

ROBERT BRIAN BLACK 7659  
BENJAMIN M. CREPS 9959  
DÉVI DIANA STONE CHUNG 12173  
Public First Law Center  
700 Bishop Street, Suite 1701  
Honolulu, Hawai`i 96813  
brian@publicfirstlaw.org  
ben@publicfirstlaw.org  
fellow@publicfirstlaw.org  
Telephone: (808) 531-4000

**Electronically Filed**  
**FIRST CIRCUIT**  
**1CCV-25-0001456**  
**30-JAN-2026**  
**03:32 PM**  
**Dkt. 43 MER**

*Attorneys for Plaintiff League of Women Voters of Hawaii*

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF  
HAWAII,

Plaintiff,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 1CCV-25-1456 JJK  
(Declaratory Judgment)

REPLY MEMORANDUM IN SUPPORT  
OF PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

HEARING MOTION

JUDGE: Honorable Jordon J. Kimura

TRIAL DATE: NONE

HEARING DATE: February 4, 2026

HEARING TIME: 10:30 a.m.

**REPLY MEMORANDUM IN SUPPORT OF PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

Despite multiple opportunities, Defendant State of Hawai`i (State) has failed to identify a single jurisdiction that endorsed a constitutional "subject" as meaningless as "Government" or any jurisdiction that allows bills without any substance to satisfy a bill introduction deadline. The State asks this Court to hold that the Hawai`i Constitution permits all bills to be labeled "Relating to Government" and have no substance on the bill introduction deadline – reducing article III, sections 12 and 14 to empty formalisms. That interpretation is absurd and contrary to all authority.

Plaintiff League of Women Voters of Hawaii (League) respectfully requests that this Court grant summary judgment and declare that the process for enacting Act 290 violated article III, sections 12 and 14 of the Hawai'i Constitution and that Act 290 thus is void.

### I. "GOVERNMENT" IS NOT A CONSTITUTIONAL TITLE.

The standard for titles under article III, section 14 is well settled. Dkt. 13 at 10-12; Dkt. 41 at 8-10.<sup>1</sup> A title must be a subject that "fairly indicates to the ordinary mind the general subject of the act . . . and is not calculated to mislead." *Schwab v. Ariyoshi*, 58 Haw. 25, 34, 564 P.2d 135, 141 (1977); accord, e.g., *In re Goddard*, 35 Haw. 203, 208 (Terr. 1939) ("[T]he title must be such as to reasonably apprise the public of the interests that are or may be affected by the statute."). A broad title is sufficient when it puts a reasonable person on inquiry notice that the person's interests may be affected. E.g., *Gallas v. Sanchez*, 48 Haw. 370, 376, 405 P.2d 772, 776 (1965); see Dkt. 41 at 11-14. But the title cannot be so broad as to obscure the actual subject of the legislation. E.g., *Jensen v. Turner*, 40 Haw. 604, 608 (Terr. 1954) ("It is satisfied if provisions of the Act are naturally connected and expressed in a general way in the title -- nor need all the provisions be referred to in the title -- 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."); see Dkt. 41 at 18-19. League is not aware of any jurisdiction that has held – or treatise that has concluded – that "Government" is a constitutionally sufficient title. Dkt. 41 at 11, 14, 16, 18-21 (collecting cases and treatises rejecting overly broad titles).

The State continues to focus on cases concerning *restrictive* titles, which have separate constitutional concerns.<sup>2</sup> Dkt. 41 at 10-11. The State's newly cited case (*Kua*) is

---

<sup>1</sup> Pinpoint citations to "Dkt." entries reference the page of the PDF.

