
Supreme Court of Pennsylvania

No. 22 EAP 2021



JASMINE WEEKS, ARNELL HOWARD, PATRICIA SHALLICK, individually
and on behalf of all others similarly situated,

Appellants,

v.

DEPARTMENT OF HUMAN SERVICES OF
THE COMMONWEALTH OF PENNSYLVANIA

Appellee.

On Appeal from the Order of the Commonwealth Court,
Weeks v. Department of Human Services, 409 M.D. 2019 (May 13, 2021).

INITIAL BRIEF OF APPELLEE

BLANK ROME LLP

Christopher A. Lewis

Lawrence J. Beaser

Frank L. Tamulonis

Heidi G. Crikelair

Megann E. Gibson

Attorney ID Nos. 29375, 1605, 208001, 323898, 320767

One Logan Square,

130 N. 18th Street

Philadelphia, Pennsylvania 19103

(215) 569-5500

Attorneys for Appellee, Department of Human Services of the Commonwealth of Pennsylvania

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. COUNTER-STATEMENT OF QUESTIONS INVOLVED	2
III. COUNTER-STATEMENT OF THE CASE	2
IV. SUMMARY OF ARGUMENT	10
V. ARGUMENT FOR APPELLEE	12
A. Legal Standard.....	12
B. The Enactment of Act 12 Does Not Violate Any Constitutional Provision.....	14
1. Act 12 Was Enacted in Compliance with Article III, Section 1 of the Pennsylvania Constitution	14
2. Act 12 Was Enacted in Compliance with Article III, Section 3 of the Pennsylvania Constitution	25
VI. CONCLUSION.....	37

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Barklay v. Melton</i> , 5 S.W.3d 457 (Ark. 1999).....	20
<i>Christ the King Manor v. Department of Public Welfare</i> , 911 A.2d 624 (Pa. Cmwlth. 2006), <i>affirmed per curiam</i> , 951 A.2d 255 (Pa. 2008).....	8, 19, 30, 31
<i>City of Helena v. Omholt</i> , 468 P.2d 764 (Mont. 1970).....	22
<i>City of Philadelphia v. Commonwealth</i> , 838 A.2d 566 (Pa. 2003).....	16, 28, 33, 36
<i>Common Cause/Pennsylvania v. Commonwealth</i> , 710 A.2d 108 (Pa. Cmwlth. 1998), <i>aff'd</i> , 757 A.2d 367 (Pa. 2000)	15, 35
<i>Commonwealth ex rel. Bell v. Powell</i> , 94 A. 746 (Pa. 1915).....	31, 32, 34
<i>Commonwealth v. Heinbaugh</i> , 354 A.2d 244 (Pa. 1976).....	13
<i>Commonwealth v. Hendrickson</i> , 274 A.2d 315 (Pa. 1999).....	13
<i>Commonwealth v. Neiman</i> , 84 A.3d 603 (Pa. 2013).....	28
<i>Consumer Party v. Commonwealth</i> , 507 A.2d 323 (Pa. 1986).....	15
<i>DeWeese v. Weaver</i> , 824 A.2d 364 (Pa. Cmwlth. 2003).....	13, 21, 33
<i>Fumo v. Pa. Pub. Util. Comm'n</i> , 719 A.2d 10 (Pa. Cmwlth. 1998).....	33

<i>Leach v. Commonwealth</i> , 141 A.3d 426 (Pa. 2016).....	33
<i>Marcavage v. Rendell</i> , 888 A.2d 940 (Pa. Cmwlth. 2005).....	33
<i>Nextel Commc 'ns of Mid-Atl., Inc. v. Dep't of Rev.</i> , 171 A.3d 682 (Pa. 2017).....	26
<i>Pa. State Ass'n of Jury Comm'rs v. Commonwealth</i> , 64 A.3d 611 (Pa. 2013).....	33
<i>Painter v. Mattfeldt</i> , 87 A. 413 (Md. 1913)	21
<i>Parker v. Dep't of Labor and Indus.</i> , 540 A.2d 313 (Pa. Cmwlth. 1988).....	33
<i>Pennsylvanians Against Gambling Expansion Fund, Inc. v. Commonwealth</i> , 877 A.2d 383 (Pa. 2005).....	<i>passim</i>
<i>Phantom Fireworks Showrooms, LLC v. Wolf</i> , 198 A.3d 1205 (Pa. Cmwlth. 2008).....	21, 28, 32, 35
<i>Ritter v. Commonwealth</i> , 548 A.2d 1317 (Pa. Cmwlth. 1988), <i>aff'd</i> , 557 A.2d 1064 (Pa. 1989)	32
<i>Sernovitz v. Dershaw</i> , 57 A.3d 1254 (Pa. Super. 2012)	33
<i>Smith v. Hansen</i> , 386 P.2d 98 (Wyo. 1963).....	20
<i>Spahn v. Zoning Bd. of Adjustment</i> , 977 A.2d 1132 (Pa. 2009).....	32, 33
<i>Stilp v. Commonwealth</i> , 905 A.2d 918 (Pa. 2006).....	19, 32
<i>Warren v. Walker</i> , 71 S.W.2d 1057 (Tenn. 1934)	21

<i>Warren, Coutieri v. City of New Brunswick</i> , 44 N.J.L. 58 (N.J. 1882)	21
<i>Washington v. Dep’t of Pub. Welfare</i> , 188 A.3d 1135 (Pa. 2018).....	<i>passim</i>
<i>Weeks v. Dep’t of Human Servs.</i> , 2021 Pa. Commw. LEXIS 279 (Pa. Cmwlth. Mar. 24, 2021).....	<i>passim</i>
<i>Weeks v. Dep’t of Human Servs.</i> , 222 A.3d 722 (Pa. 2019).....	<i>passim</i>
<i>Weeks v. Dep’t of Human Servs.</i> , 255 A.3d 660 (Pa. Cmwlth. 2021).....	<i>passim</i>
<i>Weeks v. Dep’t of Human Servs.</i> , 409 M.D. 2019, (Aug. 1, 2019)	5

Statutes

1 Pa.C.S. § 1922(3)	13
H.B. 33, P.N. 2182 (June 18, 2019).....	<i>passim</i>
H.B. 33, P.N. 47 (Jan. 28, 2019).....	<i>passim</i>
H.B. 1261, P.N. 3646 (June 5, 2012).....	24
H.B. 1261, P.N. 3884 (June 29, 2019).....	25

Other Authorities

<i>Advisory Opinion No. 331</i> , 582 So.2d 1115	20
Human Services Code.....	<i>passim</i>
John L. Gedid, “ <i>History of the Pennsylvania Constitution</i> ” as appearing in Ken Gormley, ed., <i>The Pennsylvania Constitution: A Treatise on Rights and Liberties</i> , 68 (2004)	27
PA. CONST. Art. III, § 1	<i>passim</i>
PA. CONST. Art. III, § 3	<i>passim</i>

INTRODUCTION

The enactment of Act 12 of 2019 (“Act 12” or “the Act”) followed a rather straightforward and unremarkable process. Nevertheless, Appellants contend that Act 12’s enactment was so improper as to violate the Pennsylvania Constitution. This appeal marks Appellants’ fifth attempt to invalidate Act 12 on the grounds that the legislative procedures leading up to its enactment demonstrate that Act 12 violates the “original purpose” and “single subject” rules of Article III, Sections 1 and 3 of the Pennsylvania Constitution, respectively. On three prior occasions, the Commonwealth Court rejected Appellants’ arguments that Act 12 is constitutionally infirm, and likewise a majority of this Court previously rejected Appellants’ arguments.

