

SENATE BILL REPORT

SB 5054

As Passed Senate, March 6, 2001

Title: An act relating to the rule against perpetuities.

Brief Description: Modifying the rule against perpetuities.

Sponsors: Senators Johnson and Constantine.

Brief History:

Committee Activity: Judiciary: 1/16/01, 1/18/01 [DP].

Passed Senate: 3/6/01, 39-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Long, McCaslin, Thibaudeau and Zarelli.

Staff: Lilah Amos (786-7421)

Background: Washington law limits the time within which a person may, by trust and certain other methods, transfer a future interest in property. The transfer will be invalidated if it does not vest—(become a property right of a specific person) within 21 years after any life in being or conceived at the effective date of the instrument.— This law is based upon a common law concept called the rule against perpetuities.—

The Washington Bar Association has proposed that this statute be modified to set a definite time of 150 years within which the vesting of these property rights must occur. The complexity of the existing rule has long plagued legal scholars and practitioners in this area of law. Commentators have suggested that this change is intended to be a simpler, more pragmatic rule which will bring certainty to the drafting of trust documents and will avoid issues of construction of the rule which have long plagued courts and attorneys practicing in this area.

Summary of Bill: 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.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Application of the existing rule against perpetuities— is complex and uncertain. The proposed bill sets a time limit of 150 years for trusts, which will provide

certainty in planning for transfer of property and tax consequences. This should be an adequate time frame given increasing life expectancies resulting from advances in medical science.

Testimony Against: None.

Testified: Michael Carrico, Real Property, Probate and Trust Section of Washington State Bar Association.