

A Bill for an Act Relating to Mauna Kea.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

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

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

**“CHAPTER  
MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY**

§ -1 **Findings and purpose.** The legislature finds that Mauna Kea serves as an important cultural and genealogical site to the people of Hawaii, particularly to Native Hawaiians. The summit region of Mauna Kea is a spiritual and special place of significance that is home to cultural landscapes, fragile habitats, and historical and archaeological artifacts. Due to its topographical prominence, Mauna Kea is also a highly valued site for astronomical study, which produces many significant discoveries that contribute to humanity’s study and understanding of the universe. However, in recent years, Mauna Kea has come to symbolize a rigid dichotomy between culture and science, often leading to polarization between stakeholders on Mauna Kea and local communities. This is a dynamic that plays out over many issues in many places. The critical significance of Mauna Kea for both culture and science offers an urgent and unique opportunity to surmount the dichotomy and develop new ways to mutually steward Mauna Kea. Therefore, a reformation of the stewardship of Mauna Kea is an issue of the highest priority in the State.

To commence the resolution of these issues to protect Mauna Kea and bring about a more harmonious coexistence of uses atop the mountain, the legislature has established the Mauna Kea stewardship and oversight authority and the governance structure contained in this chapter 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.

The legislature also recognizes that the enactment of this chapter is a pivot point that will require a transition, during which many principles and details will yet need to be ascertained. It is expected that amendments and additions will need to be made in future legislative sessions to ensure a mutually beneficial balance is always maintained for Mauna Kea and the people of Hawaii.

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

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

“Authority” means the Mauna Kea stewardship and oversight authority.

“Chairperson” means the chairperson of the authority.

“Lease” means the contractual right to possess and use a specified portion of land for a term of years.

“Mauna Kea land area” or “Mauna Kea lands” means lands under the state lease, as defined in this chapter.

“Person” includes an individual, a partnership, a corporation, or an association, except as otherwise defined in this chapter.

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

**§ -3 Mauna Kea stewardship and oversight authority; established.** (a)

There is established the Mauna Kea stewardship and oversight authority, which shall be a body corporate and a public instrumentality of the State for the purpose of implementing this chapter. The authority shall serve jointly with the University of Hawaii in fulfilling the obligations and duties under the state lease for a period of five years as established in section -6. The authority shall be placed within the department of land and natural resources for administrative purposes; provided that section 26-35 shall not apply to the authority.

(b) The authority shall consist of eleven voting members; provided that all members listed under paragraphs (4), (5), (6), (7), (8), (9), and (10) shall be appointed by the governor and subject to confirmation by the senate pursuant to section 26-34. If a past member of the University of Hawaii board of regents is appointed to fill the seat described in paragraph (3), the appointee shall be subject to confirmation by the senate pursuant to section 26-34. The chancellor of the University of Hawaii at Hilo shall serve as an ex officio, nonvoting member. The voting members shall include:

- (1) The chairperson of the board of land and natural resources, or the chairperson’s designee;
- (2) The mayor of the county of Hawaii, or the mayor’s designee;
- (3) The chairperson of the board of regents of the University of Hawaii; provided that the chairperson of the University of Hawaii board of regents may designate a:
  - (A) Member of the board of regents; or
  - (B) Past member of the board of regents with experience with Mauna Kea,

to serve as the chairperson of the University of Hawaii board of regents’ designee;

- (4) An individual with aina (land) resource management expertise and specific experience with Hawaii island-based management;
- (5) An individual who is recognized as possessing expertise in the fields of p-12 public education or post-secondary education;
- (6) A representative who shall be appointed by the governor from a list of three names submitted by Maunakea Observatories;
- (7) An individual with business and finance experience who has previous administrative experience in managing a large private-sector business;
- (8) An individual who is a lineal descendent of a practitioner of Native Hawaiian traditional and customary practices associated with Mauna Kea;
- (9) An individual who is a recognized practitioner of Native Hawaiian traditional and customary practices; and

- (10) Two members who shall be appointed by the governor from a list of three names submitted for each appointment by the president of the senate and speaker of the house of representatives, respectively; provided that if fewer than three names are submitted for either appointment, the governor may disregard the list;

