
A BILL FOR AN ACT

RELATING TO MAUNA KEA.

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

1 PART I

2 SECTION 1. The purpose of this Act is to establish the
3 Mauna Kea stewardship and oversight authority and a transition
4 and governance structure for the management of Mauna Kea lands.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 "CHAPTER

9 MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY

10 § -1 **Findings and purpose.** The legislature finds that
11 Mauna Kea serves as an important cultural and genealogical site
12 to the people of Hawaii, particularly to Native Hawaiians. The
13 summit region of Mauna Kea is a spiritual and special place of
14 significance that is home to cultural landscapes, fragile
15 habitats, and historical and archaeological artifacts. Due to
16 its topographical prominence, Mauna Kea is also a highly valued
17 site for astronomical study, which produces many significant



1 discoveries that contribute to humanity's study and
2 understanding of the universe. However, in recent years, Mauna
3 Kea has come to symbolize a rigid dichotomy between culture and
4 science, often leading to polarization between stakeholders on
5 Mauna Kea and local communities. This is a dynamic that plays
6 out over many issues in many places. The critical significance
7 of Mauna Kea for both culture and science offers an urgent and
8 unique opportunity to surmount the dichotomy and develop new
9 ways to mutually steward Mauna Kea. Therefore, a reformation of
10 the stewardship of Mauna Kea is an issue of the highest priority
11 in the State.

12 To commence the resolution of these issues to protect Mauna
13 Kea and bring about a more harmonious coexistence of uses atop
14 the mountain, the legislature has established the Mauna Kea
15 stewardship and oversight authority and the governance structure
16 contained in this chapter to protect Mauna Kea for future
17 generations and manage the lands contained therein for the
18 purpose of fostering a mutual stewardship paradigm in which
19 ecology, the environment, natural resources, cultural practices,
20 education, and science are in balance and synergy.



1 The legislature also recognizes that the enactment of this
2 chapter is a pivot point that will require a transition, during
3 which many principles and details will yet need to be
4 ascertained. It is expected that amendments and additions will
5 need to be made in future legislative sessions to ensure a
6 mutually beneficial balance is always maintained for Mauna Kea
7 and the people of Hawaii.

8 The legislature declares that the creation of the Mauna Kea
9 stewardship and oversight authority and the transition and
10 governance structure established in this chapter serve the
11 public interest and are matters of statewide concern.

12 § -2 **Definitions.** As used in this chapter, unless the
13 context otherwise requires:

14 "Authority" means the Mauna Kea stewardship and oversight
15 authority.

16 "Chairperson" means the chairperson of the authority.

17 "Lease" means the contractual right to possess and use a
18 specified portion of land for a term of years.

19 "Mauna Kea land area" or "Mauna Kea lands" means lands
20 under the state lease, as defined in this chapter.



1 "Person" includes an individual, a partnership, a
2 corporation, or an association, except as otherwise defined in
3 this chapter.

4 "State lease" means that certain lease by and between the
5 board of land and natural resources and the University of Hawaii
6 entered into in June 21, 1968, as General Lease S-4191, as
7 amended on September 21, 1999, as General Lease S-5529.

8 § -3 **Mauna Kea stewardship and oversight authority;**

9 **established.** (a) There is established the Mauna Kea
10 stewardship and oversight authority, which shall be a body
11 corporate and a public instrumentality of the State for the
12 purpose of implementing this chapter. The authority shall serve
13 jointly with the University of Hawaii in fulfilling the
14 obligations and duties under the state lease for a period of
15 five years. The authority shall be attached to the department
16 of land and natural resources for administrative purposes.

17 (b) The authority shall consist of eleven voting members;
18 provided that all members listed under paragraphs (4), (5), (6),
19 (7), (8), (9), and (10) shall be appointed by the governor and
20 subject to confirmation by the senate pursuant to section 26-34.
21 The chancellor of the University of Hawaii at Hilo shall serve



1 as an ex officio, nonvoting member. The voting members shall
2 include:

- 3 (1) The chairperson of the board of land and natural
4 resources, or the chairperson's designee;
- 5 (2) The mayor of the county of Hawaii, or the mayor's
6 designee;
- 7 (3) The chairperson of the board of regents of the
8 University of Hawaii, or a member of the board of
9 regents to serve as the designee;
- 10 (4) An individual with aina (land) resource management
11 expertise and specific experience with Hawaii
12 island-based management;
- 13 (5) An individual who is recognized as possessing
14 expertise in the fields of p-12 public education or
15 post-secondary education;
- 16 (6) A representative who shall be appointed by the
17 governor from a list of three names submitted by
18 Maunakea Observatories;
- 19 (7) An individual with business and finance experience who
20 has previous administrative experience in managing a
21 large private-sector business;



