
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.

15 **PART I**

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 There is established the department of planning and
21 sustainability that shall be headed by a single executive to be
22 known as the director of planning and 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:

14 (1) The commission on water resource management;

15 (2) The duties and responsibilities of the energy
16 resources coordinator;

17 (3) The Hawaii community development authority;

18 (4) The land use commission;

19 (5) The office of environmental quality control;

20 (6) The office of planning; and

21 (7) Any other board or commission as shall be provided by
22 law."



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

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

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



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

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

16 "**§26-52 Department heads and executive officers.** The
17 salaries of the following state officers shall be as follows:

- 18 (1) The salary of the superintendent of education shall be
19 set by the board of education at a rate no greater than
20 \$150,000 a year;
21 (2) The salary of the president of the University of Hawaii
22 shall be set by the board of regents;



- 1 (3) Effective July 1, 2004, the salaries of all department
2 heads or executive officers of the departments of
3 accounting and general services, agriculture, attorney
4 general, budget and finance, business, economic
5 development, and tourism, commerce and consumer
6 affairs, Hawaiian home lands, health, human resources
7 development, human services, labor and industrial
8 relations, land and natural resources, public safety,
9 planning and sustainability, taxation, and
10 transportation shall be as last recommended by the
11 executive salary commission. Effective July 1, 2007,
12 and every six years thereafter, the salaries shall be
13 as last recommended by the commission on salaries
14 pursuant to section 26-56, unless rejected by the
15 legislature; and
- 16 (4) The salary of the adjutant general shall be \$85,302 a
17 year. Effective July 1, 2007, and every six years
18 thereafter, the salary of the adjutant general shall be
19 as last recommended by the commission on salaries
20 pursuant to section 26-56, unless rejected by the
21 legislature, except that if the state salary is in
22 conflict with the pay and allowance fixed by the tables



1 of the regular army or air force of the United States,
2 the latter shall prevail."

3 **PART II**

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

7 **"CHAPTER**

8 **DEPARTMENT OF PLANNING AND SUSTAINABILITY**

9 § -1 **Definitions.** The following terms, whenever used in
10 this chapter, shall have the following respective meanings,
11 unless a different meaning clearly appears in the context.

12 "Department" means the department of planning and
13 sustainability.

14 "Director" means the director of planning and
15 sustainability.

16 § -2 **General objectives of the department.** (a) It
17 shall be the objective of the department of planning and
18 sustainability to make broad policy determinations with respect
19 to long-range planning and sustainability issues in the State.
20 The department shall endeavor to gain an understanding of those
21 functions and activities of other governmental agencies and of
22 private agencies that relate to the fields of state planning and



1 sustainability. It shall at all times encourage initiative,
2 creative thinking, and community engagement and perspective in
3 harmony with the objectives of the department.

4 (b) The department shall have sole jurisdiction over:

5 (1) The commission on water resource management;

6 (2) The duties and responsibilities of the energy
7 resources coordinator;

8 (3) The Hawaii community development authority;

9 (4) The land use commission;

10 (5) The office of environmental quality control;

11 (6) The office of planning; and

12 (7) Any other boards and commissions as provided by law.

13 **§ -3 Powers and duties of the department.** (a) The
14 department of planning and sustainability shall effectively
15 administer programs to address issues regarding the long-range
16 planning of the State, coordinate policies and actions relating
17 to state planning and sustainability, and provide a
18 comprehensive sustainability agenda for the State.

19 (b) To carry out these responsibilities, the department
20 shall:

21 (1) Coordinate and implement long-range state plans and
22 sustainability plans;



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



1 **§ -4 Jurisdiction.** The following are placed in the
2 department of planning and sustainability for administrative
3 purposes pursuant to section 26-35:

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

16 **§ -5 Director of planning and sustainability.** The
17 director of planning and sustainability shall be the director of
18 the office of planning as defined in section 225M-2. The office
19 of planning shall be the lead agency for administrative
20 purposes.

21 **§ -6 Cooperation from other agencies.** All state and
22 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 174C-6, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

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

20 "(b) Five members shall be appointed by the governor
21 subject to confirmation by the senate, in a manner prescribed in
22 subsection (d). Each member shall have substantial experience



1 in the area of water resource management; provided that at least
2 one member shall have substantial experience or expertise in
3 traditional Hawaiian water resource management techniques and in
4 traditional Hawaiian riparian usage such as those preserved by
5 section 174C-101. The [~~chairperson of the board of land and~~
6 ~~natural resources~~] director of planning and sustainability shall
7 be the chairperson of the commission. The director of health
8 shall serve as an ex officio voting member."

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

11 "**§196-3 Energy resources coordinator.** The director of
12 [~~business, economic development, and tourism~~] planning and
13 sustainability shall serve as energy resources coordinator."

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

16 "**§201-2 General objective, functions, and duties of**
17 **department.** It shall be the objective of the department of
18 business, economic development, and tourism to make broad policy
19 determinations with respect to economic development in the State
20 and to stimulate through research and demonstration projects
21 those industrial and economic development efforts that offer the
22 most immediate promise of expanding the economy of the State.



1 The department shall endeavor to gain an understanding of those
2 functions and activities of other governmental agencies and of
3 private agencies that relate to the field of economic
4 development. It shall, at all times, encourage initiative and
5 creative thinking in harmony with the objectives of the
6 department.