<sup>2</sup> The State incorrectly describes the title issue in *Schwab*. Dkt. 39 at 11. The title in *Schwab* was not restricted to salaries for collective bargaining agreements. See 58 Haw. at 27, 924 P.2d at 137 ("Making Appropriations for Salaries and Other Adjustments, Including Cost Items of Collective Bargaining Agreements Covering Public Employees and Officers"). The dispute concerned whether the "including" clause restricted the scope of the more generally stated title "Salaries". *Id.* at 35, 924 P.2d at 141 ("We do not

no different. Dkt. 39 at 9-10. Quoting Sutherland, the Court explained: “If a restrictive title is chosen the act must be kept within it.” *Territory v. Kua*, 22 Haw. 307, 309 (Terr. 1914).<sup>3</sup> But that edition of Sutherland – consistent with other contemporary treatises and case law – also explained: “A title so general as practically to conceal the subject of the statute, or a false or delusive title, will be treated as not constitutionally framed, and the act held void.” 1 J.G. Sutherland, *Statutes and Statutory Construction* § 123 at 208 (2d ed. 1904).<sup>4</sup> And while it “need not index the details,” the title must “be so framed and worded as fairly to apprise the legislators, and the public in general, of the subject-matter of the legislation, so as reasonably to lead to an inquiry into the body of the bill.” *Id.* § 121 at 205. Generality simply was not the issue in *Kua*.

The State also discusses *Schnack*. That case illustrates the nature of inquiry notice. *See, e.g.*, Dkt. 41 at 13-14. The title was: “Providing for the Cost of Improvements in Improvement District Number Eighty -- Central Business Area Off-Street Parking, in the Congested Downtown Section of the City of Honolulu.” *Schnack v. City & County of Honolulu*, 41 Haw. 219, 221 (Terr. 1955). The dispute concerned whether the title needed to specify the precise methods detailed in the statute to provide for those costs – property assessments and liens. *Id.* at 222-23. “Providing for the Cost of Improvements” naturally leads a reasonable person to question how the City planned to provide for those costs. A person then can review the

---

consider that the title of Act 58 became narrow by the use of the term ‘including’”). The Court concluded that “Salaries” fairly indicated the general subject of the act and was not calculated to mislead. *Id.* at 34, 924 P.2d at 141.

<sup>3</sup> The title in *Kua* was “Relating to the Issuance of Licenses.” 22 Haw. at 308. The Court held that the subject of issuing licenses was not germane to the collection of delinquent property taxes from licensees – as also covered by the law. *Id.* at 313.

<sup>4</sup> The State notes that the League’s motion did not cite the 2025 edition of Sutherland. Dkt. 39 at 11 n.2. The League’s opposition to the State’s motion includes citations to the latest edition. Dkt. 41. Regardless, the latest edition of Sutherland is no different from prior editions in pointing out that: “The statement of the legislation’s subject simply cannot be so general as to be meaningless or deceptive.” 1A Shambie Singer, *Sutherland on Statutes and Statutory Construction* § 18:9 at 55 (8th ed. 2025). The critical point is whether the law “put anyone interested in or affected by its subject matter upon inquiry.” *Id.* § 17:2 at 8-11.

legislation for details. The title in *Schnack* specified whose interests would be affected – individuals with interests in Downtown Honolulu – and warned that costs would be involved. It “indicates the scope and purpose of the ordinance and is not intended to mislead the purposes or effect of the ordinance.” *Id.* at 225. That is the difference between inquiry notice (without requiring all the details) and – as here – no notice at all.

The State implies that “Government” is a narrow subject because it does not concern laws about private entities. Dkt. 39 at 13-14. First, it is hard to imagine – the State does not offer examples – a *law* about private entities that does not involve government. Laws necessarily concern government intervention in some form. Second, even if some minor subset of laws were excluded by “Government”, that title still does not provide any meaningful notice. The State claims that people with an interest in the Judiciary, government employment, and government retirement benefits would be on notice. But Act 290 (and its more limited focus on judicial retirement benefits) is not the only way that the State uses the title “Government.” Dkt. 41 at 15-16. “Government” has been used for wide-ranging laws including Native Hawaiian rights, elections, criminal obstruction, skateboard parks, Honolulu rail, procurement, environmental initiatives, and economic development. Titles must reflect the subject of the law. “Government” does not.