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

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

(c) The governor shall appoint the chairperson of the authority from the members appointed pursuant to paragraphs (4), (5), (7), (8), (9), or (10) of subsection (b). If the governor appoints a person as chairperson who is not a sitting member of the authority, the governor shall designate that appointee as the chairperson prior to transmitting the appointment to the senate for confirmation. If the governor appoints a sitting member of the authority to serve as chairperson, the member appointed to serve as chairperson shall not be subject to an additional confirmation by the senate unless the member's term expires and the member is subsequently reappointed to the authority. If the chairperson resigns or is unable to fulfill the duties of the position, the authority may elect a vice chairperson from its membership to serve as the acting chairperson until a successor is appointed by the governor and, if needed, confirmed by the senate.

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

(d) Notwithstanding section 26-34(a), with respect to length and amount of terms, the members of the authority shall serve for a term of three years and shall not serve more than three partial or full terms; provided that the initial terms shall be staggered, as determined by the governor.

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

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

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

- (1) Mauna Aloha - Understanding the reciprocal value of the mauna and a long-term commitment to maintaining the integrity of Mauna Kea;
- (2) Opu Kupuna - Understanding and embracing a duty and accountability to Mauna Kea, the natural environment, and to perpetuate the Native Hawaiian traditional and customary practices embedded in the landscape of the 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;
- (5) Appoint officers, agents, and employees who may be exempt from chapter 76, prescribe their duties and qualifications, and fix their salaries;
- (6) Provide advisory, consultative, training, and educational services; technical assistance; and advice to any person, partnership, or corporation, either public or private, to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (7) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;
- (8) Contract for and accept gifts or grants in any form from any public agency or from any other source;
- (9) Adopt rules governing the procurement and purchase of goods, services, and construction, subject to the requirements of chapter 103D;
- (10) Enter into cooperative agreements, easements, subleases, or other contracts, as necessary, with any state agency, county agency, or private landowner;
- (11) Contract for executive and administrative employee services;
- (12) Call upon the attorney general for legal services or employ its own counsel in conformity with section 28-8.3; and
- (13) Do any and all things necessary to carry out its purposes and exercise the powers granted in this chapter.
  - (b) Notwithstanding any other law to the contrary, the authority shall:
    - (1) Be the principal authority for the management of state-managed lands within the Mauna Kea lands;
    - (2) Provide oversight and protect traditional and customary Native Hawaiian rights, as set forth in the Hawaii State Constitution, and not unduly burden individuals exercising these rights;
    - (3) Establish a process that provides and ensures transparency, analysis, and justification for lease terms of its land and monetary consideration that is 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; stewardship; education; research; disposition; and overall operations. The management plan shall:

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

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

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

- (1) Limitations on the number of observatories and astronomy-related facilities, or an astronomy facility footprint limitation;
- (2) Prioritizing the reuse of footprints of observatories that are scheduled for decommissioning, or have been decommissioned, as sites for facilities or improvements over the use of undeveloped lands for such purposes; and
- (3) A set of principles for returning the lands used for astronomy research to their natural state whenever observatories are decommissioned or no longer have research or educational value.

(e) During the transition period, the authority may take any actions necessary to prepare for the assumption of total authority over Mauna Kea lands at the end of the transition period, including the adoption of rules pursuant to section -13(b).

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

**§ -7 Authority after transition period.** (a) Following the end of the transition period pursuant to section -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 regard to the control and management of Mauna Kea lands. Subject to section -5 and upon the direction of the authority, the department of land and natural resources shall:

- (1) Implement controls and permitted uses of Mauna Kea lands;
- (2) Enforce this chapter;
- (3) Provide administrative support to the authority; and
- (4) Authorize those of its employees as it deems reasonable and necessary to serve and execute warrants and arrest offenders or issue citations in all matters relating to the enforcement of the laws and rules applicable to Mauna Kea lands.

(b) Notwithstanding any law to the contrary, all powers and duties of the board of land and natural resources pursuant to chapter 171, and the land use commission pursuant to chapter 205, 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; provided that the transfer of such powers and duties from the board of land and natural resources and the land use commission may occur earlier, upon approval of the authority, the board of land and natural resources, and the land use commission. 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.

