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FISCAL IMPACT REPORT

SPONSOR: A	Aragon	DATE TYPED:	3/18/03	НВ	
SHORT TITLE: Shopping Mall Solici		tors		SB	140/aSF#1
			ANALYST:		Chavez

APPROPRIATION

Appropriation Contained		Estimated Add	litional Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Economic Development Department (EDD) Attorney General's Office (AG) LFC Files

SUMMARY

Synopsis of SF1 Amendments

Senate Floor Amendment #1 strikes the word "oral" in reference to communication in addition to inserting the following language on page two: "Buildings that are not clearly defined malls, but are single-business entities are excluded from these provisions."

Senate Floor Amendment #2 inserts a new subsection that limits the liability of a mall owner, manager, employee or independent contractor of the mall owner. The limited liability protects the above mentioned individuals from being liable for damages as a result of reasonable compliance with the provisions of the act or for loss or damages caused by the negligence or intentional acts of any entity engaged in the noncommercial activities authorized by this act.

Synopsis of Original Bill

Senate Bill 140 grants statutory authority for parties to distribute literature, solicit signatures on petitions, and express opinions at certain sized privately owned shopping malls subject to reasonable restrictions on the time, place and manner imposed by the owner.

Senate Bill 140/aSFl#1 -- Page 2

Significant Issues

This bill addresses constitutional issues of speech. The intent of SB 140 is to grant certain freedom of speech rights to individuals wanting to express themselves or to solicit at a shopping mall, but also to balance those rights between the mall owner and solicitor if the latter's activities interfere with mall business operations.

TECHNICAL ISSUES

1. The word "noncommercial" is not defined.

OTHER SUBSTANTIVE ISSUES

Courts are split on whether a party may pass out literature and make solicitations (etc.) at a shopping mall. Some courts do not allow it on the grounds that it is private property and because it requires a state to expand its state constitutional rights beyond the current scope of the federal constitution. Other courts allow it, but permit the property owner to set reasonable restrictions on the time, place and manner of the speech similar to the language on page 2, section B of the bill.

POSSIBLE QUESTIONS

1. How does the bill define reasonable restrictions?

FC/yr :njw