Lastly, the State alludes to other methods – not required by the Hawai`i Constitution – that allow members of the public to understand the scope of legislation, specifically bill descriptions on the Legislature’s website. Dkt. 39 at 13 n.3. Similar arguments were rejected in *League of Women Voters*. As the Court explained, such features only work if the public is constantly searching the website. *League of Women Voters v. State* [LWV], 150 Hawai`i 182, 205 n.36, 499 P.3d 382, 405 n.36 (2021) (“However, the RSS feed will only notify subscribers if there is new content available for the bill of interest.”). Illustrative, if a member of the public looked at the “bill description” for S.B. 935 when introduced – as the State suggests – it simply read: “Short form bill.” Dkt. 13 at 25 [Pl. Ex. 2]. That description provides no better inquiry notice than “Government” as to the interests affected by the proposed legislation.

In the end, the State argues that courts do not require details in a legislative title and will liberally construe titles to favor constitutionality. Those principles are not contested. As reflected in the overwhelming weight of authority, the generality of “Government” as a title-subject is too much for presumptions of constitutionality to bear. This is not semantics or wordsmithing; it is simply lack of fair notice. 1A Shambie Singer, *Sutherland on Statutes and Statutory Construction* § 18:3 at 38 (8th ed. 2025) (liberal interpretation of titles is to “preserve legitimate statutes *against over-nice distinctions*, while keeping legislation free of the abuses at which the constitutional provision is directed” (emphasis added)).

Act 290 is void for violation of article III, section 14 of the Hawai`i Constitution.

## II. A BILL WITHOUT SUBSTANCE IS NOT A BILL.

S.B. 935 was not a “bill” under any common understanding of that word. The State’s only argument on the merits of this issue is that a bill is anything with a title, enacting clause (*i.e.*, “Be it enacted by the legislature of the State of Hawai`i”), and number. Dkt. 39 at 23-24. That argument is all the more remarkable because the Hawai`i Supreme Court already rejected it.

In *LWV*, the State argued that a “bill” for purposes of article III, section 15 of the Hawai`i Constitution was simply the title and number. *E.g.*, *LWV*, 150 Hawai`i at 194, 499 P.3d at 394 (“The State argues that the process used to enact Act 84 complied with the plain language of section 15 because the bill number and title were read three times in each house on three separate days.”). The Court disagreed: “Every bill consists of a number, title, *and the substance of the bill* which is contained in its body and divided into sections.” *Id.* (emphasis added). The Hawai`i Supreme Court then explained how the substance of the bill must be reviewed for compliance with the constitutional mandate for three readings. *Id.* at 194-205, 499 P.3d at 394-405 (holding that readings must begin anew when the substance of the bill is no longer related to the original bill). If a “bill” were simply a title, enacting clause, and number as the State now argues (again), then any changes to the substance would be irrelevant – regardless whether germane or not – and the Hawai`i Supreme Court would have decided *LWV* differently.

The State argues, nevertheless, that the Court deferred to the Legislature because the Court cited a Legislative Reference Bureau website. Dkt. 39 at 18 (citing *LWV*, 150 Hawai`i at 194 n.17, 499 P.3d at 394 n.17). If the Court were deferring to the Legislature, it would simply have adopted the State's and *amicus curiae* Legislature's position that a bill is only a title and number. *LWV* rejected that interpretation.

Common understanding of a "bill" requires – as the Court held – substance. None of the constitutional mandates on the legislative process make sense unless a bill is interpreted as more than a title and number. *LWV*, 150 Hawai`i at 202-03, 499 P.3d at 402-03. "The constitutional framers designed the legislative process with interdependent requirements of mid-session recess, bill introduction deadline, and final printing in order to allow the public to identify bills of interest, familiarize themselves with a bill's contents during the mid-session recess, provide meaningful input, and monitor their progress through enactment." *Id.* at 203, 499 P.3d at 403.

