

Honolulu, Hawaii

MAR 04 , 2022

RE: H.B. No. 2024
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance, to which was referred H.B. No. 2024 entitled:

"A BILL FOR AN ACT RELATING TO MAUNA KEA,"

beg leave to report as follows:

The purpose of this measure is to implement recommendations of the Mauna Kea Working Group established on March 4, 2021, through the adoption of House Resolution No. 33, H.D. 1, during the Regular Session of 2021 by:

- (1) Establishing the Mauna Kea Stewardship Authority (Authority) as the sole authority for management of state-managed lands on Mauna Kea;
- (2) Requiring the Authority to develop a single plan that dictates the management of land uses; human activities, uses, and access; stewardship; education; research; disposition; and overall operations;
- (3) Requiring the Authority to develop a framework to limit astronomy development on Mauna Kea;
- (4) Requiring the Authority to prohibit certain commercial use and activities on Mauna Kea;



- (5) Requiring an application and fee for all recreational users of Mauna Kea; and
- (6) Appropriating funds for startup costs of the Authority.

Your Committees received testimony in support of this measure from Kamehameha Schools, Council for Native Hawaiian Advancement, Protect Kaho'olawe 'Ohana, Hilo Hawaiian Civic Club, Waimea Hawaiian Civic Club, Hawai'i Alliance for Progressive Action, Hui Maui Ola, Save Our Sherwoods, 'Ahahui o nā Kauka, Aha Kane, Kanaeokana, Protect Pololu Project, Puakalehua Early Learning Consortium, and numerous individuals. Your Committees received testimony in opposition to this measure from the Department of Land and Natural Resources; University of Hawai'i System; University of Hawai'i Board of Regents; Hawai'i Island Chamber of Commerce; Kona-Kohala Chamber of Commerce; Imua TMT; Environmental Caucus of the Democratic Party of Hawai'i; Hawaii Forest and Trail; Taikobo Hawaii, Inc.; Hawaiian Eyes Tour; KAHEA: The Hawaiian-Environmental Alliance; Mauna Kea Moku Nui 'Aelike/Consensus Building 'Ohana; Ka Ohana O Na Pua; Hawaii Island Economic Development Board; Hawaii Leeward Planning Conference; 'Ai Noa Foundation; Wahine Apapalani; Na Koa Ikaika Ka Lahui Hawaii; Arnott's Lodge; Kundalini of Kona Inc.; Center for Hawaiian Sovereignty Studies; and numerous individuals. Your Committees received comments on this measure from the Office of Hawaiian Affairs, Department of the Attorney General, Department of Budget and Finance, Maunakea Observatories, and Super Vacation Hawaii.

Your Committees find that Mauna a Wākea, particularly its summit region, is a special place of significance to the people of Hawaii that consists of fragile habitats, contains historical and archaeological artifacts, and holds cultural and spiritual importance. Due to its topographical prominence, Mauna a Wākea is also a highly valued site for world-class astronomical study, producing many significant discoveries that contribute to humanity's study and understanding of the universe. However, in recent years, Mauna a Wākea has become a symbol of division, polarization, and distrust between stakeholders on Mauna a Wākea and many in the surrounding communities. Therefore, resolving the management issues of Mauna a Wākea is an issue of the highest priority in the State.



Your Committees further find that the University of Hawaii has been responsible for the management of Mauna a Wākea since 1968 and that the 2.2-meter telescope, the first large telescope constructed on Mauna a Wākea, began operations in 1970. Despite improvements in the management of Mauna a Wākea by the University and Department of Land and Natural Resources since a 1998 audit found significant managerial deficiencies, the perception by many that Mauna a Wākea was being managed without sufficient, genuine consultation with the Native Hawaiian community had the cumulative effect of degrading trust between state managers and some Native Hawaiian communities. Your Committees find that this measure is intended to be a step toward changing the status quo and restoring trust and balance in stewardship of Mauna a Wākea.

