

SUPREME COURT NO. 80309-9

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, EMPLOYMENT SECURITY
DEPARTMENT,

Petitioner,

v.

KUSUM L. BATEY,

Respondent.

RESPONSE TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT

The Respondent is Kusum Batey, Appellant at the Court of Appeals.

II. ARGUMENT WHY REVIEW SHOULD BE DENIED

The Court of Appeals decision below (see Appendix A for Slip Opinion, hereafter Slip Op.) held that two recent attempts by the Washington legislature to amend the unemployment compensation statute violated the Washington State Constitution's subject-in-title provision set out in article II, section 19. That provision states: "No bill shall embrace more than one subject, and that shall be expressed in the title."

The 2003 legislation, Second Engrossed Senate Bill 6097 (2ESB 6097), Chapter 4, Laws of 2003, Second Special Session ("the 2003 legislation") made a variety of changes to the unemployment compensation system. The Employment Security Department (the "Department") did not contest that the title of the 2003 legislation was not broad enough to encompass the provisions challenged by Ms. Batey. Petition for Review (PFR), p. 6. Thus, the constitutionality of the 2003 legislation is not before this Court.

The 2006 legislation, Engrossed House Bill 3278, Chapter 12, Laws of 2006 (EHB 3278), LAWS OF 2006, ch. 12, § 2 ("the 2006

legislation", see Appendix B) purported to reenact the 2003 amendments to RCW 50.20.050, a provision governing eligibility for unemployment benefits when an individual voluntarily leaves work. If this attempted amendment were constitutionally enacted, Ms. Batey would be ineligible for unemployment benefits. But it was not, as it also violated the constitutional subject-in-title provision.

The Court of Appeals decision is fully consistent with this Court's precedents and is correct on the merits. The Employment Security Department's Petition for Review should therefore be denied and this case should be remanded to the Department for a new decision under the pre-2003 statute.

A. The Court of Appeals Decision Neither Conflicts With Any Decisions of the Supreme Court Nor Presents a Significant Question of State Constitutional Law, Because the Court Properly Compared the Relevant Portion of the Title and the Contents of the Bill

The Employment Security Department (Department) contends that "the Court of Appeals ruling involves a unique and intrusive review of EHB 3278". PFR, p. 10. That is simply not the case. The Court of Appeals followed this Court's precedents and engaged in a conventional subject-in-title analysis, carefully comparing the relevant title to the contents of the Bill.

1. *The relevant title of EHB 3278 is "AN ACT relating to making adjustments in the unemployment insurance system to enhance benefit and tax equity"*

The Court of Appeals began its analysis by identifying the relevant portion of the title. The full title of the 2006 legislation is "AN ACT Relating to making adjustments in the unemployment insurance system to enhance benefit and tax equity; reenacting RCW 50.20.050; and creating a new section." EHB 3278.

The Washington case law has long provided that the relevant title for subject-in-title analysis of legislative bills is the narrative portion of the title preceding the first semicolon. *See State v. Thomas*, 103 Wash. App. 800, 808, 14 P.3d 854 (2000). Thus, the Court of Appeals below determined that the relevant portion of the 2006 title is "AN ACT Relating to making adjustments in the unemployment insurance system to enhance benefit and tax equity."

The Court of Appeals correctly determined that the phrase "reenacting RCW 50.20.050" is not part of the relevant title. As the Court stated, "A 'mere reference' to a section in the title of an act does not state a subject. *Fray v. Spokane County*, 134 Wn.2d 637, 654-55, 952 P.2d 601 (1998), quoting *State ex rel. Seattle Elec. Co.*, 28 Wash. at 325, 68 P. 957)." Accord, *Patrice v. Murphy*, 136 Wn.2d 845, 853, 966 P. 2d 1271(1998). In fact, the inclusion of a list of amended statutes within a bill

title may be treated simply as surplusage. *Sorenson v. Kittitas Reclamation Dist.*, 70 Wash. 528, 531, 127 P. 102 (1912).

In its Petition for Review, however, the Department ignores these long-standing basic principles for subject-in-title analysis, claiming that by inserting the phrase "reenacting RCW 50.20.050" – a citation included after the first semi-colon -- the legislature created a valid title. PFR, pp. 8, 10. The Department cites no authority for this claim, however, and relegates such arguments as it makes to a footnote. PFR, p. 12.

In addition, the Department's approach wrongly assumes that citation of statute numbers, rather than use of ordinary language, is an appropriate way to apprise the general public of the contents of a bill. This Court rejected that approach over a century ago in *State ex rel. Seattle Elec. Co. v. Superior Court*, 28 Wash. 317, 68 P. 957 (1902) Observing that "[t]he constitution requires that the subject should be expressed", the court concluded that where the title simply referred to a statute section, "[t]hat title expressed no subject, but only contained a reference where the subject might be found." At 328. Members of the public are not, and should not be, required to engage in legal research for which they are not trained in order to determine the subject matter of a bill passed by the legislature.

2. *The Court of Appeals Properly Distinguished Between General and Specific Titles in Performing Its Subject-in-Title Analysis*

The Department contends that the Court of Appeals decision presents a significant question of law under the state constitution on the theory that this Court's decisions do not distinguish between general and restrictive titles for subject-in-title analysis. PFR, p. 14. The Department finds a significant issue only by misreading the case law. Thus, review should be denied.

Article II, section 19 of the Washington Constitution contains two distinct requirements: legislative bills must address only one subject (the “single subject” requirement”) and that subject must be expressed in the title of the bill (the “subject-in-title” requirement). A long line of Washington Supreme Court and Court of Appeals cases has distinguished between general and restrictive titles for purposes of subject-in-title analysis, as well as for single subject analysis, under article II, section 19. *See, e.g., Snyder v. Ingram*, 48 Wn.2d 637, 296 P.2d 305 (1956); *Gruen v. State Tax Comm’n*, 35 Wn. 2d 1, 211 P. 2d 651 (1949), *Percival v. Cowychee & Wide Hollow Irrigation Dist.*, 15 Wash. 480, 46 P. 1035 (1896). *See also* Appendix C for a thorough listing of the cases.

The Department argues that “[r]ecent decisions of this court apply different standards in analyzing the two provisions of article II, section

19.” PFR. 14-15. The Department thus renews an argument it made unsuccessfully below that in recent cases this Court has distinguished between general and restrictive titles only for purposes of single subject analysis under article II, section 19, and not for analysis under the subject-in-title requirement. The Department cites *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 639, 71 P.3d 644 (2003) and *Amalgamated Transit v. State*, 142 Wn.2d 183, 11 P.3d. 762 (2000) in support of that claim, but they misread both cases.

The single subject and subject-in-title constitutional requirements are closely related and many cases raise both challenges. Thus, the court does sometimes explain the distinction between general and specific titles, and its significance, in addressing the single subject claim without returning to it in discussing the subject-in-title requirement, as it did in *Amalgamated Transit v. State*, 142 Wn.2d at 206-217. *See also Pierce Co. v. State*, 150 Wn.2d, 422, 431, note 3 and 436-437, 78 P. 3d 640 (2003) and Appendix C, entries marked with a single asterisk in the third or fourth column.

Other recent Supreme Court cases, however, do expressly refer to titles as either general or specific for subject-in-title analysis, and, in fact, the case cited by the Department in footnote 7 closes its discussion of article II, section 19 with the following sentence: “Accordingly, whether

general or restrictive, the title of I-713 does not violate the single subject rule or the subject-in-title rule of article II, section 19.” *Citizens for Responsible Wildlife Mgmt*, 149 Wn. 2d at 640. *See also City of Fircrest v. Jensen*, 158 Wn. 2d. 384,408 (Owens, Fairhurst, Chambers), 414-415 (Sanders, Johnson), 143 P.3d 776 (2006) Thus, review should be denied because the Court of Appeals correctly applied the general versus specific title distinction in this case.

