

STAND. COM. REP. NO. 3505

Honolulu, Hawaii

MAR 24 2022

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

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Higher Education, to which was referred
H.B. No. 2024, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the Mauna Kea Stewardship Authority as the sole authority for management of state-managed lands on Mauna Kea;
- (2) Require 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) Require the Authority to develop a framework to limit astronomy development on Mauna Kea;
- (4) Allow the Authority to prohibit certain commercial use and activities on Mauna Kea;
- (5) Require an application and fee for all recreational users of Mauna Kea;



- (6) Establish the Mauna Kea Management Special Fund;
- (7) Repeal the Mauna Kea Lands Management Special Fund; and
- (8) Appropriate funds.

Your Committee received testimony in support of this measure from 'Āina Aloha Economic Futures Initiative, Hawaiian Civic Club of Hilo, Protect Kaho'olawe 'Ohana, 'Ahahui o nā Kauka, Kamehameha Schools, Hawai'i Alliance for Progressive Action, and twenty-three individuals. Your Committee 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, Kona-Kohala Chamber of Commerce, Hawaii Island Economic Development Board, Mauna Kea Hui, Hawai'i Island Chamber of Commerce, Center for Hawaiian Sovereignty Studies, Hawaii Business Roundtable Incorporated, Pana'ewa Hawaiian Home Lands Community Association, and one hundred thirty-seven individuals. Your Committee received comments on this measure from the Department of the Attorney General, Department of Budget and Finance, Office of Hawaiian Affairs, Maunakea Observatories, and one individual.

Your Committee finds that Mauna Kea is a place that holds significant cultural value and scientific potential. However, the management of Mauna Kea has evolved into a divisive issue, in part from the University of Hawaii's "snail pace" in addressing the management deficiencies and lack of community engagement. When initial protests began against the construction of telescopes on Mauna Kea, the University of Hawaii Board of Regents became paralyzed rather than developing a sense of urgency. The University of Hawaii failed to adopt administrative rules governing public and commercial activities to ensure effective management and enforcement for the protection and preservation of the natural and cultural resources. Concerns raised throughout Hawaii's communities focused on the lack of confidence within the University of Hawaii's leadership to continue its management of Mauna Kea. In 2019, the University of Hawaii Board of Regents adopted Resolution 19-03, which provided the President of the University of Hawaii with a framework and deadlines to address ongoing issues on Mauna Kea. As future activities on Mauna Kea affect various communities across the State, addressing the management of Mauna Kea is a matter of statewide concern.



In 2021, the House of Representatives convened a working group to develop recommendations for a governance and management structure for Mauna Kea, pursuant to House Resolution No.33, House Draft 1, Regular Session of 2021. The Mauna Kea Working Group was tasked with the development of recommendations, elaborating on the findings of the Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan, and determined a new governance and management structure for Mauna Kea that collaboratively engages with all stakeholders, particularly the Native Hawaiian community.

Despite the work completed by the Mauna Kea Working Group to address the management of the Mauna, your Committee notes that this measure, as drafted, may not allow a newly created authority to manage Mauna Kea, envisioned by the Mauna Kea Working Group, without financially overburdening the taxpayers. In addition, your Committee recognizes that the needs of the University of Hawaii's astronomy program must also be met. To address the myriad of stakeholders regarding Mauna Kea, a gradual transition, transformation, and change in a sustainable way will require constant review and accountability to ensure effective management.

As the proposed Mauna Kea Stewardship and Oversight Authority will be a new board, your Committee encourages the Authority to strive to be a financially self-sustaining body. As your Committee notes, mitigation of financially overburdening taxpayers is of utmost importance.

Your Committee also notes the concerns from the Department of the Attorney General and constituents regarding the race-based criteria for the proposed Mauna Kea Stewardship Authority membership and the usage of the name "Mauna a Wākea." Creating selection criteria for board members based on race or ethnicity may pose legal challenges and inadvertently prohibit qualified candidates who are interested in serving on the Authority. To address the concerns of the Attorney General and community members, your Committee recommends the removal of race-based criteria in this measure and reverting all instances of "Mauna a Wākea" to "Mauna Kea". Your Committee also recommends that the Senate committees whose purview are higher education and water and land lead the advise and consent hearings to confirm qualified community members to serve on the Authority.



