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# A BILL FOR AN ACT

RELATING TO MAUNA KEA.

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

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**PART I**

2           SECTION 1. The legislature finds that Mauna Kea serves as  
3 an important cultural and genealogical site to the people of  
4 Hawaii, particularly to Native Hawaiians. The summit region of  
5 Mauna Kea is a spiritual and special place of significance that  
6 is home to cultural landscapes, fragile habitats, and historical  
7 and archaeological artifacts. Due to its topographical  
8 prominence, Mauna Kea is also a highly valued site for  
9 astronomical advancements, participating in many significant  
10 discoveries that contribute to humanity's study and  
11 understanding of the universe. However, in recent years, Mauna  
12 Kea has come to symbolize a rigid dichotomy between culture and  
13 science, often leading to polarization between stakeholders on  
14 Mauna Kea and local communities. Therefore, resolving the  
15 management issues of Mauna Kea is a top issue in the State.

16           The legislature further finds that on March 4, 2021, the  
17 Hawaii house of representatives adopted House Resolution No. 33,



1 H.D. 1, Regular Session of 2021, to reconcile this  
2 mismanagement, mistrust, and polarization by convening the  
3 working group to develop recommendations, building on the  
4 findings of the Independent Evaluation of the Implementation of  
5 the Mauna Kea Comprehensive Management Plan, for a new  
6 governance and management structure for Mauna Kea that  
7 collaboratively engages with all stakeholders, particularly the  
8 Native Hawaiian community.

9 Based upon the recommendations of the working group, the  
10 purpose of this Act is to establish the Mauna Kea stewardship  
11 authority.

12 SECTION 2. The Hawaii Revised Statutes is amended by  
13 adding a new chapter to be appropriately designated and to read  
14 as follows:

15 **"CHAPTER**

16 **MAUNA KEA STEWARDSHIP AUTHORITY**

17 § -1 **Definitions.** As used in this chapter, unless the  
18 context otherwise requires:

19 "Authority" means the Mauna Kea stewardship authority.

20 "Chairperson" means the chairperson of the Mauna Kea  
21 stewardship authority.



1 "Executive director" means the executive director of the  
2 Mauna Kea stewardship authority.

3 "Land" includes all interests therein and natural resources  
4 including water, minerals, and all things connected with land,  
5 unless expressly provided otherwise.

6 "Lease" means the right to possess and use land for a term  
7 of years.

8 "Mauna Kea" means all real property that is situated on the  
9 mountain on the island of Hawaii known variously as Mauna Kea,  
10 Maunakea, Mauna a Wakea, Mauna O Wakea, Ka Mauna a Kea, or Mauna  
11 Akea.

12 "Mauna Kea lands" means all lands held in trust or  
13 otherwise controlled by the Mauna Kea stewardship authority.

14 "Person" includes an individual, a partnership, a  
15 corporation, or an association, except as otherwise defined in  
16 this chapter.

17 § -2 **Mauna Kea stewardship authority; established;**  
18 **values and guiding principles.** (a) There is established the  
19 Mauna Kea stewardship authority, which shall be a body corporate  
20 and a public instrumentality of the State for the purpose of  
21 implementing this chapter. The authority shall be attached to



1 the office of the chairperson of the board of land and natural  
2 resources for administrative purposes.

3 (b) The authority shall consist of nine voting members:  
4 seven members who shall be appointed by the governor subject to  
5 section 26-34 and two ex-officio members. The members shall  
6 include:

- 7 (1) The chair of land and natural resources, or the  
8 chairperson's designee;
- 9 (2) The chief executive officer of the office of Hawaiian  
10 affairs, or the chief executive officer's designee;
- 11 (3) An individual with aina resource management expertise  
12 and a track record of Hawaii island-based management,  
13 nominated by the nominating committee;
- 14 (4) An individual with infrastructure and land management  
15 experience and a track record of Hawaii island-based  
16 management, nominated by the nominating committee;
- 17 (5) An individual with educational expertise in p-12  
18 public education; community, culture, and Hawaiian  
19 language medium-based education; or post-secondary  
20 education, nominated by the nominating committee;



