
A BILL FOR AN ACT

RELATING TO THE MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY.

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

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PART I

SECTION 1. The legislature finds that refinements to the laws that confer the responsibilities and powers on the Mauna Kea stewardship and oversight authority are needed to ensure that management of Mauna Kea continues to embody a paradigm of balance and reciprocity that protects the mountain's ecological character, perpetuates Native Hawaiian traditional and customary rights and practices, and supports the State's global leadership in astronomy.

The legislature recognizes that Mauna Kea is a rare and extraordinary place that evokes cultural, spiritual, environmental, and scientific significance. The summit region encompasses fragile ecosystems, important historical and archaeological sites, and sacred landscapes interwoven into the fabric of Native Hawaiian identity. At the same time, Mauna Kea's unique topography and atmospheric conditions have made it the world's premier site for astronomical research, enabling



1 countless advancements in humanity's millennia-long yearning to
2 comprehend the principles, origins, and evolution of the cosmos.

3 The legislature acknowledges that due to this confluence of
4 significance, decades of tension have arisen over stewardship of
5 the mauna. In 2022, the legislature established the Mauna Kea
6 stewardship and oversight authority through Act 255, Session
7 Laws of Hawaii 2022, to govern Mauna Kea in a more harmonious
8 and collaborative manner by requiring that the governance be
9 with mutual stewardship and balance as guiding principles. The
10 legislature charged the authority to manage Mauna Kea through a
11 mindset that honors and perpetuates Native Hawaiian cultural
12 practices, safeguards natural resources, and allows for the
13 responsible advancement of astronomy while maintaining the
14 mountain's spiritual, cultural, and environmental integrity.
15 The legislature believes that the governance provided by the
16 Mauna Kea stewardship and oversight authority will bring about
17 an era of mutually beneficial coexistence between all parties
18 with interest in Mauna Kea.

19 The legislature further recognizes the need for continued
20 refinement of the Mauna Kea stewardship and oversight
21 authority's jurisdiction and responsibilities. Strengthened



1 guidance will ensure that the authority manages Mauna Kea with
2 transparency, accountability, and respect through the bedrock
3 values of mauna aloha, 'ōpū kūpuna, holomua 'oi kelakela,
4 kānāwai, 'ohana, and kuleana.

5 Accordingly, the purpose of this Act is to clarify the
6 powers of the Mauna Kea stewardship and oversight authority so
7 that it may properly carry out its responsibilities regarding
8 land use on Mauna Kea.

9 PART II

10 SECTION 2. The purpose of this part is to:

- 11 (1) Specify that on June 30, 2028, and December 31, 2029,
12 Act 255, Session Laws of Hawaii 2022, and chapter
13 195H, Hawaii Revised Statutes, shall be repealed and
14 management authority over Mauna Kea lands shall revert
15 to the university of Hawaii, respectively, if the
16 deadline to adopt a management plan or to submit
17 proposed rules to the governor is not met;
- 18 (2) Extend the date on which all rights, powers,
19 functions, and duties of the university of Hawaii
20 relating to the powers and responsibilities granted to
21 the Mauna Kea stewardship and oversight authority



1 under part I of Act 255, Session Laws of Hawaii 2022,
2 will be transferred to the Mauna Kea stewardship and
3 oversight authority, from July 1, 2028, to December 1,
4 2029, to ensure all applicable stakeholders have
5 sufficient time to implement a successful transition;
6 and

- 7 (3) Clarify that the oversight and interest of the Mauna
8 Kea stewardship and oversight authority in the Mauna
9 Kea lands shall be no more than what is expressly
10 granted under chapter 195H, Hawaii Revised Statutes.