- 1 (8) An individual who is a lineal descendent of a
- 2 practitioner of Native Hawaiian traditional and
- 3 customary practices associated with Mauna Kea;
- 4 (9) An individual who is a recognized practitioner of
- 5 Native Hawaiian traditional and customary practices;
- 6 and
- 7 (10) Two members who shall be appointed by the governor
- 8 from a list of three names submitted for each
- 9 appointment by the president of the senate and speaker
- 10 of the house of representatives, respectively;
- 11 provided that if fewer than three names are submitted
- 12 for either appointment, the governor may disregard the
- 13 list;
- 14 provided further that not less than three of the eleven members
- 15 of the authority shall be residents of the county of Hawaii.
- 16 Any designee appointed pursuant to paragraphs (1), (2), or (3)
- 17 shall serve the entire term of the appointing authority unless
- 18 the designee resigns from office or is otherwise incapable of
- 19 serving out the entire term for good cause shown.
- 20 A majority of all members shall constitute a quorum to do
- 21 business, and the concurrence of a majority of all members shall



1 be necessary to make any action of the authority valid. All
2 members shall continue in office until their respective
3 successors have been selected, or appointed and confirmed by the
4 senate; provided that a member shall not holdover beyond the
5 first legislative session following the expiration of the
6 member's term of service.

7 (c) The authority shall elect the chairperson from among
8 its voting members. Members and staff shall be reimbursed for
9 expenses incurred in the performance of their duties, including
10 reasonable travel expenses for authority-related business.

11 (d) Notwithstanding section 26-34(a), with respect to
12 length and amount of terms, the members of the authority shall
13 serve for a term of three years and shall not serve more than
14 three partial or full terms; provided that the initial terms
15 shall be staggered, as determined by the governor.

16 (e) The authority shall utilize the existing University of
17 Hawaii center for Mauna Kea stewardship staff and organization
18 during the transitional period, and may engage other services as
19 needed; provided that the authority shall appoint a board
20 secretary, who shall also serve as executive assistant to the
21 authority, without regard to chapter 76; provided further that



1 not more than five per cent of the authority's budget shall be
2 expended on administrative expenses.

3 (f) The authority shall establish its offices at the
4 University of Hawaii at Hilo, Imiloa astronomy center or another
5 suitable location or facility within the county of Hawaii.

6 § -4 Values and principles. The authority may adopt and
7 be guided by the following operational values and principles:

- 8 (1) Mauna Aloha - Understanding the reciprocal value of
9 the mauna and a long-term commitment to maintaining
10 the integrity of Mauna Kea;
- 11 (2) Opu Kupuna - Understanding and embracing a duty and
12 accountability to Mauna Kea, the natural environment,
13 and to perpetuate the Native Hawaiian traditional and
14 customary practices embedded in the landscape of the
15 mauna; and
- 16 (3) Holomua Oi Kelakela - 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. The authority shall be
21 mindful and observant of needs, trends, and



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

4 § -5 Powers and responsibilities; generally. (a)

5 Except as otherwise limited by this chapter, the authority, as
6 it pertains to the Mauna Kea land area, may:

- 7 (1) 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 (2) Make and alter bylaws for its organization and
- 11 internal management;
- 12 (3) Adopt rules pursuant to chapter 91 for the purposes of
- 13 this chapter;
- 14 (4) Conduct meetings in accordance with chapter 92 for the
- 15 purposes of this chapter;
- 16 (5) Appoint officers, agents, and employees who may be
- 17 exempt from chapter 76, prescribe their duties and
- 18 qualifications, and fix their salaries;
- 19 (6) Provide advisory, consultative, training, and
- 20 educational services; technical assistance; and advice
- 21 to any person, partnership, or corporation, either



1 public or private, to carry out the purposes of this
2 chapter, and engage the services of consultants on a
3 contractual basis for rendering professional and
4 technical assistance and advice;

5 (7) Procure insurance against any loss in connection with
6 its property and other assets and operations in
7 amounts and from insurers as it deems desirable;

8 (8) Contract for and accept gifts or grants in any form
9 from any public agency or from any other source;

10 (9) Adopt rules governing the procurement and purchase of
11 goods, services, and construction, subject to the
12 requirements of chapter 103D;

13 (10) Enter into cooperative agreements, easements,
14 subleases, or other contracts, as necessary, with any
15 state agency, county agency, or private landowner;

16 (11) Contract for executive and administrative employee
17 services; and

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



1 (b) Notwithstanding any other law to the contrary, the
2 authority shall:

3 (1) Be the principal authority for the management of
4 state-managed lands within the Mauna Kea lands;

5 (2) Provide oversight and protect traditional and
6 customary Native Hawaiian rights, as set forth in the
7 Hawaii State Constitution, and not unduly burden
8 individuals exercising these rights;

9 (3) Establish a process that provides and ensures
10 transparency, analysis, and justification for lease
11 terms of its land and monetary consideration that is
12 equitable, feasible, and financially sustainable;

13 (4) Be prohibited from selling, gifting, transferring, or
14 exchanging land under its control;

15 (5) Engage in community dialogue, outreach, engagement,
16 and consultation processes, as appropriate, on
17 significant matters on at least an annual basis and
18 more frequently, as needed; and

19 (6) Consider various supplemental revenue sources to be
20 deposited into the Mauna Kea management special fund,
21 to the extent permitted by law.



1 § -6 **Transition; management plan.** (a) The authority
2 shall have a transition period of five years beginning July 1,
3 2023; provided that all of the initial members have been
4 confirmed by the senate; provided further that the initial
5 authority members elect a chairperson pursuant to
6 section -3(c). During the transition period, the authority
7 shall jointly manage Mauna Kea lands with the University of
8 Hawaii; provided that the authority's day-to-day operations
9 shall be carried out by the center of Mauna Kea stewardship for
10 the transition period established in this subsection.