For the reasons explained below, Appellants’ facial challenges to Act 12 fail. Appellants have not met their “heavy burden” of demonstrating that Act 12 “clearly, palpably, and plainly” violates the Pennsylvania Constitution. Here, Act 12, both as originally enacted, and as amended, had the same purpose of amending existing provisions of the Human Services Code providing for health care to low-income individuals. Likewise, Act 12 does not run afoul of the single subject rule because each provision of Act 12 relates to health care assistance to certain low-income persons.

COUNTER-STATEMENT OF QUESTIONS INVOLVED

1. Does the enactment of Act 12 violate the “original purpose” provision in Article III, Section 1 of the Pennsylvania Constitution?

Suggested Answer: No.

2. Does the enactment of Act 12 violate the “single subject” requirement in Article III, Section 3 of the Pennsylvania Constitution?

Suggested Answer: No.

COUNTER-STATEMENT OF THE CASE

As Appellants correctly point out, Act 12 is not the first time that the General Assembly sought to discontinue the General Assistance cash assistance program. On June 29, 2012, Act 80 of 2012 (“Act 80”) was amended from its original form to include a provision (among many others) terminating the General Assistance cash assistance program. This Court invalidated Act 80 in *Washington v. Dep’t of Pub. Welfare*, 188 A.3d 1135, 1145 (Pa. 2018), finding that Act 80 violated the “three-day consideration” requirement of Article III, Section 4, an issue which has not been raised by Appellants here. As further discussed below, the *Washington* case is inapposite to the case *sub judice*.

Following *Washington*, House Bill No. 33, Printer’s Number 47—the bill that became Act 12—was introduced in the General Assembly on January 4, 2019. The re-enacted language had the effect of eliminating the General Assistance cash assistance program, while at the same time reenacting and continuing the General Assistance medical assistance program. When the bill was introduced, the title read:

Amending the act of June 13, 1967 (P.L.31, No. 21), entitled “An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth,” in public assistance, further providing for definitions, for general assistance-related categorically needy and medically needy only medical assistance programs and for the medically needy and determination of eligibility.

Reproduced Record (“R.”) 530a.

On June 18, 2019, the bill was amended for the first and only time. *See* H.B. 33, P.N. 2182. The title was amended to remove the period after “eligibility” and the following language was added:

and for medical assistance payments for institutional care, in hospital assessments, further providing for definitions, for authorization, for no hold harmless, for tax exemption and time period, and, in statewide quality care assessment, further providing for definitions.

R. 512a.

As reflected by the amended title, the amendment included three additional provisions, each of which, consistent with the original version of the bill, relates to the subject of providing medical care to low-income individuals. Specifically, the amendment: (1) extended and increased funding for certain nursing facilities that provide medical care to low-income individuals; (2) amended the definitions to the Statewide Quality Care Assessment (otherwise referred to as the statewide hospital assessment), which authorizes an assessment on hospitals to generate funding to pay for health care services for low-income individuals; and (3) renewed and extended

the Philadelphia Hospital Assessment through June 30, 2024, which authorizes an assessment on Philadelphia hospitals to generate funding to pay for health care services for low-income individuals. *Compare* H.B. 33, P.N. 47 (Jan. 28, 2019), R. 530a-532a to H.B. 33, P.N. 2182 (June 18, 2019), R. 512a-526a.

House Bill 33, as amended, was passed by the House on June 19, 2019 by a vote of 106 to 95. R. 511a. On June 26, 2019, the Senate passed the bill by a vote of 26 to 24. *Id.* On June 28, 2019, the bill was signed into law as Act 12 of 2019. *Id.*

On July 22, 2019, Appellants filed the original Petition for Review, seeking a declaration that Act 12 violates the “original purpose” and the “single subject” requirements of Article III, Sections 1 and 3 of the Pennsylvania Constitution, respectively. R. 141a. Appellants also sought to enjoin Sections 1, 2, and 3 of Act 12, the provisions related to the elimination of General Assistance cash assistance and the continuation of General Assistance medical assistance.

Appellants simultaneously filed an Application for Special Relief in the Nature of a Preliminary Injunction, seeking to preliminarily enjoin only those portions of the Act that related to General Assistance cash assistance (i.e., Sections 1, 2, and 3 of Act 12). R. 26a. On August 1, 2019, the Commonwealth Court, in a per curiam decision, denied Appellants’ Application on the basis that Appellants had not satisfied the requisites for a preliminary injunction because they failed to show

a likelihood of success on the merits of the constitutional claims and failed to show immediate and irreparable harm. *See Weeks v. Dep't of Human Servs.*, 409 M.D. 2019, Memorandum Opinion and Order (Aug. 1, 2019) (hereinafter "*Weeks I*"), R. 415a.

On August 5, 2019, Appellants appealed the order accompanying *Weeks I* to this Court at Docket No. 22 EAP 2019. On August 21, 2019, while Appellants' appeal was pending before the Pennsylvania Supreme Court, the Department filed Preliminary Objections to the Petition for Review before the Commonwealth Court on the grounds that Act 12 does not violate Article III, Section 1 or 3 of the Pennsylvania Constitution. While those Preliminary Objections were pending, this Court issued a majority opinion and order affirming the Commonwealth Court's decision in *Weeks I*. *See Weeks v. Dep't of Human Servs.*, 222 A.3d 722 (Pa. 2019) (hereinafter "*Weeks II*").¹ Following an extensive review of applicable jurisprudence, this Court concluded that Act 12 does not violate either the single subject or the original purpose requirement of the Pennsylvania Constitution and, accordingly, affirmed the Commonwealth Court's holding in *Weeks I* that

¹ Justices Baer, Todd, Donohue, Dougherty, and Mundy joined then Chief Justice Saylor in the majority opinion, over a dissent from Justice Wecht. Justice Todd also filed a separate concurring opinion, joined by Justices Donohue and Dougherty, concurring that the Commonwealth Court properly found that Appellants failed to establish a likelihood of success on the merits for the purposes of denying the preliminary injunction, but withholding final judgment on the merits of Appellants' constitutional challenges.

Appellants had failed to carry their burden to demonstrate a likelihood of success on the merits. *See id.*

On the single subject requirement, this Court concluded:

[T]he act as a whole relates to the provision of benefits pertaining to the basic necessities of life to certain low-income individuals.... [S]uch a topic is, in our view, both unifying and sufficiently narrow to fit within the single-subject rubric as that concept has been spelled out in the reported decisions of Pennsylvania Appellate Courts.

Id. at 730.

On the original purpose requirement, this Court concluded:

[H].B. 33 originally had only three provisions, all relating in some way to Cash Assistance. The additional sections which were included in the final version of the bill all fit within the unifying topic mentioned in the above discussion pertaining to the single-subject rule.

Id. at 731.

Three justices joined in a concurring opinion, agreeing that Appellants had failed to establish a likelihood of success on the merits but withholding final judgment on the underlying constitutional question. Justice Wecht dissented, noting that, although the Court could “identify *sound* reasons for rejecting Appellants’ constitutional challenges on the merits,” Appellants have nevertheless “presented a *substantial* question” regarding the constitutionality of Act 12 sufficient to demonstrate a likelihood of success on the merits. *Id.* at 745 (emphasis in original). Justice Wecht further observed that the Majority’s decision on the merits of the

constitutional issues likely compels a ruling in the Department’s favor on remand, rendering remand a “mere formality” to “continue to litigate a *fait accompli*.” *Id.* at 742, 746.

