

Michael K. McKell proposes the following substitute bill:

Geothermal Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor:

LONG TITLE

General Description:

This bill addresses geothermal resources or fluids.

Highlighted Provisions:

This bill:

- addresses the reservation of a geothermal resource on state and institutional trust land;
- clarifies the purposes of the geothermal chapter;
- addresses definitions;
- modifies provisions related to ownership of geothermal resources or fluids;
- amends powers of the Division of Water Rights related to confidentiality of information;
- addresses bonding requirements; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-2-401, as last amended by Laws of Utah 2003, Chapter 192

73-22-2, as enacted by Laws of Utah 1981, Chapter 188

73-22-3, as last amended by Laws of Utah 2016, Chapter 348

73-22-4, as enacted by Laws of Utah 1981, Chapter 188

73-22-6, as enacted by Laws of Utah 1981, Chapter 188

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53C-2-401** is amended to read:

53C-2-401 . Coal and mineral deposits reserved -- Geothermal resource --**Exceptions.**

- (1)(a)(i) Except as otherwise expressly provided by law, coal and mineral deposits in trust lands are reserved to the respective trust.
- (ii) The reservation of mineral deposits described in Subsection (1)(a)(i) includes reservation of a geothermal resource as defined in Section 73-22-3.
- (b) ~~[Each]~~ A certificate of sale and patent issued shall contain ~~[such]~~ a reservation described in Subsection (1)(a).
- (c) The purchaser of any lands belonging to the trust:
- (i) acquires no right, title, or interest in coal or mineral deposits, including geothermal resources; and
- (ii) is subject to the conditions and limitations prescribed by law providing for the state and any person authorized by ~~[it]~~ the state to:
- (A) prospect or mine;
- (B) remove ~~[the]~~ deposits; ~~[and]~~
- (C) develop geothermal resources; and
- ~~[(C)]~~ (D) occupy and use as much of the surface of the lands as may be required for any purpose reasonably incident to ~~[the]~~ mining~~[-and]~~ , removal of ~~[the]~~ deposits, or development of a geothermal resource.
- (d)(i) Coal~~[-and]~~ , mineral deposits, or geothermal resources in trust lands may be leased on a rental and royalty basis.
- (ii) The administration may also, with board approval, enter into joint ventures, farmout agreements, exploration agreements, operating agreements, and other business arrangements for the disposition of coal~~[-and]~~ , mineral deposits, or geothermal resources in trust lands.
- (iii) The mineral estate in trust lands may not be sold except as authorized in Subsection (2).
- (iv) ~~[Agreements]~~ An agreement made under Subsection (1)(d)(ii) ~~[are]~~ is not subject to Subsections 53C-2-405(3) and (4).
- (2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C. Sections 870-871, mineral interests in trust lands may be exchanged for mineral interests of comparable value or otherwise disposed of, if ~~[their]~~ the retention would create a liability exceeding their value.
- (3)(a) Common varieties of sand, gravel, and cinders are not considered to be minerals

under this section but may be reserved by specific action of the director.

(b) Common varieties do not include deposits ~~[which]~~ that are valuable because the deposit contains characteristics which give ~~[it]~~ the deposit distinct and special value.

Section 2. Section **73-22-2** is amended to read:

73-22-2 . Purpose of chapter.

~~[It is declared to be in the public interest]~~ The purpose of this chapter is to:

- (1) foster, encourage, and promote the discovery, development, production, [utilization] use,
and disposal of geothermal resources ~~[in the State of Utah]~~ for the purpose of electricity
production in such manner as will prevent waste, protect correlative rights, and
safeguard the natural environment and the public welfare; ~~[to]~~ and
- (2) authorize, encourage, and provide for the development and operation of geothermal
resource properties for the purpose of electricity production in such manner that the
maximum ultimate economic recovery of geothermal resources may be obtained
through, among other things, agreements for cooperative development, production,
injection, and pressure maintenance operations.

Section 3. Section **73-22-3** is amended to read:

73-22-3 . Definitions.

As used in this chapter:

- (1) "Correlative rights" mean the rights of ~~[each]~~ a geothermal owner in a geothermal area to
produce without waste ~~[his]~~ the geothermal owner's just and equitable share of the
geothermal resource underlying the geothermal area.
- (2) "Division" means the Division of Water Rights~~;~~ within the Department of Natural
Resources.
- (3) "Geothermal area" means the general land area ~~[which]~~ that is underlain or reasonably
appears to be underlain by a geothermal ~~[resources]~~ resource.
- (4) "Geothermal fluid" means water and steam at temperatures greater than ~~[120]~~ 100
degrees centigrade naturally present in a geothermal system.
- (5)(a) "Geothermal resource" means:
 - (i) the natural heat of the earth at temperatures greater than ~~[120]~~ 100 degrees
centigrade; and
 - (ii) the energy, in whatever form, including pressure, present in, resulting from,
created by, or ~~[which]~~ that may be extracted from that natural heat, directly or
through a material medium using any type of application including a conventional
hydrothermal, enhanced geothermal, or advanced geothermal system.

