
A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1 SECTION 1. Pursuant to the Hawaii Constitution and the
2 Hawaii Revised Statutes, the University of Hawaii is vested with
3 autonomous authority to control and manage its educational and
4 proprietary affairs. This authority extends to the use and
5 oversight of lands and real property owned by the university or
6 leased, demised, or transferred to the university from various
7 owners, including state, federal, or private entities, for the
8 furtherance of the university's educational, research, and
9 agricultural activities.

10 Such autonomous authority presumably carries with it the
11 necessary legal means to supervise, oversee, and permit public
12 activities on lands it leases and controls on Mauna Kea,
13 including the Mauna Kea Science Reserve, Hale Pohaku, and the
14 connecting roadway corridor between Hale Pohaku and the Mauna
15 Kea Science Reserve (collectively the Mauna Kea lands), and may
16 be implied from the autonomous character of the university.
17 Nevertheless, the purpose of this Act is to clarify and add



1 certainty to the law relating to the university's authority to
2 manage and control public and commercial activities on the Mauna
3 Kea lands by granting express authority to the university to
4 adopt rules pursuant to chapter 91, Hawaii Revised Statutes,
5 relating to public and commercial activities permitted or
6 occurring on the Mauna Kea lands. In adopting these rules, the
7 university shall address and reconcile any conflicts with other
8 statutes or rules that are applicable to the Mauna Kea lands.

9 Administrative rules governing public and commercial
10 activities on the Mauna Kea lands are necessary to provide
11 effective protection of cultural and natural resources from
12 certain public and commercial activities, and to help ensure
13 public health and safety. Administrative rules currently in
14 effect for the surrounding forest reserve and natural area
15 reserve lands managed by the department of land and natural
16 resources do not apply to the Mauna Kea lands. Examples of
17 public and commercial activities that could be covered by
18 administrative rules include:

- 19 (1) General access to sensitive resource areas, such as
20 specific cultural features and identified natural
21 resource habitat areas;
- 22 (2) Traffic and off-road vehicle management and control;



- 1 (3) Alcohol consumption;
- 2 (4) Snow play activities; and
- 3 (5) Commercial tour activities.

4 Together with the authority to adopt administrative rules
5 with respect to the Mauna Kea lands, the university would also
6 require the ability to enforce the rules, including the
7 authority to assess fines for rule violations. Thus, another
8 purpose of this Act is to grant the university the authority to:

- 9 (1) Create and establish a system for assessing and
10 collecting fines for rule violations; and
- 11 (2) Provide an appeal process, in a manner consistent with
12 the Hawaii Administrative Procedure Act, for those
13 accused of committing one or more violations to
14 contest the allegation or allegations.

15 Additionally, the university shall:

- 16 (1) Encourage and foster a process of collaboration and
17 involvement between its Mauna Kea lands advisory
18 bodies and community interests to ensure that the
19 process of developing any administrative rules for the
20 Mauna Kea lands is accomplished with community
21 participation and input; and



1 (2) Accommodate access to the Mauna Kea lands for
2 traditional and customary native Hawaiian cultural and
3 religious purposes.

4 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is
5 amended by adding a new section to part V, subpart C, to be
6 appropriately designated and to read as follows:

7 "§304A- Mauna Kea management special fund. (a) There
8 is established the Mauna Kea management special fund, into which
9 shall be deposited all revenues, rents, fees, charges,
10 assessments, fines, and other moneys collected by the university
11 in connection with overseeing and managing the public and
12 commercial activities within the Mauna Kea lands, including any
13 of the following collected in connection with such public and
14 commercial activities:

- 15 (1) Rents, fees, and charges for the use of land and
16 facilities within the Mauna Kea lands;
17 (2) All moneys collected for violations of administrative
18 rules adopted pursuant to this chapter relating to the
19 Mauna Kea lands; and
20 (3) All revenues, rents, fees, charges, and other moneys
21 collected from entities conducting or receiving moneys



1 attributable to commercial activities within the Mauna
2 Kea lands.

3 The board of regents of the university may establish rents,
4 fees, and charges, including those for the lease or use of
5 university real property and facilities within the Mauna Kea
6 lands; provided that the university shall comply with all
7 statutory requirements in the disposition of ceded lands. The
8 rents, fees, and charges payable in connection with public and
9 commercial activities within the Mauna Kea lands, shall be
10 established at an open public meeting subject to the
11 requirements of chapter 92; provided that a copy of the schedule
12 of the rents, fees, and charges is filed in the office of the
13 lieutenant governor prior to the effective date of the rents,
14 fees, and charges.

15 (b) The university may establish separate accounts within
16 the special fund for major program activities. The board of
17 regents, or its designated representative or representatives,
18 may expend the moneys deposited in the Mauna Kea management
19 special fund for:

20 (1) Enforcement of the administrative rules adopted
21 pursuant to this chapter relating to the Mauna Kea
22 lands; and



1 (2) Oversight and management of the Mauna Kea lands,
2 including maintenance, administrative expenses,
3 salaries, wages, and benefits of employees, contractor
4 services, supplies, security, furnishings, equipment,
5 janitorial services, insurance, utilities, and other
6 operational expenses.