In the wake of this Court’s decision in *Weeks II*, and while the Department’s Preliminary Objections were pending, Appellants filed an Amended Petition that is substantively similar to the original Petition and raises identical constitutional challenges to Act 12’s enactment.² *See* Amended Petition for Review (“Am. Petition”), R. 465a. On May 11, 2020, the Department filed Preliminary Objections in the nature of a demurrer to the Amended Petition for Review on the grounds that Act 12 does not violate Article III, Section 1 or 3 of the Pennsylvania Constitution. R. 595a. Following oral argument on February 8, 2021, the Commonwealth Court

² The only material changes in the Amended Petition are as follows: (1) eliminating a named petitioner (Vanessa Williams); (2) replacing allegations of specific harms incurred by various Petitioners with allegations of general harm incurred as a result of the elimination of General Assistance cash assistance; (3) expanding the descriptions of the amendments to Act 12, each of which was already acknowledged by the Pennsylvania Supreme Court; (4) deleting statements from state representatives, statements that are barred in any event by the enrolled bill doctrine; (5) contending that certain revenue-raising amendments to Act 12 benefit the general public but acknowledging that they benefit low-income individuals as well; (6) alleging for the first time that the title of the final bill is deceptive; and (7) amending the request for relief by eliminating the request for a permanent injunction of only those sections of Act 12 that eliminate General Assistance cash assistance and requesting, more generally, declaratory and injunctive relief “to remedy the unconstitutional enactment of Act 12.” *See generally* Am. Petition, R. 465a.

issued an opinion dated March 24, 2021,³ granting the Department’s Preliminary Objections and dismissing the Amended Petition. *See Weeks v. Dep’t of Human Servs.*, 2021 Pa. Commw. LEXIS 279 (Pa. Cmwlth. Mar. 24, 2021) (“*Weeks III*”). As to the single subject, the Commonwealth Court concurred with this Court, concluding that:

[A]ct 12 pertains to the provision of healthcare assistance to certain low-income persons and the eligibility criteria therefor. This subject is not limitless.... Act 12 grew in length from its original text, but it did not deviate from the unifying subject, *i.e.*, providing services to certain low-income individuals.

Weeks III, at *17-18.

In so holding, the Commonwealth Court agreed with the Department that the Commonwealth Court’s holding in *Christ the King Manor v. Department of Public Welfare*, 911 A.2d 624 (Pa. Cmwlth. 2006), *affirmed per curiam*, 951 A.2d 255 (Pa. 2008), which is discussed further below, is dispositive. *Id.* at *18.

As to the original purpose, the Commonwealth Court again concurred with this Court, concluding that:

Viewed in reasonably broad terms, the original purpose of House Bill 33 was to amend the Human Services Code’s provisions on medical assistance to low income individuals. [E]ach amendment, even the elimination of the General Assistance cash benefit program, pertained to the provision of medical assistance to medically needy

³ The Opinion was authored by Judge Mary Hannah Leavitt. Judges P. Kevin Brobson and Bonnie Leadbetter also served on the panel.

persons.

Id. at *23-24.

Finally, the Commonwealth Court held that the original title of House Bill 33 was not deceptive because it put legislators on notice that the Bill “pertained to the provision of medical services to ‘categorically needy individuals,’” and that the title need not identify precisely what language would be stricken in order to satisfy Article III, Section I. *Id.* at *25.

On April 7, 2021, Appellants filed an Application for Reargument or Reconsideration, contending that the Commonwealth Court misapprehended the nature of the amendments to Act 12 as being related to the funding of the General Assistance medical assistance (“GAMA”) program. R. 680a. In the Department’s response, the Department did not dispute that the revenues generated by Act 12’s amendments, while providing benefits for low-income individuals, do not directly fund the GAMA program, but noted that such clarification does not disturb the Court’s holding that Act 12, both as originally enacted and as amended, relates to the provision of services to certain low-income individuals. *Id.*

On April 22, 2021, the Commonwealth Court granted Appellants’ application for reconsideration, denied a request for reargument, and withdrew its March 24, 2021 opinion (i.e., *Weeks III*). R. 709. On May 13, 2021, the Commonwealth Court issued a revised opinion that was materially identical to its March 24 opinion, except

that it clarified that the amendments were germane to the provision of benefits pertaining to the basic necessities of life to certain low-income individuals (as opposed to the GAMA program). *See Weeks v. Dep't of Human Servs.*, 255 A.3d 660, 669 (Pa. Cmwlth. 2021), R. 710a, 723a (“*Weeks IV*”). Thus, Appellants’ facial challenges to Act 12 were rejected for a fourth time and this appeal followed.⁴

SUMMARY OF ARGUMENT

The Amended Petition for Review presents two causes of action based on two purported violations of the Pennsylvania Constitution. This case is ripe for disposition because no factual issues are in dispute, and these allegations, relating to the legislative enactment of Act 12, lack legal sufficiency to support these causes of action. This Court can affirm the Commonwealth Court’s determinations regarding the constitutionality of the statute based solely on the judicially noticeable

⁴ In addition to Appellants’ Initial Brief, Amici Briefs were filed by the American Civil Liberties Union of Pennsylvania, Gary S. Gilden, Seth Kreimer, Donald Marritz, and Robert F. Williams (collectively, “ACLU Amici” or “ACLU Amicus Brief”) and the Community Justice Project; Pennsylvania Health Law Project; Hunger-Free Pennsylvania; Disabled in Action of PA; Liberty Resources, Inc.; The Homeless Advocacy Project; The Coalition for Low Income Pennsylvanians; The Aids Law Project of Pennsylvania; The Women’s Law Project; Success Against All Odds; The Housing Alliance of Pennsylvania; and Philadelphia Fight in Support of Petitioners’-Appellants’ Appeal (collectively “CJP Amici” or “CJP Amicus Brief”). Except as otherwise noted herein, the Amici Briefs raise arguments that are duplicative of Appellants’ arguments.

adjudicative facts contained within the Act’s legislative history.⁵

Facial attacks on the validity of statutes, such as this one, are disfavored and face an exceptionally heavy burden. The standard to be applied when determining the constitutionality of a statute is extremely deferential, and all doubts must be resolved in favor of finding the legislation constitutional. A court should only invalidate statutes that clearly, palpably, and plainly violate the Constitution.

Appellants have failed to satisfy their burden. First, as decided by this Court in *Weeks II* and by the Commonwealth Court in *Weeks III* and *Weeks IV*, Act 12 does not violate the Pennsylvania Constitution’s “original purpose” clause of Article III, Section 1. Both the original and final versions of the bill contained identical provisions regarding public assistance and specifically regarding the General Assistance-Related Categorically Needy and Medically Needy Only Cash and Medical Assistance Programs. Thus, the initial purpose of H.B. 33, when it was introduced as Printer’s No. 47, was to amend existing provisions of the Human Services Code providing medical assistance for low-income individuals. While the final bill was expanded to include amendments to other sections in the Human

⁵ As explained at footnote 6, *infra*, under the enrolled bill doctrine, the Court must determine the purpose and subject of Act 12 based solely on the legislative history and cannot look to the concerns expressed by individual members of the General Assembly to gauge subjective motivations. Thus, the extrinsic evidence that Appellants reference in the Amended Petition and the Amici reference in their briefs is not admissible to determine the purpose or subject of the legislative actions.

Services Code, those amendments fit squarely within the broad purpose of the original bill of amending existing provisions of the Human Services Code pertaining to the subject of health care for low-income individuals.

Moreover, Appellants cannot credibly argue that the inclusion of provisions terminating General Assistance cash assistance was included in the final bill without notice or was somehow deceptive because those provisions were clearly set forth in the *original* version of the bill (as opposed to being hidden among subsequent amendments), and the title of the original bill clearly reflected its contents.

