



GOV. MSG. NO. 1358

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 7, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 7, 2022, the following bill was signed into law:

HB2024 HD1 SD2 CD1

RELATING TO MAUNA KEA.
ACT 255

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO MAUNA KEA.

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

1 PART I

2 SECTION 1. The purpose of this Act is to establish the
3 Mauna Kea stewardship and oversight authority and a transition
4 and governance structure for the management of Mauna Kea lands.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 "CHAPTER

9 MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY

10 § -1 Findings and purpose. The legislature finds that
11 Mauna Kea serves as an important cultural and genealogical site
12 to the people of Hawaii, particularly to Native Hawaiians. The
13 summit region of Mauna Kea is a spiritual and special place of
14 significance that is home to cultural landscapes, fragile
15 habitats, and historical and archaeological artifacts. Due to
16 its topographical prominence, Mauna Kea is also a highly valued
17 site for astronomical study, which produces many significant
18 discoveries that contribute to humanity's study and



1 understanding of the universe. However, in recent years, Mauna
2 Kea has come to symbolize a rigid dichotomy between culture and
3 science, often leading to polarization between stakeholders on
4 Mauna Kea and local communities. This is a dynamic that plays
5 out over many issues in many places. The critical significance
6 of Mauna Kea for both culture and science offers an urgent and
7 unique opportunity to surmount the dichotomy and develop new
8 ways to mutually steward Mauna Kea. Therefore, a reformation of
9 the stewardship of Mauna Kea is an issue of the highest priority
10 in the State.

11 To commence the resolution of these issues to protect Mauna
12 Kea and bring about a more harmonious coexistence of uses atop
13 the mountain, the legislature has established the Mauna Kea
14 stewardship and oversight authority and the governance structure
15 contained in this chapter to protect Mauna Kea for future
16 generations and manage the lands contained therein for the
17 purpose of fostering a mutual stewardship paradigm in which
18 ecology, the environment, natural resources, cultural practices,
19 education, and science are in balance and synergy.

20 The legislature also recognizes that the enactment of this
21 chapter is a pivot point that will require a transition, during



1 which many principles and details will yet need to be
2 ascertained. It is expected that amendments and additions will
3 need to be made in future legislative sessions to ensure a
4 mutually beneficial balance is always maintained for Mauna Kea
5 and the people of Hawaii.

6 The legislature declares that the creation of the Mauna Kea
7 stewardship and oversight authority and the transition and
8 governance structure established in this chapter serve the
9 public interest and are matters of statewide concern.

10 § -2 Definitions. As used in this chapter, unless the
11 context otherwise requires:

12 "Authority" means the Mauna Kea stewardship and oversight
13 authority.

14 "Chairperson" means the chairperson of the authority.

15 "Lease" means the contractual right to possess and use a
16 specified portion of land for a term of years.

17 "Mauna Kea land area" or "Mauna Kea lands" means lands
18 under the state lease, as defined in this chapter.

19 "Person" includes an individual, a partnership, a
20 corporation, or an association, except as otherwise defined in
21 this chapter.



1 "State lease" means all leases and easements between the
2 board of land and natural resources and the University of Hawaii
3 pertaining to Mauna Kea that are in effect as of July 1, 2022,
4 including that certain lease by and between the board of land
5 and natural resources and the University of Hawaii entered into
6 on June 21, 1968, as General Lease S-4191, as amended on
7 September 21, 1999, as General Lease S-5529.

8 **§ -3 Mauna Kea stewardship and oversight authority;**
9 **established.** (a) There is established the Mauna Kea
10 stewardship and oversight authority, which shall be a body
11 corporate and a public instrumentality of the State for the
12 purpose of implementing this chapter. The authority shall serve
13 jointly with the University of Hawaii in fulfilling the
14 obligations and duties under the state lease for a period of
15 five years as established in section -6. The authority shall
16 be placed within the department of land and natural resources
17 for administrative purposes; provided that section 26-35 shall
18 not apply to the authority.

19 (b) The authority shall consist of eleven voting members;
20 provided that all members listed under paragraphs (4), (5), (6),
21 (7), (8), (9), and (10) shall be appointed by the governor and



1 subject to confirmation by the senate pursuant to section 26-34.
2 If a past member of the University of Hawaii board of regents is
3 appointed to fill the seat described in paragraph (3), the
4 appointee shall be subject to confirmation by the senate
5 pursuant to section 26-34. The chancellor of the University of
6 Hawaii at Hilo shall serve as an ex officio, nonvoting member.
7 The voting members shall include:

- 8 (1) The chairperson of the board of land and natural
9 resources, or the chairperson's designee;
- 10 (2) The mayor of the county of Hawaii, or the mayor's
11 designee;
- 12 (3) The chairperson of the board of regents of the
13 University of Hawaii; provided that the chairperson of
14 the University of Hawaii board of regents may
15 designate a:
 - 16 (A) Member of the board of regents; or
 - 17 (B) Past member of the board of regents with
18 experience with Mauna Kea,
19 to serve as the chairperson of the University of
20 Hawaii board of regents' designee;



