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NO. SCAP-26-540

IN THE SUPREME COURT OF THE STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HAWAII,

Plaintiff-Appellant-Cross-
Appellee-Petitioner,

v.

STATE OF HAWAII,

Defendant-Appellee-Cross-
Appellant-Respondent.

ORIGINAL PROCEEDING
CIVIL NO. 1CCV-25-1456 (JJK)

CIRCUIT COURT OF THE FIRST
CIRCUIT, STATE OF HAWAII

The Honorable Jordon J. Kimura, Circuit
Court of the First Circuit, State of
Hawaii

APPELLATE PROCEEDING
NO. CAAP-19-000372

INTERMEDIATE COURT OF
APPEALS, STATE OF HAWAII

APPLICATION FOR TRANSFER

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Pursuant to Hawai‘i Revised Statutes (HRS) § 602-58 and Hawai‘i Rules of Appellate Procedure 40.2, Petitioner League of Women Voters of Hawaii (League) respectfully petitions for transfer from the Intermediate Court of Appeals. This case raises novel questions of fundamental public importance concerning the minimum constitutional procedure required for enacting laws in Hawai‘i. Specifically, we ask this Court to apply the protections afforded by the Hawai‘i Constitution’s subject-in-title requirement¹ and bill introduction deadline.²

The circuit court held that a bill titled “Relating to Government” with no substance as of the bill introduction deadline satisfies both requirements. Cir. Dkt. 69 at 4-5, 7-8.³ But that conclusion directly contradicts each provision’s intent “to ensure public participation in the legislative process” through meaningful notice. *League of Women Voters v. State* [LWV], 150 Hawai‘i 182, 202, 499 P.3d 382, 402 (2021). A bill title that sweeps across a whole universe of subjects and that has yet to be drafted – an empty placeholder – provides the public with zero notice. Our constitution demands more.

The framers established a government of laws by elected representatives *after robust public participation*. The constitutional restrictions on legislation ensure an orderly process that the public may follow and understand. Notice of laws should not be so vague as to conceal its purpose nor should laws spring into existence by ambush after the deadline that protects the public’s right to review all bills.

In *LWV*, this Court explained the interdependent system of meaningful constitutional limitations on the legislative process. *Id.* at 202-03, 499 P.3d at 402-03. The decision elaborated on the standard for the three-readings requirement. This case

¹ “Each law shall embrace but one subject, which shall be expressed in its title.” Haw. Const. art. III, § 14.

² “By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced.” Haw. Const. art. III, § 12.

³ “Cir. Dkt.” refers to the docket entry in the circuit court. “ICA Dkt.” refers to the docket entry in the Intermediate Court of Appeals. Pinpoint citations refer to the page of the PDF.

concerns two other elements in the framers’ web of protections for the public – the subject-in-title and bill-introduction requirements. The people of Hawai‘i deserve a clear explanation of the standards for those constitutional mandates. The League respectfully requests that this Court grant its application for transfer to address the fundamental and novel issues of public importance raised in this appeal.

I. PRIOR PROCEEDINGS

On September 2, 2025, the League filed the Complaint seeking a declaration that the process of adopting Act 290 (2025) violated the Hawai‘i Constitution and that Act 290 therefore is void as unconstitutional. Cir. Dkt. 1. On October 7, the League moved for summary judgment on all claims. Cir. Dkt. 13, 41, 43. The State also moved for summary judgment, arguing that Act 290 is constitutional and that the bill introduction deadline issue was not justiciable. Cir. Dkt. 17, 39, 45.

On February 4, 2026, the circuit court held an initial hearing on the motions. Cir. Dkt. 51. The court ordered supplemental briefing on issues of germaneness, justiciability, and reserved questions. Cir. Dkt. 47. The League (Cir. Dkt. 53, 57) and the State (Cir. Dkt. 55, 59) submitted the requested additional briefing. On March 27, the circuit court held a further hearing on the motions. Cir. Dkt. 61.

