

1 **§171-B Mauna Kea lands; fees; lease agreements.** (a) The
2 board may charge a fee for use of the Mauna Kea lands and for
3 the use of facilities and programs related to the Mauna Kea
4 lands.

5 (b) The board may enter into lease agreements for the
6 Mauna Kea lands; provided that any lessee, including the
7 University of Hawaii, shall comply with all statutory
8 requirements in the disposition of ceded lands.

9 (c) In establishing the fees, the board shall be exempt
10 from the public notice, public hearing, and gubernatorial
11 approval requirements of chapter 91; provided that the fees
12 shall be established at an open public meeting pursuant to
13 chapter 92. The fees shall be deposited into the Mauna Kea
14 lands management special fund established under section 304A-F.

15 **§171-C Mauna Kea lands rules.** The board may adopt rules
16 pursuant to chapter 91 to regulate public and commercial
17 activities on Mauna Kea lands.

18 In adopting these rules, the board shall:

19 (1) Strive for consistency with the administrative rules
20 of the division of forestry and wildlife of the



1 department related to forest reserves and natural area
2 reserves;

3 (2) Consult with the office of Hawaiian affairs to ensure
4 that these rules shall not affect any right,
5 customarily and traditionally exercised for
6 subsistence, cultural, and religious purposes and
7 possessed by ahupuaa tenants who are descendants of
8 native Hawaiians who inhabited the Hawaiian Islands
9 prior to 1778, subject to the right of the State to
10 regulate these rights; and

11 (3) Hold at least one public hearing, in addition to the
12 public hearing at which decision making on the
13 proposed rule is made, on the island of Hawaii.

14 §171-D Violations; penalties; costs; collection. (a) In
15 consultation with the office of Hawaiian affairs, the board may
16 set and provide for the assessment and collection of
17 administrative fines for violations of this subpart or rules
18 adopted hereunder; provided that the fines shall be set as
19 follows:

20 (1) For the first violation, not more than \$2,500;



1 (2) For the second violation within five years of a
2 previous violation, not more than \$5,000; and

3 (3) For the third violation within five years of a prior
4 violation and any subsequent violation, not more than
5 \$10,000.

6 (b) Each day that the violation continues shall constitute
7 a separate offense.

8 (c) The costs of any enforcement proceedings, including
9 the costs of contested case proceedings, may be assessed against
10 a party found to be in violation.

11 (d) Any action taken to impose or collect the penalty
12 provided for in this section shall be considered a civil action.

13 **§171-E Mauna Kea lands; reporting requirements.** The board
14 shall report annually to the legislature, no later than twenty
15 days prior to the convening of each regular session, on the
16 Mauna Kea lands activities, current and pending lease agreements
17 and fees, the status of current and pending administrative
18 rules, income and expenditures of the Mauna Kea lands special
19 fund established in section 304A-F, and any other issues that
20 may impact the activities of the Mauna Kea lands.



1 §171-F Mauna Kea lands management special fund. (a)

2 There is established the Mauna Kea lands management special
3 fund, into which shall be deposited:

4 (1) Appropriations by the legislature;

5 (2) All net rents from leases, licenses, and permits,
6 including fees and charges for the use of land and
7 facilities within the Mauna Kea lands;

8 (3) All moneys collected for violations of this part; and

9 (4) Interest earned or accrued on moneys in the special
10 fund.

11 (b) The proceeds of the special fund shall be used for:

12 (1) Managing the Mauna Kea lands, including maintenance,
13 administrative expenses, salaries and benefits of
14 employees, contractor services, supplies, security,
15 equipment, janitorial services, insurance, utilities,
16 and other operational expenses; and

17 (2) Enforcing administrative rules adopted relating to the
18 Mauna Kea lands.

19 (c) No moneys deposited into the Mauna Kea lands

20 management special fund may be used by the governor or the

21 director of finance as a justification for reducing any budget



1 request or allotment to the department unless the department
2 requests the reduction.

3 (d) The department may establish separate accounts within
4 the special fund for major program activities.

5 (e) All expenditures from the special fund shall be
6 subject to legislative appropriation.

7 **§171-G Office of Mauna Kea management; Mauna Kea**
8 **management commission; established.** (a) There is established
9 the office of Mauna Kea management to be placed within the
10 department to assist the board in regulating public, scientific,
11 cultural, and commercial activities on Mauna Kea lands.

12 (b) There is established the Mauna Kea management
13 commission to be placed within the office of Mauna Kea
14 management that shall consist of seven members to be appointed
15 in the manner and to serve for the terms provided in section 26-
16 34; provided that:

17 (1) One member shall be a member of the Kahu Ku Mauna
18 advisory council;

19 (2) Two members shall be appointed by the governor from a
20 list provided by the Kahu Ku Mauna advisory council;



1 (3) One member shall be a trustee or representative of the
2 office of Hawaiian affairs;

3 (4) One member shall be a county official appointed by the
4 governor from a list provided by the mayor of the
5 county of Hawaii;

6 (5) One member shall be the chairperson of the board of
7 land and natural resources; and

8 (6) One member shall be appointed by the governor from a
9 list provided by native Hawaiian organizations.

10 (b) The governor shall appoint the chairperson from among
11 the members of the office.

12 (c) The members of the office shall serve without pay but
13 shall be reimbursed for their actual and necessary expenses,
14 including travel expenses, incurred in carrying out their
15 duties.

