

JAN 18 2008

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# 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."







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 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:

Russell Kohb

Clarence A. Irihikara

Will Syro

D. J. J. J.

Chris Johnson

[Signature]

Jim

Randy de Paul

Guy L. Ham

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**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.

