
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:

1 PART I

2 SECTION 1. The legislature finds that refinements to the
3 law that affirms the Mauna Kea stewardship and oversight
4 authority's role and powers will ensure that management of Mauna
5 Kea continues to embody a paradigm of balance and reciprocity
6 that protects the mountain's sacred and ecological character,
7 perpetuates Native Hawaiian traditional and customary rights,
8 and supports Hawaii's global leadership in astronomy.

9 The legislature recognizes that Mauna Kea is a rare and
10 extraordinary place that evokes profound cultural, spiritual,
11 environmental, and scientific significance. The summit region
12 encompasses fragile ecosystems, important historical and
13 archaeological sites, and sacred landscapes interwoven into the
14 fabric of Native Hawaiian identity. At the same time, Mauna
15 Kea's unique topography and atmospheric conditions have made it
16 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 clarify the
11 intent of Act 255, Session Laws of Hawaii 2022, by explicitly
12 declaring that the transfer of the real property interests in
13 the lands of Mauna Kea to the Mauna Kea stewardship and
14 oversight authority on July 1, 2028, shall occur as a matter of
15 law.

16 SECTION 3. (a) In accordance with the intent of Act 255,
17 Session Laws of Hawaii 2022, all interests to the parcels of
18 land described in subsection (c), together with the existing
19 improvements thereon for which the State of Hawaii holds as fee
20 owner or lessor are conveyed by the State of Hawaii to the Mauna
21 Kea stewardship and oversight authority as grantee, as is, where



1 is, as a matter of law. The Mauna Kea stewardship and oversight
2 authority shall accept the fee and lessor interests in the
3 properties in their existing condition; provided that any
4 existing claims or liability that exists, may have existed, or
5 may exist in the future regarding any injury, loss, cost,
6 damage, or liability, including reasonable attorney's fees,
7 concerning the physical, environmental, soil, economic, and
8 legal conditions of the properties, shall not be transferred to
9 the Mauna Kea stewardship and oversight authority. All claims
10 and liabilities against the State and its agencies, if any, that
11 exist, may have existed, or may exist in the future, regarding
12 any injury, loss, cost, damage, or liability, including
13 reasonable attorney's fees, concerning the physical,
14 environmental, soil, economic, and legal conditions of the
15 properties, are released, waived, and extinguished.

16 (b) In accordance with the intent of Act 255, Session Laws
17 of Hawaii 2022, all interests to the parcels of land described
18 in subsection (c), together with the existing improvements
19 thereon for which the university of Hawaii holds as lessee are
20 conveyed by the university of Hawaii to the Mauna Kea
21 stewardship and oversight authority as grantee, as is, where is,



1 as a matter of law; provided that this conveyance shall not
2 apply to the conservation district use permits transferred under
3 section 7(e) and (f) of Act 255, Session Laws of Hawaii 2022, as
4 amended by this Act. The Mauna Kea stewardship and oversight
5 authority shall accept the lessee interests in the properties in
6 their existing condition; provided that any existing claims or
7 liability that exists, may have existed, or may exist in the
8 future regarding any injury, loss, cost, damage, or liability,
9 including reasonable attorney's fees, concerning the physical,
10 environmental, soil, economic, and legal conditions of the
11 properties, shall not be transferred to the Mauna Kea
12 stewardship and oversight authority. All claims and liabilities
13 against the State and its agencies, if any, that exist, may have
14 existed, or may exist in the future, regarding any injury, loss,
15 cost, damage, or liability, including reasonable attorney's
16 fees, concerning the physical, environmental, soil, economic,
17 and legal conditions of the properties, shall be released,
18 waived, and extinguished.

19 (c) The parcels to be conveyed by the department of land
20 and natural resources to the Mauna Kea stewardship and oversight
21 authority shall be the following:



1 (1) Science reserve: Parcel no. 440150090000; and

2 (2) Hale Pohaku: Parcel no. 440150120000.

3 (d) The Mauna Kea stewardship and oversight authority
4 shall have an easement for access and maintenance in the road
5 easement, as described in General Lease 4697.

6 (e) As these are conveyances in which the State and its
7 agencies are the only parties, the tax imposed by section 247-1,
8 Hawaii Revised Statutes, shall not apply.

9 (f) As used in this section, "agency" has the same meaning
10 as in section 37-62, Hawaii Revised Statutes.

11 PART III

12 SECTION 4. The purpose of this part is to require the
13 university of Hawaii to negotiate for the transfer of the
14 various astronomical observatory conservation district use
15 permits to the applicable astronomical observatories so that
16 when governance by the Mauna Kea stewardship and oversight
17 authority begins, the authority will not be in conflict.

