
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 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) Add reversion dates of June 30, 2028, and December 31,
12 2029, upon which Act 255, Session Laws of Hawaii 2022,
13 shall be repealed and management authority over Mauna
14 Kea lands shall revert to the university of Hawaii, if
15 times for the adoption of a management plan or rules
16 for the management plan are not met;
- 17 (2) Extend the date on which all rights, powers,
18 functions, and duties of the university of Hawaii
19 relating to the powers and responsibilities granted to
20 the Mauna Kea stewardship and oversight authority
21 under part I of Act 255, Session Laws of Hawaii 2022,



1 will be transferred to the Mauna Kea stewardship and
2 oversight authority, from July 1, 2028, to December 1,
3 2029, to ensure all applicable stakeholders have
4 sufficient time to implement a successful transition;
5 and

6 (3) Clarify that the oversight and interest of Mauna Kea
7 stewardship and oversight authority in the Mauna Kea
8 lands shall be no more than the university of Hawaii's
9 leasehold interest in the Mauna Kea lands unless
10 otherwise agreed to by the board of land and natural
11 resources.

12 SECTION 3. Section 195H-6, Hawaii Revised Statutes, is
13 amended by amending its title and subsections (a) and (b) to
14 read as follows:

15 "[+]§195H-6[+] **Transition; management plan.** (a) The
16 authority shall have a transition period of [~~five years~~]
17 seventy-seven months beginning July 1, 2023[+] and ending
18 December 1, 2029; provided that all of the initial members have
19 been confirmed by the senate. During the transition period, the
20 authority shall jointly manage Mauna Kea lands with the
21 [~~University~~] university of Hawaii; provided that the authority's



1 day-to-day operations shall be carried out by the center of
2 Mauna Kea stewardship for the transition period established in
3 this subsection.

4 (b) The authority shall develop a management plan to
5 govern land uses; human activities, other uses, and access,
6 including permitted uses for frequent and seasonal users;
7 stewardship; education; research; disposition; and overall
8 operations. The management plan shall:

9 (1) Be developed during the transition period;

10 (2) Be adopted by the authority before June 30, 2028;

11 [~~2~~] (3) Be finalized, approved, and operational by the
12 end of the transition period;

13 [~~3~~] (4) Be updated at least every ten years with a focus
14 on long-term, comprehensive, and coordinated planning
15 for all of the Mauna Kea lands;

16 [~~4~~] (5) Consider the State's energy and sustainability
17 goals, as well as impacts to climate change, including
18 adapting to climate change and developing mitigation
19 measures to climate change;

20 [~~5~~] (6) Prepare for and establish the framework,
21 criteria, and procedures for any leases and permits;



1 ~~[(6)]~~ (7) Incorporate indigenous management and cultural
2 processes and values; and

3 ~~[(7)]~~ (8) Include an aspirational statement to acknowledge
4 and contextualize unresolved social justice issues
5 that underpin the conservation, preservation, and
6 public use of Mauna Kea."

7 SECTION 4. Section 195H-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[(f)]~~**\$195H-13**~~[(f)]~~ **Rules.** (a) In addition to any other
10 rulemaking powers authorized under this chapter, the authority
11 ~~[may]~~ shall adopt rules pursuant to chapter 91 on the
12 management, stewardship, oversight, and protection of Mauna Kea
13 lands and cultural resources. The rules adopted under this
14 section shall follow existing laws, rules, ordinances, and
15 regulations as closely as is consistent with standards to meet
16 minimum requirements of good design, health, safety, and
17 coordinated development.

18 (b) The authority ~~[may adopt]~~ shall send proposed rules to
19 the governor before ~~[the end of the transitional five-year~~
20 ~~period established in section 195H-6,]~~ December 31, 2029;



1 provided that the rules shall not go into effect until the
2 transition period is completed."

