

COMMUNITY VOICE

Tom Yamachika: Much Ado

About Nothing In The Hawaii Legislature

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Legislature

Legislators shouldn't use tactics to move bills that shut out the public from any voice in the process.

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2

Today we are looking at a bill in our Legislature that contains nothing.

The bill, SB 2535, is titled “Relating to Geothermal,” and it reads: “The purpose of this Act is to effectuate the title of this Act. The Hawaii Revised Statutes is amended to conform to the purpose of this Act. This Act shall take effect upon its approval.” Really.

This type of bill is called a short form bill. It meets all of the technical requirements to be a bill, but obviously it contains no substance. It certainly can't be signed into law in that form.

This kind of bill has its uses. Every so often the Department of Taxation needs to introduce important legislation to conform to the federal tax code; but when the Congress takes its sweet time to update the federal code, and comes out with a bill hundreds of pages long in late December, then the department simply can't be ready with a fully-baked bill by the bill-introduction deadline.



The full House passed SB 2535, on geothermal activities, even though the bill had no more than a title — meaning it will go to a House/Senate conference committee without any public review or comment.

So it will introduce a short form bill. The legislative committee to which it is assigned typically schedules the bill for hearing or decision-making, but because there is nothing for anyone to comment on, it “recommits” the bill, meaning that it goes back to the same committee. By that time, the department should be finished with its draft of the long form of the bill. The same committee can then have a hearing on the long form so the public can comment on the substance before the bill moves forward.

That is how the short form bill process is supposed to work. The committees are NOT supposed to move a short form bill forward in that form.

SB 2535 started off as a normal-looking bill. It provides that the State has exclusive authority to regulate geothermal activities. This did not sit well with the Big Island county government, which had some issues with noise levels.

The bill went through a couple of versions in the Senate, and then crossed over to the House. There, it was heard by the House Committees on Energy & Environmental Protection and Water & Land. Those committees received about 132 pages of testimony, and apparently they threw up their hands and changed the bill to a short form bill.

If this technique of moving short form bills to conference is accepted, we may as well dispense with public hearings and testimony altogether.

In the joint committee report, the committees stated that they “have amended this measure by deleting its substantive contents while stakeholders work out their differences.” The House Finance Committee, to which the bill went

next, published a notice of hearing the bill on the same day the bill was heard, with no substance to review. It received two pages of testimony, and passed the bill out unchanged. The bill next went to the floor of the full House, which passed the bill out in the same form; it now goes to a conference committee, where no public comment or testimony is allowed.

So here’s what appears to have happened. Our legislators took the bill-writing process out of the public eye while a back-room deal was being worked out. If a deal is made, it will be written into a conference draft of the bill that may or may not look like any of the previous versions. The bill will then be voted on without public review and comment, and then what will we wind up with?

Legislators need to be reminded that when we are dealing with public laws, the stakeholders include the public. If the matter that involved only non-public stakeholders, the stakeholders could write a contract.

If this technique of moving short form bills to conference is accepted, we may as well dispense with public hearings and testimony altogether.

Wouldn’t it be far more convenient to move all the bills to conference as short form bills and just have the conference come up with the substance of the bills?

Please, let’s have common sense prevail. Let’s adopt a rule that says short form bills

must be recommitted. The committee needs to put in the substance, hold a hearing on it, and then report it out or kill it after due consideration.

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Mahalo nui Mr Yamachika; MALAMA PONO!!!

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