

JAN 28 2026

A BILL FOR AN ACT

RELATING TO NATURAL RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State's natural
2 resources are critical to its economic stability, energy
3 security, climate resilience, public health, safety, and
4 cultural continuity. The legislature further finds that
5 planning for the availability of water supplies, the siting of
6 renewable energy infrastructure, accurate wildfire and landslide
7 risk assessment, and response procedures designed for drought
8 and contamination emergencies are among the fiduciary acts
9 performed by the State in the best interests of the public. The
10 legislature believes that such planning is best made when high-
11 quality, site-specific surface and subsurface data is
12 considered, including information on stratigraphy, permeability,
13 groundwater levels, temperature gradients, gas composition, and
14 other geological conditions.

15 The legislature further finds that the public trust
16 doctrine dictates that the State must protect and manage public
17 natural resources, including water, land, and forests, for



1 present and future generations while also providing for their
2 "highest economic social benefits", necessitating the need to
3 balance various, competing interests. Existing statutory and
4 regulatory frameworks governing wells and mining were designed
5 to manage the long-term production and viability of the State's
6 water and mineral resources. However, these frameworks were
7 implemented without consideration of the need to treat purely
8 scientific, non-commercial, temporary subsurface investigations
9 differently from commercial developments. Consequently, these
10 statutory and regulatory frameworks hinder scientific
11 investigation that produces findings often needed by regulatory
12 agencies to identify and guide their management of those
13 resources.

14 The legislature also finds that regulatory frameworks
15 governing water and mineral resources do not preclude
16 non-extractive scientific research that is necessary to identify
17 and understand the State's natural resources. Furthermore, the
18 State's environmental review framework authorizes agencies,
19 subject to review of the environmental advisory council, to
20 exempt actions that individually and cumulatively will, in all



1 probability, have minimal or no consequential effects on the
2 environment from the environmental review process.

3 The legislature additionally finds that the university of
4 Hawaii and other research institutions based in the State use
5 non-destructive analytical field processes in the normal course
6 of their work. Those processes may include the use of
7 temporary, small-diameter boreholes used solely for the purpose
8 of collecting scientific data that defines observable subsurface
9 conditions. These activities are non-commercial in nature and
10 are not intended to support ongoing water or geothermal
11 production. Boreholes used for these purposes are designed to
12 be sealed or otherwise decommissioned after data gathering is
13 complete in a manner that protects post-study groundwater and
14 surface environments.

15 The legislature additionally finds that without regulatory
16 clarification, temporary boreholes used for scientific research
17 will continue to be subjected to the same administrative
18 scrutiny as commercial exploration for water production wells or
19 mining operations which regularly require environmental
20 assessments or impact statements. As a result, time-sensitive
21 geological subsurface characterization activities that produce



1 useful scientific data are often delayed, which increases costs
2 and often discourages data collection altogether.

3 Accordingly, the purpose of this Act is to:

4 (1) Authorize geological subsurface characterization
5 activities conducted by a public research institution
6 under certain conditions;

7 (2) Clarify that boreholes or test holes drilled for the
8 purposes of geological subsurface characterization are
9 distinct from water well exploration and geothermal or
10 mineral exploration;

11 (3) Require the department of business, economic
12 development, and tourism, to designate the Hawaii
13 groundwater and geothermal resources center of the
14 university of Hawaii, or a successor entity, as the
15 repository for data collected from any geological
16 subsurface characterization activity;

17 (4) Require the department of land and natural resources
18 to amend its exemption list to be consistent with
19 administrative rules adopted by the department,
20 specifying that certain geological subsurface
21 characterization activities shall be exempt from the



1 environmental review process or shall only require an
2 exemption notice;

3 (5) Require the university of Hawaii to amend its
4 exemption list to specify that certain geological
5 subsurface characterization activities shall be exempt
6 from the environmental review process or shall only
7 require an exemption notice; and

