

**HB1658/SB2127**

## Promoting Better Management of Mauna Kea Lands

**This bill seeks to provide better management of Mauna Kea's lands and resources by requiring subleases to reflect and support the stewardship responsibilities of UH.**

For decades, UH has been criticized for its failure to properly manage the culturally and environmentally significant Mauna Kea lands it leases from the state. At the same time, it has repeatedly missed opportunities to better fund its stewardship responsibilities, issuing subleases of its Mauna Kea lands for multi-million dollar observatory development projects, for \$1 a year or less. This is clearly insufficient to fund appropriate management, and has led to the use of general funds, grants, and research funds for the management activities.

To ensure that UH more fully recognizes its duty to care for all of its Mauna Kea lands, this bill mandates an open, transparent, and standardized subleasing process, which reflects Mauna Kea's management needs in the determination of sublease rent. To this end, the Board of Regents must adopt administrative rules describing how it will obtain a "fair rate of return" for sublease and sublease extensions, including written, sublease-specific considerations of the costs of implementing the Mauna Kea management plan, environmental degradation from sublease activities, and the loss of access for traditional and customary practices, among other factors. In addition, a public hearing and an express consideration of all public testimony is required prior to the issuance of any sublease.

**HOW DO WE KNOW SUBLEASE RENTS WILL BE USED TO STEWARD MAUNA KEA?**

Act 132 of 2009 requires that all net rents from subleases be deposited into a Mauna Kea Lands management special fund, which shall be used for managing the Mauna Kea Lands and the enforcement of administrative rules related to the Mauna Kea Lands.

**ISN'T UH ALREADY DRAFTING RULES FOR BETTER MANAGEMENT?**

The current rule draft does not address subleasing procedures, much less how sublease rents will ensure a fair rate of return, sufficiently support UH's management responsibilities, or provide for meaningful public review and comment. Despite repeated concerns raised by OHA, the Office of Mauna Kea Management officials have not indicated any interest in including such provisions, notwithstanding that a transparent process may assist UH in fulfilling its management and oversight obligations over these lands.

**HAVEN'T THE GOVERNOR AND UH ALREADY PROMISED BETTER MANAGEMENT OF MAUNA KEA?**

This bill provides concrete mechanisms for transparency and accountability in subleasing and will better ensure that UH fulfills its management responsibilities, which are not provided for by the Governor's and UH's commitments. Moreover, the commitments of Governor Ige and President Lassner are not necessarily binding, especially in the event of new leadership in the state or at UH. The statutory mandates in this bill will provide long-term and enforceable assurances that will outlast changes in administration at either the state or UH.

**WHY WOULD OHA SUPPORT FUTURE SUBLEASES?**

OHA will not necessarily support or oppose future subleases or extensions of existing subleases. The existing Master Lease from BLNR to UH and HRS 304A-1902 allows UH to enter into sublease agreements and charge fees for the use of the Mauna Kea lands and facilities. If UH is awarded the Master Lease extension it is requesting, operators of existing telescopes will be interested in extending their current subleases. Several telescopes are expected to still be operable for more than 30 years and several aging telescopes have been proposed for replacement or major renovation. This bill would merely ensure that **if** new or extend existing subleases are considered, that it is done through a transparent process and that it considers the costs of appropriate management, the loss of use of the lands, the potential for environmental degradation, and impacts to Native Hawaiians.

**AREN'T THERE ALREADY NUMEROUS OPPORTUNITIES FOR THE PUBLIC TO GIVE INPUT ON SUBLEASES?**

Although previous sublease approvals by the BOR and BLNR have included public input opportunities, it is unclear what information the BOR or BLNR used to justify approval of past subleases. The only publically available information, which was only found after combing through meeting minutes, was not sufficient to fund appropriate management. By requiring a fair rate of return and the BOR to provide a written statement describing how the rent terms meet that standard, the public land trust beneficiaries will have access to information on how the BOR came to its decision, which will benefit both the public and UH.