

A petition to the Hawaii State Senate under Rule 67
and to the Hawaii State House under Rule 44

From: Americans for Democratic Action/Hawaii; Bianca Isaki; Choon James, Country Talk Story; Common Cause Hawaii; Conservation Council for Hawaii; Hawaii Coalition for Legislative Reform; Hawaii's Thousand Friends; Kokua Council; League of Women Voters of Hawaii; Michelle Matson; Nancy Aleck

It is the clear intent of the Hawaii State Constitution, and it should be legislative policy, that the public be given reasonable notice and the opportunity to submit testimony in both one committee of the State House and in one committee of the State Senate concerning any proposed statutory amendment and concerning any proposed appropriation of public funds. (Article 3, Section 14 of the State Constitution)

As provided in Senate Rule 67 and House Rule 44, we are submitting this petition to ask the Senate and the House for two things:

- 1) DO NOT pass the “gut-and-replace” bills and “Frankenstein” bills generated in the 2013 legislative session, due to the way the bills have moved forward.
- 2) BAN the “gut-and-replace” and “Frankenstein” practices from being used in the future.

We have identified a number of bills with non-germane material added. We are calling on the current Legislature to REJECT all bills which were substantively amended in a manner which evades the Constitutional public right to testify on proposed legislation.

“Gut and replace” is a legislative practice rightfully scorned by the public. Due to maneuvers by various legislative committees resulting in major changes in bills without public notice, we are petitioning the legislative bodies to defeat the following bills that were subject to “gut and replace” procedures:

- HB399 HD1 SD2
- HB473 HD1 SD2
- HB747 HD1 SD1
- HB785 HD1 SD1
- SB15 SD2 HD2
- SB757 SD2 HD2
- SB948 SD1 HD1

Another toxic practice concerns resurrecting bills from the dead, and adding language from dead bills into existing, un-related bills. This practice has brought forth at least the eleven “Frankenstein” bills in the 2013 session and we the public are unsettled and provoked by this practice. We are petitioning that the following “Frankenstein” bills, that had non-germane material added to them after the opportunity for review in a publicly-noticed hearing, be defeated or be amended to remove the non-germane material prior to a final vote:

- HB70 HD2 SD2
- HB252 HD2 SD2
- HB487 HD2 SD2
- HB529 HD1 SD2
- HB546 HD2 SD2
- HB1405 HD2 SD2
- SB66 SD1 HD2
- SB515 SD2 HD1
- SB642 HD2
- SB753 SD2 HD1
- SB1214 SD1 HD2

We are affronted that some legislators think that ambiguous bill titles and last-minute amendments are an appropriate way to evade basic, procedural safeguards established by our State Constitution. The standard for determining whether a bill addresses only one subject is found in *Schwab v. Ariyoshi* < <http://ow.ly/kb4LP> >: "The term "subject," as used in the constitution is to be given a broad and extended meaning, so as to allow the legislature full scope to include in one act all matters having a logical or natural connection. To constitute duplicity of subject, 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. All that is necessary is that act should embrace someone 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." (*Schwab v. Ariyoshi*, 564 P. 2d 135 - Haw: Supreme Court 1977)

HB252, “Relating to Government,” illustrates our concerns. Here un-related language from a dead bill was added to the original bill. The broad title of the bill, “Relating to Government” was justified as a reason to use this “Frankenstein” practice. But under this justification the legislature could label all bills as "Relating to Government,” and continue to play shell games with the public. Whether a bill addresses a single subject is not determined solely by the title of the bill. It is clear that the last minute additions to HB252 are not sufficiently related to the original subject of the bill to pass the *Schwab v. Ariyoshi* test. See < <http://ow.ly/kaJi3> > again, and < <http://ow.ly/kb4LP> >.

We condemn these tactics and strongly oppose these misleading practices which keep the public in the dark. Again, we ask the Senate and the House for two things:

1) DO NOT pass the “gut-and-replace” bills and “Frankenstein” bills generated in the 2013 legislative session, due to the way the bills have moved forward.

2) BAN the “gut-and-replace” and “Frankenstein” practices from occurring again in the future.

Thank you for taking appropriate action on these two sets of bills. We look forward to you addressing and correcting these legislative practices to address our concerns.

Sincerely,

1. Americans for Democratic Action/Hawaii
2. Bianca Isaki
3. Choon James, Country Talk Story
4. Common Cause Hawaii
5. Conservation Council for Hawaii
6. Hawaii Coalition for Legislative Reform
7. Hawaii's Thousand Friends
8. Kokua Council
9. League of Women Voters of Hawaii
10. Michelle Matson
11. Nancy Aleck