- 1 (4) An individual with aina (land) resource management
2 expertise and specific experience with Hawaii
3 island-based management;
- 4 (5) An individual who is recognized as possessing
5 expertise in the fields of p-12 public education or
6 post-secondary education;
- 7 (6) A representative who shall be appointed by the
8 governor from a list of three names submitted by
9 Maunakea Observatories;
- 10 (7) An individual with business and finance experience who
11 has previous administrative experience in managing a
12 large private-sector business;
- 13 (8) An individual who is a lineal descendent of a
14 practitioner of Native Hawaiian traditional and
15 customary practices associated with Mauna Kea;
- 16 (9) An individual who is a recognized practitioner of
17 Native Hawaiian traditional and customary practices;
18 and
- 19 (10) Two members who shall be appointed by the governor
20 from a list of three names submitted for each
21 appointment by the president of the senate and speaker



1 of the house of representatives, respectively;
2 provided that if fewer than three names are submitted
3 for either appointment, the governor may disregard the
4 list;

5 provided further that not less than three of the eleven members
6 of the authority shall be residents of the county of Hawaii.
7 Any designee appointed pursuant to paragraphs (1), (2), or (3)
8 shall serve the entire term of the appointing authority unless
9 the designee resigns from office or is otherwise incapable of
10 serving out the entire term for good cause shown.

11 A majority of all members to which the authority is
12 entitled shall constitute a quorum to do business, and the
13 concurrence of a majority of all members shall be necessary to
14 make any action of the authority valid. All members shall
15 continue in office until their respective successors have been
16 appointed and confirmed by the senate; provided that a member
17 shall not hold over beyond the first legislative session
18 following the expiration of the member's term of service.

19 (c) The governor shall appoint the chairperson of the
20 authority from the members appointed pursuant to paragraphs (4),
21 (5), (7), (8), (9), or (10) of subsection (b). If the governor



1 appoints a person as chairperson who is not a sitting member of
2 the authority, the governor shall designate that appointee as
3 the chairperson prior to transmitting the appointment to the
4 senate for confirmation. If the governor appoints a sitting
5 member of the authority to serve as chairperson, the member
6 appointed to serve as chairperson shall not be subject to an
7 additional confirmation by the senate unless the member's term
8 expires and the member is subsequently reappointed to the
9 authority. If the chairperson resigns or is unable to fulfill
10 the duties of the position, the authority may elect a vice
11 chairperson from its membership to serve as the acting
12 chairperson until a successor is appointed by the governor and,
13 if needed, confirmed by the senate.

14 Members and staff shall be reimbursed for expenses incurred
15 in the performance of their duties, including reasonable travel
16 expenses for authority-related business as approved by the
17 authority, subject to applicable laws and administrative rules.

18 (d) Notwithstanding section 26-34(a), with respect to
19 length and amount of terms, the members of the authority shall
20 serve for a term of three years and shall not serve more than



1 three partial or full terms; provided that the initial terms
2 shall be staggered, as determined by the governor.

3 (e) The authority shall utilize the existing University of
4 Hawaii center for Mauna Kea stewardship staff and organization
5 during the transitional period, and may engage other services as
6 needed; provided that the authority shall appoint a board
7 secretary, who shall also serve as executive assistant to the
8 authority, without regard to chapters 76 and 89.

9 (f) The authority shall establish its offices at the
10 University of Hawaii at Hilo, Imiloa astronomy center or another
11 suitable location or facility within the county of Hawaii.

12 **§ -4 Values and principles.** The authority may adopt and
13 be guided by the following operational values and principles:

- 14 (1) Mauna Aloha - Understanding the reciprocal value of
15 the mauna and a long-term commitment to maintaining
16 the integrity of Mauna Kea;
- 17 (2) Opu Kupuna - Understanding and embracing a duty and
18 accountability to Mauna Kea, the natural environment,
19 and to perpetuate the Native Hawaiian traditional and
20 customary practices embedded in the landscape of the
21 mauna; and



(3) Holomua Oi Kelakela - Driven by creativity and innovation, constantly challenging the status quo, with a stewardship of Mauna Kea that is informed based on existing knowledge and traditions, as well as on new and expanding knowledge. The authority shall be mindful and observant of needs, trends, and opportunities and seek new knowledge and opportunities in ways that enhance the ability to serve as stewards without jeopardizing the foundation of aina aloha.

§ -5 Powers and responsibilities; generally. (a)

Except as otherwise limited by this chapter, the authority, as it pertains to the Mauna Kea land area, may:

- (1) Make and execute contracts, leases, and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (2) Make and alter bylaws for its organization and internal management;
- (3) Adopt rules pursuant to chapter 91 for the purposes of this chapter;
- (4) Conduct meetings in accordance with chapter 92 for the purposes of this chapter;



- 1 (5) Appoint officers, agents, and employees who may be
2 exempt from chapter 76, prescribe their duties and
3 qualifications, and fix their salaries;
- 4 (6) Provide advisory, consultative, training, and
5 educational services; technical assistance; and advice
6 to any person, partnership, or corporation, either
7 public or private, to carry out the purposes of this
8 chapter, and engage the services of consultants on a
9 contractual basis for rendering professional and
10 technical assistance and advice;
- 11 (7) Procure insurance against any loss in connection with
12 its property and other assets and operations in
13 amounts and from insurers as it deems desirable;
- 14 (8) Contract for and accept gifts or grants in any form
15 from any public agency or from any other source;
- 16 (9) Adopt rules governing the procurement and purchase of
17 goods, services, and construction, subject to the
18 requirements of chapter 103D;
- 19 (10) Enter into cooperative agreements, easements,
20 subleases, or other contracts, as necessary, with any
21 state agency, county agency, or private landowner;



1 (11) Contract for executive and administrative employee
2 services;

3 (12) Call upon the attorney general for legal services or
4 employ its own counsel in conformity with section
5 28-8.3; and

6 (13) Do any and all things necessary to carry out its
7 purposes and exercise the powers granted in this
8 chapter.