3. *The Court of Appeals Properly Held that a Restrictive Title Is Not Entitled to a Liberal Construction for Subject-in-Title Analysis*

The Department argues that "the Court of Appeals' reliance on the general and restrictive title distinction to justify a more intensive review of EHB 3278 . . . ¹ is at odds with the 'well-settled' rule 'that the constitutional provision relating to titles is to be liberally construed in order to sustain the validity of the statute.'" PFR, p. 15.

It is true that when a title is deemed general, "the court liberally construes its subject to determine whether it embraces the subject of all the provisions expressed within the act." *Thomas*, 103 Wash. App. at 807-08. The Department, however, ignores the fact that this type of language about liberal construction coexists with a long line of cases limiting that liberal construction to general titles. See, e.g. *Charron v. Miyahara*, 90 Wn. App.

¹ The omitted phrase is "including a review of its legislative history". The portion of the department's argument encompassed in that phrase is discussed below in part B.

324, 329-337, 950 P.2d 532 (1998); *State v. Broadaway*, 133 Wn.2d 118, 123-129, 942 P.2d 363 (1997); *State ex rel. Toll Bridge Auth. v. Yelle*, 32 Wn.2d 13, 23-28, 200 P.2d 467 (1948); *Cory v. Nethery*, 19 Wn.2d 326, 330-31, 142 P.2d 488 (1943); *DeCano v. State*, 7 Wn.2d 613, 623-631, 110 P.2d 627 (1941).

While a legislature may exercise discretion when determining the breadth of a title, when it adopts a restrictive title it must confine the body of the bill to the subject expressed therein. *Gruen*, 35 Wn.2d at 23. Further, when a legislature adopts a restrictive title for a bill the courts may not enlarge the scope of the limited title in an effort to preserve an otherwise unconstitutional bill. *Id.* at 23. Given this stricter construction, a violation of the subject-in-title requirement is more frequently found where a restrictive title is used. *Citizens for Responsible Wildlife Management*, 149 Wn.2d at 633.

4. *The Court of Appeals Properly Held That EHB 3278's Title Is A Restrictive One That Did Not Give Fair Notice of Its Contents*

A restrictive title is narrow and specific, expressly limiting the scope of an act to that expressed in the title. *Amalgamated Transit*, 142 Wn.2d at 210. Where “a particular part of branch of a subject is carved out and selected as the subject of legislation,” provisions that are not “fairly within” the expressed subject will not be given force. *Citizens for*

Responsible Wildlife Management v. State, 149 Wn.2d 622, 633, 71 P.3d 644 (2003).

As noted above in subsection A.1., pp. 3-4, for purpose of subject-in-title analysis, the relevant part of EHB 3278's title is the narrative portion preceding the first semi-colon: "An Act Relating to making adjustments to the unemployment system to enhance benefit and tax equity". By itself, the opening phrase of this title -- "making adjustments to the unemployment system" -- would have been considered a general title. But the legislature added a restrictive prepositional phrase "to enhance benefit and tax equity" that creates a specific title, limiting the scope of the bill.

The Department wrongly characterizes the phrase "benefit and tax equity" as simply "rhetorical words", PFR, p. 7, implying that they can be disregarded. The phrase "to enhance benefit and tax equity" has an accepted meaning, however, and is not merely rhetoric. In determining whether a title satisfies the subject-in-title requirement, the courts look to the ordinary meaning of the language used in the title. *Washington State Grange*, 153 Wn. 2d. at 479-480, 495, 497. The Department ignores the fact that both "benefit equity" and "tax equity" have well-established meanings in public policy debates.

“Benefit equity” implies that like categories of individuals should be treated alike in determining eligibility for benefits. Thus, a recent report to the Texas legislature listed “benefit equity” as one of several goals of the workers’ compensation program, defining the term as follows: “BENEFIT EQUITY. The system should provide similar benefits to claimants in similar circumstances and it should provide benefits that are reasonably proportionate to the severity of the injury.” Joint Select Comm. on Workers' Comp. Ins., A Report to the 71st Texas Legislature 6-7 (Dec. 9, 1988) cited in Phil Hardberger, *Texas Workers' Compensation: A Ten-Year Survey--Strengths, Weaknesses, and Recommendations*, 32 St. Mary's L.J. 1 (2000).

Another recent analysis noted that in the context of disability benefits the term benefit equity has two aspects: “We begin our discussion of the equitable criterion by distinguishing between horizontal equity and vertical equity. Horizontal equity requires that workers who are equivalent should be treated equally. . . . Vertical equity, in a narrow sense, requires that workers with differing losses of income should receive benefits proportional to their losses.” Robert T. Reville, et al., AN EVALUATION OF CALIFORNIA'S PERMANENT DISABILITY RATING SYSTEM, Inst. Civ. Just. (Rand, 2005) (Available on Westlaw in TP-ALL database).

The phrase “benefit equity” surfaces in debates over a wide variety of public benefits. The consistent usage of the term concerns situations in which one group of individuals is arguably being unfairly excluded from benefits available to another group of individuals. See, e.g. Shara L. Alpern, Comments, *Solving Work/Family Conflict by Engaging Employers: A Legislative Approach*, 78 Temp. L. Rev. 429, 451 (2005) and Jonathan P. Hiatt, *Policy Issues Concerning The Contingent Work Force*, 52 Wash. & Lee L. Rev. 739, 745 (1995) (part-time workers); Gregory Care, Comments, *Something Old, Something New, Something Borrowed; Something Long Overdue: The Evolution of a “Sexual Orientation-Blind” Legal System in Maryland and the Recognition of Same-Sex Marriage*, 35 U. Balt. L. Rev. 73, 90 (2005)(discussing county’s Employee Benefits Equity Act of 1999 extending benefits to domestic partnerships); Enid Trucios-Haynes, *The Rhetoric of Reform: Noncitizen Workers in the United States*, 29 S. Ill. U. L.J. 43, fn. 24 (2004-2005)(benefit equity for noncitizen workers in various temporary worker categories); C. Keanin Loomis, Note, *A Battle Over “Birth Control”:* *Legal and Legislative Employer Prescription Contraception Benefit Mandates*, 11 Wm. & Mary Bill Rts. J. 463, 483 (2002) (drug benefit equity for coverage of contraception); Bonnie C. Kittinger, Note, *Should Married Couples Share Social Security Earnings Credit*, 26 J. Fam. L. 601,

text at fn 122 (1987/1988)(pension benefit equity); Commuter Benefits Equity Act of 2001, S. 217, 107th Cong. (2001)(bill to ensure users of public transportation received employer benefits equal to automobile users); U.S. Gen. Acc. Off., Social Security: Issues Involving Benefit Equity for Working Women 15-21 (GAO/HEHS-96- 55 Apr. 1996); Domestic Partnerships Raise New Questions About Benefits Equity, Pen. Rep. (BNA) Vol. 20, No. 46, at 2478 (Nov. 22, 1993).

Likewise, “tax equity” is a core concept in arguments over tax policy. It is explained in introductory casebooks on tax law, *see, e.g.*, Laurie Malman, et al., THE INDIVIDUAL TAX BASE: CASES, PROBLEMS AND POLICIES IN FEDERAL TAXATION 14-15(West 2002), and “tax equity” along with its synonym “tax fairness” is the subject of lengthy law review articles. *See, e.g.*, Richard J. Wood, *Supreme Court Jurisprudence of Tax Fairness*, 36 Seton Hall L. Rev. 421 (2006). The term “tax equity” is not simply a synonym for “tax rates” as the Department’s argument would imply.

