

## STATE SUBSTANTIVE AND PROCEDURAL CONSTRAINTS ON LOCAL PREEMPTION LEGISLATION

This memorandum provides an overview of some substantive and procedural constraints on the latitude of state legislatures to limit local authority and autonomy. In Part I, the memorandum canvasses substantive theories that include generality and “special law” constraints, as well as related “general laws” and uniformity requirements—all state constitutional doctrines that interact with principles of home rule.

In Part II, the memorandum outlines procedures in some states that are required in order for state legislatures to curtail home rule.

Finally, in Part III, the memorandum addresses general legislative procedural constraints, not grounded in the law of state-local relations but nonetheless with have some potential application in the preemption context, such as single-subject rules, clear-title requirements, original purpose rule, and others.<sup>1</sup>

### I. SUBSTANTIVE CONSTRAINTS RELATED TO SUBJECT MATTER COVERAGE AND GENERALITY

One potential constraint on certain types of state preemption may be found in state constitutional provisions that require some form of “generality” or “uniformity” or conversely prohibit “special” or “local” legislation. There are multiple variations on ideas of generality and uniformity in state oversight of local governments, and these provisions must be read in the context of a given state’s home rule, although also reflects broader principles not limited to state-local relations.

Overall, the strongest examples of generality and related principles make clear that individual cities cannot be singled out, with clear relevance for preemption conflicts; in many states, however, the judiciary has allowed circumvention, for example, by permitting any legislation that does not expressly identify a particular target jurisdiction, even if in fact by operation only one jurisdiction was effected.

Traditionally, this jurisprudence has not been a significant source of protection for local authority, but there are some examples of the doctrine succeeding, and the landscape may change as the nature of preemption becomes more targeted.<sup>2</sup>

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<sup>1</sup> Prepared by Nestor Davidson for the Legal Effort to Address Preemption (LEAP) Project, March 2017. The information contained in this document does not constitute legal advice.

<sup>2</sup> For an excellent recent examination of the nature and history of this subject (not focused on the context of preemption), see Justin R. Long, *State Constitutional Prohibitions on Special Laws*, 60 CLEV. ST. L. REV. 719 (2012).

## A. General vs. “Special” or “Local” Legislation

### 1. Landscape of Constitutional Provisions

Roughly 37 states constitutions provide that legislation must be general, as opposed to “special” or “local.”<sup>3</sup> Although the jurisprudence is varied, it is perhaps not too much of an oversimplification to say that a statute that relates to persons or things *as a class* is a general law, while a statute which relates to *particular* persons or things of a class is a special law. Similarly, a local law is a kind of special law, where the subject of the law is a specific locality or group of localities singled out from the class of all localities. State statutes might be vulnerable because they are “local” in the geographic sense, or discriminate against a particular category, or are applicable only to government entities, instead of including private parties.<sup>4</sup>

*Category 1 states:* In a number of states, the state constitution has specifically enumerated prohibitions as well as a general clause restricting special legislation. Even in these states, it is the ultimate job of the courts to determine whether challenged legislation falls within one of the categories listed in the constitution.<sup>5</sup>

For example, the Missouri Constitution provides that “The general assembly shall not pass any local or special law . . . where a general law can be made applicable.”<sup>6</sup> The constitution, however, also provides 29 specific areas where the state legislature may not act through special legislation, in addition to the final general prohibition. The specific areas include liens, divorces, regulation of mining and manufacturing, and many others. Some 31 states have constitutional provisions substantially similar to Missouri, although the specifics vary.<sup>7</sup> See Appendix A.

*Category 2 states:* Unlike Missouri, some states omit the list of enumerated subjects, and instead restrict special laws by imposing a requirement that special laws may not be passed when a general law can be made applicable.<sup>8</sup> These states include Alaska, Illinois, Utah, California, Montana.<sup>9</sup> The National Municipal League’s Model State Constitution also adopts this approach.

*Category 3 states:* A number of states constrain “special” or “local” legislation only with regard to specific enumerated subjects.

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<sup>3</sup> See Appendix B.

<sup>4</sup> JOHN MARTINEZ, LOCAL GOVERNMENT LAW § 3:23 (2016) (enumerating categories of “special” or “local” laws, but noting that the categories often blur in practice).

<sup>5</sup> See Lynn A. Baker & Daniel B. Rodriguez, *Constitutional Home Rule and Judicial Scrutiny*, 86 DENV. U. L. REV. 1337, 1338 n.6 (2009).

<sup>6</sup> <http://www.moga.mo.gov/mostatutes/Consthtml/A030401.html>.

<sup>7</sup> See Anthony Schutz, *State Constitutional Restrictions on Special Legislation as Structural Restraints*, 40 J. LEG. 39, 48 & n.38 (2014) (listing state constitutional provisions).

<sup>8</sup> *Id.* at 48 n.41.

<sup>9</sup> In Indiana, the principle that state statutes cannot differentiate between local governments is covered under the “equal privileges and immunities” clause of the state constitution. Martinez, *supra* note 4 (citing *Hoovler v. State*, 689 N.E.2d 738 (Ind. Ct. App. 1997) (interpreting Ind. Const. art. I, § 23)).

## 2. Interpreting Generality

Whatever category a particular state falls into, “there is little agreement on what the terms ‘special,’ ‘local,’ and ‘general’ mean.”<sup>10</sup> Generally, granting the significant state-by-state variation, most courts employ a two-step analysis<sup>11</sup>:

First, is the challenged law actually special/local? Very broadly speaking, courts tend to apply one of two types of tests:

*Closed Classes* (a test that evinces less variation among states). A closed class is one to which no objects will be added in the future. The closed-class test has been used to strike down legislation that, for example, ties the classification to historical facts. The most common examples involve laws related to local governments that apply to cities with a population within a certain range.<sup>12</sup> Such classifications become closed when the legislation limits the population determination to a particular year or a particular census.

On the other hand, in *Treadway v. State*,<sup>13</sup> the Missouri Supreme Court held that statutes that functionally singled out one city could still be general “because they employ open-ended criteria ... [that] identify the counties by factors that change such as by reference to county classification, population, charter status and nonattainment criteria. These variables are not immutable characteristics. The statutes employ factors that would not exclude a county from satisfying the statutes’ criteria should such a county in the future fall into one of the listed factors due to changes in county classification, population, charter status and nonattainment criteria.”<sup>14</sup>

*Arbitrarily Defined Classes* (a test that evinces greater variation among states): These tests generally require that legislative classifications involve distinctions among objects that are relevant to some legitimate public purpose.<sup>15</sup> A very early articulation of this principle came

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<sup>10</sup> Schutz, *supra* note 7, at 49.

<sup>11</sup> Several states explicitly liken their generality analysis to an equal protection analysis, including Alaska, California, Illinois, Missouri, Montana (to some extent), New Jersey, New Mexico, South Carolina, Tennessee, West Virginia (to some extent), and Wyoming. On the other hand, Arizona, Maine, Nebraska, and North Carolina explicitly distinguish generality analysis from equal protection analysis.

<sup>12</sup> See, e.g., *City of Miami v. McGrath*, 824 So. 2d 143 (Fla. 2002) (invalidating special law which purported to restrict parking-tax enabling provision to three cities based on population as of a certain date); see also *Florida Dept. of Business and Professional Regulation v. Gulfstream Park Racing Ass’n*, 967 So. 2d 802, 809 (Fla. 2007) (addressing a statute that prohibited thoroughbred permit holders from engaging in inter-track wagering in “any area of the state where there are three or more horserace permitholders within 25 miles of each other,” and holding that it was unconstitutional because there was no reasonable possibility that these conditions would ever exist in another part of the state).

<sup>13</sup> 988 S.W.2d 508 (Mo. 1999).

<sup>14</sup> *Id.* at 510–11.

<sup>15</sup> For some examples, see RICHARD BRIFFAULT & LAURIE REYNOLDS, *CASES AND MATERIALS ON STATE AND LOCAL GOVERNMENT LAW* 307-08 (8<sup>th</sup> ed. 2016) (noting, for example, a case that involved “fire protection districts wholly within first class counties with more than 198,000 but fewer than 199,200 inhabitants” or where the classification although not unreasonable on its face has nothing to do with the substance of the law, such as an Arizona law applicable only in counties with 500,000 or more people making it a crime for a minor to carry or possess a firearm in a public place).

from the Minnesota Supreme Court in *Nichols v. Walter*:<sup>16</sup> “There must be a substantial distinction, having a reference to the subject-matter of the proposed legislation between the objects or places embraced in such legislation and the objects or places excluded. The marks of distinction on which the classification is founded must be such, in the nature of things, as will, in some reasonable degree at least, account for or justify the restriction of the legislation.”<sup>17</sup> The test of a special law is the appropriateness of its provisions to the objects that it excludes.<sup>18</sup>

As a second step, if the law is determined to be special/local, it is then presumptively unconstitutional. The State must then provide “substantial justification” for excluding the other class members or political subdivisions from the law.<sup>19</sup> That means that site-specific legislation can be upheld where there are unique local conditions or a distinctive state interest.<sup>20</sup>

### B. The “General Laws” Principle

Related to the special legislation vs. general legislation principle is an aspect of home rule jurisprudence in traditional *imperio* jurisdictions is a principle that a state can preempt when done pursuant to a legislative intent that a different general regulatory scheme should prevail, but not when it is just a narrow expression of anti-home rule hostility. Many states have *imperio* home rule provisions that tell a home rule unit that it cannot adopt legislation that is “inconsistent with general law,” which, in turn, is at least a potential (albeit mild) limitation on state preemption power.

In states with defined, or *imperio*, home rule systems,<sup>21</sup> home rule both delegates power to local governments and protects them from being preempted by the state in the exercise of delegated power. Some constitutional home rule clauses state that the exercise of local home rule is subject to “general” laws adopted by the state legislature. See Appendix A. This exception allows state legislatures to preempt home rule municipalities through general legislation unless the home rule power is exclusively of local concern.<sup>22</sup> In states with legislative “total unless defined” home rule, the delegation of power is complete, but the legislature retains power to prohibit its use in any area it deems appropriate.<sup>23</sup> This is an area of jurisprudence that is under-developed, and advocates and local governments should focus on “subject to general laws” language that may have been under the radar in a given state, but this theory may hold some potential if state preemption develops to

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<sup>16</sup> 33 N.W. 800 (Minn. 1887).

<sup>17</sup> *Id.* at 802.

<sup>18</sup> See e.g., *Best v. Taylor Machine Works*, 689 N.E.2d 1057 (Ill. 1997) (finding cap on non-economic damages in personal injury cases was unconstitutional because it arbitrarily treated similar tort victims and tortfeasors differently for no good reason); *accord Ferdon v. Wisconsin Patients Compensation Fund*, 701 N.W.2d 440 (Wis. 2005) (striking down similar legislation on equal protection grounds, using a rational-basis with bite standard). But see *Kirkland v. Blaine County Medical Center*, 4 P.3d 1115 (Idaho 2000) (finding cap on non-economic damages in personal injury cases was not special legislation because legislature is “engaging in its fundamental and legitimate role of structuring and accommodating the burdens and benefits of economic life.”).

<sup>19</sup> See, e.g., *Cleveland v. State I*, 942 N.E.2d 370 (Ohio 2010) (upholding Ohio gun law as to generality).

<sup>20</sup> See BRIFFAULT & REYNOLDS, *supra* note 15 at 314-18.

<sup>21</sup> See e.g., N.Y. CONST. Art. IX § 2, CONN. CONST. Art. X § 1, OH CONST. Art. XVIII §§ 3,7, WA CONST. Art. XI § 11, CA CONST. Art. XI §§ 5,7.

<sup>22</sup> See N. Y. Const, Art. IX, § 3.(d)(1) (a general law is one which in terms and in effect applies alike to all of a particular type of local government).

<sup>23</sup> DANIEL R. MANDELKER ET. AL, STATE AND LOCAL GOVERNMENT IN A FEDERAL SYSTEM 90 (8<sup>th</sup> ed. 2014).

target specific localities.

### C. Uniformity

Even for general laws, some states have independent “uniformity” requirements, some of which apply to specific subject matters. The Ohio Constitution, for example, provides that: “All laws, of a general nature, shall have a *uniform operation* throughout the State; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the General Assembly, except, as otherwise provided in this constitution.”<sup>24</sup> (Emphasis added.)

To interpret this provision, courts again generally deploy a multi-step test:

*Step 1:* Is the *subject matter* of the law (not geographical application) general or special/local? Some formulations include: “If the subject does or may exist in, and affect the people of, every county, in the state, it is of a general nature” or “If the subject cannot exist in, or affect the people of every county, it is local or special.”

*Step 2:* If general, does the statute operate uniformly throughout the state? This is a difficult standard under which to invalidate legislation. In Ohio, for example, the relevant constitutional provision “was not intended to render invalid every law which does not operate upon all persons, property or political subdivisions within the state. It is sufficient if a law operates upon every person included within its operative provisions, provided such operative provisions are not arbitrarily and unnecessarily restricted. And the law is equally valid if it contains provisions which permit it to operate upon every locality where certain specified conditions prevail. A law operates as an unreasonable classification where it seeks to create artificial distinctions where no real distinction exists.”<sup>25</sup>

This rule is basically the same Closed Class test in Part I related to special legislation—even if the legislation only applies to one or two subdivisions of the state, it would be upheld as long as more subdivisions *theoretically could* fall into the definition. “[A] statute is deemed to be uniform despite applying to only one case so long as its terms are uniform and it may apply to cases similarly situated in the future.”<sup>26</sup>

## II. LEGISLATIVE MEANS OF OVERCOMING SPECIAL/LOCAL LAW RESTRICTIONS

In some states, regardless which category they fall into, the constitution provides a process for the constitutional passage of local or special laws—a means of validating preemption or other oversight of local governments, but also a potential ground for challenge if procedures are not followed.<sup>27</sup> These states include New York, Florida, Pennsylvania, Oklahoma, Louisiana, Missouri, and Georgia.

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<sup>24</sup> OHIO CONST. Art. II, § 26.

<sup>25</sup> *Desenco, Inc. v. Akron*, 84 Ohio St.3d 535, 542 (1999).

<sup>26</sup> *Id.* at 543.

<sup>27</sup> *Schutz*, *supra* note 7, at 48 n.40.

There are two basic procedures invoked: either a supermajority is required, or notice is required.<sup>28</sup> The New York Constitution, for example, provides that:

[T]he legislature . . . [s]hall have the power to act in relation to the property, affairs or government of any local government only by general law, or by special law only (a) on request of two-thirds of the total membership of its legislative body or on request of its chief executive officer concurred in by a majority of such membership, or (b) except in the case of the city of New York, on certificate of necessity from the governor reciting facts which in the judgment of the governor constitute an emergency requiring enactment of such law and, in such latter case, with the concurrence of two-thirds of the members elected to each house of the legislature.<sup>29</sup>

Under this provision, the State Legislature may freely regulate the property, affairs or government of local governments through the enactment of a “general law” that “in its terms and in effect applies to all counties . . . [,] all cities, all towns or all villages.” However, if the Legislature seeks to enact a special law that would apply to one or more, but not all local governments, it must follow one of two procedures intended to protect the Home Rule powers of the affected localities. The Legislature must receive either (1) a request of two-thirds of the total membership of the local legislative body or of the local chief executive officer concurred in by a majority of the membership of the local legislature; or (2) a certificate of necessity from the Governor reciting facts that constitute an emergency requiring enactment of such law and the concurrence of two-thirds of each house of the State legislature. The first option’s directives are commonly referred to as the “Home Rule message” requirement “because whenever a special law is enacted it should be at the locality’s request.

For other examples, see Appendix A.

### III. GENERAL LEGISLATIVE PROCEDURAL CONSTRAINTS

Most state constitutions contain provisions that impose certain limitations, such as that legislation address a “single subject” and have a clear title. These provisions are not unique to legislation on state-local relations, but can have application in that context.

#### *A. Single Subject and Clear Title Rules*

Single subject rules restrict the subject matter of an enactment by the state’s legislature to one general topic, so that if, for example, a statute addresses preemption of a local ordinance and an entirely unrelated issue, it may be constitutionally vulnerable.<sup>30</sup> Some 43 states have a form

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<sup>28</sup> See *Treadway v. State*, 988 S.W.2d 508 (Sup. Ct. 1999).

<sup>29</sup> N.Y. Const. art. IX, § 2(b)(2).

<sup>30</sup> See Rachael Downey et al., *A Survey of the Single Subject Rule as Applied to Statewide Initiatives*, 13 J. CONTEMP. LEGAL ISSUES 579 (2004).

of single-subject rule embedded in their constitutions.<sup>31</sup> The single-subject rules in Arkansas and Mississippi apply only to appropriations bills.<sup>32</sup> The seven states without any single subject rules are: Connecticut, Maine, Massachusetts, New Hampshire, North Carolina, Rhode Island, and Vermont.<sup>33</sup>

The provision in the Nebraska Constitution is typical: “No bill shall contain more than one subject, and the subject shall be clearly expressed in the title.”<sup>34</sup>

There are three principal purposes for the rules: (1) to prevent logrolling (the process of combining multiple proposals, some or all of which command only minority support, into an omnibus bill that will receive majority support),<sup>35</sup> (2) to prevent addition of unpopular rider provisions on otherwise popular bills, and (3) to improve political transparency, both for citizens and their representatives.<sup>36</sup>

Thus, for example, in *City of Philadelphia v. Commonwealth*,<sup>37</sup> the court found a statute unconstitutional under the requirements of Article III, Section 3 of the Pennsylvania Constitution on the ground that it pertained to a variety of unrelated subjects and was essentially an omnibus bill, even though the legislation broadly related to municipalities; such a topic was too broad to qualify for single subject status under the Constitution given that virtually all of local government was a “municipality.”<sup>38</sup>

For a catalogue of single-subject rules, please see Appendix B.

Closely tied to single-subject rule, a number of states have a “clear title” or similarly worded requirement for legislation. In Georgia and other states, they are part of the same sentence, and arose from similar concerns about corruption and log-rolling.<sup>39</sup>

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<sup>31</sup> Brannon P. Denning & Brooks R. Smith, *Uneasy Riders: The Case for a Truth-in-Legislation Amendment*, 1999 UTAH L. REV. 957, 963; Martha J. Dragich, *State Constitutional Restrictions on Legislative Procedure: Rethinking the Analysis of Original Purpose, Single Subject, and Clear Title Challenges*, 38 HARV. J. ON LEGIS. 103, 165-66 (2001).

<sup>32</sup> Michael D. Gilbert, Note, *Single Subject Rules and the Legislative Process*, 67 U. PITT. L. REV. 803, 812 & n.41 (2006).

<sup>33</sup> *Id.* Recently, New Hampshire courts took steps towards adopting the single subject rule through common law. See *Handley v. Town of Hooksett*, 785 A.2d 399 (N.H. 2001) (addressing on the merits an alleged violation of the single subject rule without considering whether there was constitutional or statutory authority for its application); *Tefft v. Bedford Sch. Dist.*, No. 03-E-394, 2003 WL 22254706, at \*2 (N.H. Super. Ct. Sept. 25, 2003) (“I find it unnecessary to decide whether *Handley* presages that the single subject rule may have become part of the common law of New Hampshire . . .”).

<sup>34</sup> NEB. CONST. art. III, § 14.

<sup>35</sup> See, e.g., *Heggs v. State*, 759 So. 2d 620, 627 (Fla. 2000); *Johnson*, 819 P.2d at 697; *Litchfield Elementary Sch. Dist. v. Babbitt*, 608 P.2d 792, 800-01 (Ariz. Ct. App. 1980).

<sup>36</sup> Gilbert, *supra* note 32, at 813.

<sup>37</sup> 838 A.2d 566 (Pa. 2003).

<sup>38</sup> *Id.* at 589-90.

<sup>39</sup> See GA. CONST. Art. III, § 5, ¶ 3 (“No bill shall pass which refers to more than one subject matter or contains matter different from what is expressed in the title thereof.”); on the connection between single-subject and clear-title rules, see *City of Philadelphia*, 838 A.2d at 575 (“In practice, Section 3’s dual requirements—clear expression and single subject—are interrelated, as they both act to proscribe inserting measures into bills without providing fair notice to the public and to legislators of the existence of the same.”).

## B. *Miscellaneous Other State Legislature Procedural Constraints*<sup>40</sup>

A number of states have other legislative requirements that are not specific to oversight of local-government authority and autonomy, but that have been applied in that context:

*Committee reference* – a requirement that all bills be referred to committee.<sup>41</sup>

*Journal* – a requirement that the vote on bills must be reflected in the legislature’s journal.<sup>42</sup>

*Original purpose* – no bill be altered during its passage through either House so as to change its original purpose.<sup>43</sup>

*Appropriations* – a requirement that appropriations bills contain provisions on no other subject.<sup>44</sup>

As noted by several state supreme courts, including Missouri, Illinois, Minnesota, Ohio, Kansas, Iowa, Maryland, Washington, South Carolina, Oregon, South Dakota, and Wyoming:<sup>45</sup>

[t]he use of these procedural limitations to attack the constitutionality of statutes is not favored. A statute has a presumption of constitutionality. [States] interpret procedural limitations liberally and will uphold the constitutionality of a statute against such an attack unless the act clearly and undoubtedly violates the constitutional limitation. The burden of establishing [a statute’s] unconstitutionality rests upon the party questioning it.<sup>46</sup>

Given the haste with which some preemption legislation is drafted, it is at the least worth developing within each state a checklist of legislative procedures to determine whether any given bill has complied with that state’s requirements. At a minimum, a non-trivial process-based legal challenge can raise the salience of a given statute; in some instances, it may do more.

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<sup>40</sup> See Robert F. Williams, *State Constitutional Limits on Legislative Procedure*, 48 U. PITT. L. REV. 797, 798–99 (1987). This list is not comprehensive (some states, for example, have “aging” requirements that mandate that a legislature may not act on a bill unless they have had it before them for a certain amount of time), but is intended to give a sense of examples.

<sup>41</sup> See, e.g., PENN. CONST. Art. III, § 2.

<sup>42</sup> See, e.g., OHIO CONST. Art. II, § 9.

<sup>43</sup> See, e.g., PENN. CONST. Art. III, § 1.

<sup>44</sup> See, e.g., FLA. CONST. Art. III, § 12.

<sup>45</sup> For cases associated with these states, see Dragich, *supra* note 31, at 105 n.21–23.

<sup>46</sup> *Id.* at 105 n.19 (quoting *C.C. Dillion Co. v. City of Eureka*, 12 S.W.3d 322, 327 (Mo. 2000)).

**APPENDIX B: SURVEY OF STATE LOCAL-GOVERNMENT-FOCUSED PROCEDURAL CONSTRAINTS**

**CHALLENGING PREEMPTION  
ON GENERALITY AND UNIFORMITY GROUNDS**

ALABAMA

**Constitutional Text:**

The legislature shall not pass a special, private, or local law in any of the following cases:

- (1) Granting a divorce;
- (2) Relieving any minor of the disabilities of nonage;
- (3) Changing the name of any corporation, association, or individual;
- (4) Providing for the adoption or legitimizing of any child;
- (5) Incorporating a city, town, or village;
- (6) Granting a charter to any corporation, association, or individual;
- (7) Establishing rules of descent or distribution;
- (8) Regulating the time within which a civil or criminal action may be begun;
- (9) Exempting any individual, private corporation, or association from the operation of any general law;
- (10) Providing for the sale of the property of any individual or estate;
- (11) Changing or locating a county seat;
- (12) Providing for a change of venue in any case;
- (13) Regulating the rate of interest;
- (14) Fixing the punishment of crime;
- (15) Regulating either the assessment or collection of taxes, except in connection with the readjustment, renewal, or extension of existing municipal indebtedness created prior to the ratification of the Constitution of eighteen hundred and seventy-five;
- (16) Giving effect to an invalid will, deed, or other instrument;
- (17) Authorizing any county, city, town, village, district, or other political subdivision of a county, to issue bonds or other securities unless the issuance of said bonds or other securities shall have been authorized before the enactment of such local or special law, by a vote of the duly qualified electors of such county, township, city, town, village, district, or other political subdivision of a county, at an election held for such purpose, in the manner that may be prescribed by law; provided, the legislature may, without such election, pass special laws to refund bonds issued before the date of the ratification of this Constitution;
- (18) Amending, confirming, or extending the charter of any private or municipal corporation, or remitting the forfeiture thereof; provided, this shall not prohibit the legislature from altering or rearranging the boundaries of the city, town, or village;
- (19) Creating, extending, or impairing any lien;
- (20) Chartering or licensing any ferry, road, or bridge;
- (21) Increasing the jurisdiction and fees of justices of the peace or the fees of constables;
- (22) Establishing separate school districts;
- (23) Establishing separate stock districts;
- (24) Creating, increasing, or decreasing fees, percentages, or allowances of public officers;
- (25) Exempting property from taxation or from levy or sale;
- (26) Exempting any person from jury, road, or other civil duty;
- (27) Donating any lands owned by or under control of the state to any person or corporation;
- (28) Remitting fines, penalties, or forfeitures;
- (29) Providing for the conduct of elections or designating places of voting, or changing the

boundaries of wards, precincts, or districts, except in the event of the organization of new counties, or the changing of the lines of old counties;

(30) Restoring the right to vote to persons convicted of infamous crimes, or crimes involving moral turpitude;

(31) Declaring who shall be liners between precincts or between counties. The legislature shall pass general laws for the cases enumerated in this section, provided that nothing in this section or article shall affect the right of the legislature to enact local laws regulating or prohibiting the liquor traffic; but no such local law shall be enacted unless notice shall have been given as required in section 106 of this Constitution.

