
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 commission on
15 water resource management, the duties and responsibilities of
16 the energy resources coordinator, the Hawaii community
17 development authority, the land use commission, the office of
18 environmental quality control, and the office of planning.
19 Although these state agencies and officials strive to develop
20 and set forth policies relating to various aspects of
21 sustainability, they are each placed under different state
22 departments for administrative purposes. Combining these state



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

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

PART I

15
 16 SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended
 17 by adding a new section to be appropriately designated and to
 18 read as follows:

19 "§26- Department of planning and sustainability. (a)
 20 The department of planning and sustainability shall be headed by
 21 a single executive to be known as the director of planning and
 22 sustainability.



1 The department shall:

2 (1) Undertake statewide long-range planning and
3 sustainability activities;

4 (2) Undertake energy development and management;

5 (3) Provide sustainability research and analysis; and

6 (4) Encourage, develop, and implement plans for Hawaii's
7 agriculture and food supply, land use, community
8 development and housing, economy, environment, energy,
9 natural resources, lifestyle, and culture through
10 programs established by law.

11 (b) The following are placed in the department of planning
12 and sustainability for administrative purposes as defined by
13 section 26-35: the commission on water resource management,
14 duties and responsibilities of the energy resources coordinator,
15 Hawaii community development authority, land use commission,
16 office of environmental quality control, office of planning, and
17 any other boards and commissions as shall be provided by law."

18 SECTION 3. Section 26-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§26-4 Structure of government.** Under the supervision of
21 the governor, all executive and administrative offices,
22 departments, and instrumentalities of the state government and



1 their respective functions, powers, and duties shall be
2 allocated among and within the following principal departments
3 that are hereby established:

4 (1) Department of human resources development (Section
5 26-5);

6 (2) Department of accounting and general services (Section
7 26-6);

8 (3) Department of the attorney general (Section 26-7);

9 (4) Department of budget and finance (Section 26-8);

10 (5) Department of commerce and consumer affairs (Section
11 26-9);

12 (6) Department of taxation (Section 26-10);

13 (7) University of Hawaii (Section 26-11);

14 (8) Department of education (Section 26-12);

15 (9) Department of health (Section 26-13);

16 (10) Department of human services (Section 26-14);

17 (11) Department of land and natural resources (Section
18 26-15);

19 (12) Department of agriculture (Section 26-16);

20 (13) Department of Hawaiian home lands (Section 26-17);

21 (14) Department of business, economic development, and
22 tourism (Section 26-18);



- 1 (15) Department of transportation (Section 26-19);
2 (16) Department of labor and industrial relations (Section
3 26-20);
4 (17) Department of defense (Section 26-21);
5 (18) Department of public safety (Section 26-14.6) [~~-~~]; and
6 (19) Department of planning and sustainability (Section
7 26-) ."

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

10 "**§26-52 Department heads and executive officers.** The
11 salaries of the following state officers shall be as follows:

- 12 (1) The salary of the superintendent of education shall be
13 set by the board of education at a rate no greater than
14 \$150,000 a year;
15 (2) The salary of the president of the University of Hawaii
16 shall be set by the board of regents;
17 (3) Effective July 1, 2004, the salaries of all department
18 heads or executive officers of the departments of
19 accounting and general services, agriculture, attorney
20 general, budget and finance, business, economic
21 development, and tourism, commerce and consumer
22 affairs, Hawaiian home lands, health, human resources



1 development, human services, labor and industrial
2 relations, land and natural resources, public safety,
3 planning and sustainability, taxation, and
4 transportation shall be as last recommended by the
5 executive salary commission. Effective July 1, 2007,
6 and every six years thereafter, the salaries shall be
7 as last recommended by the commission on salaries
8 pursuant to section 26-56, unless rejected by the
9 legislature; and

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

19 **PART II**

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



1 "CHAPTER

2 DEPARTMENT OF PLANNING AND SUSTAINABILITY

3 § -1 Definitions. The following terms, whenever used in
4 this chapter, shall have the following respective meanings,
5 unless a different meaning clearly appears in the context.

6 "Department" means the department of planning and
7 sustainability.

8 "Director" means the director of planning and
9 sustainability.

10 § -2 General objectives of the department. It shall be
11 the objective of the department of planning and sustainability
12 to make broad policy determinations with respect to long-range
13 planning and sustainability issues in the State. The department
14 shall endeavor to gain an understanding of those functions and
15 activities of other governmental agencies and of private
16 agencies that relate to the fields of state planning and
17 sustainability. It shall at all times encourage initiative,
18 creative thinking, and community engagement and perspective in
19 harmony with the objectives of the department.

