

JAN 27 2016

A BILL FOR AN ACT

RELATING TO SCIENCE AND TECHNOLOGY RESEARCH SUBZONES.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii's
3 geographical location, unique natural geological features,
4 native species, ecological communities, and evolutionary
5 adaptations are natural gifts that make Hawaii a living
6 laboratory for scientific research. Hawaii has been at the
7 forefront of scientific discoveries in fields ranging from
8 oceanography, evolutionary biology, genetics, biomedicine,
9 alternative energy, meteorology, to astronomy. Major
10 discoveries made in Hawaii have yielded results that have
11 significantly advanced human knowledge, including playing a
12 critical role in a Nobel Prize winning discovery in astronomy.

13 The legislature further finds that research activity brings
14 in millions of dollars that help diversify and stabilize the
15 State's economy that is heavily dependent on tourism, which is a
16 cyclical industry. A study of research expenditures in the
17 University of Hawaii system alone, not including private or non-



1 university funded federal projects, showed that research
2 activity had an economic impact on business sales of
3 \$760,000,000, state taxes of \$45,000,000, employee earnings of
4 \$275,000,000, and the generation of about seven thousand jobs.

5 Maintaining Hawaii's position as a globally recognized
6 center for research and scientific discoveries is a matter of
7 statewide concern, necessary for both the current and future
8 economic health of the State and the social welfare of its
9 people. The State, therefore, must continue to provide suitable
10 and appropriate public lands to continue scientific and high-
11 technology research. There are known areas in Hawaii that have
12 unique characteristics of superior quality, where long
13 established specialty scientific operations are conducted, and
14 where the combination of location and unique scientific resource
15 characteristics are found nowhere else in the world.

16 While it is critical for Hawaii to foster a healthy and
17 thriving science and research reputation, it is equally
18 important to carry out these activities while generating the
19 smallest possible ecological footprint and to prevent
20 unreasonable interference with the public's use and enjoyment of
21 public lands.



1 The purpose of this Act is to address the need to establish
2 science and technology research subzones and an approval process
3 for future research facilities that incorporates alternative
4 dispute resolution principles to ensure that the concerns of all
5 stakeholders are taken into account using standards that are
6 fair, equitable, and uniformly applied.

7 More specifically:

- 8 (1) Part II amends chapter 205, Hawaii Revised Statutes,
9 by establishing science and technology research
10 subzones and creating a mediation process as an
11 alternative means for resolving any disputes in the
12 designation or permitting processes;
- 13 (2) Part III amends chapter 183C, Hawaii Revised Statutes,
14 by designating science and technology research
15 subzones and science and technology research
16 facilities as permitted uses in all zones of the
17 conservation district; and
- 18 (3) Part IV amends chapter 171, Hawaii Revised Statutes,
19 to provide for the negotiated lease of public lands to
20 government agencies and science and technology
21 research organizations and institutions for the



1 development and operation of a science and technology
2 research facility for nominal consideration and
3 without auction.

4 PART II

5 SECTION 2. Chapter 205, Hawaii Revised Statutes, is
6 amended by adding two new sections to be appropriately
7 designated and to read as follows:

8 "§205- Science and technology research subzones. (a)
9 Science and technology research subzones may be designated
10 within the urban, rural, agricultural, and conservation land use
11 districts established under section 205-2. Science and
12 technology research activities may be permitted within urban,
13 rural, agricultural, and conservation land use districts in
14 accordance with this chapter. Within the urban, rural, and
15 agricultural land use districts, direct use applications of
16 science and technology research may be conducted both in and out
17 of areas designated as science and technology research subzones
18 pursuant to section 205- if the science and technology
19 research activities conform with all other applicable state and
20 county land use regulations and this chapter.



