
A BILL FOR AN ACT

RELATING TO MAUNA KEA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Mauna Kea is a
2 sacred place for the Hawaiian people. According to Hawaiian
3 cultural traditions, Mauna Kea is the home of the divine
4 ancestors of the Hawaiian people. It is also both a burial
5 ground and an important site for Hawaiian cultural practices.
6 It hosts hundreds of archaeological sites, most of which are
7 historic heiau, or shrines, used in Hawaiian spiritual
8 practices. Additionally, Mauna Kea is home to numerous flora
9 and fauna that are not found anywhere else on the planet, some
10 of which have been designated as endangered species by the
11 United States Fish and Wildlife Service.

12 The legislature further finds that the protection and
13 preservation of Mauna Kea is an issue of statewide concern.
14 Since 1998, four audits by the state auditor have been critical
15 of the management, stewardship, and protection of Mauna Kea.
16 Although significant changes have occurred on Mauna Kea since
17 the 1998 audit, negative experiences over the past fifty years



1 have eroded public confidence and demonstrated the critical need
2 for a new approach to the stewardship of Mauna Kea.

3 The legislature additionally finds that environmental
4 personhood laws have been enacted in the United States and
5 throughout the world as a means of protecting important
6 ecological and cultural places. In 2006 and 2007, the town of
7 Tamaqua Borough in Pennsylvania established the first
8 environmental personhood ordinances in the nation, which were
9 intended to combat toxic waste. Since then, other locations
10 have enacted or proposed "rights of nature" measures, including
11 in 2010 Pittsburgh, Pennsylvania, and in 2020 Orange County,
12 Florida. Perhaps the most well-known international example of
13 environmental personhood is the Te Awa Tupua (Whanganui River
14 Claims Settlement) Act of 2017 enacted by the New Zealand
15 parliament, which was the first piece of legislation to declare
16 a river to be a legal person. The Te Awa Tupua Act bestowed
17 upon the Whanganui River the rights, duties, and powers of a
18 legal person, including the ability to sue those who harm it.
19 Moreover, the Te Awa Tupua Act was aimed at improving the
20 relationship between the government of New Zealand and its
21 indigenous people through the enshrinement of the rights of



1 nature associated with the culturally significant Whanganui
2 River into law.

3 The legislature finds that a similar legal model would be
4 beneficial in resolving longstanding concerns about the
5 management and stewardship of Hawaii's natural resources and
6 public lands, including Mauna Kea.

7 Accordingly, the purpose of this Act is to establish legal
8 personhood for Mauna Kea.

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

12 "CHAPTER

13 RIGHTS OF NATURE

14 § -1 Definitions. As used in this chapter:

15 "Board of regents" means the board of regents of the
16 University of Hawaii.

17 "Mauna Kea" shall mean all lands and natural resources on
18 the mountain situated on the island of Hawaii known as Mauna
19 Kea, Maunakea, Mauna a Wakea, Mauna O Wakea, Ka Mauna a Kea, or
20 Mauna Akea, including but not limited to lands under the
21 jurisdiction of the department of land and natural resources and



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1 lands leased by the University of Hawaii or over which the
2 University of Hawaii acquires control or jurisdiction.

3 § -2 Mauna Kea; legal personhood. (a) Mauna Kea shall
4 be recognized as a legal person and shall have the rights,
5 powers, and duties of a legal person, including the right to
6 exist and flourish.

7 (b) The board of land and natural resources, the board of
8 regents, and any other public or private entity using Mauna Kea
9 lands shall recognize the legal personhood of Mauna Kea and
10 shall not engage in, or attempt to engage in, activities that
11 violate the rights, powers, and duties bestowed upon Mauna Kea
12 by its establishment as a legal person.

13 § -3 Natural resources; uses; activities; leases;
14 licenses; permits; easements. The natural resources found on
15 Mauna Kea, including all flora and fauna, shall be considered to
16 have an inalienable connection to the health and well-being of
17 Mauna Kea. No use, activity, lease, license, permit, or
18 easement involving Mauna Kea shall be approved that compromises
19 or endangers this connection.

20 § -4 Right of action. Any individual, public agency, or
21 private entity may bring an action against another individual or



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1 entity that violates or attempts to violate the legal personhood
2 of Mauna Kea."

3 SECTION 3. Chapter 171, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§171- Mauna kea lands; leases; land licenses;
7 permits; easements. (a) Prior to approving any lease, land
8 license, permit, or easement involving Mauna Kea lands, the
9 board shall publish a report explaining how the requirements of
10 chapter will be met by the potential lessee, licensee,
11 permitee, or easement holder.

12 (b) For purposes of this section, "Mauna Kea lands" shall
13 mean all lands situated on the mountain on the island of Hawaii
14 known as Mauna Kea, Maunakea, Mauna a Wakea, Mauna O Wakea, Ka
15 Mauna a Kea, or Mauna Akea under the jurisdiction of the
16 department."

