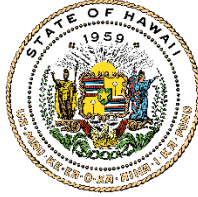


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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
RYAN K.P. KANAKA'OLE
FIRST DEPUTY
DEAN D. UYENO
ACTING 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 Senate Committee on
WATER AND LAND

Wednesday, January 31, 2024
1:00 p.m.

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 2297
RELATING TO NATURAL RESOURCE MANAGEMENT

Senate Bill 2297 proposes to clarify that the powers and duties of the Board of Land and Natural Resources (Board) pursuant to Chapters 183C and 171, Hawai'i Revised Statutes (HRS), pertaining to areas designated under the State Land Use Conservation District on Mauna Kea shall be retained and not transferred to the Mauna Kea Stewardship and Oversight Authority (Authority) upon the expiration of the five-year transition period provided for under Act 255, Session Laws of Hawai'i 2022 (Act 255). This bill further provides that the natural resource management enforcement and emergency response services on Mauna Kea lands shall remain with the Division of Conservation and Resources Enforcement. **The Department of Land and Natural Resources (Department) provides the following comments to this bill.**

Act 255 established the 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 under State lease with the University of Hawai'i (University) 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* § 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, after the transition period, Act 255 provides the Authority with

control and management of Mauna Kea lands, removing the Board and Department of oversight thereof. *See* § 7 of Act 255.

Senate Bill 2297 clarifies that despite the transfer of such management authority, the Board and Department will retain oversight of conservation lands¹ and responsibility for natural resource management enforcement and emergency response on Mauna Kea.

Mahalo for the opportunity to provide comments on this measure.

¹ Both regulatory and land management (i.e., leasing) authority would be retained by the Board and the Department.



MAUNAKEA STEWARDSHIP OVERSIGHT AUTHORITY (MKSOA)

19 E. Kawili Street, Hilo, HI 96720
Telephone (808) 933-0734 Fax (808) 933-3208
Website: <http://dlnr.hawaii.gov/maunakea-authority/>

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

Before the Senate Committee on Water & Land
Wednesday, January 31, 2024, 1:00 p.m.

In consideration of SENATE BILL 2297 RELATING TO NATURAL RESOURCE MANAGEMENT

Chair Inouye and Members of the Committee,

I am John Komeiji, Chair 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. The creation of the Authority was unanimously recommended by a Working Group created by the House of Representatives. The Working Group consisted of representatives from the House of Representatives, the Native Hawaiian community, the Astronomy community, the Department of Land and Natural Resources, the Office of Hawaiian Affairs, the University of Hawai‘i and other stakeholders.

We oppose the passage of SB 2297. SB 2297 would permanently empower the BLNR the final decision making on most, if not all matters dealing with the Mauna Kea lands. SB 2297 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 Hawai‘i, 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 the 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 2297 would repeal some of the fundamental pillars of MKSOA; the creation of an inclusive, independent, autonomous, decision-making body focused on the Mauna.

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 Hawai'i.

There may be concerns about MKSOA's commitment to conservation and preservation of natural resources of Maunakea. However, Act 255 which created MKSOA specifically directs the Authority to "protect Mauna Kea for future generations and manage the lands contained therein for the purpose of fostering a mutual stewardship paradigm in which ecology, the environment, natural resources, cultural practices, education and science are in balance and synergy".

Further, the Legislature urged MKSOA to adopt, among other principles, the value of 'Ōpū Kūpuna.

Understanding and embracing a duty and accountability to
Mauna Kea, its natural environment...

MKSOA understands the legislative intent in its creation and intends to be guided by this intent.

Finally, there may be concerns about the accountability of the members of the MKSOA. However, the Authority and its members, similar to other State boards and commissions, are accountable under the structure created by the Legislature.

1. MKSOA is administratively attached to an existing State agency, the DLNR;
2. Members, like the members of the Board of Land Natural Resources, are subject to Senate confirmation;
3. MKSOA appears before Legislative Committees to respond and answer questions about its direction and budget;
4. MKSOA is required to submit annual reports to Legislature; and
5. MKSOA is subject to a performance and financial audit by the State Auditor.

For these reasons, the Authority requests that SB 2297 be held in this Committee.

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



SB2297

RELATING TO NATURAL RESOURCE MANAGEMENT
Senate Committee on Water & Land

January 31, 2024

1:00 PM

Room 229

The Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees (BOT) **SUPPORT and provide comments** on SB2297, which clarifies that the Board of Land and Natural Resources' (BLNR) authority shall supersede the Mauna Kea Stewardship and Oversight Authority for all lands designated under the state conservation district and that the natural resource management enforcement and emergency response of Mauna Kea lands shall remain the responsibility of the Division of Conservation and Resources Enforcement of the Department of Land and Natural Resources (DLNR).