9 (b) Notwithstanding any other law to the contrary, the
10 authority shall:

11 (1) Be the principal authority for the management of
12 state-managed lands within the Mauna Kea lands;

13 (2) Provide oversight and protect traditional and
14 customary Native Hawaiian rights, as set forth in the
15 Hawaii State Constitution, and not unduly burden
16 individuals exercising these rights;

17 (3) Establish a process that provides and ensures
18 transparency, analysis, and justification for lease
19 terms of its land and monetary consideration that is
20 equitable, feasible, and financially sustainable;



(4) Be prohibited from selling, gifting, transferring, or exchanging land under its control;

(5) Engage in community dialogue, outreach, engagement, and consultation processes, as appropriate, on significant matters on at least an annual basis and more frequently, as needed; and

(6) Consider various supplemental revenue sources to be deposited into the Mauna Kea management special fund, to the extent permitted by law.

§ -6 Transition; management plan. (a) The authority shall have a transition period of five years beginning July 1, 2023; provided that all of the initial members have been confirmed by the senate. During the transition period, the authority shall jointly manage Mauna Kea lands with the University of Hawaii; provided that the authority's day-to-day operations shall be carried out by the center of Mauna Kea stewardship for the transition period established in this subsection.

(b) The authority shall develop a management plan to govern land uses; human activities, other uses, and access, including permitted uses for frequent and seasonal users;



1 stewardship; education; research; disposition; and overall
2 operations. The management plan shall:

- 3 (1) Be developed during the transition period;
- 4 (2) Be finalized, approved, and operational by the end of
5 the transition period;
- 6 (3) Be updated at least every ten years with a focus on
7 long-term, comprehensive, and coordinated planning for
8 all of the Mauna Kea lands;
- 9 (4) Consider the State's energy and sustainability goals,
10 as well as impacts to climate change, including
11 adapting to climate change and developing mitigation
12 measures to climate change;
- 13 (5) Prepare for and establish the framework, criteria, and
14 procedures for any leases and permits;
- 15 (6) Incorporate indigenous management and cultural
16 processes and values; and
- 17 (7) Include an aspirational statement to acknowledge and
18 contextualize unresolved social justice issues that
19 underpin the conservation, preservation, and public
20 use of Mauna Kea.



1 (c) The authority shall adopt a financial plan that
2 strives for the financial self-sustainability of the authority
3 after the sixth year following the transitional period
4 established in subsection (a).

5 (d) The authority shall be responsible for the
6 establishment of a framework for astronomy-related development
7 on Mauna Kea. The framework may include:

8 (1) Limitations on the number of observatories and
9 astronomy-related facilities, or an astronomy facility
10 footprint limitation;

11 (2) Prioritizing the reuse of footprints of observatories
12 that are scheduled for decommissioning, or have been
13 decommissioned, as sites for facilities or
14 improvements over the use of undeveloped lands for
15 such purposes; and

16 (3) A set of principles for returning the lands used for
17 astronomy research to their natural state whenever
18 observatories are decommissioned or no longer have
19 research or educational value.

20 (e) During the transition period, the authority may take
21 any actions necessary to prepare for the assumption of total



1 authority over Mauna Kea lands at the end of the transition
2 period, including the adoption of rules pursuant to
3 section -13(b).

4 (f) Notwithstanding any other law to the contrary,
5 commencing on the effective date of this chapter and until the
6 expiration of the transition period, no new lease shall be
7 issued and no existing lease shall be renewed involving any
8 Mauna Kea lands; provided that, upon the expiration of an
9 existing lease during the transition period, a lessee may
10 continue to hold the land as a holdover, subject to any terms
11 and conditions as may be mutually agreed upon by the authority
12 and University of Hawaii.

13 **§ -7 Authority after transition period.** (a) Following
14 the end of the transition period pursuant to section -6, the
15 department of land and natural resources, University of Hawaii,
16 and all other departments and agencies of the State shall be
17 subject to the oversight of the authority with regard to the
18 control and management of Mauna Kea lands. Subject to
19 section -5 and upon the direction of the authority, the
20 department of land and natural resources shall:



- 1 (1) Implement controls and permitted uses of Mauna Kea
2 lands;
- 3 (2) Enforce this chapter;
- 4 (3) Provide administrative support to the authority; and
- 5 (4) Authorize those of its employees as it deems
6 reasonable and necessary to serve and execute warrants
7 and arrest offenders or issue citations in all matters
8 relating to the enforcement of the laws and rules
9 applicable to Mauna Kea lands.
- 10 (b) Notwithstanding any law to the contrary, all powers
11 and duties of the board of land and natural resources pursuant
12 to chapter 171, and the land use commission pursuant to chapter
13 205, concerning permits, dispositions, land use approvals, and
14 any other approvals pertaining to the Mauna Kea lands are
15 transferred to the authority upon the expiration of the
16 transition period; provided that the transfer of such powers and
17 duties from the board of land and natural resources and the land
18 use commission may occur earlier, upon approval of the
19 authority, the board of land and natural resources, and the land
20 use commission. Upon the expiration of the transition period,
21 the authority shall carry out the powers and duties otherwise



1 conferred upon the board of land and natural resources pursuant
2 to chapter 171, and the land use commission pursuant to chapter
3 205, with regard to permits, dispositions, land use approvals,
4 and any other approvals pertaining to the Mauna Kea lands.