Because EHB 3278’s contents do not address benefit or tax equity, the Court of Appeals correctly held that the title of the 2006 legislation violates the subject-in-title provision of article 2, section 19 of the Washington Constitution.

B. The Court of Appeals Decision Neither Presents A Significant Question of State Constitutional Law Concerning Limits On the Legislature's Authority Nor Disregards Precedent Concerning the Use of Legislative History for Subject-in-Title Analysis

The Department argues that this Court should accept review because the Court of Appeals decision “conflicts with prior decisions applying article II, section 19” PFR, p. 11. The Department contends that the Court of Appeals should not have considered the legislative history of EHB 3278, specifically the substitution of the contents of the enacted bill for a completely different one at the last minute, or referred to particular members of the public who might be misled by the language of the title. PFR, pp. 12-13, 14, 17. The Department suggests that by doing so, the Court of Appeals created a new, stricter, and impermissible subject-in-title analysis that is inconsistent with this Court's precedents. Because no such stricter analysis is stated or implied by the Court's opinion, the Department's Petition for Review should be denied.

- 1. The Court of Appeals Did Not Apply a Stricter Standard Than Required by Supreme Court Precedents by Using the History of EHB 3278 to Show that the Bill's Title Fails to Give Fair Notice of its Contents*

As explained above in part I, the Court of Appeals correctly compared the contents of EHB 3278 to the relevant title and found it wanting. Nothing in this Court's precedents forbids the Court of Appeals

from also relying on the context in which this bill was enacted in order to communicate why the subject-in-title violation matters and is not simply a meaningless technicality.

The Department cites cases stating that "the title must be construed by reference to the language used in the title only and not in light of the context of the act." (Citations omitted.) PFR, p. 11. At the same time, the Department recognizes, as it must, that in *Patrice v. Murphy*, 136 Wn.2d 845, 849-851, 966 P.2d 1271 (1998), this Court discussed the legislative history of the challenged bill in an opinion that found a subject-in-title violation. PFR, p. 13.

The Court of Appeals below referred to the legislative history of EHB 3278 at two points in its opinion, first in two paragraphs that are part of the Court's explication of the background to the case, Slip Op. pp. 4-5, 137 Wn. App. at 511, and again in comparing this case to *Patrice*, Slip Op. p. 8, 137 Wn. App. at 514. In neither place was the Court using the legislative history to "construe" the title of EHB 3278. To "construe" means "Make sense of; assign a meaning to". *Webster's On-Line Dictionary*, <http://www.websters-online-dictionary.org/definition/construe>, accessed July 5, 2007. The discussion of the legislative history in the comparison to *Patrice* is for the purpose of demonstrating the effect of the

mismatch between title and subject, not for the purpose of determining what the title means.

The Department argues that by referring to the "last-minute" change to the contents of EHB 3278, the Court of Appeals "implies limits on when the legislature can amend an act." PFR, p. 14. The Court's passing reference, Slip Opinion, p. 8, 137 Wn. App. at 514, however, implies no such thing. The Court is consistently clear that the timing of the amendment is a problem only because the language of the title was inconsistent with the text of the bill. Similarly, the Department notes that a title need not "apprise[] the reader of what has been *removed* from a bill." PFR, p. 10. This is true, but irrelevant, as the Court of Appeals imposed no such requirement.

2. *The Court of Appeals Properly Followed Precedent When It Considered Whether Employees Would Recognize the Contents of EHB 3278 From Its Title*

This Court has stated that "Article II, section 19's prohibition requires a bill title give notice to the general public and, most especially, to parties whose rights and liabilities are affected by the bill." *Patrice v. Murphy*, 136 Wn.2d 845, 854, 966 P.2d 1271 (1998). The Court of Appeals below cited this language, Slip Op., p. 6, 137 Wash. App. at 512, and four paragraphs later in the opinion noted that "The title says the adjustments in the bill will enhance 'benefit and tax equity'. Employees--a

group particularly affected by EHB 3278--would not reasonably be expected to recognize this phrase as a signal that legislators had decided to change the good cause criteria for voluntary quits." Slip Op., p. 9, 137 Wash App. at 513.

The Department claims that the Court of Appeals' analysis is "significantly different than this Court's precedents concerning subject-in-title analysis, because it asks whether a particular type of reader would perceive specific details in the body of the bill." PFR, p. 17. The Court of Appeals, however, was carefully following *Patrice* in considering whether the title of the bill gave notice to those particularly affected by it. In addition, the Department's argument ignores the fact that changing the good cause criteria for voluntary quits was the entire point of the bill, not a mere detail in the body of the bill.

III. CONCLUSION

The Court of Appeals decision below is fully consistent with this Court's precedents and presents no significant questions of state constitutional law that are of substantial public interest. Moreover, the opinion is carefully reasoned and correct on the merits. The Department's petition for review should be denied.

Respectfully submitted this 13th of July, 2007.

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TO E-MAIL**

INDEX TO APPENDIX
Response To Petition For Review

SUPREME COURT NO. 80309-9

- APPENDIX A** Slip Op. 57513-9-I, filed March 12, 2007
- APPENDIX B** Engrossed House Bill 3278, 2006 Regular Session
- APPENDIX C** Washington Cases Distinguishing General and
Specific Titles to Legislature

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

KUSUM L. BATEY,) No. 57513-9-I
)
Appellant,)
)
v.)
) PUBLISHED OPINION
STATE OF WASHINGTON,)
EMPLOYMENT SECURITY)
DEPARTMENT,)
)
Respondent.) FILED: MARCH 12, 2007

BECKER, J. – Under our state constitution, portions of a bill not fairly expressed by its title are stricken as unconstitutional. At issue in this appeal is a bill changing the criteria for determining when an employee has good cause for a voluntary quit. The title of the bill is: "AN ACT Relating to making adjustments in the unemployment insurance system to enhance benefit and tax equity; reenacting RCW 50.20.050; and creating a new section."¹ Because the title does not express the subject, the statute is unconstitutional.

¹ EHB 3278, 59th Leg. (Wash. 2006).

It has long been a feature of the unemployment compensation system that workers who have "left work voluntarily without good cause" are disqualified from receiving unemployment benefits for a specified period of time. RCW 50.20.050(2)(a). The voluntary quit statute as it existed in 2002 set out four specific situations that constituted good cause for leaving work. In addition, the Employment Security Department had discretion to find good cause for reasons not specified in the statute. In a particular case, the commissioner might determine that changes in other work-related circumstances had caused hardship or deterioration in working conditions sufficient to justify the claimant's decision to quit:

Good cause shall not be established . . . because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

Former RCW 50.20.050(3) (2002), in part (emphasis added).

During a special session in 2003, the Legislature decided to tighten up the voluntary quit criteria. The vehicle for the change was Second Engrossed Senate Bill 6097, a bill with 39 sections that amended RCW Title 50 in various ways. 2ESB 6097, 58th Leg., 2d Spec. Sess. (Wash. 2003). The fourth section of the bill amended the voluntary quit statute, RCW 50.20.050. With respect to

claims with an effective date on or after January 4, 2004, the bill set out six more situations that would constitute good cause for leaving work. But the bill also removed the commissioner's discretion. Under the new scheme, a good cause for quitting had to be within the 10 scenarios listed in the statute.