#### Art. IV, § 104

#### **Notes:**

The Alabama Constitution defines a “general law” as “a law which in its terms and effect applies either to the whole state, or to one or more municipalities of the state less than the whole in a class. A general law applicable to such a class of municipalities shall define the class on the basis of criteria reasonably related to the purpose of the law, provided that the legislature may also enact and change from time to time a general schedule of not more than eight classes of municipalities based on population according to any designated federal decennial census, and general laws for any purpose may thereafter be enacted for any such class. Any law heretofore enacted which complies with the provisions of this section shall be considered a general law.”<sup>1</sup> It defines a “special law” as “one which applies to an individual, association or corporation.” A “local law” is “a law which is not a general law or a special or private law.”<sup>2</sup>

The Alabama Constitution further clarifies that “[n]o general law which at the time of its enactment applies to only one municipality of the state shall be enacted, unless **notice of the intention to apply therefor shall have been given** and shown as provided in Section 106 of this Constitution for special, private or local laws; provided, that such notice shall not be deemed to constitute such law a local law”<sup>3</sup> (emphasis added). The requirement for notice of a general law under § 106 “shall not be deemed to constitute such law a local law.”<sup>4</sup> Notice under § 106 need not state all the details of the bill, and need not set forth the bill in its entirety.”<sup>5</sup> The “notice need only state an intelligible abstract or synopsis of the bill’s material and substantive elements, leaving the legislature free to shape and improve the details of the proposed bill during the legislative process.”<sup>6</sup>

#### **Caselaw:**

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<sup>1</sup> Alabama Const. Art. IV, § 110.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* § 110.

<sup>5</sup> *Phalen v. Birmingham Racing Comm’n*, 481 So.2d 1108, 1119 (Ala.1985).

<sup>6</sup> *Id.*

In Alabama, it is well established that “when a dispute arises over whether a law is local or is general in nature, a court is obligated, when possible, to read the law as a general one.”<sup>7</sup>

We could find no cases in which an act was struck down on generality grounds.

**Only Enumerated Prohibited: YES<sup>8</sup>**

**Procedure Given for Passing Special/Local Legislation: YES (Art. IV, § 106)**

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<sup>7</sup> *Densmore v. Jefferson County*, 813 So.2d 844, 849 (Ala. 2001); *see also* *Alabama State Fed’n of Labor v. McAdory*, 246 Ala. 1, 9, 18 So.2d 810, 815 (1944) (“[I]n passing upon the constitutionality of a legislative act, the courts uniformly approach the question with every presumption and intendment in favor of its validity, and seek to sustain rather than strike down the enactment of a coordinate branch of the government.”).

<sup>8</sup> This means that a state has a list of enumerated topics for generality, but not a residual generality or uniformity provision.

## ALASKA

### **Constitutional Text:**

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

### Art. II, § 19

### **Caselaw:**

Courts evaluate challenges under the prohibition in Alaska Constitution against special acts according to the test applied to non-suspect classifications in equal protection cases, under which legislative goals and the means used to advance them are examined to determine whether the legislation bears a fair and substantial relationship to legitimate purposes.<sup>9</sup> A statute is unconstitutional special legislation under the Alaska Constitution if: (1) it creates a totally arbitrary and unreasonable method of classification, or (2) it creates a permanently closed class.<sup>10</sup> A closed class that violates prohibition in Alaska Constitution against special acts is one that limits the application of the law to present condition, and leaves no room or opportunity for an increase in the numbers of the class by future growth or development.<sup>11</sup>

If challenged legislation bears a fair and substantial relationship to legitimate purposes, equal protection standard is satisfied, and legislation will not be invalid because of incidental local or private advantages.<sup>12</sup> In determining whether a legislative act is a local or special act within constitutional prohibition against such acts, the ultimate question is whether the act is reasonably related to a matter of common interest to the whole state.<sup>13</sup>

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<sup>9</sup> See *Bridges v. Banner Health*, 201 P.3d 484, 494 (Alaska 2008) (holding certificate of need statute did not violate equal protection by treating similarly situated entities differently and the statute's definition of "health care facility" did not violate the prohibition in Alaska Constitution against special acts).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 495.

<sup>12</sup> *State v. Lewis*, 559 P.2d 630, 643 (Alaska 1977).

<sup>13</sup> *Abrams v. State*, 534 P.2d 91, 94 (Alaska 1975).

## ARIZONA

### **Constitutional Text:**

No local or special laws shall be enacted in any of the following cases, that is to say:

1. Granting divorces.
2. Locating or changing county seats.
3. Changing rules of evidence.
4. Changing the law of descent or succession.
5. Regulating the practice of courts of justice.
6. Limitation of civil actions or giving effect to informal or invalid deeds.
7. Punishment of crimes and misdemeanors.
8. Laying out, opening, altering, or vacating roads, plats, streets, alleys, and public squares.
9. Assessment and collection of taxes.
10. Regulating the rate of interest on money.
11. The conduct of elections.
12. Affecting the estates of deceased persons or of minors.
13. Granting to any corporation, association, or individual, any special or exclusive privileges, immunities, or franchises.
14. Remitting fines, penalties, and forfeitures.
15. Changing names of persons or places.
16. Regulating the jurisdiction and duties of justices of the peace.
17. Incorporation of cities, towns, or villages, or amending their charters.
18. Relinquishing any indebtedness, liability, or obligation to this State.
19. Summoning and empanelling of juries.
20. When a general law can be made applicable.

### Art IV, § 19

### **Caselaw:**

Arizona courts have adopted a three-part test to determine whether a law is an unconstitutional special law. A law is considered general, and not special, if (1) the classification is rationally related to a legitimate government objective, (2) the classification encompasses all members of the relevant population, and (3) the class is elastic, allowing members to move in and out of it.<sup>14</sup> Additionally, the prohibition against special laws doctrine is distinguishable from federal equal protection because “[e]qual protection is denied when the state unreasonably discriminates against a person or class [while] [p]rohibited special legislation, on the other hand, unreasonably and arbitrarily discriminates in favor of a person or class by granting them a special or exclusive immunity, privilege, or franchise.”<sup>15</sup>

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<sup>14</sup> See *Republic Inv. Fund I v. Town of Surprise*, 166 Ariz. 143, 149 (1990) (finding a law allowing for the deannexation of certain territories from certain cities to be an unconstitutional special law because the class was inelastic and similarly situated cities were arbitrarily exempted from the class); see also *In re Marxus* 199 Ariz. 11, 13 (App. Div. 2001) (finding, for purposes of the constitutional prohibition against special laws, that a classification is unconstitutional if it is “palpably unreasonable.”).

<sup>15</sup> *Arizona Downs v. Arizona Horsemen’s Foundation*, 130 Ariz. 550, 557 (1981).

## ARKANSAS

### **Constitutional Text:**

The General Assembly shall not pass any local or special law, changing the venue in criminal cases; changing the names of persons, or adopting or legitimating children; granting divorces; vacating roads, streets or alleys.

[ . . . ]

In all cases where a general law can be made applicable, no special law shall be enacted; nor shall the operation of any general law be suspended by the legislature for the benefit of any particular individual, corporation or association; nor where the courts have jurisdiction to grant the powers, or the privileges, or the relief asked for. [ . . . ]

The General Assembly shall not pass any local or special act. This amendment shall not prohibit the repeal of local or special acts

Art V, §§ 24-25; 14th Amendment.

### **Caselaw:**

“It is well-settled that [Article V, §25] is not mandatory, rather it is directory or merely cautionary as applied to the General Assembly. In other words, this clause is classified as one that leaves compliance to the discretion of the General Assembly.”<sup>16</sup> Amendment 14 to the Arkansas Constitution, however, does allow for judicial review of potentially infringing statutes.<sup>17</sup>

In finding a law to be special or local, “the determinative factor is whether the legislature acted in an arbitrary manner to separate one class of persons from another, and a court applies the rational-basis test to determine whether such separation is arbitrary.”<sup>18</sup> In determining whether a statute is of a general or special nature, “the inquiry is not restricted to the form of the statute, but it reaches to a consideration of the necessary effect of the statute, regardless of its form.”<sup>19</sup> Furthermore, the Supreme Court of Arkansas has held that local legislation cannot be sustained on a theory that the legislature was experimenting with new legislation in a narrow field before making it applicable to the state as a whole because such reasoning could sustain every local law and completely eviscerate the prohibition against local legislation, “for every

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<sup>16</sup> Haase v. Starnes, 323 Ark. 263, 274-75 (1996) (citing Greer v. Merchants & Mechanics Bank, 114 Ark. 212 (1914)).

<sup>17</sup> See *id.* (finding that “[a]ppellant does not rely on Amendment 14,” but that if they had, judicial review could have been conducted by the court).

<sup>18</sup> Abraham v. Beck, 456 S.W.3d 744, 754 (2015).

<sup>19</sup> Ark-Ash Lumber Co. v. Pride & Fairley, 162 Ark. 235 (1924); see also McCutchen v. Huckabee, 328 Ark. 202, 209 (1997) (“Courts may look outside legislative act which applies to only one area of state and consider any fact of which judicial notice may be taken to determine if operation and effect of the law is unconstitutionally local, regardless of its form.”).

local measure could be justified on the ground that it was being preliminarily tested in a restricted area.”<sup>20</sup>

**Notes:**

The distinction between Article V, section 25 and the 14th Amendment to the Arkansas Constitution is whether another law, which is generally applicable, already exists to regulate the subject matter that the newly local law seeks to regulate. Under Article V, the issue of another generally applicable law existing is a political question. Under the 14th Amendment, the issue of another generally applicable law existing is irrelevant because the only relevant question is whether the law is arbitrary.<sup>21</sup>

**Procedure Given for Passing Special/Local Legislation – Notice Required:**

No local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published, in the locality where the matter or the thing to be affected may be situated; which notice shall be, at least, thirty days prior to the introduction into the General Assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the General Assembly before such act shall be passed. [This section only applies to Article V, section 25, not to the 14th Amendment to the Arkansas Constitution.]

Art. V, § 26

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<sup>20</sup> Mankin v. Dean, 228 Ark. 752, 754 (1958).

<sup>21</sup> We did not find caselaw drawing out this distinction, but this is a reading of the constitutional provisions and the cases generally.

## CALIFORNIA

### **Constitutional Text:**

- (a) All laws of a general nature have uniform operation.
- (b) A local or special statute is invalid in any case if a general statute can be made applicable.

### Art. IV, § 16

### **Caselaw:**

This section “has been construed to be the substantial equivalent of the equal protection clause of the Fourteenth Amendment to the United States Constitution.”<sup>22</sup> It is well settled that Article IV, Section 16 does not prohibit the Legislature from enacting statutes that are applicable solely to a particular county or local entity.<sup>23</sup> By its express terms, Article IV, Section 16 prohibits this type of legislation only if “a general statute can be made applicable.”<sup>24</sup> In determining whether “a general statute can be made applicable,” the issue is not whether the Legislature could conceivably enact a similar statute affecting every locality. Rather, it is whether “there is a rational relationship between the purpose of the enactment and the singling out of a single county affected by the statute.”<sup>25</sup> The Legislature’s determination that this rational relationship exists is entitled to great weight and will not be reversed unless the determination is arbitrary and without any conceivable factual or legal basis.<sup>26</sup> This is a high standard, but not an unsurmountable one.<sup>27</sup>

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<sup>22</sup> *City of Los Angeles v. State of California*, 138 Cal. App. 3d 526, 533 n.2 (1982); *see Serve Yourself Gas Etc. Assn. v. Brock*, 39 Cal.2d 813, 820-821 (1952) (“It is . . . clear that the constitutional prohibition against special legislation does not preclude legislative classification, but only requires that the classification be reasonable”).

<sup>23</sup> *White v. State*, 105 Cal. Rptr. 2d. 714, 718-19 (Cal. Ct. App. 2001).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *See Stout v. Democratic County Central Committee*, 251 P.2d 321, 323 (Cal. 1952) (finding law providing that committeemen are to be chosen by the electorate except in San Francisco to violate the state’s restricts on special legislation because there is “no rational basis for such a classification”).

## COLORADO

### **Constitutional Text:**

The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say; for granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys and public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of police magistrates; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; chartering or licensing ferries or toll bridges; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentage or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

In all other cases, where a general law can be made applicable no special law shall be enacted.

### Art. V, § 25

### **Caselaw:**

In Colorado, the test to determine the permissibility of special legislation depends on whether the law concerns an enumerated subject, listed in Article V, section 25, or if the special law occupies a space that a generally applicable law already occupies.<sup>28</sup> If an alleged local or special law, pertaining to an enumerated subject listed in Article V, section 25, is enacted, then a two-part test is employed: “whether the legislation creates true classes and, if so, whether classifications are reasonable and rationally related to legitimate public purpose.”<sup>29</sup> The threshold question, before reaching the rational basis test, is “whether the classification adopted by the legislature is a real or potential class, or whether it is logically and factually limited to a class of one and thus illusory.”<sup>30</sup> Then the courts examine the classifications under a rational basis standard. However, determining if a generally applicable law applies, which supplants the proposed special law, is a political question for the legislature to decide that “will not be disturbed [by the courts] absent abuse of discretion.”<sup>31</sup>

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<sup>28</sup> See *Brown v. City of Denver*, 7 Colo. 305 (1884) (“While the prevailing spirit of the constitution is opposed to special legislation, it is not, however, prohibitory of all special legislation, but only such as relates to certain specified subjects, and to such other cases where general laws are applicable.”).

<sup>29</sup> *Central Colo. Water Conservancy Dist. v. Simpson*, 877 P.2d 335, 343 (Colo. 1994).

<sup>30</sup> *City of Greenwood Village v. Petitioners for Proposed City of Centennial*, 3 P.3d 427, 441 (Colo. 2000).

<sup>31</sup> *Id.*; see also *Morgan County Junior College Dist. V. Jolly*, 168 Colo. 466, 470 (1969) (“Whether a general law cannot be made applicable, so as to permit thereby a special law, is a discretionary determination to be made by the legislature, which is not reviewable by the court unless a palpable abuse of discretion is shown.”).

## CONNECTICUT

### **Constitutional Text:**

The general assembly shall by general law delegate such legislative authority as from time to time it deems appropriate to towns, cities and boroughs relative to the powers, organization, and form of government of such political subdivisions. The general assembly shall from time to time by general law determine the maximum terms of office of the various town, city and borough elective offices. After July 1, 1969, the general assembly shall enact no special legislation relative to the powers, organization, terms of elective offices or form of government of any single town, city or borough, except as to (a) borrowing power, (b) validating acts, and (c) formation, consolidation or dissolution of any town, city or borough, unless in the delegation of legislative authority by general law the general assembly shall have failed to prescribe the powers necessary to effect the purpose of such special legislation.

### Art. X, § 1

### **Caselaw:**

“Where the state legislature has delegated to local government the right to deal with a particular field of regulation, the fact that a statute also regulates the same subject in less than full fashion does not, ipso facto, deprive the local government of the power to act in a more comprehensive, but not inconsistent, manner.”<sup>32</sup> In determining whether a local ordinance is preempted by a state statute, a Connecticut court must consider whether the legislature has demonstrated an intent to occupy the entire field of regulation on the matter or whether the local ordinance irreconcilably conflicts with the statute.<sup>33</sup> “Whether an ordinance conflicts with a statute or statutes can only be determined by reviewing the policy and purposes behind the statute and measuring the degree to which the ordinance frustrates the achievement of the state’s objectives.”<sup>34</sup>

### **Only Enumerated Prohibited: YES**

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<sup>32</sup> *Modern Cigarette, Inc. v. Town of Orange*, 256 Conn. 105, 119, 774 A.2d 969, 978 (2001).

<sup>33</sup> *Id.*; *see also City of Shelton v. Commissioner of Dept. of Environmental Protection*, 193 Conn. 506, 517, 479 A.2d 208, 214 (1984).

<sup>34</sup> *See Aaron v. Conservation Commission*, 183 Conn. 532, 542–44, 441 A.2d 30 (1981), *Connecticut Theatrical Corporation v. New Britain*, 147 Conn. 546, 552–53, 163 A.2d 548 (1960).

DELAWARE

**Constitutional Text:**

The General Assembly shall not pass any local or special law relating to fences; the straying of livestock; ditches; the creation or changing the boundaries of school districts; or the laying out, opening, alteration, maintenance or vacation, in whole or in part of any road, highway, street, lane or alley; provided, however, that the General Assembly may by a vote of two-thirds of all the members elected to each House pass laws relating to the laying out, opening, alteration or maintenance of any road or highway which forms a continuous road or highway extending through at least a portion of the three counties of the State.

No road, highway or street, intended to be dedicated to public use and maintained at public expense, shall be constructed except in conformance with standards adopted by the agency charged with construction, reconstruction or maintenance of such road, highway or street. Any road or street constructed solely for private use shall only be maintained at State expense after it has been constructed or reconstructed according to the standards established by the agency charged with the duty of maintaining such roads or streets.

Art. II, § 19

**Caselaw:**

The distinguishing characteristic of “general law” is that it has uniform operation as to all persons or institutions of class uniformly situated.<sup>35</sup> In determining what is and what is not a local or special road or bridge law, the test to be applied is whether public as opposed to special interests are to be served, the geographical location of structure to be built under terms of law being unimportant.<sup>36</sup>

**Only Enumerated Prohibited: YES**

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<sup>35</sup> Opinion of the Justices, 252 A.2d 164 (Del. 1969).

<sup>36</sup> Tusso v. Smith, 156 A.2d 783, 787 (Del. Ch. 1959), aff’d 162 A.2d 185 (Del. 1960).

## FLORIDA

### Constitutional Text:

- (a) There shall be no special law or general law of local application pertaining to:
- (1) election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies;
  - (2) assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability;
  - (3) rules of evidence in any court;
  - (4) punishment for crime;
  - (5) petit juries, including compensation of jurors, except establishment of jury commissions;
  - (6) change of civil or criminal venue;
  - (7) conditions precedent to bringing any civil or criminal proceedings, or limitations of time therefor;
  - (8) refund of money legally paid or remission of fines, penalties or forfeitures;
  - (9) creation, enforcement, extension or impairment of liens based on private contracts, or fixing of interest rates on private contracts;
  - (10) disposal of public property, including any interest therein, for private purposes;
  - (11) vacation of roads;
  - (12) private incorporation or grant of privilege to a private corporation;
  - (13) effectuation of invalid deeds, wills or other instruments, or change in the law of descent;
  - (14) change of name of any person;
  - (15) divorce;
  - (16) legitimation or adoption of persons;
  - (17) relief of minors from legal disabilities;
  - (18) transfer of any property interest of persons under legal disabilities or of estates of decedents;
  - (19) hunting or fresh water fishing;
  - (20) regulation of occupations which are regulated by a state agency; or
  - (21) **any subject when prohibited by general law passed by a three-fifths vote of the membership of each house.** Such law may be amended or repealed by like vote.
- (b) In the enactment of general laws on other subjects, political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.

Art. III, § 11 (emphasis added)

### Caselaw:

Special or local laws, which are forbidden in regards to the enumerated subjects, are void unless those laws could be construed as general as based on proper, rational classifications.<sup>37</sup> A

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<sup>37</sup> See *State ex rel Gray v. Stoutamire*, 131 Fla. 698 (1938).

court considers whether a law is general, and not local, by a rational basis standard.<sup>38</sup> In determining the rationality of a statutory classification, the courts may look beyond the form of the statute to the purpose or effect thereof.<sup>39</sup> Furthermore, a closed class, which is closed because no other persons or entities may enter the class, is necessarily an invalid special law because it is based on an arbitrary classification.<sup>40</sup> However, “[a] classification scheme is not considered closed so that a law is a special law merely because it is unlikely that it will include anyone else; however, a classification scheme is not considered open merely because there is a theoretical possibility that some day it might include someone else.”<sup>41</sup>

The “[l]egislature in all cases not expressly enumerated in this section may pass special or local laws.”<sup>42</sup> However, these special or local laws, that do not pertain to any enumerated subject, are still impermissible if the notice procedure of Article III, section 10 is not followed.

**Only Enumerated Prohibited: YES**

**Procedure Given for Passing Special/Local Legislation: Art. III, § 10**

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<sup>38</sup> See *Ocala Breeders’ Sales Co. v. Florida Gaming Centers, Inc.*, 793 So.2d 899, 901 (2001) (“[A]ll statutory classifications that treat one person or group differently than others must bear some reasonable relationship to a legitimate state objective and cannot be discriminatory, arbitrary, or oppressive.”).

<sup>39</sup> See *Anderson v. Board of Public Instruction for Hillsborough County*, 102 Fla. 695 (1931).

<sup>40</sup> See *St. Vincent Medical Center, Inc. v. Memorial Healthcare Group, Inc.*, 967 So. 2d 794 (Fla. 2007).

<sup>41</sup> *License Acquisitions, LLC v. Debarry Real Estate Holdings, LLC*, 155 So. 3d 1137 (2014).

<sup>42</sup> *State ex rel Green v. Pearson*, 153 Fla. 314 (1943).

## GEORGIA

### **Constitutional Text:**

The General Assembly may provide by law for the procedure for considering local legislation. The title of every local bill and every resolution intended to have the effect of local law shall be read at least once before such bill or resolution shall be voted upon; and no such bill or resolution shall be voted upon prior to the second day following the day of introduction.

### Art. III, § 5, ¶ VIII

### **Caselaw:**

All local legislation, if in conformance with the procedures set forth by the Georgia constitution and the legislature, is constitutional.<sup>43</sup> The only constitutionally mandated procedure is set forth in Article V, section IX, which reads in relevant part: “The General Assembly shall provide by law for the advertisement of notice of intention to introduce local bills.” However, whether notice of intention to apply for enactment of local law has been sufficiently published is a legislative question and unreviewable by courts.<sup>44</sup> Therefore, if any notice is shown to have been advertised or published, the court will be satisfied.<sup>45</sup>

### **Procedure Given for Passing Special/Local Legislation: Art 3, § 5, ¶ IX**

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<sup>43</sup> See *Capitol Distributing Co. v. Redwine*, 206 Ga. 477 (1950).

<sup>44</sup> See *White v. City of Forsyth*, 78 S.E. 58, 58 (GA. 1912); see also *Bracewell v. Warnock*, 208 Ga. 388, 390 (1951). (“[W]here the enrolled act has incorporated therein the required proof of notice and advertisement. . . it will import absolute verity as to its contents. Conversely, when the enrolled act fails to show the required publishing of notice, the act upon its ace is invalid.”).

<sup>45</sup> See *Smith v. Abercrombie*, 221 S.E.2d 802, 805 (Ga. 1975) (finding that when “notice is enrolled as part of the bill [it] is conclusive proof [that] notice was given”); see also *Bleckley v. Vickers*, 170 S.E.2d 695, 697 (Ga. 1969) (concluding that no other type of evidence may be considered when the enrolled bill includes notice of advertisement).

## HAWAII

### **Constitutional Text:**

[The Hawaii constitution enumerates subjects that may not be legislated by special law, but the provisions are listed in separate provisions found in the case below.]

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

### Art. 11, § 5

In *Sierra Club v. Department of Transportation of State of Hawai'i*, 120 Haw. 181, 200 (2009), the court identified various, disconnected, constitutional provisions related to prohibiting special legislation. “Several other provisions of Hawai’i’s Constitution also require the use of “general laws.” *E.g.*, Haw. Const. art. V, § 5 (requiring a “general law” to authorize the governor to grant pardons); art. VII, § 12 (requiring a “general law” to authorize political subdivisions to issue bonds); art. VIII, § 1 (requiring a “general law” to confer powers on political subdivisions); art. VIII, § 2 (requiring a “general law” to set limits and procedures on the power political subdivisions have to frame and adopt a charter); art. IX, § 6 (requiring the State and its political subdivisions to plan and manage the growth of the population by “general law”); art. XVI, § 3.5 (requiring a “general law” to decrease the salary of an officer of the State during a term of office); art. XVIII, § 6 (providing that a “general law” establish default policies and methods of real property tax assessment if not provided by ordinance).

### **Caselaw:**

In interpreting the separate, but related, constitutional provisions prohibiting local legislation, the Hawaii Supreme Court has defined “general laws” as “laws which apply uniformly throughout all political subdivisions of the State.”<sup>46</sup> However, “a law may apply to less than all of the political subdivisions and still be a general law, if it applies uniformly to a class of political subdivisions, which, considering the purpose of the legislation, are distinguished by sufficiently significant characteristics to make them a class by themselves.”<sup>47</sup>

Furthermore, a law is not general, but is local, if the class created is illusory.<sup>48</sup> An illusory class is a class that is “logically and factually limited to a class of one.”<sup>49</sup> Additionally, “whether a law creates an illusory class depends not only on whether others may theoretically enter the class, but on the ‘actual probability’ that others will enter the class in the future.”<sup>50</sup>

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<sup>46</sup> *Bulgo v. Maui County*, 50 Haw. 51, 58 (1967).

