

FAQs Gut and Replace Complaint

What is gut and replace?

- Gut and replace occurs when late in session a bill is stripped of all original content and replaced with an entirely different topic that has no rational connection to the original bill. The bill becomes unrecognizable and is pushed through the Legislature without required readings.
- This tactic deprives the public of any meaningful voice in the legislative process and also deprives legislators from receiving adequate notice and time to thoroughly review the consequences of proposed legislation prior to voting.

What are the grounds for the complaint?

- Sections 14 and 15 of Article III of the Hawaii Constitution require that the subject matter of each bill be specified in its title, and that each bill have three readings in each house on separate days.
- In the case of SB2858, the Legislature used the bill's vague title as a basis to entirely change the subject matter late in the process and as a result, the Senate only had one reading of the bill with its new topic.

What resolution are you seeking?

- We want Act 84 to be ruled unconstitutional.
- We want the Legislature to hear loud and clear that it is time to put their rusty scalpels away and stop using gut and replace.
- Democracy works best when everyone's voice is heard. We need leaders who want to hear from the public and encourage participation.

Why take legal action – now or ever?

- Common Cause Hawaii and the League of Women Voters of Honolulu have tried to draw attention to this abhorrent and unconstitutional practice for five years, with no help from the Legislature to rectify this practice.
- It's time for lawmakers to understand no one is above the law. Enough is enough.

Isn't it important for lawmakers to have this tool and flexibility?

- No. This is a deceptive practice prohibited by the Constitution.
- The heart of democracy is public participation. Gut and replace denies the public a meaningful voice in democracy.

What are some examples of gut and replace?

- 2016 Rusty Scalpel Award: HB1689. The bill began as a tax credit for producers of renewable fuels and was changed, without the opportunity for public comments into a bill regarding an organic food tax credit. Read [Star Advertiser's coverage.](#)
- 2014 Rusty Scalpel Award: HB2434. Originally the bill would have allocated \$3 million of hotel tax revenues to a multi-purpose conservation fund, which then morphed into a bill to refinance the Convention Center debt. Read [Hawaii Independent's coverage.](#)

Do bills always get worse? Can't they also get better?

- This complaint is about the principles of democracy being violated.
- The heart of democracy is public participation. Gut and replace denies the public a meaningful voice in democracy.

What happens if Act 84 is voided?

- Act 84 requires the State to consider (but not necessarily meet) hurricane resistant criteria when designing or constructing new public schools. The State may continue considering this criteria for schools and other buildings, should they wish to do so.

How does Hawaii's use of gut and replace compare to other states?

- Every state has its own rules and procedures.
- We see this 11th hour tactic, sometimes called "gut and amend" or "gut and stuff", deployed frequently for bills that benefit legislators and wealthy special interests, across the country.

Have you seen this kind of litigation work anywhere else?

- We believe this is the first complaint of its kind, against the use of gut and replace, in Hawaii, and the first case of its kind filed anywhere by Common Cause.