The appellant in this case, Kusum Batey, worked as an advocate for the Snohomish County Center for Battered Women. She quit voluntarily in January 2005 and applied for unemployment benefits. Her reasons for quitting did not fit within the 10 "good cause" categories in RCW 50.20.050, and the Employment Security Department denied her application. Batey petitioned for review in superior court. She argued that 2ESB 6097, the bill that removed the discretionary language, was unconstitutional because it was passed in contravention of the subject-in-title requirement of Const. art. II, § 19. The title of the bill referred to "creating forty rate classes for determining employer contribution rates."² 2ESB 6097, 58th Leg., 2d Spec. Sess. (Wash. 2003). Batey took the position that this title clearly does not encompass the subject matter of voluntary quits. Batey sought to have her case remanded to the

² The full title of 2ESB 6097 was: AN ACT Relating to revising the unemployment compensation system through creating forty rate classes for determining employer contribution rates; amending RCW 50.01.010, 50.20.010, 50.20.050, 50.04.293, 50.20.060, 50.20.065, 50.20.240, 50.20.120, 50.20.100, 50.29.025, 50.04.355, 50.29.026, 50.29.062, 50.29.070, 50.12.220, 50.16.010, 50.16.015, 50.24.014, 50.20.190, 50.04.206, 50.20.140, 50.20.043, 50.20.160, 50.32.040, and 28B.50.030; reenacting and amending RCW 50.29.020; adding new sections to chapter 50.04 RCW; adding new sections to chapter 50.20 RCW; adding new sections to chapter 50.29 RCW; creating new sections; repealing RCW 50.20.015, 50.20.045, 50.20.125, and 50.29.045; providing an expiration date; and declaring an emergency.

Employment Security Department for consideration under the discretionary language of the statute as it existed before the enactment of 2ESB 6097. This court accepted the superior court's certification for direct review in February of 2006. See RCW 34.05.518; RAP 6.3.

On review, the Department does not defend the title of 2ESB 6097 against Batey's subject-in-title challenge. Instead, the Department says that the Legislature remedied any subject-in-title problem that may have existed with 2ESB 6097 by reenacting its provisions retroactively in 2006 in a bill with a proper title.³

Batey does not dispute that the Legislature could have cured the defect in the title of 2ESB 6097 by reenacting it retroactively in a bill with a proper title. She contends, however, that the Legislature's attempt to cure the defect likewise fails the subject-in-title test.

The 2006 bill is Engrossed House Bill 3278 with the title "AN ACT Relating to making adjustments in the unemployment insurance system to enhance benefit and tax equity; reenacting RCW 50.20.050; and creating a new section." EHB 3278, 59th Leg. (Wash. 2006). As passed by the House on February 14,

³ The 2003 bill amends an earlier act, while the 2006 bill reenacts an earlier act. Because the Department does not defend Batey's subject-in-title challenge to the 2003 bill, we need not enter what the Department at oral argument referred to as the "dark and bloody ground" of City of Fircrest v. Jensen, 158 Wn.2d 384, 143 P.3d 776 (2006) (three separate opinions about whether the relevant title in a challenge to an amendatory act is the one belonging to the original act or the one belonging to the amendatory act).

2006, the bill's objective was modest: to extend by two months the deadline for a previously created "joint legislative task force on unemployment insurance benefit equity" to report its findings and recommendations to the Legislature. H. Amendment 939, 59th Leg. (Wash. 2006).

The subject matter of House Bill 3278 changed dramatically on March 3, 2006 when the Senate adopted a striking amendment. After stripping out all of the language pertaining to the task force and its deadline, the Senate amendment inserted language reenacting the substance of the voluntary quit amendments contained in 2ESB 6097 (the bill passed in 2003). The Senate amendment provided that the bill would apply retroactively "to claims that have an effective date on or after January 4, 2004." Laws of 2006, ch. 12, § 2. As shown by a note to the Senate amendment, it was designed to deflect Batey's pending lawsuit: "EFFECT: Reenacts, retroactively, the 'good cause quit' section of Second Engrossed Senate Bill No. 6097 (a section that was potentially under challenge in *Batey v. Employment Security Department*)." S. Amendment 365, 59th Leg. (Wash. 2006). The House and Senate both passed Engrossed House Bill 3278 on March 3, 2006, with the House concurring in the Senate amendment.

Our constitution states: "No bill shall embrace more than one subject, and that shall be expressed in the title." Const. art. II, §19. In this case we are concerned only with the subject-in-title requirement of this provision, not the single-subject rule. The Supreme Court has long interpreted article II, §19 as

requiring a bill's title to give concise information about the contents of the bill.

"The wisdom of the rule suggests itself, in that the reader, whether a member of the legislature or otherwise, may, by a mere glance at a few catch words in the title, be apprised of what the act treats, without further search." State ex rel. Seattle Elec. Co. v. Superior Court, 28 Wash. 317, 321, 68 P. 957 (1902). The title should "most especially" be sufficient to give notice to parties whose rights and liabilities are affected by the bill. Patrice v. Murphy, 136 Wn.2d 845, 854, 966 P.2d 1271 (1998). The title need not be an index to the contents of the bill. It is sufficient if the title "gives such notice as should reasonably lead to an inquiry into the body of the act itself, or indicates, to an inquiring mind, the scope and purpose of the law." State ex rel. Wash. Toll Bridge Auth. v. Yelle, 32 Wn.2d 13, 26, 200 P.2d 467 (1948).

To decide whether a title gives adequate notice, a court must first determine whether the title is broad or narrow. Where a bill's title is general, "any subject reasonably germane to such title may be embraced within the body of the bill." Citizens for Responsible Wildlife Management v. State, 149 Wn.2d 622, 633, 71 P.3d 644 (2003) (quoting DeCano v. State, 7 Wn.2d 613, 627, 110 P.2d 627 (1941)). A restrictive title will be more carefully scrutinized:

If the title is general and comprehensive, it will be given a liberal construction; in such case, no elaborate statement of the subject of the act is necessary, and a few well-chosen words suggestive of the general subject treated is all that is required. If, however, the title is a restricted one, it will not be regarded so liberally, and provisions which are not fairly within such restricted title will not be given force.

State ex rel. Wash. Toll Bridge Auth., 32 Wn.2d at 26. Examples of bill titles judged to be restrictive are: "Shall criminals who are convicted of 'most serious offenses' on three occasions be sentenced to life in prison without parole?" State v. Thorne, 129 Wn.2d 736, 757, 921 P.2d 514 (1996); "An Act Relating to the acquisition of property by public agencies" Daviscourt v. Peistrup, 40 Wn. App. 433, 437, 698 P.2d 1093 (1985); "AN ACT Relating to increasing penalties for armed crimes" State v. Broadaway, 133 Wn.2d 118, 123, 942 P.2d 363 (1997).

The Department argues that EHB 3278's title is broad and general, but in doing so the Department focuses only on that part of the title referring to "making adjustments in the unemployment insurance system." The full title is: "AN ACT Relating to making adjustments in the unemployment insurance system to enhance benefit and tax equity; reenacting RCW 50.20.050; and creating a new section." In specifying that the adjustments are intended "to enhance benefit and tax equity", the title becomes restrictive; it does not suggest a bill that might embrace any and all manner of changes to the unemployment insurance system.

The Department contends that even if the title is judged to be restrictive, it still should be construed as giving fair notice that the bill changes eligibility requirements for unemployment benefits. Any change in eligibility, according to the Department, is likely to have some effect upon benefits paid to employees and tax premiums paid by employers. This argument is not persuasive. The title

says the adjustments in the bill will enhance "benefit and tax equity".

Employees—a group particularly affected by EHB 3278—would not reasonably be expected to recognize this phrase as a signal that legislators had decided to change the good cause criteria for voluntary quits.

