

STAND. COM. REP. NO. **2890**

Honolulu, Hawaii

**MAR 02 2018**

RE: S.B. No. 3090  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 3090, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GOVERNMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to improve the protection and management of lands comprising Mauna Kea and related natural and cultural resources.

More specifically, the measure:

- (1) Establishes the Mauna Kea Management Authority, which shall be responsible for the management, protection, and security of all Mauna Kea lands;
- (2) Prohibits the presence of more than thirteen telescopes on Mauna Kea at any time, and the presence of more than nine telescopes on Mauna Kea after January 1, 2028;
- (3) Establishes the Mauna Kea Management Revolving Fund;
- (4) Requires the transfer to the Mauna Kea Management Authority of all leases, subleases, easements, permits, and licenses pertaining to Mauna Kea and executed by the University of Hawaii or Department of Land and Natural



Resources, and authorizes the renegotiation of the aforementioned agreements;

- (5) Requires the Mauna Kea Management Authority to manage access to Mauna Kea and to establish and collect fees and surcharges for visitors and commercial tour operators to access Mauna Kea;
- (6) Provides for free access to Mauna Kea for the exercise of customary and traditional practices under Article XII, Section 7, of the Hawaii State Constitution;
- (7) Requires that a pro rata share of revenue derived from activities on Mauna Kea lands shall be shared with the Office of Hawaiian Affairs;
- (8) Requires the Mauna Kea Management Authority to establish a unit of rangers having police powers to enforce laws, ordinances, and rules on Mauna Kea lands;
- (9) Excludes Mauna Kea lands from the definition of "public lands";
- (10) Requires that certain lands comprising Mauna Kea and held in trust by the State be transferred from the Department of Land and Natural Resources to the Mauna Kea Management Authority; and
- (11) Appropriates moneys for the establishment and operation of the Mauna Kea Management Authority.

Your Committee received written comments in support of this measure from the Office of Hawaiian Affairs, the Hawaii Regional Council of Carpenters, Ho`omanapono Political Action Committee, and seven individuals.

Your Committee received written comments in opposition to this measure from the Department of Land and Natural Resources; the University of Hawaii System; the Aha Moku Advisory Committee; the Council Member representing District 5 of the Hawaii County Council; Maunakea Observatories; Hawaii Island Chamber of Commerce; Hawaii's Thousand Friends; Hui O Kanaka Mano; KAHEA: The Hawaiian-Environmental Alliance; Ka Lahui Hawaii Political Action



Committee; Ka Ohana O Na Pua; Malu `Aina; Mauna Kea Anaina Hou, Kai Palaoa, and Kia`i Kanaloa; and thirty-seven individuals. Your Committee also received an e-mail petition in opposition to the measure listing an additional one hundred seven individuals.

Your Committee received written comments on this measure from the Department of the Attorney General, the Office of the Mayor of the County of Hawaii, and three individuals.

Your Committee finds that Mauna Kea is of profound cultural and genealogical importance to Native Hawaiians and is also valued as an exceptional site for astronomical advancements. The summit region of Mauna Kea is a spiritual site that is home to cultural landscapes, fragile alpine habitats, historical and archeological treasures, and endemic species found nowhere else. Mauna Kea's exceptional atmospheric conditions make it the world's premier site for astronomical observations. Thus, there is a critical need to manage these sensitive and natural resources in a way that supports both the continuance of traditional and customary practices and facilitates advances in science and technology.

Your Committee further finds that since 1998, four audits by the State Auditor have been critical of the management, stewardship, and protection of Mauna Kea. Despite significant changes and improvements since 1998 regarding those matters, the audit findings and a concurrent erosion in public confidence have underscored a critical need for fresh leadership and a new organizational structure and management style.

Accordingly, your Committee finds that establishing a single new entity to be responsible for all aspects of management, communication, security, and enforcement regarding Mauna Kea lands will increase accountability and ensure the proper stewardship and protection of Mauna Kea.

Your Committee has amended this measure by:

- (1) Deleting references to an intent that the Mauna Kea Management Authority be self-funded and require no appropriations from the State's general fund;
- (2) Clarifying that:



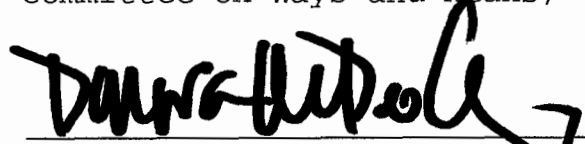
- (A) The Mauna Kea Management Authority shall be subject to the State's open public meetings and records laws;
  - (B) Department of Land and Natural Resources Division of Conservation and Resource Enforcement officers and county police officers shall be authorized to enforce laws on Mauna Kea lands in cooperation with Mauna Kea rangers;
  - (C) Certain expenditures of revolving funds administered by the Mauna Kea Management Authority shall be subject to legislative appropriation;
  - (D) Revenue to be shared with the Office of Hawaiian Affairs shall be limited to revenue pertaining to the use of Mauna Kea lands; and
  - (E) The Mauna Kea Management Authority shall be prohibited from selling any Mauna Kea lands;
- (3) Deleting references to renewable energy producers;
  - (4) Correcting statutory references; and
  - (5) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

Your Committee respectfully recommends that, should another legislative committee conduct a hearing on this measure, that committee consider addressing concerns expressed by the Department of Land and Natural Resources regarding hunting access to the Mauna Kea Ice Age Natural Area Reserve and Mauna Kea Forest Reserve.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3090, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3090, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

  
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DONOVAN M. DELA CRUZ, Chair