11 (b) The authority shall develop a management plan to
12 govern land uses; human activities, other uses, and access,
13 including permitted uses for frequent and seasonal users;
14 stewardship; education; research; disposition; and overall
15 operations. The management plan shall:

- 16 (1) Be developed during the transition period;
- 17 (2) Be finalized, approved, and operational by the end of
18 the transition period;
- 19 (3) Be updated at least every ten years with a focus on
20 long-term, comprehensive, and coordinated planning for
21 all of the Mauna Kea lands;



1 (4) Consider the State's energy and sustainability goals,
2 as well as impacts to climate change, including
3 adapting to climate change and developing mitigation
4 measures to climate change;

5 (5) Prepare for and establish the framework, criteria, and
6 procedures for any leases and permits;

7 (6) Incorporate indigenous management and cultural
8 processes and values; and

9 (7) Include an aspirational statement to acknowledge and
10 contextualize unresolved social justice issues that
11 underpin the conservation, preservation, and public
12 use of Mauna Kea.

13 (c) The authority shall adopt a financial plan that
14 strives for the financial self-sustainability of the authority
15 after the sixth year following the transitional period
16 established in subsection (a).

17 (d) The authority shall be responsible for the
18 establishment of a framework for astronomy-related development
19 on Mauna Kea. The framework may include:



1 (1) Limitations on the number of observatories and
2 astronomy-related facilities, or an astronomy facility
3 footprint limitation; and

4 (2) A set of principles for returning the lands used for
5 astronomy research to their natural state whenever
6 observatories are decommissioned.

7 (e) During the transition period, the authority may take
8 any actions necessary to prepare for the assumption of total
9 authority over Mauna Kea lands at the end of the transition
10 period, including the adoption of rules pursuant to
11 section -13(b).

12 (f) Notwithstanding any other law to the contrary,
13 commencing on the effective date of this chapter and until the
14 expiration of the transition period, no new lease shall be
15 issued and no existing lease shall be renewed involving any
16 Mauna Kea lands; provided that, upon the expiration of an
17 existing lease during the transition period, a lessee may
18 continue to hold the land as a holdover, subject to any terms
19 and conditions as may be mutually agreed upon by the authority
20 and University of Hawaii.



1 § -7 **Authority after transition period.** (a) Following
2 the end of the transition period pursuant to section -6, the
3 department of land and natural resources, University of Hawaii,
4 and all other departments and agencies of the State shall be
5 subject to the oversight of the authority with regard to the
6 control and management of Mauna Kea lands. Subject to
7 section -5 and upon the direction of the authority, the
8 department of land and natural resources shall:

- 9 (1) Implement controls and permitted uses of Mauna Kea
- 10 lands;
- 11 (2) Enforce this chapter;
- 12 (3) Provide administrative support to the authority; and
- 13 (4) Authorize those of its employees as it deems
- 14 reasonable and necessary to serve and execute warrants
- 15 and arrest offenders or issue citations in all matters
- 16 relating to the enforcement of the laws and rules
- 17 applicable to Mauna Kea lands.

18 (b) Notwithstanding any law to the contrary, all powers
19 and duties of the board of land and natural resources pursuant
20 to chapter 171, and the land use commission pursuant to chapter
21 205, concerning permits, dispositions, land use approvals, and



1 any other approvals pertaining to the Mauna Kea lands are
2 transferred to the authority upon the expiration of the
3 transition period; provided that the transfer of such powers and
4 duties from the board of land and natural resources and the land
5 use commission may occur earlier, upon approval of the
6 authority, the board of land and natural resources, and the land
7 use commission. Upon the expiration of the transition period,
8 the authority shall carry out the powers and duties otherwise
9 conferred upon the board of land and natural resources pursuant
10 to chapter 171, and the land use commission pursuant to chapter
11 205, with regard to permits, dispositions, land use approvals,
12 and any other approvals pertaining to the Mauna Kea lands.

13 **§ -8 Astronomy development; declaration of policy;**
14 **reserved viewing time requirement.** (a) It is declared that the
15 support of astronomy consistent with section -1 is a policy
16 of the State.

17 (b) Beginning after the transition period has expired, any
18 lease executed by the authority for an astronomical observatory
19 shall include reserved viewing time of not less than seven per
20 cent of the total amount of viewing time provided by the
21 astronomical observatory for the University of Hawaii, as



1 negotiated by the authority; provided that the reserved viewing
2 time requirement may be waived pursuant to a negotiated
3 agreement that includes consideration for other contributions
4 made by the astronomical observatory, its developer, or both,
5 toward community benefits. The university shall give priority
6 on the use of the reserved viewing time to projects that include
7 the participation of:

8 (1) Hawaii students, including:

9 (A) Graduate and undergraduate students of the
10 University of Hawaii;

11 (B) Students of Hawaii public schools operated by the
12 department of education; and

13 (C) Students from any other school, public or
14 private, in which education is provided to
15 students in the medium of the Hawaiian language,
16 in whole or in part, or that includes a Hawaiian
17 language proficiency requirement for graduation;
18 and

19 (2) Projects curated and submitted by the University of
20 Hawaii at Hilo Imiloa astronomy center.