Your Committees have amended this measure by:

- (1) Changing references from "Mauna Kea" to "Mauna a Wākea" throughout the measure;
- (2) Adding the four Kumu Kānāwai, or laws of nature, to its preamble;
- (3) Placing the Authority within the Department of Land and Natural Resources, instead of attaching it to the Office of the Chairperson of the Board of Land and Natural Resources, for administrative purposes;
- (4) Changing a member of the Authority from the Chief Executive Officer of the Office of Hawaiian Affairs, or the Chief Executive Officer's designee, to the Chairperson of the Board of Trustees of the Office of Hawaiian Affairs, or the Chairperson's designee;
- (5) Adding the President of the University of Hawaii, or the President's designee, as a member of the Authority;
- (6) Removing all references to the sale of Mauna a Wākea lands;
- (7) Amending the requirement that the Authority protect native Hawaiian rights to instead protect traditional and customary native Hawaiian rights, as set forth in the Hawaii State Constitution, and not unduly burden individuals exercising such rights;



- (8) Clarifying that in establishing a framework to limit astronomy development on Mauna a Wākea, the Authority is required to establish a plan to return the mauna above the 9,200-foot elevation line to its natural state when ground-based observatories are rendered obsolete due to developments in space-based astronomical technology;
- (9) Allowing, rather than requiring, the Authority to prohibit commercial use and activities, except for astronomy use and activities, above Hale Pōhaku;
- (10) Clarifying that the Department of Land and Natural Resources is required to transfer to the Authority the title to the Mauna a Wākea lands under the Authority's jurisdiction, together with all existing encumbrances;
- (11) Clarifying that the Authority is required to consider various supplemental revenue sources to be deposited into the Mauna a Wākea Management Special Fund, to the extent allowed by law;
- (12) Specifying that lands under the jurisdiction of the Authority to which the Authority holds title are not deemed "public lands" as defined in section 171-2, Hawaii Revised Statutes;
- (13) Establishing various protections for Mauna a Wākea lands, including:
 - (A) Extensive lease requirements and safeguards, including restrictions against alienation; adequate protection of forests, watershed areas, game management areas, wildlife sanctuaries, and public hunting areas, reservation of rights-of-way and access to other public lands, public hunting areas, game management areas, or public beaches; and prevention of nuisance and waste;
 - (B) Prohibiting lease renewal options;
 - (C) Restricting leases to sixty-five years;



- (D) Prohibiting the transfer or assignment of leases, except by devise, bequest, or intestate succession, without the approval of the Authority;
 - (E) Requiring the approval of the Authority for subleases;
 - (F) Requiring lands to which the Authority holds title to be disposed of by public auction, with limited exceptions, including for leases to eleemosynary organizations, state and federal agencies, and foreign governments;
 - (G) Prohibiting lands to which the Authority holds title from being leased for a sum less than the value fixed by appraisal, with limited exceptions;
 - (H) In issuing new or renegotiated leases for astronomical observatories, requiring the Authority to adopt rules to establish additional lease requirements; and
 - (I) Requiring the Authority to retain rights to "prehistoric and historic remains" in leases of lands to which it holds title;
- (14) Changing its effective date to July 1, 3000, to encourage further discussion; and
- (15) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committees find that on January 30, 2022, the University of Hawaii Economic Research Organization (UHERO) released an updated report on the economic impact of astronomy in Hawaii, which revealed that the industry's direct and indirect economic impact in 2019 totaled \$221,000,000. Moreover, 1,313 jobs in the State and 611 jobs on Hawaii island alone are directly tied to the astronomy sector. The UHERO report indicated that astronomy is one of the top five economic activities in the State. In addition, your Committees note that astronomy is a permitted use in the state conservation district. As astronomy is such a significant economic driver for the State and Hawaii island, not to mention its role in furthering learning and scientific

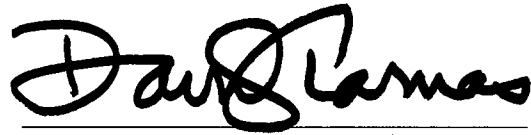


observation, your Committees believe that consideration should be given to, and discussion should continue regarding, adding a representative of the Maunakea Observatories to the Authority.

As affirmed by the records of votes of the members of your Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2024, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2024, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,


MARK M. NAKASHIMA, Chair


DAVID A. TARNAS, Chair


SYLVIA LUKE, Chair



