
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 the State'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 "[\S195H-5[\] Powers and responsibilities; generally.
- 2 (a) Except as otherwise limited by this chapter, the authority,
- 3 as it pertains to the Mauna Kea land area, may:
- 4 (1) Make and execute contracts, leases, and all other
- 5 instruments necessary or convenient for the exercise
- 6 of its powers and functions under this chapter;
- 7 (2) Make and alter bylaws for its organization and
- 8 internal management;
- 9 (3) Adopt rules pursuant to chapter 91 for the purposes of
- 10 this chapter;
- 11 (4) Conduct meetings in accordance with chapter 92 for the
- 12 purposes of this chapter;
- 13 (5) Appoint officers, agents, and employees who may be
- 14 exempt from chapter 76, prescribe their duties and
- 15 qualifications, and fix their salaries;
- 16 (6) Provide advisory, consultative, training, and
- 17 educational services; technical assistance; and advice
- 18 to any person, partnership, or corporation, either
- 19 public or private, to carry out the purposes of this
- 20 chapter, and engage the services of consultants on a



- 1 contractual basis for rendering professional and
2 technical assistance and advice;
- 3 (7) Procure insurance against any loss in connection with
4 its property and other assets and operations in
5 amounts and from insurers as it deems desirable;
- 6 (8) Contract for and accept gifts or grants in any form
7 from any public agency or from any other source;
- 8 (9) Adopt rules governing the procurement and purchase of
9 goods, services, and construction, subject to the
10 requirements of chapter 103D;
- 11 (10) Enter into cooperative agreements, easements,
12 subleases, or other contracts, as necessary, with any
13 state agency, county agency, or private landowner;
- 14 (11) Contract for executive and administrative employee
15 services;
- 16 (12) Call upon the attorney general for legal services or
17 employ its own counsel in conformity with section
18 28-8.3; [~~and~~]
- 19 (13) Own or hold title to real property; and



1 [~~(13)~~] (14) Do any and all things necessary to carry out its
2 purposes and exercise the powers granted in this
3 chapter."

4 SECTION 4. (a) In accordance with the intent of Act 255,
5 Session Laws of Hawaii 2022, all interests to the parcels of
6 land described in subsection (c), together with the existing
7 improvements thereon for which the State holds as fee owner or
8 lessor are conveyed by the State to the Mauna Kea stewardship
9 and oversight authority as grantee, as is, where is, as a matter
10 of law. The Mauna Kea stewardship and oversight authority shall
11 accept the fee and lessor interests in the properties in their
12 existing condition; provided that any existing claims or
13 liability that exists, may have existed, or may exist in the
14 future regarding any injury, loss, cost, damage, or liability,
15 including reasonable attorney's fees, concerning the physical,
16 environmental, soil, economic, and legal conditions of the
17 properties, shall not be transferred to the Mauna Kea
18 stewardship and oversight authority. All claims and liabilities
19 against the State and its agencies, if any, that exist, may have
20 existed, or may exist in the future regarding any injury, loss,
21 cost, damage, or liability, including reasonable attorney's



1 fees, concerning the physical, environmental, soil, economic,
2 and legal conditions of the properties, are released, waived,
3 and extinguished.

4 (b) In accordance with the intent of Act 255, Session Laws
5 of Hawaii 2022, all interests to the parcels of land described
6 in subsection (c), together with the existing improvements
7 thereon for which the university of Hawaii holds as lessee are
8 conveyed by the university of Hawaii to the Mauna Kea
9 stewardship and oversight authority as grantee, as is, where is,
10 as a matter of law; provided that this conveyance shall not
11 apply to the conservation district use permits transferred under
12 section 7(e) and (f) of Act 255, Session Laws of Hawaii 2022, as
13 amended by part III of this Act. The Mauna Kea stewardship and
14 oversight authority shall accept the lessee interests in the
15 properties in their existing condition; provided that any
16 existing claims or liability that exists, may have existed, or
17 may exist in the future regarding any injury, loss, cost,
18 damage, or liability, including reasonable attorney's fees,
19 concerning the physical, environmental, soil, economic, and
20 legal conditions of the properties, shall not be transferred to
21 the Mauna Kea stewardship and oversight authority. All claims