(b) "Geothermal resource" does not include a geothermal [fluids] fluid.

(6) "Geothermal system" means ~~[any]~~ a strata, pool, reservoir, or other geologic formation containing a geothermal [resources] resource.

(7) "Material medium" means a geothermal [fluids] fluid, or water and other [substances] substance artificially introduced into a geothermal system to serve as a heat transfer medium.

(8) "Operator" means ~~[any]~~ a person drilling, maintaining, operating, producing, or in control of ~~[any]~~ a well.

(9) "Owner" means a person who has the right to drill into, produce, and make use of ~~[the]~~ a geothermal resource.

~~[(10) "Person" means any individual, business entity (corporate or otherwise), or political subdivision of this or any other state.]~~

~~[(11)]~~ (10)(a) "Waste" means ~~[any]~~ an inefficient, excessive, or improper production, use, or dissipation of a geothermal [resources] resource.

(b) ~~[Wasteful practices include]~~ "Waste" includes:

(i) a transporting or storage ~~[methods that cause or tend]~~ method that causes or tends to cause unnecessary surface loss of a geothermal [resources] resource; or

(ii) locating, spacing, constructing, equipping, operating, producing, or venting of ~~[any]~~ a well in a manner that results or tends to result in unnecessary surface loss or in reducing the ultimate economic recovery of a geothermal [resources] resource.

(11) "Water right" means:

(a) a right to use water, including a geothermal fluid, evidenced by a means identified in Subsection 73-1-10(1)(a); or

(b) a right to use water, including a geothermal fluid, under an approved application:

(i) to appropriate; or

(ii) for a change of use.

(12) "Well" means ~~[any]~~ a well drilled, converted, or reactivated for the discovery, testing, production, or subsurface injection of a geothermal [resources] resource.

Section 4. Section **73-22-4** is amended to read:

73-22-4 . Ownership of geothermal resource -- Water right -- Lands subject to chapter.

(1) Ownership of a geothermal resource derives from an interest in the surface of land~~[and not from an appropriative right to geothermal fluids].~~

(2) On and after May 6, 2026, a person that owns the surface of the land as of May 6, 2026,

also owns title to the geothermal resource, even if the mineral estate is severed, unless before May 6, 2026, the right to the geothermal resource was:

(a) expressly reserved by a conveyance, contract, deed, lease, or other binding obligation; or

(b) conveyed by the holder of the mineral estate to a third party by a conveyance, contract, deed, or other binding obligation.

(3)(a) Subsections (1) and (2) do not apply to school and institutional trust lands as defined in Section 53C-1-103.

(b) Section 53C-2-401 governs the reservation of a geothermal resource in school and institutional trust lands.

(c) On and after May 6, 2026, for school and institutional trust lands owned as of May 6, 2026, the state owns title to a geothermal resource in school and institutional trust lands unless title to the geothermal resource has been expressly conveyed by a conveyance, contract, deed, or other to another party by the state in accordance with Section 53C-2-401.

(4) Subject to Section 73-22-8, a person may not use a geothermal fluid without a water right.

~~[(2)]~~ (5) This chapter shall apply to ~~[all]~~ lands in the ~~[State of Utah]~~ state, including federal and Indian lands to the extent allowed by law. When ~~[these]~~ federal or Indian lands are committed to a unit agreement involving lands subject to federal or Indian jurisdiction, the division may, with respect to the unit agreement, ~~[deem]~~ consider this chapter complied with if the unit operations are regulated by the United States and the division finds that conservation of geothermal resources and prevention of waste are accomplished under the unit agreement.

Section 5. Section **73-22-6** is amended to read:

73-22-6 . Information required concerning resource development -- Confidentiality -- Regulation of wells -- Surety bonds -- Inspection.

(1) The division ~~[shall have authority to]~~ may require a person to:

(a) ~~[Identification of]~~ identify the location and ownership of ~~[all wells and producing geothermal leases.]~~ a well or producing geothermal lease;

(b) ~~[Filing with the division of]~~ file with the division a notice of intent to drill, redrill, renovate, deepen, permanently alter the casing of, test, maintain, or abandon any well~~[- Approval]~~ and obtain the division's approval of the notice of intent ~~[must be obtained from the division prior to commencement of operations.]~~ before the person

