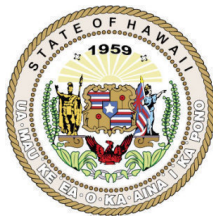


JOSH GREEN
GOVERNOR



JORDAN LOWE
DIRECTOR

MICHAEL S. VINCENT
Deputy Director
Administration

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'opalekana Lehulehu

1177 Alakea Street
Honolulu, Hawaii 96813
(808) 587-2562

Vacant
Deputy Director
Law Enforcement

No.

TESTIMONY ON SENATE BILL 81, SD. 2
RELATING TO NATURAL RESOURCE MANAGEMENT
Before the House Committee on Water and Land
Thursday, March 16, 2023; 10:00 a.m.
State Capitol Conference Room 430, Via Videoconference
WRITTEN TESTIMONY ONLY

Chair Ichiyama, Vice Chair Poepoe, and members of the Committee:

The Department of Law Enforcement (DLE) supports this bill:

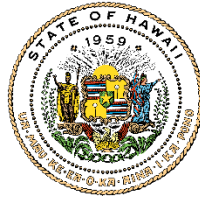
The purpose of this bill is to clarify that the Board of Land and Natural Resources' authority shall supersede the Mauna Kea Stewardship and Oversight Authority for all Mauna Kea lands designated under the state conservation district.

The Department of Land and Natural Resources (DLNR) is the department charged with fulfilling the constitutional mandate of conserving and protecting Hawai'i's natural beauty and natural resources. Act 255, Session Laws of Hawai'i appears to have inadvertently stripped DLNR from its authority to manage conservation lands under Article XI of the Hawaii Constitution and the laws of the State. From a law enforcement standpoint, the DLE strongly supports this bill as the proposed clarification is needed to ensure that the DLNR Division of Conservation and Resources Enforcement continues to have the authority to enforce state laws on conservation lands that are subject to the management of the Mauna Kea Stewardship and Oversight Authority for lands defined as "Mauna Kea Lands" pursuant to Act 255.

Thank you for the opportunity to submit comments in support of this bill.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the House Committee on
WATER & LAND**

**Thursday, March 16, 2023
10:00 a.m.**

State Capitol, Conference Room 430 & Videoconference

**In consideration of
SENATE BILL 81, SENATE DRAFT 2
RELATING TO NATURAL RESOURCE MANAGEMENT**

Senate Bill 81, Senate Draft 2 proposes to clarify that the powers, duties, and responsibilities of the Board of Land and Natural Resources for all lands designated under the State Land Use Conservation District on Mauna Kea remain in place. **The Department of Land and Natural Resources (Department) provides comments to the bill.**

Act 255, Session Laws of Hawai'i 2022 (Act 255) established the Mauna Kea Stewardship and Oversight Authority (Authority) and placed it within the Department for administrative purposes. The Department believes that the intent of Act 255 was to transfer management authority over Mauna Kea lands from the University of Hawaii to the Authority. The Act set a five-year transition period during which the Authority and the University will jointly manage Mauna Kea lands, provided that Authority's day-to-day operations shall be carried out by the center of Mauna Kea stewardship for the transition period. (See SECTION 6 of Act 255).

During the transition period, the Department would continue to have control and management of Mauna Kea lands to ensure the University's compliance with the Mauna Kea Comprehensive Management Plan, timely implementation of the decommissioning plans, and compliance with the conditions of the leases. However, "following the end of the transition period," or sooner, the Department shall then be subject to the oversight of the Authority regarding the control and management of Mauna Kea lands. (See SECTION 7 of Act 255). Thus, in reading Act 255 in its totality, the Department believes that the ultimate transfer of management of Mauna Kea lands may occur sooner than five years.

Although the Department supports the intent of Act 255 to transfer management authority of Mauna Kea lands ultimately to the Authority, the underlying ownership of the lands would remain with the Board of Land and Natural Resources who has a constitutional public trust duty to these lands. The transfer of management authority would be analogous to the disposition of Mauna Kea lands through an executive order to the Authority. Thus, the Department provides these comments to Senate Bill 81, Senate Draft 2 to clarify the intent of Act 255.

Mahalo for the opportunity to provide comments on this measure.

Testimony of John Komeiji, Chairperson Designee Mauna Kea Stewardship and Oversight Authority

Before the House Committee on Water & Land

Thursday March 16, 2023 10:00 a.m

State Capitol, Conference Room 430 & Videoconference

In consideration of SENATE BILL 81 SD2 RELATING TO NATURAL RESOURCE MANAGEMENT

I am John Komeiji, chair designee of the Mauna Kea Stewardship and Oversight Authority (MKSOA).

The new authority was created by the legislature in 2022 to address the many and diverse public concerns regarding the use of Mauna Kea. We oppose the passage of SB81 SD2. We respectfully request the legislature allow the MKSOA to continue in its formation efforts. During the next legislative session, the MKSOA will be better positioned to present a comprehensive recommendation on matters that may require further clarification and/or changes.

