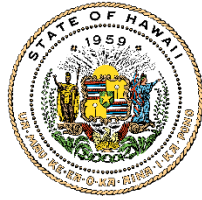


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
JUDICIARY
and
WAYS AND MEANS

Friday March 3, 2023
10:00 a.m.

State Capitol, Conference Room 211 & Videoconference

In consideration of
SENATE BILL 81, SENATE DRAFT 1
RELATING TO NATURAL RESOURCE MANAGEMENT

LATE

Senate Bill 81, Senate Draft 1 proposes to clarify that the powers, duties, and responsibilities of the Board of Land and Natural Resources for all lands designated under the State Land Use Conservation District on Mauna Kea remain in place. **The Department of Land and Natural Resources (Department) supports the bill.**

Act 255, Session Laws of Hawai'i 2022 (Act 255) established the Mauna Kea Stewardship and Oversight Authority (Authority) and placed it within the Department for administrative purposes. The Department believes that the intent of Act 255 was to transfer management authority over Mauna Kea lands from the University of Hawaii to the Authority. The Act set a five-year transition period during which the Authority and the University will jointly manage Mauna Kea lands, provided that Authority's day-to-day operations shall be carried out by the center of Mauna Kea stewardship for the transition period. (See SECTION 6 of Act 255).

During the transition period, the Department would continue to have control and management of Mauna Kea lands to ensure the University's compliance with the Mauna Kea Comprehensive Management Plan, timely implementation of the decommissioning plans, and compliance with the conditions of the leases. However, "following the end of the transition period," or sooner, the Department shall then be subject to the oversight of the Authority regarding the control and management of Mauna Kea lands. (See SECTION 7 of Act 255). Thus, in reading Act 255 in its totality, the Department believes that the ultimate transfer of management of Mauna Kea lands may occur sooner than five years.

The Department also is of the view that the intent of Act 255 was that Conservation District protections pursuant to Hawaii Revised Statutes (HRS) Chapter 183C would remain with the Department, so long as the lands remain in conservation zoning. The Department believes that if the legislature intended to transfer HRS Chapter 183C to the Authority it would have done so, as it specifically referenced HRS Chapter 171 and Chapter 205, but did not reference HRS Chapter 183C. The Department has a constitutional mandate to manage and protect the State's public trust resources, especially within the conservation zoned district.

Further, the Department strongly believes that it is the intent of Act 255 to transfer management authority of Mauna Kea lands ultimately to the Authority, but the underlying ownership of the lands would remain with the Board of Land and Natural Resources who has a constitutional public trust duty to these lands. The transfer of management authority would be analogous to the disposition of Mauna Kea lands through an executive order to the Authority. Thus, the Department agrees with the amendment proposed in Senate Bill 81, Senate Draft 1 to clarify the intent of Act 255.

Mahalo for the opportunity to provide testimony in support of this measure.

Testimony of John Komeiji, Interim Chairperson Mauna Kea Stewardship and Oversight Authority

Before the Senate Committees on Judiciary and Ways and Means

Friday March 3, 2023 10:00 a.m

State Capitol, Conference Room 211 & Videoconference

In consideration of SENATE BILL 81 SD 1 RELATING TO NATURAL RESOURCE MANAGEMENT

I am John Komeiji, interim chair of the Mauna Kea Stewardship and Oversight Authority (MKSOA).

The new authority was created by the legislature in 2022 to address the many and diverse public concerns regarding the use of Mauna Kea. While we appreciate the intent of SB 81, "Relating to Natural Resource Management," we believe it is premature at this time to enact this measure and respectfully request the legislature to allow the MKSOA to continue in its formation efforts. During the next legislative session, the MKSOA will be better positioned to present a comprehensive recommendation on matters that may require further clarification and/or changes.

Over past few months, the Authority has undertaken an information seeking effort to better understand the multiple issues of Mauna Kea. There is a lot to learn in the inter-relationships and dependencies between various aspects of the management of Mauna Kea. It is a very complex landscape that requires deep analysis and understanding in order to find an effective way forward.

While we concur with the general intent of SB 81 to seek clarity, this measure, if passed today, could result in unintended consequences such as impairing the autonomy, independent judgment and decision-making ability of the Authority. For example, would the BLNR have the ability to overrule the Authority's Management Plan, Administrative Rules, its financial plan or its framework for astronomy-related development?

For these reasons, the Authority requests that this matter be deferred until a comprehensive review can be conducted regarding the Authority and its relationship to other regulatory bodies.

Mahalo for allowing us the opportunity to provide input on this measure.

SB-81-SD-1

Submitted on: 3/1/2023 8:35:24 AM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marion K A Kapuniai	Individual	Oppose	Written Testimony Only

Comments:

ABSOLUTELY NOT!!

DLNR has proven to be irresponsible in their kuleana with University/Hawaii and Observatory Leases - they still need to complete decommissioning.

DLNR has no need to execute any more leases.

'A'OLE LOA!!!!!!

Thank you,

M Kapuniai

SB-81-SD-1

Submitted on: 3/1/2023 1:47:54 PM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

Hawaii DLNR is the agency with expertise in managing conservation lands and natural resources. Therefore DLNR should retain authority over the lands in the state conservation district, as clarified by SB81.

SB-81-SD-1

Submitted on: 3/1/2023 4:02:04 PM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Oppose	Written Testimony Only

Comments:

Oppose. Allow the new authority and state agencies to find their way, allowing time for them to settle in and then to propose necessary laws to enable the work of the authority and the state to work collaboratively.