1 (b) The board of land and natural resources shall have the
2 responsibility for designating areas as science and technology
3 research subzones as provided under section 205- . The
4 designation of science and technology research subzones shall be
5 governed exclusively by this section and section 205- , except
6 as provided therein. The board shall adopt, amend, or repeal
7 rules related to its authority to designate and regulate the use
8 of science and technology research subzones within the urban,
9 rural, agricultural, and conservation land use districts. The
10 authority of the board to designate scientific and technology
11 research subzones shall be an exception to those provisions of
12 this chapter and of section 46-4 authorizing the land use
13 commission and the counties to establish and modify land use
14 districts and to regulate uses therein.

15 (c) The use of an area for science and technology research
16 activities within a science and technology research subzone
17 shall be governed by the board within the conservation district
18 and, except as herein provided, by state and county statutes,
19 ordinances, and rules not inconsistent within agricultural,
20 rural, and urban districts, except that no land use commission
21 approval or special use permit procedures under section 205-6



1 shall be required for the use of such subzones. In the absence
2 of provisions in the county general plan and zoning ordinances
3 specifically relating to the use and location of science and
4 technology research activities in an agricultural, rural, or
5 urban district, the appropriate county authority may issue a
6 science and technology research permit to allow science and
7 technology research activities.

8 Such uses as are permitted by county general plan and
9 zoning ordinances, by the appropriate county authority, shall be
10 deemed to be reasonable and to promote the effectiveness and
11 objectives of this chapter. Chapters 177, 178, 182, 183, 183C,
12 205A, 226, 342, and 343 shall apply as appropriate. If
13 provisions in the county general plan and zoning ordinances
14 specifically relate to the use and location of science and
15 technology research activities in an agricultural, rural, or
16 urban district, the provisions shall require the appropriate
17 county authority to conduct a public hearing on any application
18 for a science and technology research permit to determine
19 whether the use is in conformity with the criteria specified in
20 subsection (e) for granting science and technology research
21 permits.



1 (d) If science and technology research activities are
2 proposed within a conservation district, with an application
3 with all required data, the board shall conduct a public hearing
4 and, upon appropriate request for mediation from any party who
5 submitted comment at the public hearing, the board shall appoint
6 a mediator within five days. The board shall require the
7 parties to participate in mediation. The mediator shall not be
8 a member of the board or its staff. The mediation period shall
9 not extend beyond thirty days after the date mediation started,
10 except by order of the board. Mediation shall be confined to
11 the issues raised at the public hearing by the party requesting
12 mediation. The mediator shall submit a written recommendation
13 to the board, based upon any mediation agreement reached between
14 the parties for consideration by the board in its final
15 decision. If there is no mediation agreement, the board may
16 have a second public hearing to receive additional comment
17 related to the mediation issues. Within ten days after the
18 second public hearing, the board may receive additional written
19 comment on the issues raised at the second public hearing from
20 any party.



1 The board shall consider the comments raised at the second
2 hearing before rendering its final decision. The board shall
3 then determine whether, pursuant to board rules, a conservation
4 district use permit shall be granted to authorize the science
5 and technology research activities described in the application.
6 The board shall grant a conservation district use permit if it
7 finds that the applicant has demonstrated that:

- 8 (1) The desired uses would not have unreasonable adverse
9 health, environmental, or socioeconomic effects on
10 residents or surrounding property; and
11 (2) The desired uses would not unreasonably burden public
12 agencies to provide roads and streets, sewers, water,
13 drainage, and police and fire protection; or
14 (3) There are reasonable measures available to mitigate
15 the unreasonable adverse effects or burdens referred
16 to above.

17 A decision shall be made by the board within six months of
18 the date a complete application was filed; provided that the
19 time limit may be extended by agreement between the applicant
20 and the board.



