
A BILL FOR AN ACT

RELATING TO SUSTAINABILITY.

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

1 SECTION 1. During the 2005 special session, the
2 legislature adopted Act 8, Special Session Laws of Hawaii 2005,
3 which created the Hawaii 2050 task force to review the Hawaii
4 state plan and the State's planning process, and required the
5 office of the auditor to prepare and submit to the legislature
6 the Hawaii 2050 sustainability plan. In enacting Act 8, the
7 legislature expressed its belief that government is responsible
8 for resolving daily and immediate issues and public needs, while
9 providing guidance to assure a sustainable future and outlook.

10 The creation of the Hawaii 2050 sustainability plan comes
11 as the State faces a growing number of pressing issues,
12 including the steady deterioration of public infrastructure;
13 lack of affordable housing; continued reliance on a
14 service-based economy; vulnerability of Hawaii in a volatile
15 global energy market; possible interruptions in travel and
16 critical food supplies; threats to fragile island ecosystems;
17 and ever increasing numbers of residents and visitors. These



1 issues all raise questions about the long term limits of growth
2 in the State and motivate the need to begin planning and action
3 to assure Hawaii's future.

4 Addressing and solving issues critical to Hawaii's way of
5 life and natural resources requires coordinated community
6 efforts to produce comprehensive, long-range planning policies
7 and actions. Within that context, the Hawaii 2050
8 sustainability task force and plan have revitalized the State's
9 long-term planning process to better guide the future
10 development of Hawaii.

11 There are several existing state agencies and offices, or
12 state officer duties and responsibilities, which focus on and
13 serve various functions in achieving and maintaining a more
14 sustainable future for the State, including the agribusiness
15 development corporation, the commission on water resource
16 management, the duties and responsibilities of the energy
17 resources coordinator, the Hawaii community development
18 authority, the land use commission, the office of environmental
19 quality control, and the office of planning. Although these
20 state agencies and officials strive to develop and set forth
21 policies relating to various aspects of sustainability, they are
22 each placed under different state departments for administrative



1 purposes. Combining these state agencies and certain duties and
2 responsibilities under a single state department will enable
3 these agencies to unify their sustainability efforts under a
4 single administrative umbrella. Thus, establishing a new
5 department dedicated to planning and sustainability creates,
6 clarifies, and concentrates the State's long-range planning and
7 sustainability initiatives, policies, and efforts by using
8 existing agencies and offices rather than creating an additional
9 layer of government.

10 The purpose of this Act is to establish within the
11 executive branch of state government a new department of
12 planning and sustainability to address issues regarding the
13 long-range planning of the State, to coordinate policies and
14 actions relating to state planning and sustainability, and to
15 provide a comprehensive sustainability agenda for the State.

16 **PART I**

17 SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended
18 by adding a new section to be appropriately designated and to
19 read as follows:

20 "§26- Department of planning and sustainability. (a)

21 The department of planning and sustainability shall be headed by



1 a single executive to be known as the director of planning and
2 sustainability.

3 The department shall:

4 (1) Undertake statewide long-range planning and
5 sustainability activities;

6 (2) Undertake energy development and management;

7 (3) Provide sustainability research and analysis; and

8 (4) Encourage, develop, and implement plans for Hawaii's

9 agriculture and food supply, land use, community

10 development and housing, economy, environment, energy,

11 natural resources, lifestyle, and culture through

12 programs established by law.

13 (b) The following are placed in the department of planning

14 and sustainability for administrative purposes as defined by

15 section 26-35: the agribusiness development corporation,

16 commission on water resource management, duties and

17 responsibilities of the energy resources coordinator, Hawaii

18 community development authority, land use commission, office of

19 environmental quality control, office of planning, and any other

20 boards and commissions as shall be provided by law."