8 (6) Require the department of health to amend its rules
9 related to hazardous waste and hazardous waste
10 management for consistency with Title 40, Code of
11 Federal Regulations, Part 261, to specify that certain
12 waste products generated by geological subsurface
13 characterization activity are exempt from hazardous
14 waste management requirements.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

"CHAPTER

GEOLOGICAL SUBSURFACE CHARACTERIZATION

20 § -1 **Purpose; applicability.** (a) The purpose of this
21 chapter is to clarify that any temporary, non-commercial,



- 1 geological subsurface characterization activity, including a
2 borehole or test bore drilling activity:
- 3 (1) Shall not be treated as mining operations or
4 geothermal resources exploration or development under
5 chapter 182, when conducted solely for scientific data
6 gathering purposes;
- 7 (2) Shall not be treated as wells for the purposes of well
8 construction and pump installation permitting under
9 part VII of chapter 174C; provided that the geological
10 subsurface characterization activity is conducted
11 pursuant to section -3; and
- 12 (3) May qualify as de minimis or otherwise exempt actions
13 under chapter 343; provided that the geologic
14 subsurface characterization activity does not violate
15 any rule adopted under chapter 343.
- 16 (b) Nothing in this chapter shall be construed to exempt a
17 person from obtaining a permit or approval required by law,
18 including but not limited to conservation district use permits
19 under chapter 183C, shoreline or special management area permits
20 under chapter 205A, or county ordinance.



4 (1) State lands, including public lands, forest reserves,
5 lands in the conservation district, and other lands
6 under the jurisdiction of the department of land and
7 natural resources and department of Hawaiian home
8 lands:

9 (2) Lands under the jurisdiction of other state or county
10 agencies; and

11 (3) Private parcels; provided that the owner of the parcel
12 has provided written permission to the public research
13 institution.

14 (d) Except as explicitly provided in this chapter, nothing
15 in this chapter shall be construed to:

16 (1) Limit public trust water resources under article XI of
17 the Hawaii State Constitution or chapter 174C;

18 (2) Alter the jurisdiction of the department of health
19 over underground injection well control, hazardous
20 waste management, or drinking water protection; or



6 § -2 **Definitions.** For the purposes of this chapter:

7 "Borehole" means a temporary, artificial excavation,
8 opening, or cored hole in the ground that is drilled, driven, or
9 otherwise constructed solely for the purpose of geological
10 subsurface characterization activities that is:

11 (1) Not equipped with permanent pumps or production
12 equipment other than temporary or low-capacity
13 equipment used for testing or sampling; and
14 (2) Abandoned, sealed, or converted to a monitoring
15 production well.

16 "Department" means the department of business, economic
17 development, and tourism.

18 "Geological subsurface characterization activity" means any
19 planned, temporary, non-commercial program of field activities
20 executed or advised by a public research institution undertaken
21 to collect scientific, engineering, or environmental data about



1 subsurface geologic, hydrologic, geochemical, geophysical,
2 geothermal, or related geological conditions, in compliance with
3 section -3. "Geological subsurface characterization
4 activity" includes but is not limited to:

5 (1) Reflection seismology, refraction seismology,
6 multichannel analysis of surfaces waves, electrical
7 resistivity tomography, induced polarization,
8 ground-penetrating radar, magnetotellurics, magnetic
9 surveys, gravity surveys, and ground and airborne
10 gamma spectrometry;

11 (2) Drilling, coring, or advancing small-diameter
12 temporary boreholes;

13 (3) Collection of rock, soil, groundwater, gas, and
14 temperature measurements and samples;

15 (4) Downhole logging, tracer testing, hydraulic or thermal
16 response testing, and other measurements;

17 (5) Preparation, storage, and transmission of resulting
18 data and samples; provided that the activity is not
19 primarily intended to produce water, minerals,
20 geothermal, heat, or other subsurface resources for
21 sale, commercial use, or continuous operational use;



6 "Groundwater" means any water found beneath the surface of
7 the earth, whether in perched supply, dike confined, flowing, or
8 percolating in underground channels or streams, under artesian
9 pressure or not, or otherwise.