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

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

18 "(a) There is established within the department of
19 ~~[business, economic development, and tourism]~~ planning and
20 sustainability an office of planning. The head of the office
21 shall be known as the director of the office of planning,
22 referred to in this chapter as director[-], and who shall also



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

17 **PART IV**

18 SECTION 11. (a) In order that the new department of
19 planning and sustainability can be initially operational by July
20 1, 2010, on the information required under this section the
21 governor shall appoint a management team and may hire necessary



1 staff, who shall be exempt from chapter 76, Hawaii Revised
2 Statutes, to:

3 (1) Develop the appropriate transition plans;

4 (2) Rework position descriptions;

5 (3) Revise personnel classifications;

6 (4) Develop an organizational structure;

7 (5) Prepare a proposed budget;

8 (6) Draft and submit proposed legislation; and

9 (7) Attend to other administrative details.

10 (b) The governor shall report to the legislature, no later
11 than twenty days before the convening of the regular session of
12 2010.

13 SECTION 12. (a) The revisor of statutes shall replace, as
14 appropriate, any reference to the department or board of land
15 and natural resources with the department of planning and
16 sustainability, and any reference to the chairperson of the
17 board of land and natural resources with the director of
18 planning and sustainability in chapter 174C, Hawaii Revised
19 Statutes.

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



1 sustainability, and any reference to the director of business,
2 economic development, and tourism with the director of planning
3 and sustainability in chapter 196, Hawaii Revised Statutes.

4 (c) The revisor of statutes shall replace, as appropriate,
5 any reference to the department of business, economic
6 development, and tourism with the department of planning and
7 sustainability in chapter 205, Hawaii Revised Statutes.

8 (d) The revisor of statutes shall replace, as appropriate,
9 any reference to the department of business, economic
10 development, and tourism with the department of planning and
11 sustainability, and any reference to the director of business,
12 economic development, and tourism with the director of planning
13 and sustainability in chapter 206E, Hawaii Revised Statutes.

14 (e) The revisor of statutes shall replace, as appropriate,
15 any reference to the department of business, economic
16 development, and tourism with the department of planning and
17 sustainability in chapter 225M, Hawaii Revised Statutes.

18 (f) The revisor of statutes shall replace, as appropriate,
19 any reference to the department of health with the department of
20 planning and sustainability in chapter 341, Hawaii Revised
21 Statutes.



1 SECTION 13. The revisor of statutes shall replace as
2 appropriate the reference to a department with the department of
3 planning and sustainability in all statutes that make reference
4 to a department to which the placement of the commission,
5 coordinator, authority, and offices listed in section -4,
6 Hawaii Revised Statutes, is made for administrative purposes.

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

13 SECTION 15. All rights, powers, functions, and duties of
14 the commission on water resource management, the energy
15 resources coordinator, the Hawaii community development
16 authority, the land use commission, the office of environmental
17 quality control, and the office of planning are transferred to
18 the department of planning and sustainability.

19 All officers and employees whose functions are transferred
20 by this Act shall be transferred with their functions and shall
21 continue to perform their regular duties upon their transfer,
22 subject to the state personnel laws and this Act.



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

11 An officer or employee of the State who does not have
12 tenure and who may be transferred or appointed to a civil
13 service position as a consequence of this Act shall become a
14 civil service employee without the loss of salary, seniority,
15 prior service credit, vacation, sick leave, or other employee
16 benefits or privileges and without the necessity of examination;
17 provided that such officer or employee possesses the minimum
18 qualifications for the position to which transferred or
19 appointed.

20 If an office or position held by an officer or employee
21 having tenure is abolished, the officer or employee shall not
22 thereby be separated from public employment, but shall remain in



1 the employment of the State with the same pay and classification
2 and shall be transferred to some other office or position for
3 which the officer or employee is eligible under the personnel
4 laws of the State as determined by the head of the department or
5 the governor.

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

16 SECTION 17. All deeds, leases, contracts, loans,
17 agreements, permits, or other documents executed or entered into
18 by or on behalf of the commission on water resource management,
19 the energy resources coordinator, the Hawaii community
20 development authority, the land use commission, the office of
21 environmental quality control, and the office of planning
22 pursuant to the provisions of the Hawaii Revised Statutes, which



1 are reenacted or made applicable to the department of planning
2 and sustainability by this Act, shall remain in full force and
3 effect. Effective July 1, 2010, every reference to the former
4 department from which the commission on water resource
5 management, the energy resources coordinator, the Hawaii
6 community development authority, the land use commission, the
7 office of environmental quality control, and the office of
8 planning were transferred shall be construed as a reference to
9 the department of planning and sustainability.

10 SECTION 18. All rules, policies, guidelines, and other
11 material adopted or developed by the commission on water
12 resource management, the energy resources coordinator, the
13 Hawaii community development authority, the land use commission,
14 the office of environmental quality control, and the office of
15 planning to implement provisions of the Hawaii Revised Statutes,
16 which are reenacted or made applicable to the department of
17 planning and sustainability by this Act, shall remain in full
18 force and effect until amended or repealed by the department of
19 planning and sustainability pursuant to chapter 91, Hawaii
20 Revised Statutes. In the interim, every reference in those
21 rules, policies, procedures, guidelines, and other material to
22 the former department from which the commission on water



1 resource management, the energy resources coordinator, the
2 Hawaii community development authority, the land use commission,
3 the office of environmental quality control, and the office of
4 planning were transferred is amended to refer to the department
5 of planning and sustainability.

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

15 SECTION 20. All acts passed during this regular session of
16 2008, whether enacted before or after the passage of this Act,
17 shall be amended to conform to this Act unless these acts
18 specifically provide that this Act is being amended.

19 SECTION 21. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 22. This Act shall take effect on July 1, 2050;
2 provided that section 11 shall take effect on July 1, 2008 for
3 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. (SB2555 SD2)