16 (d) Any action taken by the office shall be approved by a
17 simple majority of its members. Four members shall constitute a
18 quorum to do business.

19 (e) The office, without regard to the requirements of
20 chapter 76, may hire employees necessary to perform its duties."



1 SECTION 2. Chapter 304A, part IV, subpart O, Hawaii
2 Revised Statutes, is repealed.

3 SECTION 3. Section 304A-2170, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§304A-2170] Mauna Kea lands management special fund.~~

6 ~~(a) There is established the Mauna Kea lands management special
7 fund, into which shall be deposited:~~

8 ~~(1) Appropriations by the legislature;~~

9 ~~(2) All net rents from leases, licenses, and permits,
10 including fees and charges for the use of land and
11 facilities within the Mauna Kea lands;~~

12 ~~(3) All moneys collected for violations of subpart O of
13 part IV; and~~

14 ~~(4) Interest earned or accrued on moneys in the special
15 fund.~~

16 ~~(b) The proceeds of the special fund shall be used for:~~

17 ~~(1) Managing the Mauna Kea lands, including maintenance,
18 administrative expenses, salaries and benefits of
19 employees, contractor services, supplies, security,
20 equipment, janitorial services, insurance, utilities,
21 and other operational expenses; and~~



1 ~~(2) Enforcing administrative rules adopted relating to the~~
2 ~~Mauna Kea lands.~~

3 ~~(c) No moneys deposited into the Mauna Kea lands~~
4 ~~management special fund may be used by the governor or the~~
5 ~~director of finance as a justification for reducing any budget~~
6 ~~request or allotment to the University of Hawaii unless the~~
7 ~~University of Hawaii requests the reduction.~~

8 ~~(d) The University of Hawaii may establish separate~~
9 ~~accounts within the special fund for major program activities.~~

10 ~~(e) All expenditures from the special fund shall be~~
11 ~~subject to legislative appropriation.~~

12 ~~(f) For the purposes of this section, "Mauna Kea lands"~~
13 ~~shall mean the same as defined in section 304A-1901."]~~

14 SECTION 4. Within thirty days of the effect date of this
15 Act, University of Hawaii is directed to transfer the lease over
16 the Mauna Kea lands back to the board of land and natural
17 resources.

18 SECTION 5. All rights, powers, functions, and duties of
19 the University of Hawaii with regard to the management of the
20 Mauna Kea lands are transferred to the department of land and
21 natural resources.



1 All employees who occupy civil service positions and whose
2 functions are transferred to the department of land and natural
3 resources by this Act shall retain their civil service status,
4 whether permanent or temporary. Employees shall be transferred
5 without loss of salary, seniority (except as prescribed by
6 applicable collective bargaining agreements), retention points,
7 prior service credit, any vacation and sick leave credits
8 previously earned, and other rights, benefits, and privileges,
9 in accordance with state personnel laws and this Act; provided
10 that the employees possess the minimum qualifications and public
11 employment requirements for the class or position to which
12 transferred or appointed, as applicable; provided further that
13 subsequent changes in status may be made pursuant to applicable
14 civil service and compensation laws.

15 Any employee who, prior to this Act, is exempt from civil
16 service and is transferred as a consequence of this Act may
17 retain the employee's exempt status, but shall not be appointed
18 to a civil service position as a consequence of this Act. An
19 exempt employee who is transferred by this Act shall not suffer
20 any loss of prior service credit, vacation or sick leave credits
21 previously earned, or other employee benefits or privileges as a



1 consequence of this Act; provided that the employees possess
2 legal and public employment requirements for the position to
3 which transferred or appointed, as applicable; provided further
4 that subsequent changes in status may be made pursuant to
5 applicable employment and compensation laws. The chairperson of
6 the board of land and natural resources may prescribe the duties
7 and qualifications of these employees and fix their salaries
8 without regard to chapter 76, Hawaii Revised Statutes.

9 SECTION 6. All appropriations, records, equipment,
10 machines, files, supplies, contracts, books, papers, documents,
11 maps, and other personal property heretofore made, used,
12 acquired, or held by the University of Hawaii relating to the
13 functions transferred to the department of land and natural
14 resources shall be transferred with the functions to which they
15 relate.

16 SECTION 7. All rules, policies, procedures, guidelines,
17 and other material adopted or developed by the University of
18 Hawaii to implement provisions of the Hawaii Revised Statutes
19 which are reenacted or made applicable to the department of land
20 and natural resources by this Act, shall remain in full force
21 and effect until amended or repealed by the department of land



1 and natural resources pursuant to chapter 91, Hawaii Revised
2 Statutes. In the interim, every reference to the University of
3 Hawaii or the board of regents of the University of Hawaii in
4 those rules, policies, procedures, guidelines, and other
5 material is amended to refer to the department of land and
6 natural resources or board of land and natural resources, as
7 appropriate.

8 SECTION 8. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 9. Statutory material to be repealed is bracketed
13 and stricken.

14 SECTION 10. This Act shall take effect upon its approval.
15

INTRODUCED BY: _____



JAN 26 2016



H.B. NO. 2556

Report Title:

Mauna Kea Management; DLNR

Description:

Transfers the management of Mauna Kea lands back to DLNR.
Establishes the office of Mauna Kea Management in DLNR and the
Mauna Kea management commission within the office.

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