5 **§ -8 Astronomy development; declaration of policy;**
6 **reserved viewing or observing time and other requirements. (a)**

7 It is declared that the support of astronomy consistent with
8 section -1 is a policy of the State.

9 (b) Beginning after the transition period has expired, any
10 lease executed by the authority for an astronomical observatory
11 shall include reserved viewing or observing time of not less
12 than seven per cent of the total amount of viewing or observing
13 time provided by the astronomical observatory for the University
14 of Hawaii, as negotiated by the authority. The university shall
15 give priority on the use of the reserved viewing or observing
16 time to projects that include the participation of:

17 (1) Hawaii students, including:

18 (A) Graduate and undergraduate students of the
19 University of Hawaii;

20 (B) Students of Hawaii public schools operated by the
21 department of education; and



- 1 (C) Students from any other school, public or
2 private, in which education is provided to
3 students in the medium of the Hawaiian language,
4 in whole or in part, or that includes a Hawaiian
5 language proficiency requirement for graduation;
6 and
- 7 (2) Projects curated and submitted by the University of
8 Hawaii at Hilo Imiloa astronomy center.
- 9 (c) The authority shall develop, negotiate, and execute
10 agreements that promote astronomy. This includes education,
11 training, employment, and professional development opportunities
12 for state residents.
- 13 (d) The university shall submit an annual report on the
14 use of the reserved viewing or observing time, including the
15 application of the priorities listed in subsection (b), to the
16 authority and legislature no later than twenty days prior to the
17 convening of each regular session, commencing with the regular
18 session immediately succeeding the expiration of the transition
19 period established in section -6.



1 **§ -9 Advisory groups.** (a) The authority shall
2 establish advisory groups to advise the authority in its
3 management of Mauna Kea.

4 (b) Any advisory groups established pursuant to this
5 section shall convene regularly and be consulted on a broad
6 range of issues relating to their respective purview.

7 **§ -10 Annual report.** The authority shall submit an
8 annual report to the legislature no later than twenty days prior
9 to the convening of each regular session, beginning with the
10 regular session of 2024. Each annual report shall include:

- 11 (1) A review of the authority's management actions;
- 12 (2) A review of the implementation of all legislatively
13 required plans, including financial and management
14 reports, budgets, expenditures, and plans;
- 15 (3) A review of the human uses of the natural and cultural
16 resources of Mauna Kea and the impacts of the human
17 uses on these resources;
- 18 (4) A review of the commercial uses of the natural and
19 cultural resources of Mauna Kea and the impacts of the
20 commercial uses on these resources;
- 21 (5) An assessment of cumulative impacts to Mauna Kea;



(6) A review of all community dialogue, outreach, engagement, and consultation; and

(7) A review of the University of Hawaii's use of its reserved viewing or observing time.

§ -11 Access and use; restrictions; orientation;

entryway. (a) The authority may limit commercial use and activities of the Mauna Kea lands and may adopt rules pursuant to chapter 91 to designate areas for permissible use.

(b) The authority may require an application for all recreational uses, including fees, and create guidelines on potential limits by monitoring the social, safety, and conservation impacts of recreational use over time.

(c) The authority may require all individuals accessing Mauna Kea lands to undergo an annual orientation anchored by the authority's guiding operational values and principles; provided that all employees, contractors, leaseholders, and others who regularly access Mauna Kea shall have more extensive training on the authority's guiding operational values and principles pursuant to section -4.

§ -12 Lease provisions; generally. Each lease issued by the authority shall contain the following provisions:



- 1 (1) The specific use or uses to which the land is to be
2 employed;
- 3 (2) The improvements required; provided that a minimum
4 reasonable time be allowed for the completion of the
5 improvements;
- 6 (3) Restrictions against alienation;
- 7 (4) The rent, as established by independent appraisal or
8 rules of the authority, or both, or at public auction,
9 which shall be payable not more than one year in
10 advance, in monthly, quarterly, semiannual, or annual
11 payments;
- 12 (5) Where applicable, adequate protection of forests,
13 watershed areas, game management areas, wildlife
14 sanctuaries, and public hunting areas, reservation of
15 rights-of-way and access to other public lands, public
16 hunting areas, game management areas, or public
17 beaches, and prevention of nuisance and waste;
- 18 (6) If the lease is for an astronomical observatory,
19 reserved viewing or observing time in accordance with
20 section -8(b); and



(7) Other terms and conditions as the authority deems
advisable to more nearly effectuate the purposes of
the Hawaii State Constitution and of this chapter.