- commences operations;
- (c) ~~[Keeping of well logs and filing true and correct copies]~~ subject to Subsection (4), keep a well log or record and file a copy of the well log or record with the division[- These records are public records when filed with the division, unless the owner or operator requests, in writing, that the records be held confidential. The period of confidentiality shall be established by the division, not to exceed five years from the date of production or injection for other than testing purposes or five years from the date of abandonment, whichever occurs first, as determined by the division. Well records held confidential by the division are open to inspection by those persons authorized in writing by the owner or operator. Confidential status shall not restrict inspection by state officers charged with regulating well operations or by authorized officials of the Utah State Tax Commission for purposes of tax assessment.] ;
- (d) ~~[The spacing, drilling, casing, testing, operating, producing, and abandonment of wells]~~ space, drill, case, test, operate, produce, or abandon a well so as to prevent:
- (i) a geothermal [resources] resource, water, [gases] gas, or other [fluids] fluid from escaping into strata:
- (A) other than the strata in which [they are] the resource, water, gas, or fluid is found[-(] ; and
- (B) unless in accordance with a subsurface injection program approved by the division[-)];
- (ii) pollution of surface and groundwater;
- (iii) premature cooling of [any] a geothermal system by water encroachment or otherwise [which] that tends to reduce the ultimate economic recovery of the geothermal [resources] resource;
- (iv) ~~[blowouts, cave-ins, and]~~ a blowout, cave-in, or seepage; and
- (v) unreasonable disturbance or injury to neighboring properties, prior water rights, human life, health, and the environment[-] ;
- (e) ~~[The operator to file cash or]~~ subject to Subsection (2), if an operator, file an individual surety [bonds] bond with the division for [each] a new well drilled [and each] or an abandoned well redrilled[-The amount of surety required shall be determined by the division. In lieu of bonds for separate wells, the operator may file a blanket cash or individual surety bond in an amount set by the division to cover all the operator's drilling, redrilling, deepening, maintenance, or abandonment activities for wells in the state. Bonds filed with the division shall be executed by the operator, as

principal, conditioned on compliance with division regulations in drilling, redrilling, deepening, maintaining, or abandoning any well or wells covered by the bond and shall secure the state against all losses, charges, and expenses incurred by it to obtain such compliance by the principal named in the bond.] ;

- (f) [The geothermal] if an owner or operator[~~-to~~] , measure geothermal production according to standards set by the division and maintain complete and accurate production records[~~-. The records, or certified copies of them, shall be preserved on file by-~~] or certified copies of the records that the owner or operator:
- (i) keeps for a period of five years[~~-and shall be~~] ; and
 - (ii) makes available for examination by the division at [all-]reasonable times[~~-~~] ; and
- (g) [Filing-] file with the division any other reasonable [reports which it prescribes] report that the division requires regarding geothermal operations within the state.

- (2)(a) [Any-] With the consent of the division, a person may terminate or cancel a surety bond filed with the division in conformance with this chapter [may, with the consent of the division, be terminated and canceled and the surety be relieved of all] and relieve the surety of the obligations under [it] the surety bond when the well or wells covered by the surety bond have been properly abandoned or another valid surety bond has been substituted for [it] the surety bond.
- (b) The amount of surety bond required by this section shall be determined by the division to be a reasonable amount.
- (c) In lieu of an individual surety bond for separate wells, the operator may file a blanket surety bond in an amount set by the division to cover all the operator's drilling, redrilling, deepening, maintenance, or abandonment activities for wells.
- (d) An operator shall execute a surety bond filed with the division by the operator as principal and condition the surety bond on compliance with division regulations in drilling, redrilling, deepening, maintaining, or abandoning a well covered by the surety bond.
- (e) A surety bond filed with the division shall secure the state against losses, charges, and expenses incurred by the state to obtain the compliance described in Subsection (2)(d) by the principal named in the surety bond.
- (3) The division may enter onto private or public land at any time to inspect [any] a well or geothermal resource development project to determine if the well or project is being constructed, operated, or maintained according to any applicable permits or to determine if the construction, operation, or maintenance of the well or project may involve an

unreasonable risk to life, health, property, the environment or subsurface, surface, or atmospheric resources.

- (4)(a) A well log or record described in Subsection (1)(c) is a public record when filed with the division, unless the owner or operator requests, in writing, that the division holds the well log or record as protected in accordance with Subsection 63G-2-305(1) or (2) for a period established by the division, not to exceed the earlier of the following, as determined by the division:
- (i) five years from the date of production or injection for other than testing purposes;
 - (ii) one year from the date of abandonment; or
 - (iii) one year from the date of completion of a geothermal monitoring, exploration, investigation, or test well project that does not directly transition into production development.
- (b) A well log or record held protected by the division under Subsection (4)(a) is open to inspection by a person authorized in writing to inspect the well log or record by the owner or operator.
- (c) The status of a well log or record as protected under Subsection (4)(a) does not restrict inspection by:
- (i) a state officer charged with regulating well operations; or
 - (ii) an authorized official of the State Tax Commission for purposes of tax assessment.

Section 6. Effective Date.

This bill takes effect on May 6, 2026.