Second, as decided by this Court in *Weeks II* as well as by the Commonwealth Court in *Weeks III* and *Weeks IV*, Act 12 does not violate the Pennsylvania Constitution's "single subject" rule in Article III, Section 3. At all times, Act 12 has included provisions regarding medical assistance for certain low-income individuals. No additional subjects were added during the legislative process.

In short, Appellants' constitutional challenges fall well short of overcoming the strong presumption that Act 12 is constitutional.

ARGUMENT FOR APPELLEE

A. Legal Standard

Appellants' facial challenges to Act 12 must fail. Appellants attack the constitutionality of Act 12 contending that it violates Article III, Section 1 and Article III, Section 3 of the Pennsylvania Constitution. Such challenges are

disfavored. *See Commonwealth v. Heinbaugh*, 354 A.2d 244, 245 (Pa. 1976) (“facial attacks on the validity of statutes are not generally permitted”). The standard to be applied by a court when a statute’s constitutionality has been attacked has been described by this Court as an “extremely deferential” one. *Pennsylvanians Against Gambling Expansion Fund, Inc. v. Commonwealth*, 877 A.2d 383, 393 (Pa. 2005) (hereinafter “PAGE”). All doubts must be resolved in favor of finding the legislation to be constitutional. *Commonwealth v. Hendrickson*, 274 A.2d 315, 317 (Pa. 1999). Only those statutes that *clearly, palpably, and plainly* violate the Constitution will be declared unconstitutional. *Id.*; *see also PAGE*, 877 A.2d at 393.

Thus, the burden of persuasion is on Appellants, and it is “very heavy.” *PAGE*, 877 A.2d at 393. This burden of persuasion is very heavy when, as here, the movants’ “challenge is not to the substance of the law but to the procedure by which it was enacted.” *DeWeese v. Weaver*, 824 A.2d 364, 369 (Pa. Cmwlth. 2003). Moreover, as a matter of statutory construction, Pennsylvania law presumes that “the General Assembly does not intend to violate the Constitution of the United States or of this Commonwealth.” 1 Pa.C.S. § 1922(3). With these precepts in mind, Appellants’ constitutional challenges to Act 12 fail.

B. The Enactment of Act 12 Does Not Violate Any Constitutional Provision

1. Act 12 Was Enacted in Compliance with Article III, Section 1 of the Pennsylvania Constitution.

In Count II of their Amended Petition for Review, Appellants contend that Act 12 was enacted in violation of the “original purpose” rule of Article III, Section 1 of the Constitution. R. 495a. That provision states:

No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either house, as to change its original purpose.

PA. CONST. Art. III, § 1.

Article III, Section 1 was intended to abolish the practice of attaching riders to bills by barring the addition of provisions unrelated to the original subject matter of the bill. Section 1 was specifically concerned with changes in the contents of the bill, and “its objective was to give legislators considering a bill sufficient notice of all of its provisions so that they might vote on it with circumspection.” *Washington*, 188 A.3d at 1146 (citations omitted). In essence, the legislative process is protected by allowing legislators to decide how closely they should monitor a bill based on its originally stated purpose.

In *PAGE*, the Supreme Court held that a “two-prong” test must be applied to determine whether challenged legislation violates Article III, Section 1:

First, the court will consider the original purpose of the legislation and compare it to the final purpose and

determine whether there has been an alteration or amendment so as to change the original purpose. Second, a court will consider, whether in its final form, the title and contents of the bill are deceptive.

PAGE, 877 A.2d at 408-09.

With respect to the first prong—comparing the original and final purposes of the bill—the Supreme Court has explained that a court must look at the original purpose broadly. *Id.* at 409. This reflects the Court’s recognition that legislation often changes significantly as it works its way through the House and Senate and, in fact, is expected to do so. *Id.* A court should hypothesize a reasonably broad original purpose in the initial bill and determine whether amendments or expansions thereto fit with that broad purpose.⁶ *Id.*

⁶ Any attempt to point to sources other than the official legislative history to Act 12 to determine its purpose or its subject is impermissible pursuant to the enrolled bill doctrine. For example, the Amended Petition and the ACLU Amici quote from or reference various press reports addressing responses or reactions to Act 12. *See, e.g.*, Am. Petition, ¶¶ 51, 52, 56, and 58, R. 486a-489a; *ACLU Amicus Brief*, pp. 10, 11, 29. While the rigid application of the enrolled bill doctrine has been somewhat loosened, this Court has never implied that it would be proper to go beyond the judicially noticeable adjudicative facts found in the legislative history of a bill when deciding a challenge to the constitutionality of the enactment of a statute. *See Consumer Party v. Commonwealth*, 507 A.2d 323 (Pa. 1986); *see also Common Cause/Pennsylvania v. Commonwealth*, 710 A.2d 108 (Pa. Cmwlth. 1998), *aff’d*, 757 A.2d 367 (Pa. 2000). Specifically, the Court has stated:

As [the Act] is now an enrolled bill, we agree that the subjective, individualized motivations or impressions of specific legislators would not be an appropriate basis upon which to rest a determination as to its validity. Although the concerns expressed by the Members are not

Here, the final bill had the same broad purpose as the original bill. Section 2 of the original bill re-enacted and amended Section 403.2 of the Human Services Code and required that the General Assistance cash assistance program be discontinued on July 1, 2019, while continuing the General Assistance medical assistance program. Thus, the purpose of the original bill, broadly stated, was to amend existing provisions of the Human Services Code providing medical assistance to low-income individuals. Meanwhile, the final bill contained identical language relating to these programs, amended only to change the program termination date to August 1, 2019.

The subsequent amendment included in the final bill likewise amended existing provisions of the Human Services Code, each pertaining to the provision of medical care to certain low-income individuals, by: (1) extending and increasing

unfounded, taking such testimony into account would be “going behind” the statute as enacted and inappropriately delving into the mental processes of the legislators who voted on it.

City of Philadelphia v. Commonwealth, 838 A.2d 566, 580 (Pa. 2003).

The legislative history of Act 12 consists of the judicially noticeable facts including the two versions (“Printer’s Numbers”) of H.B. 33, the certified copy of the enrolled bill that became Act 12, and the limited procedural history available from General Assembly official sources, including on the General Assembly’s website. These facts can and should be considered when deciding the Act’s constitutionality. However, it is impermissible to look beyond this legislative history to sources, such as comments from individual legislators, pursuant to the enrolled bill doctrine.

funding for certain nursing facilities that provide medical care to low-income individuals; (2) amending the definitions to the Statewide Quality Care Assessment (otherwise referred to as the statewide hospital assessment), which authorizes an assessment on hospitals to generate funding to pay for health care services to low-income individuals; and (3) renewing and extending the Philadelphia Hospital Assessment through June 30, 2024, which authorizes an assessment on Philadelphia hospitals to generate funding to pay for health care services for low-income individuals. *Compare* H.B. 33, P.N. 47 (Jan. 28, 2019), R. 530a-532a to H.B. 33, P.N. 2182 (June 18, 2019), R. 512a-524a.⁷ Thus, because both the original and final bill relate to the same broad purpose, the first prong of the test is satisfied.