§ -13 Rules. (a) In addition to any other rulemaking
powers authorized under this chapter, the authority may adopt
rules pursuant to chapter 91 on the management, stewardship,
oversight, and protection of Mauna Kea lands and cultural
resources. The rules adopted under this section shall follow
existing laws, rules, ordinances, and regulations as closely as
is consistent with standards to meet minimum requirements of
good design, health, safety, and coordinated development.

(b) The authority may adopt rules before the end of the
transitional five-year period established in section -6;
provided that the rules shall not go into effect until the
transition period is completed.

§ -14 Contested cases. (a) Chapter 91 shall apply to
every contested case arising under this chapter except where
chapter 91 conflicts with this chapter, in which case this
chapter shall apply. Any other law to the contrary
notwithstanding, including chapter 91, any contested case under
this chapter shall be appealed from a final decision and order

1 or a preliminary ruling that is of the nature defined by section
2 91-14(a) upon the record directly to the supreme court for final
3 decision. Only a person aggrieved in a contested case
4 proceeding provided for in this chapter may appeal from the
5 final decision and order or preliminary ruling. For the
6 purposes of this section, the term "person aggrieved" includes
7 an agency that is a party to a contested case proceeding before
8 that agency or another agency.

9 (b) The court shall give priority to contested case
10 appeals of significant statewide importance over all other civil
11 or administrative appeals or matters and shall decide these
12 appeals as expeditiously as possible.

13 **§ -15 Mauna Kea management special fund.** (a) There is
14 established the Mauna Kea management special fund into which
15 shall be deposited:

- 16 (1) Appropriations from the legislature;
17 (2) Moneys from supplemental sources as authorized by the
18 authority, pursuant to the powers granted by this
19 chapter;
20 (3) Any grant or donation made to the special fund; and



1 (4) Any interest earned on the balance of the special
2 fund.

3 (b) Proceeds from the special fund shall be used for
4 administration, capital improvement projects, and other purposes
5 pursuant to this chapter.

6 § -16 **Issuance of bonds.** The director of finance, from
7 time to time, may issue general obligation bonds pursuant to
8 chapter 39 in amounts authorized by the legislature for the
9 purposes of this chapter."

10 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) No department of the State other than the attorney
14 general may employ or retain any attorney, by contract or
15 otherwise, for the purpose of representing the State or the
16 department in any litigation, rendering legal counsel to the
17 department, or drafting legal documents for the department;
18 provided that the foregoing provision shall not apply to the
19 employment or retention of attorneys:



- 1 (1) By the public utilities commission, the labor and
2 industrial relations appeals board, and the Hawaii
3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
5 State; provided that if the attorney general is
6 requested to provide representation to a court or
7 judicial office by the chief justice or the chief
8 justice's designee, or to a legislative office by the
9 speaker of the house of representatives and the
10 president of the senate jointly, and the attorney
11 general declines to provide such representation on the
12 grounds of conflict of interest, the attorney general
13 shall retain an attorney for the court, judicial, or
14 legislative office, subject to approval by the court,
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted
18 from time to time;
- 19 (5) By the real estate commission for any action involving
20 the real estate recovery fund;



- 1 (6) By the contractors license board for any action
- 2 involving the contractors recovery fund;
- 3 (7) By the office of Hawaiian affairs;
- 4 (8) By the department of commerce and consumer affairs for
- 5 the enforcement of violations of chapters 480 and
- 6 485A;
- 7 (9) As grand jury counsel;
- 8 (10) By the Hawaii health systems corporation, or its
- 9 regional system boards, or any of their facilities;
- 10 (11) By the auditor;
- 11 (12) By the office of ombudsman;
- 12 (13) By the insurance division;
- 13 (14) By the University of Hawaii;
- 14 (15) By the Kahoolawe island reserve commission;
- 15 (16) By the division of consumer advocacy;
- 16 (17) By the office of elections;
- 17 (18) By the campaign spending commission;
- 18 (19) By the Hawaii tourism authority, as provided in
- 19 section 201B-2.5;
- 20 (20) By the division of financial institutions;
- 21 (21) By the office of information practices;



1 (22) By the school facilities authority; ~~[or]~~
2 (23) By the Mauna Kea stewardship and oversight authority;
3 or
4 ~~[(+23)]~~ (24) By a department, if the attorney general, for
5 reasons deemed by the attorney general to be good and
6 sufficient, declines to employ or retain an attorney
7 for a department; provided that the governor waives
8 the provision of this section."

9 2. By amending subsection (c) to read:

10 "(c) Every attorney employed by any department on a
11 full-time basis, except an attorney employed by the public
12 utilities commission, the labor and industrial relations appeals
13 board, the Hawaii labor relations board, the office of Hawaiian
14 affairs, the Hawaii health systems corporation or its regional
15 system boards, the department of commerce and consumer affairs
16 in prosecution of consumer complaints, insurance division, the
17 division of consumer advocacy, the University of Hawaii, the
18 Hawaii tourism authority as provided in section 201B-2.5, the
19 Mauna Kea stewardship and oversight authority, the office of
20 information practices, or as grand jury counsel, shall be a
21 deputy attorney general."