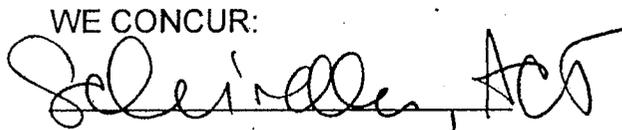
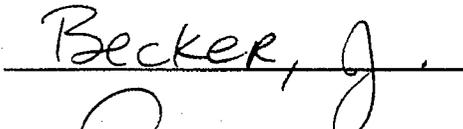
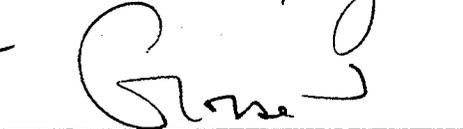
The Supreme Court has held that the title "AN ACT Relating to court costs" violated the subject-in-title rule because the title, while appearing to refer to procedural matters, disguised a "hidden effect" – the bill imposed upon local government a new substantive duty to hire sign language interpreters to assist with police investigations. Patrice, 136 Wn.2d at 855. This came about because the Legislature picked up the substance of a bill requiring interpreters, which could not pass on its own due to time constraints, and rolled it into a bill on court costs that was still within time limits and eligible for consideration. Similarly here, changing the voluntary quit criteria is a hidden effect of EHB 3278. The title's reference to "benefit and tax equity" disguised the fact that the bill no longer had anything to do with the special committee study on benefit equity, and had become instead a last minute vehicle to change the good cause criteria for voluntary quits.

The title's reference to RCW 50.20.50 as the statute being reenacted is also insufficient to give proper notice. A "mere reference" to a section in the title of an act does not state a subject. Fray v. Spokane County, 134 Wn.2d 637, 654-655, 952 P.2d 601 (1998) (quoting State ex rel. Seattle Elec. Co., 28 Wash. at 325).

We conclude Chapter 12, Laws of 2006 must be struck down because the enacting bill, EHB 3278, does not meet the constitutional subject-in-title requirement. Because EHB 3278 is unconstitutional, it cannot cure the undisputed subject-in-title defect in 2ESB 6097 as it relates to Section 4 of that bill. Therefore, we also hold unconstitutional Section 4 of Chapter 4, Laws of 2003, Second Special Session.⁴

Batey requests attorney's fees as provided by RCW 50.32.160 when a court reverses or modifies a decision by the commissioner. We reject this request because it was made for the first time in her reply brief. RAP 18.1(b).

Reversed and remanded to determine whether Batey's reasons for quitting constitute good cause under RCW 50.20.050 as it existed in 2002.

WE CONCUR:




⁴ We make no determination as to other provisions of Chapter 4, Laws of 2003, Second Special Session. See Patrice v. Murphy, 136 Wn.2d 845, 855, 966 P.2d 1271 (1998).

MAR 13 2007

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 3278

Chapter 12, Laws of 2006

59th Legislature
2006 Regular Session

UNEMPLOYMENT INSURANCE--DISQUALIFICATION

EFFECTIVE DATE: 6/07/06

Passed by the House March 3, 2006
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 3, 2006
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved March 8, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED HOUSE BILL 3278 as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 8, 2006 - 2:20 p.m.

Secretary of State
State of Washington

APPENDIX B

ENGROSSED HOUSE BILL 3278

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Representatives Conway and Dickerson

Read first time 01/31/2006. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to making adjustments in the unemployment insurance
2 system to enhance benefit and tax equity; reenacting RCW 50.20.050; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each
6 reenacted to read as follows:

7 (1) With respect to claims that have an effective date before
8 January 4, 2004:

9 (a) An individual shall be disqualified from benefits beginning
10 with the first day of the calendar week in which he or she has left
11 work voluntarily without good cause and thereafter for seven calendar
12 weeks and until he or she has obtained bona fide work in employment
13 covered by this title and earned wages in that employment equal to
14 seven times his or her weekly benefit amount.

15 The disqualification shall continue if the work obtained is a mere
16 sham to qualify for benefits and is not bona fide work. In determining
17 whether work is of a bona fide nature, the commissioner shall consider
18 factors including but not limited to the following:

19 (i) The duration of the work;

1 (ii) The extent of direction and control by the employer over the
2 work; and

3 (iii) The level of skill required for the work in light of the
4 individual's training and experience.

5 (b) An individual shall not be considered to have left work
6 voluntarily without good cause when:

7 (i) He or she has left work to accept a bona fide offer of bona
8 fide work as described in (a) of this subsection;

9 (ii) The separation was because of the illness or disability of the
10 claimant or the death, illness, or disability of a member of the
11 claimant's immediate family if the claimant took all reasonable
12 precautions, in accordance with any regulations that the commissioner
13 may prescribe, to protect his or her employment status by having
14 promptly notified the employer of the reason for the absence and by
15 having promptly requested reemployment when again able to assume
16 employment: PROVIDED, That these precautions need not have been taken
17 when they would have been a futile act, including those instances when
18 the futility of the act was a result of a recognized labor/management
19 dispatch system;

20 (iii) He or she has left work to relocate for the spouse's
21 employment that is due to an employer-initiated mandatory transfer that
22 is outside the existing labor market area if the claimant remained
23 employed as long as was reasonable prior to the move; or

24 (iv) The separation was necessary to protect the claimant or the
25 claimant's immediate family members from domestic violence, as defined
26 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

27 (c) In determining under this subsection whether an individual has
28 left work voluntarily without good cause, the commissioner shall only
29 consider work-connected factors such as the degree of risk involved to
30 the individual's health, safety, and morals, the individual's physical
31 fitness for the work, the individual's ability to perform the work, and
32 such other work connected factors as the commissioner may deem
33 pertinent, including state and national emergencies. Good cause shall
34 not be established for voluntarily leaving work because of its distance
35 from an individual's residence where the distance was known to the
36 individual at the time he or she accepted the employment and where, in
37 the judgment of the department, the distance is customarily traveled by
38 workers in the individual's job classification and labor market, nor

1 because of any other significant work factor which was generally known
2 and present at the time he or she accepted employment, unless the
3 related circumstances have so changed as to amount to a substantial
4 involuntary deterioration of the work factor or unless the commissioner
5 determines that other related circumstances would work an unreasonable
6 hardship on the individual were he or she required to continue in the
7 employment.

8 (d) Subsection (1)(a) and (c) of this section shall not apply to an
9 individual whose marital status or domestic responsibilities cause him
10 or her to leave employment. Such an individual shall not be eligible
11 for unemployment insurance benefits beginning with the first day of the
12 calendar week in which he or she left work and thereafter for seven
13 calendar weeks and until he or she has requalified, either by obtaining
14 bona fide work in employment covered by this title and earning wages in
15 that employment equal to seven times his or her weekly benefit amount
16 or by reporting in person to the department during ten different
17 calendar weeks and certifying on each occasion that he or she is ready,
18 able, and willing to immediately accept any suitable work which may be
19 offered, is actively seeking work pursuant to customary trade
20 practices, and is utilizing such employment counseling and placement
21 services as are available through the department. This subsection does
22 not apply to individuals covered by (b)(ii) or (iii) of this
23 subsection.

24 (2) With respect to claims that have an effective date on or after
25 January 4, 2004:

26 (a) An individual shall be disqualified from benefits beginning
27 with the first day of the calendar week in which he or she has left
28 work voluntarily without good cause and thereafter for seven calendar
29 weeks and until he or she has obtained bona fide work in employment
30 covered by this title and earned wages in that employment equal to
31 seven times his or her weekly benefit amount.