- 1 (6) An individual with business and finance experience,  
2 nominated by the nominating committee;
- 3 (7) A Native Hawaiian individual who is a lineal  
4 descendent of a practitioner of Native Hawaiian  
5 traditional and customary practices associated with  
6 Mauna Kea, nominated by the office of Hawaiian  
7 affairs, in coordination with the Edith Kanaka'ole  
8 Foundation and I Ola Hāloa Hawaiian studies program at  
9 Hawaii community college;
- 10 (8) A Native Hawaiian individual who is a recognized  
11 practitioner of Native Hawaiian traditional and  
12 customary practices associated with Mauna Kea,  
13 nominated by the office of Hawaiian affairs, in  
14 coordination with the Edith Kanaka'ole Foundation and I  
15 Ola Hāloa Hawaiian studies program at Hawaii community  
16 college; and
- 17 (9) A Native Hawaiian individual with expertise in Native  
18 Hawaiian traditional and customary practices,  
19 nominated by the office of Hawaiian affairs, in  
20 coordination with the Edith Kanaka'ole Foundation and I



1           Ola Hāloa Hawaiian studies program at Hawaii community  
2           college;

3 provided that four of the seven non-ex-officio members of the  
4 authority shall be Native Hawaiian residents of the county of  
5 Hawaii, with a preference for Native Hawaiian residents of the  
6 county of Hawaii for all seven non-ex-officio members.

7           A majority of all members shall constitute a quorum to do  
8 business, and the concurrence of a majority of all members shall  
9 be necessary to make any action of the authority valid. All  
10 members shall continue in office until their respective  
11 successors have been selected, or appointed and confirmed.

12           (c) The authority shall elect the chairperson from among  
13 its non-ex-officio members; provided that the chairperson shall  
14 not be the executive director.

15           (d) The members of the authority shall serve for a term of  
16 four years and shall not serve more than two terms; provided  
17 that the initial terms shall be staggered, as determined by the  
18 governor.

19           (e) The authority's day-to-day operations shall be led by  
20 the executive director who shall serve as the authority's chief  
21 executive officer.



1 (f) The authority shall determine its administration  
2 organizational structure and expertise needs, including but not  
3 limited to employing rangers to serve as education, general  
4 safety, and outreach resources.

5 (g) The authority shall establish its offices in the  
6 county of Hawaii.

7 (h) The authority shall adopt and follow the following  
8 guiding operational values and principles:

9 (1) Mauna Aloha - We understand the reciprocal value of  
10 the mauna and a long-term commitment to maintaining  
11 the integrity of Mauna Kea;

12 (2) 'Ōpū Kupuna - We understand and embrace a duty and  
13 accountability to Mauna Kea, the natural environment,  
14 and to perpetuate the Hawaiian cultural values  
15 embedded in the sacred landscape of the mauna; and

16 (3) Holomua 'Oi Kelakela - We are driven by creativity and  
17 innovation, constantly challenging the status quo,  
18 with a stewardship of Mauna Kea that is informed based  
19 on existing knowledge and traditions, as well as on  
20 new and expanding knowledge. We are mindful and  
21 observant of needs, trends, and opportunities and seek



1 new knowledge and opportunities in ways that enhance  
2 the ability to serve as stewards without jeopardizing  
3 the foundation of aina aloha.

4 § -3 **Nomination process; nominating committee; office of**  
5 **Hawaiian affairs.** (a) There shall be established a nominating  
6 committee comprised of three members. One member shall be  
7 appointed by the speaker of the house of representatives, one  
8 member shall be appointed by the senate president, and one  
9 member shall be appointed by the chief executive officer of the  
10 office of Hawaiian affairs; provided that consideration shall be  
11 given to residents of the county of Hawaii.