1 SECTION 4. Section 76-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The civil service to which this chapter applies shall
4 comprise all positions in the State now existing or hereafter
5 established and embrace all personal services performed for the
6 State, except the following:

7 (1) Commissioned and enlisted personnel of the Hawaii
8 National Guard as such, and positions in the Hawaii
9 National Guard that are required by state or federal
10 laws or regulations or orders of the National Guard to
11 be filled from those commissioned or enlisted
12 personnel;

13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel
18 to perform the service cannot be obtained through
19 normal civil service recruitment procedures. Any such
20 contract may be for any period not exceeding one year;



- 1 (3) Positions that must be filled without delay to comply
2 with a court order or decree if the director
3 determines that recruitment through normal recruitment
4 civil service procedures would result in delay or
5 noncompliance, such as the Felix-Cayetano consent
6 decree;
- 7 (4) Positions filled by the legislature or by either house
8 or any committee thereof;
- 9 (5) Employees in the office of the governor and office of
10 the lieutenant governor, and household employees at
11 Washington Place;
- 12 (6) Positions filled by popular vote;
- 13 (7) Department heads, officers, and members of any board,
14 commission, or other state agency whose appointments
15 are made by the governor or are required by law to be
16 confirmed by the senate;
- 17 (8) Judges, referees, receivers, masters, jurors, notaries
18 public, land court examiners, court commissioners, and
19 attorneys appointed by a state court for a special
20 temporary service;



1 (9) One bailiff for the chief justice of the supreme court
2 who shall have the powers and duties of a court
3 officer and bailiff under section 606-14; one
4 secretary or clerk for each justice of the supreme
5 court, each judge of the intermediate appellate court,
6 and each judge of the circuit court; one secretary for
7 the judicial council; one deputy administrative
8 director of the courts; three law clerks for the chief
9 justice of the supreme court, two law clerks for each
10 associate justice of the supreme court and each judge
11 of the intermediate appellate court, one law clerk for
12 each judge of the circuit court, two additional law
13 clerks for the civil administrative judge of the
14 circuit court of the first circuit, two additional law
15 clerks for the criminal administrative judge of the
16 circuit court of the first circuit, one additional law
17 clerk for the senior judge of the family court of the
18 first circuit, two additional law clerks for the civil
19 motions judge of the circuit court of the first
20 circuit, two additional law clerks for the criminal
21 motions judge of the circuit court of the first



1 circuit, and two law clerks for the administrative
2 judge of the district court of the first circuit; and
3 one private secretary for the administrative director
4 of the courts, the deputy administrative director of
5 the courts, each department head, each deputy or first
6 assistant, and each additional deputy, or assistant
7 deputy, or assistant defined in paragraph (16);
8 (10) First deputy and deputy attorneys general, the
9 administrative services manager of the department of
10 the attorney general, one secretary for the
11 administrative services manager, an administrator and
12 any support staff for the criminal and juvenile
13 justice resources coordination functions, and law
14 clerks;
15 (11) (A) Teachers, principals, vice-principals, complex
16 area superintendents, deputy and assistant
17 superintendents, other certificated personnel,
18 not more than twenty noncertificated
19 administrative, professional, and technical
20 personnel not engaged in instructional work;



- 1 (B) Effective July 1, 2003, teaching assistants,
2 educational assistants, bilingual/bicultural
3 school-home assistants, school psychologists,
4 psychological examiners, speech pathologists,
5 athletic health care trainers, alternative school
6 work study assistants, alternative school
7 educational/supportive services specialists,
8 alternative school project coordinators, and
9 communications aides in the department of
10 education;
- 11 (C) The special assistant to the state librarian and
12 one secretary for the special assistant to the
13 state librarian; and
- 14 (D) Members of the faculty of the University of
15 Hawaii, including research workers, extension
16 agents, personnel engaged in instructional work,
17 and administrative, professional, and technical
18 personnel of the university;
- 19 (12) Employees engaged in special, research, or
20 demonstration projects approved by the governor;



- 1 (13) (A) Positions filled by inmates, patients of state
2 institutions, persons with severe physical or
3 mental disabilities participating in the work
4 experience training programs;
- 5 (B) Positions filled with students in accordance with
6 guidelines for established state employment
7 programs; and
- 8 (C) Positions that provide work experience training
9 or temporary public service employment that are
10 filled by persons entering the workforce or
11 persons transitioning into other careers under
12 programs such as the federal Workforce Investment
13 Act of 1998, as amended, or the Senior Community
14 Service Employment Program of the Employment and
15 Training Administration of the United States
16 Department of Labor, or under other similar state
17 programs;
- 18 (14) A custodian or guide at Iolani Palace, the Royal
19 Mausoleum, and Hulihee Palace;
- 20 (15) Positions filled by persons employed on a fee,
21 contract, or piecework basis, who may lawfully perform



1 their duties concurrently with their private business
2 or profession or other private employment and whose
3 duties require only a portion of their time, if it is
4 impracticable to ascertain or anticipate the portion
5 of time to be devoted to the service of the State;
6 (16) Positions of first deputies or first assistants of
7 each department head appointed under or in the manner
8 provided in section 6, article V, of the Hawaii State
9 Constitution; three additional deputies or assistants
10 either in charge of the highways, harbors, and
11 airports divisions or other functions within the
12 department of transportation as may be assigned by the
13 director of transportation, with the approval of the
14 governor; four additional deputies in the department
15 of health, each in charge of one of the following:
16 behavioral health, environmental health, hospitals,
17 and health resources administration, including other
18 functions within the department as may be assigned by
19 the director of health, with the approval of the
20 governor; an administrative assistant to the state



