

AMENDED IN ASSEMBLY AUGUST 27, 2009

AMENDED IN ASSEMBLY JUNE 25, 2009

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 572

Introduced by Senator Leno

(Principal coauthor: Senator Kehoe)

(Principal coauthors: Assembly Members Ammiano and John A. Perez)

(Coauthors: Senators Alquist, Florez, Hancock, Oropeza, Padilla, Price, Romero, Wiggins, and Yee)

(Coauthors: Assembly Members Block, *Blumenfeld*, Brownley, De Leon, Hayashi, Huffman, Jones, Ma, Monning, Nava, Portantino, Skinner, and Torlakson)

February 27, 2009

An act to amend Section 37222 of the Education Code, and to add Section 6721 to the Government Code, relating to Harvey Milk Day.

LEGISLATIVE COUNSEL'S DIGEST

SB 572, as amended, Leno. Harvey Milk Day: official designation.

Existing law requires the Governor to proclaim certain days each year for specified reasons. Existing law also designates particular days each year as having special significance in public schools and educational institutions and encourages those entities to conduct suitable commemorative exercises on those dates.

This bill would provide that the Governor proclaim May 22 of each year as Harvey Milk Day, and would designate that date as having special significance in public schools and educational institutions and would encourage those entities to conduct suitable commemorative exercises on that date.

This bill would incorporate amendments to Section 37222 of the Education Code proposed by both this bill and AB 264, which would become operative only if both bills are enacted and become effective and this bill is chaptered last.

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. The Legislature hereby finds and declares the
2 following:

3 (a) Harvey Bernard Milk was born on May 22, 1930, in
4 Woodmere, New York. He was the first openly gay man to be
5 elected to public office in a major city of the United States. He
6 was assassinated in 1978 at San Francisco's City Hall by a political
7 rival. Perhaps more than any other modern figure, Harvey Milk's
8 life and political career embody the rise of the lesbian, gay,
9 bisexual, and transgender (LGBT) civil rights movement in
10 California, across the nation, and throughout the world.

11 (b) Harvey Milk graduated from the State University of New
12 York at Albany, in Albany, New York in 1951. Thereafter, he
13 served for a short time in the United States Navy.

14 (c) During the 1960s, Harvey Milk lived in New York City,
15 first working on Wall Street as an investment banker and later as
16 a theater producer.

17 (d) In 1972, Harvey Milk moved with his partner, Scott Smith,
18 to San Francisco, California and opened a camera shop called
19 "Castro Camera."

20 (e) Harvey Milk soon emerged as a community leader in the
21 Castro neighborhood of San Francisco, founding the Castro Valley
22 Association of Local Merchants, and representing that association's
23 interests before city government.

24 (f) Harvey Milk unsuccessfully ran for the Board of Supervisors
25 of the City and County of San Francisco in 1973, and
26 unsuccessfully ran for the Assembly in 1975. With each race, he
27 gained more prominence and eventually became known endearingly
28 by his neighbors as the "Mayor of Castro Street."

29 (g) After San Francisco adopted a district election system in
30 1977, Harvey Milk was elected to the Board of Supervisors of the
31 City and County of San Francisco representing District 5. It was

1 the first time in the history of the United States that an openly gay
2 man was elected to a prominent political office.

3 (h) During his term on the board of supervisors, Harvey Milk
4 sponsored and successfully passed a gay rights ordinance.

5 (i) Harvey Milk was instrumental in defeating Proposition 6,
6 commonly known as the Briggs Initiative, at the General Election
7 on November 7, 1978, that would have banned gays and lesbians
8 from teaching in the public schools of this state.

9 (j) As an openly gay leader, Harvey Milk encouraged LGBT
10 individuals to be visible in society. During the Gay Freedom Day
11 Parade of June 25, 1978, he told the crowd, "Gay people, we will
12 not win their rights by staying quietly in our closets."

13 (k) Harvey Milk was also successful in forging coalitions with
14 San Francisco's other minority leaders. His message was one of
15 unity against oppression in all its forms. In the same Gay Freedom
16 Day speech, he said, "I call upon all minorities and especially the
17 millions of lesbians and gay men to wake up from their dreams ...
18 to gather on Washington and tell ... their nation: "Wake up ... wake
19 up, America ... no more racism, no more sexism, no more ageism,
20 no more hatred ... no more!"