20 The department shall have sole jurisdiction over the
21 commission on water resource management, duties and
22 responsibilities of the energy resources coordinator, Hawaii



1 community development authority, land use commission, office of
2 environmental quality control, and office of planning.

3 **§ -3 Powers and duties of the department.** The
4 department of planning and sustainability shall effectively
5 administer programs to address issues regarding the long-range
6 planning of the State, coordinate policies and actions relating
7 to state planning and sustainability, and provide a
8 comprehensive sustainability agenda for the State. To carry out
9 these responsibilities, the department shall:

- 10 (1) Coordinate and implement long-range state plans and
11 sustainability plans;
- 12 (2) Conduct research and collect and analyze data on
13 sustainability indicators;
- 14 (3) Develop sustainability indicators and benchmarks to
15 assist in long-range state planning;
- 16 (4) Publish and promote annual reports regarding state
17 planning and sustainability initiatives, analyses, and
18 accomplishments;
- 19 (5) Direct and coordinate ongoing public awareness and
20 education campaigns relating to sustainability;
- 21 (6) Conduct periodic reviews and audits of sustainability
22 activities occurring statewide;



- 1 (7) Coordinate functions and activities of other
- 2 governmental agencies and of private agencies that
- 3 relate to the fields of state planning and
- 4 sustainability;
- 5 (8) Coordinate statewide policies and actions relating to
- 6 state planning and sustainability;
- 7 (9) Enter into contracts and take all actions deemed
- 8 necessary and appropriate for the proper and efficient
- 9 administration of the department; and
- 10 (10) Conduct other activities as are consistent with the
- 11 purposes of this chapter.

12 **§ -4 Jurisdiction.** The following are placed in the
 13 department of planning and sustainability for administrative
 14 purposes as defined by section 26-35:

- 15 (1) The commission on water resource management (chapter
- 16 174C);
- 17 (2) The duties and responsibilities of the energy
- 18 resources coordinator (chapter 196);
- 19 (3) The Hawaii community development authority (chapter
- 20 206E);
- 21 (4) The land use commission (chapter 205);



- 1 (5) The office of environmental quality control (chapter
2 341);
3 (6) The office of planning (chapter 225M); and
4 (7) Any other boards and commissions as shall be provided
5 by law.

6 **§ -5 Director of planning and sustainability.** The
7 director of planning and sustainability shall be the director of
8 the office of planning as defined in section 225M-2. The office
9 of planning shall be the lead agency for administrative
10 purposes.

11 **§ -6 Cooperation from other agencies.** All state and
12 county agencies shall cooperate with the department and render
13 all assistance requested by the department in carrying out the
14 purposes of this chapter.

15 **§ -7 Rules.** The department shall adopt rules pursuant
16 to chapter 91 as necessary to carry out the purposes of this
17 chapter."

18 **PART III**

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

21 "(a) There shall be a first deputy to the chairperson of
22 the commission on water resource management ("deputy for water



1 resource management") who shall be in addition to any other
2 first deputy to the [~~chairperson as the chairperson of the board~~
3 ~~of land and natural resources.~~] director of planning and
4 sustainability. The deputy shall have experience in the area of
5 water resources and shall be appointed by the [~~chairperson~~]
6 director of planning and sustainability with the approval of a
7 majority of the commission."

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

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

21 SECTION 8. Section 196-3, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§196-3 Energy resources coordinator.** The director of
2 [~~business, economic development, and tourism~~] planning and
3 sustainability shall serve as energy resources coordinator."

4 SECTION 9. Section 201-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§201-2 General objective, functions, and duties of**
7 **department.** It shall be the objective of the department of
8 business, economic development, and tourism to make broad policy
9 determinations with respect to economic development in the State
10 and to stimulate through research and demonstration projects
11 those industrial and economic development efforts that offer the
12 most immediate promise of expanding the economy of the State.
13 The department shall endeavor to gain an understanding of those
14 functions and activities of other governmental agencies and of
15 private agencies that relate to the field of economic
16 development. It shall, at all times, encourage initiative and
17 creative thinking in harmony with the objectives of the
18 department.