1 and liabilities against the State and its agencies, if any, that
2 exist, may have existed, or may exist in the future, regarding
3 any injury, loss, cost, damage, or liability, including
4 reasonable attorney's fees, concerning the physical,
5 environmental, soil, economic, and legal conditions of the
6 properties, shall be released, waived, and extinguished.

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

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

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

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

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

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

20 PART III

21 SECTION 5. The purpose of this part is to:



- 1 (1) Extend the date on which all rights, powers,
2 functions, and duties of the university of Hawaii
3 relating to the powers and responsibilities granted to
4 the Mauna Kea stewardship and oversight authority
5 under part I of Act 255, Session Laws of Hawaii 2022,
6 will be transferred to the Mauna Kea stewardship and
7 oversight authority, from July 1, 2028, to December 1,
8 2029, to ensure all applicable stakeholders have
9 sufficient time to implement a successful transition;
- 10 (2) Require the university of Hawaii to negotiate for the
11 transfer of the various astronomical observatory
12 conservation district use permits to the applicable
13 astronomical observatories so that, when governance by
14 the Mauna Kea stewardship and oversight authority
15 begins, the authority will not be in conflict; and
- 16 (3) Add a reversion date of December 1, 2032, upon which
17 certain sections of Act 255, Session Laws of Hawaii
18 2022, shall be repealed, certain sections in the
19 Hawaii Revised Statutes shall be reenacted, and
20 management authority over Mauna Kea lands shall revert
21 to the university of Hawaii, if the transition



1 timelines are not met pursuant to Act 255, Session
2 Laws of Hawaii 2022.

3 SECTION 6. Section 195H-6, Hawaii Revised Statutes, is
4 amended by amending its title and subsection (a) to read as
5 follows:

6 "~~§195H-6~~ **Transition; management plan.** (a) The
7 authority shall have a transition period of ~~[five years]~~
8 seventy-seven months beginning July 1, 2023~~+~~ and ending
9 December 1, 2029; provided that all of the initial members have
10 been confirmed by the senate. During the transition period, the
11 authority shall jointly manage Mauna Kea lands with the
12 ~~[University]~~ university of Hawaii; provided that the authority's
13 day-to-day operations shall be carried out by the center of
14 Mauna Kea stewardship for the transition period established in
15 this subsection."

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

18 "SECTION 7. (a) On ~~[July 1, 2028,]~~ December 1, 2029, all
19 rights, powers, functions, and duties of the ~~[University]~~
20 university of Hawaii relating to the powers and responsibilities
21 granted to the Mauna Kea stewardship and oversight authority



1 under part I of this Act are transferred to the Mauna Kea
2 stewardship and oversight authority.

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

12 (c) Upon the assignment of all rights, powers, and duties
13 of the [University] university of Hawaii to the Mauna Kea
14 stewardship and oversight authority pursuant to subsection (a),
15 the [University] university of Hawaii shall be released from any
16 and all obligations under the state lease by and between the
17 board of land and natural resources and the [University]
18 university of Hawaii entered into on June 21, 1968, as General
19 Lease S-4191, as amended on September 21, 1999, as General Lease
20 S-5529, and any conservation district use application permits
21 appertaining thereto, unless otherwise specifically agreed upon



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

9 (d) Notwithstanding subsection (b) or any action that is a
10 consequence of this Act, including a merger of interests,
11 effective [~~July 1, 2028,~~] December 1, 2029, every reference to
12 the department of land and natural resources, board of land and
13 natural resources, or the chairperson of the board of land and
14 natural resources in those deeds, leases, subleases, contracts,
15 loans, agreements, permits, or other documents relating to Mauna
16 Kea lands shall be construed as a reference to the Mauna Kea
17 stewardship and oversight authority or the chairperson of the
18 authority, as appropriate; provided that all deeds, leases,
19 subleases, contracts, loans, agreements, permits, or other
20 documents executed or entered into [~~prior to~~] before the
21 effective date of this Act, by or on behalf of the department of



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

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



1 regulatory requirement, including any requirement under chapter
2 343, Hawaii Revised Statutes.

