

Office of Legislative Legal Services
Colorado General Assembly



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MEMORANDUM

To: Interested Persons
From: Office of Legislative Legal Services
Date: October 17, 2024
Subject: Bill Titles - Single Subject and Original Purpose Requirements¹

This memorandum is intended to provide guidance regarding the single subject and original purpose requirements for bills under the Colorado Constitution. This memorandum discusses the following topics:

- I. The single subject and original purpose requirements for bills and bill titles;
- II. Factors that the Colorado General Assembly should consider when there is a question about whether an amendment to a bill fits within the single subject of the bill as expressed in the bill title; and
- III. Title opinions.

Single Subject and Original Purpose Requirements

1. Constitutional Requirements for Bill Titles

Article V, sections 17 and 21 of the Colorado Constitution provide the original purpose and single subject requirements for legislation as follows:

¹ This legal memorandum results from a request made to the [Office of Legislative Legal Services](#) (OLLS), a staff agency of the General Assembly. OLLS legal memoranda do not represent an official legal position of the General Assembly or the State of Colorado and do not bind the members of the General Assembly. They are intended for use in the legislative process and as information to assist the members in the performance of their legislative duties.

Section 17. No law passed but by bill - amendments. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

Section 21. Bill to contain but one subject - expressed in title. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

Article V, sections 17 and 21 are constitutional rules of legislative procedure. The "original purpose" of a bill described in article V, section 17 and the "subject" of a bill described in article V, section 21 are similar concepts. An amendment that alters the original purpose of a bill may cause the bill to embrace two subjects.

These sections of the Colorado Constitution mandate that each bill contains only one subject and that the single subject is clearly expressed in the bill title. In addition, these constitutional provisions appear to place fairly strict limits on the types of extraneous amendments that may be added as a bill moves through the legislative process. It is generally agreed that the purposes of these constitutional provisions are: (1) To focus debate on pending legislative measures; (2) to avoid "log-rolling" (the joining together of unrelated measures to gain votes for passage of a measure); and (3) to provide helpful public notice of the contents of a bill. The importance of these rules is illustrated by the constitutional requirement in article V, section 21 that failure to comply will invalidate any portion of a bill that is not expressed in the bill title.

Pursuant to these mandates, the Office of Legislative Legal Services (OLLS) has adopted a general policy of composing bill titles in a manner that states the single subject at the beginning of the bill title, immediately following the word "Concerning." A title may also include a "trailer," which is additional information describing the contents of the bill. To help identify clearly a bill's single subject, a comma is placed at the end of the subject if the title includes a trailer. While trailers must be "germane," or related, to the single subject, the words of the trailer generally are not part of the statement of the single subject. Another common practice is to avoid the words "and" and "or" in stating the single subject because these words connote more than one subject.

The OLLS attempts to follow these practices as practicable. Adherence to these practices helps legislators and the public in applying article V, sections 17 and 21, and the practices have become generally accepted over a period of many years.

2. "Tight" Titles

Close adherence to the Colorado legislative custom and usage relating to composition and strict construction of bill titles has contributed to the time-honored practice of drafting "tight" titles. A "tight" title narrowly expresses the single subject and purpose of a bill. Bill sponsors request tight titles anticipating that amendments that do not "fit" within the narrow statement of the bill's single subject will be deemed out of order during the legislative process. Of course, the tight titles themselves must comply with the mandates of article V, sections 17 and 21.

3. Application of Article V, Sections 17 and 21 in the Legislative Process and in the Courts

The OLLS has observed that the requirements of article V, sections 17 and 21, and the attendant legislative custom and usage, are more often strictly applied in the legislative process than in judicial review of an act. The General Assembly applies the constitutional provisions as rules of legislative procedure when reviewing pending bills and amendments.

The courts apply article V, sections 17 and 21 in a different context than the General Assembly. The courts consider these provisions in legal proceedings after the presumption of constitutionality has attached to the enacted law in question. Due to this presumption, courts are more lenient in applying the requirements of these sections. Only in the most extreme case will an enacted law be ruled unconstitutional by a court on this basis.