On April 1, the circuit court reserved questions to this Court, pursuant to HRAP 15. Cir. Dkt. 63. On May 22, this Court returned the reserved questions to the circuit court. Cir. Dkt. 67; *see also* No. SCRQ-26-336.

On July 16, the circuit court held the disputes justiciable, but, on the merits, granted the State’s motion and denied the League’s motion, holding that the process for adopting Act 290 complied with constitutional mandates. Cir. Dkt. 69, *as amended* July 20, Cir. Dkt. 71. Final judgment entered July 27. Cir. Dkt. 75. The League appealed on July 30. Cir. Dkt. 77. The State cross-appealed on August 11. ICA Dkt. 14.

II. STATEMENT OF FACTS

A. The Legislature Adopts S.B. 935 as Act 290 (2025)

For the 2025 legislative session, the Legislature set the deadline for bill introduction as January 23, 2025. Cir. Dkt. 71 at 6. On January 17, 2025, the Senate

introduced S.B. 935. *Id.*; Cir. Dkt. 13 at 24; Cir. Dkt. 17 at 45. The title of S.B. 935 was “Relating to Government.” Cir. Dkt. 71 at 4; Cir. Dkt. 13 at 24; Cir. Dkt. 17 at 45. As introduced on January 17, S.B. 935 read in its entirety:

A Bill for an Act Relating to Government

Be it enacted by the Legislature of the State of Hawaii:

Section 1. The purpose of this Act is to effectuate the title of this Act.

Section 2. The Hawaii Revised Statutes is amended to conform to the purpose of this Act.

Section 3. This Act shall take effect upon its approval.

Cir. Dkt. 13 at 24; Cir. Dkt. 17 at 45. A month later, on February 18, the Senate Committee on Ways and Means recommended amending S.B. 935 for the first time, including amendments to government employees’ pension benefits. Cir. Dkt. 13 at 30-31; Cir. Dkt. 17 at 51. The amended bill was 35 pages. Cir. Dkt. 17 at 53-87.

On July 3, Governor Green signed S.B. 935 into law as Act 290 (2025). Cir. Dkt. 13 at 37-53; Cir. Dkt. 17 at 90-106.

B. The History and Purpose of the Subject-in-Title Requirement

The subject-in-title provision has existed in the Hawai‘i Constitution since 1852. Haw. Const. art. 102 (Kingdom 1852). In 1887, the Kingdom Supreme Court relied on Cooley on Constitutional Limitations to explain the title provision’s purpose: “[F]irst, to prevent hodge-podge or log-rolling legislation; second, to prevent surprise or fraud upon the Legislature by means of provisions in bills of which the titles give no intimation; and third, to apprise the people of proposed matters of legislation.” *Hyman Bros. v. Kapena*, 7 Haw. 76, 77-78 (Kingdom 1887) (voiding legislation for violating the title requirement); *accord LWW*, 150 Hawai‘i 201, 499 P.3d 401 (“directed at providing notice to legislators and the public”); *Taomae v. Lingle*, 108 Hawai‘i 245, 252, 118 P.3d 1188, 1195 (2005) (“clear notice concerning the nature and context of the legislation”); *Schwab v. Ariyoshi*, 58 Haw. 25, 30-31, 564 P.2d 135, 139 (1977); 1 Thomas M. Cooley, A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union [Cooley], at 296 (Walter Carrington ed., 8th ed. 1927); 1A Shambie Singer, Sutherland on Statutes and Statutory Construction [Sutherland] § 17:2 at 7-8 (8th ed. 2025) (“reasonable notice about a statute’s purview”).

