

HOUSE BILL REPORT

SB 5054

As Reported by House Committee On:
Judiciary

Title: An act relating to the rule against perpetuities.

Brief Description: Modifying the rule against perpetuities.

Sponsors: By Senators Johnson and Constantine.

Brief History:

Committee Activity:

Judiciary: 3/20/01, 3/27/01 [DP].

Brief Summary of Bill

- Amends the law governing transfers of property under the rule against perpetuities.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

Staff: Trudes Hutcheson (786-7384).

Background:

Washington law limits the time within which a person, by trust or other methods, may transfer a future interest in property. A transfer will be invalidated if there is any possibility, however remote, that the transfer could vest more than 21 years after the death of the last person who was alive at the time the interest was created. An interest "vests" when it becomes a fixed property right of a specific person. This law is based upon the common law doctrine called the "rule against perpetuities."

The rule against perpetuities limits the extent to which the deceased person (who created the transfer) can control ultimate ownership of the property. The rule's purpose is to prevent uncertainty and requires that ultimate ownership of property be knowable within a

certain period of time.

A number of states have passed legislation to simplify the rule against perpetuities.

Summary of Bill:

Changes are made to the law governing future interests of property under the rule against perpetuities. Transfers of property by trust and certain other methods are valid if they become distributable or vest within 150 years after the effective date of the instrument. The act applies to irrevocable trusts with an effective date on or after January 1, 2002.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is in response to the complexities that arise from the rule against perpetuities. A number of states have already adopted different simplified versions of the rule. Washington does not want to go so far as to repeal the rule, but just wants to simplify it. The 150-year time period was chosen, as opposed to the 90-year period, because people are tending to live longer. This bill would only apply to transfers of property in certain estate planning documents.

Testimony Against: None.

Testified: Senator Johnson, prime sponsor; and Michael Carrico, Washington State Bar Association, Real Property, Probate and Trust Section.