12 (b) With regard to its four respective members of the  
13 authority, the nominating committee shall develop a list of  
14 nominees for consideration by the governor. Prior to developing  
15 a list of nominees, the nominating committee shall provide  
16 adequate public notice to ensure that the public is aware that  
17 applications are being accepted for candidates. Each list for a  
18 vacant seat shall contain three names, and all nominees  
19 submitted to the governor for selection shall be made public at  
20 the time of submission.



1 (c) With regard to its three respective members of the  
2 authority, the office of Hawaiian affairs shall develop a list  
3 of nominees for consideration by the governor. In developing  
4 the list of nominees, the office of Hawaiian affairs shall seek  
5 input from the Native Hawaiian community and work in  
6 coordination with the Edith Kanakaole Foundation and I Ola Haloa  
7 Hawaiian studies program at Hawaii community college, using the  
8 existing selection process for island burial council candidates  
9 as a model. The office of Hawaiian affairs, in coordination  
10 with the Edith Kanakaole Foundation and I Ola Haloa Hawaiian  
11 studies program at Hawaii community college, shall submit at  
12 least two names for each of its respective seats on the  
13 authority to the governor for consideration. All nominees  
14 submitted to the governor for selection shall be made public at  
15 the time of submission.

16 § -4 Powers and responsibilities; generally. (a) The  
17 authority shall hold title to the lands situated on Mauna Kea as  
18 identified in section -7 and shall establish access,  
19 stewardship, and management policies for Mauna Kea lands,  
20 including but not limited to policies pertaining to the



1 protection of natural and cultural resources, all recreational  
2 activities, and all commercial uses.

3 Except as otherwise limited by this chapter, the authority  
4 may:

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at pleasure;
- 7 (3) Make and execute contracts, leases, and all other  
8 instruments necessary or convenient for the exercise  
9 of its powers and functions under this chapter;
- 10 (4) Make and alter bylaws for its organization and  
11 internal management;
- 12 (5) Adopt rules pursuant to chapter 91 for the purposes of  
13 this chapter;
- 14 (6) Appoint officers, agents, and employees, prescribe  
15 their duties and qualifications, and fix their  
16 salaries, subject to chapters 76 and 89;
- 17 (7) Provide advisory, consultative, training, and  
18 educational services, technical assistance, and advice  
19 to any person, partnership, or corporation, either  
20 public or private, to carry out the purposes of this  
21 chapter, and engage the services of consultants on a



- 1 contractual basis for rendering professional and  
2 technical assistance and advice;
- 3 (8) Procure insurance against any loss in connection with  
4 its property and other assets and operations in  
5 amounts and from insurers as it deems desirable;
- 6 (9) Contract for and accept gifts or grants in any form  
7 from any public agency or from any other source;
- 8 (10) Adopt rules governing the procurement and purchase of  
9 goods, services, and construction, subject to the  
10 requirements of chapter 103D;
- 11 (11) Prevent trespassing and other illegal activities on  
12 Mauna Kea lands;
- 13 (12) Cause all persons trespassing on or unlawfully  
14 occupying Mauna Kea lands, and their effects, and all  
15 unauthorized animals to be removed therefrom and to  
16 impound the animals according to law;
- 17 (13) Enter any Mauna Kea lands in order to take possession  
18 thereof, and to resume possession of any Mauna Kea  
19 lands in case of surrender, forfeiture, or escheat;
- 20 (14) Enforce contracts respecting sales, leases, licenses,  
21 permits, or other disposition of Mauna Kea lands;



1           (15) Recover money due the authority for damage done to any  
2           Mauna Kea lands by wrongful entry and occupation or by  
3           wrongful removal therefrom or destruction of any  
4           property;

5           (16) Bring actions and proceedings as may be necessary to  
6           carry out the powers and duties of the authority in  
7           the name of the State and to defend actions brought  
8           against the State as may be authorized;

9           (17) Enforce laws and rules within all Mauna Kea lands; and

10          (18) Do any and all things necessary to carry out its  
11          purposes and exercise the powers granted in this  
12          chapter.