- 1 librarian; and an administrative assistant to the
2 superintendent of education;
- 3 (17) Positions specifically exempted from this part by any
4 other law; provided that:
- 5 (A) Any exemption created after July 1, 2014, shall
6 expire three years after its enactment unless
7 affirmatively extended by an act of the
8 legislature; and
- 9 (B) All of the positions defined by paragraph (9)
10 shall be included in the position classification
11 plan;
- 12 (18) Positions in the state foster grandparent program and
13 positions for temporary employment of senior citizens
14 in occupations in which there is a severe personnel
15 shortage or in special projects;
- 16 (19) Household employees at the official residence of the
17 president of the University of Hawaii;
- 18 (20) Employees in the department of education engaged in
19 the supervision of students during meal periods in the
20 distribution, collection, and counting of meal



- 1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;
- 3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;
- 9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;
- 13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;
- 17 (24) The sheriff;
- 18 (25) A gender and other fairness coordinator hired by the
19 judiciary;
- 20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs;



- 1 (27) In the state energy office in the department of
2 business, economic development, and tourism, all
3 energy program managers, energy program specialists,
4 energy program assistants, and energy analysts;
- 5 (28) Administrative appeals hearing officers in the
6 department of human services;
- 7 (29) In the Med-QUEST division of the department of human
8 services, the division administrator, finance officer,
9 health care services branch administrator, medical
10 director, and clinical standards administrator;
- 11 (30) In the director's office of the department of human
12 services, the enterprise officer, information security
13 and privacy compliance officer, security and privacy
14 compliance engineer, and security and privacy
15 compliance analyst;
- 16 (31) The Alzheimer's disease and related dementia services
17 coordinator in the executive office on aging;
- 18 (32) In the Hawaii emergency management agency, the
19 executive officer, public information officer, civil
20 defense administrative officer, branch chiefs, and
21 emergency operations center state warning point



1 personnel; provided that, for state warning point
2 personnel, the director shall determine that
3 recruitment through normal civil service recruitment
4 procedures would result in delay or noncompliance;
5 ~~and~~

6 ~~+~~(33)~~+~~ The executive director and seven full-time
7 administrative positions of the school facilities
8 authority~~[-]~~; and

9 (34) Positions in the Mauna Kea stewardship and oversight
10 authority.

11 The director shall determine the applicability of this
12 section to specific positions.

13 Nothing in this section shall be deemed to affect the civil
14 service status of any incumbent as it existed on July 1, 1955."

15 SECTION 5. (a) The Mauna Kea stewardship and oversight
16 authority shall:

- 17 (1) Study and recommend whether a reserve should be
18 established that specifically preserves Mauna Kea
19 lands for natural, ecological, archaeological, and
20 historical preservation; cultural practice;
21 rehabilitation, revegetation, and habitat restoration;



1 and educational purposes. If the Mauna Kea
2 stewardship and oversight authority recommends that a
3 reserve be established, the authority shall also make
4 a recommendation on the lands to be included within
5 the reserve;

6 (2) Conduct an assessment on whether the University of
7 Hawaii school of astronomy should be relocated, in
8 whole or in part, to the University of Hawaii at Hilo;
9 and

10 (3) Include in its study and report any other information
11 on issues relating to the management and protection of
12 Mauna Kea it deems appropriate.

13 (b) The Mauna Kea stewardship and oversight authority
14 shall submit:

15 (1) An interim report of its findings and recommendations,
16 including any proposed legislation, to the legislature
17 no later than twenty days prior to the convening of
18 the regular session of 2024; and

19 (2) A final report of its findings and recommendations,
20 including any proposed legislation, to the legislature



1 no later than twenty days prior to the convening of
2 the regular session of 2025.

3 SECTION 6. The auditor shall conduct a performance and
4 financial audit of the Mauna Kea stewardship and oversight
5 authority and shall submit a report on findings and
6 recommendations to the legislature no later than twenty days
7 prior to the convening of the regular session of 2031.

8 PART II

9 SECTION 7. (a) On July 1, 2028, all rights, powers,
10 functions, and duties of the University of Hawaii relating to
11 the powers and responsibilities granted to the Mauna Kea
12 stewardship and oversight authority under part I of this Act are
13 transferred to the Mauna Kea stewardship and oversight
14 authority.

15 (b) Notwithstanding the transfer of all rights, powers,
16 functions, and duties pursuant to subsection (a), the state
17 lease by and between the board of land and natural resources and
18 the University of Hawaii entered into on June 21, 1968, as
19 General Lease S-4191, as amended on September 21, 1999, as
20 General Lease S-5529, shall remain in full force and effect
21 until its expiration unless otherwise specifically amended



1 pursuant to an agreement by the Mauna Kea stewardship and
2 oversight authority and the University of Hawaii.