A title is unconstitutional if it fails to place a reasonable person on notice of the proposed legislation. *Schwab*, 58 Haw. at 34, 564 P.2d at 141 (“fairly indicates to the ordinary mind the general subject of the act” and “not calculated to mislead”); *accord In re Goddard*, 35 Haw. 203, 208 (Terr. 1939) (“reasonably apprise the public of the interests that are or may be affected by the statute.”); *Territory v. Dondero*, 21 Haw. 19, 25 (Terr. 1912) (“Does the title tend to mislead or deceive the people or the municipal board as to the purpose or effect of the legislation, or to conceal or obscure the same?”); *Territory v. Furubayashi*, 20 Haw. 559, 561 (Terr. 1911); 1A Sutherland § 17:2 at 8-11 (“A law need only put anyone interested in or affected by its subject matter upon inquiry.”); 1 Cooley at 297-300 (“the title must be such as to reasonably apprise the public of the interests that are or may be affected by the statute.”); 26 Am. & Eng. Encyclopedia of Law at 580-82 (“But the title must at least give a reasonable intimation of the subject dealt with, and the courts do not hesitate to declare void an act whose title is misleading in that it does not express the real subject of the act so as to put the legislature and those persons who are to be affected thereby on inquiry into its contents.”).

It is well recognized that *broad* legislative titles risk violating constitutional subject-in-title mandates.

[T]he generality of the title may prove fatal to an act: (1) the title may be so general as to fail to express any object or (2) it may be so general as to render the title deceptive because of the lack of sufficient provisions in the body of the act to accord with the general title.

Carl H. Manson, *The Drafting of Statute Titles*, 10 Ind. L.J. 155, 161-62 (1934); *accord Jensen v. Turner*, 40 Haw. 604, 608 (Terr. 1954) (“yet a sweeping change such as contended for, which would make radical changes in both the primary and election laws, should be included in the title to give proper notice to legislators and to the electorate at large”); *cf.* Legislative Reference Bureau, *Hawai‘i Legislative Drafting Manual*, at 7 (11th ed. 2022) (“The drafter should take care, however, to avoid a title that is so broad or general that it fails to fairly express the one subject of the bill.”).

“Relating to Government” has been used by the Legislature for laws ranging from Native Hawaiian rights, elections, criminal obstruction, skateboard parks, Honolulu rail, procurement, environmental initiatives, to economic development. Cir. Dkt. 41 at 15-16 & n.11. “Relating to Government” has never been used by the Legislature to describe changes to government employees’ pensions. Dkt. 41 at 14-15 n.10. And, despite the State citing several cases from other jurisdictions, the League is not aware of any case that upheld a bill title as broad as “Relating to Government.”

C. The History and Purpose of the Bill Introduction Deadline

Before the 1978 Constitutional Convention, the Legislative Reference Bureau (LRB) provided delegates with information about limiting the introduction of bills. LRB, Hawaii Constitutional Convention Studies 1978 Article III: The Legislature (Volume I), at 65-67 (1978). The LRB provided a survey of all states and U.S. territories regarding bill introduction deadlines and exceptions. *Id.* at 125-26. The LRB study noted that Hawai‘i ranked high in the number of bills introduced each session. *Id.* at 66.

The 1978 delegates then created the deadline to limit the introduction of bills “not necessarily in number but in time” and thus “further aid the public in its attempts to actively follow and participate in the legislative process.” 2 Proceedings of the Constitutional Convention of Hawai‘i of 1978 at 278 (remarks of Legislature Committee Chair Nishimoto). The deadline provided a timeframe to ensure that the public could “review every bill that will ever be introduced in that legislative session.” *LWV*, 150 Hawai‘i at 202, 499 P.3d at 402 (quoting with added emphasis Stand. Comm. Rep. No. 46 in 1 Proceedings of the Constitutional Convention of Hawai‘i of 1978 at 603).

Even though the Legislature already had rules that set a bill introduction deadline, the 1978 delegates wanted to provide constitutional protection for the public. As the framers explained in connection with the separately added public hearing requirement: “While your Committee is informed that such is the current practice of both houses of the state legislature by their respective rules, it finds that the public’s right to know what their legislators are deciding is deserving of constitutional

protection.”⁴ Stand. Comm. Rep. No. 46 at 603; 2 Proceedings of the Constitutional Convention of Hawai‘i of 1978 at 278 (remarks of Legislature Committee Chair Nishimoto) (“It was felt that this right should be constitutionally protected rather than left to the discretion of the house or the senate.”).

