

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law.

Today's podcast is on drafting a bill's title. Pursuant to Article IV, Section 9 of the California State Constitution, it contains a requirement for each bill to have a title. The constitutional provision, again, in Section 9 specifically states the following.

"A statute shall embrace but one subject which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title."

The purpose of the title is to provide a description of the bill for purposes of the public and legislators. Because of this constitutional provision, a bill's title has to be legally sufficient and a bill drafter usually prepares the title of the bill after the body with the contents of the bill have been drafted.

As each bill is required to contain one broad subject matter, that subject needs to be expressed in the title of the bill and it has to be legally sufficient. Again, pursuant to the California Constitution, an enacted bill is void if the subject is not properly expressed in the bill's title.

As a general rule, the title needs to be broad enough to be germane to the general subject matter as it's contained in the bill. The title has to identify generally the subject of the bill. The purpose of this is that when the reading clerk or an individual reads the bill's title, that person should be able to determine what the bill deals with and whether the bill deals with a topic of interest to them.

In addition, the legal purpose of the constitutional title requirement is basically to prevent the concealment of the true nature or contents of the provisions of the bill from both the Legislature as well as the general public. As a result, the title of the bill serves as a means of identifying the subject matter of the bill.

It's very important that the title describes what the bill is about rather than what the bill does or how the bill accomplishes its purpose. Keep in mind that the requirement of Section 9 of Article IV is mandatory. Again, a bill that fails to comply with this mandate, with this requirement is, in fact, void.

In order to comply with this constitutional requirement, the title basically needs to give adequate notice about the subject matter of the bill. The title generally begins with phrase "An Act Relating to..." something.

For example, in Senate Bill 5 in the 2019-2020 California legislative session, it's "An act to add Section 41202.6 to the Education Code, to add Part 4 to Division 2 of Title 5, and to add Division 6 to Title 6 of the Government Code, and to add Section 97.68.1 to the relevant Tax Code relating to local government finance."

This is the language that expresses the subject of the bill in the title. The practice in California and many other states is to include references to applicable code sections and whether the bill

adds, amends, or repeals sections. The title of a bill should designate the subject of the bill in general terms, again, not in detail.

The title may be broader than the subject matter that is dealt within the body of the bill, but it can't be narrower. That's why a reader of a bill might see the title of a bill relating to personal income tax.

You wouldn't want to find a title of the same bill as, "An Act Relating to Personal Exemptions Under the Income Tax Law for Persons 65 Years of Age or Older," because if the title were to include a detailed description of the subject of the bill, then the title would have to basically express every detail of the bill, otherwise any detail that was not included, those provisions could be held invalid.

On the other hand, a bill title could be so broad that it may not comply with the constitutional requirements that were set forth in Article IV, Section 9. For example, we have another state Supreme Court here in Oregon where the bill said it was "An Act Relating to the Activities Regulated by State Government."

The Oregon Supreme Court said that this title failed to identify a single subject because it was so broad that it did "little more than define the universe with respect to which the legislature is empowered to act."

You have one extreme and then you have the other.

Finally, again, for the bill drafter, the bill drafter generally prepares the bill title after the component parts of the bill have been finished so that the title fits the bill rather than the bill being drafted to fit the title.

Thanks for joining today's podcast on a bill title.