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# A BILL FOR AN ACT

RELATING TO GEOTHERMAL ENERGY.

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

1           SECTION 1. Chapter 182, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§182-    Geothermal development special fund. (a) There  
5 is established in the state treasury the geothermal development  
6 special fund, into which shall be deposited:

7           (1) Moneys collected from geothermal resource mining  
8           leases on state lands or reserved lands;

9           (2) Royalties paid to the State for the utilization of  
10           geothermal resources, pursuant to section 182-18;

11           (3) All accrued interest from moneys in the special fund;  
12           and

13           (4) Appropriations by the legislature.

14           (b) Moneys in the geothermal development special fund  
15 shall be used by the board for the exploration and development  
16 of geothermal wells and other geothermal energy sources within  
17 the State."



1 SECTION 2. Section 171-19, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) There is created in the department a special fund to  
4 be designated as the "special land and development fund".

5 Subject to the Hawaiian Homes Commission Act of 1920, as  
6 amended, and section 5(f) of the Admission Act of 1959, all  
7 proceeds of sale of public lands, including interest on deferred  
8 payments; all moneys collected under section 171-58 for mineral  
9 and water rights[+] except for royalties paid to the State for  
10 geothermal production pursuant to section 182-18; all rents from  
11 leases, licenses, and permits derived from public lands; all  
12 moneys collected from lessees of public lands within industrial  
13 parks; all fees, fines, and other administrative charges  
14 collected under this chapter and chapter 183C; a portion of the  
15 highway fuel tax collected under chapter 243; all moneys  
16 collected by the department for the commercial use of public  
17 trails and trail accesses under the jurisdiction of the  
18 department; transient accommodations tax revenues collected  
19 pursuant to section 237D-6.5(b)(2); and private contributions  
20 for the management, maintenance, and development of trails and  
21 accesses shall be set apart in the fund and shall be used only  
22 as authorized by the legislature for the following purposes:



- 1           (1) To reimburse the general fund of the State for  
2           advances made that are required to be reimbursed from  
3           the proceeds derived from sales, leases, licenses, or  
4           permits of public lands;
- 5           (2) For the planning, development, management, operations,  
6           or maintenance of all lands and improvements under the  
7           control and management of the board, including but not  
8           limited to permanent or temporary staff positions who  
9           may be appointed without regard to chapter 76;
- 10          (3) To repurchase any land, including improvements, in the  
11          exercise by the board of any right of repurchase  
12          specifically reserved in any patent, deed, lease, or  
13          other documents or as provided by law;
- 14          (4) For the payment of all appraisal fees; provided that  
15          all fees reimbursed to the board shall be deposited in  
16          the fund;
- 17          (5) For the payment of publication notices as required  
18          under this chapter; provided that all or a portion of  
19          the expenditures may be charged to the purchaser or  
20          lessee of public lands or any interest therein under  
21          rules adopted by the board;



- 1           (6) For the management, maintenance, and development of
- 2           trails and trail accesses under the jurisdiction of
- 3           the department;
- 4           (7) For the payment to private land developers who have
- 5           contracted with the board for development of public
- 6           lands under section 171-60;
- 7           (8) For the payment of debt service on revenue bonds
- 8           issued by the department, and the establishment of
- 9           debt service and other reserves deemed necessary by
- 10          the board;
- 11          (9) To reimburse the general fund for debt service on
- 12          general obligation bonds issued to finance
- 13          departmental projects, where the bonds are designated
- 14          to be reimbursed from the special land and development
- 15          fund;
- 16          (10) For the protection, planning, management, and
- 17          regulation of water resources under chapter 174C;
- 18          (11) For invasive species control and mitigation by the
- 19          invasive species council under chapter 194;
- 20          (12) To promote reforestation and sediment run-off
- 21          mitigation; and
- 22          (13) For other purposes of this chapter."