The State argues that the Tennessee case cited by *LWV* is distinguishable. The Hawai`i Supreme Court described the case as holding a bill "invalid because on the first two readings, it contained no substance and consisted of only a title and number." *LWV*, 150 Hawai`i at 201 n.27, 499 P.3d at 401 n.27 (emphasis added). In the end, that bill as introduced had more substance in its title than S.B. 935. Compare *D.M.C. Corp. v. Shriver*, 461 S.W.2d 389, 390 (Tenn. 1970) (bill "to amend Tennessee Code Annotated, Section 39-2017 relating to lotteries and the penalty for engaging therein"), with Dkt. 13 at 24 [Pl. Ex. 2.] ("The Hawaii Revised Statutes is amended to conform to the purpose of this Act."). In the end, a "bill" must have sufficient content to assess compliance with all constitutional mandates. Without substance, S.B. 935 was not a bill in any common or constitutional understanding.

Turning to the State's political question arguments, the League addressed those issues in prior briefing. Dkt. 41 at 22-25. Article III, section 12 is more than setting a date. And it is well-established that constitutional bill introduction deadlines are enforceable by courts.

In some states, constitutional provisions limit the introduction of laws within a specified number of days after the legislature has convened, and

sometimes also provide that no bill, or bills of a certain character, usually appropriation bills, shall be introduced during the closing days of the session. These provisions are intended to 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. . . . *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.*

Inasmuch as a proper amendment or substitution does not amount to the introduction of a new bill, the period during which bills must be introduced does not apply. But, on the other hand, if the amendment or substitution is not germane or has no relation to the purpose of the bill as originally introduced, it must fall, for it is in substance a new measure.<sup>5</sup>

Earl T. Crawford, *The Construction of Statutes* § 37 at 59-60 (1940) (emphasis added) (footnotes omitted); *accord* 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” (footnotes omitted)); 1 Thomas Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* at 286-87 & n.2 (Walter Carrington ed., 8th ed. 1927) (“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”); 1 J.G. Sutherland, *Statutes and Statutory Construction* § 66 at 112 (2d ed. 1904) (“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.”); 1 Norman J. Singer & J.D. Shambie Singer, *Sutherland on Statutes and Statutory Construction* § 9:5 at 535 (7th ed. 2010) (“The constitutional provisions cannot be circumvented by the amendment of introduced bills and the substitution of entirely

---

<sup>5</sup> The State effectively conceded that the amendments to S.B. 935 were not germane to the bill *as introduced* by emphasizing that the first reading (without substance) did not count for purposes of the three reading requirement. *See* Dkt. 17 at 8 & n.2.

new and different subject matter.”)<sup>6</sup>; see also, e.g., *Nebraskans for Indep. Banking, Inc. v. Omaha Nat’l Bank*, 423 F. Supp. 519, 522-23 (D. Neb. 1976); *Atty. Gen. v. Detroit & S. Plank-Road Co.*, 56 N.W. 943, 943-44 (Mich. 1893).

The State argues that it complied with other constitutional requirements for S.B. 935 and that the League, specifically, had notice of other short form bills in prior legislative sessions. Compliance with some constitutional requirements does not excuse violating others. The standard is not substantial compliance because the various mandates rely and build on each other to ensure a legislative process as the framers intended. *LWV*, 150 Hawai`i at 203, 499 P.3d at 403. And the League’s diligence in continuously monitoring legislation for gut and replace tactics – contrary to the framers’ intent – does not excuse the State’s non-compliance. The League should not be required to fastidiously monitor bills of no apparent relevance to the League’s interests when introduced.<sup>7</sup> *Id.* at 202, 499 P.3d at 402 (“These interdependent constitutional restrictions, which are meant to ensure public participation in the legislative process, would all be rendered meaningless under the State’s interpretation of the three readings requirement.”). Moreover, the State’s failure to follow constitutional requirements does not waive the League’s right to petition government and speak up on legislation.