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

8 (f) Notwithstanding subsections (a) through (d) to the
9 contrary, the following conservation district use permits in
10 effect as of December 1, 2029, for which the university of
11 Hawaii has not completed the transfer under subsection (e),
12 shall not be transferred to the Mauna Kea stewardship and
13 oversight authority:

- 14 (1) Conservation district use permit 0954
15 (Air Force Telescope, Planetary Patrol Telescope,
16 2.2 Meter Telescope);
17 (2) Conservation district use permit 1515
18 (James Clerk Maxwell Telescope);
19 (3) Conservation district use permit 0653
20 (United Kingdom Infrared Telescope; NASA Infrared
21 Telescope Facility);



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

18 The university of Hawaii shall continue to serve as the named
19 permittee or other named party as provided under the permit
20 until the permit is transferred to the appropriate astronomical
21 observatory."



1 SECTION 8. Act 255, Session Laws of Hawaii 2022, is
2 amended by amending section 18 to read as follows:

3 "SECTION 18. This Act shall take effect on July 1, 2022;
4 provided that ~~[part]~~:

5 (1) Part IV shall take effect on [July 1, 2028.]
6 December 1, 2029; and

7 (2) If the timelines specified in this Act, including the
8 timeline for the transfer of authority,
9 responsibility, and duties, have not been met, then on
10 December 1, 2032:

11 (A) Parts II, III, and IV of this Act shall be
12 repealed and sections 28-8.3, 76-16, and chapter
13 304A, part IV, subpart 0, Hawaii Revised
14 Statutes, shall be reenacted in the form in which
15 it read on the day before the effective date of
16 this Act; provided further that the amendments
17 made to section 76-16, Hawaii Revised Statutes,
18 by:

19 (i) Section 2 of Act 42, Session Laws of Hawaii
20 2023;



- 1 (ii) Section 2 of Act 186, Session Laws of Hawaii
- 2 2023;
- 3 (iii) Section 2 of Act 66, Session Laws of Hawaii
- 4 2024;
- 5 (iv) Section 1 of Act 79, Session Laws of Hawaii
- 6 2024;
- 7 (v) Section 2 of Act 131, Session Laws of Hawaii
- 8 2024;
- 9 (vi) Section 2 of Act 165, Session Laws of Hawaii
- 10 2024;
- 11 (vii) Section 3 of Act 209, Session Laws of Hawaii
- 12 2024;
- 13 (viii) Section 2 of Act 247, Session Laws of Hawaii
- 14 2024;
- 15 (ix) Section 1 of Act 57, Session Laws of Hawaii
- 16 2025;
- 17 (x) Section 1 of Act 132, Session Laws of Hawaii
- 18 2025; and
- 19 (xi) Section 5 of Act 302, Session Laws of Hawaii
- 20 2025,



1 Accordingly, the purpose of this part is to clarify that
2 the existing plans and administrative rules under which Mauna
3 Kea is currently governed shall continue in full force and
4 effect until a superseding master plan, management plan, or
5 administrative rules, or any portion thereof, adopted by the
6 Mauna Kea stewardship and oversight authority, takes effect.

