

CAN ALERT: Why Does Representative Robaina Want to Muzzle Your Community?

Representative Julio Robaina's HB 1397 which impacts ALL types of community associations will be heard next in the Insurance, Business & Financial Affairs Policy Committee. The contact information for every member of that Committee can be found at the bottom of this alert.

In any event, each of you needs to know about the provisions of this bill which can impact you, at times dramatically.

1. HB 1397 seeks to create new sections of Chapters 718, 719, and 720 to provide the following:

LIMIT ON EXPENDITURES.-It shall be unlawful for an association to make any expenditure of association funds or to make any in-kind contribution of association assets that does not relate to the purposes for which the association is organized.

(a) The association shall not make any contribution to a campaign or committee of continuous existence governed by Chapter 105 or Chapter 106.

(b) The association shall not make any contribution to a charitable organization if the association does not receive a direct benefit from the organization.

(c) The association shall not make any expenditure in order to retain a person or firm for the purposes of lobbying.

(d) Directors of the association shall be jointly and severally liable to reimburse the association for any contribution, expenditure, or in-kind contribution made in violation of this subsection.

It is important to ask yourself why Representative Robaina feels it is necessary to restrict your association's ability to organize, communicate and perhaps even defend itself and your members. The wording above might hinder an association's ability to even retain counsel to attend city commission hearings to oppose a commercial development going up next door. The language kicks the door open to all sorts of potential challenges by parties adverse to the association. Imagine the developer next door being able to object to the presence of the association's attorney during City Commission hearings because your attorney is "lobbying" the city for certain restrictions on development! That is just the tip of the iceberg of where this language could lead. Ultimately, it is not likely that the language would withstand a constitutional challenge based on freedom of speech but you would still be forced to fight a battle you should not have to fight.

2. HB 1397 seeks to limit your access to units by amending Section 718.111(5) as follows:

Except in cases of emergency, the association must give the unit owner written notice of not less than 24 hours of its intent to access the unit and such access must be by two persons, one of whom must be a member of the board of administration or a manager or employee of the association and one of whom must be an authorized representative of the association. The identity of the authorized

representative seeking access to the unit shall be provided to the unit owner prior to entering the unit.

3. HB 1397 seeks to impose strict limits on when you can hold your board meetings by creating a new subsection to 718.111 as follows:

MEETINGS.--Regular meetings of the board of administration shall be held at such time and place as provided in the bylaws until the first regular meeting of the board held on or after October 1, 2009. Thereafter, the location and time for regular meetings of the board shall be determined by a majority vote of the unit owners at the next regular meeting held on or after October 1, 2009. Once the time and place for regular meetings of the board have been selected, neither may be changed unless approved by a majority vote of the unit owners. Regular meetings of the board of administration held on weekdays shall be held no earlier than 6 p.m. local time.

4. HB 1397 seeks to restrict the manner in which you amend your Bylaws by providing as follows:

If the bylaws provide for amendment by the board of administration, no bylaw may be amended unless it is heard and noticed at TWO consecutive meetings of the board of administration that are at least 1 week apart.

5. At a time when most associations are looking for additional funds to relieve the cash flow problems caused by increased owner delinquencies, HB 1397 seeks to further restrict your ability to borrow funds as follows:

The board shall not have the authority to enter into a line of credit or borrow funds for any purpose unless the specific use of the funds from the line of credit or loan is set forth in the notice of meeting with the same specificity as required for a special assessment or unless the borrowing or line of credit has received the prior approval of not less than two-thirds of the voting interests of the association.