In concluding that Act 12 does not violate Article III, Section 1 in *Weeks II*, this Court acknowledged that there is no singularly proper way to define a bill's broad purpose. While the Department's proposed purpose could serve as a guide to the Court, the burden of hypothesizing a reasonably broad subject rests with the reviewing court, not the litigants. *Weeks II*, 222 A.3d at 730. With this in mind, this Court articulated a very similar but slightly broader purpose for Act 12 than the Department. Specifically, this Court stated that Act 12's provisions each relate to

⁷ The Appellants and ACLU Amici acknowledge that the amendments will provide benefits to low-income individuals, but contend that Act 12 is unconstitutional because the amendments will also benefit the general public. *See* Appellants' Br. pp. 52-57; ACLU Amici Br. p. 24.

the single, unifying subject of providing “benefits pertaining to the basic necessities of life to certain low-income individuals.” *Id.* This Court noted that such benefits may be supplied in the form of cash assistance for certain necessities, while others may be supplied to low-income individuals through medical or nursing-home care, the delivery of which is incentivized by payments to providers, and concluded that:

[S]uch a topic is, in our view, both unifying and sufficiently narrow to fit within the single-subject rubric, as that concept has been spelled out in the reported decisions of Pennsylvania Appellate Courts.

Id. On remand, the Commonwealth Court agreed. *See Weeks III, Weeks IV*, R. 724a.

Further, in determining that Act 12 in its original and final forms did not violate Article III, Section 1, this Court stated that:

[H].B. 33 originally had only three provisions, all relating in some way to Cash Assistance. The additional sections which were included in the final version of the bill all fit within the unifying topic mentioned in the above discussion pertaining to the single-subject rule.

Weeks II, 222 A.3d at 731. Here again, on remand, the Commonwealth Court agreed. *See Weeks III, Weeks IV*, R. 728a.

Regardless of whether this Court adopts the Department’s characterization of Act 12’s purpose (i.e., amending existing provisions of the Human Services Code providing for health care to low-income individuals), or continues to employ its slightly broader characterization (i.e., providing “benefits pertaining to the basic necessities of life to certain low-income individuals”), the conclusion is the same:

both pass muster under Article III, Section 1.

By comparison, the amendments in the final bill are modest and significantly narrower than those in *PAGE*, which began as a bill originally intended for police background inspections in the horse racing industry. *PAGE*, 877 A.2d at 409. The original bill was later “significantly amended and expanded” to include other issues such as the authorization and regulation of slot machine gambling in Pennsylvania. *Id.* Nevertheless, this Court declined to find a violation of Article III, Section 1, and held that the bill, in both its original and final form, related to the same broad purpose—the regulation of gaming—and thus satisfied the first prong of the test. *Id.*; *see also Stilp v. Commonwealth*, 905 A.2d 918, 957 (Pa. 2006) (finding that a bill that originally directed that the Governor be the highest paid official in the Executive Branch but was later “significantly amended and expanded” to address compensation for all three branches of government did not change the original purpose of the bill, broadly determined to be compensation for government officials); *Christ the King Manor v. Dep’t of Pub. Welfare*, 911 A.2d 624 (Pa. Cmwlth. 2006) (finding that amendments to a bill that initially pertained to the inspection of nursing facilities but was later expanded to include, among other things, provisions relating to the funding of nursing facilities, did not change the original purpose of the bill, broadly determined to be the regulation of publicly

funded health care programs), *aff'd*, 951 A.2d 255 (Pa. 2006).⁸

With respect to the second prong, Appellants alleged for the first time in their Amended Petition that the title of the final version of Act 12 is deceptive because it hides the fact that Act 12 eliminates General Assistance cash benefits. To be unconstitutional under Article III, Section 1, a court must find that the title and contents of the bill, in their final form, are deceptive. *See PAGE*, 877 A.2d at 408-09. As noted by the Commonwealth Court in *Weeks III* and *Weeks IV*, it is “much harder” to set aside a statute due to a deceptive title because a title serves only as “a signal” and not a “*précis* of the bill’s contents.” *See Weeks IV*, R. 728a (citing

⁸ Notwithstanding the well-developed case law in Pennsylvania interpreting the original purpose rule, the ACLU Amici incorrectly state that Pennsylvania case law is “sparse” and encourages the Court to review several decades-old cases from Alabama, Arkansas, and Wyoming. Such cases are not only not binding on this Court, but they are also unpersuasive because they generally present facts that are distinguishable from the instant matter insofar as those cases involved original bills containing subjects completely unrelated to the final version of the bill. *See Advisory Opinion No. 331*, 582 So.2d 1115 (Ala. 1991) (where Alabama law required appropriations bills to “embrace nothing but appropriations,” the subject bill was unconstitutional because original purpose of bill provided *appropriations* for government agencies, but the final version *limited the power of department heads* to hire employees and make equipment purchases); *Barklay v. Melton*, 5 S.W.3d 457 (Ark. 1999) (finding bill unconstitutional where original bill provided tax *credit* but final bill “contained no reference to any ‘tax credit’” but rather dealt with a “new purpose” of enacting a tax *surcharge*). ACLU Amici’s reference to *Smith v. Hansen*, 386 P.2d 98 (Wyo. 1963) is misplaced here because the Wyoming Supreme Court invalidated the act in question not due to a violation of the original purpose test (Article 3, Section 20), but on the basis that the title of that act was deceptive and the bill, which dealt with an excise tax on liquors and also required a liquor purchase identification card, violated Wyoming’s single subject rule (Article 3, Section 24).

DeWeese v. Weaver, 824 A.2d 364, 372 (Pa. Cmwlth. 2003)); *see also PAGE*, 877 A.2d at 405 (a title need not “be an index or synopsis of an act’s contents”); *Phantom Fireworks Showrooms, LLC v. Wolf*, 198 A.3d 1205, 1224 (Pa. Cmwlth. 2008) (same).

Apparently unsatisfied with applicable Pennsylvania precedent, Appellants urge this Court to consider a handful of decades-old decisions from Maryland, New Jersey, Tennessee, and Montana that they contend demonstrate that Act 12’s title is deceptive. These cases are not only not binding on this Court, but they are also distinguishable and unpersuasive because each involves titles that are glaringly deceptive in light of the customs and laws of those states. *See Painter v. Mattfeldt*, 87 A. 413, 416-17 (Md. 1913) (finding title “glaringly false, deceptive, and misleading” where bill imposed a “great and indefinite” liability on taxpayers to improve roads, but title indicated that proceeds for road improvements would be realized from the issuance of bonds only); *Warren, Coutieri v. City of New Brunswick*, 44 N.J.L. 58, 59 (N.J. 1882) (finding bill violated the New Jersey Constitution where title was an “utter misstatement” because it purports to fix salaries for all “city officers in cities in this state” when in fact the bill exclusively regulated salaries of officers in the City of Brunswick); *Warren v. Walker*, 71 S.W.2d 1057, 1059 (Tenn. 1934) (where Tennessee legislature uniformly designated specific counties impacted by certain legislation, title stating bill will provide for a

County Board of Education “in certain counties” was deceptive because it failed to indicate that bill affected only one county); *City of Helena v. Omholt*, 468 P.2d 764, 767-69 (Mont. 1970) (finding bill violated the Montana Constitution where bill *prohibited and restricted* disbursements to a policy reserve fund, but its deceptive title reflected only *disbursements* of funds).

The subject, scope, and breadth of the bills at issue in those cases are clearly different from Act 12, whose provisions relate to the provision of health care for certain low-income individuals. In any event, Appellants’ argument fails. The title of Act 12 is sufficiently detailed and covers all major provisions thereof.⁹ No reasonable person who has read the title could be deceived by what is contained in the content of the bill itself. The Commonwealth Court properly concluded that the

⁹ The title of Act 12 as enacted reads, in its entirety:

Amending the Act of June 13, 1967 (P.L. 31, No. 21), entitled “An Act to Consolidate, Editorially Revise, and Codify the Public Welfare Laws of the Commonwealth,” in public assistance, further providing for definitions, for general assistance-related categorically needy and medically needy only medical assistance programs, for the medically needy and determination of eligibility and for medical assistance payments for institutional care; in hospital assessments, further providing for definitions, for authorization, for administration, for no hold harmless, for tax exemption and for time period; and, in statewide quality care assessment, further providing for definitions.