Originally linked to the mid-session recess, the provision was amended in 1984 to allow the Legislature to set an earlier deadline for bill introduction and focus on prefiling bills before the session started. Stand. Comm. Rep. No. 417-84, in 1984 House Journal at 1031. “This allows the public to familiarize itself with legislation, prepare testimony, and consult with legislators, before the legislators’ time is taken up by committee meetings. It allows the public more time to research the issues and prepare more detailed and thoughtful testimony.” *Id.* The amendment was expected “to allow for a more deliberative, open, and rational legislative process. The result should be better legislation.” *Id.* at 1032; *accord* LWV, 150 Hawai‘i at 202-03, 499 P.3d at 402-03.

And there is a long constitutional tradition to bill introduction deadlines. These constitutional requirements “prevent hasty and improvident legislation, particularly by affording an opportunity for a careful consideration of proposed legislation, and to give the people an opportunity to be heard upon any proposed law.” Earl T. Crawford, *The Construction of Statutes* § 37 at 59-60 (1940); *accord* 1 Cooley at 286-87. The measure for the constitutionality of bill amendments made after the introduction deadline is germaneness:

If the constitution prohibits the introduction of bills after a certain period in a session, the regulation cannot be evaded by substituting new measures by amendment of pending bills. But whatever is within the

⁴ The framers well understood the import of enshrining a right in the constitution, instead of leaving it to legislative rules. Just a year prior to the Constitutional Convention, this Court had held that legislative rules did not create enforceable obligations. *Schwab*, 58 Haw. at 39, 564 P.2d at 144; *accord*, e.g., 2 Proceedings of the Constitutional Convention of Hawai‘i of 1978 at 317 (remarks of Delegate Campbell) (“Rules, although they do exist in each house, may be changed. Rules may not be changed if they are established in a Constitution. Furthermore, the rules as they exist do not have any sanctions or penalties for violations and therefore can be disobeyed without any sanctions being imposed.”).

proper scope of amendment is admissible after that period, and this embraces whatever is germane to the purpose which the bill had in view.

J.G. Sutherland, *Statutes and Statutory Construction* § 26 at 29-30 (1891); *accord* 1 Norman J. Singer & J.D. Shambie Singer, *Sutherland on Statutes and Statutory Construction* § 9:5 at 535 (7th ed. 2010) (current edition); 82 C.J.S. *Statutes* § 28 at 48-49 (2009) (“nor may evasion be accomplished by substituting a measure in which the general purpose is not the same or which is in substance a new bill”); 1 *Cooley* at 286-87 & n.2 (“A practice has sprung up of evading these constitutional provisions by introducing a new bill after the time has expired when it may constitutionally be done, as an amendment to some pending bill, the whole of which, except the enacting clause, is struck out to make way for it. . . . This trick is so transparent, and so clearly in violation of the constitution”); *Crawford* § 37 at 59-60 (“If the measure has been introduced within the designated time limit, either an amendment, or substituted bill, may be introduced notwithstanding the fact that the time limit has expired, provided they fall within the general purpose of the original bill, and do not constitute an obvious attempt to evade the constitutional requirement.”).

III. POINTS OF ERROR

1. Whether pension legislation broadly titled as “Relating to Government” reasonably apprises the public of the interests that are or may be affected by the statute and otherwise complies with the subject-in-title requirement – article III, section 14 – of the Hawai‘i Constitution.

Error in the Record: Cir. Dkt. 75 at 3-5 (amended order).

Preservation of Error: Cir. Dkt. 13 at 9-12 (League’s motion for summary judgment); Cir. Dkt. 41 at 8-21 (League’s opposition to State’s motion for summary judgment); Cir. Dkt. 43 at 2-5 (League’s reply memorandum in support of its motion for summary judgment).