<sup>47</sup> *Id.*

<sup>48</sup> *See Sierra Club v. Department of Transportation of State of Hawai'i*, 120 Haw. 181, 203 (2009) (finding that a law creating a class where only one ferry company qualified and setting a date for automatic repeal of that law in the near future, created an illusory class and, thus, was an invalid local law).

<sup>49</sup> *Id.* at 206.

<sup>50</sup> *Id.* (quoting *Haman v. Marsh*, 467 N.W.2d 836, 848 (Neb. 1991)).

## IDAHO

### **Constitutional Text:**

The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and constables.

For the punishment of crimes and misdemeanors.

Regulating the practice of the courts of justice.

Providing for a change of venue in civil or criminal actions.

Granting divorces.

Changing the names of persons or places.

Authorizing the laying out, opening, altering, maintaining, working on, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, or any public grounds not owned by the state.

Summoning and impaneling grand and trial juries, and providing for their compensation.

Regulating county and township business, or the election of county and township officers.

For the assessment and collection of taxes.

Providing for and conducting elections, or designating the place of voting.

Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Extending the time for collection of taxes.

Giving effect to invalid deeds, leases or other instruments.

Refunding money paid into the state treasury.

Releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any person or corporation in this state, or any municipal corporation therein.

Declaring any person of age, or authorizing any minor to sell, lease or incumber his or her property.

Legalizing as against the state the unauthorized or invalid act of any officer.

Exempting property from taxation.

Changing county seats, unless the law authorizing the change shall require that two-thirds of the legal votes cast at a general or special election shall designate the place to which the county seat shall be changed; provided, that the power to pass a special law shall cease as long as the legislature shall provide for such change by general law; provided further, that no special law shall be passed for any one county oftener than once in six years.

Restoring to citizenship persons convicted of infamous crimes.

Regulating the interest on money.

Authorizing the creation, extension or impairing of liens.

Chartering or licensing ferries, bridges or roads.

Remitting fines, penalties or forfeitures.

Providing for the management of common schools.

Creating offices or prescribing the powers and duties of officers in counties, cities, townships, election districts, or school districts, except as in this constitution otherwise provided.

Changing the law of descent or succession.

Authorizing the adoption or legitimization of children.

For limitation of civil or criminal actions.

Creating any corporation.

Creating, increasing or decreasing fees, percentages, or allowances of public officers during the term for which said officers are elected or appointed.

Art. III, § 19

**Caselaw:**

A special law applies only to an individual or number of individuals out of a single class similarly situated and affected or to a special locality. A law is not special simply because it may have only a local application or apply only to a special class if, in fact, it does apply to all such cases and all similar localities and to all belonging to the specified class to which the law is made applicable. A statute is general and not special if its terms apply to and its provisions operate upon all persons and subject matters in like situations.<sup>51</sup>

“The test for determining whether a law is local or special is whether the classification is arbitrary, capricious, or unreasonable.”<sup>52</sup> In evaluating whether legislation passed by the Idaho Legislature was special or local, this Court has found that when the Legislature was pursuing a legitimate interest in protecting citizens of the state and the statute passed was not arbitrary, capricious, or unreasonable, then the law was not special.<sup>53</sup> Thus, in order for a law to be characterized as a general law, it must be for a legitimate legislative interest and cannot be arbitrary, capricious, or unreasonable.<sup>54</sup>

**Only Enumerated Prohibited: YES**

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<sup>51</sup> School Dist. No. 25, Bannock County v. State Tax Commission, 612 P.2d 126, 134 (Idaho 1980).

<sup>52</sup> Concerned Taxpayers of Kootenai County v. Kootenai County, 50 P.3d 991, 994 (Idaho 2002).

<sup>53</sup> Kirkland v. Blaine County Medical Center, 4 P.3d 1115, 1121 (Idaho 2000).

<sup>54</sup> *Id.*

## ILLINOIS

### **Constitutional Text:**

The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination.

### Art. IV, § 13

### **Caselaw:**

The special legislation clause prohibits the General Assembly from conferring a special benefit or privilege upon one person or group of persons and excluding others that are similarly situated.<sup>55</sup> Its purpose is to prevent arbitrary legislative classifications that discriminate in favor of a select group without a sound, reasonable basis.<sup>56</sup> Laws are considered “general” “when alike in their operation upon all persons in like situation,” and that they are “special” if they impose a particular burden or confer a special right, privilege, or immunity upon only a portion of the people of our State.<sup>57</sup> A law does not automatically run afoul of the prohibition against special legislation merely because it affects only one class of entities and not another. Rather, the statute must confer on a person, entity, or class of persons or entities a special benefit or exclusive privilege that is denied to others who are similarly situated.<sup>58</sup> If an entity is uniquely situated, the special legislation clause will not bar the legislature from enacting a law tailored specifically to address the conditions of that particular entity.<sup>59</sup>

In assessing whether a statute violates the prohibition against special legislation, courts apply a two-part analysis. First, they must determine whether the statutory classification at issue discriminates in favor of a select group. If it does, then they must go on to consider whether the classification is arbitrary.<sup>60</sup> A special legislation challenge is generally judged under the same standards applicable to an equal protection challenge. If a law does not affect fundamental rights or make a suspect classification, the appropriate measure of its constitutionality is the rational basis test, which asks whether the statutory classification is rationally related to a legitimate state interest.<sup>61</sup> “If any set of facts can be reasonably conceived that justify distinguishing the class to which the statute applies from the class to which the statute is inapplicable, then the General Assembly may constitutionally classify persons and objects for the purpose of legislative regulation or control, and may enact laws applicable only to those persons or objects.”<sup>62</sup>

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<sup>55</sup> *Big Sky Excavating, Inc. v. Illinois Bell Telephone Co.*, 840 N.E.2d 1174 (2005).

<sup>56</sup> *Best v. Taylor Machine Works*, 689 N.E.2d 1057 (1997).

<sup>57</sup> *Moline Sch. Dist. No. 40 Bd. of Educ. v. Quinn*, 54 N.E.3d 825, 830 (Ill. 2016).

<sup>58</sup> *Big Sky Excavating, Inc. v. Illinois Bell Telephone Co.*, 840 N.E.2d 1174 (Ill. 2005).

<sup>59</sup> *Board of Education of Peoria School District No. 150*, 998 N.E.2d 36 (Ill. 2013).

<sup>60</sup> *Big Sky Excavating, Inc.*, 840 N.E.2d at 1177.

<sup>61</sup> *Moline Sch. Dist. No. 40 Bd. of Educ. v. Quinn*, 54 N.E.3d 825, 831 (Ill. 2016).

<sup>62</sup> *Id.* For more detail on Illinois, see Michael J. Kasper, *Using Article IV of the Illinois Constitution to Attack Legislation Passed by the General Assembly*, 40 LOYOLA U. CHI. L. J. 847 (2009), <http://www.luc.edu/media/lucedu/law/students/publications/llj/pdfs/Kasper.pdf>.

## INDIANA

### **Constitutional Text:**

The General Assembly shall not pass local or special laws:

- Providing for the punishment of crimes and misdemeanors;
- Regulating the practice in courts of justice;
- Providing for changing the venue in civil and criminal cases;
- Granting divorces;
- Changing the names of persons;
- Providing for laying out, opening, and working on, highways, and for the election or appointment of supervisors;
- Vacating roads, town plats, streets, alleys, and public squares;
- Summoning and empaneling grand and petit juries, and providing for their compensation;
- Regulating county and township business;
- Regulating the election of county and township officers and their compensation;
- Providing for the assessment and collection of taxes for State, county, township, or road purposes;
- Providing for the support of common schools, or the preservation of school funds;
- Relating to fees or salaries, except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required;
- Relating to interest on money;
- Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;
- Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees. [ . . . ]

In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

### Art. IV, §§22-23

### **Caselaw:**

In Indiana, “where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.” The Indiana Constitution requires a two-step process: first, a court must determine whether the law is general or special; second, if it is a general law, we determine whether it is generally applied, and if it is a special law, the court must determine whether it is constitutionally permissible.<sup>63</sup> “If the subject matter of an act is not amenable to a general law of uniform operation throughout the State,” it is constitutionally permissible.<sup>64</sup> Where “inherent characteristics of the affected locale justifies local legislation, the justifying characteristic need not be connected to the statutorily defined classification, so long as the class

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<sup>63</sup> Williams v. State, 724 N.E.2d 1070, 1085 (Ind. 2000).

<sup>64</sup> *Id.* at 1085–86.

affected is limited to those that possess the justifying characteristic.<sup>65</sup> In considering this question, we look to “local facts;” “[i]f the affected county reflects unique circumstances that rationally justify the legislation, then a general law is not ‘applicable’ elsewhere and Section 23 is not violated.”<sup>66</sup>

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<sup>65</sup> *Mun. City of S. Bend v. Kimsey*, 781 N.E.2d 683, 692 (Ind. 2003).

<sup>66</sup> *State ex rel. Atty. Gen. v. Lake Super. Ct.*, 820 N.E.2d 1240, 1249 (Ind. 2005); *see also State v. Buncich*, 51 N.E.3d 136, 141-42 (Ind. 2016).

## IOWA

### **Constitutional Text:**

The general assembly shall not pass local or special laws in the following cases:  
For the assessment and collection of taxes for state, county, or road purposes;  
For laying out, opening, and working roads or highways;  
For changing the names of persons;  
For the incorporation of cities and towns;  
For vacating roads, town plats, streets, alleys, or public squares;  
For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

### Art. III, § 30

### **Caselaw:**

Under provision of the section requiring a law to be general in every case where a general law can be made applicable, a law is not offensively “special” because it does not operate on all cities and towns in the state and is “general” if it operates on all within a proper classification.<sup>67</sup> A statute is general and uniform in its operation, when it operates equally upon all persons who are brought within the relations and circumstances provided for.<sup>68</sup> The mere fact that legislation is special and made to apply to certain persons, and not to others, does not affect its validity if it be so made that all persons affected by its terms are treated alike, under like circumstances and conditions.<sup>69</sup> To be constitutional, a law need not operate uniformly on all people of the state, nor, when pertaining to cities, on all cities of the state.<sup>70</sup> Even though legislation at a given time operates as to only one city, if it is so drawn as to apply on the same condition, when and where it arises, to other cities, which subsequently fall within the designated class, the constitutional requirements as to uniformity are met, provided the classification is reasonable.<sup>71</sup> The Legislature may classify, but a classification may not be arbitrary or unreasonable, and must be calculated to further some proper public purpose, and classification must provide for a basis which will effectually single into a separate class persons or objects with which purpose of legislature is concerned, and there must be a reasonable relationship between purpose of the legislation and basis of classification set out in the act.<sup>72</sup> Legislation which applies equally to all in a reasonably designated group is not discriminatory and does not constitute class legislation.<sup>73</sup>

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<sup>67</sup> State ex rel. Wright v. Iowa State Board of Health, 10 N.W.2d 561, 563 (Iowa 1943).

<sup>68</sup> McAunich v. Mississippi & M.R. Co., 20 Iowa 338, 344 (Iowa 1866).

<sup>69</sup> Merchants Supply Co. v. Iowa Employment Sec. Commission, 16 N.W.2d 572, 578 (Iowa 1944).

<sup>70</sup> Knudson v. Linstrom, 8 N.W.2d 495, 497 (Iowa 1948).

<sup>71</sup> *Id.*

<sup>72</sup> Keefner v. Porter, 293 N.W. 501, 503 (Iowa 1940).

<sup>73</sup> Doyle v. Kahl, 46 N.W.2d 52, 55 (Iowa 1951).



## KANSAS

### **Constitutional Text:**

All laws of a general nature shall have a uniform operation throughout the state: Provided, The legislature may designate areas in counties that have become urban in character as “urban areas” and enact special laws giving to any one or more of such counties or urban areas such powers of local government and consolidation of local government as the legislature may deem proper.

### Art. II, § 17

### **Caselaw:**

By amendment, Kansas eliminated the constitutional provision prohibiting special or local laws in 1974.<sup>74</sup> Therefore, following the 1974 amendment, the Kansas constitution only requires laws of a general nature to operate in a geographically uniform manner throughout the state.<sup>75</sup> Kansas courts, in determining whether a classification is constitutional, rely on a rational basis standard.<sup>76</sup> Consequently, laws of a general nature containing classifications that limit the applicability of the law to a class may be unconstitutional if that classification is arbitrary.

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<sup>74</sup> See *State ex rel. Stephen v. Board of County Com’rs of County of Lyon County*, 234 Kan. 732, 739 (1984) (finding that Kansas in 1974 “[d]eleted from the constitution. . . the phrase, ‘and in all cases where a general law can be made applicable, no special law shall be enacted’” and, in deleting that phrase, therefore, the Kansas constitution “no longer contains the special law prohibition”).

<sup>75</sup> See *Stephens v. Snyder Clinic Ass’n*, 230 Kan. 115, 127 (1981); see also *Rambo v. Larrabee*, 67 Kan. 634, 644 (1903) (defining a law of a general nature as law that is of a “generic” nature or as concerning all residents of the state).

<sup>76</sup> See *City of Kansas City v. Robb*, 183 Kan. 834, 837 (1958) (“[I]t is well settled that if any state of facts reasonably can be conceived that will sustain the classification, there is a presumption of the existence of that state of facts, and one who assails it must carry the burden of showing. . . that the action is arbitrary.”).

## KENTUCKY

### **Constitutional Text:**

The General Assembly shall not pass local or special acts concerning any of the following subjects, or for any of the following purposes, namely:

First: To regulate the jurisdiction, or the practice, or the circuits of the courts of justice, or the rights, powers, duties or compensation of the officers thereof; but the practice in circuit courts in continuous session may, by a general law, be made different from the practice of circuit courts held in terms.

Second: To regulate the summoning, impaneling or compensation of grand or petit jurors.

Third: To provide for changes of venue in civil or criminal causes.

Fourth: To regulate the punishment of crimes and misdemeanors, or to remit fines, penalties or forfeitures.

Fifth: To regulate the limitation of civil or criminal causes.

Sixth: To affect the estate of cestuis que trust, decedents, infants or other persons under disabilities, or to authorize any such persons to sell, lease, encumber or dispose of their property.

Seventh: To declare any person of age, or to relieve an infant or feme covert of disability, or to enable him to do acts allowed only to adults not under disabilities.

Eighth: To change the law of descent, distribution or succession.

Ninth: To authorize the adoption or legitimation of children.

Tenth: To grant divorces.

Eleventh: To change the names of persons.

Twelfth: To give effect to invalid deeds, wills or other instruments.

Thirteenth: To legalize, except as against the Commonwealth, the unauthorized or invalid act of any officer or public agent of the Commonwealth, or of any city, county or municipality thereof.

Fourteenth: To refund money legally paid into the State Treasury.

Fifteenth: To authorize or to regulate the levy, the assessment or the collection of taxes, or to give any indulgence or discharge to any assessor or collector of taxes, or to his sureties.

Sixteenth: To authorize the opening, altering, maintaining or vacating of roads, highways, streets, alleys, town plats, cemeteries, graveyards, or public grounds not owned by the Commonwealth.

Seventeenth: To grant a charter to any corporation, or to amend the charter of any existing corporation; to license companies or persons to own or operate ferries, bridges, roads or turnpikes; to declare streams navigable, or to authorize the construction of booms or dams therein, or to remove obstructions therefrom; to affect toll gates or to regulate tolls; to regulate fencing or the running at large of stock.

Eighteenth: To create, increase or decrease fees, percentages or allowances to public officers, or to extend the time for the collection thereof, or to authorize officers to appoint deputies.

Nineteenth: To give any person or corporation the right to lay a railroad track or tramway, or to amend existing charters for such purposes.

Twentieth: To provide for conducting elections, or for designating the places of voting, or changing the boundaries of wards, precincts or districts, except when new counties may be created.

Twenty-first: To regulate the rate of interest.

Twenty-second: To authorize the creation, extension, enforcement, impairment or release of liens.

Twenty-third: To provide for the protection of game and fish.

Twenty-fourth: To regulate labor, trade, mining or manufacturing.

Twenty-fifth: To provide for the management of common schools.

Twenty-sixth: To locate or change a county seat.

Twenty-seventh: To provide a means of taking the sense of the people of any city, town, district, precinct or county, whether they wish to authorize, regulate or prohibit therein the sale of vinous, spirituous or malt liquors, or alter the liquor laws.

Twenty-eighth: Restoring to citizenship persons convicted of infamous crimes.

Twenty-ninth: In all other cases where a general law can be made applicable, no special law shall be enacted.

[ . . . ]

The General Assembly shall not indirectly enact any special or local act by the repeal in part of a general act, or by exempting from the operation of a general act any city, town, district or county; but laws repealing local or special acts may be enacted. No law shall be enacted granting powers or privileges in any case where the granting of such powers or privileges shall have been provided for by a general law, nor where the courts have jurisdiction to grant the same or to give the relief asked for. No law, except such as relates to the sale, loan or gift of vinous, spirituous or malt liquors, bridges, turnpikes or other public roads, public buildings or improvements, fencing, running at large of stock, matters pertaining to common schools, paupers, and the regulation by counties, cities, towns or other municipalities of their local affairs, shall be enacted to take effect upon the approval of any other authority than the General Assembly, unless otherwise expressly provided in this Constitution.

§§ 59, 60

### **Caselaw:**

In Kentucky, special or local legislation is prohibited when it concerns any of the enumerated subjects or when an existing general law is already applicable. In determining if a law is special or general, the courts examine the classifications employed by the legislation in question.<sup>77</sup> For a law to be general, it must apply equally to all in a class and there must be distinctive and natural reasons inducing, and supporting, such a classification.<sup>78</sup> In determining whether the classification is natural, it must be established that the classification is “based upon some reasonable and substantial difference in kind, situation or circumstance which bears a proper relation to the purpose of the statute.”<sup>79</sup> Generally, Kentucky courts have found classifications that are “favorable or unfavorable to particular localities, and rested alone upon

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<sup>77</sup> See *Johnson v. Gans Furniture Industries, Inc.*, 114 S.W.3d 850, 856 (Ky. 2003).

<sup>78</sup> See *Kentucky Harlan Coal Co. v. Holmes*, 872 S.W.2d 446, 452 (Ky. 1994).

<sup>79</sup> *Id.* Continuing, the court also found that it is also “necessary to determine that the legislative classification, when based on police power, must further objectives relevant to that power” *Id.*

numbers and populations, are invidious, and therefore offensive to the letter and spirit of the Constitution.”<sup>80</sup> However, such a classification based on population is constitutional if “(1) the act relates to the organization and structure of a city or county government or (2) the classification bears ‘a reasonable relation to the purpose of the Act.’”<sup>81</sup>

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<sup>80</sup> Louisville/Jefferson County Metro Government v. O’Shea’s-Baxter, LLC, 438 S.W.3d 379, 383 (Ky. 2014).

<sup>81</sup> *Id.* (citing Mannini v. McFarland, 172 S.W.2d 631, 632 (Ky. 1943)).

## LOUISIANA

### **Constitutional Text:**

(A) Prohibitions. Except as otherwise provided in this constitution, the legislature shall not pass a local or special law:

(1) For the holding and conducting of elections, or fixing or changing the place of voting.

(2) Changing the names of persons; authorizing the adoption or legitimation of children or the emancipation of minors; affecting the estates of minors or persons under disabilities; granting divorces; changing the law of descent or succession; giving effect to informal or invalid wills or deeds or to any illegal disposition of property.

(3) Concerning any civil or criminal actions, including changing the venue in civil or criminal cases, or regulating the practice or jurisdiction of any court, or changing the rules of evidence in any judicial proceeding or inquiry before courts, or providing or changing methods for the collection of debts or the enforcement of judgments, or prescribing the effects of judicial sales.

(4) Authorizing the laying out, opening, closing, altering, or maintaining of roads, highways, streets, or alleys; relating to ferries and bridges, or incorporating bridge or ferry companies, except for the erection of bridges crossing streams which form boundaries between this and any other state; authorizing the constructing of street passenger railroads in any incorporated town or city.

(5) Exempting property from taxation; extending the time for the assessment or collection of taxes; relieving an assessor or collector of taxes from the performance of his official duties or of his sureties from liability; remitting fines, penalties, and forfeitures; refunding moneys legally paid into the treasury.

(6) Regulating labor, trade, manufacturing, or agriculture; fixing the rate of interest.

(7) Creating private corporations, or amending, renewing, extending, or explaining the charters thereof; granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.

(8) Regulating the management of parish or city public schools, the building or repairing of parish or city schoolhouses, and the raising of money for such purposes.

(9) Legalizing the unauthorized or invalid acts of any officer, employee, or agent of the state, its agencies, or political subdivisions.

(10) Defining any crime.

(B) Additional Prohibition. The legislature shall not indirectly enact special or local laws by the partial repeal or suspension of a general law.

### Art. III, § 12

#### **Caselaw:**

In determining whether an act is constitutional under this provision, Louisiana courts first consider whether the act is a local law and, if it is, then the courts consider whether the act concerns an enumerated, prohibited, subject matter.<sup>82</sup> In considering the first question, courts

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<sup>82</sup> See *Louisiana High School Athletics Ass'n, Inc. v. State*, 107 So. 3d 583, 599 (La. 2013).

determine if the law is a general law or a local law.<sup>83</sup> A general law is a law that operates upon all persons part of a reasonable and proper class.<sup>84</sup> In contrast, a local or special law is a law that applies to a class of persons while arbitrarily excluding similarly situated persons from the class or application of the law.<sup>85</sup> Furthermore, if a law is limited in its operation to a particular locality, “it is immediately suspect as a local law.”<sup>86</sup> Finally, a law that only affects a particular locality is considered general, and not local, where persons throughout the state are indirectly affected by it or it operates upon a subject that the people of the state are interested.<sup>87</sup>

**Only Enumerated Prohibited: YES**

**Procedure Given for Passing Special/Local Legislation: At III, § 13**

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<sup>83</sup> See *id.*

<sup>84</sup> See *id.*

<sup>85</sup> See *Kimball v. Allstate Ins. Co.*, 712 So. 2d 46, 52 (La. 1998) (“[A] law will be considered local. . . where its restrictions can affect only a portion of the citizens. . . embraced within the created classification. . . and where there is no reasonable basis for the creation of the classification or substantial difference between the class created and the subjects excluded justifying the exclusion”).

<sup>86</sup> *Id.* at 51; see also *Louisiana High School Athletics Ass’n, Inc. v. State*, 107 So. 3d 583, 599-600 (La. 2013) (“A statute is generally considered to be local if it operates only in a particular locality or localities without the possibility of extending its coverage to other areas should the requisite criteria exist or come to exist there.”).

<sup>87</sup> See *State v. Dalon*, 35 La. Ann. 1141 (La. 1883) (finding a law establishing a criminal district court in New Orleans to not be a local law because it benefitted the entire state indirectly by maintaining the integrity of the criminal justice system).

MAINE

**Constitutional Text:**

The Legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation.

Art. IV, Pt. 3, § 13

**Caselaw:**

Special legislation does not constitute a per se violation of this section; special legislation may be enacted where the objects of a law cannot readily be attained by general legislation.<sup>88</sup> The Special Legislation Clause is violated when special legislation is enacted when a general law could have been made applicable and laws that attempt to “exempt one individual from generally applicable requirements of the law” have violated this clause.<sup>89</sup>

This provision is not another equal protection clause; unlike equal protection clause, special legislation clause does not call for inquiry into the rights or existence of similarly situated persons; where special legislation serves legitimate objective, appropriate question under special legislation clause is whether particular objective could have been more fully attained through general legislation.<sup>90</sup>

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<sup>88</sup> See Opinion of the Justices, 402 A.2d 601 (Me. 1979); Nadeau v. State, 395 A.2d 107, 113 (Me. 1978).

<sup>89</sup> Fitandes v. City of Saco, 843 A.2d 8, 12 (Me. 2004).

<sup>90</sup> See Fitzpatrick v. Greater Portland Public Development Com’n, 495 A.2d 791, 793-94 (Me. 1985).

## MARYLAND

### **Constitutional Text:**

The General Assembly shall not pass local, or special Laws, in any of the following enumerated cases, viz.: For extending the time for the collection of taxes; granting divorces; changing the name of any person; providing for the sale of real estate, belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees; giving effect to informal, or invalid deeds or wills; refunding money paid into the State Treasury, or releasing persons from their debts, or obligations to the State, unless recommended by the Governor, or officers of the Treasury Department. And the General Assembly shall pass no special Law, for any case, for which provision has been made, by an existing General Law. The General Assembly, at its first Session after the adoption of this Constitution, shall pass General Laws, providing for the cases enumerated in this section, which are not already adequately provided for, and for all other cases, where a General Law can be made applicable.