H.B. 33, P.N. 2182, page 1, lines 8 to 19.

original title of the bill put legislators on notice that Act 12 “pertained to the provision of medical services to ‘categorically needy individuals’” and that it was not necessary to identify precisely what language would be deleted to satisfy Article III, Section 1. *Weeks IV*, R. 728a.

Moreover, the rationale underpinning Article III, Section 1—to provide notice to legislators so that they can act “with circumspection”—has been easily satisfied. Appellants cannot credibly argue that the provisions that eliminate General Assistance cash assistance were not adequately noticed or were otherwise deceptively hidden in the final bill, as in *Washington*. Indeed, the provisions regarding General Assistance cash assistance were part of the *original* bill. Further, the original title of H.B. 33¹⁰ sufficiently put legislators on notice that the bill pertains to the General Assistance program and the provision of medical services to categorically needy and medically needy individuals. The allegations in the

¹⁰ As quoted above, the original title read as follows:

Amending the act of June 13, 1967 (P.L. 31, No. 21), entitled “An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth,” in public assistance, further providing for definitions, for general assistance-related categorically needy and medically needy only medical assistance programs and for the medically needy and determination of eligibility.

H.B. 33, P.N. 47, page 1, lines 1 to 7.

Amended Petition clearly demonstrate that the contents of the both the original and final versions of the bill were well-advertised and robustly debated,¹¹ which demonstrates that there was no intent to deceive, or deceit-in-fact, with respect to the contents of H.B. 33. Further, there are no specific allegations in the Amended Petition that any lawmaker (or anyone else) did not have reasonable notice of the contents of Act 12, either in its original or final form.

This Court, as well as the Commonwealth Court, distinguished *Washington*, noting that “this is not a case in which the original bill was ‘gutted’ and its ‘hollow shell’ was filled with distinct provisions.” *Weeks II*, 222 A.3d at 731; *see also Weeks IV*, R. 727a-728a. In that case, Act 80 was introduced on April 1, 2011 as H.B. 1261, P.N. 1385, and set eligibility criteria for public assistance. The bill was subsequently amended twice. The first amendment struck all language from the original bill and replaced it with four provisions, which: (1) included two grammatical alterations to eligibility requirements for assistance; (2) amended a definition in the “Adoption Opportunities Act”; (3) amended the “Kinship Care Program”; and (4) created a new “Subsidized Permanent Legal Custodianship Program.” *See* H.B. 1261, P.N. 3646 (June 5, 2012). Then, the bill was amended for a second time to add six new provisions, including: (1) a mandate that counties prepare plans and reports

¹¹ *See* Am. Petition, ¶¶ 40-57; *see also* House Co-Sponsorship Memoranda, dated December 21, 2018 (stating that H.B. 33 will “re-enact the elimination of the general assistance cash benefit program”). R. 529a.

regarding the allocation of certain funds disbursed under various Department programs; (2) the creation of a new Pilot Block Grant Program; (3) **the termination of the General Assistance cash assistance program**; (4) new eligibility and work requirements on public assistance recipients; (5) new disqualification penalties for individuals who do not comply with work requirements; and (6) extension of the Nursing Facility Assessment Program. *See* H.B. 1261, P.N. 3884 (June 29, 2019).

The same day these sweeping amendments were added, the bill was passed by the Senate. Thus, in Act 80, the provision eliminating General Assistance cash assistance was subsequently added as one of a multitude of amendments. By contrast, Act 12’s “original provisions [including the elimination of General Assistance cash assistance] remained in the bill and were supplemented by other sections falling within the rubric of a single unifying topic.” *Weeks II*, 222 A.3d at 731.

In short, unlike Act 80, where the provisions eliminating General Assistance cash assistance were buried among a multitude of other subsequent amendments, the language used here provided notice to legislators—from day one—that this bill involved General Assistance cash assistance. Accordingly, both the spirit and the letter of Article III, Section 1 have been satisfied.

2. Act 12 Was Enacted in Compliance with Article III, Section 3 of the Pennsylvania Constitution

In Count I of the Amended Petition for Review, Appellants challenge Act 12

on the theory that Article III, Section 3 of the Pennsylvania Constitution was violated because “Act 12 ... includes disparate subjects ... that do not share a unifying scheme.” *See* Am. Petition, ¶ 76, R. 494a. Appellants’ cramped reading of the Constitution and myopic perception of Act 12 are unsupported by law.

The single subject requirement of Article III, Section 3 provides as follows:

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.

PA. CONST. Art. III, § 3.

The history of the Pennsylvania Constitution is well known to the Court. In the late-1800s, the public’s perception was that large corporations had undue influence over the General Assembly. *See Washington*, 188 A.3d at 1145. As a result, legislation that exclusively served the narrow interests of high-powered corporations and individuals to the detriment of the public good was routinely enacted. *See id.* Specific examples of abusive legislative practices included:

[T]he passage of local and special laws to confer special benefits or legal rights to particular individuals, corporations, or groups, benefits which were not afforded the general public; deceptive titling of legislation to mask its true purpose; the mixing together of various disparate subjects into one omnibus piece of legislation; and holding quick votes on legislation which had been changed at the last minute such that its provision had not fully been considered by members of both houses.

Id. (quoting *Nextel Commc’ns of Mid-Atl., Inc. v. Dep’t of Rev.*, 171 A.3d 682, 694

n.14 (Pa. 2017)). In view of these abuses, the public called for a constitutional convention, and in 1873, Article III of the Pennsylvania Constitution was adopted. Each of Article III's provisions was tailored to address objectionable techniques that the public felt had corrupted the lawmaking process. *Id.* at 1146.

The Pennsylvania Supreme Court has recognized that the purpose of these provisions “was to furnish essential constitutional safeguards to ensure our Commonwealth’s government is open, deliberative, and accountable to the people it serves.” *Id.* at 1147; John L. Gedid, “*History of the Pennsylvania Constitution*” as appearing in Ken Gormley, ed., *The Pennsylvania Constitution: A Treatise on Rights and Liberties*, 68 (2004) (“Requiring a single subject and statement of that subject in the title of a bill, as well as controls on altering bills to change their nature during the passage process without revealing the change, prevented ‘stealth’ legislation in which some legislators might be misled about the contents of a bill, and also enabled the public to know and follow what the legislature was doing.”).

Thus, Article III, Section 3 was designed to prevent the insertion of distinct and independent subjects into a single bill with the intent to deliberately hide the real purpose of the bill. *PAGE*, 877 A.2d at 395. It was further intended to prevent “logrolling,” which is described as “embracing in one bill several distinct matters, none of which could singly obtain the assent of the legislature and procuring its passage by combining the minorities who favored the individual matter to form a

majority that would adopt them all.” *City of Philadelphia*, 838 A.2d at 586.

In short, the single subject requirement is intended to: (1) prevent legislation that contains distinct and independent legislative subjects; (2) prevent the purposeful disguising of the bill’s real purpose; (3) prohibit the attachment of riders that would not otherwise be enacted; and (4) allow a bill to receive considered review. Finally, in *Commonwealth v. Neiman*, the Pennsylvania Supreme Court noted that Article III, Section 3 has additional benefits in furthering the efficiency of the legislative process. *Commonwealth v. Neiman*, 84 A.3d 603, 612 (Pa. 2013).