13          (b) Notwithstanding any other law to the contrary, the  
14 authority shall:

15          (1) Be the sole authority for the management of state-  
16          managed lands on Mauna Kea under its jurisdiction, as  
17          identified pursuant to section       -7;

18          (2) Protect native Hawaiian rights;

19          (3) Provide a specific process that ensures transparency,  
20          analysis, and justification for lease terms;



- 1           (4) Be prohibited from selling, gifting, transferring, or  
2           exchanging its land;
- 3           (5) Engage in community dialogue, outreach, engagement,  
4           and consultation processes, as appropriate, on  
5           significant matters not less than on an annual basis  
6           and more frequently, as needed;
- 7           (6) Be subject to chapters 91, 92, 103D, 183C, 205, 205A,  
8           and 343;
- 9           (7) Work with the department of land and natural resources  
10          conservation and resources enforcement program and  
11          Hawaii county police enforcement structure to enforce  
12          rules and monitor public safety through cooperative  
13          agreement;
- 14          (8) Create operational procedures that are guided by its  
15          guiding operational values and principles and  
16          implemented by enforcement partners; and
- 17          (9) Consider various supplemental revenue sources to be  
18          deposited into the Mauna Kea management special fund  
19          pursuant to section     -14, including but not limited  
20          to:  
21          (A) Renegotiated lease terms and fees;



- 1 (B) Observatory use fees;
- 2 (C) Common area maintenance;
- 3 (D) Toll fees;
- 4 (E) General funds;
- 5 (F) Ecosystem service fees;
- 6 (G) User fees;
- 7 (H) Other surcharges or fee structures; and
- 8 (I) State, county, or federal funding.

9 § -5 **Transition; management plan.** (a) The authority  
10 shall have a transition period of three years after the  
11 effective date of this Act to assume management of its  
12 designated Mauna Kea lands.

13 (b) The authority shall develop a single plan that  
14 dictates the management of land uses; human activities, uses,  
15 and access, including permitted uses for frequent and seasonal  
16 users; stewardship; education; research; disposition; and  
17 overall operations. The plan shall:

- 18 (1) Be developed during the transition period;
- 19 (2) Be finalized, approved, and operational by the end of  
20 the transition period;



- 1 (3) Be updated every ten years with a focus on long-term,  
2 comprehensive, coordinated planning for all of the  
3 Mauna Kea lands;
- 4 (4) Consider the State's energy and sustainability goals,  
5 as well as impacts to climate change, including  
6 adapting to climate change and developing mitigation  
7 measures to climate change;
- 8 (5) Incorporate indigenous management and cultural  
9 processes and values; and
- 10 (6) Include an aspirational statement to acknowledge and  
11 contextualize unresolved social justice issues that  
12 underpin Mauna Kea.

13 § -6 **Astronomy development; framework.** The authority  
14 shall develop a framework to limit astronomy development on  
15 Mauna Kea through development limitations that may include  
16 limitations on the number of astronomy facilities or an  
17 astronomy facility footprint limitation; provided that in  
18 establishing a framework to control astronomy development on  
19 Mauna Kea, the authority shall establish a plan to return the  
20 mauna above nine thousand two hundred feet elevation to its  
21 natural state.



1           §   -7   **Jurisdiction.**   (a)   The authority shall have  
2 jurisdiction over Mauna Kea lands that are state-managed lands  
3 above the six thousand five hundred foot elevation line,  
4 inclusive of Pu'u Huluhulu to the summit of Mauna Kea.