To recognize the importance of science and astronomy research on Mauna Kea, your Committee notes that, to fulfill the University of Hawaii's astronomy program needs, the University shall receive at least seven percent, and up to fifteen percent, of total viewing time at telescopes situated on Mauna Kea.

Finally, your Committee further notes the concerns regarding the membership of the University of Hawaii, Hilo Chancellor as an ex officio nonvoting member of the Mauna Kea Stewardship and Oversight Authority. As the University of Hawaii, Hilo Chancellor has been remotely working away from Hawaii since June 2021, your Committee raised concerns that the Chancellor may not fully understand the issues regarding the management of Mauna Kea or attend meetings that are vital to the Authority's success. As the University of Hawaii, Hilo, will play a major role with the new Mauna Kea Stewardship and Oversight Authority, it is imperative that the Chancellor be present to ensure the enactment of the Authority's mission.

Your Committee has amended this measure by:

- (1) Changing references from "Mauna a Wākea" to "Mauna Kea" throughout the measure;
- (2) Changing the name of the proposed authority to the Mauna Kea Stewardship and Oversight Authority (Authority) as the principal authority for the management of state-managed lands above the 9,200 feet elevation line on Mauna Kea, in conjunction with the Department of Land and Natural Resources;
- (3) Changing the composition of the Authority to include eleven voting members, with the Chancellor of the University of Hawaii, Hilo serving as an ex officio nonvoting member;
- (4) Establishing term lengths of three years and term limits of not more than four partial or full terms for Authority members;
- (5) Requiring the Authority to be financially self-sustaining by the first year following the three-year transitional period;



- (6) Limiting administrative expenses to five percent of the Authority's budget;
- (7) Deleting certain provisions to increase flexibility for the Authority to develop a workable management plan;
- (8) Requiring the timely decommissioning of the California Institute of Technology (Caltech) Submillimeter Telescope and the University of Hawaii, Hilo Hōkūke'a Teaching Telescope;
- (9) Providing that certain renewal of lease terms and other leases that result in terms that exceed sixty-five years require approval by supermajority vote of Authority members;
- (10) Requiring the Authority to allow the University of Hawaii a certain amount of viewing time at the telescopes;
- (11) Requiring annual reports to the Legislature, beginning with the Regular Session of 2024;
- (12) Removing the section that would have excluded Mauna Kea lands from the definition of "public lands";
- (13) Requiring the Auditor to conduct a performance and financial audit of the Authority and submit a report to the Legislature before the convening of the Regular Session of 2029;
- (14) Requiring the University of Hawaii Board of Regents and President to exercise their management authority under chapter 304A, Hawaii Revised Statutes, only to the extent necessary to assist the transition of management to the Mauna Kea Stewardship and Oversight Authority;
- (15) Requiring the University of Hawaii to continue equitably funding the Authority;
- (16) Inserting an appropriation of \$12,000,000 for startup costs for the Authority;



- (17) Inserting a blank appropriation for one full-time equivalent (1.0 FTE) executive assistant position, who shall also serve as secretary to the Authority, and who shall be exempt from chapter 76, Hawaii Revised Statutes, to support the Authority;
- (18) Amending section 1 to reflect its amended purpose;
- (19) Requiring the University of Hawaii, Hilo to provide supports to the transition;
- (20) Providing that, if the Auditor's report finds that the Authority is unfit to continue its stewardship and oversight roles, then the management of Mauna Kea lands reverts back to the University of Hawaii Board of Regents and President;
- (21) Amending section 1 to reflect its amended purpose;
- (22) Making it effective on January 1, 2055, to encourage further discussion; and
- (23) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2024, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2024, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Higher Education,



DONNA MERCADO KIM, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Higher Education
HRE

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2024 HD1	HRE, WAM	3-23-22		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	✓			
KIDANI, Michelle N. (VC)	✓			
KEITH-AGARAN, Gilbert S.C.	✓			
WAKAI, Glenn	✓	✓		
FEVELLA, Kurt	✓			
TOTAL	4	1		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes