



## The 2014 "Rusty Scalpel" award goes to...

Government transparency advocacy groups make their pick for this year's most altered, unrecognizable and least transparent bill of the 2014 legislative session.

 Will Caron in Open Government  July 17, 2014 11:21 AM



The League of Women Voters and Common Cause Hawaii have announced their

2014 "Rusty Scalpel" winner: HB2434, CD1, Relating to the Transient Accommodations Tax. The "Rusty Scalpel" award is given each year to the bill from the prior legislative session that the two government-transparency advocacy groups believe was most altered and whose original content is no longer recognizable because of "surgical techniques" that changed the original purpose of the bill.

"During a Conference Committee near the end of the 2014 legislative session, without meaningful opportunity for public or agency comment, HB 2434 SD 2 was drastically amended. When introduced, the measure was a bill to allocate \$3 million of hotel tax revenues to a multi-purpose conservation fund. After the Conference Committee discarded the SD2, the bill morphed to a measure to refinance the Convention Center debt," reads a press release sent out by the two organizations yesterday. "Proceeds of the refinancing will be used to acquire the conservation easement at Turtle Bay, Oahu. Regardless of the final proposal's merits, there was no compelling reason not to extend the session and hold public hearings on this important amended bill."

Article III, Section 14 of the state Constitution specifically requires that each bill have a single subject expressed in the bill's title and prohibits changing any bill's title. Article III, Section 15 requires that each bill have three separate readings in each house of the Legislature. The unambiguous intent is to encourage informed public comment on all proposed legislation and thorough consideration of all relevant factors by both House and Senate subject matter committees. The public cannot comment on substantive amendments being proposed in Conference Committee.

"This makes a travesty of the democratic process," said Ann Shaver, President of the League of Women Voters. "Just because there are enough votes to pass a measure doesn't make it Constitutional. HB2434 CD1 proposed a new idea, maybe even a great idea, but it was obviously unrelated to the bill's original purpose. The content of the CD1 stunned us; it was passed without a single public hearing when there was no emergency."

“Citizens should be able to participate in the legislative process in a fair and orderly manner,” added Carmille Lim of Common Cause Hawaii. “In this case, a \$40 million dollar appropriation was grafted on to a major last-minute change, depriving many members of the legislature from the normal review and give and take of budget discussions. Gutting bills and replacing content with new and unrelated content that alters the bill’s original intention does a disservice to members of the public and distorts the legislative process.”

In the 2014 session, the League and Common Cause identified dozens of bills which were subjected to these techniques. For example, HB 193 concerned developer compliance with conditions for land use district boundary amendments, while HB 193, SD 1 concerned use of State property for transit-oriented development. In another example, SB 2535 originally concerned State acquisition of real property for agricultural production, while SB 2535, proposed HD 1 concerned labeling of genetically modified food.

In general, when the subject of a bill was totally changed after cross-over, only one public hearing was held on the amended subject (with the Senate totally disregarding public testimony to the House, and the House totally disregarding public testimony to the Senate). However, the organizations say that HB2434, CD1 was their “winner” because not only was it a “**gut and replace**” bill, but no hearing was held on the CD1 version of the bill at all.

Last year the League of Women Voters, Common Cause and other civic organizations **petitioned** both houses of the Legislature asking that they amend legislative rules to ban such practices, but the Legislature has not moved forward on such an idea. “Maybe a Constitutional amendment to prohibit this would make democracy work a little better,” reads the press release.

*Common Cause Hawaii is a state chapter of the national Common Cause organization. Common Cause is a nonpartisan, grassroots organization dedicated to protecting and improving Hawaii’s political process and holding government accountable to the public*

*interest.*

*The **League of Women Voters of Hawaii** is a non-partisan political organization that encourages informed and active participation in government, works to increase understanding of major public policy issues and influences public policy through education and advocacy.*

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