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

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

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

20 (c) Upon the assignment of all rights, powers, and duties
21 of the [~~University~~] university of Hawaii to the Mauna Kea



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

17 (d) ~~[Notwithstanding subsection (b) or any action that is~~
18 ~~a consequence of this Act, including a merger of interests,~~
19 ~~effective July 1, 2028, every reference to the department of~~
20 ~~land and natural resources, board of land and natural resources,~~
21 ~~or the chairperson of the board of land and natural resources in~~



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

16 SECTION 6. Notwithstanding any provision herein or any
17 other law to the contrary, the Mauna Kea stewardship and
18 oversight authority's interest in the Mauna Kea lands shall be
19 no more than the university of Hawaii's leasehold interest in
20 the Mauna Kea lands unless otherwise agreed to by the board of
21 land and natural resources. The board of land and natural



1 resources shall retain the leased-fee interest or fee interest,
2 as the case may be, in the Mauna Kea lands.

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

5 "SECTION 18. This Act shall take effect on July 1, 2022;
6 provided that part IV shall take effect on [~~July 1, 2028.~~]
7 December 1, 2029."

8 SECTION 8. If the Mauna Kea stewardship and oversight
9 authority fails to:

10 (1) Adopt a management plan for Mauna Kea before June 30,
11 2028, as provided in section 195H-6(b)(2), Hawaii
12 Revised Statutes; or

13 (2) Send proposed administrative rules allowing the
14 authority to effectively manage Mauna Kea in
15 accordance with the management plan to the governor
16 before December 31, 2029, as provided in section
17 195H-13(b), Hawaii Revised Statutes,

18 Act 255, Session Laws of Hawaii 2022, shall be repealed and
19 management authority over Mauna Kea lands, as defined in section
20 304A-1901, Hawaii Revised Statutes, shall revert to the
21 university of Hawaii.



1 PART III

2 SECTION 9. The legislature finds that the Mauna Kea
3 stewardship and oversight authority is currently developing
4 permanent and detailed master, management, and financial plans;
5 frameworks for astronomy-related development; and administrative
6 rules. These documents must be cultivated in a deliberate and
7 mindful way. However, the legislature also recognizes that
8 there is limited time before the end of the statutorily
9 established transition period, after which the Mauna Kea
10 stewardship and oversight authority will assume full management
11 of Mauna Kea. Due to these time constraints, the Mauna Kea
12 stewardship and oversight authority's permanent plans and rules
13 may not be formally adopted before the end of the transition
14 period on December 1, 2029, as amended by part III of this Act.

15 Accordingly, the purpose of this part is to clarify that
16 the existing plans and administrative rules under which Mauna
17 Kea is currently governed shall continue in full force and
18 effect until a superseding master plan, management plan, or
19 administrative rules, or any portion thereof, adopted by the
20 Mauna Kea stewardship and oversight authority, takes effect.



1 SECTION 10. (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 11. The legislature finds that the Mauna Kea
12 stewardship and oversight authority, as an arm of the State,
13 should have the same sovereign immunity available to other
14 administratively attached state agencies.

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

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



1 chapter 205, concerning permits, dispositions, land use
2 approvals, and any other approvals pertaining to the Mauna Kea
3 lands are transferred to the authority upon the expiration of
4 the transition period; provided that the authority may extend
5 existing leases and subleases before the transfer for up to an
6 additional ten-year term; provided further that the authority
7 shall have all necessary powers and authorities to consider and
8 grant lease extensions, before the transition period expires,
9 and any extensions of existing leases and subleases shall be
10 exempt from chapter 343, term restrictions as provided in
11 section 171-36, and exceptions provided in sections 171-36.5 and
12 171-95.1; provided further that the transfer of such powers and
13 duties from the board of land and natural resources and the land
14 use commission may occur earlier, upon approval of the
15 authority, the board of land and natural resources, and the land
16 use commission. Upon the expiration of the transition period,
17 the authority shall carry out the powers and duties otherwise
18 conferred upon the board of land and natural resources pursuant
19 to chapter 171, and the land use commission pursuant to chapter
20 205, with regard to permits, dispositions, land use approvals,
21 and any other approvals pertaining to the Mauna Kea lands."



1 PART VI

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: Adds reversion dates of 6/30/2028 and 12/31/2029 if timelines requiring the adoption of a management plan or sending of proposed administrative rules to the Governor are not met; 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; clarifies that the oversight and interest of MKSOA in the Mauna Kea lands shall be no more than the University of Hawaii's leasehold interest in the Mauna Kea lands unless otherwise agreed to by the Board of Land and Natural Resources. 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 expiration of the transition for up to an additional ten-year term. Effective 7/1/3000. (SD2)

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