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SB 2184, SD 1 GEOTHERMAL ENERGY

Statement for
House Committees on
Energy, Ecology, and Environmental Protection
and
Land Use, Development and Hawaiian Affairs
Public Hearing - 28 March 1984

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SB 2184-84, SD 1, would alter the "grandfathering" clause in Act 296, Session Laws of Hawaii, Regular Session of 1983, by allowing parties holding existing exploration permits to apply for additional exploration permits, including permits for exploration in conservation districts. The bill also makes minor wording changes clarifying the intent of the act. This statement on the bill does not reflect an institutional position of the University of Hawaii.

SB 2184, as originally introduced, would have granted "grandfather" status to geothermal subzones in areas where Geothermal Resource Mining Leases had been approved prior to the passage of Act 296, and would have clarified substantially the role of the counties in geothermal resource permitting. These provisions have been deleted from the present version, SB 2184, SD 1, and have been replaced by a provision which would allow expanded permitting under the "grandfather" clause of Act 296. The impact of SB 2184, as originally introduced, would have been to relieve geothermal projects in advance stages from after-the-fact restraint due to the implementation of Act 296. The intent was to ensure equitable treatment of parties who had applied for and been granted geothermal mining leases prior to the passage of Act 296, and the development of well defined permitting procedures for all geothermal activities. The rationale for the provisions of the present version, SD 1, is not clear; it does not seem appropriate to include provisions for permitting new kinds of activities under a "grandfather" clause; and it is clearly environmentally undesirable to "grandfather" new permits in conservation district lands.

SB 2184, SD 1, may be improved by deleting provisions allowing "grandfathering" of permits which have not yet been granted or which would cover extensions of activities in the conservation district; and reinserting provisions for "grandfathering" in situations where real principles of equity are involved. SB 2184, SD 1, may be further improved by reintroducing language that would make permitting procedures under Act 296 more explicit and that would provide that the burden of proof in permitting procedures be placed on the applicants for permits rather than the permitting agency.