4. Consequences of Departure from the Mandates of Article V, Sections 17 and 21 and Legislative Custom and Usage

If the constitutional mandates regarding bill subjects in titles and the legislative custom and usage arising from these mandates are not observed in the legislative process, the consequences include:

- Loss of predictability in the consideration of bills;
- Frustration of the purposes of the constitutional mandates, such as focusing debate, avoiding log-rolling, and providing adequate public notice of the contents of a bill;
- Deprivation of a legislator's ability to address issues in a limited context through the use of a "tight" title;
- Potential increase in litigation over bills already passed, with the attendant uncertainty of application of laws; and
- Erosion of the public's confidence in the legislative process.

Departure from the rules will not necessarily invalidate a bill in every case. However, in view of the consequences outlined above, the OLLS recommends compliance with the rules and with the practices that encourage compliance with those rules. These practices have proven themselves over the long term and are rooted in the integrity of the legislative process.

Determining Whether Amendments Fit Within Bill Titles

To determine whether an amendment fits within a bill title, the following questions should be addressed:

1. Does the amendment fit within the single subject of the bill as expressed in the bill title?

Under the Colorado Constitution, the General Assembly may not pass a bill (other than a general appropriation bill) that contains more than a single subject, and the single subject of a bill must be expressed in the bill's title.² If this provision of the Colorado Constitution is violated in an act, then the portions of the act that are not within the title are void.³ However, the Colorado Supreme Court has stated that this section of the Colorado Constitution should be liberally and reasonably interpreted so as to avert the evils against which it is aimed, while at the same time not unnecessarily obstructing legislation.⁴

In determining whether an amendment fits within the single subject expressed in the title of the bill, the following questions should be considered:

1.1. Is the amendment "germane" to the subject matter of the bill?

The Colorado Supreme Court has stated that whether an amendment fits within the title of a bill depends on whether the amendment is "germane" to the subject expressed in the title of the bill.⁵ The Court has further observed that in this context, "germane" means "closely allied," "appropriate," or "relevant."⁶ The Court has stated that, if the matters contained in a bill are "necessarily or properly connected to each other," rather than being

² Colo. Const. art. V, § 21.

³ *People ex rel. Seeley v. Hall*, 8 Colo. 485, 9 P.34 (1885).

⁴ *In re Breene*, 14 Colo. 401, 24 P.3 (1890).

⁵ *Bd. of Comm'rs v. Bd. of County Comm'rs*, 32 Colo. 310, 76 P.368 (1904).

⁶ *Roark v. People*, 79 Colo. 181, 244 P.909 (1926); *Dahlin v. City & County of Denver*,

"disconnected or incongruous," then the provisions of article V, section 21 of the Colorado Constitution are not violated.⁷

1.2. May the title of the bill be modified to accommodate the amendment?

The subject of a bill, as expressed in the title, may be narrowed by amendment. If a bill's subject has been narrowed during the legislative process, then the practice and understanding of the General Assembly has been that the bill's subject may subsequently be broadened by amendment as long as the amendment does not broaden the subject beyond the subject of the bill as introduced or change the original purpose of the bill.

The original subject matter of a bill, as expressed in the title of the bill, may not be broadened, although the title may be amended to cover the original purpose of the bill as extended by amendments.⁸ This may mean that, while the subject of the bill expressed in the title may not be broadened, the trailer to the title, if any, may be modified when the bill is amended. In view of the constitutional implications that may arise if the single subject or original purpose of a bill is changed, the safest course of action is to avoid broadening the single subject of a bill expressed in the title, while making changes to the trailer as necessary to reflect changes made to the bill.