1 (c) The university shall submit an annual report on the
2 use of the reserved viewing time, including the application of
3 the priorities listed in subsection (b), to the authority and
4 legislature no later than twenty days prior to the convening of
5 each regular session, commencing with the regular session
6 immediately succeeding the expiration of the transition period
7 established in section -6.

8 § -9 **Advisory groups.** (a) The authority shall
9 establish advisory groups to advise the authority in its
10 management of Mauna Kea.

11 (b) Any advisory groups established pursuant to this
12 section shall convene regularly and be consulted on a broad
13 range of issues relating to their respective purview.

14 § -10 **Annual report.** The authority shall submit an
15 annual report to the legislature no later than twenty days prior
16 to the convening of each regular session, beginning with the
17 regular session of 2024. Each annual report shall include:

- 18 (1) A review of the authority's management actions;
19 (2) A review of the implementation of all legislatively
20 required plans, including financial and management
21 reports and plans;



1 (3) A review of the human uses of the natural and cultural
2 resources of Mauna Kea and the impacts of the human
3 uses on these resources;

4 (4) A review of the commercial uses of the natural and
5 cultural resources of Mauna Kea and the impacts of the
6 commercial uses on these resources;

7 (5) An assessment of cumulative impacts to Mauna Kea;

8 (6) A review of all community dialogue, outreach,
9 engagement, and consultation; and

10 (7) A review of the University of Hawaii's use of its
11 reserved viewing time.

12 § -11 **Access and use; restrictions; orientation;**

13 **entryway.** (a) The authority may limit commercial use and
14 activities of the Mauna Kea lands and may adopt rules pursuant
15 to chapter 91 to designate areas for permissible use.

16 (b) The authority may require an application for all
17 recreational uses, including fees, and create guidelines on
18 potential limits by monitoring the social, safety, and
19 conservation impacts of recreational use over time.

20 (c) The authority may require all individuals accessing
21 Mauna Kea lands to undergo an annual orientation anchored by the



1 authority's guiding operational values and principles; provided
2 that all employees, contractors, leaseholders, and others who
3 regularly access Mauna Kea shall have more extensive training on
4 the authority's guiding operational values and principles
5 pursuant to section -4.

6 § -12 **Lease provisions; generally.** Each lease issued by
7 the authority shall contain the following provisions:

- 8 (1) The specific use or uses to which the land is to be
9 employed;
- 10 (2) The improvements required; provided that a minimum
11 reasonable time be allowed for the completion of the
12 improvements;
- 13 (3) Restrictions against alienation;
- 14 (4) The rent, as established by the authority or at public
15 auction, which shall be payable not more than one year
16 in advance, in monthly, quarterly, semiannual, or
17 annual payments;
- 18 (5) Where applicable, adequate protection of forests,
19 watershed areas, game management areas, wildlife
20 sanctuaries, and public hunting areas, reservation of
21 rights-of-way and access to other public lands, public



1 hunting areas, game management areas, or public
2 beaches, and prevention of nuisance and waste;

3 (6) If the lease is for an astronomical observatory,
4 reserved time in accordance with section -8(b);
5 and

6 (7) Other terms and conditions as the authority deems
7 advisable to more nearly effectuate the purposes of
8 the Hawaii State Constitution and of this chapter.

9 § -13 Rules. (a) In addition to any other rulemaking
10 powers authorized under this chapter, the authority may adopt
11 rules pursuant to chapter 91 on the management, stewardship,
12 oversight, and protection of Mauna Kea lands and cultural
13 resources. The rules adopted under this section shall follow
14 existing laws, rules, ordinances, and regulations as closely as
15 is consistent with standards to meet minimum requirements of
16 good design, health, safety, and coordinated development.

17 (b) The authority may adopt rules before the end of the
18 transitional five-year period established in section -6;
19 provided that the rules shall not go into effect until the
20 transition period is completed.



1 **§ -14 Contested cases.** (a) Chapter 91 shall apply to
2 every contested case arising under this chapter except where
3 chapter 91 conflicts with this chapter, in which case this
4 chapter shall apply. Any other law to the contrary
5 notwithstanding, including chapter 91, any contested case under
6 this chapter shall be appealed from a final decision and order
7 or a preliminary ruling that is of the nature defined by section
8 91-14(a) upon the record directly to the supreme court for final
9 decision. Only a person aggrieved in a contested case
10 proceeding provided for in this chapter may appeal from the
11 final decision and order or preliminary ruling. For the
12 purposes of this section, the term "person aggrieved" includes
13 an agency that is a party to a contested case proceeding before
14 that agency or another agency.

15 (b) The court shall give priority to contested case
16 appeals of significant statewide importance over all other civil
17 or administrative appeals or matters and shall decide these
18 appeals as expeditiously as possible.