**§ -8 Astronomy development; declaration of policy; reserved viewing or observing time and other requirements.** (a) It is declared that the support of astronomy consistent with section -1 is a policy of the State.

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

- (1) Hawaii students, including:
  - (A) Graduate and undergraduate students of the University of Hawaii;
  - (B) Students of Hawaii public schools operated by the department of education; and
  - (C) Students from any other school, public or private, in which education is provided to students in the medium of the Hawaiian language, in whole or in part, or that includes a Hawaiian language proficiency requirement for graduation; and

(2) Projects curated and submitted by the University of Hawaii at Hilo Imiloa astronomy center.

(c) The authority shall develop, negotiate, and execute agreements that promote astronomy. This includes education, training, employment, and professional development opportunities for state residents.

(d) The university shall submit an annual report on the use of the reserved viewing or observing time, including the application of the priorities listed in subsection (b), to the authority and legislature no later than twenty days prior to the convening of each regular session, commencing with the regular session immediately succeeding the expiration of the transition period established in section -6.

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

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

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

- (1) A review of the authority's management actions;
- (2) A review of the implementation of all legislatively required plans, including financial and management reports, budgets, expenditures, and plans;
- (3) A review of the human uses of the natural and cultural resources of Mauna Kea and the impacts of the human uses on these resources;
- (4) A review of the commercial uses of the natural and cultural resources of Mauna Kea and the impacts of the commercial uses on these resources;
- (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) The specific use or uses to which the land is to be employed;

- (2) The improvements required; provided that a minimum reasonable time be allowed for the completion of the improvements;
- (3) Restrictions against alienation;
- (4) The rent, as established by independent appraisal or rules of the authority, or both, or at public auction, which shall be payable not more than one year in advance, in monthly, quarterly, semiannual, or annual payments;
- (5) Where applicable, 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;
- (6) If the lease is for an astronomical observatory, reserved viewing or observing time in accordance with 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 or a preliminary ruling that is of the nature defined by section 91-14(a) upon the record directly to the supreme court for final decision. Only a person aggrieved in a contested case proceeding provided for in this chapter may appeal from the final decision and order or preliminary ruling. For the purposes of this section, the term “person aggrieved” includes an agency that is a party to a contested case proceeding before that agency or another agency.

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

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

- (1) Appropriations from the legislature;
  - (2) Moneys from supplemental sources as authorized by the authority, pursuant to the powers granted by this chapter;
  - (3) Any grant or donation made to the special fund; and
  - (4) Any interest earned on the balance of the special fund.
- (b) Proceeds from the special fund shall be used for administration, capital improvement projects, and other purposes pursuant to this chapter.

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

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

1. By amending subsection (a) to read:

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

- (1) By the public utilities commission, the labor and industrial relations appeals board, and the Hawaii labor relations board;
- (2) By any court or judicial or legislative office of the State; provided that if the attorney general is requested to provide representation to a court or judicial office by the chief justice or the chief justice’s designee, or to a legislative office by the speaker of the house of representatives and the president of the senate jointly, and the attorney general declines to provide such representation on the grounds of conflict of interest, the attorney general shall retain an attorney for the court, judicial, or legislative office, subject to approval by the court, judicial, or legislative office;
- (3) By the legislative reference bureau;
- (4) By any compilation commission that may be constituted from time to time;
- (5) By the real estate commission for any action involving the real estate recovery fund;
- (6) By the contractors license board for any action involving the contractors recovery fund;
- (7) By the office of Hawaiian affairs;
- (8) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485A;
- (9) As grand jury counsel;
- (10) By the Hawaii health systems corporation, or its regional system boards, or any of their facilities;
- (11) By the auditor;
- (12) By the office of ombudsman;
- (13) By the insurance division;
- (14) By the University of Hawaii;
- (15) By the Kahoolawe island reserve commission;
- (16) By the division of consumer advocacy;
- (17) By the office of elections;
- (18) By the campaign spending commission;
- (19) By the Hawaii tourism authority, as provided in section 201B-2.5;
- (20) By the division of financial institutions;
- (21) By the office of information practices;
- (22) By the school facilities authority; [ø]
- (23) By the Mauna Kea stewardship and oversight authority; or
- [23] (24) By a department, if the attorney general, for reasons deemed by the attorney general to be good and sufficient, declines to employ or retain an attorney for a department; provided that the governor waives the provision of this section.”