21 SECTION 3. Section 26-4, Hawaii Revised Statutes, is

22 amended to read as follows:



1 "§26-4 **Structure of government.** Under the supervision of
2 the governor, all executive and administrative offices,
3 departments, and instrumentalities of the state government and
4 their respective functions, powers, and duties shall be
5 allocated among and within the following principal departments
6 that are hereby established:

- 7 (1) Department of human resources development (Section
8 26-5);
- 9 (2) Department of accounting and general services (Section
10 26-6);
- 11 (3) Department of the attorney general (Section 26-7);
- 12 (4) Department of budget and finance (Section 26-8);
- 13 (5) Department of commerce and consumer affairs (Section
14 26-9);
- 15 (6) Department of taxation (Section 26-10);
- 16 (7) University of Hawaii (Section 26-11);
- 17 (8) Department of education (Section 26-12);
- 18 (9) Department of health (Section 26-13);
- 19 (10) Department of human services (Section 26-14);
- 20 (11) Department of land and natural resources (Section
21 26-15);
- 22 (12) Department of agriculture (Section 26-16);



- 1 (13) Department of Hawaiian home lands (Section 26-17);
- 2 (14) Department of business, economic development, and
- 3 tourism (Section 26-18);
- 4 (15) Department of transportation (Section 26-19);
- 5 (16) Department of labor and industrial relations (Section
- 6 26-20);
- 7 (17) Department of defense (Section 26-21);
- 8 (18) Department of public safety (Section 26-14.6) [-]; and
- 9 (19) Department of planning and sustainability (Section
- 10 26-) ."

11 SECTION 4. Section 26-52, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§26-52 Department heads and executive officers.** The
 14 salaries of the following state officers shall be as follows:

- 15 (1) The salary of the superintendent of education shall be
- 16 set by the board of education at a rate no greater than
- 17 \$150,000 a year;
- 18 (2) The salary of the president of the University of Hawaii
- 19 shall be set by the board of regents;
- 20 (3) Effective July 1, 2004, the salaries of all department
- 21 heads or executive officers of the departments of
- 22 accounting and general services, agriculture, attorney



1 general, budget and finance, business, economic
2 development, and tourism, commerce and consumer
3 affairs, Hawaiian home lands, health, human resources
4 development, human services, labor and industrial
5 relations, land and natural resources, public safety,
6 planning and sustainability, taxation, and

7 transportation shall be as last recommended by the
8 executive salary commission. Effective July 1, 2007,
9 and every six years thereafter, the salaries shall be
10 as last recommended by the commission on salaries
11 pursuant to section 26-56, unless rejected by the
12 legislature; and

13 (4) The salary of the adjutant general shall be \$85,302 a
14 year. Effective July 1, 2007, and every six years
15 thereafter, the salary of the adjutant general shall be
16 as last recommended by the commission on salaries
17 pursuant to section 26-56, unless rejected by the
18 legislature, except that if the state salary is in
19 conflict with the pay and allowance fixed by the tables
20 of the regular army or air force of the United States,
21 the latter shall prevail."



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PART II

SECTION 5. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

DEPARTMENT OF PLANNING AND SUSTAINABILITY

§ -1 **Definitions.** The following terms, whenever used in this chapter, shall have the following respective meanings, unless a different meaning clearly appears in the context.

"Department" means the department of planning and sustainability.

"Director" means the director of planning and sustainability.

§ -2 **General objectives of the department.** It shall be the objective of the department of planning and sustainability to make broad policy determinations with respect to long-range planning and sustainability issues in the State. The department shall endeavor to gain an understanding of those functions and activities of other governmental agencies and of private agencies that relate to the fields of state planning and sustainability. It shall at all times encourage initiative,



1 creative thinking, and community engagement and perspective in
2 harmony with the objectives of the department.

3 The department shall have sole jurisdiction over the
4 agribusiness development corporation, commission on water
5 resource management, duties and responsibilities of the energy
6 resources coordinator, Hawaii community development authority,
7 land use commission, office of environmental quality control,
8 and office of planning.