19 **§ -15 Mauna Kea management special fund.** (a) There is
20 established the Mauna Kea management special fund into which
21 shall be deposited:



- 1 (1) Appropriations from the legislature;
- 2 (2) Moneys from supplemental sources as authorized by the
- 3 authority, pursuant to the powers granted by this
- 4 chapter;
- 5 (3) Any grant or donation made to the special fund; and
- 6 (4) Any interest earned on the balance of the special
- 7 fund.

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

11 § -16 **Issuance of bonds.** The director of finance, from
 12 time to time, may issue general obligation bonds pursuant to
 13 chapter 39 in amounts authorized by the legislature for the
 14 purposes of this chapter."

15 SECTION 3. Section 76-16, Hawaii Revised Statutes, is
 16 amended by amending subsection (b) to read as follows:

17 "(b) The civil service to which this chapter applies shall
 18 comprise all positions in the State now existing or hereafter
 19 established and embrace all personal services performed for the
 20 State, except the following:



- 1 (1) Commissioned and enlisted personnel of the Hawaii
2 National Guard as such, and positions in the Hawaii
3 National Guard that are required by state or federal
4 laws or regulations or orders of the National Guard to
5 be filled from those commissioned or enlisted
6 personnel;
- 7 (2) Positions filled by persons employed by contract where
8 the director of human resources development has
9 certified that the service is special or unique or is
10 essential to the public interest and that, because of
11 circumstances surrounding its fulfillment, personnel
12 to perform the service cannot be obtained through
13 normal civil service recruitment procedures. Any such
14 contract may be for any period not exceeding one year;
- 15 (3) Positions that must be filled without delay to comply
16 with a court order or decree if the director
17 determines that recruitment through normal recruitment
18 civil service procedures would result in delay or
19 noncompliance, such as the Felix-Cayetano consent
20 decree;



- 1 (4) Positions filled by the legislature or by either house
2 or any committee thereof;
- 3 (5) Employees in the office of the governor and office of
4 the lieutenant governor, and household employees at
5 Washington Place;
- 6 (6) Positions filled by popular vote;
- 7 (7) Department heads, officers, and members of any board,
8 commission, or other state agency whose appointments
9 are made by the governor or are required by law to be
10 confirmed by the senate;
- 11 (8) Judges, referees, receivers, masters, jurors, notaries
12 public, land court examiners, court commissioners, and
13 attorneys appointed by a state court for a special
14 temporary service;
- 15 (9) One bailiff for the chief justice of the supreme court
16 who shall have the powers and duties of a court
17 officer and bailiff under section 606-14; one
18 secretary or clerk for each justice of the supreme
19 court, each judge of the intermediate appellate court,
20 and each judge of the circuit court; one secretary for
21 the judicial council; one deputy administrative



1 director of the courts; three law clerks for the chief
2 justice of the supreme court, two law clerks for each
3 associate justice of the supreme court and each judge
4 of the intermediate appellate court, one law clerk for
5 each judge of the circuit court, two additional law
6 clerks for the civil administrative judge of the
7 circuit court of the first circuit, two additional law
8 clerks for the criminal administrative judge of the
9 circuit court of the first circuit, one additional law
10 clerk for the senior judge of the family court of the
11 first circuit, two additional law clerks for the civil
12 motions judge of the circuit court of the first
13 circuit, two additional law clerks for the criminal
14 motions judge of the circuit court of the first
15 circuit, and two law clerks for the administrative
16 judge of the district court of the first circuit; and
17 one private secretary for the administrative director
18 of the courts, the deputy administrative director of
19 the courts, each department head, each deputy or first
20 assistant, and each additional deputy, or assistant
21 deputy, or assistant defined in paragraph (16);



1 (10) First deputy and deputy attorneys general, the
2 administrative services manager of the department of
3 the attorney general, one secretary for the
4 administrative services manager, an administrator and
5 any support staff for the criminal and juvenile
6 justice resources coordination functions, and law
7 clerks;

8 (11) (A) Teachers, principals, vice-principals, complex
9 area superintendents, deputy and assistant
10 superintendents, other certificated personnel,
11 not more than twenty noncertificated
12 administrative, professional, and technical
13 personnel not engaged in instructional work;

14 (B) Effective July 1, 2003, teaching assistants,
15 educational assistants, bilingual/bicultural
16 school-home assistants, school psychologists,
17 psychological examiners, speech pathologists,
18 athletic health care trainers, alternative school
19 work study assistants, alternative school
20 educational/supportive services specialists,
21 alternative school project coordinators, and



- 1 communications aides in the department of
2 education;
- 3 (C) The special assistant to the state librarian and
4 one secretary for the special assistant to the
5 state librarian; and
- 6 (D) Members of the faculty of the University of
7 Hawaii, including research workers, extension
8 agents, personnel engaged in instructional work,
9 and administrative, professional, and technical
10 personnel of the university;
- 11 (12) Employees engaged in special, research, or
12 demonstration projects approved by the governor;
- 13 (13) (A) Positions filled by inmates, patients of state
14 institutions, persons with severe physical or
15 mental disabilities participating in the work
16 experience training programs;
- 17 (B) Positions filled with students in accordance with
18 guidelines for established state employment
19 programs; and
- 20 (C) Positions that provide work experience training
21 or temporary public service employment that are