32 The disqualification shall continue if the work obtained is a mere
33 sham to qualify for benefits and is not bona fide work. In determining
34 whether work is of a bona fide nature, the commissioner shall consider
35 factors including but not limited to the following:

36 (i) The duration of the work;

37 (ii) The extent of direction and control by the employer over the
38 work; and

1 (iii) The level of skill required for the work in light of the
2 individual's training and experience.

3 (b) An individual is not disqualified from benefits under (a) of
4 this subsection when:

5 (i) He or she has left work to accept a bona fide offer of bona
6 fide work as described in (a) of this subsection;

7 (ii) The separation was necessary because of the illness or
8 disability of the claimant or the death, illness, or disability of a
9 member of the claimant's immediate family if:

10 (A) The claimant pursued all reasonable alternatives to preserve
11 his or her employment status by requesting a leave of absence, by
12 having promptly notified the employer of the reason for the absence,
13 and by having promptly requested reemployment when again able to assume
14 employment. These alternatives need not be pursued, however, when they
15 would have been a futile act, including those instances when the
16 futility of the act was a result of a recognized labor/management
17 dispatch system; and

18 (B) The claimant terminated his or her employment status, and is
19 not entitled to be reinstated to the same position or a comparable or
20 similar position;

21 (iii) He or she: (A) Left work to relocate for the spouse's
22 employment that, due to a mandatory military transfer: (I) Is outside
23 the existing labor market area; and (II) is in Washington or another
24 state that, pursuant to statute, does not consider such an individual
25 to have left work voluntarily without good cause; and (B) remained
26 employed as long as was reasonable prior to the move;

27 (iv) The separation was necessary to protect the claimant or the
28 claimant's immediate family members from domestic violence, as defined
29 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

30 (v) The individual's usual compensation was reduced by twenty-five
31 percent or more;

32 (vi) The individual's usual hours were reduced by twenty-five
33 percent or more;

34 (vii) The individual's worksite changed, such change caused a
35 material increase in distance or difficulty of travel, and, after the
36 change, the commute was greater than is customary for workers in the
37 individual's job classification and labor market;

1 (viii) The individual's worksite safety deteriorated, the
2 individual reported such safety deterioration to the employer, and the
3 employer failed to correct the hazards within a reasonable period of
4 time;

5 (ix) The individual left work because of illegal activities in the
6 individual's worksite, the individual reported such activities to the
7 employer, and the employer failed to end such activities within a
8 reasonable period of time; or

9 (x) The individual's usual work was changed to work that violates
10 the individual's religious convictions or sincere moral beliefs.

11 NEW SECTION. **Sec. 2.** Section 1 of this act applies retroactively
12 to claims that have an effective date on or after January 4, 2004.

Passed by the House March 3, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 8, 2006.

Filed in Office of Secretary of State March 8, 2006.

Appendix C Washington Cases Distinguishing General and Specific Titles to Legislation

This chart compiles the Washington appellate cases that discuss the distinction between general and restrictive titles and address a subject-in-title challenge. The chart shows whether a title was considered general or restrictive and whether the court considered the title to encompass the challenged provisions in the act. See notes at end of chart for references to related cases that were not included.

Case/Citation	Title	Gen'l	Restrictive	Result & What Title Does (Not) Cover
<i>City of Fircrest v. Jensen</i> (2006)	Relevant title disputed. Five judges (concurrency & dissent) say: AN ACT Relating to admissibility of DUI [driving under the influence of an intoxicant] tests.	✓		General (Concurrency --3 judges -- and dissent --2 judges). Plurality views earlier title as relevant. Concurrency views general title as properly encompassing incidental topics of search warrants under the implied consent statute, requirements governing an officer's request for a blood draw, warnings to be given to a suspect under the implied consent statute prior to administering a blood or breath alcohol concentration (BAC) test, and the foundational requirements for admission of BAC test results.
<i>State v. Stannard</i> 134 Wash.App. 828, 834-838, 142 P.3d 641, 645-647 (2006)	Ballot Title: Shall it be a gross misdemeanor to take, hunt, or attract black bears with bait, or to hunt bears, cougars, bobcat or lynx with dogs?	✓		Upheld. Title embraced the general topic reflected in the title—a ban on methods of trapping and killing animals.
<i>Locke v. City of Seattle</i> , 133 Wn. App. 696, 705, 137 P.3d 52, 57 (2006)	An Act Relating to Law Enforcement Officers and Fire Fighters.	✓		Upheld. Title embraced a general subject, encompassing the right of law enforcement officers and fire fighters to sue municipal employers despite governmental employers' sovereign immunity.
<i>Washington State Grange v. Locke</i> , 153 Wn.2d 475, 491-499, 105 P.3d 9 (2005)	AN ACT Relating to a qualifying primary. [Legis. adopted bill responding to 9 th Cir. decision invalidating blanket primary system. Gov. vetoed part 1 re: top two primary system, leaving part 2 re: Montana primary system]	✓		Upheld. Common and ordinary meaning of the title's language encompassed the act's allowance of Montana style primary because it was germane to the bill title and would lead a reader to inquire into the body of the act to learn about the proposed primary system.
<i>State v. Lanphar</i> , 124 Wn. App. 669, 672- 675, 102 P.3d 864	AN ACT Relating to escaping from custody; amending RCW 9A.76.110, 9A.76.120, 9A.76.170, 9A.76.010, and	✓		Upheld. "Escaping From Custody" broadly identifies what crimes comprise an escape from custody. As such it is general." At 674, 867. Bail

Appendix C
Washington Cases Distinguishing General and Specific Titles to Legislation

(2004)	9.94A.360; adding a new section to chapter 10.88 RCW; creating a new section; repealing RCW 72.65.070 and 72.66.060; prescribing penalties; providing an effective date; and declaring an emergency.		jumping is a form of escape and Lanphar was still in custody when he posted bond under the definition of custody in Washington State.
<i>Pierce County v. State</i> , 150 Wn.2d 422, 436-437, 78 P.3d 640 (2003)	Ballot title: Initiative Measure No. 776 concerns state and local government charges on motor vehicles. This measure would require license tab fees to be \$30 per year for motor vehicles, including light trucks. Certain local-option vehicle excise taxes and fees used for roads and transit would be repealed. Should this measure be enacted into law?	√*	Upheld. Title encompassed the limitation of state and government license tab fees on cars and light trucks to \$30. The ballot title was sufficiently detailed to prompt an inquiring mind to read the rest of the initiative for further details.