11 SECTION 3. Section 171-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§171-3 Department of land and natural resources. (a)**

14 The department of land and natural resources shall be headed by
15 an executive board to be known as the board of land and natural
16 resources. The department shall manage, administer, and
17 exercise control over public lands, the water resources, ocean
18 waters, navigable streams, coastal areas (excluding commercial
19 harbor areas), and minerals and all other interests therein and
20 exercise such powers of disposition thereof as may be authorized
21 by law. The department shall also manage and administer the



1 state parks, historical sites, forests, forest reserves, aquatic
2 life, aquatic life sanctuaries, public fishing areas, boating,
3 ocean recreation, coastal programs, wildlife, wildlife
4 sanctuaries, game management areas, public hunting areas,
5 natural area reserves, and other functions assigned by law.

6 (b) Notwithstanding subsection (a), beginning January 1,
7 2010, the authority to manage, administer, and exercise control
8 over any public lands that are designated important agricultural
9 lands pursuant to section 205-44.5, shall be transferred to the
10 department of agriculture and biosecurity.

11 (c) Notwithstanding subsection (a), to the extent
12 specified in chapter 195H, the authority to manage, administer,
13 and exercise control over public lands defined as Mauna Kea
14 lands in section 195H-2 is transferred to the Mauna Kea
15 stewardship and oversight authority."

16 SECTION 4. Section 195H-6, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending its title and subsections (a) and (b) to
19 read:

20 "[~~§~~195H-6~~]~~ **Transition; management plan.** (a) The
21 authority shall have a transition period of [~~five years~~]



1 seventy-seven months beginning July 1, 2023~~[+]~~ and ending
2 December 1, 2029; provided that all of the initial members have
3 been confirmed by the senate. During the transition period, the
4 authority shall jointly manage Mauna Kea lands with the
5 ~~[University]~~ university of Hawaii; provided that the authority's
6 day-to-day operations shall be carried out by the center of
7 Mauna Kea stewardship for the transition period established in
8 this subsection.

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

14 (1) Be developed during the transition period;
15 (2) ~~[Be finalized, approved, and operational by the end of~~
16 ~~the transition period;]~~ Be adopted by the authority
17 before June 30, 2028, and be operational by December
18 1, 2029, the end of 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,
6 and 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 2. By amending subsection (f) to read:

14 "(f) Notwithstanding any other law to the contrary,
15 commencing on July 1, 2022, and until the expiration of the
16 transition period, no new lease shall be issued [~~and no existing~~
17 ~~lease shall be renewed~~] involving any Mauna Kea lands; provided
18 that, upon the expiration of an existing lease during the
19 transition period, a lessee may continue to hold the land as a
20 holdover, subject to any terms and conditions as may be mutually
21 agreed upon by the authority and University of Hawaii."



1 SECTION 5. Section 195H-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~]**\$195H-13**[~~+~~] **Rules.** (a) [~~In addition to any other~~
4 ~~rulemaking powers authorized under this chapter, the~~] The
5 authority [~~may~~] shall adopt rules that implement, interpret, or
6 prescribe law or policy, or the organization, procedures, or
7 practice requirements, pursuant to chapter 91 [~~on~~], for the
8 management, stewardship, oversight, and protection of the Mauna
9 Kea lands and their cultural resources. The rules adopted under
10 this section shall follow existing laws, rules, ordinances, and
11 regulations as closely as is consistent with standards to meet
12 minimum requirements of good design, health, safety, and
13 coordinated development.

14 (b) The authority [~~may adopt~~] shall submit proposed rules
15 to the governor before [~~the end of the transitional five-year~~
16 ~~period established in section 195H-6;~~] December 31, 2029;
17 provided that the rules shall not go into effect until the
18 transition period is completed."

19 SECTION 6. Act 255, Session Laws of Hawaii 2022, is
20 amended as follows:

21 1. By amending section 7 to read:



1 "SECTION 7. (a) On [~~July 1, 2028,~~] December 1, 2029, all
2 rights, powers, functions, and duties of the [~~University~~
3 university of Hawaii relating to the powers and responsibilities
4 granted to the Mauna Kea stewardship and oversight authority
5 under part I of this Act are transferred to the Mauna Kea
6 stewardship and oversight authority.