1 filled by persons entering the workforce or
2 persons transitioning into other careers under
3 programs such as the federal Workforce Investment
4 Act of 1998, as amended, or the Senior Community
5 Service Employment Program of the Employment and
6 Training Administration of the United States
7 Department of Labor, or under other similar state
8 programs;

9 (14) A custodian or guide at Iolani Palace, the Royal
10 Mausoleum, and Hulihee Palace;

11 (15) Positions filled by persons employed on a fee,
12 contract, or piecework basis, who may lawfully perform
13 their duties concurrently with their private business
14 or profession or other private employment and whose
15 duties require only a portion of their time, if it is
16 impracticable to ascertain or anticipate the portion
17 of time to be devoted to the service of the State;

18 (16) Positions of first deputies or first assistants of
19 each department head appointed under or in the manner
20 provided in section 6, article V, of the Hawaii State
21 Constitution; three additional deputies or assistants



1 either in charge of the highways, harbors, and
2 airports divisions or other functions within the
3 department of transportation as may be assigned by the
4 director of transportation, with the approval of the
5 governor; four additional deputies in the department
6 of health, each in charge of one of the following:
7 behavioral health, environmental health, hospitals,
8 and health resources administration, including other
9 functions within the department as may be assigned by
10 the director of health, with the approval of the
11 governor; an administrative assistant to the state
12 librarian; and an administrative assistant to the
13 superintendent of education;

14 (17) Positions specifically exempted from this part by any
15 other law; provided that:

16 (A) Any exemption created after July 1, 2014, shall
17 expire three years after its enactment unless
18 affirmatively extended by an act of the
19 legislature; and



1 (B) All of the positions defined by paragraph (9)
2 shall be included in the position classification
3 plan;

4 (18) Positions in the state foster grandparent program and
5 positions for temporary employment of senior citizens
6 in occupations in which there is a severe personnel
7 shortage or in special projects;

8 (19) Household employees at the official residence of the
9 president of the University of Hawaii;

10 (20) Employees in the department of education engaged in
11 the supervision of students during meal periods in the
12 distribution, collection, and counting of meal
13 tickets, and in the cleaning of classrooms after
14 school hours on a less than half-time basis;

15 (21) Employees hired under the tenant hire program of the
16 Hawaii public housing authority; provided that not
17 more than twenty-six per cent of the authority's
18 workforce in any housing project maintained or
19 operated by the authority shall be hired under the
20 tenant hire program;



- 1 (22) Positions of the federally funded expanded food and
2 nutrition program of the University of Hawaii that
3 require the hiring of nutrition program assistants who
4 live in the areas they serve;
- 5 (23) Positions filled by persons with severe disabilities
6 who are certified by the state vocational
7 rehabilitation office that they are able to perform
8 safely the duties of the positions;
- 9 (24) The sheriff;
- 10 (25) A gender and other fairness coordinator hired by the
11 judiciary;
- 12 (26) Positions in the Hawaii National Guard youth and adult
13 education programs;
- 14 (27) In the state energy office in the department of
15 business, economic development, and tourism, all
16 energy program managers, energy program specialists,
17 energy program assistants, and energy analysts;
- 18 (28) Administrative appeals hearing officers in the
19 department of human services;
- 20 (29) In the Med-QUEST division of the department of human
21 services, the division administrator, finance officer,



1 health care services branch administrator, medical
 2 director, and clinical standards administrator;

3 (30) In the director's office of the department of human
 4 services, the enterprise officer, information security
 5 and privacy compliance officer, security and privacy
 6 compliance engineer, and security and privacy
 7 compliance analyst;

8 (31) The Alzheimer's disease and related dementia services
 9 coordinator in the executive office on aging;

10 (32) In the Hawaii emergency management agency, the
 11 executive officer, public information officer, civil
 12 defense administrative officer, branch chiefs, and
 13 emergency operations center state warning point
 14 personnel; provided that, for state warning point
 15 personnel, the director shall determine that
 16 recruitment through normal civil service recruitment
 17 procedures would result in delay or noncompliance;

18 [~~and~~

19 +] (33) [+]
 20 The executive director and seven full-time
 21 administrative positions of the school facilities
 authority[-]; and



1 (34) Positions in the Mauna Kea stewardship and oversight
2 authority.

3 The director shall determine the applicability of this
4 section to specific positions.

5 Nothing in this section shall be deemed to affect the civil
6 service status of any incumbent as it existed on July 1, 1955."

7 SECTION 4. (a) The Mauna Kea stewardship and oversight
8 authority shall study and recommend whether a reserve should be
9 established that specifically preserves Mauna Kea lands for
10 natural, ecological, archaeological, and historical
11 preservation; cultural practice; rehabilitation, revegetation,
12 and habitat restoration; and educational purposes. If the Mauna
13 Kea stewardship and oversight authority recommends that a
14 reserve be established, the authority shall also make a
15 recommendation on the lands to be included within the reserve.

16 (b) The Mauna Kea stewardship and oversight authority
17 shall also include in its study and report any other information
18 on issues relating to the management and protection of Mauna Kea
19 it deems appropriate.