5           (b)   For lands outside of its jurisdiction on Mauna Kea  
6 above the six thousand five hundred foot elevation line, the  
7 authority shall enter into cooperative agreements, as necessary,  
8 with the department of Hawaiian home lands, county of Hawaii,  
9 and private landowners whose lands are within the jurisdictional  
10 boundaries.

11          §   -8   **Transfer.**   The lands under the jurisdiction of the  
12 authority shall be held in trust as part of the public land  
13 trust; provided that the State shall transfer management and  
14 control of the lands to a sovereign Native Hawaiian entity upon  
15 its recognition by the United States and the State of Hawaii.

16          §   -9   **Advisory groups; astronomy; native Hawaiian**  
17 **culture.**   (a)   The authority may establish advisory groups to  
18 advise the authority in its management of Mauna Kea; provided  
19 that the authority shall establish an astronomy advisory group  
20 and native Hawaiian advisory group, with preference for Hawaii



1 island resident participation, to provide advice and guidance to  
2 the authority on their respective subjects.

3 (b) Any advisory groups established pursuant to this  
4 section shall be convened regularly and be consulted on a broad  
5 range of issues relating to their respective purview.

6 § -10 **Annual report.** The authority shall submit an  
7 annual report to the legislature at least twenty days prior to  
8 the convening of each regular session. The report shall  
9 include:

- 10 (1) A review of the authority's management actions;
- 11 (2) A review of the implementation of all legislatively  
12 required plans, including financial and management  
13 plans;
- 14 (3) A review of the impacts of human uses on the natural  
15 and cultural resources of Mauna Kea;
- 16 (4) An assessment of cumulative impacts to Mauna Kea; and
- 17 (5) A review of all community dialogue, outreach,  
18 engagement, and consultation.

19 § -11 **Access and use; restrictions; orientation;**  
20 **entryway.** (a) The authority shall prohibit commercial use and  
21 activities, except for astronomy use and activities, above Hale



1 Pohaku and adopt rules to designate areas for permissible use;  
2 provided that the authority's rules shall define "commercial  
3 use".

4 (b) The authority shall require an application for all  
5 recreational uses, including fees; consider restrictions on  
6 Mauna Kea to ensure user compliance; and create guidelines on  
7 limits by monitoring the impacts of recreational use over time.

8 (c) The authority shall require all people accessing Mauna  
9 Kea to undergo an annual orientation anchored by the authority's  
10 guiding operational values and principles; provided that all  
11 employees, contractors, leaseholders, and others who regularly  
12 access Mauna Kea shall have more extensive and frequent training  
13 on the authority's guiding operational values and principles.

14 (d) The authority shall determine an appropriate site for  
15 an entryway to Mauna Kea as a way to capture information about  
16 users, establish an education outreach post, collect fees, and  
17 close access to Mauna Kea in case of an emergency.

18 **§ -12 Lease provisions; generally; decommissioning**  
19 **costs.** (a) Any lease issued by the authority for the purposes  
20 of an astronomical observatory shall ensure that the  
21 astronomical observatory shall plan for and finance its



1 decommissioning process on Mauna Kea and return and restore the  
2 impacted areas, to the greatest extent possible, to their pre-  
3 construction condition; provided that the authority shall  
4 determine what site restoration shall be based on, including but  
5 not limited to the protection of the natural and cultural  
6 resources on Mauna Kea and in accordance with the authority's  
7 guiding operational values and principles.

8 (b) The authority shall develop a process to enforce  
9 compliance with lease requirements, including but not limited to  
10 establishing fines.

11 (c) The authority shall establish a trust fund, special  
12 fund, or other funding mechanism designated for decommissioning  
13 costs that the astronomical observatories shall be required to  
14 contribute toward as a condition of their leases; provided that  
15 the authority shall determine the required contribution.

