

JAN 25 2006

S.B. NO. 2216

A BILL FOR AN ACT

RELATING TO THE MAUNA KEA SUMMIT.

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

1 SECTION 1. The Mauna Kea summit land is the home to
2 advanced technology telescopes owned by world's leading
3 astronomy institutions and universities. The summit has at
4 least thirteen observatories, some of which are multi-million
5 dollar projects, making it the top spot for land-based
6 star-gazing. In addition, the summit is experiencing a steady
7 increase in visitors which has the effect of degrading the
8 environment.

9 The Mauna Kea summit land is ceded land and part of the
10 public land trust. The summit of Mauna Kea is also home to
11 close to a hundred archaeological sites and many traditional
12 cultural properties eligible for listing in the National
13 Register of Historic Places. Mauna Kea also has important
14 ecological and geological value, and the Secretary of the
15 Interior has designated Mauna Kea as a National Natural
16 Landmark. The National Park Service describes Mauna Kea (White
17 Mountain) as "the tallest mountain in Hawaii at 13,796 feet
18 above sea level. Mauna Kea last erupted 4,000 years ago and is



1 home to the "weiku bug" which is found nowhere else on earth.
2 Mauna Kea is considered one of the most sacred places in all of
3 Polynesia by native Hawaiians."

4 The lease agreement dated June 21, 1968, for a term of
5 sixty-five years, between the department of land and natural
6 resources, as lessor, and the University of Hawaii, as lessee,
7 for the lease of the Mauna Kea forest reserve does not provide
8 for any lease rent amount. Instead of charging lease rent, the
9 university reportedly requires each facility to provide a
10 percentage of its observatory time to the UH Astronomy
11 Institute.

12 The legislature finds that the absence of any lease rent
13 for the Mauna Kea summit land violates the public land trust
14 provisions of the Joint Resolution of Annexation, approved
15 July 7, 1898 (30 Stat. 750); and section 5(c), (d), and (e) of
16 the Act of March 18, 1959 (73 Stat. 6) that conveyed trust lands
17 to the State. Proceeds and income from lease or other
18 disposition of public lands are required to be held as a public
19 trust for the support of the public schools and other public
20 educational institutions, for the betterment of the conditions
21 of native Hawaiians, the development of farm and home ownership



1 on as widespread a basis as possible, for the making of public
2 improvements, and for the provision of lands for public use.

3 The legislature finds that the continued violation of these
4 provisions, which are also made applicable to the State through
5 its Constitution by Article XII, section 4, requires and
6 justifies the overriding of any existing lease contract in order
7 to comply with these provisions.

8 The purpose of this Act is to require:

- 9 (1) The department of land and natural resources to lease
10 the Mauna Kea summit lands at a reasonable rate that
11 reflects the cultural value of the site; and
12 (2) The University of Hawaii to lease Mauna Kea
13 observatory lands at a reasonable rate that reflects
14 the scientific value of the site.

15 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 **"§171- Lease of Mauna Kea forest reserve lands. (a)**

19 The department may lease the Mauna Kea forest reserve lands,
20 commonly known as Mauna Kea summit or Mauna Kea observatory;
21 provided that any lease agreement provide for a lease rent at a
22 reasonable rate that reflects the cultural value of the site.

1 (b) Not less than one-half of the proceeds and income from
2 the revenues realized under subsection (a) shall be deemed
3 public land trust proceeds as provided in section 171-18. The
4 remainder shall be expended for maintenance and preservation of
5 ceded lands.

6 (c) This section shall apply to any lease agreement in
7 effect as of the effective date of this Act and any subsequent
8 lease agreements or lease renewals."

9 SECTION 3. Chapter 304, Hawaii Revised Statutes, is
10 amended by adding a new section to part I be appropriately
11 designated and to read as follows:

12 "**§304- Lease of Mauna Kea forest reserve lands.** (a)
13 The University of Hawaii may lease the Mauna Kea forest reserve
14 lands, commonly known as Mauna Kea summit or Mauna Kea
15 observatory; provided that any lease agreement shall provide for
16 a lease rent of a monetary remuneration at a reasonable rate
17 that reflects the scientific value of the site.

18 (b) Not less than one-half of the proceeds and income from
19 the revenues realized under subsection (a) shall be deemed
20 public land trust proceeds as provided in section 171-18. The
21 remainder shall be expended for the maintenance and preservation
22 of the Mauna Kea observatory lands.

S.B. NO. 2216

1 (c) This section shall apply to any lease agreement in
2 effect as of the effective date of this Act and any subsequent
3 lease agreements or lease renewals."

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Amir Q. Brown*
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SB2216

Report Title:

Mauna Kea Summit; Ceded Land Revenues

Description:

Requires the department of land and natural resources to lease the Mauna Kea summit lands at a reasonable rate that reflects the cultural value of the site; requires the University of Hawaii to rent or lease the Mauna Kea Observatory facilities a reasonable rate that reflects the scientific value of the site.

