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NO. 96781-4

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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CITY OF SEATTLE,

*Petitioner,*

v.

AMERICAN HOTEL & LODGING ASSOCIATION, SEATTLE HOTEL  
ASSOCIATION, and WASHINGTON HOSPITALITY ASSOCIATION,

and

UNITE HERE! LOCAL 8; SEATTLE PROTECTS WOMAN,

*Respondents.*

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**AMICUS BRIEF OF THE STATE OF WASHINGTON**

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## **I. INTRODUCTION AND INTEREST OF AMICUS CURIAE**

State and local governments establish public policy to protect the health, safety, and welfare of its citizens through the legislative process. The ability of the people and their elected representatives to resolve complex problems depends upon the legislative capacity to address multifaceted subjects in an equally multifaceted manner. This Court should grant review to clarify that Washington's single-subject rule does not require that legislative bodies and voters address complex subjects only in a piecemeal manner.

Amicus State of Washington has an interest in the issue presented for review in this case because both the Washington Constitution and the Seattle City Charter contain provisions limiting legislation to a single subject. Whether this Court applies article II, section § 19 of the Washington Constitution to state legislation or a local charter provision to local legislation, the analysis is similar. This Court should grant review of the decision of the Court of Appeals in this case to resolve a conflict between the decision below and the prior precedent of this Court. RAP 13.4(b)(1). This Court should also grant review because the application of the single-subject rule to state and local legislation raises a significant constitutional question. RAP 13.4(b)(3). Most importantly, this Court should grant review

because the continued capacity for legislation to address complex problems comprehensively presents a statewide issue of substantial public interest. RAP 13.4(b)(4).

## **II. ISSUES ADDRESSED BY AMICUS**

Did Seattle's local Initiative 124 (I-124) violate the single-subject provision of the Seattle City Charter?

## **III. STATEMENT OF THE CASE**

Seattle voters approved I-124 at the 2016 general election, broadly addressing the working conditions of Seattle hotel employees. *American Hotel & Lodging Ass'n v. City of Seattle*, No. 77918-4, slip op. at 1 (Wash. Ct. App. Dec. 24, 2018).<sup>1</sup> The initiative addresses this subject comprehensively, encompassing several incidental subdivisions. As explained in its ballot title, I-124 comprehensively provided health, safety, and labor standards for hotel employees by addressing protections against assault, sexual harassment, and injury, as well as providing for healthcare, limited workloads, and job security. Slip op. at 2.

Three associations representing hotel employers brought this action in the King County Superior Court, challenging I-124 as embracing more

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<sup>1</sup> The slip opinion of the decision below is attached as Appendix A to both of the petitions for review filed in with this Court. The State cites to the slip opinion for ease of reference.

than one subject. The superior court upheld the initiative from challenge. Slip. op. at 6. The Court of Appeals reversed, holding that although the various subdivisions of I-124 fell within the scope of the measure's general ballot title, slip. op. at 11, they lacked rational unity among them. Slip op. at 21. The appellate court thus concluded that I-124 was unconstitutional. The City of Seattle and intervening sponsors of the initiative now seek discretionary review in this Court.

#### **IV. ARGUMENT**

The question presented in this case affects the capacity for legislative bodies to comprehensively address complex subjects in a single act. I-124 was drafted to broadly address the working conditions of hotel workers. The voters adopted findings as part of I-124, including finding that “the hospitality industry has not adequately provided for the safety and security of hotel employees.” I-124, § 1. The initiative addresses that problem in several ways. But the Court of Appeals invalidated the initiative on the basis that the act addressed too many aspects of that same subject and that therefore I-124's provisions did not bear rational unity to each other. This Court has explained that legislation can address a single subject while treating that subject comprehensively through several incidental

subjects or subdivisions. *Washington Ass'n for Substance Abuse & Violence Prevention v. State (WASAVP)*, 174 Wn.2d 642, 656, 278 P.3d 632 (2012).

