

Column

# Neal Milner: How Hawaii Lawmakers Magically Make Bills Disappear

When it comes down to crunch time, the Legislature works in more darkness than a coal miner with a busted headlamp.

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By Neal Milner  / About 13 hours ago

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Thanks to state Rep. John Mizuno's strange and unusual candor, we now have a much better understanding of how the Legislature does its magic.

And magic it is. In fact Civil Beat referred to Mizuno's particular conjuring as "[sleight of hand.](#)" which of course is a staple in any magician's bag of tricks.

That kind of mystery work is okay for kids' birthday parties and Vegas lounge acts. But it's terrible for democracy.



Vice Speaker John Mizuno admitted that the House wanted to kill a pesticides regulation bill in a way that “would not expose any members” — to constituents, not to farm chemicals.

So this is what Mizuno, the House vice speaker, said defending a legislative maneuver so arcane that even a trained professional (me) had trouble figuring out what exactly happened.

The Legislature killed a bill that would have increased the regulation of pesticides. They did this in a top-secret, no-recorded-vote way that in Mizuno’s words was a “protective mechanism to not expose any members.”

Protection from whom? Their constituents of course — those pesky, passionate, opinionated citizens who have such disastrously strong opinions. On both sides of the issue yet.

“No matter which side you are on,” Mizuno lamented, “you are going to be attacked.”

Sergeant of Arms Katie, bar the door!

Fear of flack — that sure seems a lot like those Congress members who recently chose to do just about anything else rather than attend town

meetings made up of angry folks who had, you know, a few pointed questions about health care and such.

## **“We’re always secretive. It’s part of being a legislator.” — House Speaker Joe Souki**

Such escape artists, just like Houdini only without those annoying chains.

This comparison of constituent phobia is apt as far as it goes, but there is an even bigger, more serious problem here. For that let’s go back to capturing the magic.

John Dunninger, a TV star in the ’50s and ’60s, was not only [a telepathy whiz](#) who used ESP to read peoples’ minds. He was also a debunker of phony sleight of hand psychics and mediums.

Dunninger who began his career in magic specializing in sleight of hand card tricks, said that darkness is the trickster’s most important tool: “Most so-called spiritualist tricks are accomplished in the dark.”

Darkness makes it harder to follow what is really going on as opposed to what the trickster wants you to think is happening. That’s why magicians do their best work in the dark.

When the chips are down and the final versions of bills get voted on, the Hawaii Legislature works in more darkness than a coal miner with a busted headlamp.

Or as the Democrats’ legislative boss man, Speaker Joe Souki, recently told a Civil Beat reporter, “We’re always secretive. It’s part of being a legislator.”

Think of the present stage of legislative twilight time as a magician's top hat or black box.

An audience member gives a \$20 bill to the magician, who puts it in the dark place, and ... oh, oh, a rabbit comes out. Or a dove, a bouquet of flowers, colored scarves, panties. Or maybe nothing at all. Secret compartments, mysterious conversions.

That's pretty much what happens to impending bills when they enter the Legislature's own black box at mid-session, which by the way they just did. Poof, [House Bill 790](#), or whichever, disappears.

In theory there are rules preventing a bill from turning into colored scarves or lace panties — the term of art is “gut and replace” — but in practice, not so much.

And like magicians, legislators have their own esoteric measures, those incantations that conceal what's really going on.

These legislative abracadabras and waving of the wands are known in the biz as internal rules and procedures.

You beginning to see the problem? Let's make it clear by considering the difference between magicians and legislators.

Concealment is a proper part of the magician's craft. The audience may want to know how that guy did the trick but accepts and even enjoys the fact that it will not find out. Let the mystery be.

We have different expectations for the legislative process, not concealment but transparency and accountability.

The cliché about not wanting to see how sausages are made is just that — a cliché that protects the legislative sausage-makers from us caring citizens with loud voices and speedy Twitter fingers.

As lame as Mizuno's account was, he deserves credit because he revealed rather than concealed. His explanation opened our eyes about the process.

I understand that our Legislature, like any working group, needs its own internal norms and rules to be effective. I also understand the need for work-arounds and isolation, especially in heated, high-pressure situations.

But enough already. This kind of understanding bleeds into an acceptance that goes too far.

The familiar becomes the normal, which becomes, by default, the acceptable way of doing things.

If we continue to allow that to happen, we are succumbing to the familiar, to the spell of that old black magic that we know so well.

Democracy does not exist to make a legislator's job easier.

The difference between legislators and magicians is that legislators are supposed to let us in on the secrets. Maybe not all of them, but secrecy and slight of hand should be the exceptions.

We have to avoid what they were singing about in the '40s in the song, "[That Old Black Magic](#)":

*That old black magic has me in its spell  
That old black magic that you weave so well  
Those icy fingers up and down my spine  
The same old witchcraft when your eyes meet mine*

*The same old tingle that I feel inside  
And then that elevator starts its ride  
And down and down I go, round and round I go  
Like a leaf that's caught in the tide*

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## About the Author



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Neal Milner is a former political science professor at the University of Hawaii where he taught for 40 years. He is a political analyst for KITV and is a regular contributor to Hawaii Public Radio's ["The Conversation."](#) His most recent book is [The Gift of Underpants](#).

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