

Judiciary Committee

HB 1062

Title: An act relating to subversive activities.

Brief Description: Removing provisions relating to subversive activities.

Sponsors: Representatives Fitzgibbon, Pedersen, Carlyle, Pollet, Ryu, Hudgins, Ormsby, Upthegrove, Jinkins and Santos.

Brief Summary of Bill

- Repeals chapter 9.81 RCW regarding subversive activities.

Hearing Date: 1/24/13

Staff: Cece Lynch (786-7195).

Background:

All of the sections in chapter 9.81 RCW were first enacted in the early to mid-1950s. Terms used throughout the chapter are defined as follows:

- "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."
- "Subversive person" means "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

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subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is [such an organization]..., becomes or remains a member of a subversive organization or a foreign subversive organization."

Pursuant to this chapter:

- Subversive activities are class B felonies.
- Membership in a subversive organization is a class C felony.
- Persons convicted of such class B or C felonies are barred from holding any office, filing or standing for election, and voting in any election in the state.
- It is unlawful for a subversive organization to exist or function in the state, and those found to be in existence must be dissolved and all of their funds, books, records and files seized.
- No subversive person is eligible for employment or appointment to employment with the state, or any county, municipality, or other political subdivision of the state.
- All public employers must establish rules and procedures designed to ascertain whether any appointee or employee is a subversive person, including a requirement that all employees and applicants sign an oath, under penalty of perjury, as to whether he or she is a member of the Communist party or other subversive organization. Refusal to answer is grounds for termination.
- The Communist Party is declared a subversive organization and membership in the party is a subversive activity.
- Procedures for discharging subversive persons are established.

In a 1964 United States Supreme Court (Court) decision, *Baggett v. Bullitt*, in which the constitutionality of these statutes was challenged, the Court found the particular loyalty oath at issue and the underlying statutory provisions in chapter 9.81 RCW invalid on their face because their language was unduly vague, uncertain, and broad.

In holding the loyalty oath provision unconstitutional, the Court took principal issue with the definitions of subversive person and subversive organization, and the fact that the statute proscribed acts of subversion in vague terms. By way of example, the Court pointed out that under the definitions, one could not confidently know or assert whether the teaching or advising of a member of the Communist Party might, at some future date, aid the activities of the party.

Summary of Bill:

Chapter 9.81 RCW, pertaining to subversive activities, is repealed in its entirety.

The only section in the Revised Code of Washington, outside of the chapter itself, that includes a reference to any part of chapter 9.81 RCW is amended to remove that reference.

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.