17 SECTION 4. Section 304A-1902, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§304A-1902[+] Mauna Kea lands; fees; lease agreements.

20 (a) The board of regents may charge a fee for use of the Mauna



1 Kea lands and for the use of facilities and programs related to
2 the Mauna Kea lands.

3 (b) The board of regents may enter into lease agreements
4 for the Mauna Kea lands; provided that the University of Hawaii
5 shall comply with all statutory requirements in the disposition
6 of ceded lands.

7 (c) Prior to approving any activity, use, or lease
8 agreement involving Mauna Kea lands, the board of regents shall
9 publish a report explaining how the requirements of chapter
10 will be met by the individuals or entities undertaking the use,
11 activity, or lease agreement.

12 [~~e~~] (d) In establishing the fees, the board of regents
13 shall be exempt from the public notice, public hearing, and
14 gubernatorial approval requirements of chapter 91; provided that
15 the fees shall be established at an open public meeting pursuant
16 to chapter 92. The fees shall be deposited into the Mauna Kea
17 lands management special fund established under section 304A-
18 2170."

19 SECTION 5. (a) There is established a Mauna Kea legal
20 personhood working group within the department of land and
21 natural resources for administrative purposes. The purpose of



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1 the Mauna Kea legal personhood working group shall be to develop
2 recommendations regarding the implementation of legal personhood
3 for Mauna Kea, including but not limited to changes to
4 administrative rules and University of Hawaii policies necessary
5 to effectuate this Act.

6 (b) The Mauna Kea legal personhood working group shall
7 consist of:

- 8 (1) The governor or the governor's designee;
- 9 (2) The president of the senate or the president's
10 designee;
- 11 (3) The speaker of the house of representatives or the
12 speaker's designee;
- 13 (4) The chairperson of the department of land and natural
14 resources or the chairperson's designee;
- 15 (5) The chairperson of the board of trustees of the office
16 of Hawaiian affairs or the chairperson's designee;
- 17 (6) The president of the University of Hawaii or the
18 president's designee;
- 19 (7) A representative from a nonprofit, public interest
20 organization specializing in advocacy for
21 environmental and conservation issues;



1 (8) A representative from a nonprofit, public interest
2 organization specializing in Native Hawaiian rights
3 law; and

4 (9) A representative from a nonprofit, public interest
5 organization specializing in Native Hawaiian cultural
6 practices.

7 (c) The members of the working group may select a
8 chairperson from amongst its membership.

9 (d) In its deliberations, the Mauna Kea legal personhood
10 working group shall review:

11 (1) The Te Awa Tupua (Whanganui River Claims Settlement)
12 Act of 2017 enacted by the New Zealand Parliament;

13 (2) Ordinances enacted in 2006 and 2007 in Tamaqua
14 Borough, Pennsylvania, relating to banning corporate
15 toxic waste;

16 (3) The Wekiva River and Econlockhatchee River Bill of
17 Rights passed by Orange County, Florida, voters in
18 2020;

19 (4) The decision of the United States Court of Appeals,
20 Ninth Circuit, in *Palila v. Hawaii Department of Land*
21 *and Natural Resources*;



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- 1 (5) Ordinances enacted in 2010 by the Pittsburgh City
2 banning corporations from conducting natural gas
3 drilling in the city and recognizing the legally
4 enforceable rights of nature to exist and flourish;
5 and
- 6 (6) Recommendations from the Community Environmental Legal
7 Defense Fund regarding the recognition and enforcement
8 of the rights of nature.
- 9 (e) The Mauna Kea legal personhood working group shall
10 submit an interim report to the legislature detailing the status
11 of its discussions no later than twenty days prior to the
12 convening of the regular session of 2022.
- 13 (f) The Mauna Kea legal personhood working group shall
14 submit a final report to the legislature of its recommendations,
15 including any proposed legislation, on the implementation of
16 legal personhood for Mauna Kea no later than twenty days prior
17 to the convening of the regular session of 2023.
- 18 (g) The Mauna Kea legal personhood working group shall not
19 be subject to the requirements of chapter 92, Hawaii Revised
20 Statutes.



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1 (h) The Mauna Kea legal personhood working group shall
2 serve without compensation.

3 (i) The Mauna Kea legal personhood working group shall
4 serve until it has accomplished the purposes of this Act or
5 twenty days prior to the convening of the regular session of
6 2023, whichever occurs first.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval.

10

INTRODUCED BY:



JAN 25 2021



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Report Title:

Mauna Kea; Legal Personhood; Rights of Nature; Working Group

Description:

Establishes legal personhood for Mauna Kea. Requires the board of land and natural resources and board of regents of the University of Hawaii to provide certain information prior to approving any use, activity, lease, license, permit, or easement on Mauna Kea. Establishes the Mauna Kea legal personhood working group to review measures enacted by various jurisdictions to protect the rights of nature.

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