21 (l) In 1978, Dan White, who represented District 8 on the Board
22 of Supervisors of the City and County of San Francisco, resigned
23 from his seat due to financial hardship, thus allowing the Mayor
24 of San Francisco, George Moscone, to appoint a successor.

25 (m) Dan White later asked Mayor Moscone to be reappointed
26 to his seat. Mayor Moscone declined after having been lobbied by
27 several city leaders, including Harvey Milk, who often clashed
28 with Dan White due to their political differences.

29 (n) On November 27, 1978, Dan White went to San Francisco
30 City Hall to meet with Mayor Moscone and make a final plea for
31 reappointment. When the mayor declined the request, Dan White
32 shot and killed Mayor Moscone, then went to Harvey Milk's office
33 and also shot and killed him.

34 (o) Dan White subsequently surrendered to the authorities.
35 Though he had carried a gun, 10 extra rounds, and crawled through
36 a window to avoid metal detectors, Dan White denied that the
37 shootings were premeditated.

38 (p) Thousands attended a spontaneous candlelight memorial
39 vigil the night of Harvey Milk's funeral.

1 (q) Harvey Milk had anticipated the possibility of assassination
2 and had recorded several audio tapes to be played in that event.
3 One of the tapes included his now famous quote, “If a bullet should
4 enter my brain, let that bullet destroy every closet door.”

5 (r) Dan White’s trial, which began four months after the killings,
6 was one of the most closely watched trials in California at that
7 time. The prosecution claimed that Dan White’s motive was
8 revenge. But Dan White’s attorney, Douglas Schmidt, claimed
9 that Dan White was a victim of pressure and had been depressed,
10 a state exacerbated by his consuming a large quantity of junk food
11 before the murders, which became known as the “Twinkie
12 Defense.”

13 (s) During the trial, the jury also heard Dan White’s confession,
14 which was tape recorded the day after the murders. During the
15 confession, Dan White tearfully talked of how Mayor Moscone
16 and Harvey Milk had refused to give him his supervisor’s job back.

17 (t) Dan White was convicted of voluntary manslaughter on the
18 grounds of diminished capacity and sentenced to seven years and
19 eight months in prison, a sentence widely denounced as lenient
20 and motivated by homophobia. During the jury selection process
21 in the criminal trial, defense attorneys had excluded candidates
22 they deemed “pro-gay.”

23 (u) In protest of the lenient sentence, San Francisco’s gay
24 community erupted in what came to be known as the “White Night
25 Riots.” It began as a peaceful march from the Castro District to
26 city hall, but turned into a riot when marchers clashed with the
27 police force outside of city hall.

28 (v) Harvey Milk’s legacy as a civil rights leader is still felt today.
29 He was named one of TIME Magazine’s most influential people
30 of the 20th century. Many institutions and organizations are named
31 for Harvey Milk, including the Harvey Milk Recreational Arts
32 Center, the Harvey Milk Civil Rights Academy, the Harvey Milk
33 Institute, the Eureka Valley/Harvey Milk Memorial Branch Library,
34 and the Harvey Milk Lesbian/Gay/Bisexual/Transgender
35 Democratic Club in San Francisco.

36 (w) Outside of San Francisco, a number of alternative schools
37 in the United States are named for Harvey Milk, including Harvey
38 Milk High School in New York City, and Oakes College at the
39 University of California, Santa Cruz has an oncampus apartment
40 building named for Harvey Milk.

1 (x) In February 2007, the City of San Francisco agreed to erect
2 a bust of Harvey Milk in city hall in tribute to his service and to
3 memorialize his life's work. A lengthy process to choose a design
4 took place, and a gala installation event took place in May 2008,
5 to coincide with Harvey Milk's birthday.

6 (y) Harvey Milk's story as California's first openly gay elected
7 official is the topic of a major motion picture released in 2008,
8 which is educating audiences worldwide about Milk's place in
9 history as a trailblazer and civil rights pioneer.