9 § -3 Powers and duties of the department. The
10 department of planning and sustainability shall effectively
11 administer programs to address issues regarding the long-range
12 planning of the State, coordinate policies and actions relating
13 to state planning and sustainability, and provide a
14 comprehensive sustainability agenda for the State. To carry out
15 these responsibilities, the department shall:

- 16 (1) Coordinate and implement long-range state plans and
17 sustainability plans;
- 18 (2) Conduct research and collect and analyze data on
19 sustainability indicators;
- 20 (3) Develop sustainability indicators and benchmarks to
21 assist in long-range state planning;



- 1 (4) Publish and promote annual reports regarding state
2 planning and sustainability initiatives, analyses, and
3 accomplishments;
- 4 (5) Direct and coordinate ongoing public awareness and
5 education campaigns relating to sustainability;
- 6 (6) Conduct periodic reviews and audits of sustainability
7 activities occurring statewide;
- 8 (7) Coordinate functions and activities of other
9 governmental agencies and of private agencies that
10 relate to the fields of state planning and
11 sustainability;
- 12 (8) Coordinate statewide policies and actions relating to
13 state planning and sustainability;
- 14 (9) Enter into contracts and take all actions deemed
15 necessary and appropriate for the proper and efficient
16 administration of the department; and
- 17 (10) Conduct other activities as are consistent with the
18 purposes of this chapter.

19 § -4 **Jurisdiction.** The following are placed in the
20 department of planning and sustainability for administrative
21 purposes as defined by section 26-35:



- 1 (1) The agribusiness development corporation (chapter
- 2 163D);
- 3 (2) The commission on water resource management (chapter
- 4 174C);
- 5 (3) The duties and responsibilities of the energy
- 6 resources coordinator (chapter 196);
- 7 (4) The Hawaii community development authority (chapter
- 8 206E);
- 9 (5) The land use commission (chapter 205);
- 10 (6) The office of environmental quality control (chapter
- 11 341);
- 12 (7) The office of planning (chapter 225M); and
- 13 (8) Any other boards and commissions as shall be provided
- 14 by law.

15 **§ -5 Director of planning and sustainability.** The

16 director of planning and sustainability shall be the director of

17 the office of planning as defined in section 225M-2. The office

18 of planning shall be the lead agency for administrative

19 purposes.

20 **§ -6 Cooperation from other agencies.** All state and

21 county agencies shall cooperate with the department and render



1 all assistance requested by the department in carrying out the
2 purposes of this chapter.

3 § -7 Rules. The department shall adopt rules pursuant
4 to chapter 91 as necessary to carry out the purposes of this
5 chapter."

6 PART III

7 SECTION 6. Section 163D-3, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The board of directors of the corporation shall
10 consist of eleven voting members, of whom eight shall be
11 appointed by the governor. The terms of these eight members
12 shall be four years; provided that, commencing on July 1, 2005,
13 the governor shall reduce the terms of those initially appointed
14 so as to provide, as nearly as can be, for the expiration of an
15 equal number of terms at intervals of one year. The eight
16 members shall be selected on the basis of their knowledge,
17 experience, and proven expertise in small and large businesses
18 within the agricultural industry, agricultural economics,
19 banking, real estate, finance, promotion, marketing, and
20 management. Of these eight members, one shall be from the city
21 and county of Honolulu, one shall be from the county of Hawaii,
22 one shall be from the county of Maui, one shall be from the



1 county of Kauai, and four shall be appointed at-large. The
2 director of business, economic development, and tourism; the
3 chairperson of the board of agriculture; and the [~~chairperson of~~
4 ~~the board of land and natural resources,~~] director of planning
5 and sustainability, or their designated representatives, shall
6 be ex-officio, voting members of the board. All members shall
7 continue in office until their respective successors have been
8 appointed and qualified. The board shall annually elect its
9 chairperson from among its members; provided that the
10 chairperson shall not be an ex-officio member."