### Art. III, § 33

### **Caselaw:**

A law is constitutionally impermissible under this provision if two conditions are met: (1) the law is a “special law” and (2) a “general law” relating to the same subject matter already exists.<sup>91</sup> “A special law is one that relates to particular persons or things of a class, as distinguished from a general law which applies to all persons or things of a class.”<sup>92</sup> To determine whether an enactment affects less than an entire class and is, therefore, a special law, Maryland courts have looked to the purpose of the constitutional prohibition.<sup>93</sup> The purpose of the section of constitution governing special laws is to prevent one who has sufficient influence to secure legislation from getting an undue advantage over others, as well as to prevent the dispensation or grants of special privileges to special interests, through the instrumentality of special legislation, in conflict with previously enacted general legislation covering the same subject matter.<sup>94</sup> The Court of Appeals has pointed to various considerations and factors including “whether [the legislation] was actually intended to benefit or burden a particular member or members of a class instead of an entire class”; whether the legislation identifies particular individuals or entities; whether “a particular individual or business sought and received special advantages from the Legislature, or if other similar individuals or businesses were discriminated against by the legislation”; whether the legislation’s substantive and practical effect, “and not merely its form,” show that it singles out one individual or entity, from a general category, for special treatment; and whether “the legislatively drawn distinctions ... are arbitrary and without any reasonable basis.”<sup>95</sup>

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<sup>91</sup> See *Maryland Dept. of Environment v. Days Cove Reclamation Co.*, 27 A.3d 565, 571, 200 Md.App. 256 (Md. Ct. Spec. App. 2011).

<sup>92</sup> *Id.*

<sup>93</sup> See *Cities Serv. Co. v. Governor*, 290 Md. 553, 568, 431 A.2d 663 (Md. 1981).

<sup>94</sup> See *id.* at 568-69.

<sup>95</sup> *Id.* at 569-70.

## MASSACHUSETTS

### **Constitutional Text:**

Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws.

[ . . . ]

The legislature may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: provided, however, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

### Pt. 1, Art. X

#### **Caselaw:**

The “standing laws” provision in the Massachusetts constitution has been interpreted as a kind of generality requirement.<sup>96</sup> This prohibition, as the Massachusetts Supreme Judicial Court has explained, allows for special legislation to a degree, except where singling out provides special benefits that correspondingly cause specific injuries.<sup>97</sup>

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<sup>96</sup> See, e.g., *Commonwealth v. Boston Edison Co.*, 828 N.E.2d 16, 29 (Mass 2005) (Article 10 “denies legislative power to single out an individual [or group] for treatment which departs from that which is being accorded the public ... under law” (quoting *Commissioner of Public Health v. Bessie M. Burke Memorial Hospital* 323 N.E.2d 309 (Mass. 1975))).

<sup>97</sup> See, e.g., *Bessie M. Burke Memorial Hospital*, 323 N.E.2d at 313-15 (legislature may enact special or private laws, but may not pass benefit a person or group when special treatment correspondingly injures another person or group); see also Dan Friedman, *Applying Federal Constitutional Theory to the Interpretation of States Constitutions: The Ban on Special Laws in Maryland*, 71 MD. L. REV. 411, 454 n.221 (2012) (listing Massachusetts among the states that “have a general prohibition of all special laws where a general law applies.”).

## MICHIGAN

### **Constitutional Text:**

The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

### Art. IV, § 29

### **Caselaw:**

In order to determine whether an act is general or local, courts apply a two-part test: (1) the limiting criteria of the act must be reasonably related to the overall purpose of the statute. (2) the act must be sufficiently open-ended so that localities may be brought within the scope of its provisions as such localities over time meet the required criteria.<sup>98</sup> The probability or improbability of other localities reaching the statutory criteria is not the test of a general law.<sup>99</sup> It must be assumed that other localities may come to meet the criteria.<sup>100</sup>

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<sup>98</sup> See *Houston v. Governor*, 810 N.W.2d 855, 878 (Mich. Ct. App. 2012) (finding that law requiring one county alone to reduce the number of members on its county board of commissioners did not violate the state's generality provision because the legislature must be allowed to act incrementally to achieve its intent).

<sup>99</sup> See *id.*

<sup>100</sup> See *id.* But see *State v. Wayne County Clerk*, 648 N.W.2d 202 (Mich. 2002) (invalidating local legislation requiring any city with a population of 750,00 or more and a city council composed of nine at-large members to place a specific proposal on its next ballot because Detroit was the only city that could satisfy the criteria by the date certain).

## MINNESOTA

### Constitutional Text:

[Section 1] In all cases when a general law can be made applicable, a special law shall not be enacted except as provided in section 2. Whether a general law could have been made applicable in any case shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law authorizing the laying out, opening, altering, vacating or maintaining of roads, highways, streets or alleys; remitting fines, penalties or forfeitures; changing the names of persons, places, lakes or rivers; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights on minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; granting divorces; exempting property from taxation or regulating the rate of interest on money; creating private corporations, or amending, renewing, or extending the charters thereof; granting to any private corporation, association, or individual any special or exclusive privilege, immunity or franchise whatever or authorizing public taxation for a private purpose. The inhibitions of local or special laws in this section shall not prevent the passage of general laws on any of the subjects enumerated.

[ . . . ] Every law which upon its effective date applies to a single local government unit or to a group of such units in a single county or a number of contiguous counties is a special law and shall name the unit or, in the latter case, the counties to which it applies. The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, **shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct.** Any special law may be modified or superseded by a later home rule charter or amendment applicable to the same local government unit, but this does not prevent the adoption of subsequent laws on the same subject. The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same except as provided in this section.

Art. XII, §§ 1-2 (emphasis added)

### Caselaw:

Minnesota courts examine the classifications used in a statute to determine whether the statute is a valid general law or an invalid special law. Under Minnesota law, a statute is a general law when it operates uniformly on all members of a proper class.<sup>101</sup> In contrast, a special law is a law that applies to members of a class defined by an improper classification.<sup>102</sup> Applying a rational basis standard, courts have explained that “[t]he responsibility for such classification rests primarily with the legislature and will be held proper if (a) the classification applies to and embraces all who are similarly situated with respect to conditions or wants justifying appropriate legislation; (b) the distinctions are not manifestly arbitrary or fanciful but are genuine and substantial so as to provide a natural and reasonable basis justifying the distinction; and (c) there

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<sup>101</sup> See *Visina v. Freeman*, 252 Minn. 177 (1958).

<sup>102</sup> See *id.*

is an evident connection between the distinctive needs peculiar to the class and the remedy or regulations therefor which the law purports to provide.”<sup>103</sup>

Particularly, the Minnesota Supreme Court has noted that “[t]he subject of classification by population is so largely a matter of policy, and the considerations which enter into it are so numerous and complex, that the legislature must necessarily be allowed a large discretion in the matter.”<sup>104</sup> However, section 2 of this constitutional provision allows for a local law, which otherwise would be invalid under section 1, to be sustained where the locality to be affected approves of such local law.<sup>105</sup>

**Procedure Given for Passing Special/Local Legislation: YES, Article XII, § 2**

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<sup>103</sup> *Wichelman v. Messner*, 250 Minn. 88, 118 (1957); *see also* *Arens v. Village of Rogers*, 240 Minn. 386, 396 (1953) (finding that a statute should not be held invalid as special legislation unless it appears very clearly that the basis of classification is purely arbitrary); *Larson v. Sando*, 508 N.W.2d 782 (Minn. App. 1993).

<sup>104</sup> *State ex rel Anderson v. Sullivan*, 72 Minn. 126, 132 (1898).

<sup>105</sup> *See City of Winona c. Policeman’s Relief Ass’n of City of Winona*, 281 N.W.2d 145, 147 (Minn. 1979).

MISSISSIPPI

**Constitutional Text:**

No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are or can be provided for by general law, or where the relief sought can be given by any court of this State; nor shall the operation of any general law be suspended by the Legislature for the benefit of any individual or private corporation or association, and in all cases where a general law can be made applicable, and would be advantageous, no special law shall be enacted.

[ . . . ]

The Legislature shall not pass local, private, or special laws in any of the following enumerated cases, but such matters shall be provided for only by general laws, viz.:

- (a) Granting divorces;
- (b) Changing the names of persons, places, or corporations;
- (c) Providing for changes of venue in civil and criminal cases;
- (d) Regulating the rate of interest on money;
- (e) Concerning the settlement or administration of any estate, or the sale or mortgage of any property, of any infant, or of a person of unsound mind, or of any deceased person;
- (f) The removal of the disability of infancy;
- (g) Granting to any person, corporation, or association the right to have any ferry, bridge, road, or fish-trap;
- (h) Exemption of property from taxation or from levy or sale;
- (i) Providing for the adoption or legitimation of children;
- (j) Changing the law of descent and distribution;
- (k) Exempting any person from jury, road, or other civil duty (and no person shall be exempted therefrom by force of any local or private law);
- (l) Laying out, opening, altering, and working roads and highways;
- (m) Vacating any road or highway, town plat, street, alley, or public grounds;
- (n) Selecting, drawing, summoning, or empanelling grand or petit juries;
- (o) Creating, increasing, or decreasing the fees, salary, or emoluments of any public officer;
- (p) Providing for the management or support of any private or common school, incorporating the same, or granting such school any privileges;
- (q) Relating to stock laws, water-courses, and fences;
- (r) Conferring the power to exercise the right of eminent domain, or granting to any person, corporation, or association the right to lay down railroad tracks or street-car tracks in any other manner than that prescribed by general law;
- (s) Regulating the practice in courts of justice;
- (t) Providing for the creation of districts for the election of justices of the peace and constables;  
and
- (u) Granting any lands under control of the state to any person or corporation.

Art. IV, §§ 87, 90

## **Caselaw:**

Mississippi courts apply a rational basis standard when determining whether a law is a valid general law or an invalid local law.<sup>106</sup> Therefore, a law is general when it operates uniformly on all members of a class based on a reasonable classification of persons, places, or things.<sup>107</sup> Additionally, although Section 89 of the Mississippi Constitution commands courts to give effect to local legislation passed in conformance with the procedure provided, the second clause of section 87, prohibiting the suspension of general laws by local laws, nullifies such a command in contravention thereof.<sup>108</sup> Therefore, a local law suspending a general law, even if passed pursuant to the prescribed procedures, will be found unconstitutional. However, “[t]he Legislature may suspend a general law by a private law that concerns the same subject matter so long as ‘(1) the object and purpose of each act is consistent with the other; and (2) where the differences between them are primarily procedural and minor.’”<sup>109</sup>

**Only Enumerated Prohibited:** YES

**Procedure Given for Passing Special/Local Legislation:** Article IV, section 89.

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<sup>106</sup> *See* State ex rel Jordan v. Gilmer Grocery Co., 125 So. 710, 715 (Miss. 1930) (“It is established that a [classification] is not arbitrary, if any state of facts reasonably can be conceived that would sustain it, and the existence of that state of acts at the time of the law was enacted must be assumed.”).

<sup>107</sup> *See id.*

<sup>108</sup> *See* Oxford Asset Partners, LLC v. City of Oxford, 970 So. 2d 116, 121 (Miss. 2007).

<sup>109</sup> *Id.* at 122 (quoting Bond v. Marion County Bd. Of Sup’rs, 807 So. 2d 1208, 1219 (Miss. 2001)).

## MISSOURI

### **Constitutional Text:**

The general assembly shall not pass any local or special law:

- (1) authorizing the creation, extension or impairment of liens;
- (2) granting divorces;
- (3) changing the venue in civil or criminal cases;
- (4) regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;
- (5) summoning or empaneling grand or petit juries;
- (6) for limitation of civil actions;
- (7) remitting fines, penalties and forfeitures or refunding money legally paid into the treasury;
- (8) extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their duties, or their securities from liability;
- (9) changing the law of descent or succession;
- (10) giving effect to informal or invalid wills or deeds;
- (11) affecting the estates of minors or persons under disability;
- (12) authorizing the adoption or legitimation of children;
- (13) declaring any named person of age;
- (14) changing the names of persons or places;
- (15) vacating town plats, roads, streets or alleys;
- (16) relating to cemeteries, graveyards or public grounds not of the state;
- (17) authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys;
- (18) for opening and conducting elections, or fixing or changing the place of voting;
- (19) locating or changing county seats;
- (20) creating new townships or changing the boundaries of townships or school districts;
- (21) creating offices, prescribing the powers and duties of officers in, or regulating the affairs of counties, cities, townships, election or school districts;
- (22) incorporating cities, towns, or villages or changing their charters;
- (23) regulating the fees or extending the powers of aldermen, magistrates or constables;
- (24) regulating the management of public schools, the building or repairing of schoolhouses, and the raising of money for such purposes;
- (25) legalizing the unauthorized or invalid acts of any officer or agent of the state or of any county or municipality;
- (26) fixing the rate of interest;
- (27) regulating labor, trade, mining or manufacturing;
- (28) granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track;
- (29) relating to ferries or bridges, except for the erection of bridges crossing streams which form the boundary between this and any other state;

(30) where a general law can be made applicable, and whether a general law could have been made applicable is a judicial question to be judicially determined without regard to any legislative assertion on that subject.

Art. III, §§ 40-42

**Caselaw:**

In Missouri, “[t]he most often applied test for determining whether a law qualifies as a special law is whether the law is based on open-ended or closed-ended characteristics.”<sup>110</sup> Missouri courts also engage in a series of presumptions and burden shifting mechanisms to determine the specific standards to be applied to any particular challenged law.<sup>111</sup> When a law is facially special, because it is based on closed-ended characteristics, the legislature bears the burden of demonstrating a “substantial justification for the failure to adopt a general law instead.”<sup>112</sup> In contrast, a law based on open-ended characteristics is presumed constitutional and is upheld as long as the classification has a reasonable basis, under which the burden “is on the party challenging the constitutionality of the statute to show that the statutory classification is arbitrary and without a rational relationship to a legislative purpose.”<sup>113</sup>

Particularly, when considering population based classifications, though usually seen as open-end and, therefore, presumed constitutional, courts may actually view such laws as an invalid special law “where the classification is so narrow that as a practical matter others could not fall into that classification.”<sup>114</sup> “The presumption that a population-based classification is constitutional is overcome if: (1) a statute contains a population classification that includes only one political subdivision, (2) other political subdivisions are similar in size to the targeted political subdivision, yet are not included, and (3) the population range is so narrow that the only apparent reason for the narrow range is to target a particular political subdivision and to exclude all others.”<sup>115</sup> If the above three factors are met, then the burden shifts and the law is presumed special.<sup>116</sup> To satisfy the newly placed burden, the legislature must prove a substantial justification for such a classification.<sup>117</sup>

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<sup>110</sup> See *City of DeSoto v. Nixon*, 476 S.W.3d 282, 287 (Mo. 2016) (finding that such “closed-ended” characteristics included “historical or physical facts, geography or constitutional status” and that such characteristics inhered facially special status on a law because “others cannot come into the group nor can its members leave the group”).

<sup>111</sup> See *City of St. Louis v. State*, 382 S.W.3d 905, 915 (Mo. 2012) (“Whether a law is presumed to be special or general is of importance because it determines the standard to be used in judging its constitutional validity.”).

<sup>112</sup> *Id.*

<sup>113</sup> *Jefferson County Fire Protection Districts Ass’n v. Blunt*, 205 S.W.3d 866, 870 (Mo. 2006) (discussing population bases classification, the court further commented that the test for considering the statute is similar to a rational basis test used in federal equal protection analysis).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* at 870-71.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

## MONTANA

### **Constitutional Text:**

The legislature shall not pass a special or local act when a general act is, or can be made, applicable.

### Art. V, § 12

### **Caselaw:**

Reasonable classifications and distinctions in legislative enactments which operate equally upon every person or thing in given class are constitutionally permissible and do not violate constitutional prohibition against special laws.<sup>118</sup> The courts will look to the substance and practical operation of a law rather than its title, form, and phraseology, in determining whether it is a general, rather than a special or local law.<sup>119</sup> The test of a “special law” under this constitutional provision is the appropriateness of the law’s provisions and the objects that it excludes.<sup>120</sup> A statute is not open to objection merely because it is class legislation, but the classification must be reasonable and all members of given class must receive equal protection.<sup>121</sup> Where the classification of a statute is not capricious, arbitrary, or without proper basis, the statute is not unconstitutional as “special law.”<sup>122</sup> The matter of classification is primarily for Legislature, which enjoys broad discretion in selecting particular class for special consideration.<sup>123</sup>

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<sup>118</sup> See *Cecil v. Allied Stores Corp.*, 513 P.2d 704, 710, 162 Mont. 491 (Mont. 1973).

<sup>119</sup> See *Sjostrum v. State Highway Commission*, 228 P.2d 238, 241, 124 Mont. 562 (Mont. 1951).

<sup>120</sup> See *Lowery v. Garfield County*, 208 P.2d 478, 487, 122 Mont. 571 (Mont. 1949).

<sup>121</sup> See *id.*

<sup>122</sup> See *Blackford v. Judith Basin County*, 98 P.2d 872, 878, 109 Mont. 578 (Mont. 1940).

<sup>123</sup> See *Rutherford v. City of Great Falls*, 86 P.2d 656, 660, 107 Mont. 512 (Mont. 1939).

## NEBRASKA

### **Constitutional Text:**

The Legislature shall not pass local or special laws in any of the following cases, that is to say:  
For granting divorces.

Changing the names of persons or places.

Laying out, opening altering and working roads or highways.

Vacating roads, Town plats, streets, alleys, and public grounds.

Locating or changing County seats.

Regulating County and Township offices.

Regulating the practice of Courts of Justice.

Regulating the jurisdiction and duties of Justices of the Peace, Police Magistrates and Constables.

Providing for changes of venue in civil and criminal cases.

Incorporating Cities, Towns and Villages, or changing or amending the charter of any Town, City, or Village.

Providing for the election of Officers in Townships, incorporated Towns or Cities.

Summoning or empaneling Grand or Petit Juries.

Providing for the bonding of cities, towns, precincts, school districts or other municipalities.

Providing for the management of Public Schools.

The opening and conducting of any election, or designating the place of voting.

The sale or mortgage of real estate belonging to minors, or others under disability.

The protection of game or fish.

Chartering or licensing ferries, or toll bridges, remitting fines, penalties or forfeitures, creating, increasing and decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever; Provided, that notwithstanding any other provisions of this Constitution, the Legislature shall have authority to separately define and classify loans and installment sales, to establish maximum rates within classifications of loans or installment sales which it establishes, and to regulate with respect thereto.

In all other cases where a general law can be made applicable, no special law shall be enacted.

### Art. III, § 18

### **Caselaw:**

In Nebraska, “[a] legislative act constitutes special legislation if (1) it creates an arbitrary and unreasonable method of classification or (2) it creates a permanently closed class.”<sup>124</sup> In contrast, the law is general if the law operates uniformly upon all person who fall into a

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<sup>124</sup> Anthony, Inc. v. City of Omaha, 283 Neb. 868, 890 (2012).

reasonable classification.<sup>125</sup> The Nebraska Supreme Court has also explained that “[w]hen a law confers privileges on a class arbitrarily selected from a large number of persons standing in the same relation to the privileges, then the law in question has resulted in the kind of improper ‘special favors’ prohibited by the special legislation clause.”<sup>126</sup>

When focusing on the classification used by a statute, Nebraska courts demand that the “legislative classification. . . rest upon some reason of public policy, or some substantial difference in circumstances, which would naturally suggest the justice or expediency of diverse legislation regarding the objects to be classified.”<sup>127</sup> Additionally, the analysis under the special legislation inquiry is different from the analysis engaged in under the federal equal protection inquiry.<sup>128</sup> While the focus under the equal protection inquiry focuses on the state interest to be achieved and whether it fits together with the statutory means, the special legislation inquiry focuses on “the Legislature’s purpose in creating the class and asks if there is a substantial difference of circumstances to suggest the expediency of diverse legislation.”<sup>129</sup>

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<sup>125</sup> See *Haman v. Marsh*, 237 Neb. 699 (1991).

<sup>126</sup> *Id.*

<sup>127</sup> *Dowd Grain Co. v. County of Sarpy*, 291 Neb. 620, 628 (2015); see also *Big John’s Billiards, Inc. v. State*, 288 Neb. 938, 945 (2014) (emphasizing that “[c]lassifications for the purpose of legislation must be real and not illusive; they cannot be based on distinctions without substantial difference.”).

<sup>128</sup> See *Michelle Hu, Henstock, Inc. v. City of Omaha*, 275 Neb. 820, 827 (2008).

<sup>129</sup> *Id.*

NEVADA

**Constitutional Text:**

The legislature shall not pass local or special laws in any of the following enumerated cases—that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables, and fixing their compensation;  
For the punishment of crimes and misdemeanors;  
Regulating the practice of courts of justice;  
Providing for changing the venue in civil and criminal cases;  
Granting divorces;  
Changing the names of persons;  
Vacating roads, town plots, streets, alleys, and public squares;  
Summoning and impaneling grand and petit juries, and providing for their compensation;  
Regulating county and township business;  
Regulating the election of county and township officers;  
For the assessment and collection of taxes for state, county, and township purposes;  
Providing for opening and conducting elections of state, county, or township officers, and designating the places of voting;  
Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities;  
Giving effect to invalid deeds, wills, or other instruments;  
Refunding money paid into the state treasury, or into the treasury of any county;  
Releasing the indebtedness, liability, or obligation of any corporation, association, or person to the state, or to any county, town, or city of this state; but nothing in this section shall be construed to deny or restrict the power of the legislature to establish and regulate the compensation and fees of county officers, to authorize and empower the boards of county commissioners of the various counties of the state to establish and regulate the compensation and fees of township officers in their respective counties, to establish and regulate the rates of freight, passage, toll, and charges of railroads, tollroads, ditch, flume, and tunnel companies incorporated under the laws of this state or doing business therein.

[ . . . ]

In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

Art. IV, §§ 20-21

**Caselaw:**

“Local legislation” is that which “operates over a particular locality instead of over the whole territory of the state,” while “special legislation” is that which “pertains to a part of class as opposed to all of a class,” *Goodwin v. City of Sparks*, 93 Nev. 400, 416, 566 P.2d 415 (Nev.

1977) or “imposes special burdens or confers peculiar privileges upon one or more persons in nowise distinguished from others of the same category.”<sup>130</sup> “Where a local or special law has been passed, it will be presumed to be valid until facts are presented showing, beyond any reasonable doubt, that a general law is applicable.”<sup>131</sup> Whether a general law can be made applicable is a decision that must first be made by the legislature and courts will review laws under the standard in *In State ex rel. Clarke v. Irwin*.<sup>132</sup> When there is reasonable ground for classification and law operates equally on all within the same class, the classification is valid.<sup>133</sup> Courts will examine special laws on the basis of whether they bear a “rational relationship” to a legislative state objective.<sup>134</sup> When a constitutional general law is in conflict with a special law, the courts will resolve the issue in favor of the special law.<sup>135</sup>

**Only Enumerated Prohibited: YES**

**Separate Uniformity Requirement: Art. IV, § 21**

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<sup>130</sup> *State v. Consolidated Virginia Mining Co.*, 16 Nev. 432, 443 (1882).

<sup>131</sup> *Evans v. Job*, 8 Nev. 322, 337 (1873); *see also Washoe County Water Conservation District v. Beemer*, 56 Nev. 104, 116 (1935) (If a statute is special or local and does not come within one of the cases enumerated in Section 20, its constitutionality depends upon whether a general law can be made applicable).

<sup>132</sup> 5 Nev. 111, 122 (1869) (“A law, to be applicable in the sense in which the words are evidently used, and their only proper sense in such connection, must answer the just purposes of the legislation; that is best subserve the interests of the people of the state, or such class or portion as the particular legislation is intended to affect.”).

<sup>133</sup> *See State ex rel. Tidvall v. Eighth Judicial Dist. Court ex rel. Clark County*, 539 P.2d 456, 459-60, 91 Nev. 520 (1975).

<sup>134</sup> *See id.*

<sup>135</sup> *See City of Reno v. County of Washoe*, 94 Nev. 327, 332, 580 P.2d 460 (1978).

NEW JERSEY

**Constitutional Text:**

No general law shall embrace any provision of a private, special or local character.

[. . .]

The Legislature shall not pass any private, special or local laws:

- (1) Authorizing the sale of any lands belonging in whole or in part to a minor or minors or other persons who may at the time be under any legal disability to act for themselves.
- (2) Changing the law of descent.
- (3) Providing for change of venue in civil or criminal causes.
- (4) Selecting, drawing, summoning or empaneling grand or petit jurors.
- (5) Creating, increasing or decreasing the emoluments, term or tenure rights of any public officers or employees.
- (6) Relating to taxation or exemption therefrom.
- (7) Providing for the management and control of free public schools.
- (8) Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.
- (9) Granting to any corporation, association or individual the right to lay down railroad tracks.
- (10) Laying out, opening, altering, constructing, maintaining and repairing roads or highways.
- (11) Vacating any road, town plot, street, alley or public grounds.
- (12) Appointing local officers or commissions to regulate municipal affairs.
- (13) Regulating the internal affairs of municipalities formed for local government and counties, except as otherwise in this Constitution provided.

The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.

Art. IV, § 7 ¶¶ 7,9

**Caselaw:**

Under provision of New Jersey Constitution prohibiting special legislation, a “general law” is one that equally affects all of a group who, in light of the purpose of the statute, are distinguished by sufficiently marked and important characteristics to make them a class by

themselves.<sup>136</sup> “The test of whether a law constitutes special legislation is essentially the same as that which determines whether it affords equal protection of the laws.”<sup>137</sup> In considering whether legislation is general or special, the court must apply a three-part test and determine: (1) the purpose and subject matter of the statute; (2) whether any persons are excluded who should be included; and (3) whether the classification is reasonable, given the purpose of the statute.<sup>138</sup> Where constitutionality of statute is challenged as being special law, there is strong presumption that statute is constitutional and it will not be declared void unless its repugnancy to the Constitution is clear beyond reasonable doubt.<sup>139</sup>

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<sup>136</sup> See *New Jersey Law Enforcement Sup’rs Ass’n v. State*, 997 A.2d 1043, 1047, 414 N.J.Super. 111 (N.J. Super. Ct. App. Div. 2010).