7 All expenditures from the special fund shall be subject to
8 legislative appropriation.

9 (c) Moneys deposited into the Mauna Kea management special
10 fund shall not be used as a basis for reducing any current or
11 future budget request or allotment to the university, unless the
12 university requests the reduction.

13 (d) For purposes of this section, "maintenance" includes
14 repairs and replacement of equipment, furnishings, and
15 facilities.

16 (e) For purposes of this section and section 304A-105:

17 (1) "Commercial activity" means any activity for which
18 compensation is requested, required, or received by
19 any person for goods or services, or both, rendered,
20 furnished, provided, or made available to members of
21 the public, including commercial tour activities, film



1 and video taking and production activities,
2 concessions, resource extraction, and special events;

3 (2) "Mauna Kea lands" means the lands that the university
4 is leasing from the board of land and natural
5 resources, including the Mauna Kea Science Reserve,
6 Hale Pohaku, the connecting roadway corridor between
7 Hale Pohaku and the Mauna Kea Science Reserve, and any
8 other lands on Mauna Kea that the university leases or
9 over which the university acquires control or
10 jurisdiction; and

11 (3) "Public activities" means all non-commercial
12 activities in which any member of the public could
13 lawfully engage within the Mauna Kea lands, including
14 recreational activities such as:

15 (A) Sightseeing;

16 (B) Hiking;

17 (C) Snow play (skiing, snowboarding, sledding, or
18 other activities involving snow);

19 (D) Stargazing;

20 (E) Access to sensitive resource areas (such as
21 specific cultural features and identified natural
22 resource habitat areas);



- 1 (F) Alcohol consumption;
2 (G) Traffic and off-road vehicle management;
3 (H) Parking; and
4 (I) The use of vehicles and other modes of transport
5 within the Mauna Kea lands (including
6 recreational and other motor vehicles, jeeps,
7 ATVs, scooters, carts, mopeds, motorcycles, and
8 any wheeled device or other device in, upon, or
9 by which any person or property is or may be
10 transported)."

11 SECTION 3. Section 304A-105, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) The board of regents shall have management and
14 control of the general affairs, and exclusive jurisdiction over
15 the internal structure, management, and operation of the
16 university. The board may:

- 17 (1) Appoint a treasurer and other officers as it deems
18 necessary;
- 19 (2) Authorize any officer, elected or appointed by it, to
20 approve and sign on its behalf any voucher or other
21 document that the board may approve and sign;



1 (3) Delegate to the president or the president's designee
2 the authority to render the final decision in
3 contested case proceedings subject to chapter 91, as
4 it deems appropriate;

5 (4) Purchase or otherwise acquire lands, buildings,
6 appliances, and other property for the purposes of the
7 university; and

8 (5) Expend any sums of money as, from time to time, may be
9 placed at the disposal of the university from whatever
10 source; provided that notwithstanding any other law to
11 the contrary, all documents regarding expenditures and
12 changes thereto, made by the board shall be disclosed
13 in open meetings for the purpose of public comment;
14 provided further that all expenditure requests,
15 proposals, and any other budgetary documents used by
16 the board at an open meeting shall be made available
17 to the public at least six calendar days before the
18 meeting.

19 All lands, buildings, appliances, and other property so
20 purchased or acquired shall be and remain the property of the
21 university to be used in perpetuity for the benefit of the
22 university. The board, in accordance with this section and



1 other law, shall manage the inventory, equipment, surplus
2 property, and expenditures of the university and, subject to
3 chapter 91, may adopt rules, further controlling and regulating
4 the same. The board may also adopt rules, subject to chapter
5 91, to regulate public and commercial activities at and within
6 the Mauna Kea lands, as identified in section 304A- . The
7 board may adopt rules, subject to chapter 91, to establish and
8 provide for the assessment and collection of administrative
9 finest for violations of any administrative rule relating to the
10 Mauna Kea lands. The board shall establish procedures to
11 enforce its rules relating to the Mauna Kea lands. Fines for
12 violation of rules relating to the Mauna Kea lands shall be
13 established as follows:

14 (1) For the first violation, an administrative fine of not
15 more than \$ _____ ;

16 (2) For the second violation within five years of a
17 previous violation, an administrative fine of not more
18 than \$ _____ ; and

19 (3) For the third and any subsequent violation within five
20 years of the last violation, an administrative fine of
21 not more than \$ _____ .

22 Each day of violation shall constitute a separate offense.



1 The board may also assess against a party found to have
2 violated an administrative rule relating to the Mauna Kea lands
3 adopted pursuant to this chapter, the costs of any enforcement
4 proceeding, including costs of holding any contested case
5 proceedings.

6 The board may institute court action to collect any
7 administrative fines and any costs that are or can be
8 attributable to violations of administrative rules relating to
9 the Mauna Kea lands."

10 SECTION 4. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 1, 2046.



Report Title:

Mauna Kea; University of Hawaii

Description:

Allows the UH Board of Regents to adopt administrative rules to regulate public and commercial activities at and within the Mauna Kea lands, or the lands UH leases from the Board of Land and Natural Resources. Requires the BOR to establish procedures to enforce these rules. Allows UH to assess and collect administrative fines for violations of these rules. Establishes the Mauna Kea Management Special Fund for the deposit and use of these revenues. (HB1174 HD3)