16 § -13 Rules. (a) The authority shall, to the extent  
17 possible, expedite the establishment of rules pursuant to  
18 chapter 91 on the management, stewardship, and protection of  
19 lands and cultural resources. The rules adopted under this  
20 section shall following existing law, rules, ordinances, and  
21 regulations as closely as is consistent with standards to meet



1 minimum requirements of good design, health, safety, and  
2 coordinated development.

3 (b) On the effective date of the initial rules adopted  
4 pursuant to this section, all rules pertaining to Mauna Kea  
5 lands established by the University of Hawaii, including but not  
6 limited to the office of Mauna Kea management, Mauna Kea  
7 management board, and Kahu Ku Mauna, shall be void.

8 § -14 **Mauna Kea management special fund.** (a) There is  
9 established the Mauna Kea management special fund into which  
10 shall be deposited:

- 11 (1) Appropriations from the legislature;
- 12 (2) Moneys from supplemental sources as considered by the  
13 authority pursuant to section -4(b)(10);
- 14 (3) Any grant or donation made to the special fund; and
- 15 (4) Any interest earned on the balance of the special  
16 fund.

17 (b) Proceeds from the special fund shall be used for  
18 administration, capital improvement projects, and other purposes  
19 pursuant to this chapter.

20 § -15 **Issuance of bonds.** The director of finance may,  
21 from time to time, issue general obligation bonds pursuant to



1 chapter 39 in amounts authorized by the legislature for the  
2 purposes of this chapter."

3 SECTION 3. Chapter 304A, part IV, subpart O, Hawaii  
4 Revised Statutes, is repealed.

5 SECTION 4. Section 304A-2170, Hawaii Revised Statutes, is  
6 repealed.

7 ~~["§304A-2170]—Mauna Kea lands management special fund.~~

8 ~~(a) There is established the Mauna Kea lands management special  
9 fund, into which shall be deposited:~~

- 10 ~~(1) Appropriations by the legislature;~~
- 11 ~~(2) All net rents from leases, licenses, and permits,~~  
12 ~~including fees and charges for the use of land and~~  
13 ~~facilities within the Mauna Kea lands;~~
- 14 ~~(3) All moneys collected for violations of subpart O of~~  
15 ~~part IV; and~~
- 16 ~~(4) Interest earned or accrued on moneys in the special~~  
17 ~~fund.~~

18 ~~(b) The proceeds of the special fund shall be used for:~~

- 19 ~~(1) Managing the Mauna Kea lands, including maintenance,~~  
20 ~~administrative expenses, salaries and benefits of~~  
21 ~~employees, contractor services, supplies, security,~~





1 SECTION 6. There is appropriated out of the general  
 2 revenues of the State of Hawaii the sum of \$ or so  
 3 much thereof as may be necessary for fiscal year 2022-2023 for  
 4 startup costs for the Mauna Kea stewardship authority.

5 The sum appropriated shall be expended by the Mauna Kea  
 6 stewardship authority for the purposes of this Act.

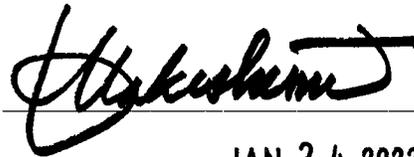
7 PART III

8 SECTION 7. Statutory material to be repealed is bracketed  
 9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect on July 1, 2022.

11

INTRODUCED BY:



JAN 24 2022



# H.B. NO. 2024

**Report Title:**

Mauna Kea Stewardship Authority; Established; Appropriation

**Description:**

Establishes the Mauna Kea stewardship authority as the sole authority for management of state-managed lands on Mauna Kea. Requires the authority to develop a single plan that dictates the management of land uses; human activities, uses, and access; stewardship, education; research, disposition; and overall operations. Requires the authority to develop a framework to limit astronomy development on Mauna Kea. Prohibits certain commercial use and activities on Mauna Kea. Requires an application and fee for all recreational users of Mauna Kea. Establishes Mauna Kea management special fund. Repeals Mauna Kea lands management special fund. Appropriates funds.

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