The single subject requirement, however, is not intended to be strictly construed so as to constrain normal legislative function. Indeed, Pennsylvania courts recognize that bills are frequently subject to amendments as they proceed through the legislative process and not every amendment and addition of new material is violative of the Constitution. *See PAGE*, 877 A.2d at 395. “Neither the volume of the additions to the original bill nor the expansions of the subject matter’s parameters will give rise to a violation of Article III, Section 1, provided the original and final versions fall under the same broad, general subject matter.” *Phantom Fireworks*, 198 A.3d at 1223 (emphasis added). Thus, the critical question is whether any amendments are germane to the bill’s subject as reflected in its title. *See PAGE*, 877 A.2d at 396. In other words, a bill must relate generally to a “single unifying subject.” *Id.*

Applying these principles here, it is clear that Act 12 does not run afoul of the single subject requirement. Appellants’ suggestion that the Constitution requires that the single subject of the original bill must be limited myopically to discontinuing General Assistance cash assistance is simply incorrect. *See* H.B. 33, P.N. 47, Section 2(a). In fact, the original bill also included other provisions covering closely related topics. For example, the original bill added a definition of “General assistance-related categorically needy medical assistance” specifying individuals who are eligible to receive medical assistance under Section 403.2(b) of the Human Services Code. H.B. 33, P.N. 47, page 2, lines 2 to 4.¹² In addition, the original bill reenacted and continued the “general assistance-related categorically needy medical assistance program,” as now defined in the new definition. *See* H.B. 33, P.N. 47, page 2, lines 2 to 4 and page 2 lines 14 to 19.

Thus, properly viewed, the original bill pertained to whether health care assistance was to be provided by the Commonwealth to certain low-income individuals and to which low-income individuals would receive that assistance. *See Weeks II*, 222 A.3d at 731; *Weeks IV*, R. 723a. The single subject of the original bill was not—and under the Pennsylvania Constitution did not need to be—limited narrowly to discontinuing General Assistance cash assistance.

¹² The language adding this new definition was included unchanged in the final version of the bill enacted into law. *See* H.B. 33, P.N. 2182, page 3, lines 25 to 27.

The final bill contained the language included in the original version (P.N. 47) along with several amendments, each of which amended existing provisions of the Human Services Code which, as explained above, also pertain to the provision of health care for certain low-income individuals. Simply put, the later amendments are clearly consistent with the original purpose of the bill and concern the same subject matter.

Two cases are particularly instructive. First, in *Christ the King Manor*, 911 A.2d at 624, a case analytically indistinguishable from this case, the Commonwealth Court concluded that a bill regulating multiple health and human services programs did not violate the single subject requirement. In that case, the bill in question was originally 23 lines long and pertained to nursing home inspections. The final bill, as passed (Act 42 of 2005), was expanded to approximately 1,000 lines and over 34 pages of text. It included not only the inspection provisions contained in the original bill, but also amended 24 other provisions in the Public Welfare Code including, *inter alia*, provisions regarding payment rates and the ratemaking process, and provisions relating to Pennsylvania's medical assistance (MA or Medicaid) program. The Commonwealth Court concluded that the final bill did not violate Article III, Section 3 because there was a single unifying subject – the regulation of publicly funded health care services. *Christ the King Manor*, 911 A.2d at 635. On appeal, this Court affirmed the Commonwealth Court's decision. *Christ the King*

Manor, 951 A.2d at 255, *per curiam*. In *Weeks III* and *Weeks IV*, the Commonwealth Court found this case to be dispositive.

Second, in *PAGE*, the bill in question, as originally introduced, constituted a single page regarding the background checks and finger printing in the horse racing industry. *PAGE*, 877 A.2d at 391. By contrast, the final bill was expanded to 145 pages and, in addition to its original purpose, also (1) created the Gaming Control Board; (2) established policies and procedures for gaming licenses for the installation and operation of slot machines; (3) provided assistance to the Pennsylvania horse racing industry; and (4) provided for enforcement of gaming law. *Id.* at 392. This Court concluded that the final bill, although significantly expanded upon from the original bill, did not violate Article III, Section 3 because there was a single unifying subject – the regulation of gaming. *Id.* at 396.

PAGE and *Christ the King Manor* are not outliers. For example, in *Commonwealth ex rel. Bell v. Powell*, 94 A. 746 (Pa. 1915), the Pennsylvania Supreme Court found that an act that regulated motor vehicle licensing and registration and also regulated associated fees and created a State Highway Fund did not offend the single subject requirement. Noting that “[a] law may relate to but one subject, ... which it may regulate in various ways, and thereby accomplish several objects,” the Court concluded that the regulation of the operation of motor vehicles and the regulation of associated fees all served the central purpose – the regulation

of motor vehicles. *Id.* at 748-49.

Additionally, in *Stilp*, the Pennsylvania Supreme Court found that a bill that originally related to compensation for the Governor but was “significantly expanded and amended” to also include compensation for the legislative and judicial branches of government did not violate Article III, Section 3 because there was a unifying subject – compensation for government officials. *Stilp*, 905 A.2d at 955-56. Likewise, in *Spahn v. Zoning Bd. of Adjustment*, 977 A.2d 1132 (Pa. 2009), this Court held that a bill with two seemingly unrelated provisions – one regarding penalties for city code violations and another regarding standing to appeal zoning hearing board decisions – satisfied the single subject requirement on the basis that both sections applied to the powers and limitations of Philadelphia home-rule governance.

More recently, the Commonwealth Court found that although an act included provisions relating to taxation, fireworks, and tobacco settlement revenue, these provisions fell within the single unifying subject of revenue generation. *See Phantom Fireworks*, 198 A.3d at 1224. Since there was a single, unifying subject, the Court “[could not] conclude that [the Act] clearly, palpably, and plainly violates the single subject requirement set forth in Article III, Section 3 of the Pennsylvania Constitution.” *Id.*; *see also Ritter v. Commonwealth*, 548 A.2d 1317 (Pa. Cmwlth. 1988), *aff’d*, 557 A.2d 1064 (Pa. 1989) (bill originally concerned underaged drinking

and was amended to include such topics as scattering rubbish and regulating abortions); *Parker v. Dep't of Labor and Indus.*, 540 A.2d 313 (Pa. Cmwlth. 1988) (bill started out to create the Agricultural Product Commission and ended up providing benefits for seasonal workers); *Fumo v. Pa. Pub. Util. Comm'n*, 719 A.2d 10 (Pa. Cmwlth. 1998) (bill initially covered the operational life of taxicabs and evolved into electrical deregulation); *but see City of Philadelphia*, 838 A.2d at 566 (finding multi-subject legislation generally regarding “municipalities” to “stretch the concept of a single topic beyond the breaking point”); *Marcavage v. Rendell*, 888 A.2d 940 (Pa. Cmwlth. 2005) (bill that originally addressed livestock destruction but was amended by deleting all agricultural-related references and instead addressing ethnic intimidation violated Article III, Section 3).

Here again, this Court’s opinion in *Weeks II* and the Commonwealth Court’s opinions in *Weeks III* and *Weeks IV* thoroughly analyzed the landscape of Pennsylvania’s single subject jurisprudence. Based on that comprehensive analysis, this Court found that Act 12 is “qualitatively different” from the legislation at issue in those decisions invalidating legislation on single subject grounds (i.e., *City of Philadelphia*; *Pa. State Ass’n of Jury Comm’rs v. Commonwealth*, 64 A.3d 611 (Pa. 2013); *Leach v. Commonwealth*, 141 A.3d 426 (Pa. 2016); *Sernovitz v. Dershaw*, 57 A.3d 1254 (Pa. Super. 2012); *DeWeese*, 824 A.2d at 364), and is factually more akin to those cases in which the subject legislation was upheld (i.e., *PAGE*, *Spahn*).