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

20 (d) Notwithstanding subsection (b) or any action that is a
21 consequence of this Act, including a merger of interests,



1 effective July 1, 2028, every reference to the department of
2 land and natural resources, board of land and natural resources,
3 or the chairperson of the board of land and natural resources in
4 those deeds, leases, subleases, contracts, loans, agreements,
5 permits, or other documents relating to Mauna Kea lands shall be
6 construed as a reference to the Mauna Kea stewardship and
7 oversight authority or the chairperson of the authority, as
8 appropriate; provided that all deeds, leases, subleases,
9 contracts, loans, agreements, permits, or other documents
10 executed or entered into prior to the effective date of this
11 Act, by or on behalf of the department of land and natural
12 resources or the board of land and natural resources pursuant to
13 the Hawaii Revised Statutes that are reenacted or made
14 applicable to the Mauna Kea stewardship and oversight authority
15 by this Act, shall remain in full force and effect until its
16 expiration unless otherwise specifically amended pursuant to an
17 agreement by the Mauna Kea stewardship and oversight authority
18 and the University of Hawaii.

19 SECTION 8. (a) All employees who occupy civil service
20 positions and whose functions are transferred to the Mauna Kea
21 stewardship and oversight authority by this Act shall retain



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

13 (b) Any employee who, prior to this Act, is exempt from
14 civil service and is transferred as a consequence of this Act
15 may retain the employee's exempt status but shall not be
16 appointed to a civil service position as a consequence of this
17 Act. An exempt employee who is transferred by this Act shall
18 not suffer any loss of prior service credit, vacation or sick
19 leave credits previously earned, or other employee benefits or
20 privileges as a consequence of this Act; provided that the
21 employees possess legal and public employment requirements for



1 the position to which transferred or appointed, as applicable;
2 provided further that subsequent changes in status may be made
3 pursuant to applicable employment and compensation laws. The
4 executive director of the center for Mauna Kea stewardship may
5 prescribe the duties and qualifications of these employees and
6 fix their salaries without regard to chapter 76, Hawaii Revised
7 Statutes.

8 SECTION 9. All appropriations, records, equipment,
9 machines, files, supplies, contracts, books, papers, documents,
10 maps, and other personal property heretofore made, used,
11 acquired, or held by the University of Hawaii relating to the
12 functions transferred to the Mauna Kea stewardship and oversight
13 authority shall be transferred with the functions to which they
14 relate.

15 PART III

16 SECTION 10. During the transition period, the University
17 of Hawaii board of regents and president shall exercise the
18 authority granted to them by part IV, subpart O, of chapter
19 304A, Hawaii Revised Statutes, only to the extent as necessary
20 to allow the Mauna Kea stewardship and oversight authority,
21 established pursuant to part I of this Act, to assume authority



1 of Mauna Kea lands pursuant to this Act; provided that the
2 University of Hawaii board of regents and the president of the
3 University of Hawaii shall cooperate and work collaboratively
4 with the authority to support and ensure the successful
5 transition of stewardship and oversight of the Mauna Kea lands;
6 provided further that the University of Hawaii at Hilo shall
7 provide all necessary support to the Mauna Kea stewardship and
8 joint oversight during the transition period consistent with the
9 purposes of this Act, including equitably funding the authority
10 and University of Hawaii.

11 PART IV

12 SECTION 11. Chapter 304A, part IV, subpart O, Hawaii
13 Revised Statutes, is repealed.

14 SECTION 12. Section 304A-2170, Hawaii Revised Statutes, is
15 repealed.

16 [~~"[§304A-2170] Mauna Kea lands management special fund.~~

17 ~~(a) There is established the Mauna Kea lands management special~~
18 ~~fund, into which shall be deposited.~~

19 ~~(1) Appropriations by the legislature,~~

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

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

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

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

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

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

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



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

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

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

PART V

SECTION 13. The University of Hawaii shall commence and complete the timely decommissioning of the California Institute of Technology (Caltech) Submillimeter Telescope and the University of Hawaii at Hilo Hoku Kea Teaching Telescope as determined by the Mauna Kea stewardship and oversight authority.

PART VI

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$14,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 for startup and transition planning costs for the Mauna Kea stewardship and oversight authority, including the hiring of one full-time equivalent (1.0 FTE) executive assistant position, who shall also serve as secretary to the authority, and who shall be

1 exempt from chapter 76, Hawaii Revised Statutes, to support the
2 Mauna Kea stewardship and oversight authority.

3 The sum appropriated shall be expended by the Mauna Kea
4 stewardship and oversight authority for the purposes of this
5 Act.

6 SECTION 15. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$350,000 or so much
8 thereof as may be necessary for fiscal year 2022-2023 for K-12
9 public education programs in astronomy-related fields of
10 learning at the University of Hawaii at Hilo, Imiloa astronomy
11 center.

12 The sum appropriated shall be expended by the University of
13 Hawaii at Hilo for the purposes of this Act.

14 SECTION 16. On the close of business on June 30, 2028, all
15 moneys in the Mauna Kea lands management special fund
16 established pursuant to section 304A-2170, Hawaii Revised
17 Statutes, shall be deposited in the Mauna Kea management special
18 fund established pursuant to section -15, Hawaii Revised
19 Statutes, in part I, section 2, of this Act.



1 PART VII

2 SECTION 17. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 18. This Act shall take effect on July 1, 2022;
5 provided that part IV shall take effect on July 1, 2028.

APPROVED this 7th day of July , 2022



GOVERNOR OF THE STATE OF HAWAII



HB No. 2024, HD 1, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives





Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI‘I

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2022.


President of the Senate


Clerk of the Senate