Appendix C

Washington Cases Distinguishing General and Specific Titles to Legislation

<p><i>State v. McReynolds</i>, 117 Wn. App. 309, 340-342, 71 P.3d 663 (2003).</p>	<p>AN ACT Relating to increasing penalties for armed crimes</p>	<p>√*</p>	<p>Upheld. Title encompassed the criminalization of constructive possession of firearm because term "armed crime" in title logically encompassed constructive possession of firearm.</p>
<p><i>Citizens for Responsible Wildlife Mgmt. v. State</i>, 149 Wn.2d 622, 639-640, 71 P.3d 644 (2003)</p>	<p>Shall it be a gross misdemeanor to capture an animal with certain body-gripping traps, or to poison an animal with sodium fluoroacetate or sodium cyanide? (Ballot Title of Initiative I-713)</p>	<p>√*</p>	<p>Upheld. Initiative title encompassed ban on raw fur trade of animal pelts obtained with body-gripping traps and the two pesticides. Even if title restrictive, still no violation.</p>
<p><i>Washington Ass'n of Neighborhood Stores v. State</i>, 149 Wn.2d 359, 371-372, 70 P.3d 920 (2003)</p>	<p>Initiative Measure No. 773 concerns additional tobacco taxes for low-income health programs and other programs. This measure would impose an additional sales tax on cigarettes and a surtax on wholesaled tobacco products. The proceeds would be earmarked for existing programs and expanded health care services for low-income persons.</p>	<p>√</p>	<p>Upheld. Ballot title gave voting public proper notice of initiative's purpose, such as new taxes that will go into effect if measure passes.</p>
<p><i>Amalgamated Transit Union Local 587 v. State</i>, 142 Wn.2d 183, 217-227, 11 P.3d 762 (2000)</p>	<p>Shall voter approval be required for any tax increase, license tab fees be \$30 per year for motor vehicles, and existing vehicle taxes be repealed?</p>	<p>√</p>	<p>Struck down. Title did not encompass section requiring voter approval for any tax increase while defining tax to include specific fees for commercial or proprietary products or services rendered or benefits received, fees, assessments other than taxes, and utility charges by PUDs, all charges most would not consider "traditional taxes."</p>
<p><i>State v. Cloud</i>, 95 Wn. App. 606, 617-618, 976 P.2d 649 (1999)</p>	<p>"Shall criminals who are convicted of 'most serious offenses' on three occasions be sentenced to life in prison without parole?" (Ballot Title of Initiative 593)</p>	<p>√</p>	<p>Struck down. Title did not encompass subjects unrelated to persistent offenders, such as early release prohibitions for first-time offenders, because the initiative was restrictive.</p>
<p><i>In re Metcalf</i>, 92 Wn. App. 165, 183-184, 963 P.2d 911 (1998)</p>	<p>AN ACT relating to violence prevention.</p>	<p>√</p>	<p>Upheld. Title sufficient to encompass provisions re: deductions from inmate pay for incarceration costs, crime victims' compensation fund, savings.</p>

Appendix C Washington Cases Distinguishing General and Specific Titles to Legislation

<p><i>Charron v. Miyahara</i>, 90 Wn. App. 324, 329-337, 950 P.2d 532 (1998)</p>	<p>SB 5308 titled "AN ACT relating to the use of examinations in the credentialing of health professionals; amending . . ." and SB 5365 titled "AN ACT relating to the uniform disciplinary act; amending . . ."</p>	<p>√ SB 5308</p>	<p>Parts of SB 5308 struck down. Title of SB 5308 is restrictive and parts that reallocated authority from the Board to the Secretary are not fairly within the title's subject. Title of SB 5365 is general and upheld. Title of SB 5365 provides notice that the bill addresses discipline of health care professionals and a shift in disciplinary authority from the Board to the Secretary is germane to the uniform disciplinary act.</p>
<p><i>State v. Broadway</i>, 133 Wn.2d 118, 123-129, 942 P.2d 363 (1997)</p>	<p>"An Act Relating to increasing penalties for armed crimes . . ." (legislative title of Initiative 159) (legislative title counts as the official title rather than the ballot title when the legislature enacts the legislation)</p>	<p>√</p>	<p>Upheld. Title encompassed the firearm enhancement provision because it fell within the purview of the restrictive title. The fact that other provisions may have violated article II, section 19 of the Constitution did not render the whole Act unconstitutional as those parts were severable.</p>
<p><i>Washington Fed'n of State Employees v. State</i>, 127 Wn.2d 544, 551-557, 901 P.2d 1028 (1995)</p>	<p>"Shall campaign contributions be limited; public funding of state and local campaigns be prohibited; and campaign related activities be restricted?" (Ballot title of Initiative 134)</p>	<p>√</p>	<p>Upheld. Rational nexus exists between ballot title and section 26, which repealed one method of making political contributions (allowing state employees to have voluntary payroll deductions contributed to registered political committees).</p>
<p><i>Daviscount v. Peistrup</i>, 40 Wn. App. 433, 437-440, 698 P.2d 1093 (1985)</p>	<p>An Act Relating to the acquisition of property by public agencies.</p>	<p>√</p>	<p>Upheld. Title sufficient to cover provision for award of attorney's fees in public condemnation actions only but not sufficient in condemnation actions brought by private individuals by "expressly limiting the act's scope to the acquisition of property by public agencies" p. 439</p>
<p><i>Washington Educ. Ass'n v. State</i>, 97 Wn.2d 899, 906-07, 652 P.2d 1347 (1982)</p>	<p>An Act Relating to Community Colleges. [Petitioners alleged title was too general]</p>	<p>√</p>	<p>Upheld. Title sufficient to cover restrictions on tenure and due process rights because act concerned matters relevant to what its title expressed; that being matters relevant to community colleges.</p>

Appendix C

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<p><i>State ex rel. Jones v. Charboneau's</i>, 27 Wn. App. 5, 9-11, 615 P.2d 1321 (1980), review denied 94 Wn.2d 1021 (1980)</p>	<p>"Shall places where obscene films are publicly and regularly shown or obscene publications a principal stock in trade be prohibited?" (Ballot Title of Initiative 335)</p>	<p>√</p>	<p>Struck down. Ballot title did not encompass places of prostitution, illegal gambling, fighting, and opium smoking because the title did not provide the public with notice that they also were also voting on these subjects.</p>
<p><i>State v. Canyon Lumber Corp.</i>, 46 Wn.2d 701, 706-707, 284 P.2d 316 (1955)</p>	<p>"An Act relative to the liability of persons responsible for slash in forested area; and amending section 76.04.370, R.C.W."</p>	<p>√</p>	<p>Upheld. Title encompassed abatement of slashing, cost, and cost of fire fighting as result of existence of slash hazard.</p>
<p><i>Gruen v. State Tax Comm'n</i>, 35 Wn.2d 1, 8-23, 211 P.2d 651 (1949)</p>	<p>An Act providing for the payment of a bond issue repayable from the excise taxes on cigarettes as herein provided for; making an appropriation and providing penalties.</p>	<p>√</p>	<p>Upheld. Title was general and embraced a general singular subject, encompassing section allowing State to initiate excise taxes on cigarettes to fund a bond to pay for a bonus for World War II veterans.</p>
<p><i>State ex rel. Toll Bridge Auth. v. Yelle</i>, 32 Wn.2d 13, 23-28, 200 P.2d 467 (1948)</p>	<p>An Act relating to toll bridges; relating to the powers and duties of the Washington Toll Bridge Authority and certain officers; authorizing the purchase and operation of toll bridges, highway and ferry connections and approaches thereto;</p>	<p>√**</p>	<p>Struck down. Title insufficient to cover subject of financing ferries because title would not put someone on notice as to an enlargement of the powers of the Washington toll bridge authority beyond what it previously possessed under the 1937 act.</p>
<p><i>Cory v. Nethery</i>, 19 Wn.2d 326, 330-31, 142 P.2d 488 (1943)</p>	<p>AN ACT relating to local improvements in cities and towns, and repealing certain acts and parts of acts.</p>	<p>√</p>	<p>Struck down. Title not sufficient to encompass provision repealing statute of limitations concerning special drainage districts.</p>
<p><i>DeCano v. State</i>, 7 Wn.2d 613, 623-631, 110 P.2d 627 (1941)</p>	<p>"AN ACT relating to the rights and disabilities of aliens with respect to land, and amending chapter 50, Laws of 1921, . . ."</p>	<p>√**</p>	<p>Struck down. Title misleading and deceptive because it provided no indication that statute amended definition of word, "alien," to include native Filipinos, group not regarded as aliens by common understanding, judicial construction, or any express definition contained in prior law.</p>

