

SINGLE SUBJECT RULING FOR SHB 2803

March 5th, 2020

In ruling upon the point of order raised by Senator Braun as to whether Substitute House Bill 2803 violates Senate Rule 25 by including provisions not reflected in the bill's title, the President finds and rules as follows.

While the President will give deference to a title chosen by a bill's sponsor, it is incumbent upon the President to enforce Rule 25 which is the title limitation adopted by this body. These are your rules.

Previous rulings on this matter have provided some guidance on the Senate's standards for an adequate title, explaining that, "it is not required that the title be perfectly precise, but it should adequately describe the scope and purpose of the law being changed as to cause a reader following a particular issue to determine if further inquiry into the text of the bill is necessary."

Therefore, the President will examine a title to determine not its legal import, but whether or not it sufficiently describes the subject of the bill itself.'

The title of SHB 2803 is as follows: "An act relating to authorizing the governor to enter into compacts with Indian tribes addressing certain state retail sales tax, certain state use tax, and certain state business and occupation tax revenues, as specified in a memorandum of understanding entered into by the state, Tulalip tribes, and Snohomish county, in January 2020, and including other terms necessary for the department of revenue to administer any such compact."

The specific point of contention is whether certain provisions found in the bill are actually "as specified" in the January 2020 MOU.

The January MOU in question contains a provision that prohibits sharing of retail sales and use tax revenue derived from existing development beyond the first \$500,000 until year five and beyond the four-year fiscal note period.

Section 2(2)(d) of Substitute House Bill 2803 states: "Beginning January 1st of the fourth calendar year following the signing of the compact" certain amounts beyond the \$500,000 cap would be subject to revenue sharing.

Senator Braun argues this would allow for revenue sharing within year four, in violation of what appears to be a five-year ban on revenue sharing in the January 2020 MOU. He therefore maintains that the legislation is no longer accurately described by the title of the bill, in violation of Senate Rule 25.

However, there is another interpretation, and where there is more than one reasonable reading of a substantive provision, the President is inclined to follow the interpretation that upholds the Rules of the Senate.

A close reading of the language of the MOU shows that the restriction is "until year five". This language places a four-year limitation on additional sharing of retail sales and use tax revenue derived from existing development beyond the \$500,000 cap. The President finds that it is fair to read this as a ban

until the fifth year, as further clarified by the language in the MOU that states "beyond the four-year fiscal note period".

For these reasons, the President finds that the title does reflect the substance of the bill in compliance with Senate Rule 25 and the that bill is properly before us.

Normally that would be end of my remarks, but in this case the President finds it necessary to make some comments on bill titles and encourage caution in the future.

The President has noticed a trend of sponsors selecting very narrow and specific bill titles. There are reasons for these choices, and often the reason is to avoid certain uncomfortable amendments. Amendments and uncomfortable debate are a regular part of the legislative process. The President will caution members that selecting a narrow and specific bill title is not without risk. Where a title is very specific, the language of the bill MUST follow that tile very specifically, and the President will enforce the standards of Senate Rule 25.

Further, the President is dismayed at the reference to an outside document in this particular title. SHB 2803 references an MOU that also has been amended and is not widely available to the public. Given that a primary purpose of Senate Rule 25 is to give notice as to the contents of the bill, the President is disappointed in that respect. In order to even determine the basic question of whether the contents of the bill conflicted with the title, the President was forced to follow a trail of documents collected by professionals. Legislation should be accessible to the public and this should not be an acceptable form of notice.

Titles like this do a disservice to members of this body and to the public. While, as in this case, there may be no technical violation of Senate Rule 25, there certainly can be a violation of its spirit and the spirit of the legislative process.