10 "Hazardous waste" means any material designated under Title
11 40, Code of Federal Regulations, Part 261.

12 "Injection well" means a well into which the subsurface
13 disposal of a fluid or fluids occurs or is intended to occur by
14 means of injection.

15 "Investigative-derived waste" means drill cuttings,
16 drilling muds and fluids, purge water, development water, used
17 tracers, and other materials generated during geological
18 subsurface characterization borehole drilling, testing,
19 sampling, and decommissioning.

20 "Non-commercial purpose" means an activity that is not
21 conducted for the primary purpose of generating profit from the



1 sale or use of water, geothermal heat, minerals, or other
2 subsurface resources. "Non-commercial purpose" includes the
3 receipt of grants, contracts, or research funding or
4 cost-sharing arrangements with private entities.

5 "Public research institution" means a regionally accredited
6 university or college, a state or federal research agency, or
7 their contractors or subgrantees acting under written direction
8 and control of the institution or agency.

9 "Scientific data-gathering" means the systematic process of
10 collecting, measuring, and recording information, including
11 observations, measurements, or existing records, using
12 established methods to answer research questions, test
13 hypotheses, and draw valid, reliable conclusions to ensure
14 accuracy and integrity for analysis and informed
15 decision-making.

16 "Test bore" or "test boring" means any excavation or
17 drilled hole whose purpose is the immediate determination of
18 subsurface geologic, hydrologic, or contaminated conditions in
19 the unsaturated zone above the groundwater level. "Test bore"
20 or "test boring" includes borings for foundation, underground
21 storage tanks, and environmental monitoring under the purview of



1 other government agencies and hazardous waste remediation that
2 is not intended for the purpose of conversion to a production
3 well.

4 "Well" has the same meaning as defined in section 174C-3.

5 **§ -3 Geological subsurface characterization activity;**
6 **authorized; requirements.** (a) A public research institution
7 may conduct geological subsurface characterization activities;
8 provided that any geological subsurface characterization
9 activity shall be for a non-commercial purpose.

10 (b) Any borehole or test bore drilled for the purposes of
11 a geological subsurface characterization activity shall:

12 (1) Be designed, constructed, and decommissioned in
13 accordance with rules adopted by the department and
14 best management practices, including appropriate
15 casing, cementing, blowout prevention, and sealing;

16 (2) Avoid direct hydraulic connection between distinct
17 aquifers or between contaminated and uncontaminated
18 zones, to the extent practicable; and

19 (3) Be sealed or otherwise decommissioned not more than
20 three years from the date that drilling is completed;



1 provided that the department may grant an extension
2 for the purpose of ongoing data gathering.

3 (c) Any pumping, flowing, or injection to or from a
4 borehole drilled for a geological subsurface characterization
5 activity shall:

6 (1) Be limited to the minimum volumes and durations
7 reasonably necessary to perform hydraulic, thermal, or
8 tracer testing or to collect representative samples;
9 (2) Not provide a continuous supply of groundwater or
10 geothermal fluids for off-site use; and
11 (3) Not measurably and adversely affect any existing legal
12 use of water or protected resources.

13 (d) A public research institution conducting geological
14 subsurface characterization activity shall ensure that:

15 (1) The geological subsurface characterization activity
16 shall not harm known cultural sites or burials or
17 impede any Native Hawaiian traditional or customary
18 practice;
19 (2) The geological subsurface characterization activity
20 shall not pose any significant risk of groundwater
21 contamination, subsidence, or induced hazards; and



§ -4 Investigative-derived waste; hazardous waste;

6 **management.** (a) Investigative-derived waste generated by
7 geological subsurface characterization activity shall be managed
8 in accordance with Title 40, Code of Federal Regulations, Part
9 261; provided that investigative-derived waste that does not
10 constitute hazardous waste, including drill cuttings and fluids,
11 or are excluded from hazardous waste management under Title 40,
12 Code of Federal Regulations, Section 261.4(b), shall not be
13 managed in accordance with Title 40, Code of Federal
14 Regulations, Part 261, solely because the investigative-derived
15 waste was generated by a geological subsurface characterization
16 activity.