11 SECTION 7. Section 174C-6, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) There shall be a first deputy to the chairperson of
14 the commission on water resource management ("deputy for water
15 resource management") who shall be in addition to any other
16 first deputy to the [~~chairperson as the chairperson of the board~~
17 ~~of land and natural resources.~~] director of planning and
18 sustainability. The deputy shall have experience in the area of
19 water resources and shall be appointed by the [~~chairperson~~]
20 director of planning and sustainability with the approval of a
21 majority of the commission."



1 SECTION 8. Section 174C-7, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Five members shall be appointed by the governor
4 subject to confirmation by the senate, in a manner prescribed in
5 subsection (d). Each member shall have substantial experience
6 in the area of water resource management; provided that at least
7 one member shall have substantial experience or expertise in
8 traditional Hawaiian water resource management techniques and in
9 traditional Hawaiian riparian usage such as those preserved by
10 section 174C-101. The [~~chairperson of the board of land and~~
11 ~~natural resources~~] director of planning and sustainability shall
12 be the chairperson of the commission. The director of health
13 shall serve as an ex officio voting member."

14 SECTION 9. Section 196-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§196-3 Energy resources coordinator.** The director of
17 [~~business, economic development, and tourism~~] planning and
18 sustainability shall serve as energy resources coordinator."

19 SECTION 10. Section 201-2, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§201-2 General objective, functions, and duties of**
22 **department.** It shall be the objective of the department of



1 business, economic development, and tourism to make broad policy
2 determinations with respect to economic development in the State
3 and to stimulate through research and demonstration projects
4 those industrial and economic development efforts that offer the
5 most immediate promise of expanding the economy of the State.
6 The department shall endeavor to gain an understanding of those
7 functions and activities of other governmental agencies and of
8 private agencies that relate to the field of economic
9 development. It shall, at all times, encourage initiative and
10 creative thinking in harmony with the objectives of the
11 department.

12 ~~[The department of business, economic development, and~~
13 ~~tourism shall have sole jurisdiction over the land use~~
14 ~~commission under chapter 205, state planning under chapter 225M,~~
15 ~~and the Hawaii State Planning Act under chapter 226. Due to the~~
16 ~~inherently interdependent functions of development, planning,~~
17 ~~and land use, these functions shall not be transferred by~~
18 ~~executive order, directive, or memorandum, to any other~~
19 ~~department, nor shall these functions be subject to review or~~
20 ~~approval by any other department.] "~~

21 SECTION 11. Section 225M-2, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) There is established within the department of
2 ~~[business, economic development, and tourism]~~ planning and
3 sustainability an office of planning. The head of the office
4 shall be known as the director of the office of planning,
5 referred to in this chapter as director~~[-]~~, and who shall also
6 be the director of planning and sustainability. The director
7 shall have: training in the field of urban or regional planning,
8 public administration, or other related fields; experience in
9 programs or services related to governmental planning; and
10 experience in a supervisory, consultative, or administrative
11 capacity. The director shall be nominated by the governor and,
12 by and with the advice and consent of the senate, appointed by
13 the governor without regard to chapter 76 ~~[, and shall be~~
14 ~~compensated at a salary level set by the governor]~~. The
15 director shall be included in any benefit program generally
16 applicable to the officers and employees of the State. The
17 director shall retain such staff as may be necessary for the
18 purposes of this chapter, in conformity with chapter 76. ~~[The~~
19 ~~director shall report to the director of business, economic~~
20 ~~development, and tourism and shall not be required to report~~
21 ~~directly to any other principal executive department.] "~~

22

PART IV



1 SECTION 12. Plans and preparation for transfers. The
2 governor shall appoint a management team and may hire necessary
3 staff, who shall be exempt from chapter 76, Hawaii Revised
4 Statutes, to develop the appropriate transition plans, rework
5 position descriptions, revise personnel classifications, develop
6 an organizational structure, prepare a proposed budget, draft
7 and submit proposed legislation, and attend to other
8 administrative details so that the new department of planning
9 and sustainability can be initially operational by July 1, 2010
10 on the information required under this section. The governor
11 shall report to the legislature, no later than twenty days
12 before the convening of the regular session of 2010.