2. By amending subsection (c) to read:

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

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

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

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of

- the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
  - (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
  - (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
  - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
  - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
  - (13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
  - (B) Positions filled with students in accordance with guidelines for established state employment programs; and
  - (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
  - (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and

- whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
  - (17) Positions specifically exempted from this part by any other law; provided that:
    - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
    - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;
  - (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
  - (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
  - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
  - (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
  - (24) The sheriff;
  - (25) A gender and other fairness coordinator hired by the judiciary;
  - (26) Positions in the Hawaii National Guard youth and adult education programs;
  - (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
  - (28) Administrative appeals hearing officers in the department of human services;
  - (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care ser-

vices branch administrator, medical director, and clinical standards administrator;

- (30) In the director’s office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst;
- (31) The Alzheimer’s disease and related dementia services coordinator in the executive office on aging;
- (32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that, for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance;

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

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

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

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

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

- (1) Study and recommend whether a reserve should be established that specifically preserves Mauna Kea lands for natural, ecological, archaeological, and historical preservation; cultural practice; rehabilitation, revegetation, and habitat restoration; and educational purposes. If the Mauna Kea stewardship and oversight authority recommends that a reserve be established, the authority shall also make a recommendation on the lands to be included within the reserve;
  - (2) Conduct an assessment on whether the University of Hawaii school of astronomy should be relocated, in whole or in part, to the University of Hawaii at Hilo; and
  - (3) Include in its study and report any other information on issues relating to the management and protection of Mauna Kea it deems appropriate.
- (b) The Mauna Kea stewardship and oversight authority shall submit:
- (1) An interim report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2024; and
  - (2) A final report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2025.

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

## PART II

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

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

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

(d) Notwithstanding subsection (b) or any action that is a consequence of this Act, including a merger of interests, effective July 1, 2028, every reference to the department of land and natural resources, board of land and natural resources, or the chairperson of the board of land and natural resources in those deeds, leases, subleases, contracts, loans, agreements, permits, or other documents relating to Mauna Kea lands shall be construed as a reference to the Mauna Kea stewardship and oversight authority or the chairperson of the authority, as appropriate; provided that all deeds, leases, subleases, contracts, loans, agreements, permits, or other documents executed or entered into prior to the effective date of this Act, by or on behalf of the department of land and natural resources or the board of land and natural resources pursuant to the Hawaii Revised Statutes that are reenacted or made applicable to the Mauna Kea stewardship and oversight authority by this Act, shall remain in full force and effect until its expiration unless otherwise specifically amended pursuant to an agreement by the Mauna Kea stewardship and oversight authority and the University of Hawaii.

SECTION 8. (a) All employees who occupy civil service positions and whose functions are transferred to the Mauna Kea stewardship and oversight authority by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which trans-

ferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

(b) Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act may retain the employee's exempt status but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The executive director of the center for Mauna Kea stewardship may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

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

### PART III

SECTION 10. During the transition period, the University of Hawaii board of regents and president shall exercise the authority granted to them by part IV, subpart O, of chapter 304A, Hawaii Revised Statutes, only to the extent as necessary to allow the Mauna Kea stewardship and oversight authority, established pursuant to part I of this Act, to assume authority of Mauna Kea lands pursuant to this Act; provided that the University of Hawaii board of regents and the president of the University of Hawaii shall cooperate and work collaboratively with the authority to support and ensure the successful transition of stewardship and oversight of the Mauna Kea lands; provided further that the University of Hawaii at Hilo shall provide all necessary support to the Mauna Kea stewardship and joint oversight during the transition period consistent with the purposes of this Act, including equitably funding the authority and University of Hawaii.

### PART IV

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

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

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

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

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

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

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

## PART VII

SECTION 17. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

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

(Approved July 7, 2022.)

### Note

1. Edited pursuant to HRS §23G-16.5.