<sup>137</sup> *Phillips v. Curiale*, 128 N.J. 608, 627, 608 A.2d 895 (N.J. 1992) (quoting *Mahwah Township v. Bergen County Bd. of Taxation*, 98 N.J. 268, 285, 486 A.2d 818, cert. denied, 471 U.S. 1136, 105 S.Ct. 2677, 86 L.Ed.2d 696 (1985)).

<sup>138</sup> See *Brown v. Township of Old Bridge*, 725 A.2d 1154, 1170, 319 N.J.Super. 476 (N.J. Super. Ct. App. Div. 1999) (citing *Vreeland v. Byrne*, 72 N.J. 292, 298–301, 370 A.2d 825 (N.J. 1977)).

<sup>139</sup> See *Clark v. Byrne*, 165 N.J.Super. 98, 104, 397 A.2d 719 (N.J. Super. Ct. Law Div. 1978), affirmed 165 N.J.Super. 16, 397 A.2d 685.

## NEW MEXICO

### **Constitutional Text:**

The legislature shall not pass local or special laws in any of the following cases: regulating county, precinct or district affairs; the jurisdiction and duties of justices of the peace, police magistrates and constables; the practice in courts of justice; the rate of interest on money; the punishment for crimes and misdemeanors; the assessment or collection of taxes or extending the time of collection thereof; the summoning and impaneling of jurors; the management of public schools; the sale or mortgaging of real estate of minors or others under disability; the change of venue in civil or criminal cases. Nor in the following cases: granting divorces; laying out, opening, altering or working roads or highways, except as to state roads extending into more than one county, and military roads; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats, or changing county lines, except in creating new counties; incorporating cities, towns or villages, or changing or amending the charter of any city, town or village; the opening or conducting of any election or designating the place of voting; declaring any person of age; chartering or licensing ferries, toll bridges, toll roads, banks, insurance companies or loan and trust companies; remitting fines, penalties, forfeitures or taxes; or refunding money paid into the state treasury, or relinquishing, extending or extinguishing, in whole or in part, any indebtedness or liability of any person or corporation, to the state or any municipality therein; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the laws of descent; granting to any corporation, association or individual the right to lay down railroad tracks or any special or exclusive privilege, immunity or franchise, or amending existing charters for such purpose; changing the rules of evidence in any trial or inquiry; the limitation of actions; giving effect to any informal or invalid deed, will or other instrument; exempting property from taxation; restoring to citizenship any person convicted of an infamous crime; the adoption or legitimizing of children; changing the name of persons or places; and the creation, extension or impairment of liens. In every other case where a general law can be made applicable, no special law shall be enacted.

### Art. IV, § 24

### **Caselaw:**

New Mexico views this constitutional provision as being closely aligned with the equal protection provisions of the U.S. and N.M. constitutions.<sup>140</sup> Thus, New Mexico courts give great weight to the legislature's classification: "Only if a statutory classification is so devoid of reason to support it, as to amount to mere caprice, will it be stricken down."<sup>141</sup> A law is considered a "general law" if subject of statute may apply to, and affect people of, every political subdivision of the state.<sup>142</sup> A law is considered a "special law" if it is applicable "only to named individuals or determinative situations."<sup>143</sup> Where a classification is based on time and closes a class

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<sup>140</sup> See Board of Trustees of Las Vegas v. Montano, 481 P.2d 702, 705 (N.M. 1971).

<sup>141</sup> *Id.*

<sup>142</sup> See Thompson v. McKinley County, 816 P.2d 494 (N.M. 1991).

<sup>143</sup> *Id.*

arbitrarily, it will be deemed special.<sup>144</sup> Courts must then ask whether a general law could be made applicable on the facts presented.<sup>145</sup>

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<sup>144</sup> *See id.*

<sup>145</sup> *See id.* (finding that legislation targeting alcoholism in one New Mexico county was a special law, but because there was sufficient evidence that the problems of alcoholism in McKinley county were unique to that county and required special attention, the law was upheld as constitutional).

NEW YORK

**Constitutional Text:**

The legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands. Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or empaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any person, association, firm or corporation, an exemption from taxation on real or personal property.

Providing for the building of bridges, except over the waters forming a part of the boundaries of the state, by other than a municipal or other public corporation or a public agency of the state.

Art. III, § 17

The elective or appointive chief executive officer, if there be one, or otherwise the chairman of the board of supervisors, in the case of a county, the mayor in the case of a city or village or the supervisor in the case of a town with the concurrence of the legislative body of such local government, or the legislative body by a vote of two-thirds of its total voting power without the approval of such officer, may request the legislature to pass a specific bill relating to the property, affairs or government of such local government which does not in terms and in effect apply alike to all counties, all counties other than those wholly included within a city, all cities, all towns or all villages, as the case may be. Such a request may be made separately by two or more local governments affected by the same bill. Every such request shall declare that a necessity exists for the passage of such bill by the legislature and shall recite the facts establishing such necessity. The form of request and the manner of its communication to the legislature shall conform to rules promulgated by concurrent resolution of the senate and assembly pursuant to article three-A of the legislative law. In adopting such a request the legislative body shall be governed by the provisions of subdivision one of section twenty of this chapter with regard to the adoption of a local law. The validity of an act passed by the legislature in accordance with such a request shall not be subject to review by the courts on the ground that

the necessity alleged in the request did not exist or was not properly established by the facts recited.

Art. III, § 40

**Caselaw:**

In New York, local or special legislation is only prohibited in the enumerated cases. A statute, to be deemed general in nature and escape the prohibition against special laws, does not need to apply to every person in the state, but must only reasonably justify its application according to specified conditions common to a class and the subject matter, which is essentially a rational basis standard.<sup>146</sup> Some New York courts have indicated, however, that a law framed in general terms is not necessarily permissible where its effect is restricted to a class of one.<sup>147</sup>

Courts must ultimately determine the question of generality on a case by case basis and look beyond the form of the statute to its effect as well to determine if a statute, although facially general, is actually limited to a single locality.<sup>148</sup> For example, although New York courts have found classifications based on population permissible, using such a classification may result in only a single locality affected by the statute, which is impermissible if the resulting class is “so unnatural and wayward that only by the rarest coincidence can the range of its extension include more than one locality, and at best but two or three, the act so hedged and circumscribed is local in effect.”<sup>149</sup>

In addition, Section 40 provides for special legislation on the request of a local government.

**Only Enumerated Prohibited: YES**

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<sup>146</sup> See *Cutler v. Herman*, 3 N.Y.S.2d 449, 451 (1957); see also *Kittinger v. Buffalo Traction Co.*, 160 N.Y. 377 (1899) (finding that arbitrary distinctions between classes of persons or localities is impermissible).

<sup>147</sup> See *In re Henneberger*, 155 N.Y. 420, 425-26 (1898) (finding that no definite test exists to determine if a law is local or general and that special circumstances may be so “cumulative” as to effectively limit a law, though facially general, to a single locality, such an “evasion,” by framing the law in general terms, is impermissible). *But see* *Oelbermann Associates Ltd. Partnership v. Borov*, 535 N.Y.S.2d 315, 320 (Civ. Ct. NY 1988) (calling the *Henneberger* court’s approach *sui generis*).

<sup>148</sup> See *In re Henneberger*, 155 N.Y. at 425-26.

<sup>149</sup> See *Farrington v. Pinckney*, 144 N.Y.S.2d 585, 585 (Sup Ct. NY. 1955).

## NORTH CAROLINA

### **Constitutional Text:**

The General Assembly shall not enact any local, private, or special act or resolution:

- (a) Relating to health, sanitation, and the abatement of nuisances;
- (b) Changing the names of cities, towns, and townships;
- (c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
- (d) Relating to ferries or bridges;
- (e) Relating to non-navigable streams;
- (f) Relating to cemeteries;
- (g) Relating to the pay of jurors;
- (h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
- (i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
- (j) Regulating labor, trade, mining, or manufacturing;
- (k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
- (l) Giving effect to informal wills and deeds;
- (m) Granting a divorce or securing alimony in any individual case;
- (n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) Repeals. Nor shall the General Assembly enact any such local, private, or special act by the partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) Prohibited acts void. Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) General laws. The General Assembly may enact general laws regulating the matters set out in this Section.

### Art. II, § 24

### **Caselaw:**

North Carolina courts apply a two-step test: (1) is the law local or general? (2) if local, does the law fall into one of the enumerated prohibited categories?. As to step one, a statute is either general or local; there is no middle ground.<sup>150</sup> “Classification must be reasonable and germane to the law. It must be based on a reasonable and tangible distinction and operate the same on all parts of the State under the same conditions and circumstances. Classification must not be discriminatory, arbitrary or capricious.”<sup>151</sup> A statutory classification is held to be

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<sup>150</sup> See *High Point Surplus Co. v. Pleasants*, 142 S.E.2d 697, 702 (N.C. 1965).

<sup>151</sup> *Id.* at 702-03.

“reasonable” if it satisfies the following five tests: (1) the classification must be based upon substantial distinctions which make one class really different from another; (2) the classification adopted must be germane to the purpose of the law; (3) the classification must not be based upon existing circumstances only; (4) to whatever class a law may apply, it must apply equally to each member thereof; and (5) if the classification meets these requirements, the number of members in a class is wholly immaterial.<sup>152</sup> If the reasonable classification test fails and the law is deemed local, the court will inquire whether the law “relates” to one of the fourteen enumerated categories. The court asks what the practical effect of the legislation is: “in light of its stated purpose and practical effect, [whether] the legislation has a material, but not exclusive or predominant, connection to issues involving” the enumerated category.<sup>153</sup>

### **Notes:**

Courts have rejected the use of the Due Process and Equal Protection “rational basis” test which would permit the court not to inquire as to the actual intention of the legislature, but instead whether “any conceivable legitimate purpose” exists.<sup>154</sup> “[W]e will focus our analysis upon the extent, if any, to which there is record support for the State’s argument to the effect that the legislation is a general, rather than a local, act.”<sup>155</sup>

**Only Enumerated Prohibited: YES**

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<sup>152</sup> See *City of Ashville v. State*, 794 S.E.2d 759, 768-69 (N.C. 2016) (invalidating municipal water transfer law that could only apply to one county due to the “total absence of any justification for singling out the City’s water system from other large municipally owned systems and the steps taken during the drafting process to ensure that the involuntary transfer provisions of the legislation did not apply to any municipality except the City”).

<sup>153</sup> *Id.* at 776.

<sup>154</sup> See *City of Ashville v. State*, 794 S.E.2d 759, 771-72 (N.C. 2016).

<sup>155</sup> *Id.* at 72.

## NORTH DAKOTA

### **Constitutional Text:**

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

Art. IV, § 13

### **Caselaw:**

It has been long held that “a statute relating to persons or things as a class is a general law; one relating to particular persons or things of a class is special.” A special law only applies to particular persons or things of a class, while a general law applies to all person and things of a class. If a statute operates to treat all persons or members of a class within the scope of the statute equally, the statute is general and not special. A general law “operates alike on all persons and property similarly situated.”<sup>156</sup> The standard of review of a classification under our special laws provision is reasonableness, and a statutory classification is reasonable, if it ‘is natural, not arbitrary, and standing upon some reason having regard to the character of the legislation of which it is a feature.’”<sup>157</sup> Moreover, a classification is “reasonable if ‘[i]t bears alike upon all persons and things upon which it operates and it contains no provision that will exclude or impede this uniform operation upon all citizens, subjects and places within the state provided they are brought within the relations and circumstances specified in the statute.’”<sup>158</sup> “In assessing whether a challenged law violated the special laws provision of our state constitution, this Court’s early decisions recognized the effect of the challenged law was an appropriate consideration.”<sup>159</sup>

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<sup>156</sup> See *Bouchar v. Johnson*, 555 N.W.2d 81, 88 (N.D. 1996).

<sup>157</sup> *Teigen v. State*, 749 N.W.2d 505, 510 (N.D. 2008).

<sup>158</sup> *Id.*

<sup>159</sup> *McDonald v. Hanson*, 164 N.W. 8, 12–13 (1917); 2 *Sutherland Statutory Construction*, at § 40:5 (stating characterization of statute depends on its substance and not its form; statute may be special in fact though general in form).

## OHIO

### **Constitutional Text:**

All laws, of a general nature, shall have a uniform operation throughout the State; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the General Assembly, except, as otherwise provided in this constitution.

### Art. II, § 26

### **Caselaw:**

As far back as 1965, in *Jefferson v. Robinson*, the Ohio Supreme Court began articulating the “general laws” limitation on state preemption of home rule ordinance.<sup>160</sup> Invalidating a state statute whose purpose was to prohibit a home rule municipality from exercising a particular function, the *Jefferson* court noted that “The words ‘general laws’ ... in Section 3 of Article XVIII of the Ohio Constitution means statutes setting forth police, sanitary or similar regulations and not statutes which purport only to grant or to limit the legislative powers of a municipal corporation to adopt or enforce police, sanitary or other similar regulations.”<sup>161</sup> Preempting local governments, in other words, could only come pursuant to a regulatory scheme that is intended to displace local regulation, not one targeted at limiting local power.

Later Ohio decisions expanded the *Jefferson* observation, creating a four-part test for whether a preempting state law is a “general law.” To pass this test, the law must be “(1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.”<sup>162</sup>

### **Separate Uniformity Requirement: YES**

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<sup>160</sup> 205 N.E.2d 382 (Ohio 1965).

<sup>161</sup> *Id.* at 386.

<sup>162</sup> *Mendenhall v. Akron*, 881 N.E.2d 255, 261 (Ohio 2008) (quoting *Canton v. Ohio*, 766 N.E.2d 963 (2002)). *See also* *Cleveland v. State II*, 989 N.E.2d 1072 (Ohio Ct. App. 2013) (state statute granting the state director of agriculture “sole and exclusive authority” to regulate food nutrition information and consumer incentive items” passed in response to a Cleveland ordinance found not to be a general law but rather “a broad, flat ban by the General Assembly prohibiting municipalities from exercising their police powers in this area.”).

## OKLAHOMA

### **Constitutional Text:**

The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law authorizing:

- The creation, extension, or impairing of liens;
- Regulating the affairs of counties, cities, towns, wards, or school districts;
- Changing the names of persons or places;
- Authorizing the laying out, opening, altering, or maintaining of roads, highways, streets, or alleys;
- Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other state;
- Vacating roads, town plats, streets, or alleys;
- Relating to cemeteries, graveyards, or public grounds not owned by the State;
- Authorizing the adoption or legitimation of children;
- Locating or changing county seats;
- Incorporating cities, towns, or villages, or changing their charters;
- For the opening and conducting of elections, or fixing or changing the places of voting;
- Granting divorces;
- Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;
- Changing the law of descent or succession;
- Regulating the practice or jurisdiction of, or changing the rules of evidence in judicial proceedings or inquiry before the courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing the methods for the collection of debts, or the enforcement of judgments or prescribing the effect of judicial sales of real estate;
- Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, or constables;
- Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;
- Fixing the rate of interest;
- Affecting the estates of minors, or persons under disability;
- Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;
- Exempting property from taxation;
- Declaring any named person of age;
- Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from due performance of his official duties, or his securities from liability;
- Giving effect to informal or invalid wills or deeds;
- Summoning or impaneling grand or petit juries;
- For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements;  
Providing for change of venue in civil and criminal cases.

Art. V, § 46

**Caselaw:**

When a law is challenged under Okla. Const. art. 5, § 46, the only issue to be resolved is whether a statute upon a subject enumerated in the constitutional provision targets for different treatment less than an entire class of similarly situated persons or things.<sup>163</sup> “A law is special if it confers particular privileges or imposes peculiar disabilities or burdensome conditions in the exercise of a common right on a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law. Special laws apply to less than the whole of a class of persons, entities or things standing upon the same footing or in substantially the same situation or circumstances, and thus do not have a uniform operation. The shortcoming of a special law is that it does not embrace all the classes that it should naturally embrace, and that it creates preference and establishes inequality. It applies to persons, things, and places possessed of certain qualities or situations and excludes from its effect other not dissimilar persons, things, or places.”<sup>164</sup>

**Procedure Given for Passing Special/Local Legislation:** Art. V, § 32

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<sup>163</sup> See *Lee v. Bueno*, 381 P.3d 736, 742 (Ok. 2016).

<sup>164</sup> *Id.* at 742-43.

## OREGON

### **Constitutional Text:**

The Legislative Assembly, shall not pass special or local laws, in any of the following enumerated cases, that is to say:

Regulating the jurisdiction, and duties of justices of the peace, and of constables;  
For the punishment of Crimes, and Misdemeanors;  
Regulating the practice in Courts of Justice;  
Providing for changing the venue in civil, and Criminal cases;  
Granting divorces;  
Changing the names of persons;  
For laying, opening, and working on highways, and for the election, or appointment of supervisors;  
Vacating roads, Town plats, Streets, Alleys, and Public squares;  
Summoning and empanneling [sic] grand, and petit jurors;  
For the assessment and collection of Taxes, for State, County, Township, or road purposes;  
Providing for supporting Common schools, and for the preservation of school funds;  
In relation to interest on money;  
Providing for opening, and conducting the elections of State, County, and Township officers, and designating the places of voting;  
Providing for the sale of real estate, belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

### Art. IV, § 23

### **Caselaw:**

There is very little caselaw in Oregon regarding legislative generality. We could not find any on point that did anything more than declare that the legislation at issue was not unconstitutional. “We remember the principle that the judiciary will not condemn as unconstitutional any act of the Legislative Assembly unless its violation of the fundamental law is clear and palpable.”<sup>165</sup>

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<sup>165</sup> Tichner v. City of Portland, 200 P. 466, 468 (1921).

## PENNSYLVANIA

### **Constitutional Text:**

The General Assembly shall pass no local or special law in any case which has been or can be provided for by general law and specifically the General Assembly shall not pass any local or special law:

1. Regulating the affairs of counties, cities, townships, wards, boroughs or school districts:
2. Vacating roads, town plats, streets or alleys:
3. Locating or changing county seats, erecting new counties or changing county lines:
4. Erecting new townships or boroughs, changing township lines, borough limits or school districts:
5. Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:
6. Exempting property from taxation:
7. Regulating labor, trade, mining or manufacturing:
8. Creating corporations, or amending, renewing or extending the charters thereof:

Nor shall the General Assembly indirectly enact any special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

### Art. III, § 32

### **Caselaw:**

The Robinson cases are important Pennsylvania Supreme Court decisions that invalidated certain provisions of a fracking act for violating Article III, Section 32. The Pennsylvania Supreme Court does not apply the state constitution's prohibition of special laws to divest the General Assembly of its general authority either to identify classes of persons and the different needs of a class, or to provide for differential treatment of persons with different needs. Instead, the Court's constitutionally mandated concerns are to ensure that the challenged legislation promotes a legitimate state interest, and that a classification is reasonable rather than arbitrary and rests upon some ground of difference, which justifies the classification and has a fair and substantial relationship to the object of the legislation.<sup>166</sup>

A legislative classification must be based on "real distinctions in the subjects classified and not on artificial or irrelevant ones used for the purpose of evading the constitutional prohibition."<sup>167</sup> A court may deem a statute or provision per se unconstitutional "if, under the classification, the class consists of one member and is closed or substantially closed to future membership."<sup>168</sup> Consideration of the historical circumstances surrounding the enactment of Article III, Section 32 is instructive, as they evidence the framers' intent to restrict legislative

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<sup>166</sup> See Robinson Tp., Washington County v. Com., 83 A.3d 901, 987, 623 Pa. 564 (Pa. 2013).

<sup>167</sup> *Id.* (citing Harrisburg Sch. Dist. v. Hickok, 761 A.2d 1132, 1136, 563 Pa. 391 (Pa. 2000)).

<sup>168</sup> *Id.* at 988.

favoritism of particular industries or persons—practices which they considered to be harmful to the general welfare of the Pennsylvania populace.<sup>169</sup>

In the years since Article III, Section 32’s inclusion in the Pennsylvania Constitution, the Court has come to view its fundamental purpose to be the same as that served by the Fourteenth Amendment to the United States Constitution, in that they both enshrine the common constitutional principle that “like persons in like circumstances should be treated similarly by the sovereign.”<sup>170</sup> However, Article III, Section 32 does not deprive the legislature of its power to make classifications, or to treat persons differently who have different needs, which derives from its general power to enact laws that affect the health, safety, and welfare of the people of the Commonwealth.<sup>171</sup> A classification will, therefore, not violate Article III, Section 32, if it is one based on “necessity ... springing from manifest peculiarities clearly distinguishing those of one class from each of the other classes and imperatively demanding legislation for each class separately that would be useless and detrimental to the others.”<sup>172</sup> Therefore, in the final determination by the Supreme Court in *Robinson*, the pivotal consideration was whether these sections confer on the oil and gas industry, as a class, special treatment not afforded to any other class of industry, and whether this special treatment “rest[s] upon some ground of difference, which justifies the classification and has a fair and substantial relationship to the object of the legislation.”<sup>173</sup> The Court discerned no manifest peculiarity of the oil and gas industry which warrants granting it the special treatment conferred by Sections 3222.1(b)(10) and (b)(11), and held that these statutory provisions violate Article III, Section 32’s prohibition against the enactment of special laws.<sup>174</sup> The Court also concluded that Section 3218.1’s requirement that only public water facilities must be informed in the event of a spill is unsupportable under Article III, Section 32 of the Pennsylvania Constitution.<sup>175</sup>

**Notes:** No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be effected may be situated, which notice shall be at least thirty days prior to the introduction into the General Assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published, shall be exhibited in the General Assembly, before such act shall be passed. Art. III § 7.

**Procedure Given for Passing Special/Local Legislation: Art. III, § 7**

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<sup>169</sup> See *Robinson Twp. v. Commonwealth*, 147 A.3d 536, 572 (Pa. 2016) (citing *Harrisburg School District v. Zogby*, 828 A.2d 1079, 1087, 574 Pa. 121 (Pa. 2003)).

<sup>170</sup> *Id.* at 572-73 (quoting *Pennsylvania Turnpike Commission*, 899 A.2d 1085, 1094 (Pa. 2006)).

<sup>171</sup> *Id.* at 573.

<sup>172</sup> *Allegheny County v. Monzo*, 500 A.2d 1096, 1105, 509 Pa. 26, (Pa. 1985).

<sup>173</sup> *Robinson*, 147 A.3d at 575.

<sup>174</sup> See *id.* at 576.

<sup>175</sup> See *id.* at 582.

## SOUTH CAROLINA

### **Constitutional Text:**

The General Assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit:

- I. To change the names of persons or places.
- II. To incorporate cities, towns or villages, or change, amend or extend charter thereof.
- III. To incorporate educational, religious, charitable, social, manufacturing or banking institutions not under the control of the State, or amend or extend the charters thereof.
- IV. To incorporate school districts.
- V. To authorize the adoption or legitimation of children.
- VI. To provide for the protection of game.
- VII. To summon and empanel grand or petit jurors; provided, that tales boxes may be eliminated by special act in York County.

[...]

IX. In all other cases, where a general law can be made applicable, no special law shall be enacted: Provided, That the General Assembly may enact local or special laws fixing the amount and manner of compensation to be paid to the County Officers of the several counties of the State, and may provide that the fees collected by any such officer, or officers, shall be paid into the treasury of the respective counties.

X. The General Assembly shall forthwith enact general laws concerning said subjects for said purposes, which shall be uniform in their operations: Provided, That nothing contained in this section shall prohibit the General Assembly from enacting special provisions in general laws.

### Art. III, § 34

### **Caselaw:**

When determining whether a law violates the constitutional prohibition against special legislation, if the legislation does not apply uniformly, the inquiry becomes whether the legislation creates an unlawful classification; however, mere fact that a law creates a classification does not render it unlawful, but instead, constitutional prohibition against special legislation operates similarly to the equal protection guarantee in that it prohibits unreasonable and arbitrary classifications.<sup>176</sup> A classification is arbitrary, and therefore unconstitutional, if there is no reasonable hypothesis to support it; accordingly, special legislation is not unconstitutional where there is a substantial distinction having reference to the subject matter of the proposed legislation, between the objects or places embraced in such legislation and the objects and places excluded.<sup>177</sup> Special legislation will survive a constitutional challenge where

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<sup>176</sup> See Board of Trustees for Fairfield County School Dist. v. State, 761 S.E.2d 241, 244-45, 409 S.C. 119 (S.C. 2014).

<sup>177</sup> See *id.* at 245.

there is a logical basis and sound reason for resorting to such legislation.<sup>178</sup> When a statute is challenged on the ground that it is special legislation, the first step is to identify the class of persons to whom the legislation applies; next, the court must determine the basis for that classification, remembering that the mere fact a statute creates a classification does not render it unconstitutional special legislation. Thus, the special legislation analysis parallels the one court's use for equal protection.<sup>179</sup>

**Separate Uniformity Requirement: YES**

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<sup>178</sup> *See id.* (citing *Horry County v. Horry County Higher Educ. Comm'n*, 306 S.C. 416, 419, 412 S.E.2d 421, 423 (1991)).