7 (b) Notwithstanding the transfer of all rights, powers,
8 functions, and duties pursuant to subsection (a), the [~~state~~
9 ~~lease~~] leases by and between the board of land and natural
10 resources and the [~~University~~] university of Hawaii entered into
11 on June 21, 1968, as General Lease S-4191, as amended [~~on~~
12 ~~September 21, 1999, as~~], and General Lease S-5529[~~7~~] shall
13 remain in full force and effect until [~~its~~] their respective
14 expiration dates unless otherwise specifically amended pursuant
15 to an agreement by the Mauna Kea stewardship and oversight
16 authority and the [~~University~~] university of Hawaii.

17 (c) Upon the assignment of all rights, powers, and duties
18 of the [~~University~~] university of Hawaii to the Mauna Kea
19 stewardship and oversight authority pursuant to subsection (a),
20 the [~~University~~] university of Hawaii shall be released from any
21 and all obligations under the state lease by and between the



1 board of land and natural resources and the [~~University~~]
2 university of Hawaii entered into on June 21, 1968, as General
3 Lease S-4191, as amended [~~on September 21, 1999, as~~], and
4 General Lease S-5529, and any conservation district use
5 application permits appertaining thereto, unless otherwise
6 specifically agreed upon pursuant to an agreement by the Mauna
7 Kea stewardship and oversight authority and the [~~University~~]
8 university of Hawaii; provided that the transfer and release
9 authorized under this subsection shall not apply to any
10 litigation pending on [~~June 30, 2028,~~] November 30, 2029,
11 relating to General Lease S-4191, as amended [~~on September 21,~~
12 ~~1999, as~~], and General Lease S-5529, or any conservation
13 district use application permit appertaining thereto, to which
14 the [~~University~~] university of Hawaii is a party.

15 (d) [~~Notwithstanding subsection (b) or any action that is~~
16 ~~a consequence of this Act, including a merger of interests,~~
17 ~~effective July 1, 2028, every reference to the department of~~
18 ~~land and natural resources, board of land and natural resources,~~
19 ~~or the chairperson of the board of land and natural resources in~~
20 ~~those deeds, leases, subleases, contracts, loans, agreements,~~
21 ~~permits, or other documents relating to Mauna Kea lands shall be~~



1 ~~construed as a reference to the Mauna Kea stewardship and~~
2 ~~oversight authority or the chairperson of the authority, as~~
3 ~~appropriate; provided that all]~~ All deeds, leases, subleases,
4 contracts, loans, agreements, permits, or other documents
5 executed or entered into [~~prior to~~] before the effective date of
6 this Act, by or on behalf of the department of land and natural
7 resources or the board of land and natural resources pursuant to
8 the Hawaii Revised Statutes that are reenacted or made
9 applicable to the Mauna Kea stewardship and oversight authority
10 by this Act, shall remain in full force and effect until [~~its~~]
11 their respective expiration dates unless otherwise specifically
12 amended pursuant to an agreement by the Mauna Kea stewardship
13 and oversight authority and the [~~University~~] university of
14 Hawaii."

15 2. By amending section 16 to read:

16 "SECTION 16. On the close of business on [~~June 30, 2028,~~]
17 December 1, 2029, all moneys in the Mauna Kea lands management
18 special fund established pursuant to section 304A-2170, Hawaii
19 Revised Statutes, shall be deposited in the Mauna Kea management
20 special fund established pursuant to section [~~—15,~~] 195H-15,
21 Hawaii Revised Statutes, in part I, section 2, of this Act."



