
Judiciary Committee

HB 1040

Title: An act relating to subversive activities.

Brief Description: Removing provisions relating to subversive activities.

Sponsors: Representatives Fitzgibbon, Santos, Ormsby and Farrell.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Repeals chapter 9.81 RCW, regarding subversive activities, in its entirety.

Hearing Date: 1/14/15

Staff: Brent Campbell (786-7152).

Background:

Subversive Activities.

The Washington Subversive Activities Act (Act) was first enacted in 1951. The Act defines a "subversive person" as "any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as described in subsections (2) and (3) hereof, becomes or remains a member of a subversive organization or a foreign subversive organization."

A "subversive organization" is defined as "any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Act provides that:

- Subversive activities are a class B felony.
- Membership in a subversive organization is a class C felony.
- Persons convicted of being subversive persons or members of subversive organizations are barred from voting or holding public office.
- Subversive organizations are unlawful to exist or function in Washington. Any organization found to have violated this provision are dissolved and all funds, books, records, and files of every kind are forfeited to the state.
- Subversive persons are ineligible for public employment.
- Public employment requires an oath by the employee or applicant for employment stating that he or she is not a member of the Communist party or any other subversive organization. Refusal to answer this oath is cause for immediate termination.
- The Communist party is a subversive organization.
- Nothing in the chapter should be construed to limit or infringe upon freedom of the press, speech, or assembly as guaranteed by the Constitution of the United States or of Washington.

In a 1964 opinion, *Baggett v. Bullitt*, the Supreme Court of the United States (Court) struck down provisions of the Act as being unconstitutionally vague. In *Baggett*, the Court was asked to determine whether the oath for public employment required by the Act was unconstitutional. The Court held that the oath was unconstitutional and that the definitions for "subversive person" and "subversive organization" were unduly vague, uncertain, and broad.

Summary of Bill:

Chapter 9.81 RCW is repealed in its entirety.

RCW 35.42.020, pertaining to the qualification, removal, code of ethics, and duties of public officers, is amended to remove reference to chapter 9.81 RCW.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.