1 SECTION 3. Section 182-7, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) The payments to the State as fixed by the board shall  
4 be specified; provided that:

5 (1) In the case of bauxite, bauxitic clay, gibbsite,  
6 diaspore, boehmite, and all ores of aluminum, the  
7 amount of royalties for each long dry ton of ore as  
8 beneficiated shall not be less than twenty-five cents  
9 or the equivalent of the price of one pound of virgin  
10 pig aluminum, whichever is higher, nor shall it exceed  
11 the equivalent of the price of three pounds of virgin  
12 pig aluminum;

13 (2) The rate of royalty for ore processed into aluminous  
14 oxide in the State shall be set at eighty per cent of  
15 the rate of royalty for ore not processed to aluminous  
16 oxide in the State; and

17 (3) The royalty shall be fixed at a rate which will tend  
18 to encourage the establishment and continuation of the  
19 mining industry in the State.

20 The prices of virgin pig aluminum for the purpose of  
21 determining the royalties under this section shall be the basic  
22 price on the mainland United States market for virgin pig, not



1 refined, f.o.b. factory. The royalties shall be in lieu of any  
2 severance or other similar tax on the extracting, producing,  
3 winning, beneficiating, handling, storing, treating, or  
4 transporting of the mineral or any product into which it may be  
5 processed in the State, and shall not be subject to reopening or  
6 renegotiating for and during the first twenty years of the lease  
7 term.

8 In the event the lessee desires to mine other minerals, the  
9 lessee, before mining the minerals, shall so notify the board in  
10 writing, and the board and the lessee shall negotiate and fix  
11 the royalties for the minerals.

12 ~~[Any other law to the contrary notwithstanding, thirty per~~  
13 ~~cent of all royalties received by the State from geothermal~~  
14 ~~resources shall be paid to the county in which mining operations~~  
15 ~~covered under a state geothermal resource mining lease are~~  
16 ~~situated.] "~~

17 SECTION 4. Section 182-18, Hawaii Revised Statutes, is  
18 amended by amending subsections (a) and (b) to read as follows:

19 "(a) The board shall fix the payment of royalties to the  
20 State for the utilization of geothermal resources at a rate  
21 ~~[which]~~ that will encourage the initial and continued production  
22 of ~~[such]~~ these resources. With respect to all geothermal



1 mining leases previously issued or to be issued, where the board  
2 determines that it is necessary to encourage the initial or  
3 continued production of geothermal resources, the board shall  
4 have the authority to waive royalty payments [~~to the State~~] for  
5 any fixed period of time up to but not exceeding eight years.

6 (b) The board shall adopt, amend, or repeal rules pursuant  
7 to chapter 91 to establish procedures for auctioning geothermal  
8 resource mining leases to private entities and the basis upon  
9 which the amount and duration of royalty payments to the State  
10 will be fixed or waived. The board's assessment of each  
11 application shall include[~~r~~] but not be limited to[~~r~~] the  
12 examination of such factors as the progress of geothermal  
13 development taking place in the State at the time of the  
14 application, the technical and financial capabilities of the  
15 applicant to undertake the project, and the need for providing a  
16 financial incentive in order for the applicant to proceed. The  
17 granting of any favorable terms to an applicant for the payment  
18 of royalties under this section may be revoked by the board if  
19 the applicant fails to satisfy any of the terms and conditions  
20 established by the board, or if the applicant wholly ceases  
21 operations and for reasons other than events [~~which~~] that are



1 outside the control of the parties and [~~which~~] that could not be  
2 avoided by the exercise of due care by the parties."

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2011;  
6 provided that amendments made to section 171-9(a), Hawaii  
7 Revised Statutes, by section 2 of this Act shall not be repealed  
8 when section 171-19(a) is reenacted on June 30, 2013, pursuant  
9 to section 5 of Act 209, Session Laws of Hawaii 2010.

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INTRODUCED BY:

Hekahuna  
Cindy Evans

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Denny Coffman

JAN 21 2011





**Report Title:**

Geothermal Energy

**Description:**

Establishes the geothermal development special fund to be funded by moneys from geothermal leases and geothermal royalties.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