SB-81-SD-1

Submitted on: 3/1/2023 4:56:51 PM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Brandy Morris	Individual	Oppose	Written Testimony Only

Comments:

Thank you for the opportunity to state my position of OPPOSITION to SB 81.

While clarifying ambiguously written legislature can only be a good thing, this bill seems to be using that ambiguity to recapture control over Mauna Kea lands for the DNLR. The Legislature should not assume the power to unilaterally "clarify" the transition plan's intent or take measures to grant the DNLR management authority, particularly when Act 255's intent was so clearly to remove the DLNR's control of Mauna Kea lands, and place it under the stewardship and management of the Mauna Kea Stewardship and Oversight Authority.

While Act 255 clearly states that further clarification and ammendment should be expected during the transition period, I cannot believe that this statement could or should ever include the possibility of seizing control from the Mauna Kea Stewardship and Oversight Authority after just seven short months since it's creation.

A reading of Act 255 would lead any reasonable person to believe that the transition period is meant to be used for the two agencies to work in tandem to create a responsible tranfer of power, to include funding and budgetary processes, as well as those activities relating to actual land management and stewardship. It was certainly not intended to give the DLNR an "out".

In summary, Act 255 is law written to transfer power, leaving autonomy for the, "hows". Please kill this bill and go to work tranferring that power.

March 01, 2023

Rodrigo Romo
1445 Waianuenue Ave
Hilo, HI 96720

COMMITTEE ON JUDICIARY AND
COMMITTEE ON WAYS AND MEANS
FRIDAY, MARCH 3RD, 2023, 10:00
CONFERENCE ROOM 211

TESTIMONY IN SUPPORT OF SB-81, SD1 RELATING NATURAL RESOURCE MANAGEMENT.

Dear Chairs Rhoads & Dela Cruz, Vice Chairs Gabbard & Keith-Agaran and members of the Committees:

I am writing in support of Bill SB-81 SD1. The bill as amended in SD1 expressly clarifies that permitting/regulation of conservation district lands under HRS chapter 183C remains with BLNR/DLNR. This clarifies an ambiguity in HRS § 195H-7(b) which does not specifically state that oversight of conservation lands should remain with B/DLNR as it currently does per existing statute, HRS § 183C. There should be independent oversight of the Maunakea Stewardship Oversight Authority (MKSOA) by the B/DLNR, especially since the lands under question are within the conservation district. All other state agencies and departments including OHA, UH, HCFDC, NELHA, DOE, DHHL, etc. are required to comply with conservation permitting requirements so there is no reason for the MKSOA to be exempt from this. There are practical implications as well. If the MKSOA were to be responsible for oversight of the conservation status of these lands then they would have to develop their own permitting processes for land uses within the Maunakea Science Reserve. This would essentially mean that they would be replicating existing regulatory frameworks, policies, processes, procedures, contested case procedures, and organizational structures already in place that manage conservation lands. This seems to be a waste of state and MKSOA resources.

However, SB 81 SD1 does create a new inconsistency and ambiguity regarding HRS chapter 171. HRS § 195H-7(b) currently provides:

Upon the expiration of the transition period, the authority shall carry out the powers and duties otherwise conferred upon the board of land and natural resources pursuant to chapter 171, and the land use commission pursuant to chapter 205, with regard to permits, dispositions, land use approvals, and any other approvals pertaining to the Mauna Kea lands. (Emphasis added.)

SB81 SD1 adds the following to the above paragraph:

... provided that all powers and duties of the board of land and natural resources and the department of land and natural resources pursuant to chapters 183C and 171, pertaining to areas designated under the state conservation district on Mauna Kea lands, shall be retained and shall not be transferred to the Mauna Kea stewardship and oversight authority upon the expiration of the five-year transition period.

Under SB81 SD1, does HRS chapter 171 transfer to the MKSOA (as the existing section states), or does HRS chapter 171 remain with BLNR/DLNR (as the added language states)? The same issues as stated

above now apply here to chapter 171. There should continue to be independent oversight of permits, dispositions, land use approvals, and any other approvals pertaining to the Mauna Kea lands as applies to other state agencies and departments. Similarly, the MKSOA should not be wasting resources on replicating existing B/DLNR management systems.

If the goal is a “mutual stewardship” paradigm for Maunakea lands currently under UH’s jurisdiction, as called for in HRS § 195H, then the MKSOA should focus their time and resources on those efforts. They should not be exempt from independent oversight since these are public lands and the community deserves the assurance that this provides.

Mahalo,

A handwritten signature in black ink that reads "R. Romo". The signature is written in a cursive, slightly slanted style.

Rodrigo Romo

SB-81-SD-1

Submitted on: 3/2/2023 9:33:50 AM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patti Cook	Individual	Support	Written Testimony Only

Comments:

I support SB81 SD1 because as amended, it clarifies that permitting/regulation of conservation district lands under HRS chapter 183C remains with BLNR/DLNR. This clarifies an ambiguity in HRS § 195H-7(b) which does not specifically state that oversight of conservation lands should remain with B/DLNR as it currently does per existing statute, HRS § 183C. There should be independent oversight of the Maunakea Stewardship Oversight Authority (MKSOA) by the B/DLNR, especially since the lands under question are within the conservation district. All other state agencies and departments including OHA, UH, HCFDC, NELHA, DOE, DHHL, etc. are required to comply with conservation permitting requirements so there is no reason for the MKSOA to be exempt from this.

Thank you for considering and expediting passage of this needed clarification. Patti Cook