



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Higher Education
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by
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HB 1689 – RELATING TO MAUNA KEA

Chair Choy, Vice Chair Ichiyama and Members of the Committee:

Thank you for the opportunity to submit testimony on HB 1689, which requires the University of Hawai'i (UH) to use a fair market value rate for the lease of its Mauna Kea lands when it calculates the pro rata share of ceded land revenues to be transferred to the Office of Hawaiian Affairs (OHA).

UH is committed to charging substantial rent for all new astronomy subleases on Mauna Kea and to paying OHA its 20% share of those rents. UH currently pays OHA 20% of revenues collected from tour operations licensed by the Office of Mauna Kea Management on the mountain and has paid nearly \$500,000 to date.

The first opportunity to apply the new paradigm created by the Legislature with the passage of Act 132 in 2009 will be the sublease for the Thirty Meter Telescope (TMT), which is currently under negotiation and is expected to be finalized this spring. That sublease will include the payment of substantial rent, of which 20% will be paid to OHA. The remaining rent from TMT will be used to fund the management of the university's Mauna Kea lands. UH believes this process should be allowed to come to fruition before revisiting the structure of Act 132.

Existing subleases on Mauna Kea run through 2033 and do not provide for the payment of rent. The language of this bill would appear to require UH to pay OHA 20% of "fair market value of using Mauna Kea lands" for those subleases even though no revenue is actually being received. UH is committed to paying OHA its 20% share of revenues received, but opposes any requirement to pay when no actual revenue exists. UH is not aware of any other situation in which an agency is required to make payments in the absence of actual revenue from ceded lands.

UH also has concerns about applying the concept of "fair market value" to the unique situation of astronomy on Mauna Kea. UH is committed to charging substantial rents to all new subleases, which will be dedicated to stewardship of the mountain, as required by law. However, there is no established rental market for astronomy sites or the Mauna Kea summit, so a standard based on "fair market value" would be difficult to apply. If a standard of this nature is needed, UH suggests that a more appropriate measure would be one that divides the costs of appropriate stewardship among astronomy facilities on the mountain, to be phased in over time as the TMT sublease and any future sublease renegotiations are completed.

Thank you for the opportunity to provide testimony.