Weeks II, 222 A.3d at 730. This Court further concluded that Act 12 as a whole relates to the provision of benefits pertaining to the basic necessities of life to certain low-income individuals, and that:

[S]uch a topic is, in our view, both unifying and sufficiently narrow to fit within the single-subject rubric, as that concept has been spelled out in the reported decisions of Pennsylvania Appellate Courts.

Id. On remand, the Commonwealth Court agreed. *See Weeks III* and *Weeks IV*, R. 724a.

Appellants reiterate arguments previously made before this Court and the Commonwealth Court that the provisions of Act 12 are unconstitutionally disparate because they contain both revenue generating provisions and non-revenue generating provisions. *See* Appellants' Br. pp. 50-57. This argument was not accepted by this Court in *Weeks II*, and was expressly rejected by the Commonwealth Court in *Weeks III* and *Weeks IV*, finding that "there is no principle, as Petitioners presume, that all revenue raising statutes must be enacted in a bill that relates exclusively to revenue. This is an overbroad understanding of the [Court's observation in] *Washington*." *See Weeks III* and *Weeks IV*, R. 722a.

In fact, both this Court and other appellate courts in this Commonwealth have repeatedly upheld legislation that includes both revenue and non-revenue generating provisions that regulate other aspects of a related industry. *See, e.g., Commonwealth ex rel. Bell*, 94 A. at 746 (upholding act that addressed funding under the State

Highway Fund and also regulated other aspects of motor vehicles); *Common Cause*, 710 A.2d at 108, *aff'd per curiam*, 757 A.2d 367 (Pa. 2000) (upholding act that addressed fuel taxes and highway maintenance fees and also regulated trucking and mass transit); *Phantom Fireworks*, 198 A.3d at 1205 (upholding act that addressed taxes on fireworks and also amended safety standards associated with fireworks).

Further, while Appellants concede that the amendments to Act 12 would benefit low-income individuals, Appellants contend that these amendments will provide other benefits to the general public thus rendering Act 12 unconstitutional. *See* Appellants' Br. pp. 52-57.¹³ For example, public health programs that could be funded in Philadelphia that will benefit low-income individuals and also the general public include, *inter alia*, education campaigns to reduce tobacco use and obesity; monitoring air pollution; enforcing lead-free rental requirements; promoting immunization programs; water quality programs; childhood literacy programs; and the provision of health care services in neighborhood Health Centers that serve Medicaid, Medicare, and privately and uninsured individuals. *See* Am. Petition ¶¶ 48.f, R. 484a-485a. Appellants previously advanced this argument, but neither this Court nor the Commonwealth Court found Act 12 to be unconstitutional on this

¹³ ACLU Amici also acknowledge that the amendments will provide benefits to low-income individuals. *See* ACLU Amici Br. p. 24 (“[I]t is possible to say that some elements of each portion of Act 12 had *some* form of benefit for *some* ‘low income individuals’ ...”) (emphasis in original).

basis. In any event, there is no apparent dispute that Act 12's amendments target the provision of benefits to low-income individuals, and the ancillary benefits to the public-at-large do not render Act 12 unconstitutional.

Moreover, the passage of Act 12 did not amount to unconstitutional "logrolling" as Appellants contend. *See* Appellants' Br. pp. 57-58. The mere fact that a lawmaker happens to agree with some, but not all, provisions in a bill does not equate to logrolling or render a bill unconstitutional. As explained in *City of Philadelphia*, logrolling is the combining of several *distinct* matters, which would not pass in their own right, to ensure passage. *City of Philadelphia*, 838 A.2d at 586. Where, however, all the matters are related to an overarching and unifying topic, as is the case here, logrolling does not occur even if a lawmaker does not unanimously agree with all provisions in a bill.

Finally, any attempt by Appellants to analogize the instant case to *Washington* misses the mark. Indeed, the present case is wholly distinguishable from *Washington*, where the Court noted in a footnote that Act 80 involves a "wide panoply of human service programs established by a multiplicity of statutes." *Washington*, 188 A.3d at 1154 n.36. Unlike Act 80, each provision in Act 12 addresses a single, unifying subject and purpose; namely, to amend existing provisions in the Human Services Code, each of which pertain to providing health care to certain low-income individuals. These topics cover narrow grounds

(certainly narrower than the legislation upheld in *PAGE*) and are reasonably and logically related to one another.

CONCLUSION

For the reasons stated above, Appellee respectfully requests that this Court affirm the decision of the Commonwealth Court granting the Department's Preliminary Objections and dismissing Appellants' Amended Petition.

Respectfully submitted,

BLANK ROME LLP

/s/ Christopher A. Lewis _____

Christopher A. Lewis

Lawrence J. Beaser

Frank L. Tamulonis

Heidi G. Crikelair

Megann E. Gibson

One Logan Circle

130 N. 18th Street

Philadelphia, Pennsylvania 19103

Tel: (215) 569-5000

Fax: (215) 832-5793

lewis@blankrome.com.

Dated: December 13, 2021

*Attorneys for the Department of
Human Services of the
Commonwealth of Pennsylvania*

CERTIFICATION OF COMPLIANCE

The undersigned hereby certifies that this Brief of Appellee complies with the requirements of Pa.R.A.P. 2135(a)(1) & 2135(d) in that it contains less than 14,000 words.

Dated: December 13, 2021

/s/ Christopher A. Lewis
CHRISTOPHER A. LEWIS

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the public *Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellant and Trial Courts* that require filing of confidential information and documents different than non-confidential information and documents.

Dated: December 13, 2021

/s/ Christopher A. Lewis
CHRISTOPHER A. LEWIS

CERTIFICATE OF SERVICE

I, Frank L. Tamulonis, hereby certify that on December 13, 2021, I caused a true and correct copy of the foregoing Initial Brief of Appellee to be served pursuant to *In re Electronic Filing System in the Appellate Courts*, No. 418, Order (Pa. Jan. 6, 2014):

Maria Katherine Pulzetti
Richard P. Weishaupt
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102
Counsel for Appellants

Amy E. Hirsch
Louise Ellen Hayes
Maripat Pileggi
Community Legal Services of Philadelphia
Community Legal Services
1410 W. Erie Avenue
Philadelphia, PA 19140-4179
Counsel for Appellants

Robin Resnick
Disability Rights Pennsylvania
Disability Rights PA
1315 Walnut Street, Suite 500
Philadelphia, PA 19107-4798
Counsel for Appellants

D. Alicia Hickock
Elizabeth M. Casey
Faegre Drinker Biddle & Reath LLP
One Logan Square, Suite 2000
Philadelphia, PA 19103
Counsel for Amici Curiae, American Civil Liberties Union of Pennsylvania et al.

Nicholas J. Nelson
Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
90 S. Seventh Street
Minneapolis, Minnesota 55402
*Counsel for Amici Curiae, American Civil Liberties Union of Pennsylvania
et al.*

Andrew Christy
American Civil Liberties Union of Pennsylvania
P.O. Box 60173
Philadelphia, PA 19012
*Counsel for Amici Curiae, American Civil Liberties Union of Pennsylvania
et al.*

Peter Zurflieh
Community Justice Project
118 Locust Street
Harrisburg, PA 17101
Counsel for Amici Curiae, Community Justice Project, et al.

Kyle Fisher
Pennsylvania Health Law Project
123 Chestnut Street, Ste. 400
Philadelphia, PA 19106
Counsel for Amici Curiae, Community Justice Project, et al.

/s/ Frank L. Tamulonis _____
Frank L. Tamulonis
Counsel for Appellee