7 SECTION 10. (a) Notwithstanding section 195H-6(b)(2),
8 Hawaii Revised Statutes, or any other law to the contrary, the
9 existing master plan, management plan, and administrative rules
10 adopted or developed by the university of Hawaii to implement
11 provisions of the Hawaii Revised Statutes that are:

- 12 (1) Repealed by part IV of Act 255, Session Laws of Hawaii
13 2022; or
- 14 (2) Otherwise reenacted or made applicable to the Mauna
15 Kea stewardship and oversight authority by Act 255,
16 Session Laws of Hawaii 2022,
17 shall remain in full force and effect, including times
18 subsequent to December 1, 2029, until a superseding master plan,
19 management plan, or administrative rules, or any portion
20 thereof, adopted by the Mauna Kea stewardship and oversight
21 authority, takes effect. The Mauna Kea stewardship and



1 oversight authority, when adopting a superseding master plan,
2 management plan, or administrative rule, or any portion thereof,
3 shall affirmatively state through a public notice issued in
4 accordance with section 1-28.5, Hawaii Revised Statutes, which
5 existing plan or rule, or portion thereof, is superseded.

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

15 PART V

16 SECTION 11. The legislature finds that the Mauna Kea
17 stewardship and oversight authority, as an arm of the State,
18 should have the same sovereign immunity available to other
19 administratively attached state agencies.

20 Therefore, the purpose of this part is to clarify that the
21 Mauna Kea stewardship and oversight authority falls under the



1 State's sovereign immunity by explicitly making section
2 26-35(b), Hawaii Revised Statutes, applicable to the authority.

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

5 "(a) There is established the Mauna Kea stewardship and
6 oversight authority, which shall be a body corporate and a
7 public instrumentality of the State for the purpose of
8 implementing this chapter. The authority shall serve jointly
9 with the [~~University~~] university of Hawaii in fulfilling the
10 obligations and duties under the state lease for a period of
11 five years as established in section 195H-6. The authority
12 shall be placed within the department of land and natural
13 resources for administrative purposes; provided that section
14 [~~26-35~~] 26-35(a) shall not apply to the authority."

15 PART VI

16 SECTION 13. The purpose of this part is to authorize the
17 Mauna Kea stewardship and oversight authority to extend existing
18 leases and subleases before the transfer of powers and duties
19 pertaining to Mauna Kea lands to the authority for up to an
20 additional ten-year term.



1 SECTION 14. Section 195H-7, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) Notwithstanding any law to the contrary, all powers
4 and duties of the board of land and natural resources pursuant
5 to chapter 171, and the land use commission pursuant to chapter
6 205, concerning permits, dispositions, land use approvals, and
7 any other approvals pertaining to the Mauna Kea lands are
8 transferred to the authority upon the expiration of the
9 transition period; provided that the authority may extend
10 existing leases and subleases before the transfer for up to an
11 additional ten-year term; provided further that the transfer of
12 such powers and duties from the board of land and natural
13 resources and the land use commission may occur earlier, upon
14 approval of the authority, the board of land and natural
15 resources, and the land use commission. Upon the expiration of
16 the transition period, the authority shall carry out the powers
17 and duties otherwise conferred upon the board of land and
18 natural resources pursuant to chapter 171, and the land use
19 commission pursuant to chapter 205, with regard to permits,
20 dispositions, land use approvals, and any other approvals
21 pertaining to the Mauna Kea lands."



1 PART VII

2 SECTION 15. This Act does not affect rights and duties
3 that matured, penalties that were incurred, and proceedings that
4 were begun before its effective date.

5 SECTION 16. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 17. 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; Extension; Reversion

Description:

Part I: 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: Authorizes MKSOA to own or hold real property and transfers as a matter of law certain real property interests in the Mauna Kea lands to MKSOA. Part III: Extends the transition period to 12/1/2029; requires the University of Hawaii to transfer the various Mauna Kea astronomical observatory conservation district use permits to the astronomical observatories; and adds a reversion date of 12/1/2032. Part IV: 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 V: Clarifies that MKSOA has state sovereign immunity. Part VI: Authorizes MKSOA to extend leases and subleases before the transfer for up to an additional ten-year term. Effective 7/1/3000. (SD1)

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