1 SECTION 11. (a) Notwithstanding section 195H-6(b) (2),
2 Hawaii Revised Statutes, or any other law to the contrary, the
3 existing master plan, management plan, and administrative rules
4 adopted or developed by the university of Hawaii to implement
5 provisions of the Hawaii Revised Statutes that are:

6 (1) Repealed by part IV of Act 255, Session Laws of Hawaii
7 2022; or

8 (2) Otherwise reenacted or made applicable to the Mauna
9 Kea stewardship and oversight authority by Act 255,
10 Session Laws of Hawaii 2022,

11 shall remain in full force and effect, including times
12 subsequent to December 1, 2029, until a superseding master plan,
13 management plan, or administrative rules, or any portion
14 thereof, adopted by the Mauna Kea stewardship and oversight
15 authority, takes effect. The Mauna Kea stewardship and
16 oversight authority, when adopting a superseding master plan,
17 management plan, or administrative rule, or any portion thereof,
18 shall affirmatively state through a public notice issued in
19 accordance with section 1-28.5, Hawaii Revised Statutes, which
20 existing plan or rule, or portion thereof, is superseded.



1 (b) If the existing master plan, management plan, and
2 administrative rules adopted or developed by the university of
3 Hawaii remain in effect after December 1, 2029, every reference
4 to the university of Hawaii, center for Mauna Kea stewardship,
5 office of Mauna Kea management, board of regents, president of
6 the university of Hawaii, or other similar term in the master
7 plan, management plan, or administrative rule is amended to
8 refer to the Mauna Kea stewardship and oversight authority,
9 unless the context clearly requires otherwise.

10 PART IV

11 SECTION 12. Section 195H-3, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) There is established the Mauna Kea stewardship and
14 oversight authority, which shall be a body corporate and a
15 public instrumentality of the State for the purpose of
16 implementing this chapter. The authority shall serve jointly
17 with the [University] university of Hawaii in fulfilling the
18 obligations and duties under the state lease for a period of
19 five years as established in section 195H-6. The authority
20 shall be placed within the department of land and natural
21 resources for administrative purposes [~~provided that section~~



1 ~~[26-35] shall not apply to the authority.] and, pursuant to~~
2 section 26-35(b), is an arm of the State and shall have the same
3 sovereign immunity available to the State."

4 PART V

5 SECTION 13. The purpose of this part is to authorize the
6 Mauna Kea stewardship and oversight authority to extend existing
7 leases and subleases before the transfer of powers and duties
8 pertaining to Mauna Kea lands to the authority for up to an
9 additional ten-year term.

10 SECTION 14. Section 195H-7, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Notwithstanding any law to the contrary, all powers
13 and duties of the board of land and natural resources pursuant
14 to chapter 171, and the land use commission pursuant to
15 chapter 205, concerning permits, dispositions, land use
16 approvals, and any other approvals pertaining to the Mauna Kea
17 lands are transferred to the authority upon the expiration of
18 the transition period; provided that the authority may extend
19 existing leases and subleases before the transfer for up to an
20 additional ten-year term; provided further that the authority
21 shall have all necessary powers and authorities to consider and



1 grant lease extensions, before the transition period expires,
2 without the approval of the board of land and natural resources
3 and the land use commission, and any extensions granted during
4 the transition period under this section shall be exempt from
5 chapter 343, term restrictions in section 171-36, or sections
6 171-36.5 and 171-95.1; provided further that the transfer of
7 such powers and duties from the board of land and natural
8 resources and the land use commission may occur earlier, upon
9 approval of the authority, the board of land and natural
10 resources, and the land use commission. Upon the expiration of
11 the transition period, the authority shall carry out the powers
12 and duties otherwise conferred upon the board of land and
13 natural resources pursuant to chapter 171, and the land use
14 commission pursuant to chapter 205, with regard to permits,
15 dispositions, land use approvals, and any other approvals
16 pertaining to the Mauna Kea lands."

17 PART VI

18 SECTION 15. (a) If the Mauna Kea stewardship and
19 oversight authority fails to adopt a management plan before June
20 30, 2028, as required by section 195H-6(b)(2), Hawaii Revised
21 Statutes, the governor shall inform the president of the senate



1 and speaker of the house of representatives on June 30, 2028,
2 that the condition in section 18(1) of this Act has occurred.