<sup>179</sup> *See Bodman v. State*, 742 S.E.2d 363, 369, 403 S.C. 60 (S.C. 2013); *see also Charleston County School Dist. v. Harrell*, 713 S.E.2d 604, 608, 393 S.C. 552 (S.C. 2011) (The mere fact that a law creates a classification does not render it unlawful; instead, the constitutional prohibition against special legislation operates similarly to the equal protection guarantee in that it prohibits unreasonable and arbitrary classifications.).

## SOUTH DAKOTA

### **Constitutional Text:**

The Legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir at law of another.
3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the state.
8. Remitting fines, penalties or forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the Legislature may repeal any existing special law relating to the foregoing subdivisions. In all other cases where a general law can be applicable no special law shall be enacted.

### Art. III, § 23

### **Caselaw:**

In South Dakota, special or local legislation is only prohibited in regards to the enumerated items. “The test for determining whether a statute is special legislation is two-pronged: 1. Does the legislation uniformly treat all members of the legislatively created class? 2. Does the legislation promote the public interest?”<sup>180</sup> While special legislation concerning one of the enumerated subjects is subject to judicial review, the “general provision at the close of that section that ‘in all cases where a general law can be applicable no special law shall be enacted’” has been deemed a political question because it “[was] designed as a guide to the legislature, and that body must itself determine whether or not a general law can be made applicable to the subject.”<sup>181</sup>

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<sup>180</sup> Knowles v. U.S. 829 F. Supp. 1147, 1157 (D.S.D. 1993) (citing State v. Smith, 88 S.D. 76 (1974)).

<sup>181</sup> Stuart v. Kirley, 81 N.W. 147, 149 (S.D. 1899).

## TENNESSEE

### **Constitutional Text:**

The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities, or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law. No corporation shall be created or its powers increased or diminished by special laws but the General Assembly shall provide by general laws for the organization of all corporations, hereafter created, which laws may, at any time, be altered or repealed and no such alteration or repeal shall interfere with or divest rights which have become vested.

### Art. XI, § 8

### **Caselaw:**

“This Court has consistently held that the class legislation clause confers upon individuals the same protections as the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.”<sup>182</sup> Article XI, like the Equal Protection Clause of the Fourteenth Amendment, “demand[s] that persons similarly situated be treated alike.”<sup>183</sup> The threshold inquiry is whether the classes of persons at issue are similarly situated; if not, then there is no basis for finding a violation of the right to equal protection.<sup>184</sup> In evaluating whether two classes are similarly situated, courts focus on “relevant similarit[ies]” between the groups but “should ‘not demand exact correlation.’”<sup>185</sup>

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<sup>182</sup> Lynch v. City of Jellico, 205 S.W.3d 384, 395 (Tenn. 2006).

<sup>183</sup> Lanier v. Rains, 229 S.W.3d 656, 666 (Tenn. 2007); *see also* Doe v. Norris, 751 S.W.2d 834, 841 (Tenn.1988) (“The concept of equal protection espoused by the federal and our state constitutions guarantees that ‘all persons similarly circumstanced shall be treated alike.’”).

<sup>184</sup> *See* Posey v. City of Memphis, 164 S.W.3d 575, 579 (Tenn. Ct. App. 2004) (“[I]f two classes are being treated differently, the equal protection clause has no application unless the classes are similarly situated within the meaning of the equal protection clause.”).

<sup>185</sup> Loesel v. City of Frankenmuth, 692 F.3d 452, 462 (6th Cir. 2012).

## TEXAS

### **Constitutional Text:**

(a) The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

- (1) the creation, extension or impairing of liens;
- (2) regulating the affairs of counties, cities, towns, wards or school districts;
- (3) changing the names of persons or places;
- (4) changing the venue in civil or criminal cases;
- (5) authorizing the laying out, opening, altering or maintaining of roads, highways, streets or alleys;
- (6) relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;
- (7) vacating roads, town plats, streets or alleys;
- (8) relating to cemeteries, grave-yards or public grounds not of the State;
- (9) authorizing the adoption or legitimation of children;
- (10) locating or changing county seats;
- (11) incorporating cities, towns or villages, or changing their charters;
- (12) for the opening and conducting of elections, or fixing or changing the places of voting;
- (13) granting divorces;
- (14) creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;
- (15) changing the law of descent or succession;
- (16) regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;
- (17) regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;
- (18) regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;
- (19) fixing the rate of interest;
- (20) affecting the estates of minors, or persons under disability;
- (21) remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;
- (22) exempting property from taxation;
- (23) regulating labor, trade, mining and manufacturing;
- (24) declaring any named person of age;
- (25) extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;
- (26) giving effect to informal or invalid wills or deeds;
- (27) summoning or empanelling grand or petit juries;
- (28) for limitation of civil or criminal actions;

- (29) for incorporating railroads or other works of internal improvements; or
- (30) relieving or discharging any person or set of persons from the performance of any public duty or service imposed by general law.

(b) In addition to those laws described by Subsection (a) of this section in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing:

- (1) special laws for the preservation of the game and fish of this State in certain localities; and
- (2) fence laws applicable to any subdivision of this State or counties as may be needed to meet the wants of the people.

### Art. III, § 56

#### **Caselaw:**

The purpose of Section 56 is to “prevent the granting of special privileges and to secure uniformity of law throughout the State as far as possible.”<sup>186</sup> “A law is not a prohibited local law merely because it applies only in a limited geographical area. We recognize the Legislature’s broad authority to make classifications for legislative purposes.”<sup>187</sup> However, where a law is limited to a particular class or affects only the inhabitants of a particular locality, “the classification must be broad enough to include a substantial class and must be based on characteristics legitimately distinguishing such class from others with respect to the public purpose sought to be accomplished by the proposed legislation.”<sup>188</sup> “The primary and ultimate test of whether a law is general or special is whether there is a reasonable basis for the classification made by the law, and whether the law operates equally on all within the class.”<sup>189</sup>

**Notes:** For a collection of cases in which laws have been invalidated and upheld, see *Maple Run at Austin Mun. Utility Dist. v. Monaghan*, 931 S.W.2d 941, 945-47 (Tex. 1996) (invalidating state law that would force one locality to incur costs related to environmental protection).

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<sup>186</sup> *Miller v. El Paso County*, 150 S.W.2d 1000, 1001 (Tex. 1941).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.* at 1001–02.

<sup>189</sup> *Rodriguez v. Gonzales*, 227 S.W.2d 791, 793 (Tex. 1950).

UTAH

**Constitutional Text:**

No private or special law shall be enacted where a general law can be applicable.

Art. VI, § 26

**Caselaw:**

Constitutional prohibition of special legislation does not preclude legislative classification, but only requires the classification to be reasonable.<sup>190</sup> “General laws” apply to and operate uniformly upon all members of any class of persons, places, or things requiring legislation peculiar to themselves in the matters covered by the laws in question, while constitutionally prohibited “special laws” apply either to particular persons, places, or things, or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might, but for such legislation, be applied.<sup>191</sup>

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<sup>190</sup> See *Dairy Product Services, Inc. v. City of Wellsville*, 13 P.3d 581, 589 (Utah 2000).

<sup>191</sup> See *Carter v. Lehi City*, 269 P.3d 141, 153 (Utah 2012).

## VIRGINIA

### **Constitutional Text:**

The General Assembly shall not enact any local, special, or private law in the following cases:

- (1) For the punishment of crime.
- (2) Providing a change of venue in civil or criminal cases.
- (3) Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before the courts or other tribunals, or providing or changing the methods of collecting debts or enforcing judgments or prescribing the effect of judicial sales of real estate.
- (4) Changing or locating county seats.
- (5) For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests.
- (6) Extending the time for the assessment or collection of taxes.
- (7) Exempting property from taxation.
- (8) Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association to the Commonwealth or to any political subdivision thereof.
- (9) Refunding money lawfully paid into the treasury of the Commonwealth or the treasury of any political subdivision thereof.
- (10) Granting from the treasury of the Commonwealth, or granting or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent, or contractor.
- (11) For registering voters, conducting elections, or designating the places of voting.
- (12) Regulating labor, trade, mining, or manufacturing, or the rate of interest on money.
- (13) Granting any pension.
- (14) Creating, increasing, or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.
- (15) Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.
- (16) Affecting or regulating fencing or the boundaries of land, or the running at large of stock.
- (17) Creating private corporations, or amending, renewing, or extending the charters thereof.
- (18) Granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.
- (19) Naming or changing the name of any private corporation or association.
- (20) Remitting the forfeiture of the charter of any private corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution and the laws passed in pursuance thereof.

[ . . . ]

In all cases enumerated in the preceding section, and in every other case which, in its judgment, may be provided for by general laws, the General Assembly shall enact general laws. Any general law shall be subject to amendment or repeal, but the amendment or partial repeal thereof

shall not operate directly or indirectly to enact, and shall not have the effect of enactment of, a special, private, or local law.

No general or special law shall surrender or suspend the right and power of the Commonwealth, or any political subdivision thereof, to tax corporations and corporate property, except as authorized by Article X. No private corporation, association, or individual shall be specially exempted from the operation of any general law, nor shall a general law's operation be suspended for the benefit of any private corporation, association, or individual.

Art. IV, § 14-15

**Caselaw:**

Virginia courts, in determining whether a law is a valid general law or an invalid special law, ask whether the classification used by the law bears “a reasonable and substantial relation to the object sought to be accomplished by the legislation.”<sup>192</sup> This reasonableness standard gives the Virginia legislature wide discretion in the determination of classifications as a basis for legislation.<sup>193</sup> “A law is general though it may immediately affect a small number of persons, places or things, provided, under named conditions and circumstances, it operates alike on all who measure up to its requirements.”<sup>194</sup> However, a law is special or local “when it contains an inherent limitation that arbitrarily separates some persons, places, or things from those on which, without such separation, it would also operate.”<sup>195</sup>

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<sup>192</sup> *Benderson Development Co., Inc. v. Sciortino*, 236 Va. 136, 147 (1988); *see also* *DiAntonio v. Northampton-Accomack Memorial Hospital*, 628 F.2d 287, 291 (4th Cir. 1980) (finding that Virginia's constitutional prohibition of special legislation does not apply where the classification used is reasonable).

<sup>193</sup> *See* *Town of Falls Church v. Arlington County Bd.*, 166 Va. 192, 198 (1936).

<sup>194</sup> *W.S. Carnes, Inc. v. Board of Sup'rs of Chesterfield County*, 252 Va. 377, 384 (1996).

<sup>195</sup> *Id.*; *see also* *Peery v. Virginia Bd. of Funeral Directors and Embalmers*, 123 S.E. 2d 94, 98 (1961)

(“Constitutional prohibitions against special legislation do not prohibit classification, provided the classification is not arbitrary or unreasonable; and the burden is upon the assailing party to show otherwise.”).

## WASHINGTON

### **Constitutional Text:**

The legislature is prohibited from enacting any private or special laws in the following cases:--

1. For changing the names of persons, or constituting one person the heir at law of another.
2. For laying out, opening or altering highways, except in cases of state roads extending into more than one county, and military roads to aid in the construction of which lands shall have been or may be granted by Congress.
3. For authorizing persons to keep ferries wholly within this state.
4. For authorizing the sale or mortgage of real or personal property of minors, or others under disability.
5. For assessment or collection of taxes, or for extending the time for collection thereof.
6. For granting corporate powers or privileges.
7. For authorizing the apportionment of any part of the school fund.
8. For incorporating any town or village or to amend the charter thereof.
9. From giving effect to invalid deeds, wills or other instruments.
10. Releasing or extinguishing in whole or in part, the indebtedness, liability or other obligation, of any person, or corporation to this state, or to any municipal corporation therein.
11. Declaring any person of age or authorizing any minor to sell, lease, or encumber his or her property.
12. Legalizing, except as against the state, the unauthorized or invalid act of any officer.
13. Regulating the rates of interest on money.
14. Remitting fines, penalties or forfeitures.
15. Providing for the management of common schools.
16. Authorizing the adoption of children.
17. For limitation of civil or criminal actions.
18. Changing county lines, locating or changing county seats, provided, this shall not be construed to apply to the creation of new counties.

### Art. II, § 28

### **Caselaw:**

For purpose of state constitutional provision prohibiting the legislature from enacting any private or special laws, “special legislation” operates upon a single person or entity while “general legislation” operates upon all things or people within a class.<sup>196</sup> A class may currently consist of only one member, so long as the legislation would apply to all members of a class.<sup>197</sup> The test of special legislation is what it excludes, not what it includes. “[A]ny exclusions from a statute’s applicability, as well as the statute itself, must be rationally related to the purpose of the

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<sup>196</sup> See *Port of Seattle v. Pollution Control Hearings Bd.* 90 P.3d 659, 689, 151 Wash.2d 568 (Wash. 2004).

<sup>197</sup> See *id.*; see also *Clean v. State*, 130 Wash.2d 782, 928 P.2d 1054 (Wash. 1996) (“Class,” for purposes of state constitutional provision prohibiting special legislation, may consist of one person or corporation as long as law applies to all members of class.).

statute.”<sup>198</sup> When challenged legislation applies to a class, such legislation is upheld in face of challenge under State Constitution on basis that it is special legislation so long as class bears a rational relationship to a legitimate purpose and subject matter of the legislation.<sup>199</sup>

**Only Enumerated Prohibited: YES**

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<sup>198</sup> *Id.* (quoting *Brower v. State*, 137 Wash.2d 44, 60, 969 P.2d 42 (Wash. 1998)).

<sup>199</sup> *See In re Metcalf*, 963 P.2d 911, 923, 92 Wash.App. 165 (Wash. Ct. App. 1998).

## WEST VIRGINIA

### **Constitutional Text:**

The Legislature shall not pass local or special laws in any of the following enumerated cases; that is to say, for

- Granting divorces;
- Laying out, opening, altering and working roads or highways;
- Vacating roads, town plats, streets, alleys and public grounds;
- Locating, or changing county seats;
- Regulating or changing county or district affairs;
- Providing for the sale of church property, or property held for charitable uses;
- Regulating the practice in courts of justice;
- Incorporating cities, towns or villages, or amending the charter of any city, town or village, containing a population of less than two thousand;
- Summoning or impaneling grand or petit juries;
- The opening or conducting of any election, or designating the place of voting;
- The sale and mortgage of real estate belonging to minors, or others under disability;
- Chartering, licensing, or establishing ferries or toll bridges;
- Remitting fines, penalties or forfeitures;
- Changing the law of descent;
- Regulating the rate of interest;
- Authorizing deeds to be made for land sold for taxes;
- Releasing taxes;
- Releasing title to forfeited lands.

The Legislature shall provide, by general laws, for the foregoing and all other cases for which provision can be so made; and in no case shall a special act be passed, where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.

### Art. VI, § 39

#### **Caselaw:**

Whether a special act or a general law is proper is generally a question for legislative determination, and the Supreme Court of Appeals will not hold a special act void, unless it clearly appears that a general law would have accomplished the legislative purpose as well.<sup>200</sup> The well settled general rule is that in cases of doubt the intent of the legislature not to exceed its constitutional powers is to be presumed, and the courts are required to favor the construction which would consider a statute to be a general law.<sup>201</sup> The basic purpose of constitutional provision prohibiting local or special laws in certain cases is to preserve uniformity and

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<sup>200</sup> See *Gallant v. County Com'n of Jefferson County*, 575 S.E.2d 222, 229, 212 W.Va. 612 (W. Va. 2002).

<sup>201</sup> See *id.* at 230.

consistency in statutory enactments of the state.<sup>202</sup> However, the constitutional requirement that law be general does not imply that it must be uniform in its operation and effect in full sense of its terms; if law operates alike on all persons and property similarly situated, it is not subject to objection of special legislation or class legislation and does not violate equal protection clause of Fourteenth Amendment to the Constitution of the United States.<sup>203</sup>

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<sup>202</sup> *See Atchinson v. Erwin*, 302 S.E.2d 78, 82, 172 W.Va. 8 (W. Va. 1983).

<sup>203</sup> *See id.* at 83.

## WISCONSIN

### **Constitutional Text:**

The legislature is prohibited from enacting any special or private laws in the following cases:

- (1) For changing the names of persons, constituting one person the heir at law of another or granting any divorce.
- (2) For laying out, opening or altering highways, except in cases of state roads extending into more than one county, and military roads to aid in the construction of which lands may be granted by congress.
- (3) For authorizing persons to keep ferries across streams at points wholly within this state.
- (4) For authorizing the sale or mortgage of real or personal property of minors or others under disability.
- (5) For locating or changing any county seat.
- (6) For assessment or collection of taxes or for extending the time for the collection thereof.
- (7) For granting corporate powers or privileges, except to cities.
- (8) For authorizing the apportionment of any part of the school fund.
- (9) For incorporating any city, town or village, or to amend the charter thereof.

[. . .]

The legislature may provide by general law for the treatment of any subject for which lawmaking is prohibited by section 31 of this article. Subject to reasonable classifications, such laws shall be uniform in their operation throughout the state.

See Art. IV, § 31-32

### **Caselaw:**

For law to qualify as “general law,” which does not violate constitutional prohibition against special legislation, classification employed by legislature must be based on substantial distinctions which made one class really different from another, classification adopted must be germane to purpose of law, classification must not be based on existing circumstances only, but must be subject to being open, law must apply equally to all members of class, and characteristics to each class should be so far different from those of other classes so as to reasonably suggest at least propriety, having regard to public good, of substantially different legislation.<sup>204</sup>

If legislation being challenged contains classifications which are open, are germane, and relate to true differences between entities being classified, then legislation is considered general and of uniform application.<sup>205</sup> For law affecting only certain entities, such as cities of certain class or size, to comply with prohibition against special and private laws in certain subject areas, classification must be based on substantial distinctions which make one class really different

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<sup>204</sup> See *Libertarian Party of Wisconsin v. State*, 546 N.W.2d 424, 431, 199 Wis.2d 790 (Wis. 1996).

<sup>205</sup> See *id.*

from other, if law meets all criteria, then it is general law even if it comes within one of prohibited categories.<sup>206</sup>

**Only Enumerated Prohibited: YES**

**Separate Uniformity Requirement: YES**

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<sup>206</sup> See *City of Brookfield v. Milwaukee Metropolitan Sewerage Dist.*, 426 N.W.2d 591, 597, 144 Wis.2d 896 (Wis. 1988).

## WYOMING

### **Constitutional Text:**

The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; incorporation of cities, towns or villages; or changing or amending the charters of any cities, towns or villages; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions; giving effect to any informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating[,] increasing, or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual, the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever, or amending existing charter for such purpose; for punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury, relinquishing or extinguishing, in whole or part, the indebtedness, liabilities or obligation of any corporation or person to this state or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices or prescribing the powers or duties of officers in counties, cities, townships or school districts; or authorizing the adoption or legitimation of children.

In all other cases where a general law can be made applicable no special law shall be enacted.

### Art. III, § 27

### **Caselaw:**

Like equal protection, the contemplation of special legislation mandates that all persons similarly situated should be treated alike, both in privileges conferred and in liabilities imposed.<sup>207</sup> Prohibition against special legislation does not mean that a statute must affect everyone in the same way; it only means that the classification contained in the statute must be reasonable, and that the statute must operate alike upon all persons or property in like or same

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<sup>207</sup> See Board of County Com'rs v. Geringer, 941 P.2d 742, 748 (Wyo. 1997) (holding state statute was unconstitutional special legislation).

circumstances and conditions.<sup>208</sup> Under constitutional provision requiring that laws of general nature shall have uniform operation, statutes must be applied uniformly throughout state.<sup>209</sup>

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<sup>208</sup> See *Mountain Fuel Supply Co. v. Emerson*, 578 P.2d 1351, 1356 (Wyo. 1978).

<sup>209</sup> *Geringer*, 941 P.2d at 748.

**APPENDIX B: OTHER STATE LEGISLATIVE PROCEDURAL CONSTRAINTS**

**CHALLENGING STATE LAW DEFICIENCIES IN CONSTITUTIONALLY  
REQUIRED LEGISLATIVE PROCEDURES**

## ALABAMA

### **Constitutional Text:**

Each law shall contain but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

### Art IV, § 45

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

It is only when there is a clear violation of Constitution that courts can pronounce statutes invalid.<sup>256</sup> As to title, a clear violation occurs when the title is so misleading and uncertain that the average legislator or person reading the same would not be informed of the purpose of the enactment.<sup>257</sup>

The single subject rule requires that “the court must not only look at the title but must consider the body of ‘each law’ in ascertaining the subject thereof; and if ‘the title and the body of the act, construed together, show a single purpose, and relate to a single subject,’ and the grant of power is germane to that subject, such act does not offend the Constitution.”<sup>258</sup> “However numerous the subjects stated in the title, and however numerous the provisions in the body of the act may be, if they can be by fair intentment considered as falling within the subject-matter legislated upon in the act, or necessary as ends and means to the attainment of such subject, the act does not offend the constitutional provision that no law shall embrace more than one subject, which must be expressed in its title.”<sup>259</sup>

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<sup>256</sup> *State v. Street*, 23 So. 807 (Ala. 1898).

<sup>257</sup> *Pillans v. Hancock*, 84 So. 757 (Ala. 1919).

<sup>258</sup> *City of Birmingham v. Norton*, 50 So.2d 754, 758 (Ala. 1950).

<sup>259</sup> *Magee v. Boyd*, 175 So.3d 79, 117 (Ala. 2015).

## ALASKA

### **Constitutional Text:**

Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

### Art II, § 13

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

The single-subject rule protects the voters' ability to effectively exercise their right to vote by requiring that different proposals be voted on separately; this approach allows voters to express their will through their votes more precisely, prevents the adoption of policies through stealth or fraud, and prevents the passage of measures lacking popular support by means of "log-rolling," which consists of deliberately inserting in one bill several dissimilar or incongruous subjects in order to secure the necessary support for passage of the measure.<sup>260</sup>

In ruling on single-subject challenges to initiatives, the Supreme Court must balance the rule's purpose against the need for efficiency in the legislative process.<sup>261</sup> The courts construe the single-subject provision with considerable breadth.<sup>262</sup> "All that is necessary is that the act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject."<sup>263</sup>

In applying the test used to determine whether an initiative violates the single-subject rule, the Supreme Court disregards mere verbal inaccuracies, resolves doubts in favor of validity, and strikes down challenged proposals only when the violation is substantial and plain.<sup>264</sup>

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<sup>260</sup> Croft v. Parnell, 236 P.3d 369, 372 (Alaska 2010) (holding an initiative that created a program to provide public campaign funding to candidates for state office and contained the "soft dedication" of oil tax revenue to fund that program violated the single-subject rule because there was no clear or established connection between the oil industry and a need for public financing of state electoral campaigns. Coupling the approval of new oil production tax with approval of program deprived voters of opportunity to send message as to either one).

<sup>261</sup> *Id.*

<sup>262</sup> *Id.* at 372-73.

<sup>263</sup> *Id.* at 373; *see also* Gellert v. State, 522 P.2d 1120,1123 (Alaska 1974).

<sup>264</sup> *Id.*

ARIZONA

**Constitutional Text:**

Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.

Art. IV, Pt. 2, § 13

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The single subject and title provision is interpreted liberally by the courts and a statute is to be upheld if there is any legal basis for its validity.<sup>265</sup> If possible, an unrelated, unconstitutional, portion of an Act may be severed and declared invalid to preserve the validity of the remainder of the Act.<sup>266</sup>

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<sup>265</sup> .See *Clean Elections Institute, Inc. v. Brewer*, 209 Ariz. 241 (2004); *State v. Sutton*, 115 Ariz. 417 (1977).

<sup>266</sup> See *State v. Coursey*, 71 Ariz. 227 (1951).

## ARKANSAS

### **Constitutional Text:**

Except as provided in Arkansas Constitution, Article 19, § 31, the general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the State; all other appropriations shall be made by separate bills, each embracing but one subject.

Art. V, § 30

**Single Subject Requirement: YES**

**Title Requirement: NO**

### **Caselaw:**

This constitutional provision only mandates that appropriations bills, which do not qualify as ordinary expenses, embrace a single subject.<sup>267</sup> Although an appropriation bill may only embrace a single subject, the bill may encompass a variety of related funding.<sup>268</sup>

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<sup>267</sup> See *Clinton v. Taylor*, 284 Ark. 238 (1984).

<sup>268</sup> *Hooker v. Parkin*, 235 Ark. 218 (1962) (upholding an appropriations bill concerning education where funding went to public schools as well as higher education and vocational schools). *But see* *Cottrell v. Faubus*, 233 Ark. 721 (1961) (finding an appropriations bill that included miscellaneous and disconnected subjects unconstitutional).

CALIFORNIA

**Constitutional Text:**

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. A section of a statute may not be amended unless the section is re-enacted as amended.

Art. IV, § 9

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

To minimize judicial interference in legislative branch activities, courts must construe constitutional provision requiring that statute embrace but one subject liberally.<sup>269</sup> Legislation “complies with the rule if its provisions are either functionally related to one another or are reasonably germane to one another or the objects of the enactment.”<sup>270</sup>

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<sup>269</sup> City of Cerritos v. State, 191 Cal. Rptr. 3d 611 (Cal. Ct. App. 2015).

<sup>270</sup> Harbor v. Deukmejian, 742 P.2d 1290, 1303 (Cal. 1987).