2. Whether legislation with no substantive content on the bill introduction deadline and amended one month later complies with article III, section 12 of the Hawai‘i Constitution.⁵

Error in the Record: Cir. Dkt. 75 at 5-8 (amended order).

Preservation of Error: Cir. Dkt. 13 at 13-14 (League’s motion for summary judgment); Cir. Dkt. 41 at 21-22, 25-26 (League’s opposition to State’s motion for summary judgment); Cir. Dkt. 43 at 5-9 (League’s reply memorandum in support of its motion for summary judgment); Cir. Dkt. 53 at 10-17, 19-20 (League’s supplemental memorandum); Cir. Dkt. 57 at 4-11, 13 (League’s response to State’s supplemental memorandum).

IV. THIS CASE MEETS THE STATUTORY QUALIFICATIONS FOR TRANSFER

The interpretation of constitutional limits on the legislative process in Hawai‘i is a question of fundamental public importance. The legislative process lies at the core of our democracy. The people of Hawai‘i must know their rights if they are expected to participate meaningfully in that process.

The circuit court’s decision, however, provides confused guidance. Regarding the subject-in-title mandate, the court purported to recognize that titles may violate the requirement by being too broad. Cir. Dkt. 71 at 5 n.3. But the decision held that government employees’ pension benefits are related to government. *Id.* at 4 (“While the title is broad, those enacted provisions relate to government.”). The circuit court considered it backward. The issue is not whether the bill provisions relate to a single general topic – that is the *single subject* analysis.⁶ The issue instead is whether “Relating

⁵ The State’s cross-appeal challenges the circuit court’s rejection of the argument that the bill introduction deadline is a non-justiciable political question. The League addressed that issue in its briefing. Cir. Dkt. 41 at 22-25; Cir. Dkt. 43 at 6-10; Cir. Dkt. 53 at 17-19; Cir. Dkt. 57 at 11-13.

⁶ Recognizing “Government” – as the “one subject . . . expressed in its title” – also poses serious concerns under the single subject mandate. Cir. Dkt. 41 at 15-17 (referencing 1999 Haw. Sess. Laws Act 160, a blatant example of logrolling under the title “Relating to Government”).

to Government” put interested persons (*e.g.*, government employees) on inquiry notice that the bill concerned pensions. *E.g.*, *Schwab*, 58 Haw. at 34, 564 P.2d at 141. The circuit court’s analysis ultimately rendered bill titles superfluous because every law is related to government by either government operation, government action, or government regulation. *E.g.*, Cir. Dkt. 41 at 13-17; Cir. Dkt. 43 at 4. It is a fundamental issue of public importance whether bill titles can be too broad to provide meaningful notice to the public—or whether the Legislature can simply title every bill as “Relating to Government”.

Regarding the bill introduction deadline, the circuit court concluded that it is an enforceable restriction on the legislative process. Cir. Dkt. 71 at 5, 8. But, after rejecting standards offered by the League, the court’s decision did not adopt any standard. *Id.* at 8. Is a bill simply a number and title for purposes of the bill introduction deadline? Must subsequent bill amendments be germane to the bill as introduced before the deadline? If not, what is the enforceable standard for the bill introduction deadline? The circuit court did not answer those issues, but simply concluded that the League did not meet its burden of proof. *Id.* at 8. The public should know what the bill introduction deadline requires. If the right to “review every bill that will ever be introduced” means that the public has a worthless opportunity to look at thousands of documents that are simply numbers and titles until amended, that should be stated clearly.

In light of the impact on public participation in the legislative process, the League seeks clarity from this Court. These specific issues have not been previously addressed by this Court. This case thus meets the statutory criteria for transfer.

CONCLUSION

The League respectfully requests that this Court grant its application for transfer to address the fundamental and novel issues of public importance raised in this appeal.

DATED: Honolulu, Hawai‘i, October 5, 2026

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