OHA appreciates this measure and the way that it clarifies that the State shall not relinquish its kuleana to oversee and enforce on lands designated as a state conservation district. OHA believes that BLNR not only must maintain its ability to enforce the terms of the leases on Mauna Kea but also needs to retain authority to carry out its fiduciary duties. BLNR must maintain this authority so that the state may uphold constitutional obligations. Article XII §7 reaffirms that the State "shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778." Mauna Kea summit lands are made up of crown and government lands also known as ceded lands. They are classified as conservation lands, meaning that they currently fall under BLNR jurisdiction. This bill makes it clear that BLNR will retain this authority into the future regardless of the actions of the Mauna Kea Stewardship and Oversight Authority or any other entity. **OHA believes the legislature must make this kuleana clear.**

Furthermore, OHA would like to present the following comments for the committee's consideration. This committee may want to consider adding language that makes clear that **BLNR has an affirmative and non-transferable duty to uphold and protect the traditional and customary rights of Native Hawaiians as articulated in Article XII §7 of the State Constitution.** We appreciate the current language of the bill but think it could be strengthened by this addition. Mauna Kea's significance goes beyond its

astronomical value. For Hawaiians, Mauna Kea holds significant spiritual and historical importance. This significance is not just placed in the past. The summit is a place Native Hawaiians continue to visit and care for today. Its protection and stewardship are integral to the spiritual, cultural, and overall health of the Hawaiian people. OHA asks this committee to consider making it clear that BLNR has a responsibility to protect their land for the continued traditional and customary use by Native Hawaiians. **OHA believes the Legislature has the authority to make it clear that this kuleana cannot be transferred to any other entity—state or private.**

For the above reasons, OHA supports SB2297 and respectfully offers additional comments for this committee's consideration. OHA believes this is an important step to ensure the State uphold its affirmative duty to Native Hawaiians and the crown and government lands it must steward. Mahalo nui for the opportunity to testify on this important issue.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Water and Land
Wednesday, January 31, 2024 at 1:00 p.m.

By

Bonnie Irwin

Chancellor

University of Hawai'i at Hilo

SB 2297 – RELATING TO NATURAL RESOURCE MANAGEMENT

Chair Inouye, Vice Chair Elefante, and Members of the Committee:

Thank you for the opportunity to provide feedback on SB 2297 relating to Natural Resource Management. The University of Hawai'i (UH) offers the following comments.

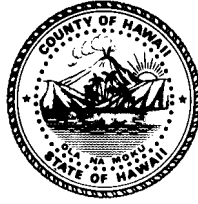
Act 255 transfers management responsibilities for Maunakea currently under UH to the Maunakea Stewardship Oversight Authority (MKSOA) after a five-year transition period that began July 1, 2023 and ends in July 1, 2028. During the transition period, UH and MKSOA jointly manage the lands currently under lease to UH from the state.

UH does not take a position on the roles and responsibilities for the protection of Maunakea after the transition period as outlined in SB 2297. However, UH respectfully notes that Act 255 itself recognized that creation of the MKSOA and the five-year transition period would likely require amendments to the law in future legislative sessions as many of the “principles and details” implicated in the transition will “yet need to be ascertained” (Findings and Purpose section of Act 255). Ensuring clarity of these “principles and details”, whatever that might be, would benefit DLNR, MKSOA, and UH alike as we plan and undergo the transition process.

The University of Hawai'i is committed to and continues to honor in good faith its stewardship responsibilities on Maunakea, caring for the unique cultural, natural and scientific resources of the mauna with its own and others contributions. We stand ready to collaborate with the MKSOA in the joint management called for during the five-year transition period established through Act 255 (codified in Section 195H of the Hawaii Revised Statutes).

Thank you for the opportunity to provide comments on this bill.

Susan L.K. Lee Loy
Council Member
District 3



Office: (808) 961-8396
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HAWAI'I COUNTY COUNCIL

25 Aupuni Street, Hilo, Hawai'i 96720

January 30, 2024

The Honorable Senator Lorraine R. Inouye, Chair
The Honorable Senator Brandon J.C. Elefante, Vice Chair
Members of the Senate Committee on Water and Land

Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: Support for SB 2297, relating to Natural Resource Management

Aloha Chair Inouye and Vice Chair Elefante, and Members of the Committee on Water and Land,

Mahalo for the opportunity to express support for SB 2297, which aims to clarify responsibilities in natural resource management, specifically for Mauna Kea lands in Hawai'i.

The proposed legislation clarifies powers and duties related to Mauna Kea lands within the state conservation district, addressing the evolving landscape of natural resource management, notably after Act 255. This bill establishes a framework that safeguards against ambiguity, providing a clear understanding.

As we navigate the transition outlined in Act 255, maintaining a balance is crucial to ensure the continuity of natural resource management enforcement and emergency response capabilities. This legislation achieves that by retaining specific powers and duties with the Board of Land and Natural Resources and the Department of Land and Natural Resources.

Again, please support this bill, a crucial step toward ensuring sustainable and responsible management of our natural resources on Mauna Kea.

Sincerely,

Susan "Sue" L.K. Lee Loy
Council Member, County of Hawai'i

SB-2297

Submitted on: 1/26/2024 2:52:35 PM

Testimony for WTL on 1/31/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

The STATE ARE THE BIGGEST CROOKS EVERYONR KNOWS THIS NOW!!!!!!!!!!!!