
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 service-
14 based economy, vulnerability of Hawaii in a volatile global
15 energy market, possible interruptions in travel and critical
16 food supplies, threats to fragile island ecosystems, and ever
17 increasing numbers of residents and visitors. These issues all
18 raise questions about the long-term limits of growth of the



1 State and motivate the need to begin planning and action to
2 assure Hawaii's future.

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

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



1 responsibilities under a single state department will enable
2 these agencies to unify their sustainability efforts under a
3 single administrative umbrella. Thus, establishing a new
4 department dedicated to planning and sustainability creates,
5 clarifies, and concentrates the State's long-range planning and
6 sustainability initiatives, policies, and efforts by using
7 existing agencies and offices rather than creating an additional
8 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 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 agribusiness development corporation,
14 commission on water resource management, duties and
15 responsibilities of the energy resources coordinator, Hawaii
16 community development authority, land use commission, office of
17 environmental quality control, office of planning, and any other
18 boards and commissions as provided by law."

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

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



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

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



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

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

12 "§26-52 Department heads and executive officers. The
13 salaries of the following state officers shall be as follows:

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



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

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

14 **§ -5 Director of planning and sustainability.** The
15 director of planning and sustainability shall be the director of
16 the office of planning as defined in section 225M-2. The office
17 of planning shall be the lead agency for administrative
18 purposes.

19 **§ -6 Cooperation from other agencies.** All state and
20 county agencies shall cooperate with the department and render
21 all assistance requested by the department in carrying out the
22 purposes of this chapter.



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

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

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

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



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

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

14 "**§196-3 Energy resources coordinator.** The director of
15 [~~business, economic development, and tourism~~] planning and
16 sustainability shall serve as energy resources coordinator."

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

19 "**§201-2 General objective, functions, and duties of
20 department.** It shall be the objective of the department of
21 business, economic development, and tourism to make broad policy
22 determinations with respect to economic development in the State



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

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

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

21 "(a) There is established within the department of
22 [~~business, economic development, and tourism~~] planning and



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

20 **PART IV**

21 SECTION 12. Plans and preparation for transfers. The
22 governor shall appoint a management team and may hire necessary



1 staff, who shall be exempt from chapter 76, Hawaii Revised
2 Statutes, to develop the appropriate transition plans, rework
3 position descriptions, revise personnel classifications, develop
4 an organizational structure, prepare a proposed budget, draft
5 and submit proposed legislation, and attend to other
6 administrative details so that the new department of planning
7 and sustainability can be initially operational by July 1, 2011
8 on the information required under this section. The governor
9 shall report to the legislature no later than twenty days before
10 the convening of the regular session of 2011.

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

19 SECTION 14. The revisor of statutes shall replace, as
20 appropriate, any reference to the department or board of
21 agriculture with the department of planning and sustainability
22 in chapter 163D, Hawaii Revised Statutes.



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

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

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

17 The revisor of statutes shall replace, as appropriate, any
18 reference to the department of business, economic development,
19 and tourism with the department of planning and sustainability,
20 and any reference to the director of business, economic
21 development, and tourism with the director of planning and
22 sustainability in chapter 206E, Hawaii Revised Statutes.



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

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

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

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



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

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

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



1 qualifications for the position to which transferred or
2 appointed.

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

11 SECTION 17. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the agribusiness development corporation,
15 the commission on water resource management, the energy
16 resources coordinator, the Hawaii community development
17 authority, the land use commission, the office of environmental
18 quality control, and the office of planning relating to the
19 functions transferred to the department of planning and
20 sustainability shall be transferred with the functions to which
21 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
11 July 1, 2011, 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.



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.