1 (e) If science and technology research activities are
2 proposed within agricultural, rural, or urban districts and such
3 proposed activities are not permitted uses pursuant to county
4 general plan and zoning ordinances, then after receipt of a
5 properly filed and completed application, including all required
6 supporting data, the appropriate county authority shall conduct
7 a public hearing. Upon appropriate request for mediation from
8 any party who submitted comment at the public hearing, the
9 county authority shall appoint a mediator within five days. The
10 county authority shall require the parties to participate in
11 mediation. The mediator shall not be an employee of any county
12 agency or its staff. The mediation period shall not extend
13 beyond thirty days after mediation started, except by order of
14 the county authority. Mediation shall be confined to the issues
15 raised at the public hearing by the party requesting mediation.
16 The mediator shall submit a written recommendation to the county
17 authority, based upon any mediation agreement reached between
18 the parties for consideration by the county authority in its
19 final decision. If there is no mediation agreement, the county
20 authority may have a second public hearing to receive additional
21 comment related to the mediation issues. Within ten days after



1 the second public hearing, the county authority may receive
2 additional written comment on the issues raised at the second
3 public hearing from any party. The county authority shall
4 consider the comments raised at the second hearing before
5 rendering its final decision. The county authority shall then
6 determine whether a science and technology research permit shall
7 be granted to authorize the science and technology research
8 activities described in the application. The appropriate county
9 authority shall grant a science and technology research permit
10 if it finds that the applicant has demonstrated that:

11 (1) The desired uses would not have unreasonable adverse
12 health, environmental, or socioeconomic effects on
13 residents or surrounding property; and

14 (2) The desired uses would not unreasonably burden public
15 agencies to provide roads and streets, sewers, water,
16 drainage, school improvements, and police and fire
17 protection; or

18 (3) That there are reasonable measures available to
19 mitigate the unreasonable adverse effects or burdens
20 referred to above.



1 Unless there is a mutual agreement to extend, a decision
2 shall be made on the application by the appropriate county
3 authority within six months of the date a complete application
4 was filed; provided that the time limit may be extended by
5 agreement between the applicant and the appropriate county
6 authority.

7 (f) Requests for mediation shall be received by the board
8 or county authority within five days after the close of the
9 initial public hearing. Within five days thereafter, the board
10 or county authority shall appoint a mediator. Any person
11 submitting an appropriate request for mediation shall be
12 notified by the board or county authority of the date, time, and
13 place of the mediation conference by depositing such notice in
14 the mail to the return address stated on the request for
15 mediation. The notice shall be mailed no later than ten days
16 before the start of the mediation conference. The conference
17 shall be held on the island where the public hearing is held.

18 (g) Any decision made by an appropriate county authority
19 or the board pursuant to a public hearing or hearings under this
20 section may be appealed directly on the record to the
21 intermediate appellate court for final decision and shall not be



1 subject to a contested case hearing. Sections 91-14(b) and (g)
2 shall govern the appeal, notwithstanding the lack of a contested
3 case hearing on the matter. The appropriate county authority or
4 the board shall provide a court reporter to produce a transcript
5 of the proceedings at all public hearings under this section for
6 purposes of an appeal.

7 (h) For the purposes of an appeal from a decision from a
8 public hearing, the record shall include:

9 (1) The application for the permit and all accompanying
10 supporting documents, including but not limited to:
11 reports, studies, affidavits, statements, and
12 exhibits;

13 (2) Staff recommendations submitted to the members of the
14 agency in consideration of the application;

15 (3) Oral and written public testimony received at the
16 public hearings;

17 (4) Written transcripts of the proceedings at the public
18 hearings;

19 (5) The written recommendation received by the agency from
20 the mediator with any mediation agreement;



1 (6) A statement of relevant matters noticed by the agency
2 members at the public hearings;

3 (7) The written decision of the agency issued in
4 connection with the application and public hearings;
5 and

6 (8) Other documents required by the board or county
7 authority.

8 (i) As used in this section:

9 "Appropriate county authority" means the county planning
10 commission unless some other agency or body is designated by
11 ordinance of the county council.

12 "Board" means the board of land and natural resources.

13 "Science and technology research activities" means those
14 noncommercial activities related to the planning, development
15 and operation of a science and technology research facility for
16 which a science and technology research permit has been issued.

