

Metropolitan News-Enterprise

Tuesday, September 30, 2008

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Conference of Delegates Rejects Mediator Compensation Proposal

By STEVEN M. ELLIS, Staff Writer

The Conference of Delegates of California Bar Associations has voted to disapprove a resolution that would have asked the Legislature to require parties who choose to enter mediation in general civil cases to bear the costs.

Going against the recommendation of the conference's Resolutions Committee, a majority of delegates at the conference's meeting Saturday in Monterey voted against an amended version of Resolution 3-3-08 after Los Angeles Superior Court Assistant Presiding Justice-elect Lee Edmon addressed delegates, telling them the proposal would "clog" the court system.

Although not a delegate, Edmon was allowed to speak upon a motion to suspend the rules by Los Angeles County Bar Association President Danette E. Meyers, whose association voted earlier this month to oppose the resolution put forth by the Beverly Hills Bar Association.

Supporters Frustrated

Laura Goldin, executive director of the conference, told the MetNews that the decision to allow Edmon to speak was not controversial at the time, but indicated some frustration on the part of supporters of the resolution, who Goldin says were concerned that the debate was addressing the original, rather than amended resolution.

California law allows the Los Angeles Superior Court—and any other counties that so elect—authority to order mediation in matters where the amount in controversy is between \$25,000 and \$50,000. If the amount exceeds \$50,000, courts can only assign the case to mediation with the parties' consent. Similarly, although state law allows courts to order mediation in cases under \$25,000, courts can opt out and require consent, which the Los Angeles Superior Court has elected to do.

The amended resolution would have limited the proposal's effect to cases exceeding \$50,000, and would have allowed mediators in such cases to waive compensation.

Goldin said she was unsure of the specific votes for or against the resolution, but said that the result was "very close."

Transgender Resolution

Delegates also voted on Saturday to approve a resolution calling for the elimination of surgical treatment as a requirement for transgendered individuals to change the gender and name identified on their birth certificate, and overwhelmingly approved a late-filed resolution calling on attorneys to oppose a ballot initiative banning same-sex marriage.

Resolution 5-7-08, proposed by Bay Area Lawyers for Individual Freedom, would have recommended legislation to amend Health & Safety Code Sec. 103425 to eliminate surgical treatment as a requirement for change of gender and name on a birth certificate of someone found by a medical professional of such to “legitimately identify as a member of the opposite sex.”

The resolution was amended on the floor to require such a finding comport with the “Harry Benjamin” clinical guidelines for diagnosing gender dysphoria established by the World Professional Association for Transgender Health, and was approved by the conference upon a showing of voting cards, Goldin said, despite a recommendation against its adoption by the conference’s Resolutions Committee.

Resolution ELF-1-08, also proposed by Bay Area Lawyers for Individual Freedom as well as the Bar Association of San Francisco, urges the conference’s constituent groups and the State Bar to “educate” voters that Proposition 8 on the November 2008 California ballot would change the California Constitution to discriminate against gays and lesbians by denying them a “fundamental civil right.”

The resolution was adopted after a long and lively debate, and after an amendment was added to clarify that the resolution called upon members to oppose Proposition 8 in their “individual” capacities. Approval came with little opposition.

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