18 SECTION 5. Act 255, Session Laws of Hawaii 2022, is
19 amended by amending section 7 to read as follows:

20 "SECTION 7. (a) On July 1, 2028, all rights, powers,
21 functions, and duties of the [~~University~~] university of Hawaii



1 relating to the powers and responsibilities granted to the Mauna
2 Kea stewardship and oversight authority under part I of this Act
3 are transferred to the Mauna Kea stewardship and oversight
4 authority.

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

14 (c) Upon the assignment of all rights, powers, and duties
15 of the [University] university of Hawaii to the Mauna Kea
16 stewardship and oversight authority pursuant to subsection (a),
17 the [University] university of Hawaii shall be released from any
18 and all obligations under the state lease by and between the
19 board of land and natural resources and the [University]
20 university of Hawaii entered into on June 21, 1968, as General
21 Lease S-4191, as amended on September 21, 1999, as General Lease



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

11 (d) Notwithstanding subsection (b) or any action that is a
12 consequence of this Act, including a merger of interests,
13 effective July 1, 2028, every reference to the department of
14 land and natural resources, board of land and natural resources,
15 or the chairperson of the board of land and natural resources in
16 those deeds, leases, subleases, contracts, loans, agreements,
17 permits, or other documents relating to Mauna Kea lands shall be
18 construed as a reference to the Mauna Kea stewardship and
19 oversight authority or the chairperson of the authority, as
20 appropriate; provided that all deeds, leases, subleases,
21 contracts, loans, agreements, permits, or other documents



1 executed or entered into prior to the effective date of this
2 Act, by or on behalf of the department of land and natural
3 resources or the board of land and natural resources pursuant to
4 the Hawaii Revised Statutes that are reenacted or made
5 applicable to the Mauna Kea stewardship and oversight authority
6 by this Act, shall remain in full force and effect until its
7 expiration unless otherwise specifically amended pursuant to an
8 agreement by the Mauna Kea stewardship and oversight authority
9 and the [~~University~~] university of Hawaii.

10 (e) The university of Hawaii shall transfer the applicable
11 conservation district use permit and its rights and obligations
12 under the permit to each astronomical observatory, subject to
13 terms approved by the president of the university of Hawaii and
14 the receiving astronomical observatory; provided that, before
15 the transfer required under this subsection, the university of
16 Hawaii shall not amend the terms and conditions of any permit
17 subject to this subsection. Since the terms and conditions of
18 each conservation district use permit transferred pursuant to
19 this subsection will not be amended, the transfer of any
20 conservation district use permit that existed before the
21 effective date of this Act to an astronomical observatory under



1 this subsection shall not be subject to any additional
2 regulatory requirement, including any requirement under
3 chapter 343, Hawaii Revised Statutes.

4 For purposes of this subsection, "applicable conservation
5 district use permit" means the conservation district use permit
6 in effect at the time of transfer, applicable to the receiving
7 astronomical observatory, and to which the university of Hawaii
8 is the named permittee or other named party.

9 (f) Notwithstanding subsections (a) through (d) to the
10 contrary, the following conservation district use permits in
11 effect as of July 1, 2028, for which the university of Hawaii
12 has not completed the transfer under subsection (e), shall not
13 be transferred to the Mauna Kea stewardship and oversight
14 authority:

- 15 (1) Conservation district use permit 0954
16 (Air Force Telescope, Planetary Patrol Telescope,
17 2.2 Meter Telescope);
18 (2) Conservation district use permit 1515
19 (James Clerk Maxwell Telescope);



- 1 (3) Conservation district use permit 0653
2 (United Kingdom Infrared Telescope; NASA Infrared
3 Telescope Facility);
- 4 (4) Conservation district use permit 0527
5 (Canada-France-Hawaii Telescope);
- 6 (5) Conservation district use permit 1492
7 (Caltech Submillimeter Observatory);
- 8 (6) Conservation district use permit 2691 (Gemini North);
- 9 (7) Conservation district use permit 2462
10 (Subaru Telescope);
- 11 (8) Conservation district use permit 2728 (Smithsonian
12 Submillimeter Array);
- 13 (9) Conservation district use permit 3568
14 (Thirty Meter Telescope);
- 15 (10) Conservation district use permit 2174
16 (Very Long Baseline Array);
- 17 (11) Conservation district use permit 1646
18 (W. M. Keck Observatory I); and
- 19 (12) Conservation district use permit 2509
20 (W. M. Keck Observatory II).



1 The university of Hawaii shall continue to serve as the named
2 permittee or other named party as provided under the permit
3 until the permit is transferred to the appropriate astronomical
4 observatory."