17 §205- Designation of areas as science and technology

18 research subzones. (a) The following areas shall be designated
19 science and technology research subzones for the purposes of
20 this chapter and shall be reviewed after a period of twenty-five



1 years and may be extended or terminated pursuant to subsection

2 (b):

3 (1) Natural Energy Laboratory of Hawaii Authority Science
4 and Technology Park at Keahole Point, North Kona,
5 island of Hawaii;

6 (2) Natural Energy Laboratory of Hawaii Authority
7 Geothermal Research Facility, HGP-A at Pohoiki, Puna,
8 island of Hawaii;

9 (3) Maui Research & Technology Center in Kihei, island of
10 Maui;

11 (4) Haleakala high altitude observatory site, as defined
12 by executive order number 1987, set aside to the
13 University of Hawaii in Kula, island of Maui;

14 (5) Manoa Innovation Center at the University of Hawaii in
15 Honolulu, island of Oahu;

16 (6) Hawaii Innovation Center, operated by the University
17 of Hawaii in Hilo, island of Hawaii;

18 (7) Astronomy precinct, portion of the Mauna Kea science
19 reserve, as defined by general lease number S-4191,
20 issued to the University of Hawaii in Kaohe, island of
21 Hawaii; and



1 (8) Hale Pohaku Mid-Level Facility, as defined by general
2 lease number S-5529, issued to the University of
3 Hawaii in Kaohe, island of Hawaii; and
4 (9) Other areas may be added as necessary.
5 (b) Beginning in 2017, the board of land and natural
6 resources shall conduct a county-by county assessment of areas
7 that meet the criteria set out in this section and demonstrate
8 the potential for providing appropriate areas for conducting
9 science and technology research activity. This assessment shall
10 be revised or updated at the discretion of the board, but at
11 least once each five years beginning in 2022. Any property
12 owner or person with an interest in real property wishing to
13 have an area designated as a science and technology research
14 subzone may submit a petition for a science and technology
15 research subzone designation in the form and manner established
16 by rules adopted by the board. An environmental impact
17 statement as defined under chapter 343 shall not be required for
18 the assessment of areas for designation of science and
19 technology research subzones under this section.



1 (c) The board's assessment of each potential science and
2 technology research subzone area shall examine factors to
3 include, but not be limited to:

4 (1) The area's potential and suitability for science and
5 technology research;

6 (2) The history of similar science and technology research
7 in the area;

8 (3) The existence of similar science and technology
9 research facilities in the area;

10 (4) Social and environmental impacts;

11 (5) The compatibility of the facilities for science and
12 technology research with the present uses of
13 surrounding land and those uses permitted under the
14 general plan or land use policies of the county in
15 which the area is located;

16 (6) The prospects for the use and application of such
17 science and technology research in the area, including
18 consideration of the presence of educational and other
19 research institutions;



- 1 (7) The potential scientific, technological, economic,
2 cultural and social benefits to be derived from the
3 proposed research activity; and
- 4 (8) The compatibility of the science and technology
5 research with the uses permitted under chapter 183C
6 and section 205-2, where the area falls within a
7 conservation district."

PART III

9 SECTION 3. Section 183C-4, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) Notwithstanding this section or any other law to the
12 contrary, science and technology research activities as defined
13 under section 205- (i), geothermal resources exploration and
14 geothermal resources development, as defined under section 182-
15 1, shall be permissible uses in all zones of the conservation
16 district. The rules required under subsection (b) governing the
17 use of land within the boundaries of the conservation district
18 shall be deemed to include the provisions of this section
19 without necessity of formal adoption by the department."