This Court should grant review based upon several criteria. The decision below conflicts with precedent of this Court, including *WASAVP*. RAP 13.4(b)(1). The ability of Washington voters and their elected representatives to comprehensively address important issues without resorting to piecemeal legislation also creates a significant constitutional question as to a statewide issue of substantial public interest. RAP 13.4(b)(3), (4).

The State has a strong interest in the analysis applied in this case because it will ultimately affect not only local legislation but the permissible scope of statewide legislation as well. As a local initiative, I-124 must be considered in light of the single-subject provision of the Seattle City Charter, rather than article II, section 19 of the Washington Constitution.<sup>2</sup> *Carlson v. San Juan County*, 183 Wn. App. 354, 376-77, 333 P.3d 511 (2014). But Washington courts apply essentially the same analysis whether the legislation at issue is state or local. *Filo Foods, LLC v. City of SeaTac*, 183 Wn.2d 770, 781-82, 357 P.3d 1040 (2015). This case will therefore add

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<sup>2</sup> The State agrees with the City of Seattle that the Court of Appeals erred by applying the single-subject rule of RCW 35A.12.130 when it should have applied the single-subject provision of the Seattle City Charter.

to the body of precedent that governs state legislation as well. This is true both for state laws enacted through the initiative process, *see, e.g., WASAVP*, 174 Wn.2d at 654, or by the people’s elected representatives in the legislature. *See, e.g., In re Boot*, 130 Wn.2d 553, 566, 925 P.2d 964 (1996).

The Court of Appeals set an ominous precedent by reasoning that legislation addressing a complex subject comprehensively failed the “rational unity” test as developed by this Court. Slip op. at 12. The narrow approach taken by the Court of Appeals conflicts with this Court’s precedent, which does not support an analysis in which legislation may be picked apart by deconstructing its provisions until they no longer reflect a unified whole. As this Court explained:

The constitutional prohibition of more than one subject in an act does not impose any limitation on the comprehensiveness of the subject, which may be as comprehensive as the legislature chooses to make it, provided it constitutes, in the constitutional sense, a single subject and not several.

*Casco Co. v. Pub. Util. Dist. 1*, 37 Wn.2d 777, 790, 226 P.2d 235 (1951) (quoting 50 Am. Jur. 178, *Statutes*, § 197).

Washington courts reach the rational unity test as the last stage of a larger analysis of the single-subject rule. That analysis begins with consideration of the measure’s title. *WASAVP*, 174 Wn.2d at 655. If the title

is general the subject is construed more broadly, because the legislative body may determine for itself how comprehensive its objects are. *WASAVP*, 174 Wn.2d at 655. The Court of Appeals correctly concluded that I-124 bore a general title. Slip op. at 11. This being so, “[a]ll that is required [by the constitution] is that there be some ‘rational unity’ between the general subject and the incidental subdivisions.” *WASAVP*, 174 Wn.2d at 656 (alterations in original) (quoting *State v. Grisby*, 97 Wn.2d 493, 498, 647 P.2d 6 (1982)). “[T]he existence of rational unity . . . is determined by whether the matters within the body of the initiative are germane to the general title and whether they are germane to one another.” *City of Burien v. Kiga*, 144 Wn.2d 819, 826, 31 P.3d 659 (2001).

With that standard in mind, this Court has recognized that “articulation of the elements of rational unity has often proved elusive.” *In re Boot*, 130 Wn.2d at 567 (citing *Washington Fed’n of State Emps. v. State*, 127 Wn.2d 544, 571-72 n.6, 901 P.2d 1028 (1995) (Talmadge, J., concurring in part/dissenting in part)). Rational unity may be easily described, but the decision of the Court of Appeals below demonstrates that it is not always easily applied.