3 (b) If the Mauna Kea stewardship and oversight authority
4 fails to submit proposed administrative rules to the governor
5 before December 31, 2029, as required by section 195H-13(b),
6 Hawaii Revised Statutes, the governor shall inform the president
7 of the senate and speaker of the house of representatives on
8 December 31, 2029, that the condition in section 18(2) of this
9 Act has occurred.

10 SECTION 16. This Act does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun before its effective date.

13 SECTION 17. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 18. This Act shall take effect upon its approval;
16 provided that:

17 (1) If the Mauna Kea stewardship and oversight authority
18 fails to adopt a management plan for Mauna Kea before
19 June 30, 2028, as provided in section 195H-6(b)(2),
20 Hawaii Revised Statutes, on June 30, 2028:

21 (A) Sections 8 and 9 of this Act shall take effect;



- 1 (B) Section 28-8.3(a) and (c), Hawaii Revised
2 Statutes, shall be reenacted in the form in which
3 it read on June 29, 2028, excluding the
4 amendments made to that section by Act 255,
5 Session Laws of Hawaii 2022;
- 6 (C) Section 76-16(b), Hawaii Revised Statutes, shall
7 be reenacted in the form in which it read on June
8 29, 2028, excluding the amendments made to that
9 subsection by Act 255, Session Laws of Hawaii
10 2022;
- 11 (D) Section 3 of this Act shall be repealed, and
12 section 171-3, Hawaii Revised Statutes, shall be
13 reenacted in the form in which it read on the day
14 before the effective date of this Act; and
- 15 (E) Management authority over Mauna Kea lands, as
16 defined in section 304A-1901, Hawaii Revised
17 Statutes, before it is repealed, shall revert to
18 the university of Hawaii; or
- 19 (2) If the Mauna Kea stewardship and oversight authority
20 fails to submit proposed administrative rules allowing
21 the authority to effectively manage Mauna Kea in



1 accordance with the management plan to the governor
2 before December 31, 2029, as provided in section
3 195H-13(b), Hawaii Revised Statutes, on December 31,
4 2029:

5 (A) Sections 8 and 9 of this Act shall take effect;

6 (B) Section 28-8.3(a) and (c), Hawaii Revised
7 Statutes, shall be reenacted in the form in which
8 it read on December 30, 2029, excluding the
9 amendments made to that section by Act 255,
10 Session Laws of Hawaii 2022;

11 (C) Section 76-16(b), Hawaii Revised Statutes, shall
12 be reenacted in the form in which it read on
13 December 30, 2029, excluding the amendments made
14 to that subsection by Act 255, Session Laws of
15 Hawaii 2022;

16 (D) Section 3 of this Act shall be repealed, and
17 section 171-3, Hawaii Revised Statutes, shall be
18 reenacted in the form in which it read on the day
19 before the effective date of this Act; and

20 (E) Management authority over Mauna Kea lands, as
21 defined in section 304A-1901, Hawaii Revised



1 Statutes, before it is repealed, shall revert to
2 the university of Hawaii.



Report Title:

Mauna Kea; MKSOA; UH; Transfer; Transition Period; Lease Transfer; BLNR; DLNR; Continuity of Plans and Administrative Rules; Sovereign Immunity; Extension; Reversion

Description:

Part II: Clarifies the powers of the Mauna Kea Stewardship and Oversight Authority so that it may carry out its intended duties regarding land use on Mauna Kea. Adds reversion dates of 6/30/2028 and 12/31/2029 if the deadline to adopt a management plan or to submit proposed administrative rules to the Governor is not met; extends the transition period to 12/1/2029; clarifies that the oversight and interest of MKSOA in the Mauna Kea lands shall be no more than what is expressly granted in chapter 195H, HRS; and clarifies that title to Mauna Kea lands shall remain with the State. Part III: Provides that the existing plans and administrative rules adopted or developed by UH under which Mauna Kea is currently governed remain in effect until plans and administrative rules adopted by MKSOA take effect. Part IV: Clarifies that MKSOA has state sovereign immunity. Part V: Authorizes MKSOA to extend leases and subleases before the transfer, for up to an additional ten-year term. (CD1)

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