17 (b) The department, in consultation with the department of
18 health, may, by rule or guidance, specify a presumptive
19 non-hazardous management option for common categories of
20 investigative-derived wastes, including:
21 (1) On-site or nearby land application of clean cuttings;



4 § -5 Registration with department; proposal;

5 **requirements.** (a) Notwithstanding sections 174C-83 and
6 174C-84, a public research institution shall register any
7 geological subsurface characterization activity with the
8 department.

9 (b) Before drilling a borehole for any geological
10 subsurface characterization activity a public research
11 institution shall submit to the department a geological
12 subsurface characterization activity proposal and register the
13 proposed project with the department. A geological subsurface
14 characterization activity proposal shall include, at minimum,
15 the:

16 (1) Project name;

17 (2) Contact information, including a telephone number,

18 mailing address, and email address of the project

19 manager;

20 (3) Proposed location or locations, including the tax map

21 key or keys of the location or locations;



- 1 (4) Anticipated geological subsurface characterization
 - 2 activities, testing types, durations, and maximum
 - 3 pumping or injection rates;
 - 4 (5) Proposed timeline for drilling, testing, and
 - 5 decommissioning;
 - 6 (6) Proposed measures to prevent cross-contamination and
 - 7 protect groundwater; and
 - 8 (7) A declaration of non-commercial purpose and intended
 - 9 data products.
 - 10 (c) The department may reject or condition a geological
 - 11 subsurface characterization activity proposal; provided that the
 - 12 department determines that:
 - 13 (1) The geological subsurface characterization activity
 - 14 proposal does not meet the requirements of subsection
 - 15 (b);
 - 16 (2) The proposed geological subsurface characterization
 - 17 activity poses an unreasonable risk to groundwater
 - 18 resources, public trust purposes, or an existing legal
 - 19 use of water; or
 - 20 (3) A borehole to be drilled for the geological subsurface
 - 21 characterization activity will be:



§ -6 Reports; data collection and sharing; required.

- 14 (a) A public research institution conducting geological
15 subsurface characterization activity shall submit a report to
16 the department for each borehole drilled for the purposes
17 geological subsurface characterization activity. The report
18 shall include the final location, depth, basic construction
19 details, and decommissioning status of each borehole; provided
20 that the borehole has been converted to a well.



6 (1) Borehole locations, depths, and basic construction
7 details;

8 (2) Stratigraphic and lithologic descriptions;

9 (3) Groundwater, temperature, and geophysical logs, as
10 applicable; and

11 (4) Other non-proprietary data the department may require
12 by rule.

13 (c) The department, in consultation with the department of
14 land and natural resources, department of Hawaiian home lands,
15 and other involved agencies may authorize reasonable protections
16 for information a state or county agency deems culturally
17 sensitive or site-specific data, including generalizing public
18 location data for these sites, consistent with public trust and
19 public interest considerations.

20 § -7 Rules. The department, in consultation with the
21 department of land and natural resources, department of health,



1 and university of Hawaii shall adopt rules pursuant to chapter
2 91 for the purposes of this section, including:

- 3 (1) Technical standards for geological subsurface
4 characterization activities, including borehole
5 diameter, depth, design, construction, and
6 decommissioning;
- 7 (2) Registration procedures, forms, and timelines;
- 8 (3) Standards determining whether a borehole drilled for
9 geological subsurface characterization activities
10 becomes a well that requires a permit pursuant to
11 chapter 174C;
- 12 (4) Requirements for monitoring and reporting, including
13 completion reports under section -6; and
- 14 (5) Enforcement mechanisms, including orders to cease
15 operations, undertake corrective actions, or seal
16 boreholes."

