Single Subject and Title Clause

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Drafters of the Single Subject and Title Clause saw it as a way to promote transparency and prevent fraud by limiting the way in which the legislature can structure bills.

"No law shall embrace more than one subject, which shall be expressed in its title."

Article IV, section 17, known as the Single Subject and Title Clause, became part of the Minnesota Constitution during the Constitutional Convention in 1857. Delegates were concerned that legislation would become law through a procedure called logrolling. Logrolling is the practice of adding a provision that might not pass on its own to a popular bill on an unrelated subject. They believed the constitutional requirement would assure that legislators and the public knew what provisions were in a bill and prevent enactment of policies that did not have true majority support.

The clause actually embraces two subjects.

Early opinions by the Minnesota Supreme Court sought to harmonize the clause by treating it as a single requirement with two components. Recent decisions have made it clear that there are two related, but independent requirements: (1) every act must embrace a single subject; and (2) the subject of each act must be expressed in its title. An act can embrace multiple subjects while having an appropriate title, or can embrace a single subject but have an insufficient title.

The provisions in an act must be germane to a single subject.

The test for whether a provision is germane to a single subject is different from the test used by legislators when considering amendments to bills on the House or Senate floor. The basic test has not changed since 1891.[1] The sections of an act are germane to a single subject if, under a broad and general standard, they relate to the popular or logical understanding of one general idea. Courts have illustrated the standard by saying that there must be at least a "mere filament" connecting the provisions, and that a "mere figment," such as the fact that each provision affects the state's budget, is insufficient.

Courts give the legislature great latitude in creating a general subject.

Courts have given the clause a forgiving interpretation, meaning that they defer to the legislature to avoid hampering legislative action. General subjects can be extremely broad and courts have found that subjects including "government operations" are valid. Long acts may meet the constitutional requirements while shorter ones can violate the clause. In general, the best practice is for legislators to intentionally identify the subject of legislation instead of relying on courts to later assign a subject.

[1] See, *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891).

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Titles should give legislators and the public notice of a bill's provisions.

The purpose of a title is to prevent significant policies from being hidden inside a bill and becoming an act of the legislature without a real opportunity for debate. Titles should inform legislators and the public of the bill's basic contents so that they are not surprised. Titles do not need to be a complete index to the bill, but should identify the significant provisions clearly enough that people know a bill addresses the topic. Courts will defer to the legislature's choice of title. If the title is general, then courts will apply the test of germaneness to determine whether there is adequate notice of what the bill covers. If the title specifically identifies a narrow action, any provisions outside of what the title specifies may be invalid even if they are germane to the general subject suggested by the other provisions.

In most cases, courts will only strike down a provision if it was challenged, but an entire act may be found unconstitutional in some situations.

When finding laws unconstitutional, courts have typically ruled as narrowly as possible. Decisions have said that, in most situations, the appropriate remedy for a violation of the Single Subject and Title Clause is to find that the challenged provision is unconstitutional, sever that provision from the rest of the act, and leave the other pieces in place. A recent opinion warned that, if an act contains two unrelated provisions and the court cannot determine the subject of the act, the court will strike down the entire act. When a challenged provision has been germane to the general subject of an act, courts have not found that portion unconstitutional simply because other, unchallenged provisions are not germane to that subject. Courts have also said that they will not strike down provisions that were not challenged.

Successful challenges to legislation based on the clause have been unusual since the 1940s, but the clause is still important.

In the 1890s, the supreme court considered 44 challenges that cited the Single Subject and Title Clause and found ten acts unconstitutional. But the court did not strike down any laws between 1947 and 2000. In the 1980s, court opinions criticized the legislature's use of omnibus bills that addressed several topics.[2] In 2000, the supreme court found part of an act unconstitutional in *Associated Builders and Contractors v. Ventura*.[3] The court of appeals struck down another law in 2005[4] and, while it upheld the law, the supreme court performed a detailed analysis on the question in a 2018 decision.[5]

For legislators, the best practice is to consider whether a bill satisfies the requirements of the Single Subject and Title Clause.

When developing and reviewing legislation, legislators who are concerned about possible future challenges to legislation may choose to assess whether: (1) the bill contains one general, unifying theme; (2) each provision is related to the popular or logical understanding of that general theme; and (3) the title gives notice to legislators and the public of the policies addressed in a bill.

For more information, see the House Research Department publication Embraced and Expressed: Minnesota's Single Subject and Title Clause: A Guide for Legislators*.*

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[2] *State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986) and *Blanch v. Suburban Hennepin Regional Park Dist.*, 449 N.W.2d 150 (Minn. 1989).

[3] *Associated Builders and Contractors v. Ventura*, 610 N.W.2d 293 (Minn. 2000).

[4] *Unity Church of St. Paul v. State*, 694 N.W.2d 585 (Minn. App. 2005).

[5] *Otto v. Wright County*, 910 N.W.2d 446 (Minn. 2018).