This Court should grant review to clarify that the rational unity standard permits, and does not preclude, legislative bodies to address issues

comprehensively. “There is no violation of article II, section 19 even if a general subject contains several incidental subjects or subdivisions.” *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 207, 11 P.3d 762, 27 P.3d 608 (2000). Since the early days of statehood this Court has recognized that “by adopting a subject sufficiently general [the legislature] can embrace in one act all the statute law of the state.” *Marston v. Humes*, 3 Wash. 267, 276, 28 P. 520 (1891). “In other words,” this Court continued, “the legislature may adopt just as comprehensive a title as it sees fit, and if such title when taken by itself relates to a unified subject or object, it is good, however much such unified subject is capable of division.” *Id.*

Rational unity accordingly does not require that the various provisions of an act all be necessary to the implementation of the others. *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 638, 71 P.3d 644 (2003). If this was not so, legislative bodies would find themselves inescapably driven to piecemeal legislation. The legislature, city councils, and voters alike accordingly have a strong interest in preserving their ability to legislate comprehensively.

Legislative bodies often face the need to address subjects with numerous facets. Complex topics may entail multiple components that might be described by listing components rather than merely describing the

general subject. This Court considered an example in *WASAVP*, in which an initiative to privatize the sale of liquor addressed numerous subtopics such as closing state liquor stores, selling their assets, licensing private parties to sell liquor, setting fees, earmarking funds for public safety, modifying advertising rules, and regulating the privatized industry. *WASAVP*, 174 Wn.2d at 647, 656. The various parts of the law at issue in *WASAVP* were naturally addressed together, given that they all related to the single subject of liquor sales. *Id.* at 659. This Court noted that “broad, comprehensive legislation does not necessarily violate the single-subject rule[.]” *Id.* at 660 n.3. Indeed, the single-subject rule was never intended to prevent the enactment of a complete law on a given subject. *McQueen v. Kittitas County*, 115 Wash. 672, 682, 198 P. 394 (1921). “[F]or purposes of legislation, ‘subjects’ are not absolute existences to be discovered by some sort of *a priori* reasoning, but are the result of classification for convenience of treatment and for greater effectiveness in attaining the general purpose of the particular legislative act.” *WASAVP*, 174 Wn.2d at 656 (quoting *State ex rel. Washington Toll Bridge Auth. v. Yelle*, 61 Wn.2d 28, 33, 377 P.2d 466 (1962)).

Washington cases provide other examples. This Court rejected a single-subject challenge to the enactment of a comprehensive insurance

code, even though it established a joint office of insurance commissioner and fire marshal. *Kueckelhan v. Fed. Old Line Ins. Co.*, 69 Wn.2d 392, 403-04, 418 P.2d 443 (1966). Similarly, the Court of Appeals sustained the Omnibus Alcohol and Controlled Substances Act, even though it addressed both alcohol and controlled substances and mixed both civil and criminal provisions. “Although the civil and criminal provisions within the act cover a broad range of activities, each of those provisions furthers the legislative purpose of counteracting drug problems which are prevalent within our society.” *State v. Jenkins*, 68 Wn. App. 897, 901, 847 P.2d 488 (1993).

This same interest in addressing broad problems through comprehensive legislation gives rise to a significant constitutional question as to a statewide issue of substantial public interest. RAP 13.4(b)(3), (4). The Court of Appeals applied the rational unity test in an overly restrictive manner that would require piecemeal legislation in lieu of addressing problems comprehensively. The court’s failure to adhere to the prior strictures of this Court as to what constitutes rational unity both constitutes conflict with decisions of this Court, RAP 13.4(b)(1), and demonstrates the need for further guidance for the lower courts. *See In re Boot*, 130 Wn.2d at 567 (further articulation of rational unity is needed). This Court should grant review.

## V. CONCLUSION

For these reasons, and for the reasons articulated by the petitioners, this Court should grant the petitions for discretionary review of the decision of the Court of Appeals.

RESPECTFULLY SUBMITTED this 21st day of March 2019.

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