



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of  
**LUIS P. SALAVERIA**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**

Thursday, March 31, 2016  
9:30 a.m.  
State Capitol, Conference Room 016

in consideration of  
**HB 1170, SD1**  
**RELATING TO LAND RESOURCES.**

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) **supports** HB 1170, SD1, which revises statutory provisions relating to the regulation of mineral resources under H.R.S. §171 and §182 to provide clarity and consistency. SD1 deletes the authorization of the Board of Land and Natural Resources (BLNR) to grant an application for a mining lease submitted by a renewable energy producer in accordance with H.R.S. §171-95 or by a vote of two-thirds of its members and without public auction, clarifies that exploration may be done by any person wishing to conduct geothermal or mineral exploration, and inserts an effective date of July 1, 2016.

With regards to the SD1 amendments pertaining to a mining lease, DBEDT defers to Department of Land and natural Resources (DLNR) on the appropriate and efficient surface and subsurface leasing process for public lands.

DBEDT supports the lease of public lands for geothermal use without public auction. This would provide geothermal developers the same opportunities already afforded to other renewable energy producers regarding leases on public lands.

As this measure concerns the leasing of mineral resources and the use public lands, we defer to DLNR on these matters.

Thank you for the opportunity to offer these comments on HB 1170, SD1.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
JUDICIARY AND LABOR**

**Thursday, March 31, 2016  
9:30 A.M.  
State Capitol, Conference Room 016**

**In consideration of  
HOUSE BILL 1170, HOUSE DRAFT 2, SENATE DRAFT 1  
RELATING TO LAND RESOURCES**

House Bill 1170, House Draft 2, Senate Draft 1 proposes to revise statutory provisions relating to the regulation of mineral resources under Chapters 171 and 182, Hawaii Revised Statutes (HRS), to provide clarity and consistency. **The Department of Land and Natural Resources (Department) supports this measure with proposed changes.**

The Department is responsible for the regulation of geothermal resources in the State. Through the issuance of geothermal resource mining leases and regulatory permits, the Department is tasked to manage the resource and its development to protect the health and safety of the public and to ensure the continued viability of this Public Trust Resource for future generations.

This bill reaffirms the State's reservation over geothermal resources on both state and reserved lands, as well as provide consistency for geothermal resources among other renewable energy sources such as wind, solar, hydropower and biomass. This bill also eliminates ambiguities in the statutory language and would provide the Department clarity to properly regulate and manage this resource.

The Senate Draft 1 deleted proposed language from HRS §182-4 which the Department believes is necessary for a geothermal resources developer to be granted a mining lease without public auction in accordance with the same public process other renewable energy producers are currently subjected to in HRS §171-95.3 for surface leases. Therefore, the Department requests that the language in SECTION 4 be amended as noted to provide clarity between the issuance of surface leases administered under HRS Chapter 171, and the issuance of mining leases administered under HRS Chapter 182.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFERY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

SECTION 4. Section 182-4, Hawaii Revised Statutes, is amended to read as follows:

**"§182-4 Mining leases on state lands.** (a) If any mineral is discovered or known to exist on state lands, any interested person may notify the board [of land and natural resources] of the person's desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased [and], the minerals involved, and any information and maps that the board by rule may prescribe. As soon as practicable thereafter, the board shall cause a public notice to be given in the county where the lands are located, at least once in each of three successive weeks, setting forth the description of the land, and the minerals desired to be leased. The board may hold the public auction of the mining lease within six months from the date of the first notice or any further time that may be reasonably necessary. Whether or not the state land sought to be auctioned is then being utilized or put to some productive use, the board, after due notice of public hearing to all parties in interest, within six weeks from the date of the first notice or any further time that may be reasonably necessary, shall determine whether the proposed mining operation or the existing or reasonably foreseeable future use of the land would be of greater benefit to the State. If the board determines that the existing or reasonably foreseeable future use would be of greater benefit to the State than the proposed mining use of the land, it shall disapprove the application for a mining lease of the land without putting the land to auction. The board shall determine the area to be offered for lease and, after due notice of public hearing to all parties in interest, may modify the boundaries of the land areas. At least thirty days prior to the holding of any public auction, the board shall cause a public notice to be given in the State at least once in each of three successive weeks, setting forth the description of the land, the minerals to be leased, and the time and place of the auction. Bidders at the public auction may be required to bid on the amount of annual rental to be paid for the term of the mining lease based on an upset price fixed by the board, a royalty based on the gross proceeds or net profits, cash bonus, or any combination or other basis and under any terms and conditions that may be set by the board.

(b) Any provisions to the contrary notwithstanding, if the person who discovers the mineral discovers it as a result of exploration permitted under section 182-6, and if that person bids at the public auction on the mining lease for the right to mine the discovered mineral and is unsuccessful in obtaining such lease, that person shall be reimbursed by the person submitting the highest successful bid at public auction for the direct or indirect costs incurred in the exploration of the land, excluding salaries, [attorneys] attorney's fees and legal expenses. The department [shall have the authority to] may review and approve all expenses and costs that may be reimbursed.

(c) Notwithstanding any other provision to the contrary, an application for a mining lease submitted under this section may be granted by the board in accordance with the procedures set forth in section 171-95.3."

Thank you for the opportunity to testify on this measure.

SENATE COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Thursday, March 31, 2016  
Conference Room 016  
9:30 PM

**Testimony in Support of HB 1170 SD1**

Relating to Land Resources

Submitted by:  
Donald Thomas

I am a member of the research faculty at the University of Hawaii and have conducted applied and basic research on Hawaii's geology, groundwater, and geothermal systems for more than 40 years. I present the following testimony in support of HB1170 SD1.

I support the intent of this bill, to clarify the requirements for leasing of geothermal resources as well as providing additional clarification to the terms relating to Geothermal Resources Exploration. In prior interactions with the DLNR there has been some confusion regarding the intent of Chapter 182 and its applicability to basic research on Hawaii's groundwater and geothermal systems. As a result of that confusion, research into these resources by the University has been put at risk and, in one case, had to be abandoned altogether. The clarifications inserted into Senate Draft 1 of HB 1170 will, I believe, ensure that future non-invasive, low-impact earth sciences research will be able to proceed without unnecessary delays and legal costs.

Thank you for this opportunity to offer testimony.

This testimony reflects my views alone and is not an official statement of the University of Hawaii.