

It is impossible to analyze a title-only bill, because the text is blank

By Jason Mercier, Director, Center for Government Reform

April 2019

Key findings:

1. **Title-only bills are essentially blank paper introduced as placeholders so lawmakers can quietly fill in the text later in the legislative session.**
2. **Empty, title-only bills are not the norm across the country. They exist to circumvent Washington's state constitutional protection for transparency on new bills introduced in the last 10 days of session.**
3. **It would be better for Lawmakers to propose repeal of Article 2, Section 36 and replace it with meaningful legislative transparency protections.**
4. **Ending the use of title-only bills would be more honest with the public.**
5. **Also, ending the practice of title-only bills would help lawmakers fulfill their promised goal, to "[i]ncrease public participation, understanding, and transparency of the legislative process."¹**

Introduction

To inform the public about policy changes being considered by our elected representatives in Olympia, Washington Policy Center research staff regularly provide independent analysis of key bills under consideration.

Lawmakers have a practice, however, of introducing so-called title-only bills, measures that have all the attributes of formal legislation – an assigned bill number, sponsor names, date of introduction, referral to committee – but the actual text is left blank.

Two recent examples of this practice are SB 6005 (Relating to revenue)² and SB 5980 (Relating to greenhouse gas emissions).³ Though covering seemingly unrelated topics, the bill analysis for each is the same.

Policy analysis of a title only bill

A balanced, thorough, and reasoned analysis of a title-only bill looks like this:

BLANK

That's right, our independent policy analysis is blank, because the texts of these bills are blank. At this time, all we can say with 100% certainty is that the policies proposed by these bills might or might not serve the public interest. Or they may have no practical effect at all. We just don't know yet.

¹ House Resolution No. 4677, introduced by Rep. Kessler, Washington State Legislature, January 18, 2006, at <http://leg.wa.gov/House/Documents/HouseResolution.pdf>.

² SB 6005, related to revenue, introduced by Sen. Christine Rolfes (D – 23rd District), Washington State Legislature, April 1, 2019, at <https://app.leg.wa.gov/billssummary?BillNumber=6005&Initiative=false&Year=2019>.

³ SB 5980, relating to greenhouse gas emissions, introduced by Sen. Reuven Carlyle (D – 36th District), Washington State Legislature, March 5, 2019, at <https://app.leg.wa.gov/billssummary?BillNumber=5980&Initiative=false&Year=2019>.

What are title-only bills?

Title-only bills are essentially blank pieces of paper that provide a placeholder for action later in the legislative session. Not only are title-only bills not the norm across the country, they basically exist to circumvent Washington's state constitutional protection for transparency on new bills introduced in the last 10 days of session.

According to Article 2, Section 36 of the state constitution:

“No bill shall be considered in either house unless the time of its introduction shall have been at least ten days before the final adjournment of the legislature, unless the legislature shall otherwise direct by a vote of two-thirds of all the members elected to each house, said vote to be taken by yeas and nays and entered upon the journal, or unless the same be at a special session.”

To get around this constitutional restriction in the last ten days of session, lawmakers use blank, title-only bills, then place the real text of legislation in at a later time without having to secure the two-thirds vote required if the bill were introduced after the constitutional cutoff period.

Is the practice of introducing title-only bills prevalent across the country? No.

According to Bruce Feustel of the National Conference of State Legislatures (NCSL):⁴

“Most states I am familiar with do not allow title-only bills for legislative consideration, generally under the reasoning that you need to know the details of a bill to make an informed decision about how to vote on it and even where to refer it.”

Conclusion

If lawmakers feel the state constitution is getting in the way of being transparent and providing adequate public notice, it would be better for them to propose

repeal of Article 2, Section 36 and replace it with meaningful legislative transparency protections that would:⁵

- Provide mandatory public notice and waiting periods before legislative action;
- Ban title-only bills, and;
- Subject the Legislature to the same transparency requirements that are placed on local governments.

Adopting these transparency protections and ending the practice of title-only bills would help lawmakers fulfill their promised goal, stated in their formal House Resolution, to “Increase public participation, understanding, and transparency of the legislative process.”⁶

Jason Mercier is the director of Washington Policy Center's Center for Government Reform.

Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body

Published by Washington Policy Center © 2019 Visit washingtonpolicy.org to learn more.

⁴ Email to author from Bruce Feustel of the National Conference of State Legislatures, on March 24, 2011. Copy available on request

⁵ SB 6560, increasing legislative transparency by providing mandatory notice and waiting periods before legislative action, banning title-only bills, and opening all legislative committees to the public,” introduced by Senator Janea Holmquist, (R – 13th District), Washington State Legislature, February 10, 2014, at <https://app.leg.wa.gov/billsummary?BillNumber=6560&Year=2013>.

⁶ House Resolution No. 4677, introduced by Rep. Kessler, Washington State Legislature, January 18, 2006, at <http://leg.wa.gov/House/Documents/HouseResolution.pdf>.