20 (c) The Mauna Kea stewardship and oversight authority
21 shall submit an interim report of its findings and



1 recommendations, including any proposed legislation, to the
2 legislature no later than twenty days prior to the convening of
3 the regular session of 2024, and a final report of its findings
4 and recommendations, including any proposed legislation, to the
5 legislature no later than twenty days prior to the convening of
6 the regular session of 2025.

7 SECTION 5. The auditor shall conduct a performance and
8 financial audit of the Mauna Kea stewardship and oversight
9 authority and shall submit a report on findings and
10 recommendations to the legislature no later than twenty days
11 prior to the convening of the regular session of 2031.

12 PART II

13 SECTION 6. (a) On July 1, 2028, all rights, powers,
14 functions, and duties of the University of Hawaii relating to
15 the powers and responsibilities granted to the Mauna Kea
16 stewardship and oversight authority under part I of this Act are
17 transferred to the Mauna Kea stewardship and oversight
18 authority.

19 (b) Notwithstanding the transfer of all rights, powers,
20 functions, and duties pursuant to subsection (a), the state
21 lease by and between the board of land and natural resources and



1 the University of Hawaii entered into on June 21, 1968, as
2 General Lease S-4191, as amended on September 21, 1999, as
3 General Lease S-5529, shall remain in full force and effect
4 until its expiration unless otherwise specifically amended
5 pursuant to an agreement by the Mauna Kea stewardship and
6 oversight authority and the University of Hawaii.

7 (c) Upon the assignment of all rights, powers, and duties
8 of the University of Hawaii to the Mauna Kea stewardship and
9 oversight authority pursuant to subsection (a), the University
10 of Hawaii shall be released from any and all obligations under
11 the state lease by and between the board of land and natural
12 resources and the University of Hawaii entered into on June 21,
13 1968, as General Lease S-4191, as amended on September 21, 1999,
14 as General Lease S-5529, and any conservation district use
15 application permits appertaining thereto, unless otherwise
16 specifically agreed upon pursuant to an agreement by the Mauna
17 Kea stewardship and oversight authority and the University of
18 Hawaii; provided that the transfer and release authorized under
19 this subsection shall not apply to any litigation pending on
20 June 30, 2028, relating to General Lease S-4191, as amended on
21 September 21, 1999, as General Lease S-5529, or any conservation



1 district use application permit appertaining thereto, to which
2 the University of Hawaii is a party.

3 (d) Notwithstanding subsection (b) or any action that is a
4 consequence of this Act, including a merger of interests,
5 effective July 1, 2028, every reference to the department of
6 land and natural resources, board of land and natural resources,
7 or the chairperson of the board of land and natural resources in
8 those deeds, leases, subleases, contracts, loans, agreements,
9 permits, or other documents shall be construed as a reference to
10 the Mauna Kea stewardship and oversight authority or the
11 chairperson of the authority, as appropriate; provided that all
12 deeds, leases, subleases, contracts, loans, agreements, permits,
13 or other documents executed or entered into prior to the
14 effective date of this Act, by or on behalf of the department of
15 land and natural resources or the board of land and natural
16 resources pursuant to the Hawaii Revised Statutes that are
17 reenacted or made applicable to the Mauna Kea stewardship and
18 oversight authority by this Act, shall remain in full force and
19 effect until its expiration unless otherwise specifically
20 amended pursuant to an agreement by the Mauna Kea stewardship
21 and oversight authority and the University of Hawaii.



1 SECTION 7. (a) All employees who occupy civil service
2 positions and whose functions are transferred to the Mauna Kea
3 stewardship and oversight authority by this Act shall retain
4 their civil service status, whether permanent or temporary.
5 Employees shall be transferred without loss of salary, seniority
6 (except as prescribed by applicable collective bargaining
7 agreements), retention points, prior service credit, any
8 vacation and sick leave credits previously earned, and other
9 rights, benefits, and privileges, in accordance with state
10 personnel laws and this Act; provided that the employees possess
11 the minimum qualifications and public employment requirements
12 for the class or position to which transferred or appointed, as
13 applicable; provided further that subsequent changes in status
14 may be made pursuant to applicable civil service and
15 compensation laws.

16 (b) Any employee who, prior to this Act, is exempt from
17 civil service and is transferred as a consequence of this Act
18 may retain the employee's exempt status but shall not be
19 appointed to a civil service position as a consequence of this
20 Act. An exempt employee who is transferred by this Act shall
21 not suffer any loss of prior service credit, vacation or sick



1 leave credits previously earned, or other employee benefits or
2 privileges as a consequence of this Act; provided that the
3 employees possess legal and public employment requirements for
4 the position to which transferred or appointed, as applicable;
5 provided further that subsequent changes in status may be made
6 pursuant to applicable employment and compensation laws. The
7 executive director of the center for Mauna Kea stewardship may
8 prescribe the duties and qualifications of these employees and
9 fix their salaries without regard to chapter 76, Hawaii Revised
10 Statutes.

11 SECTION 8. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the University of Hawaii relating to the
15 functions transferred to the Mauna Kea stewardship and oversight
16 authority shall be transferred with the functions to which they
17 relate.