As pointed out in prior briefing, this case is not about incomplete drafts of legislation, an emergency, or deference to legislative flexibility and efficiency. Dkt. 41 at 24-25. The State argues that legislators will have less time to draft legislation when there is an early bill introduction deadline. Dkt. 39 at 21. But the Legislature has some discretion in selecting the deadline; the Legislature chose to have an early deadline. This case does not concern the timing of the deadline, only compliance with the deadline once selected by the Legislature. And the State complains that compliance

---

<sup>6</sup> The eighth edition of Sutherland is not a complete set. Volume 1 of the seventh edition has not been replaced.

<sup>7</sup> The State has not challenged the League’s standing. As such, the State’s Exhibits 13 and 14 regarding the League’s actions on bills unrelated to S.B. 935 are irrelevant and should be disregarded for purposes of summary judgment. See Dkt. 39 at 7 n.2 (citing *Wells Fargo Bank, N.A. v. Behrendt*, 142 Hawai`i 37, 44, 414 P.3d 89, 96 (2018)).

with the constitutional mandate could result in a reduction in the number of bills. *Id.* In part, reducing the high number of introduced bills was the framers' point. Dkt. 41 at 21-22.

Lastly, the State cites two new jurisdictions – Colorado and Wisconsin – for the principle that states cannot enforce constitutional mandates on legislative process without disrespecting the legislature. Dkt. 41 at 25 n.17 (addressing Arizona and Pennsylvania); *accord LWV*, 150 Hawai'i at 192, 499 P.3d at 392 (“This court has consistently rejected the argument that alleged violations of constitutional mandates concerning the legislative processes are nonjusticiable political questions.”). Contrary to the State's implication, the Colorado case rejects a political question challenge to review of a constitutional mandate on the legislative process. *Markwell v. Cooke*, 482 P.3d 422, 430 (Colo. 2021) (“As relevant here, the separation of powers doctrine requires no less and permits no more than to have us interpret the constitution and determine *whether* the legislature complied with it.”). The issue in that case was that, rather than simply declare unconstitutionality, the trial court purported to enjoin the legislature from taking certain actions. *Id.* (“[separation of powers] prohibits us from dictating to our coequal branch of government *how* to comply with the reading requirement moving forward.”). There is no similar such request here.

And as to Wisconsin, the cited case concerned a constitutional requirement that the “legislature shall meet at the seat of government at such time as shall be *provided by law*.” *League of Women Voters v. Evers*, 929 N.W.2d 209, 216 (Wis. 2019) (emphasis added). The challenge concerned whether an “extraordinary session” complied with the constitution. Because the constitution textually committed the issue to the legislative power to enact statutes and the schedule complied with the corresponding statute, the court concluded that the “extraordinary session comports with the constitution because it occurred as provided by law.” *Id.* at 223; *accord, e.g., Bd. of Educ. v. Waihee*, 70 Haw. 253, 264 n.4, 768 P.2d 1279, 1286 n.4 (1989) (“The phrase ‘as provided by law’ in the context of . . . state constitutional provisions [is a directive] to the legislature to enact implementing legislation. And the subject matter modified by the phrase may be dealt with by the Legislature as it deems appropriate.” (cleaned up and

citations omitted)). There is no similar textual commitment of compliance with the bill introduction deadline, here, to the Legislature; it only selects the date.<sup>8</sup> Dkt. 41 at 23.

Compliance with the bill introduction deadline is not a political question, and S.B. 935 did not comply with article III, section 12.

### CONCLUSION

The League respectfully requests that this Court grant summary judgment and declare that the process for enacting Act 290 violated article III, sections 12 and 14 of the Hawai`i Constitution and that Act 290 thus is void.

DATED: Honolulu, Hawai`i, January 30, 2026

/s/ Robert Brian Black  
ROBERT BRIAN BLACK  
BENJAMIN M. CREPS  
DÉVI STONE CHUNG  
Public First Law Center  
*Attorneys for League of Women Voters of Hawaii*

---

<sup>8</sup> Unlike Hawai`i, the Wisconsin Constitution has virtually no constitutional restrictions on its legislative process. *See Wis. Const. art. IV.*