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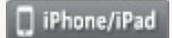
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## Bills Gone Wild: Frankenstein And Gut-N-Replace At The Capitol

By [Chad Blair](#)[CONNECT](#)

04/25/2013

Good government groups in Hawaii have bemoaned for years the "gut and replace" practice of lawmakers, where the contents of bills are quietly replaced with language from other legislation.

Legislators say gut and replace allows for further discussion on important issues. But critics say it's an unfortunate procedure that revives bills that were often killed elsewhere and limits the public's ability to testify on the legislation.<sup>1</sup>

This session, another legislative procedure has become common, and it's so new that it doesn't yet have a name. It involves adding the unrelated or non-germane contents of bills that have died in one legislative body into a bill that is still alive in the other chamber.

Organizations like Common Cause Hawaii, the League of Women Voters, Hawaii's Thousand Friends and Americans for Democratic Action have dubbed these bills "Frankenstein" constructions.

This week, those four groups and scores of supporters submitted a petition to the state House and Senate demanding that the Legislature reject seven gut-and-replace bills and 11 Frankenstein bills, and to ban any future use of either legislative practice.

"We condemn these tactics and strongly oppose these misleading practices which keep the public in the dark,"

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### About the Author

**Chad Blair**

Reporter

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the petition states.

1. An earlier version of this article said that the gut and replace and Frankenstein bills deprive the public of a constitutional right to testify on the legislation. While opponents of the practices argue that they are in violation, others say the practice does not violate the Hawaii Constitution. \_

## 18 Problem Bills

The petition, which was filed with the House and Senate Wednesday, is reproduced below. So are the 18 problem bills.

One of the petitioners, Melanie Pendleton of Honolulu, wrote on the petition, "This practice makes the Senate and the House look sleazy to the people that voted or supported a certain bill and creates another area of distance between the representatives and the voters."

"This is wrong and a terrible disservice to the public who have a right to know about and comment on bills," wrote Thomas and Julie Pasquale of Naalehu. "This needs to stop!"

House leadership did not respond to [Civil Beat's](#) inquiry. But Senate President [Donna Mercado Kim](#) released this statement: "The Senate Leadership received the petition and will be discussing how we can further refine our rules and policies over the concerns raised."



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On the Senate floor Wednesday, Kim told her colleagues that she would ask a Senate subcommittee on leadership to [review the petition](#) and to consider amendments to Senate rules.

Observing from the Senate gallery were Carmille Lim, Janet Mason, Donna Wong and Barbara Polk representing, respectively, Common Cause, LWV, Thousand Friends and ADA.

Earlier, Lim told Civil Beat that the gut-and-replace and Frankenstein practices demonstrate "an abuse of power."

"It's a way to circumvent public participation and

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input," she said. "It bypasses the safeguards we have in place so that legislative decisions are transparent."

Whether House and Senate leadership will change their practice is unclear, and it may be too late for this session anyway, as it ends May 2.

But state Sen. [Laura Thielen](#) told Civil Beat she would like to see her colleagues change their behavior.

"Gut and replace has had such negative connotations, and now we have this new procedure," said Thielen, who sponsored a [contest on her website](#) to come up with a name for the procedure. "Ideally, we would have something stronger than just names and negative connotations that could ensure the public that it does receive due notice and the opportunity to weigh in on legitimate topics."

The top three suggestions in Thielen's contest: Grab and Graft, Bait and Switch, Barnacle Bill.

## FrankenBills

Gut and replace was a controversial issue in the 2012 session — in particular, Senate Bill 755, which called for granting the governor and county mayors leeway in exempting state and county projects from regulatory review.

The bill, the handiwork of then-Speaker [Calvin Say](#), was actually gutted and replaced twice and contained language from no less than five separate bills.

The Sierra Club called SB 755 "unethical," "shenanigans" and "an egregious abrogation of the House's duties."

But Say, who defended the measure in a [Civil Beat opinion piece](#), said the bill had been "misrepresented or misunderstood." He argued that the intent of SB 755 was "to promote economic recovery by accelerating the construction of state projects under a balanced approach."

SB 755 did not make it out of conference committee, and its defeat may have contributed to Say's unsuccessful bid to return as speaker this session.

Earlier this year, Civil Beat [reported on a Frankenstein measure](#), House Bill 252. Language on geothermal permitting was added to a bill on the Native Hawaiian roll commission.

[Brickwood Galuteria](#), the Senate majority leader, defended the practice of placing unrelated content into a separate measure, saying it was constitutional and still allowed the public to contact their legislators with any concerns they might have.

HB 252, which is one of the 18 problem bills identified by petitioners, is alive but faces a crucial deadline this week.

Meanwhile, there's another petition circulating regarding allegedly bad bills. Non-Partisan Hawaii Ohana is urging the Legislature "to reject and vote down" House Bill 70, Senate Bill 1207 and Senate Bill 1171.

All three measures were alive as of Wednesday.

"Many concerned citizens are convinced that these measures are extensions of the objectives of the PLDC to control and develop public lands, despite public outcry and repeal of the PLDC this year," reads the petition, which has attracted more than 500 signatures.

The Public Land Development Corporation was repealed just this week.

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Public petition against Gut and Replace and Frankentein practices, April 24, 2013.

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[Gut and Replace and Frankenstein bills, April 18, 2013.](#)

***DISCUSSION: Do you think the so-called Frankenstein process to amend bills is acceptable?***

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Discussion

10 comments ▼



**Jack Kelly** · ★ Top Commenter

These processes have been used to limit public input and are anti democracy at their core. Kudos to the petition creators. ( essence of bad government unless it's the good ol boy network that's being gutted and replaced.

Reply · 6 · Like · April 25 at 8:00am



**Patricia Blair** · ★ Top Commenter · University of Nebraska-Lincoln

Actually this process makes the Democratic Party appear sleazy!

Reply · 5 · Like · April 25 at 9:22am



**Ace Lee** · ★ Top Commenter

w ell, if civil beat is calling this new unethical practice "frankenstein"... then frankenstein it is. I kinda liked the label "hijacked" w hat happens to the original bill -- taken over and led to another destination.

Reply · 2 · Like · April 25 at 7:44pm



**Civil Beat**

Posting on behalf of Barbara Polk:

The legislators have missed the point. The petition is a constitutional challenge to the procedures by w hich these bills have constitutional challenge to the bills. Legislators need to consider each of the identified bills carefully to be sure they believe court challenge on State Constitutional grounds.

I've noticed several other comments recently from people that they cannot post directly to Civil Beat. This is, of course, und purpose and effectiveness as a public forum.

Reply · 1 · Like · April 25 at 11:56am



**Chad Blair** · ★ Top Commenter · Works at Honolulu Civil Beat

Barbara -- you are not alone in your frustration about this. I can tell you that w e are w ell aw are of the problem best to make sure everyone can participate. With limits, though!

Reply · 1 · Like · April 25 at 1:10pm



**Matt LoPresti** · ★ Top Commenter · Honolulu, Haw aii

Thank you to Common Cause Haw aii, the League of Women Voters, Haw aii's Thousand Friends and Americans for Democ to Frankenstein bills and vote out the lgor's w ho enable them!

Reply · 1 · Like · April 25 at 9:03am



**Mike Wong** · ★ Top Commenter · Honolulu, Haw aii

CB should update its PLDC link. Didn't the Governor sign the bill to repeal it?

Reply · 1 · Like · April 25 at 9:19am



**Chad Blair** · ★ Top Commenter · Works at Honolulu Civil Beat

yes, he did. I'll update the link, thanks.

Reply · 1 · Like · April 25 at 1:01pm

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