SB 81 SD2 would permanently empower the BLNR the final decision making on most, if not all matters dealing with the Maunakea. SB 81 SD2 attempts to frame the issue as providing clarity to an otherwise unclear Act 255. In fact, Act 255 provides specific and clear direction that the MKSOA would be the “principal authority for the management of state-managed lands within the Mauna Kea Lands”. HRS 195H-5(b)(1)

Act 255 further provides:

Following the end of the transition period pursuant to section 195H-6, the department of land and natural resources, University of Hawaii, and all other departments and agencies of the State shall be subject to the oversight of the authority with regards to the control and management of Mauna Kea lands. HRS 195H-7(a)

Notwithstanding any law to the contrary, all powers and duties of the board of land and natural resources pursuant to chapter 171...concerning permits, dispositions, land use approvals, and any other approvals pertaining to the Mauna Kea lands are transferred to the authority upon the expiration of the transition period...HRS 195H-7(b)

To be clear, SB 81 SD2 would repeal some of the fundamental pillars of MKSOA; the creation of an inclusive, independent, autonomous, decision-making body focused on the Mauna.

If passed, this bill would impair the autonomy, independent judgment and decision-making ability of the Authority. For example, the BLNR would have the ability to overrule the Authority's Management Plan, its Administrative Rules, its financial plan and/or its framework for astronomy-related development. Fundamentally, all decisions made by MKSOA could be reviewed and reversed by the BLNR. Rather than the new paradigm envisioned by Act 255, the same structure would be in place with the single change of management by MKSOA rather than the University of Hawaii.

Over past few months, the Authority has undertaken an information seeking effort to better understand the multiple issues of Mauna Kea. There is a lot to learn in the inter-

relationships and dependencies between various aspects of the management of Mauna Kea. It is a very complex landscape that requires deep analysis and understanding in order to find an effective way forward.

For these reasons, the Authority requests that this matter be deferred until a comprehensive review can be conducted.

Mahalo for allowing us the opportunity to provide input on this measure.

SB-81-SD-2

Submitted on: 3/14/2023 8:11:18 AM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Regina Peterson(Nani)	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose

March 15, 2023

Rodrigo Romo
1445 Waianuenu Ave
Hilo, HI 96720

COMMITTEE ON WATER AND LAND
THURSDAY, MARCH 16TH, 2023, 10:00
CONFERENCE ROOM 430

TESTIMONY IN SUPPORT OF SB-81, SD2 RELATING NATURAL RESOURCE MANAGEMENT.

Dear Chair ICHIYAMA, Vice Chair Gabbard & Poepoe and members of the Committees:

I am writing in support of Bill SB-81 SD1. The bill as amended in SD1 expressly clarifies that permitting/regulation of conservation district lands under HRS chapter 183C remains with BLNR/DLNR. This clarifies an ambiguity in HRS § 195H-7(b) which does not specifically state that oversight of conservation lands should remain with B/DLNR as it currently does per existing statute, HRS § 183C. There should be independent oversight of the Maunakea Stewardship Oversight Authority (MKSOA) by the B/DLNR, especially since the lands under question are within the conservation district. All other state agencies and departments including OHA, UH, HCFDC, NELHA, DOE, DHHL, etc. are required to comply with conservation permitting requirements so there is no reason for the MKSOA to be exempt from this. There are practical implications as well. If the MKSOA were to be responsible for oversight of the conservation status of these lands then they would have to develop their own permitting processes for land uses within the Maunakea Science Reserve. This would essentially mean that they would be replicating existing regulatory frameworks, policies, processes, procedures, contested case procedures, and organizational structures already in place that manage conservation lands. This seems to be a waste of state and MKSOA resources.

However, SB 81 SD1 does create a new inconsistency and ambiguity regarding HRS chapter 171. HRS § 195H-7(b) currently provides:

Upon the expiration of the transition period, the authority shall carry out the powers and duties otherwise conferred upon the board of land and natural resources pursuant to chapter 171, and the land use commission pursuant to chapter 205, with regard to permits, dispositions, land use approvals, and any other approvals pertaining to the Mauna Kea lands. (Emphasis added.)

SB81 SD1 adds the following to the above paragraph:

... provided that all powers and duties of the board of land and natural resources and the department of land and natural resources pursuant to chapters 183C and 171, pertaining to areas designated under the state conservation district on Mauna Kea lands, shall be retained and shall not be transferred to the Mauna Kea stewardship and oversight authority upon the expiration of the five-year transition period.

Under SB81 SD1, does HRS chapter 171 transfer to the MKSOA (as the existing section states), or does HRS chapter 171 remain with BLNR/DLNR (as the added language states)? The same issues as stated above now apply here to chapter 171. There should continue to be independent oversight of permits,

dispositions, land use approvals, and any other approvals pertaining to the Mauna Kea lands as applies to other state agencies and departments. Similarly, the MKSOA should not be wasting resources on replicating existing B/DLNR management systems.

If the goal is a “mutual stewardship” paradigm for Maunakea lands currently under UH’s jurisdiction, as called for in HRS § 195H, then the MKSOA should focus their time and resources on those efforts. They should not be exempt from independent oversight since these are public lands and the community deserves the assurance that this provides.

Mahalo,

A handwritten signature in black ink that reads "R. Romo". The signature is written in a cursive, slightly slanted style. The letters are connected, with a prominent loop for the 'R' and a long tail for the 'o'. The signature is centered horizontally within the block.

Rodrigo Romo

SB-81-SD-2

Submitted on: 3/15/2023 3:30:12 PM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-81-SD-2

Submitted on: 3/16/2023 7:33:04 AM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-81-SD-2

Submitted on: 3/16/2023 9:56:12 AM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
james pirtle	Individual	Oppose	Written Testimony Only

Comments:

I opose this bill. The legislature is not lawfully elected thus does not have the authority to enact laws and bills. All actions are treason against the United States of America.