2. Would the amendment change the original purpose of the bill as it was introduced in the General Assembly?

The Colorado Constitution prohibits any amendment that changes the original purpose of a bill.⁹ Courts have found that this provision does not prohibit an amendment that extends the provisions of the bill without changing the bill's original purpose.¹⁰ Further, an amendment to a bill does not violate the original purpose requirement if the amendment is a change in the means of accomplishing the bill's original purpose.¹¹

3. Are the constitutional standards for amendments applied strictly?

The General Assembly has normally applied the constitutional standards for amendments in a strict fashion, while courts, when making similar determinations regarding laws that have already been enacted, have shown

⁷ *In re House Bill No. 1353*, 738 P.2d 371 (Colo. 1987).

⁸ *In re Amendments of Legislative Bills*, 19 Colo. 356, 35 P.917 (1894).

⁹ Colo. Const. art. V, § 17.

¹⁰ *In re Amendments of Legislative Bills*, 19 Colo. 356, 35 P.917 (1894).

¹¹ *Parrish v. Lamm*, 758 P.2d 1356 (Colo. 1988).

deference to the judgment of the General Assembly. The presumption is that enacted laws are constitutional, and a person who challenges the constitutionality of a statute in court must prove the unconstitutionality beyond a reasonable doubt.¹² For this reason, the final outcome that a court reaches regarding an amendment should be considered within the appropriate context of the decision and not be applied directly to the legislative process.

Examples of Title Questions:

Example 1: The bill title is "Concerning fruit.", and the bill as introduced deals with apples and pears. The amendment would add a provision about oranges. To determine whether the amendment fits within the title of the bill, it is necessary to determine whether oranges are germane to the subject of fruit and whether this amendment would change the original purpose of the bill. As oranges are a type of fruit, this amendment apparently is germane to the subject of the bill as expressed in the title. Oranges are closely allied with and relevant to the subject of fruit. Further, the addition of oranges appears to extend the provisions of the bill without changing the original purpose of the bill. **Result:** The amendment fits within the title of the bill.

Example 2: The bill title is "Concerning apples.", and the bill as introduced deals with only apples. The amendment would add a provision about oranges. In this case, the question is whether oranges are germane to the subject "apples." Oranges do not appear to be relevant to or closely allied with apples. The original purpose of the bill regards the more narrow subject "apples," and the addition of oranges in the bill modifies this original purpose, rather than simply extending the provisions of the bill or changing the means of accomplishing the original purpose. **Result:** The amendment does not fit within the title of the bill.

Example 3: The bill title is "Concerning fruit, and, in connection therewith, providing for apples and peaches.", and the bill as introduced deals with only apples and peaches. The single subject expressed in the title is "Concerning fruit," while the remainder of the title is the trailer. The amendment would add a provision about oranges. Oranges appear to be germane to the bill subject because oranges are closely allied with and relevant to the subject of fruit. However, if the amendment is adopted, the original title may no longer accurately describe the subject matter of the bill unless the trailer to the title is also amended. **Result:** The amendment fits within the title of the bill. The trailer to the title may be modified to reflect the amendment, such as

¹² *People v. Rowerdink*, 756 P.2d 986 (Colo. 1988).

amending the trailer to read "and, in connection therewith, providing for apples, peaches, and oranges.", or the trailer may be deleted.

Title Opinions

During the legislative session, a legislator may ask an OLLS staff member for an opinion concerning a bill title and whether an amendment fits within the title or whether the title may be amended. This request may place OLLS staff in an awkward situation that may be inappropriate for nonpartisan staff. An OLLS staff member will bring any potential title issues to the attention of their team leader as soon as the issues arise.

The OLLS applies the following guidelines concerning the issuance of title opinions:

1. An OLLS staff member will consider title issues carefully when drafting bills and amendments and advise a legislator when the legislator requests an amendment that may not fit within the title of a bill.
2. Once a bill or amendment is drafted, the OLLS staff will handle requests for title opinions as follows:
 - a. An OLLS staff member may verbally provide the legislator with an answer to a title question, but the staff member will make it clear to the legislator that **the opinion is advisory only and is not binding on a committee chair, the chair of the committee of the whole, the Speaker of the House of Representatives, or the President of the Senate.**
 - b. An OLLS staff member will not put a title opinion in writing.