

A state in which several popular ski resorts are located has enacted a law requiring state certification of ski instructors. Under the law, applicants for certification must attend a monthlong course, pass a test, and pay a fee of \$1,000. The stated purpose of the law is to "promote uniformity in the methods of ski instruction at the state's ski areas."

Shortly before the law's enactment, when the state did not require certification of ski instructors, a woman moved to the state intending to find employment as a ski instructor. The woman had been a ski instructor in another state for many years. But since her move, even though ski resorts in the state have found her to be highly qualified, no resort will offer her a contract for employment as a ski instructor because she has not received the required state certification.

As applied to the woman, does the state certification requirement constitute a violation of the contracts clause?

- A. No, because her ability to contract for employment with the state is not being impaired.
- B. No, because she has no existing contract that is being impaired.
- C. Yes, because as applied to an otherwise qualified ski instructor, the requirement is not rationally related to a legitimate government interest.
- D. Yes, because the requirement substantially impairs her ability to contract for employment in the absence of an important government objective.

Explanation:

The **contracts clause** restricts **state laws**—not court decisions or federal legislation—that substantially **impair *existing* contracts**. Therefore, this clause does **not apply** to ***future* contracts**.

Here, the state law interferes with the woman's ability to obtain an employment contract as a ski instructor. But since she has not been hired by a ski resort, the law does not impair any *existing* contract. Therefore, the state certification requirement does not violate the contracts clause **as applied** to the woman.

(Choice A) The contracts clause applies to private contracts (ie, agreements with non-government parties) *and* public contracts (ie, agreements with government entities). But the woman's ability to contract for employment with the state is irrelevant since this clause only protects existing contracts.

(Choices C & D) The contracts clause would only apply if the woman—qualified or not—had an existing contract. And had one existed, a substantial impairment of that contract would only be upheld if it was reasonable and narrowly tailored (not just rationally related) to an important and legitimate government interest (here, promoting uniformity in ski-instruction methods in the state).

Educational objective:

The contracts clause restricts state laws that substantially impair existing (not future) contracts.

References

- U.S. Const. art. I, § 10 (contracts clause).
- Gen. Motors Corp. v. Romein, 503 U.S. 181,186 (1992) (explaining that the contracts clause only applies when a state law substantially impairs an existing contractual relationship).

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Contracts clause analysis