13 SECTION 13. The revisor of statutes may incorporate into
14 the Hawaii Revised Statutes, any of the provisions contained in
15 this Act. The revisor shall substitute the appropriate
16 department of planning and sustainability reference in all
17 existing statutes where a department, board, commission, agency,
18 program, or organizational segment is transferred to the
19 department of planning and sustainability if such existing
20 statutory language has not been amended by this Act.

21 SECTION 14. The revisor of statutes shall replace, as
22 appropriate, any reference to the department or board of



1 agriculture with the department of planning and sustainability
2 in chapter 163D, Hawaii Revised Statutes.

3 The revisor of statutes shall replace, as appropriate, any
4 reference to the department or board of land and natural
5 resources with the department of planning and sustainability,
6 and any reference to the chairperson of the board of land and
7 natural resources with the director of planning and
8 sustainability in chapter 174C, Hawaii Revised Statutes.

9 The revisor of statutes shall replace, as appropriate, any
10 reference to the department of business, economic development,
11 and tourism with the department of planning and sustainability,
12 and any reference to the director of business, economic
13 development, and tourism with the director of planning and
14 sustainability in chapter 196, Hawaii Revised Statutes.

15 The revisor of statutes shall replace, as appropriate, any
16 reference to the department of business, economic development,
17 and tourism with the department of planning and sustainability
18 in chapter 205, Hawaii Revised Statutes.

19 The revisor of statutes shall replace, as appropriate, any
20 reference to the department of business, economic development,
21 and tourism with the department of planning and sustainability,
22 and any reference to the director of business, economic



1 development, and tourism with the director of planning and
2 sustainability in chapter 206E, Hawaii Revised Statutes.

3 The revisor of statutes shall replace, as appropriate, any
4 reference to the department of business, economic development,
5 and tourism with the department of planning and sustainability
6 in chapter 225M, Hawaii Revised Statutes.

7 The revisor of statutes shall replace, as appropriate, any
8 reference to the department of health with the department of
9 planning and sustainability in chapter 341, Hawaii Revised
10 Statutes.

11 SECTION 15. For the purpose of establishing a salary for
12 the initial director of planning and sustainability, the salary
13 for the initial director of planning and sustainability shall be
14 the same as the chairperson of the board of land and natural
15 resources. Thereafter, the director's salary shall be
16 determined by the next convened executive salary commission.

17 SECTION 16. All rights, powers, functions, and duties of
18 the agribusiness development corporation, the commission on
19 water resource management, the energy resources coordinator, the
20 Hawaii community development authority, the land use commission,
21 the office of environmental quality control, and the office of



1 planning are transferred to the department of planning and
2 sustainability.

3 All officers and employees whose functions are transferred
4 by this Act shall be transferred with their functions and shall
5 continue to perform their regular duties upon their transfer,
6 subject to the state personnel laws and this Act.

7 No officer or employee of the State having tenure shall
8 suffer any loss of salary, seniority, prior service credit,
9 vacation, sick leave, or other employee benefit or privilege as
10 a consequence of this Act, and such officer or employee may be
11 transferred or appointed to a civil service position without the
12 necessity of examination; provided that the officer or employee
13 possesses the minimum qualifications for the position to which
14 transferred or appointed; and provided that subsequent changes
15 in status may be made pursuant to applicable civil service and
16 compensation laws.

17 An officer or employee of the State who does not have
18 tenure and who may be transferred or appointed to a civil
19 service position as a consequence of this Act shall become a
20 civil service employee without the loss of salary, seniority,
21 prior service credit, vacation, sick leave, or other employee
22 benefits or privileges and without the necessity of examination;



1 provided that such officer or employee possesses the minimum
2 qualifications for the position to which transferred or
3 appointed.