## COLORADO

### **Constitutional Text:**

No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

Art V, § 21

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

This constitutional provision embodies two requirements: a single subject requirement and a clear expression requirement. The constitutional clause must receive a reasonable and liberal construction as to not unnecessarily obstruct the legislative process.<sup>271</sup> “The single subject requirement is satisfied ‘[s]o long as the matters encompassed in [a piece of legislation are] necessarily or properly connected to each other rather than disconnected or incongruous.’”<sup>272</sup>

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<sup>271</sup> See *In re Pratt*, 19 Colo. 138 (1893).

<sup>272</sup> *People v. Montgomery*, 342 P.3d 593, 596 (Colo. App. 2014) (quoting *Parrish v. Lamm*, 758 P.2d 1356, 1362 (Colo. 1988)).

DELAWARE

**Constitutional Text:**

No bill or joint resolution, except bills appropriating money for public purposes, shall embrace more than one subject, which shall be expressed in its title.

Art. II, § 16

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Constitutional provision that no bill or joint resolution, except bills appropriating money for public purposes, shall embrace more than one subject, which shall be expressed in its title, is to be construed liberally in an effort to uphold legislation.<sup>273</sup> State constitutional single-subject and title provisions are intended to assure sufficient notice that legislation, the content of which was inadequately brought to the public attention, or so-called sleeper legislation, does not slip through the General Assembly.<sup>274</sup> The Supreme Court of Delaware held a legislative act that declared a certain decision of the Supreme Court to be “null and void” and also established specific standards for judicial officers to use when interpreting Delaware law violated single-subject provision of the Delaware Constitution.<sup>275</sup>

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<sup>273</sup> Klein v. National Pressure Cooker Co., 64 A.2d 529, 532 (Del. 1949); *see also* State ex rel. Davis v. Woolley, 47 Del. 434, 92 A.2d 600 (Del. Super. Ct. 1952).

<sup>274</sup> Smith v. Guest, 16 A.3d 920, 929 (Del. 2011).

<sup>275</sup> Evans v. State, 872 A.2d 539, 550 (Del. 2005).

FLORIDA

**Constitutional Text:**

Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title. No law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection. The enacting clause of every law shall read: “Be It Enacted by the Legislature of the State of Florida:”.

Art. III, § 6

**Single Subject Requirement:** YES

**Title Requirement:** YES

**Caselaw:**

Florida courts respect a strong presumption in favor of upholding a statute in light of a single subject expressed in the title challenge and to overcome such a presumption the challenger must prove beyond a reasonable doubt that the statute is defective.<sup>276</sup> The single subject clause of the state constitution contains three requirements: (1) each law shall embrace only one subject; (2) the law may include any matter that is properly connected with the subject; (3) the subject shall be briefly expressed in the title.<sup>277</sup> Several purposes may be logically embraced in one statute as long as all such purposes are germane to the expressed general subject expressed in the title. *Id.*

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<sup>276</sup> See *Franklin v. State*, 887 So. 2d 1063 (Fla. 2004).

<sup>277</sup> *Id.*

GEORGIA

**Constitutional Text:**

No bill shall pass which refers to more than one subject matter or contains matter different from what is expressed in the title thereof.

Art. III, § 5, para 3

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The Georgia Supreme Court has recognized that “[t]he purpose of th[e] constitutional provision requiring that the act’s title must alert the reader to the matters contained in its body is to protect against surprise legislation.”<sup>278</sup> Furthermore, “[i]f what follows after the enacting clause is definitely related to what is expressed in the title, has natural connection, and relates to the main object of legislation, and is not in conflict therewith, there is no infringement of the constitutional inhibition.”<sup>279</sup> Courts reasonably interpret and apply this provision as to not unduly invalidate laws with multiple, but logically related, subjects.<sup>280</sup> Additionally, courts consider “whether all of the parts of the Act. . . are germane to the accomplishment of a single objective.”<sup>281</sup>

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<sup>278</sup> *Sherman Concrete Pipe Co. v. Chinn*, 283 Ga. 468, 469 (2008).

<sup>279</sup> *Id.* at 470.

<sup>280</sup> *See Cady v. Jardine*, 185 Ga. 9 (1937).

<sup>281</sup> *Perdue v. O’Kelley*, 632 S.E.2d 110, 112 (Ga. 2006).

## HAWAII

### **Constitutional Text:**

No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. The enacting clause of each law shall be, “Be it enacted by the legislature of the State of Hawaii.”

Art. III, § 14

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Concerning the clear title and single subject matter provision of the Hawaii constitution, the Supreme Court of Hawaii has ruled that “‘every enactment of the legislature is presumptively constitutional,’ and ‘to nullify it on the grounds that it was enacted in violation of the subject-title requirements of the State Constitution, the infraction should be plain, clear, manifest, and unmistakable.’”<sup>282</sup>

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<sup>282</sup> Villon v. Marriott Hotel Services, Inc. 130 Haw. 130, 140 (2013) (citing Schwab v. Ariyoshi, 58 Haw. 25, 31 (1977)).

IDAHO

**Constitutional Text:**

Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.

Art III, § 16

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

This rule states that an original act must include a general statement of the subject of the act such that it has a reasonable tendency to accomplish the purpose of the act.<sup>283</sup> The title of an amendatory act generally will not violate Article III § 16 of Idaho's Constitution if the title "refers by number to the section to be amended, provided the title of the original act is sufficient under the rule dealing with the original measures, and provided the amendment is germane to the subject of the original act."<sup>284</sup> However, if a title "particularize[s] some, but not all, of the changes," then "the legislation is limited to the matters specified, and anything beyond them is void, however germane it may be to the subject of the original act."<sup>285</sup>

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<sup>283</sup> *Idaho Gold Dredging Co. v. Balderston*, 58 Idaho 692, 703, 78 P.2d 105, 110 (1938) ("The object of the title is to give a general statement of the subject matter, and such a general statement will be sufficient to include all provisions of the act having a reasonable connection with the subject mentioned and a reasonable tendency to accomplish the purpose of the act.").

<sup>284</sup> *Hammond v. Bingham*, 83 Idaho 314, 320, 362 P.2d 1078, 1081 (1961).

<sup>285</sup> *Federated Publications, Inc. v. Idaho Bus. Review, Inc.*, 192 P.3d 1031, 1034 (Idaho 2008).

ILLINOIS

**Constitutional Text:**

Bills, except bills for appropriations and for the codification, revision or rearrangement of laws, shall be confined to one subject. Appropriation bills shall be limited to the subject of appropriations.

Art. IV, § 8(d)

**Single Subject Requirement: YES**

**Title Requirement: NO**

**Caselaw:**

“What is dispositive is whether the contents included within the enactment have a natural and logical connection to a single subject.”<sup>286</sup> The proper test for determining a single subject violation is whether the matters included within the enactment have a natural and logical connection to a single subject.”<sup>287</sup> It “has never held that the single subject rule imposes a second and additional requirement that the provisions within an enactment be related to each other.”<sup>288</sup> In determining whether a particular enactment violates the single subject rule, we construe the word “subject” liberally in favor of upholding the legislation.<sup>289</sup> The subject may be as broad as the legislature chooses.<sup>290</sup> However, “while the legislature is free to choose subjects comprehensive in scope, the single subject requirement may not be circumvented by selecting a topic so broad that the rule is evaded as ‘a meaningful constitutional check on the legislature’s actions.’”<sup>291</sup> Thus, a piece of legislation violates the single subject rule when it contains unrelated provisions that by no fair interpretation have any legitimate relation to the single subject.<sup>292</sup>

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<sup>286</sup> *Arangold v. Zehnder*, 718 N.E.2d 191, 198 (Ill. 1999).

<sup>287</sup> *Id.* at 199.

<sup>288</sup> *Id.* at 200; *see also* *Wirtz v. Quinn*, 953 N.E.2d 899, 904 (Ill. 2011).

<sup>289</sup> *Id.*

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

INDIANA

**Constitutional Text:**

An act, except an act for the codification, revision or rearrangement of laws, shall be confined to one subject and matters properly connected therewith.

Art. IV, § 19

**Single Subject Requirement: YES**

**Title Requirement: NO**

**Caselaw:**

Following a series of constitutional amendments, while the Indiana Constitution still requires an act to be confined to a single subject and properly connected matters, the single subject is no longer tethered to the act's title.<sup>293</sup> Nor does the Constitution still require that any subject not expressed in the title of the act be made void.<sup>294</sup> “[I]f there is any reasonable basis for grouping together in one act various matters of the same nature, and the public cannot be deceived reasonably thereby, the act is valid.”<sup>295</sup> “Our approach to this analysis includes the normal deference we show to legislative action, including resolving doubts in favor of the legislation's validity.”<sup>296</sup> “We apply the indefinite test of ‘reasonableness,’ rather than a structured bright-line rule.”<sup>297</sup> Section 19 does not intend “a metaphysical singleness of idea or thing, but rather that there must be some rational unity between the matters embraced in the act, the unity being found in the general purpose of the act and the practical problems of efficient administration.”<sup>298</sup> “[I]f there is any reasonable basis for grouping together in one act various matters of the same nature, and the public cannot be deceived reasonably thereby, the act is valid.”<sup>299</sup>

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<sup>293</sup> Loparex, LLC v. MPI Release Techs., LLC, 964 N.E.2d 806, 812–13 (Ind. 2012).

<sup>294</sup> *Id.*

<sup>295</sup> *Id.* at 813.

<sup>296</sup> *Id.* at 814.

<sup>297</sup> *Id.*

<sup>298</sup> *Id.*

<sup>299</sup> *Id.* at 814-15.

IOWA

**Constitutional Text:**

Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Art. III, § 29

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Constitutional provision requiring that subject of legislation be expressed in the title ultimately serves to prevent surprise and fraud from being visited on the legislature and the public and provide reasonable notice of the purview of the act to the legislative members and to the public.<sup>300</sup> This provision has four requirements. First, the act may have only one subject together with matters germane to it. Second, the title of the act must contain the subject matter of the act. Third, any subject not mentioned in the title is invalid. Last, an invalid subject in the act does not invalidate the remaining portions that are expressed in the title.<sup>301</sup>

To be invalid under state constitutional single-subject requirement, act must encompass two or more dissimilar or discordant subjects that have no reasonable connection or relation to each other.<sup>302</sup> Even if matters grouped as single subject in act might more reasonably be classified as separate subjects, no violation of state constitutional single-subject requirement occurs if those matters are nonetheless relevant to some single more broadly stated subject.<sup>303</sup> Courts construe “the [act] liberally in favor of its constitutionality” and use a “fairly debatable test” to determine whether the enactment of a statute complies with the constitution. *Id.* Under this test “[l]egislation will not be held unconstitutional unless clearly, plainly and palpably so.”<sup>304</sup> And “[i]f the constitutionality of an act is merely doubtful or fairly debatable, the courts will not interfere.”<sup>305</sup> So “[i]t is only in extreme cases, where unconstitutionality appears beyond a reasonable doubt, that this court can or should act.”<sup>306</sup>

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<sup>300</sup> *Godfrey v. State*, 752 N.W.2d 413, 426-27 (Iowa 2008).

<sup>301</sup> *See State v. Mabry*, 460 N.W.2d 472, 474 (Iowa 1990).

<sup>302</sup> *Utilicorp United Inc. v. Iowa Utilities Bd., Utilities Div., Dept. of Commerce*, 570 N.W.2d 451, 454 (Iowa 1997).

<sup>303</sup> *Id.*

<sup>304</sup> *Id.*

<sup>305</sup> *Id.*

<sup>306</sup> *Id.*

## KANSAS

### **Constitutional Text:**

No bill shall contain more than one subject, except appropriation bills and bills for revision or codification of statutes. The subject of each bill shall be expressed in its title. No law shall be revived or amended, unless the new act contains the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed. The provisions of this section shall be liberally construed to effectuate the acts of the legislature.

Art. II, § 16

**Single Subject Requirement:** YES

**Title Requirement:** YES

### **Caselaw:**

When facing a constitutional challenge for multiple subjects or unclear title, a statute will be presumed constitutional.<sup>307</sup> Under the “one-subject rule,” the subject of a bill can be as comprehensive as the legislature chooses, as long as it constitutes a single subject and not several different subjects.<sup>308</sup>

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<sup>307</sup> See *State v. Topeka Club*, 82 Kan. 756 (1910) (holding that the title of a challenged statute will be liberally interpreted in order to sustain the constitutionality of the statute).

<sup>308</sup> See *Kansas National Education Association v. State*, 387 P.3d 795 (Kan. 2017); see also *Larson Operating Co. v. Petroleum, Inc.*, 32 Kan. 460, 470 (2004) (“To constitute plurality of subject matter in violation of the constitution, an act must embrace two or more dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other.”).

## KENTUCKY

### **Constitutional Text:**

No law enacted by the General Assembly shall relate to more than one subject, and that shall be expressed in the title, and no law shall be revised, amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revised, amended, extended or conferred, shall be reenacted and published at length.

§ 51

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Kentucky courts apply a presumption of validity when construing a statute's conformance with the clear title and single subject rule.<sup>309</sup> If the contents of a statute are germane to the accomplishment of the subject stated in the title, then the statute is constitutional.<sup>310</sup> Finally, the title of the act must provide "notice" of the contents of the act, but courts are very deferential in finding notice is adequately provided.<sup>311</sup>

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<sup>309</sup> See *Yeoman v. Com., Health Policy Bd.*, 983 S.W.2d 459, 476 (Ky. 1998) ("Unless the title of an act is wholly inaccurate so as to actually deceive, it will be held to be constitutional.").

<sup>310</sup> See *Paducah Automotive Trades Ass'n v. City of Paducah*, 307 Ky. 524 (1948); see also *Preston v. Clements*, 313 Ky. 479, 485 (1950) ("An Act may have a single general subject expressed in the title and may contain many provisions providing they are not inconsistent with or foreign to the subject.").

<sup>311</sup> See *Com., Revenue Cabinet v. Smith*, 875 S.W.2d 873, 878 (1994) ("[I]f the title furnishes a 'clue' to the act's contents, it may pass constitutional muster.").

## LOUISIANA

### **Constitutional Text:**

The legislature shall enact no law except by a bill introduced during that session, and propose no constitutional amendment except by a joint resolution introduced during that session, which shall be processed as a bill. Every bill, except the general appropriation bill and bills for the enactment, rearrangement, codification, or revision of a system of laws, shall be confined to one object. Every bill shall contain a brief title indicative of its object. Action on any matter intended to have the effect of law shall be taken only in open, public meeting.

[ . . . ]

No bill shall be amended in either house to make a change not germane to the bill as introduced.

Art. III, § 15(A) & (C)

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Louisiana courts presume legislative acts are constitutional and, thus, place the burden of proving a constitutional infirmity on the party challenging the statute.<sup>312</sup> For this provision, particularly, courts use the one-object analysis, which asks whether the language of a statute “reasonably construed, shows that it has but one main, general object or purpose, and that nothing is written into it except what is naturally connected with, and is incidental or germane to, the one purpose or object.”<sup>313</sup> Furthermore, “[i]t is only when variance in the act is palpable and totally irreconcilable with the object expressed in the title, that the indicative title requirement is deemed violated.”<sup>314</sup>

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<sup>312</sup> See *Louisiana Federation of Teachers v. State*, 171 So. 3d 835, 845 (La. 2014).

<sup>313</sup> *Id.*

<sup>314</sup> *Doherty v. Calcasieu Parish School Bd.*, 634 So. 2d 1172, 1174 (La. 1994).

## MARYLAND

### **Constitutional Text:**

The style of all Laws of this State shall be, “Be it enacted by the General Assembly of Maryland:” and all Laws shall be passed by original bill; and every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; and no Law, nor section of Law, shall be revived, or amended by reference to its title, or section only; nor shall any Law be construed by reason of its title, to grant powers, or confer rights which are not expressly contained in the body of the Act; and it shall be the duty of the General Assembly, in amending any article, or section of the Code of Laws of this State, to enact the same, as the said article, or section would read when amended. And whenever the General Assembly shall enact any Public General Law, not amendatory of any section, or article in the said Code, it shall be the duty of the General Assembly to enact the same, in articles and sections, in the same manner, as the Code is arranged, and to provide for the publication of all additions and alterations, which may be made to the said Code.

### Art. III, § 29

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Single subject clause of state constitution embodies two requirements: (1) that a law may not embrace more than one subject, and (2) that the one subject it is permitted and purports to embrace must be described in the title.<sup>315</sup> “If the several sections of the statute refer to and are germane to the same subject matter described in the title, the statute is considered to embrace but a single subject, and satisfies the constitutional requirement.”<sup>316</sup> Statutes are presumed valid, and a statute will not be invalidated for defective titling unless it plainly contravenes a provision of the Constitution, and a reasonable doubt in its favor is enough to sustain it.<sup>317</sup>

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<sup>315</sup> *Delmarva Power & Light Co. v. Public Service Com’n of Maryland*, 809 A.2d 640, 646-47, 371 Md. 356. (Md. 2002).

<sup>316</sup> *Magruder v. Hall of Records*, 221 Md. 1, 6, 155 A.2d 899 (1959).

<sup>317</sup> *Eubanks v. First Mount Vernon Indus. Loan Ass’n, Inc.*, 726 A.2d 837, 850, 125 Md.App. 642 (Md. Ct. Spec. App. 1999) (citing *Magruder v. Hall of Records*, 221 Md. at 6).

MICHIGAN

**Constitutional Text:**

No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Art. IV, § 24

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The provision is designed to serve two purposes: (1) to prevent logrolling, and (2) to bring to the attention of those affected by the act to its provisions. In determining whether legislation violates the Title-Object clause, courts look to two factors: (1) whether the title of an act gives fair notice to the legislators and the public of the challenged provision contained in the act's body, and (2) whether the act contains subjects diverse in their nature and having no necessary connection.<sup>318</sup>

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<sup>318</sup> See *Pohutski v. City of Allen Park*, 641 N.W.2d 219 (Mich. 2002); *CPAN v. MCCA* 852 N.W.2d 229 (Mich. Ct. App. 2014).

MINNESOTA

**Constitutional Text:**

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

Art. IV, § 17

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The single subject and title clause of the Minnesota Constitution is construed liberally by the courts.<sup>319</sup> Courts will uphold a law as long as the provisions and title of the statute “fall under some one general idea, [are] so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.”<sup>320</sup>

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<sup>319</sup> See *Townsend v. State*, 767 N.W.2d 11, 13 (Minn. 2009).

<sup>320</sup> *Id.* (quoting *Johnson v. Harrison*, 47 Minn. 575, 577 (1891)).

## MISSISSIPPI

### **Constitutional Text:**

Every bill introduced into the Legislature shall have a title, and the title ought to indicate clearly the subject matter or matters of the proposed legislation. Each committee to which a bill may be referred shall express, in writing, its judgment of the sufficiency of the title of the bill, and this, too, whether the recommendation be that the bill do pass or do not pass.

Art. IV, § 71

**Single Subject Requirement:** NO

**Title Requirement:** YES

### **Caselaw:**

The constitutional requirement that a title of an act should indicate clearly the subject matter of the act is only directory, not mandatory.<sup>321</sup> Therefore, whether an act violates this provision of the constitution is a political question and only reviewable for clear error by the courts.<sup>322</sup>

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<sup>321</sup> See *Lewis v. Simpson* 176 Miss. 123 (1936).

<sup>322</sup> See *Corso v. City of Biloxi*, 29 So. 2d 638, 640 (Miss. 1947) (“[T]he sufficiency of the title of a statute is a legislative question, and that, if the title substantially deals with the subject matter of what is to follow, it is sufficient insofar as the judicial department is concerned.”).

## MISSOURI

### **Constitutional Text:**

No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated.

Art. III, § 23

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Missouri courts reasonably and liberally construe this provision.<sup>323</sup> “The test for whether a bill violates the single subject rule is ‘whether the bill’s provisions fairly relate to, have a natural connection with, or are means to accomplish the subject of the bill as expressed in the title.’”<sup>324</sup> The single “subject” of the bill, expressed in the title, is described as the core purpose of the proposed legislation.<sup>325</sup>

Recently, in *Cooperative Home Care Inc. v. City of St Louis*,<sup>326</sup> a unanimous Missouri Supreme Court rejected a claim that St Louis’s higher minimum wage is preempted by state law. The Court held that (i) the city’s home rule authority includes the power to regulate local workers’ wages; (ii) a city law that “supplements” a state law by going further is not subject to conflict or field preemption; (iii) a state law preempting local minimum wage laws was adopted in violation of the state’s single subject rule and so had no effect; and (iv) a more recent state law again preempting local minimum wage laws but saving those in effect on August 28, 2015 implicitly confirmed St Louis’s power to adopt this minimum wage law which was enacted before the legislature’s new law.

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<sup>323</sup> See *State v. Williams*, 652 S.W.2d 102 (Mo. 1983).

<sup>324</sup> *Missouri Roundtable for Life, Inc. v. State*, 396 S.W.3d 348, 351 (Mo. 2013); see also *C.C. Dillon Co. v. City of Eureka*, 12 S.W.3d 322, 328 (Mo. 2000).

<sup>325</sup> *Missouri Roundtable*, 396 S.W.3d at 351.

<sup>326</sup> 2017 WL 770971 (Mo. 2017).

## MONTANA

### **Constitutional Text:**

Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

Art. V, § 11(3)

**Single Subject Requirement:** YES

**Title Requirement:** YES

### **Caselaw:**

All that is required to meet the requirements of the constitutional provision requiring that subject of statute shall be clearly expressed in its title is that the statute shall be germane to subject expressed in title, and it is not necessary that title shall embody the exact methods of application or procedure, where general object is plainly expressed.<sup>327</sup> An infraction of the constitutional provision prohibiting more than one subject in a bill and requiring that the subject be expressed in title must be plain and obvious to be recognized as fatal.<sup>328</sup> Sound policy and legislative convenience require a liberal construction of the title and subject matter of statutes to maintain their validity.<sup>329</sup> Where different parts of statute have natural connection and relate, directly or indirectly, to one legitimate subject of legislation, statute is not invalid as containing more than one subject.<sup>330</sup>

### **Notes:**

The purposes of constitutional provision that no bill shall be passed containing more than one subject, which shall be clearly expressed in title, are to restrict Legislature to enactment of laws subjects of which are made known to lawmakers and public, prevent legislators and people generally from being misled by false or deceptive titles, and guard against fraud by incorporating in body of bill provisions foreign to its general purpose and concerning which no information is given by title.<sup>331</sup>

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<sup>327</sup> Van Tighem v. Linnane, 136 Mont. 547, 552, 349 P.2d 569 (Mont. 1960).

<sup>328</sup> Rosebud County v. Flinn, 98 P.2d 330, 333, 109 Mont. 537 (Mont. 1940).

<sup>329</sup> *Id.*

<sup>330</sup> Merchants' Nat. Bank of Glendive v. Dawson County, 19 P.2d 892, 900, 93 Mont. 310 (Mont. 1933).

<sup>331</sup> Johnson v. Meagher County, 116 Mont. 565, 155 P.2d 750 (Mont. 1945).

## NEBRASKA

### **Constitutional Text:**

Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member. The bill and all amendments thereto shall be printed and presented before the vote is taken upon its final passage and shall be read at large unless three-fifths of all the members elected to the Legislature vote not to read the bill and all amendments at large. No vote upon the final passage of any bill shall be taken until five legislative days after its introduction nor until it has been on file for final reading and passage for at least one legislative day. No bill shall contain more than one subject, and the subject shall be clearly expressed in the title. No law shall be amended unless the new act contains the section or sections as amended and the section or sections so amended shall be repealed. The Lieutenant Governor, or the Speaker if acting as presiding officer, shall sign, in the presence of the Legislature while it is in session and capable of transacting business, all bills and resolutions passed by the Legislature.

Art. III, § 14

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

In Nebraska, “[i]f an act has but one general object, no matter how broad that object may be, and contains no matter not germane thereto, and the title fairly expresses the subject of the bill, it does not violate Article III, section 14, of the Constitution.”<sup>332</sup> If the statute is subject to more than one reasonable construction, the court will adopt the construction which makes the statute constitutional.<sup>333</sup> Furthermore, the title of the act only needs to draw attention to the subject matter of the bill, not summarize all the contents of the bill.<sup>334</sup>

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<sup>332</sup> *State ex rel Loontjer v. Gale*, 288 Neb. 973, 995-96 (2014).

<sup>333</sup> *See Bodenstedt v. Rickers*, 189 Neb. 407 (1972).

<sup>334</sup> *See Blackledge v. Richards*, 194 Neb. 188, 192 (1975).

NEVADA

**Constitutional Text:**

Each law enacted by the Legislature shall embrace but one subject, and matter, properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be revised or amended by reference to its title only; but, in such case, the act as revised or section as amended, shall be re-enacted and published at length.

Art. IV, § 17

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The main test of the application of the clause to a particular statute is whether the title is of such a character as to mislead the public and the members of the Legislature as to the subjects embraced in the act.<sup>335</sup> An act having numerous provisions germane to one general subject, indicated by title, is constitutional.<sup>336</sup> The requirement that law embrace one subject expressed in title must be liberally construed.<sup>337</sup> The purpose of this provision is to prevent inconsiderate or undesirable legislation through trickery or inattention.<sup>338</sup> A conflict between the Constitution and a statute should be palpable and the objections grave before the judiciary should disregard the statute on sole ground that it embraces more than one subject.<sup>339</sup>

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<sup>335</sup> State v. Payne, 295 P. 770, 771, 53 Nev. 193 (Nev. 1931) (affirming that act violated Art. IV, §17 and was thus invalid. “We conclude that the title of the act is not a fair indication of the measures enacted, and that the act itself, when measured by its title, is well calculated to actually mislead, not only interested parties, but also all persons concerned in the general purpose and scope of the act.”).