19 ~~[The department of business, economic development, and~~
20 ~~tourism shall have sole jurisdiction over the land use~~
21 ~~commission under chapter 205, state planning under chapter 225M,~~
22 ~~and the Hawaii State Planning Act under chapter 226. Due to the~~



1 ~~inherently interdependent functions of development, planning,~~
2 ~~and land use, these functions shall not be transferred by~~
3 ~~executive order, directive, or memorandum, to any other~~
4 ~~department, nor shall these functions be subject to review or~~
5 ~~approval by any other department.]"~~

6 SECTION 10. Section 225M-2, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There is established within the department of
9 ~~[business, economic development, and tourism]~~ planning and
10 sustainability an office of planning. The head of the office
11 shall be known as the director of the office of planning,
12 referred to in this chapter as director[-], and who shall also
13 be the director of planning and sustainability. The director
14 shall have: training in the field of urban or regional planning,
15 public administration, or other related fields; experience in
16 programs or services related to governmental planning; and
17 experience in a supervisory, consultative, or administrative
18 capacity. The director shall be nominated by the governor and,
19 by and with the advice and consent of the senate, appointed by
20 the governor without regard to chapter 76~~[-, and shall be~~
21 ~~compensated at a salary level set by the governor]~~. The
22 director shall be included in any benefit program generally



1 applicable to the officers and employees of the State. The
 2 director shall retain such staff as may be necessary for the
 3 purposes of this chapter, in conformity with chapter 76. [The
 4 ~~director shall report to the director of business, economic~~
 5 ~~development, and tourism and shall not be required to report~~
 6 ~~directly to any other principal executive department.]"~~

PART IV

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

20 SECTION 12. The revisor of statutes shall replace, as
 21 appropriate, any reference to the department or board of land
 22 and natural resources with the department of planning and



1 sustainability, and any reference to the chairperson of the
2 board of land and natural resources with the director of
3 planning and sustainability in chapter 174C, Hawaii Revised
4 Statutes.

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

11 The revisor of statutes shall replace, as appropriate, any
12 reference to the department of business, economic development,
13 and tourism with the department of planning and sustainability
14 in chapter 205, 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 and any reference to the director of business, economic
19 development, and tourism with the director of planning and
20 sustainability in chapter 206E, Hawaii Revised Statutes.

21 The revisor of statutes shall replace, as appropriate, any
22 reference to the department of business, economic development,



1 and tourism with the department of planning and sustainability
2 in chapter 225M, Hawaii Revised Statutes.

3 The revisor of statutes shall replace, as appropriate, any
4 reference to the department of health with the department of
5 planning and sustainability in chapter 341, Hawaii Revised
6 Statutes.

7 SECTION 13. The revisor of statutes shall replace as
8 appropriate the reference to a department with the department of
9 planning and sustainability in all statutes that make reference
10 to a department to which the placement of the commission,
11 coordinator, authority, and offices listed in section -4 is
12 made for administrative purposes.

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

19 SECTION 15. All rights, powers, functions, and duties of
20 the commission on water resource management, the energy
21 resources coordinator, the Hawaii community development
22 authority, the land use commission, the office of environmental



1 quality control, and the office of planning are transferred to
2 the department of planning and 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 16. 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 commission on water resource
16 management, the energy resources coordinator, the Hawaii
17 community development authority, the land use commission, the
18 office of environmental quality control, and the office of
19 planning relating to the functions transferred to the department
20 of planning and sustainability shall be transferred with the
21 functions to which they relate.



1 SECTION 17. All deeds, leases, contracts, loans,
2 agreements, permits, or other documents executed or entered into
3 by or on behalf of the commission on water resource management,
4 the energy resources coordinator, the Hawaii community
5 development authority, the land use commission, the office of
6 environmental quality control, and the office of planning
7 pursuant to the provisions of the Hawaii Revised Statutes, which
8 are reenacted or made applicable to the department of planning
9 and sustainability by this Act, shall remain in full force and
10 effect. Effective July 1, 2010, every reference to the
11 commission on water resource management, the energy resources
12 coordinator, the Hawaii community development authority, the
13 land use commission, the office of environmental quality
14 control, and the office of planning shall be construed as a
15 reference to the department of planning and sustainability.

16 SECTION 18. All rules, policies, guidelines, and other
17 material adopted or developed by the commission on water
18 resource management, the energy resources coordinator, the
19 Hawaii community development authority, the land use commission,
20 the office of environmental quality control, and the office of
21 planning to implement provisions of the Hawaii Revised Statutes,
22 which are reenacted or made applicable to the department of



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

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

20 SECTION 20. All acts passed during this regular session of
21 2008, whether enacted before or after the passage of this Act,



1 shall be amended to conform to this Act unless these acts
2 specifically provide that this Act is being amended.

3 SECTION 21. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 22. This Act shall take effect on July 1, 2050;
6 provided that section 11 shall take effect on July 1, 2008 for
7 implementation on July 1, 2010.



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, land use commission, office of environmental quality control, and Hawaii community development authority. (SD1)

