In the 2008 election, Californians went to the ballot box in record numbers and cast votes on one of the most expensive and high profile initiatives in the country: Proposition 8, an initiative that would define marriage as between a man and a woman and eliminate the right of same sex couples to marry. Prominently standing in opposition to Proposition 8 were many California labor unions. Labor's support for lesbian, gay, bisexual and transgender (LGBT) workers also goes beyond the ballot box. Unions across the country are bargaining for contracts that are inclusive of LGBT workers and their families in a critical area: equality in workplace benefits.

With the political climate in flux over same-sex marriage, LGBT families face an uncertain prospect of securing workplace benefits that enable them to keep their jobs and care for their families, including family and sick leave, and health and pension benefits. Only 16 states and the District of Columbia have domestic partnership laws that formerly recognize same-sex relationships. Equal Benefits Ordinances, which require government contractors to provide equal benefits to their LGBT workers, exist in only one state and a handful of localities. LGBT families were not included in the Family and Medical Leave Act (FMLA), and only seven states have extended such benefits to unmarried partners in their state family and medical leave laws. Because Internal Revenue Service rules deny domestic partners the same tax benefits as spouses, LGBT workers who do have access to domestic partner benefits face additional tax burdens. According to T Santora, Co-President of Pride At Work, an AFL-CIO constituency group for LGBT workers in the labor movement, “The patchwork of legal protections across the country underscores the reason why a union contract is an LGBT worker's best friend.”

DOMESTIC PARTNER BENEFITS ON THE RISE

Since workers at the Village Voice in New York City and the United Auto Workers (UAW) first negotiated domestic partner benefits in 1982, a growing number of employers have followed. As of March 2006, 49% of the Fortune 500 offered domestic partner health benefits, compared to 25% in 2000. The trend toward domestic partner benefits is increasing regardless of business size, although the most substantial gains are among large employers. But many public and private sector LGBT workers do not have access to these benefits. In a 2003 study, 48% of LGBT workers identified domestic partner benefits as the most important consideration in a potential job change. And where state and federal laws provide little to no rights, union contracts provide the only protection.

Workplace benefits make up nearly 40% of overall compensation. Without full access to these benefits, LGBT workers are being denied a significant portion of their overall compensation. Refusing to offer these benefits deprives LGBT workers of one of the most important facets of their work: the ability to care and provide for their families. And although one purpose for workplace benefits is to improve workers' focus, performance and retention, leaving out LGBT workers excludes a large portion of the workforce. Appearing before the US Senate, the President of Human Rights Campaign, Joe

continued on next page
Solmonese, testified that “LGBT workers experience the same levels of stress, lack of productivity, distraction and fear of job loss as do others when their domestic partners become ill, are hospitalized or cared for by others.”

Today’s union members can be guided by decades of fighting for equal benefits for LGBT workers. In 1991, the AFL-CIO issued a policy resolution on “Benefits for Changing Families” that read: “The AFL-CIO will work as appropriate to insure that fringe benefits are extended to all persons living in a household as a family.” The resolution acknowledged that eligibility for benefits is typically based on a definition of family that fails to account for changes to family composition. The number of unmarried households is a large and growing percentage, and its growth is outpacing married households.

“The patchwork of legal protections across the country underscores the reason why a union contract is an LGBT worker’s best friend.”

— T Santora, Co-President of Pride At Work

**UNIONS PUSH FOR BENEFITS FOR ALL**

Pride At Work publishes a guide for bargaining for domestic partner benefits titled “Seven Easy Steps For Adding Domestic Partner Benefits To Your Union Contract” (see box). According to the guide, a critical first step in bargaining for these benefits is to ensure your contract has a clause protecting workers from discrimination on the job based on sexual orientation and gender identity. “A non-discrimination clause sets out a framework in which to negotiate equal benefits for LGBT workers,” stated T Santora. Equal benefits are a logical extension of a workplace policy prohibiting discrimination against LGBT workers. Only 30 states have laws that prohibit discrimination against LGBT workers and there is no federal law that provides this protection. LGBT workers also need to be protected from discrimination when they reveal their sexual orientation to access domestic partner benefits. T Santora recommends that all contracts include a clause that same-sex partners and their children be treated as spouses and family members for all purposes in the contract.

Many unions are at the forefront of innovation in domestic partner benefits, and success in bargaining can lead to broader policy change. In New York City, AFSCME District Council 37 (DC37) bargained for domestic partner benefits in the early 1990’s, including health insurance coverage and bereavement leave. Bargaining led to policy change in 1998, when DC 37 lobbied for the passage of legislation that made domestic partners equal to married spouses under all New York City government rules and policies.

In Michigan, the Graduate Employees Organization, Local 3550, AFT are promoting a plan for “Benefits for All.” After winning contracts that provided domestic partner benefits to Graduate Student Instructors and Staff Assistants at the University of Michigan, the Michigan Supreme Court ruled in May 2008 that an amendment to the state constitution prohibits public employers from providing benefits based on a same-sex relationship, including health benefits. The “Benefits for All” plan responds to this policy change by proposing a benefit structure not based on marriage, but a new system of Designated Beneficiaries.

**AN INJURY TO ONE IS AN INJURY TO ALL . . .**

In 2005, Marvin Burrows lost his partner of 51 years, Bill Swenor. When Bill died, Marvin was denied continued health coverage and Bill’s union pension, forcing him to move from their home of 35 years. With the help of the National Center for Lesbian Rights, a request was sent to Bill’s union, the International Longshore Workers Union (ILWU), to reconsider the denial of these benefits. Two years later, Marvin received a response that read, “During recent negotiations…the Pension Agreement was changed to provide domestic partners the same rights to benefits as a spouse. This change was made retroactive to March 1, 2005 and will now allow Mr. Burrows to receive a benefit on behalf of Mr. Swenor.” In response to this decision, T Santora said, “We are hopeful that this action will influence other unions to follow suit…and ensure that Marvin’s experience becomes a part of history, not a continuing reality for others. By taking this action, the ILWU demonstrated its commitment to the union principle that an injury to one is an injury to all.”

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