5 PART IV

6 SECTION 6. The legislature finds that the Mauna Kea
7 stewardship and oversight authority is currently developing
8 permanent and detailed master, management, and financial plans;
9 frameworks for astronomy-related development; and administrative
10 rules. These documents must be cultivated in a deliberate and
11 mindful way. However, the legislature also recognizes that
12 there is limited time before the end of the statutorily
13 established five-year transition period, after which the Mauna
14 Kea stewardship and oversight authority will assume full
15 management of Mauna Kea. Due to these time constraints, the
16 Mauna Kea stewardship and oversight authority's permanent plans
17 and rules may not be formally adopted before the end of the
18 transition period on July 1, 2028.

19 Accordingly, the purpose of this part is to clarify that
20 the existing plans and administrative rules under which Mauna
21 Kea is currently governed shall continue in full force and



1 effect until a superseding master plan, management plan, or
2 administrative rules, or any portion thereof, adopted by the
3 Mauna Kea stewardship and oversight authority, takes effect.

4 SECTION 7. (a) Notwithstanding section 195H-6(b)(2),
5 Hawaii Revised Statutes, or any other law to the contrary, the
6 existing master plan, management plan, and administrative rules
7 adopted or developed by the university of Hawaii to implement
8 provisions of the Hawaii Revised Statutes that are:

9 (1) Repealed by part IV of Act 255, Session Laws of Hawaii
10 2022; or

11 (2) Otherwise reenacted or made applicable to the Mauna
12 Kea stewardship and oversight authority by Act 255,
13 Session Laws of Hawaii 2022,
14 shall remain in full force and effect, including times
15 subsequent to July 1, 2028, until a superseding master plan,
16 management plan, or administrative rules, or any portion
17 thereof, adopted by the Mauna Kea stewardship and oversight
18 authority, takes effect. The Mauna Kea stewardship and
19 oversight authority, when adopting a superseding master plan,
20 management plan, or administrative rule, or any portion thereof,
21 shall affirmatively state through a public notice issued in



1 accordance with section 1-28.5, Hawaii Revised Statutes, which
2 existing plan or rule, or portion thereof, is superseded.

3 (b) If the existing master plan, management plan, and
4 administrative rules adopted or developed by the university of
5 Hawaii remain in effect after July 1, 2028, every reference to
6 the university of Hawaii, center for Mauna Kea stewardship,
7 office of Maunakea management, board of regents, president of
8 the university of Hawaii, or other similar term in the master
9 plan, management plan, or administrative rule is amended to
10 refer to the Mauna Kea stewardship and oversight authority,
11 unless the context clearly requires otherwise.

12 PART V

13 SECTION 8. The legislature finds that the Mauna Kea
14 stewardship and oversight authority, as an arm of the State,
15 should have the same sovereign immunity available to other
16 administratively attached state agencies.

17 Therefore, the purpose of this part is to clarify that the
18 Mauna Kea stewardship and oversight authority falls under the
19 State's sovereign immunity by explicitly making section
20 26-35(b), Hawaii Revised Statutes, applicable to the authority.



1 SECTION 9. Section 195H-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is established the Mauna Kea stewardship and
4 oversight authority, which shall be a body corporate and a
5 public instrumentality of the State for the purpose of
6 implementing this chapter. The authority shall serve jointly
7 with the [~~University~~] university of Hawaii in fulfilling the
8 obligations and duties under the state lease for a period of
9 five years as established in section 195H-6. The authority
10 shall be placed within the department of land and natural
11 resources for administrative purposes; provided that section
12 [~~26-35~~] 26-35(a) shall not apply to the authority."

13 PART VI

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

17 SECTION 11. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 12. This Act shall take effect on July 1, 3000.



Report Title:

Mauna Kea; MKSOA; UH; Conservation District Use Permit;
Transfer; Astronomical Observatories; Lease Transfer; Fee
Transfer; BLNR; DLNR; Continuity of Plans and Administrative
Rules; Sovereign Immunity

Description:

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. Part II: Transfers as a matter of law certain real property interests in the Mauna Kea lands to the Mauna Kea Stewardship and Oversight Authority. Part III: Requires the University of Hawaii to transfer the various Mauna Kea astronomical observatory conservation district use permits to the astronomical observatories. Part IV: Provides that the existing plans and administrative rules adopted or developed by the University of Hawaii under which Mauna Kea is currently governed remain in effect until plans and administrative rules adopted by the Mauna Kea Stewardship and Oversight Authority take effect. Part V: Clarifies that the Mauna Kea Stewardship and Oversight Authority has state sovereign immunity. Effective 7/1/3000. (HD2)

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