20 SECTION 4. Section 183C-6, Hawaii Revised Statutes, is
21 amended by amending subsections (b) and (c) to read as follows:



1 "(b) The department shall render a decision on a completed
2 application for a permit within one-hundred-eighty days of its
3 acceptance by the department. If within one-hundred-eighty days
4 after acceptance of a completed application for a permit, the
5 department shall fail to give notice, hold a hearing, and render
6 a decision, the owner may automatically put the owner's land to
7 the use or uses requested in the owner's application. When an
8 environmental impact statement is required pursuant to chapter
9 343, or when a contested case hearing is requested pursuant to
10 chapter 91, or when binding mediation is requested for the
11 issuance of a science and technology research permit pursuant to
12 section 205- , the one-hundred-eighty days may be extended an
13 additional ninety days at the request of the applicant. Any
14 request for additional extensions shall be subject to the
15 approval of the board.

16 (c) The department shall hold a public hearing in every
17 case involving the proposed use of land for commercial purposes,
18 at which hearing interested persons shall be afforded a
19 reasonable opportunity to be heard. Public notice of the time
20 and place of the hearing shall be given at least once statewide
21 and in the county in which the property is located. The notice



1 shall be given not less than twenty days prior to the date set
2 for the hearing. The hearing shall be held in the county in
3 which the land is located and may be delegated to an agent or
4 representative of the board as may otherwise be provided by law
5 and in accordance with rules adopted by the board. For the
6 purposes of its public hearing or hearings, the department shall
7 have the power to summon witnesses, administer oaths, and
8 require the giving of testimony. As used in this subsection,
9 the term "commercial purposes" shall not include the use of land
10 for utility purposes[-] or for science and technology research
11 activities within a science and technology research subzone
12 pursuant to section 205- ."

13 PART IV

14 SECTION 5. Section 171-95, Hawaii Revised Statutes, is
15 amended by amending its title and subsection (a) to read as
16 follows:

17 "§171-95 Dispositions to governments, government agencies,
18 public utilities, science and technology research organizations
19 and institutions, and renewable energy producers. (a)

20 Notwithstanding any limitations to the contrary, the board of
21 land and natural resources may, without public auction:



S.B. NO. 3020

- 1 (1) Sell public lands at such price and on such other
2 terms and conditions as the board may deem proper to
3 governments, including the United States, city and
4 county, counties, other governmental agencies
5 authorized to hold lands in fee simple and public
6 utilities;
- 7 (2) Lease to the governments, agencies, public utilities,
8 science and technology research organizations and
9 institutions for noncommercial research purposes
10 within a science and technology research subzone
11 pursuant to section 205- , and renewable energy
12 producers public lands for terms up to, but not in
13 excess of, sixty-five years at such rental and on such
14 other terms and conditions as the board may determine;
- 15 (3) Grant licenses and easements to the governments,
16 agencies, public utilities, science and technology
17 research organizations and institutions for
18 noncommercial research purposes within a science and
19 technology research subzone pursuant to section 205-
20 , and renewable energy producers on such terms and
21 conditions as the board may determine for road,



S.B. NO. 3020

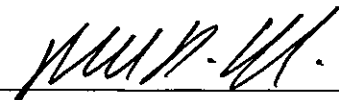
- 1 pipeline, utility, communication cable, and other
- 2 rights-of-way;
- 3 (4) Exchange public lands with the governments and
- 4 agencies;
- 5 (5) Execute quitclaim deeds to the governments and
- 6 agencies, with or without consideration, releasing any
- 7 claim to the property involved made upon disputed
- 8 legal or equitable grounds, whenever the board in its
- 9 discretion deems it beneficial to the State; and
- 10 (6) Waive or modify building and other requirements and
- 11 conditions contained in deeds, patents, sales
- 12 agreements, or leases held by the governments and
- 13 agencies whenever such waiver or modification is
- 14 beneficial to the State."

PART V

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.

19 INTRODUCED BY:



By Request



S.B. NO. 3020

Report Title:

Science and Technology Research Subzone

Description:

Establishes science and technology research subzones and an approval process for future research facilities that incorporates alternative dispute resolution principles.

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

