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The measure was altered without advance public notice to include geothermal issues

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State senators, fretting over transparency, want to give the public more time to digest a bill that was supposed to be about the Native Hawaiian Roll Commission but was radically altered to also apply to geothermal development.

Bills often take on different forms as they wind through the legislative process, but the changes to House Bill 252 are unusually striking.

The bill was drafted to require the Native Hawaiian Roll Commission, which is identifying Hawaiians eligible to participate in a new Hawaiian government, to submit annual progress reports to the governor and the Legislature.

But the bill was amended April 1 by the Senate Tourism and Hawaiian Affairs and the Senate Judiciary and Labor committees — without advance public notice — to also establish permitting, mediation and other regulatory standards for geothermal development. The bill, which would include geothermal in the definition of renewable energy, would restore the ability of counties to issue geothermal resource permits for geothermal development in agricultural, rural or urban districts even if such development is not a permissible use under county zoning laws or general plans.

Senators were allowed to make the amendments because the title of the bill — "Relating to Government" — was sufficiently broad. Since the bill would still cover the Native Hawaiian Roll Commission, the amendments were not a "gut and replace," a procedural tactic that Senate leaders have said should be used only as a last resort.

But the amendments were seen as problematic enough that the Senate Judiciary and Labor Committee on April 2 did perform a "gut and replace" and duplicated the Native Hawaiian Roll Commission reporting requirements in a separate bill — House Bill 785 — as a precaution.

Senate Vice President Ronald Kouchi said senators today plan to add a defective date to the bill that still contains both the Native Hawaiian Roll Commission and geothermal development provisions. The date, usually far off in the future, will have to be corrected, ensuring that the legislation would be subject to conference committee.

Although no public testimony is accepted during conference committee, the public would have more time to review the changes and contact lawmakers with any feedback.

"We're going to move to defect the date tomorrow, and that would allow a few more weeks for comments to come in and people to be aware that that bill is being considered," said Kouchi (D, Kauai-Niihau).

Senate and House leaders have called for greater transparency in the legislative process this session after public criticism over procedural maneuvers that, while legal, are often difficult to explain. Senate leaders have told senators that "gut and replace," for example, should be used only as a last resort and should not circumvent the committee referral process.

Committee chairmen are now expected to post proposed "gut and replace" drafts before committee hearings, as the Senate Judiciary and Labor Committee did on the Native Hawaiian Roll Commission replacement bill.

But such guidelines can be challenging as lawmakers scramble to complete work on bills before legislative deadlines, such as this week's deadline to exchange bills between the House and Senate before conference committee.

Sen. Malama Solomon (D, Kaupulehu-Waimea-North Hilo), who favored the amendments on geothermal development, said the issue is important for Hawaii island, where geothermal expansion is under consideration.

"This was something that's needed," she said.

Sen. Russell Ruderman (D, Puna), who wants tighter regulatory oversight of geothermal, said he is "extremely disturbed" by both the substance of the amendments and the legislative process that senators used to add them to an unrelated bill.

"We have a situation where the public never had a chance to comment on this thing that's going to be a major redefinition of the laws about geothermal," he said.