

SENATE BILL REPORT

SB 5410

As Reported By Senate Committee On:
Government Operations & Elections, March 1, 2005

Title: An act relating to ensuring that members of homeowners' associations may display political yard signs on their properties.

Brief Description: Limiting homeowners' associations' restrictions on political yard signs.

Sponsors: Senators Benton, Swecker, Roach and Kline.

Brief History:

Committee Activity: Government Operations & Elections: 2/28/05, 3/1/05 [DP, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Kastama, Chair; Berkey, Vice Chair; Roach, Ranking Minority Member; Benton, Fairley, Kline, McCaslin and Mulliken.

Minority Report: Do not pass.

Signed by Senator Pridemore.

Staff: Cindy Fazio (786-7405)

Background: Homeowners' associations generally levy and collect assessments, manage and maintain common property for the benefit of the residents, and enforce covenants that govern developments. The authority to carry out these functions generally comes from governing documents, such as the declaration of covenants, conditions, and restrictions.

Restrictive covenants are generally recorded in property deeds and may regulate such broad issues as the architectural designs of homes, schemes of landscaping, the size of mailboxes, and the placement of satellite dishes or antennas. A person who purchases property within a subdivision governed by a homeowners' association, and subject to restrictive covenants, becomes a member of the association and generally must abide by the restrictive covenants.

Both the state and federal Constitutions provide that no state must pass a law impairing the obligation of contracts. Washington courts have held that the state and federal contract clauses are substantially the same and are given the same effect.

A contract is impaired if the statute alters its terms, imposes new conditions, or lessens its value. Even if a substantial impairment of contract occurs, it may not be unconstitutional if it was reasonable and necessary to achieve a legitimate public purpose. A court will compare the level of impairment with the public purposes sought to be advanced by the law.

A retroactive statute is unconstitutional under the due process or contract clauses if the statute is unfair or unreasonable. The test of the constitutionality of retroactive legislation is whether a

party has changed position in reliance upon the previous law or whether the retroactive law defeats the reasonable expectations of the parties.

Summary of Bill: A homeowners' associations' governing documents may not prohibit the outdoor display of political yard signs by an owner or resident on the owner's or resident's property, for a period of ninety days before any primary or election. The governing documents may include reasonable rules and regulations regarding the placement and manner of display of political yard signs.

"Political yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet that contains a message supporting or opposing a candidate or ballot measure that will be on a primary or election ballot within ninety days.

This section applies retroactively to any governing documents in effect at the time this section becomes effective.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: None.

Testimony Against: None.

Who Testified: No one.