18 PART III

19 SECTION 9. During the transition period, the University of
20 Hawaii board of regents and president shall exercise the
21 authority granted to them by part IV, subpart O, of chapter



1 304A, Hawaii Revised Statutes, only to the extent as necessary
2 to allow the Mauna Kea stewardship and oversight authority,
3 established pursuant to part I of this Act, to assume authority
4 of Mauna Kea lands pursuant to this Act; provided that the
5 University of Hawaii board of regents and the president of the
6 University of Hawaii shall cooperate and work collaboratively
7 with the authority to support and ensure the successful
8 transition of stewardship and oversight of the Mauna Kea lands;
9 provided further that the University of Hawaii at Hilo shall
10 provide all necessary support to the Mauna Kea stewardship and
11 joint oversight during the transition period consistent with the
12 purposes of this Act, including equitably funding the authority
13 and University of Hawaii.

14 PART IV

15 SECTION 10. Chapter 304A, part IV, subpart O, Hawaii
16 Revised Statutes, is repealed.

17 SECTION 11. Section 304A-2170, Hawaii Revised Statutes, is
18 repealed.

19 [~~"§304A-2170~~] ~~Mauna Kea lands management special fund.~~

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



- 1 ~~(1) Appropriations by the legislature;~~
- 2 ~~(2) All net rents from leases, licenses, and permits,~~
- 3 ~~including fees and charges for the use of land and~~
- 4 ~~facilities within the Mauna Kea lands;~~
- 5 ~~(3) All moneys collected for violations of subpart O of~~
- 6 ~~part IV; and~~
- 7 ~~(4) Interest earned or accrued on moneys in the special~~
- 8 ~~fund.~~
- 9 ~~(b) The proceeds of the special fund shall be used for:~~
- 10 ~~(1) Managing the Mauna Kea lands, including maintenance,~~
- 11 ~~administrative expenses, salaries and benefits of~~
- 12 ~~employees, contractor services, supplies, security,~~
- 13 ~~equipment, janitorial services, insurance, utilities,~~
- 14 ~~and other operational expenses; and~~
- 15 ~~(2) Enforcing administrative rules adopted relating to the~~
- 16 ~~Mauna Kea lands.~~
- 17 ~~(c) No moneys deposited into the Mauna Kea lands~~
- 18 ~~management special fund may be used by the governor or the~~
- 19 ~~director of finance as a justification for reducing any budget~~
- 20 ~~request or allotment to the University of Hawaii unless the~~
- 21 ~~University of Hawaii requests the reduction.~~



1 ~~(d) The University of Hawaii may establish separate~~
2 ~~accounts within the special fund for major program activities.~~

3 ~~(e) All expenditures from the special fund shall be~~
4 ~~subject to legislative appropriation.~~

5 ~~(f) For the purposes of this section, "Mauna Kea lands"~~
6 ~~shall mean the same as defined in section 304A-1901.]~~

7 PART V

8 SECTION 12. The University of Hawaii shall commence and
9 complete the timely decommissioning of the California Institute
10 of Technology (Caltech) Submillimeter Telescope and the
11 University of Hawaii at Hilo Hoku Kea Teaching Telescope as
12 determined by the Mauna Kea stewardship and oversight authority.

13 PART VI

14 SECTION 13. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$14,000,000 or so
16 much thereof as may be necessary for fiscal year 2022-2023 for
17 startup and transition planning costs for the Mauna Kea
18 stewardship and oversight authority, including the hiring of one
19 full-time equivalent (1.0 FTE) executive assistant position, who
20 shall also serve as secretary to the authority, and who shall be



1 exempt from chapter 76, Hawaii Revised Statutes, to support the
2 Mauna Kea stewardship and oversight authority.

3 The sum appropriated shall be expended by the Mauna Kea
4 stewardship and oversight authority for the purposes of this
5 Act.

6 SECTION 14. On the close of business on June 30, 2028, all
7 moneys in the Mauna Kea lands management special fund
8 established pursuant to section 304A-2170, Hawaii Revised
9 Statutes, shall be deposited in the Mauna Kea management special
10 fund established pursuant to section -15, Hawaii Revised
11 Statutes, in part I, section 2, of this Act.

12 PART VII

13 SECTION 15. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 16. This Act shall take effect on July 1, 2022;
16 provided that part IV shall take effect on July 1, 2028.



Report Title:

Mauna Kea Stewardship and Oversight Authority; Established;
Appropriation

Description:

Establishes the Mauna Kea Stewardship and Oversight Authority as the sole authority for the management of Mauna Kea lands. Requires the Authority to manage land uses; human activities, other uses, and access; stewardship; education; research; disposition; and overall operations on its respective lands. Authorizes the Authority to develop a framework to allow astronomy development on Mauna Kea. Declares astronomy as a state policy. Requires the Authority to establish advisory groups. Allows the Authority to limit certain commercial use and activities on Mauna Kea on its respective jurisdictional lands. Provides certain restrictions on leases and a moratorium on new leases. Requires the timely decommissioning of certain telescopes. Requires an application and fee for all recreational users of Mauna Kea. Establishes the Mauna Kea management special fund. Transfers rights, duties, and positions from the University of Hawaii to the Authority. Exempts positions under the Authority from civil service requirements. Requires an audit of the Mauna Kea Stewardship and Oversight Authority. Appropriates funds. (CD1 PROPOSED)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

