation hereafter enacted by the legislature or by the people, with the exception of chapter 26.04 RCW, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, unless the legislation expressly states otherwise and to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009 and this act, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships and spouses of the same sex.

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.33 RCW
2 to read as follows:

3 Nothing contained in chapter . . ., Laws of 2012 (this act) shall
4 be construed to alter or affect existing law regarding the manner in
5 which a religious or nonprofit organization may be licensed to and
6 provide adoption, foster care, or other child-placing services under
7 this chapter or chapter 74.15 or 74.13 RCW.

8 NEW SECTION. **Sec. 15.** A new section is added to chapter 74.13 RCW
9 to read as follows:

10 Nothing contained in chapter . . ., Laws of 2012 (this act) shall
11 be construed to alter or affect existing law regarding the manner in
12 which a religious or nonprofit organization may be licensed to and
13 provide adoption, foster care, or other child-placing services under
14 this chapter or chapter 74.15 or 26.33 RCW.

15 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.15 RCW
16 to read as follows:

17 Nothing contained in chapter . . ., Laws of 2012 (this act) shall
18 be construed to alter or affect existing law regarding the manner in
19 which a religious or nonprofit organization may be licensed to and
20 provide adoption, foster care, or other child-placing services under
21 this chapter or chapter 74.13 or 26.33 RCW.

22 NEW SECTION. **Sec. 17.** (1) Within sixty days after the effective
23 date of this section, the secretary of state shall send a letter to the
24 mailing address on file of each same-sex domestic partner registered
25 under chapter 26.60 RCW notifying the person that Washington's law on
26 the rights and responsibilities of state registered domestic partners
27 will change in relation to certain same-sex registered domestic
28 partners.

29 (2) The notice must provide a brief summary of the new law and must
30 clearly state that provisions related to certain same-sex registered
31 domestic partnerships will change as of the effective dates of this
32 act, and that those same-sex registered domestic partnerships that are
33 not dissolved prior to June 30, 2014, will be converted to marriage as
34 an act of law.

1 (3) The secretary of state shall send a second similar notice to
2 the mailing address on file of each domestic partner registered under
3 chapter 26.60 RCW by May 1, 2014.

4 NEW SECTION. **Sec. 18.** Sections 8 and 9 of this act take effect
5 June 30, 2014, but only if all other provisions of this act are
6 implemented.

--- END ---

WA SB 6239 Referendum Ballot Title & Summary**RECEIVED**
FEB 13 2012

Office of Secretary of State

Ballot Title:

The legislature has passed Senate Bill No. 6239 concerning the definition of marriage and voters have filed a sufficient referendum petition on this bill. This bill would redefine marriage from a civil contract between one man and one woman to a 'civil contract between two persons' and makes 'husband' and 'wife' gender-neutral terms. Should this bill be: ☐ Approved ☐ Rejected"

75 Word Summary:

The bill would redefine marriage from being between one man and one woman to any two eligible persons regardless of sex. It construes terms like "husband" and "wife" to be gender-neutral. The bill permits minors to marry a person of the same sex by waiver of a superior court judge. The relationships of same-sex domestic partners under the age of 62 that are not dissolved by 2014 are converted to marriages.