17 SECTION 3. Section 182-1, Hawaii Revised Statutes, is
18 amended by amending the definition of "mining operations" to
19 read as follows:

20 ""Mining operations"" means the process of excavation,
21 extraction, and removal of minerals, and the exploration or



1 development of any and all geothermal resources, from the
2 ground, design engineering, other engineering, erection of
3 transportation facilities and port facilities, erection of
4 necessary plants, other necessary operations or development
5 approved by the board preceding or connected with the actual
6 extraction of minerals and the exploration or development of
7 geothermal resources. "Mining operations" does not include a
8 geological subsurface characterization activity as that term is
9 defined in section -2."

10 SECTION 4. The department of business, economic
11 development, and tourism shall designate the Hawaii groundwater
12 and geothermal resources center, or a successor entity, as the
13 repository for data collected from any geological subsurface
14 characterization activity to support planning for water
15 resources, geothermal potential, hazard mitigation, and other
16 public purposes.

17 SECTION 5. (a) The department of land and natural
18 resources shall amend its exemption list to include geological
19 subsurface characterization activities in part one of its
20 exemption list where appropriate, specifying that certain



1 geological subsurface characterization activities shall be
2 exempt from the environmental review process.

3 (b) The department of land and natural resources shall
4 amend its exemption list to include geological subsurface
5 characterization activities in part two of its exemption list
6 where appropriate, specifying that certain geological subsurface
7 characterization activities shall only require the preparation
8 and submission of an exemption notice.

9 SECTION 6. (a) The university of Hawaii shall amend its
10 exemption list to include geological subsurface characterization
11 activities in part one of its exemption list where appropriate,
12 specifying that certain geological subsurface characterization
13 activities shall be exempt from the environmental review
14 process.

15 (b) The university of Hawaii shall amend its exemption
16 list to include geological subsurface characterization
17 activities in part two of its exemption list where appropriate,
18 specifying that certain geological subsurface characterization
19 activities shall only require the preparation and submission of
20 an exemption notice.



1 SECTION 7. The department of health shall amend its
2 administrative rules relating to hazardous waste, hazardous
3 waste management, and underground injection control for
4 consistency with Title 40, Code of Federal Regulations, Part
5 261, to specify that certain investigative-derived waste
6 products generated by geological subsurface characterization
7 activity are exempt from hazardous waste management
8 requirements.

9 SECTION 8. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 9. New statutory material is underscored.

16 SECTION 10. This Act shall take effect upon its approval.

17

INTRODUCED BY: 



S.B. NO. 3223

Report Title:

DBEDT; DLNR; DOH; UH; Hawaii Groundwater and Geothermal Resources Center; Geological Subsurface Characterization; Natural Resources; Groundwater; Geothermal Resources; Hazardous Waste; Exemptions; Administrative Rules

Description:

Authorizes geological subsurface characterization activities conducted by a public research institution under certain conditions. Clarifies that boreholes or test holes drilled for the purposes of geological subsurface characterization are distinct from water well exploration and geothermal or mineral exploration. Requires the Department of Business, Economic Development, and Tourism, to designate the Hawaii Groundwater and Geothermal Resources Center of the University of Hawaii, or a successor entity, as the repository for data collected from any geological subsurface characterization activity. Requires the Department of Land and Natural Resources to amend its exemption list to specify that certain geological subsurface characterization activities shall be exempt from the environmental review process or shall only require an exemption notice. Requires the University of Hawaii to amend its exemption list to specify that certain geological subsurface characterization activities shall be exempt from the environmental review process or shall only require an exemption notice. Requires the Department of Health to amend its rules related to hazardous waste and hazardous waste management for consistency with federal regulations to specify that certain waste products generated by geological subsurface characterization activity are exempt from hazardous waste management requirements.

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