4 If an office or position held by an officer or employee
5 having tenure is abolished, the officer or employee shall not
6 thereby be separated from public employment, but shall remain in
7 the employment of the State with the same pay and classification
8 and shall be transferred to some other office or position for
9 which the officer or employee is eligible under the personnel
10 laws of the State as determined by the head of the department or
11 the governor.

12 SECTION 17. All appropriations, records, equipment,
13 machines, files, supplies, contracts, books, papers, documents,
14 maps, and other personal property heretofore made, used,
15 acquired, or held by the agribusiness development corporation,
16 the commission on water resource management, the energy
17 resources coordinator, the Hawaii community development
18 authority, the land use commission, the office of environmental
19 quality control, and the office of planning relating to the
20 functions transferred to the department of planning and
21 sustainability shall be transferred with the functions to which
22 they relate.



1 SECTION 18. All deeds, leases, contracts, loans,
2 agreements, permits, or other documents executed or entered into
3 by or on behalf of the agribusiness development corporation, the
4 commission on water resource management, the energy resources
5 coordinator, the Hawaii community development authority, the
6 land use commission, the office of environmental quality
7 control, and the office of planning pursuant to the provisions
8 of the Hawaii Revised Statutes, which are reenacted or made
9 applicable to the department of planning and sustainability by
10 this Act, shall remain in full force and effect. Effective July
11 1, 2010, every reference to the agribusiness development
12 corporation, the commission on water resource management, the
13 energy resources coordinator, the Hawaii community development
14 authority, the land use commission, the office of environmental
15 quality control, and the office of planning shall be construed
16 as a reference to the department of planning and sustainability.

17 SECTION 19. All rules, policies, guidelines, and other
18 material adopted or developed by the agribusiness development
19 corporation, the commission on water resource management, the
20 energy resources coordinator, the Hawaii community development
21 authority, the land use commission, the office of environmental
22 quality control, and the office of planning to implement



1 provisions of the Hawaii Revised Statutes, which are reenacted
2 or made applicable to the department of planning and
3 sustainability by this Act, shall remain in full force and
4 effect until amended or repealed by the department of planning
5 and sustainability pursuant to chapter 91, Hawaii Revised
6 Statutes. In the interim, every reference to the agribusiness
7 development corporation, the commission on water resource
8 management, the energy resources coordinator, the Hawaii
9 community development authority, the land use commission, the
10 office of environmental quality control, and the office of
11 planning in those rules, polices, procedures, guidelines, and
12 other material is amended to refer to the department of planning
13 and sustainability.

14 SECTION 20. It is the intent of this Act not to jeopardize
15 the receipt of any federal aid nor to impair the obligation of
16 the State or any agency thereof to the holders of any bond
17 issued by the State or by any agency, and to the extent, and
18 only to the extent, necessary to effectuate this intent, the
19 governor may modify the strict provisions of this Act, but shall
20 promptly report any modification with reason therefor to the
21 legislature at its next session thereafter for review by the
22 legislature.



1 SECTION 21. All acts passed during this regular session of
 2 2008, whether enacted before or after the passage of this Act,
 3 shall be amended to conform to this Act unless these acts
 4 specifically provide that this Act is being amended.

5 SECTION 22. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 23. This Act shall take effect on July 1, 2010;
 8 provided that section 12 shall take effect on July 1, 2008.

9 INTRODUCED BY: Kirk Caldwell

[Handwritten signatures and names]

[Signatures: Kirk Caldwell, Bud Green, Jett, Pat, Tom Brown, Michael B. Lee, Scott, Phil, Karen, etc.]

Report Title:

Department of Planning and Sustainability; Establishment

Description:

Creates a department of planning and sustainability by combining the office of planning, commission on water resource management, energy resources coordinator responsibilities, agribusiness development corporation, land use commission, office of environmental quality control, and Hawaii community development authority.