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<p><i>State ex rel. Scofield v. Easterday</i>, 182 Wash. 209, 212-213, 46 P.2d 1052 (1935)</p>	<p>An Act relating to the maintenance and control of county and secondary highways in counties of the first class, and declaring an emergency.</p>	√	<p>Upheld. Title sufficient to cover provision giving authority to county engineers of first class counties to control and manage county roads in their respective counties.</p>
<p><i>In re Estate of Peterson</i>, 182 Wash. 29, 33-34, 45 P.2d 45 (1935)</p>	<p>An Act authorizing the incorporation of mutual savings banks, defining their powers and duties, and prescribing penalties for violations hereof.</p>	√*	<p>Upheld. Title sufficiently broad to cover section governing joint tenancies.</p>
<p><i>National Ass'n of Creditors v. Pendleton</i>, 158 Wash. 137, 139-140, 290 P. 987 (1930)</p>	<p>An Act relating to justice courts, fixing the venue of civil actions therein and the jurisdiction of justices of the peace in relation thereto, prescribing duties of justices of the peace, and repealing certain acts relating thereto.</p>	√	<p>Upheld. Title encompassed both jurisdiction and venue of justice courts without violating single subject rule. The court classified jurisdiction and venue as subordinate subjects under the general subject of justice courts.</p>
<p><i>Nat'l Ass'n of Creditors v. Brown</i>, 147 Wash. 1, 264 P. 1005 (1928)</p>	<p>An act relating to the venue of civil actions in justice courts.</p>	√**	<p>Struck down. Title not sufficient to cover jurisdiction of justice courts because venue and jurisdiction represented two entirely distinct matters.</p>
<p><i>Maxwell v. Lancaster</i>, 81 Wash. 602, 605-607, 143 P. 157 (1914)</p>	<p>An act creating a department of agriculture, providing for the organization and administration thereof, defining the powers and duties of its officers and employes in relation to agriculture, horticulture, live stock, dairying, state fairs, foods, drinks, drugs, oils, and other kindred subjects, providing penalties for the violation thereof, and repealing certain acts and parts of acts.</p>	√	<p>Upheld. Title sufficiently covered repeal of act requiring county commissioners to levy horticultural tax because horticulture was a branch of agriculture and the title also provided notice that the act repealed certain acts and parts of acts.</p>
<p><i>State v. Parmenter</i>, 50 Wash. 164, 172-173, 96 P. 1047 (1908)</p>	<p>An act amending an act entitled, 'An act to amend section 3, of chapter 83 of the Laws of 1897 relating to revenue and taxation'</p>	√	<p>Upheld. Reference to wrong chapter in title was surplusage and without this error, the title clearly stated a single subject addressed by the provisions in the act.</p>

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<p><i>Zenner v. Graham</i>, 34 Wash. 81, 83, 74 P. 1058 (1904)</p>	<p>An act relating to husbands who connive at the prostitution of their wives and to persons who live off or accept the earnings of prostitutes, or solicit persons to go to houses of ill-fame for immoral purposes, or who permit or solicit females under eighteen years of age to enter any house of ill-fame, or other houses for immoral purposes, declaring the violation hereof a felony, and fixing a punishment.</p>	<p>✓</p>	<p>Upheld. Title covered provision making it a felony for males who lived with or accepted the earnings of a prostitute.</p>
<p><i>Sengfelder v. Hill</i>, 21 Wash. 371, 383, 58 P. 250 (1899)</p>	<p>An act to protect innocent purchasers of community real property.</p>	<p>✓</p>	<p>Struck down. Title was not sufficient to encompass section of act covering sales by single, as well as married persons.</p>
<p><i>Percival v. Cowychee & Wide Hollow Irrigation Dist.</i>, 15 Wash. 480, 46 P. 1035 (1896)</p>	<p>An Act providing for the organization and government of irrigating districts and the sale of bonds arising therefrom, and declaring an emergency.</p>	<p>✓**</p>	<p>Struck down. Restrictive title did not sufficiently encompass provision for validating indebtedness incurred in past (retroactive application) by district organized under act and for levying of taxes to pay debt.</p>
<p><i>Lancey v. King County</i>, 15 Wash. 9, 10-11, 45 P. 645 (1896)</p>	<p>An act to grant to and prescribe powers of counties relative to public works undertaken or proposed by the state of Washington, or the United States, and declaring an emergency.</p>	<p>✓</p>	<p>Upheld. Title encompassed the power to condemn and dispose of land by county for public use in relation to public improvements undertaken by the state and the United States.</p>

* Discussed in single subject section of opinion

** No explicit discussion of general versus specific distinction, but relies on general/specific language and principles, or lack thereof, in describing title or reaching decision.

Chart does not include:

- 1) Cases discussing single subject provision only: *City of Burien v. Kiga*, 144 Wn.2d 819, 31 P.3d 659 (2001).
- 2) Cases striking down statute without explicitly distinguishing between general and specific titles: *Patrice v. Murphy*, 136 Wn.2d 845, 966 P.2d 1271 (1998); *Fray v. Spokane County*, 134 Wn.2d 637, 952 P.2d 601 (1998); *State v. Thomas*, 103 Wn. App. 800, 14 P.3d 854 (2000),

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- review denied 143 Wn.2d 1022, 29 P.3d 719 (2001); *Slotemaker v. Int'l Fruit & Produce Co.*, 156 Wash. 574, 287 P. 883 (1930); *Potter v. Whatcom County*, 138 Wash. 571, 245 P. 11 (1926); *State ex rel. Arnold v. Mitchell*, 55 Wash. 513, 104 P. 791 (1909); *State v. King County*, 49 Wash. 619, 96 P. 156 (1908); *State v. Clark*, 43 Wash. 664, 86 P. 1067 (1906); *State v. Superior Court*, 28 Wash. 317, 68 P. 957 (1902); *Anderson v. Whatcom County*, 15 Wash. 47, 45 P. 665 (1896).
- 3) Cases upholding statute without explicitly distinguishing between general and specific titles: *In Re Boot*, 130 Wn.2d 553, 566, 925 P.2d 964, 971 (1996); *Washington State Sch. Dirs. Ass'n v. Dep't of Labor & Indus.*, 82 Wn.2d 367, 371, 510 P.2d 818 (1973); *Treffry v. Taylor*, 67 Wn.2d 487, 408 P.2d 269 (1965); *State ex rel. Port of Seattle v. Dep't of Pub. Serv.*, 1 Wn.2d 102, 95 P.2d 1007, 1011 (1939); *In re Estate of Button*, 190 Wash. 333, 67 P.2d 876 (1937); *Hacker v. Barnes*, 166 Wash. 558, 7 P.2d 607, 609 (1932); *Hemmi v. James*, 164 Wash. 170, 2 P.2d 750 (1931); *In re Hulet*, 159 Wash. 98, 292 P. 430 (1930); *Fisher Flouring Mills Co. v. Brown*, 109 Wash. 680, 187 P. 399 (1920); *Archibald v. N. Pac. R. Co.*, 108 Wash. 97, 183 P. 95 (1919); *State v. Shorrock*, 55 Wash. 208, 95 P. 214 (1909); *In re Donnellan*, 49 Wash. 460, 95 P. 1085 (1908); *Marston v. Humes*, 3 Wash. 267, 28 P. 520 (1891).
- 4) Cases in which reference to general v. specific title is considered dictum by court: *Gilman v. State Tax Comm'n*, 32 Wn.2d 480, 202 P.2d 443 (1948).
- 5) Cases limiting application of statute based on contents of title: *Howlett v. Cheetham*, 17 Wash. 626, 50 P. 522 (1897).