10 (z) Harvey Milk's life and social contributions have left an
11 indelible mark on the history of our nation and hold a special
12 meaning for the people of California.

13 SEC. 2. Section 37222 of the Education Code is amended to
14 read:

15 37222. (a) The following days in each year are designated and
16 set apart as days having special significance:

17 (1) The second Wednesday in May as the Day of the Teacher.

18 (2) April 21 of each year as John Muir Day.

19 (3) April 6 of each year as California Poppy Day.

20 (4) May 22 of each year as Harvey Milk Day.

21 (b) On each of the days designated in subdivision (a), all public
22 schools and educational institutions are encouraged to observe
23 those days and to conduct suitable commemorative exercises as
24 follows:

25 (1) On the Day of the Teacher, exercises commemorating and
26 directing attention to teachers and the teaching profession.

27 (2) On John Muir Day, exercises stressing the importance that
28 an ecologically sound natural environment plays in the quality of
29 life for all of us, and emphasizing John Muir's significant
30 contributions to the fostering of that awareness and the indelible
31 mark he left on the State of California.

32 (3) On California Poppy Day, exercises honoring the California
33 Poppy, including instruction about native plants, particularly the
34 California Poppy, and the economic and aesthetic value of
35 wildflowers; promoting responsible behavior toward our natural
36 resources and a spirit of protection toward them; and emphasizing
37 the value of natural resources and conservation of natural resources.

38 (4) On Harvey Milk Day, exercises remembering the life of
39 Harvey Milk, recognizing his accomplishments, and familiarizing
40 pupils with the contributions he made to this state.

(c) It is the intent of the Legislature that the exercises encouraged in this section be integrated into the regular school program, and be conducted by the school or institution within the amount otherwise budgeted for educational programs.

SEC. 2.5. *Section 37222 of the Education Code is amended to read:*

37222. (a) The following days in each year are designated and set apart as days having special significance:

(1) The second Wednesday in May as the Day of the Teacher.

(2) April 21 of each year as John Muir Day.

(3) April 6 of each year as California Poppy Day.

(4) *May 22 of each year as Harvey Milk Day.*

(5) *March 30 of each year as Welcome Home Vietnam Veterans Day.*

(b) On each of the days designated in subdivision (a), all public schools and educational institutions are encouraged to observe those days and to conduct suitable commemorative exercises as follows:

(1) On the Day of the Teacher, exercises commemorating and directing attention to teachers and the teaching profession.

(2) On John Muir Day, exercises stressing the importance that an ecologically sound natural environment plays in the quality of life for all of us, and emphasizing John Muir's significant contributions to the fostering of that awareness and the indelible mark he left on the State of California.

(3) On California Poppy Day, exercises honoring the California Poppy, including instruction about native plants, particularly the California Poppy, and the economic and aesthetic value of wildflowers; promoting responsible behavior toward our natural resources and a spirit of protection toward them; and emphasizing the value of natural resources and conservation of natural resources.

(4) *On Harvey Milk Day, exercises remembering the life of Harvey Milk, recognizing his accomplishments, and familiarizing pupils with the contributions he made to this state.*

(5) *On Welcome Home Vietnam Veterans Day, exercises recognizing the contributions of all those involved in the Vietnam War and remembering the sacrifices they made for their country.*

(c) It is the intent of the Legislature that the exercises encouraged in this section be integrated into the regular school

1 program, and be conducted by the school or institution within the
2 amount otherwise budgeted for educational programs.

3 SEC. 3. Section 6721 is added to the Government Code, to
4 read:

5 6721. The Governor shall annually proclaim May 22 as Harvey
6 Milk Day.

7 *SEC. 4. Section 2.5 of this bill incorporates amendments to*
8 *Section 37222 of the Education Code proposed by both this bill*
9 *and AB 264. It shall only become operative if (1) both bills are*
10 *enacted and become effective on or before January 1, 2010, (2)*
11 *each bill amends Section 37222 of the Education Code, and (3)*
12 *this bill is enacted after AB 264, in which case Section 2 of this*
13 *bill shall not become operative.*