<sup>336</sup> *Id.*

<sup>337</sup> *Id.*; *see also* In re Calvo, 253 P. 671, 50 Nev. 125 (Nev. 1927).

<sup>338</sup> Ex parte Cerfoglio, 195 P. 96, 97, 44 Nev. 343 (Nev. 1921).

<sup>339</sup> Tonopah & G.R. Co. v. Nevada-California Transp. Co., 75 P.2d 727, 729, 58 Nev. 234 (Nev. 1938).

NEW JERSEY

**Constitutional Text:**

To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title. This paragraph shall not invalidate any law adopting or enacting a compilation, consolidation, revision, or rearrangement of all or parts of the statutory law.

Art. IV, § 7, para 4

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

A statute will not be declared inoperative on the ground that it infringes the requirement that every law shall embrace but one object, which shall be expressed in the title, unless the statute is plainly in contravention of such constitutional mandate.<sup>340</sup> Compliance with requirement of this paragraph that every law embrace but one subject expressed in its title is to be tested by whether legislators are given notice of subject to which act relates and public is informed of kind of legislation that is under consideration, and if general subject matter is fairly expressed, constitutional mandate is satisfied.<sup>341</sup> All that is required is that the act should not include legislation so incongruous that it could not, by any fair intentment, be considered germane to one general subject.<sup>342</sup> To survive a challenge based on the single object rule, the State need show only that the individual parts of a statute or of a bond issue meet the “relatedness” test.<sup>343</sup>

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<sup>340</sup> Ott v. Braddock, 119 N.J.L. 507, 511, 197 A. 271 (N.J. 1938); State v. Guida, 119 N.J.L. 464, 466, 196 A. 711 (N.J. 1938); Public Service Electric & Gas Co. v. City of Camden, 118 N.J.L. 245, 250, 192 A. 222 (N.J. 1937).

<sup>341</sup> Ahto v. Weaver, 39 N.J. 418, 426, 189 A.2d 27 (N.J. 1963).

<sup>342</sup> Cambria v. Soaries, 169 N.J. 1, 11, 776 A.2d 754, 760 (N.J. 2001).

<sup>343</sup> *Id.* at 12.

NEW MEXICO

**Constitutional Text:**

The subject of every bill shall be clearly expressed in its title, and no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws; but if any subject is embraced in any act which is not expressed in its title, only so much of the act as is not so expressed shall be void.

Art. IV, § 16

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The purpose of Article IV, Section 16 is to prevent “hodge-podge or log-rolling legislation, surprise or fraud on the legislature,” and the enactment of legislation “not fairly apprising the people of the subjects of legislation so that they would have no opportunity to be heard on the subject.”<sup>344</sup> The cardinal test is whether the title of the act in question gives reasonable notice of the subject matter of the body of the act.<sup>345</sup>

New Mexico courts have consistently held that when the title of a legislative act specifically pinpoints statutory sections which are to be amended by the act, but the title fails to set out a wholly unrelated statutory section which also is amended by the act, there is a clear violation of Article IV, Section 16.<sup>346</sup>

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<sup>344</sup> *Martinez v. Jaramillo*, 525 P.2d 866, 868 (N.M. 1974).

<sup>345</sup> *State v. Ingalls*, 135 P. 1177 (N.M. 1913).

<sup>346</sup> *See, e.g., State v. Candelaria*, 215 P. 816 (N.M. 1923); *Thompson v. McKinley County*, 816 P.2d 494, 500 (N.M. 1991).

NEW YORK

**Constitutional Text:**

No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.

Art. III, § 15

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Unlike other states, the New York constitution only mandates that laws of a local nature embrace one subject to be expressed in the title. New York courts, in defining “local,” have found it expedient to leave such determinations to a case by case basis. Although local laws are usually and most easily defined by their limited application based on geography or class, such a statute may still be general if the subject matter being regulated is of great interest and concerns the rest of the state.<sup>347</sup> The title of the act must only suggest or give a clue concerning the subject matter dealt with and if the act embraces a substantial expression of the subject, then it is constitutionally sufficient.<sup>348</sup> Additionally, the title must be so framed as to not be deceptive or misleading.<sup>349</sup>

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<sup>347</sup> See *Ferguson v. Ross*, 126 N.Y. 459, 465 (1891) (“The act is limited territorially, but the subject is both public and general.”).

<sup>348</sup> See *People ex rel. Olin v. Hennessy*, 206 N.Y. 33 (1912) (as long as it suggests or gives a clue); *Economic Power & Construction Co. v. City of Buffalo*, 195 N.Y. 286 (1909) (as long as it embraces a substantial expression).

<sup>349</sup> See *Buffalo Library v. Wanamaker*, 293 N.Y.S. 776 (1937).

NORTH DAKOTA

**Constitutional Text:**

No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Art. IV, § 13

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

“Where the subject of a statute is single and the same is expressed in its title, the act will not be invalidated by the fact that the title announces a plurality of subjects.”<sup>350</sup> “If the Legislature is fairly apprised of the general character of an enactment by the subject as expressed in its title, and all its provisions have a just and proper reference thereto and are such as, by the nature of the subject so indicated, are manifestly appropriate in that connection, and as might reasonably be looked for in a measure of such character, then the requirement of the Constitution is complied with.”<sup>351</sup> It matters not that the act embraces technically more than one subject, so that they are not foreign and extraneous to each other, but ‘blend’ together in the common purpose evidently sought to be accomplished by the law.”<sup>352</sup>

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<sup>350</sup> State ex rel. Gaulke v. Turner, 164 N.W. 924, 927 (N.D. 1917).

<sup>351</sup> *Id.*

<sup>352</sup> *Id.* at 928.

OHIO

**Constitutional Text:**

No bill shall contain more than one subject, which shall be clearly expressed in its title. No law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections amended shall be repealed.

Art. II, § 15(D)

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Although this court has described the one-subject rule as mandatory, our role in its enforcement remains limited.<sup>353</sup> To accord appropriate deference to the General Assembly's law-making function, Ohio courts must liberally construe the term "subject" for purposes of the rule.<sup>354</sup> The one-subject rule does not prohibit a plurality of topics, only a disunity of subjects.<sup>355</sup> The mere fact that a bill embraces more than one topic is not fatal as long as a common purpose or relationship exists between the topics.<sup>356</sup> And we invalidate statutes as violating the one-subject rule only when they contain "a manifestly gross and fraudulent violation."<sup>357</sup>

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<sup>353</sup> State ex rel. Ohio Civ. Serv. Emps. Assn. v. State, 56 N.E.3d 913, 919 (Ohio 2016).

<sup>354</sup> *Id.*

<sup>355</sup> State ex rel. Hinkle v. Franklin Cty. Bd. of Elections, 148, 580 N.E.2d 767 (Ohio 1991).

<sup>356</sup> Hoover v. Franklin Cty. Bd. of Commrs., 482 N.E.2d 575 (Ohio 1985).

<sup>357</sup> State ex rel. Ohio Civ. Serv. Emps. Assn., 56 N.E.3d at 919.

## OKLAHOMA

### **Constitutional Text:**

Every act of the Legislature shall embrace but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred shall be re-enacted and published at length: Provided, That if any subject be embraced in any act contrary to the provisions of this section, such act shall be void only as to so much of the laws as may not be expressed in the title thereof.

Art. V, § 57

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Oklahoma legislation satisfies the one-subject requirement if the provisions are germane, relative and cognate to one another.<sup>358</sup> It is enough that the various provisions are reasonably related to a common theme or purpose.<sup>359</sup> The most relevant question under such analysis is whether a voter (or legislator) is able to make a choice without being misled and is not forced to choose between two unrelated provisions contained in one measure.<sup>360</sup> The question is not how similar two provisions in a proposed law are, but whether it appears either that the proposal is misleading or that the provisions in the proposal are so unrelated that many of those voting on the law would be faced with an unpalatable all-or-nothing choice.<sup>361</sup> The purpose is not to hamper legislation but to prevent the legislature from making a bill “veto proof” by combining two totally unrelated subjects in one bill.<sup>362</sup>

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<sup>358</sup> Thomas v. Henry, 260 P.3d 1251, 1260 (Okla. 2011).

<sup>359</sup> *Id.*

<sup>360</sup> *Id.*

<sup>361</sup> *Id.*

<sup>362</sup> *Id.*

## OREGON

### **Constitutional Text:**

Every Act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an Act which shall not be expressed in the title, such Act shall be void only as to so much thereof as shall not be expressed in the title.

This section shall not be construed to prevent the inclusion in an amendatory Act, under a proper title, of matters otherwise germane to the same general subject, although the title or titles of the original Act or Acts may not have been sufficiently broad to have permitted such matter to have been so included in such original Act or Acts, or any of them.

Art. IV, § 20

**Single Subject Requirement: YES**

**Title Requirement: YES**

### **Caselaw:**

Oregon courts apply a two-part framework for evaluating whether a proposed law or constitutional amendment embraces only a single “subject.”<sup>363</sup> Under that framework, a reviewing court asks whether it can discern a “unifying principle logically connecting all provisions” in the measure, such that it can be said that the measure embraces a single subject.<sup>364</sup> If the court cannot identify a logical unifying principle, the measure embraces more than one subject in violation of the single-subject rule, and the court’s inquiry ends.<sup>365</sup> If it can, then the court examines whether any “other matters” contained in the measure are “properly connected” to the unifying principle identified by the court.<sup>366</sup> That standard typically is satisfied so long as a proposed law or amendment addresses a single substantive area of law, even if it “includ[es] a wide range of connected matters intended to accomplish the goal of that single subject.”<sup>367</sup> The Oregon Supreme Court has only invalidated one law for violating the single subject rule.<sup>368</sup>

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<sup>363</sup> See *State ex rel. Caleb v. Beesley*, 949 P.2d 724 (Or. 1997).

<sup>364</sup> See *McIntire v. Forbes*, 909 P.2d 846 (1996).

<sup>365</sup> *State v. Mercer*, 344 P.3d 109, 112 (Or. App. 2015).

<sup>366</sup> *Id.*

<sup>367</sup> *Id.*

<sup>368</sup> See *McIntire*, 909 P.2d at 847 (Or. 1996) (invalidating law that did eight unrelated things).

PENNSYLVANIA

**Constitutional Text:**

No bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except a general appropriation bill or a bill codifying or compiling the law or a part thereof.

Art. III, § 3

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The law governing Article III, Section 3 claims is well settled: A bill will not violate the mandates of Article III, Section 3, even though it pertains to multiple topics, provided that those topics are “germane” to a single subject.<sup>369</sup> In accordance with the principle of deference to the General Assembly’s constitutional prerogative to address complex matters in a single legislative enactment, the Court has deemed it appropriate, in addressing a single subject challenge, for a court to hypothesize a “reasonably broad topic” which would unify the various provisions of a final bill as enacted, provided such topic is not too expansive.<sup>370</sup>

In order to ascertain whether the hypothesized topic is sufficiently narrow, the various subjects contained within a legislative enactment must be examined to “determine whether they have a nexus to a common purpose.”<sup>371</sup>

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<sup>369</sup> Commonwealth v. Neiman, 84 A.3d 603, 612, 624 Pa. 53 (Pa. 2013); *see also* Leach v. Commonwealth, 141 A.3d 426 (2016).

<sup>370</sup> *Id.* at 612.

<sup>371</sup> Robinson Twp. v. Commonwealth, 147 A.3d 536, 568 (Pa. 2016) (holding Sections 3222.1(b)(10) and (11) were germane to Act 13’s overall purpose of regulating the oil and gas industry, and, thus, Act 13 is not unconstitutional on this basis.).

SOUTH CAROLINA

**Constitutional Text:**

Every Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

Art. III, § 17

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Single-subject provision of State Constitution requires that an act relate to but one subject, with the topics in the body of the act being kindred in nature and having a legitimate and natural association with the subject of the title, and that the title of an act convey “reasonable notice of the subject matter to the legislature and the public.”<sup>372</sup>

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<sup>372</sup> State v. Charron, 569 S.E.2d 388, 391, 351 S.C. 319 (S.C.App. 2002) (quoting Hercules, Inc. v. S.C. Tax Comm’n, 274 S.C. 137, 141, 262 S.E.2d 45, 47 (1980)).

SOUTH DAKOTA

**Constitutional Text:**

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

Art. III, § 21

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

In reviewing compliance with the one subject rule, courts liberally construe the title and subject matter of the statute being challenged to find constitutionality if possible.<sup>373</sup> In South Dakota, if the provisions of a statute fairly relate to the subject expressed in the title of the statute, it will meet the constitutional one subject requirement.<sup>374</sup> “The provisions of an act must be ‘parts of it, incident to it, or in some reasonable sense auxiliary to the object in view.’”<sup>375</sup>

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<sup>373</sup> See *Simpson v. Tobin*, 367 N.W. 2d 757, 767 (1985).

<sup>374</sup> *Id.*

<sup>375</sup> *Meierhenry v. City of Huron*, 354 N.W. 2d 171, 182 (1984) (quoting *State v. Morgan*, 2 S.D. 32, 43 (1891)).

## TENNESSEE

### **Constitutional Text:**

No bill shall become a law which embraces more than one subject, that subject to be expressed in the title. All acts which repeal, revive or amend former laws, shall recite in their caption, or otherwise, the title or substance of the law repealed, revived or amended.

Art. II, § 17

**Single Subject Requirement:** YES

**Title Requirement:** YES

### **Caselaw:**

The two-subject clause of the Constitution was intended to prevent a combination in the same act of laws upon wholly different subjects; to avoid the union of incongruous matters in one statute; to secure unity of purpose in legislative enactments.<sup>376</sup> “If the various provisions of an act are directed toward a common purpose, and that purpose is expressed in the title, it would make no difference if the several provisions of the act involved all powers of the legislature.”<sup>377</sup> This section of the Constitution regulates the syntax of statutes.<sup>378</sup> It imposes no restriction upon the powers exerted, nor upon the commingling of such powers, so long as the provisions of the statute are not incongruous and are germane to the subject expressed in the caption.<sup>379</sup> However, “[t]he unity of the subject is to be looked for in the ultimate object of the statute; it cannot with reason be held that each step towards the accomplishment of an end or object should be embodied in a separate act, and so long as the steps are of the same general nature and legitimately parts of one system, end, or object, the act is constitutional.”<sup>380</sup>

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<sup>376</sup> Bell v. Hart, 223 S.W. 996, 996 (Tenn. 1920).

<sup>377</sup> Davis v. Hailey, 227 S.W. 1021, 1022 (Tenn. 1921).

<sup>378</sup> *Id.*

<sup>379</sup> *Id.*

<sup>380</sup> Kizer v. State, 205 S.W. 423, 425 (Tenn. 1918); *see also* Brown v. State ex rel. Jubilee Shops, Inc., 426 S.W.2d 192, 195 (Tenn. 1968).

## TEXAS

### **Constitutional Text:**

(a) No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject.

(b) The rules of procedure of each house shall require that the subject of each bill be expressed in its title in a manner that gives the legislature and the public reasonable notice of that subject. The legislature is solely responsible for determining compliance with the rule.

(c) A law, including a law enacted before the effective date of this subsection, may not be held void on the basis of an insufficient title.

Art. III, § 35

**Single Subject Requirement: YES**

**Title Requirement: NO**

### **Caselaw:**

There is no set rule determining what a “subject” is and therefore, when a bill contains multiple subjects. The Texas Court of Appeals has held that an act purporting to (1) regulate third-party insurance administrators and (2) create non-profit programs to fund EMS services violated the single-subject rule.<sup>381</sup> The Court could not find “even an indirect common general subject or mutual connection between the bill’s two questioned provisions.”<sup>382</sup>

### **Notes:**

Texas courts have only invalidated statutes on single-subject grounds a handful of times.<sup>383</sup>

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<sup>381</sup> See *State Bd. of Ins. v. National Employee Ben. Adm’rs, Inc.*, 786 S.W.2d 106, 108-09 (Tex. Ct. App. 1990).

<sup>382</sup> *Id.*

<sup>383</sup> *Id.* at 109.

UTAH

**Constitutional Text:**

Every bill shall be read by title three separate times in each house except in cases where two-thirds of the house where such bill is pending suspend this requirement. Except general appropriation bills and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title. The vote upon the final passage of all bills shall be by yeas and nays and entered upon the respective journals of the house in which the vote occurs. No bill or joint resolution shall be passed except with the assent of the majority of all the members elected to each house of the Legislature.

Art. VI, § 22

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

General rules of construction of this provision are: (1) That the constitutional provision should be liberally construed; (2) that it should be applied so as not to hamper the law-making power in framing and adopting comprehensive measures covering the whole subject, branches of which may be numerous, and where all have some direct connection with or relation to principal subject treated; (3) that it should be so applied as to guard against the real evil which it was intended to meet; and (4) that each case must, to a large extent, be determined in accordance with the peculiar circumstances and conditions thereof.<sup>384</sup> Note that, Art. VI, § 22 contains a procedural requirement that every bill must be read by title three separate times in each house of the legislator. Challenges against bills for failing to met this procedural requirement are reviewed by the court under “the view that upon a challenge to the regularity of legislative procedures, the Court may look to the journals to see if that required procedure was complied with.”<sup>385</sup> And due to the presumption of regularity of procedure and the validity of legislative enactments, in order to declare an enactment invalid it would have to appear affirmatively from the journal that there was some constitutional defect, and that this could not be shown by mere silence.<sup>386</sup>

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<sup>384</sup> State v. McCornish, 201 P. 637, 638-69, 59 Utah 58 (Utah 1921).

<sup>385</sup> Jensen v. Matheson, 583 P.2d 77, 79 (Utah 1978) (holding there was no affirmative showing which would require declaring any of the challenged acts invalid).

<sup>386</sup> *Id.* at 79-80.

VIRGINIA

**Constitutional Text:**

No law shall embrace more than one object, which shall be expressed in its title. Nor shall any law be revived or amended with reference to its title, but the act revived or the section amended shall be reenacted and published at length.

Art. IV, § 12

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Acts of the Virginia legislature, when challenged under the single subject to be expressed in the title of the act rule, enjoy a strong presumption of constitutionality.<sup>387</sup> An act will be found constitutional “if what is authorized by the act is germane to the object expressed in the title, or has a legitimate and natural association therewith, or is congruous therewith, the title is sufficient.”<sup>388</sup>

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<sup>387</sup> See *Marshall v. Northern Virginia Transp. Authority*, 275 Va. 419, 427 (2008).

<sup>388</sup> *Id.* at 429-30 (quoting *Town of Narrows v. Board of Supervisors*, 128 Va. 572, 582-83 (1920)).

WASHINGTON

**Constitutional Text:**

No bill shall embrace more than one subject, and that shall be expressed in the title.

Art. II, § 19

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

The constitutional provision requiring a bill to contain one subject expressed in its title creates two distinct prohibitions: first, no bill shall embrace more than one subject, the “single-subject rule,” and second, no bill shall have a subject not expressed in the title, the “subject-in-title rule.”<sup>389</sup> The first step in analyzing whether the legislature violated “the single-subject requirement is to determine whether the title of the bill is general or restrictive.”<sup>390</sup> A general title is broad, comprehensive, and generic, as opposed to a restrictive title that is specific and narrow and selects a particular part of a subject as the subject of the legislation.<sup>391</sup> If the bill has a general title, it may constitutionally include all matters that are reasonably connected with it and all measures that may facilitate the accomplishment of the purpose stated.<sup>392</sup> The second step in analyzing the single-subject requirement is to determine the connection between the general subject and the incidental subjects of the enactment.<sup>393</sup> “Where a general title is used, all that is required is rational unity between the general subject and the incidental subjects.”<sup>394</sup> The subject-in-title requirement is satisfied if the title of the act gives notice that would lead to an inquiry into the body of the act or indicates the scope and purpose of the law to an inquiring mind.<sup>395</sup> Any objections to a bill’s title must be grave, and the conflict between it and the Constitution palpable, before an act will be held unconstitutional for violating the Subject-In-Title Rule.<sup>396</sup>

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<sup>389</sup> *City of Fircrest v. Jensen*, 143 P.3d 776, 779, 158 Wash.2d 384 (Wash. 2006).

<sup>390</sup> *State v. Alexander*, 340 P.3d 247, 250, 184 Wash.App. 892 (Wash. Ct. App. 2014).

<sup>391</sup> *Id.* at 250.

<sup>392</sup> *State v. Haviland*, 345 P.3d 831, 834, 186 Wash.App. 214 (Wash. Ct. App. 2015).

<sup>393</sup> *Alexander*, 340 P.3d at 251.

<sup>394</sup> *Haviland*, 345 P.3d at 835.

<sup>395</sup> *Id.*

<sup>396</sup> *Id.*

**Constitutional Text:**

No act hereafter passed shall embrace more than one object, and that shall be expressed in the title. But if any object shall be embraced in an act which is not so expressed, the act shall be void only as to so much thereof, as shall not be so expressed, and no law shall be revived, or amended, by reference to its title only; but the law revived, or the section amended, shall be inserted at large, in the new act. And no act of the Legislature, except such as may be passed at the first session under this constitution, shall take effect until the expiration of ninety days after its passage, unless the Legislature shall by a vote of two thirds of the members elected to each house, taken by yeas and nays, otherwise direct.

Art. VI, § 30

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Provision of State Constitution which requires that object of act passed by legislature must be expressed in act's title serves two salutary purposes: (1) it is designed to give notice by way of title of contents of act so that legislators and other interested parties may be informed of its purpose, and (2) it is designed to prevent any attempt to surreptitiously insert in body of act matters foreign to its purpose which, if known, might fail to gain consent of majority.<sup>397</sup> When determining whether an act of the Legislature violates art. VI, § 30, the courts will construe the language and title of the act in "the most comprehensive sense favorable to its validity."<sup>398</sup> The test to be applied is whether the title imparts enough information to one interested in the subject matter to provoke a reading of the act.<sup>399</sup> In other words, "[i]f the title of an act states its general theme or purpose and the substance is germane to the object expressed in the title, the title will be held sufficient."<sup>400</sup>

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<sup>397</sup> McCoy v. VanKirk, 500 S.E.2d 534, 546, 201 W.Va. 718 (W. Va. 1997).

<sup>398</sup> *Id.*

<sup>399</sup> *Id.*

<sup>400</sup> *Id.*

WISCONSIN

**Constitutional Text:**

No private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title.

Art. IV, § 18

**Single Subject Requirement: YES**

**Title Requirement: YES**

**Caselaw:**

Statutory title is insufficient under constitution requiring that title to private or local law suggest subject thereof only if it fails to reasonably suggest purpose of act it covers, or if reading of act with full scope of its title in mind discloses provision clearly outside title.<sup>401</sup> Because provision of State Constitution under which a private or local bill may not embrace more than one subject, which must be expressed in its title, assesses the constitutionality of the process in which the legislation was enacted, instead of the constitutionality of the substance of the legislation, presumption of constitutionality does not apply to statute which is subject to such a challenge.<sup>402</sup> Whether legislation is private bill or local law, and thus subject to single subject requirement of state constitution, is based on whether legislation is specific to any person, place or thing.<sup>403</sup>

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<sup>401</sup> City of Brookfield v. Milwaukee Metropolitan Sewerage Dist., 491 N.W.2d 484, 495, 171 Wis.2d 400 (Wis. 1992).

<sup>402</sup> Group Health Co-op. of Eau Claire v. Wisconsin Dept. of Revenue, 601 N.W.2d 1, fn. 1, 229 Wis.2d 846 (Wis. Ct. App. 1999).

<sup>403</sup> Pace v. Oneida County, 569 N.W.2d 311, 313, 212 Wis.2d 448 (Wis. Ct. App. 1997).

## WYOMING

### **Constitutional Text:**

No bill, except general appropriation bills and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject is embraced in any act which is not expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

### Art. III, § 24

**Single Subject Requirement:** YES

**Title Requirement:** YES

### **Caselaw:**

All that is necessary for compliance with constitutional provision that bill shall contain only one subject, which shall be expressed in its title, is reasonable adherence thereto.<sup>404</sup> Constitutional prohibition against passage of bills containing more than one subject, which subject must be clearly expressed in title, is not to be literally interpreted but requires scrutinizing amending act to see whether there is common tie between provisions permitting the object and purpose of the law which it seeks to amend or whether it introduces new matter not within the purview of existing legislation.<sup>405</sup> Objections should be grave and conflicts between act and constitution palpable before judiciary may disregard or annul a legislative enactment upon sole ground that it embraces more than one subject, or, when it contains but one subject, on ground that subject is not sufficiently expressed in its title.<sup>406</sup>

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<sup>404</sup> *Brinegar v. Clark*, 371 P.2d 62, 66 (Wyo. 1962).

<sup>405</sup> *Morrow v. Diefenderfer*, 384 P.2d 601, 604 (Wyo. 1963).

<sup>406</sup> *In re Board of Com'rs of Johnson County*, 32 P. 850, 851, 4 Wyo. 133 (Wyo. 1893).