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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. The legislature finds that achieving an  
2 abundant and sustainable future for Hawaii will require  
3 re-envisioning the State's institutional framework to better  
4 integrate sustainability principles into the organizational  
5 structure of state government, especially in planning, land use,  
6 environmental, and economic development programs.

7       Improved collaboration of state agencies is necessary to  
8 achieve the State's sustainability and climate goals and  
9 statutory targets. The legislature further finds that improved  
10 integration of land use planning and environmental policy  
11 decision-making will enhance state government agencies' ability  
12 to implement climate change adaptation measures to address sea  
13 level rise and more frequent and intense storm events, increase  
14 clean energy production, and reduce greenhouse gas emissions.

15       Therefore, the legislature also finds that it is in the  
16 public interest to consolidate various government land use  
17 functions of different agencies into a new structure under the



1 office of planning in an effort to place all key decision-making  
2 and regulatory responsibility surrounding land use planning and  
3 permitting under one structure.

4 The purpose of this Act is to integrate the office of  
5 environmental quality control within the office of planning.  
6 The legislature notes that a separate Act will integrate the  
7 land use commission within a modified office of planning, which  
8 will be renamed the office of planning and sustainable  
9 development. These two Acts will improve the coordination of  
10 these related functions so state government can work more  
11 efficiently to achieve the State's long-term sustainability and  
12 climate change goals for a more abundant future for the people  
13 of Hawaii.

14 SECTION 2. Chapter 341, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By adding a new section to be appropriately designated  
17 and to read:

18 **"§341- Environmental advisory council; established.**

19 (a) There is created an environmental advisory council not to  
20 exceed fifteen members. Members of the environmental advisory  
21 council shall be appointed by the governor as provided in



section 26-34. The environmental advisory council shall be established within the office of planning for administrative purposes. The term of each member shall be four years; provided that of the members initially appointed five members shall serve for four years, five members shall serve for three years, and the remaining five members shall serve for two years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. The environmental advisory council chairperson shall be elected by the council from among the appointed members of the council.

(b) Members shall be appointed to ensure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, environmental consulting, public health, and planning; educational and research institutions with environmental competence; agriculture, real estate, visitor industry, construction, and media; and voluntary community and environmental groups. The members of the environmental advisory council shall serve without compensation but shall be reimbursed



1 for actual and necessary expenses, including travel expenses,  
2 incurred in the discharge of their duties."

3 2. By amending its title to read:

4 "CHAPTER 341

5 ENVIRONMENTAL [~~QUALITY CONTROL~~] ADVISORY COUNCIL"

6 3. By amending section 341-6, Hawaii Revised Statutes, to  
7 read:

8 "**§341-6 Functions of the environmental advisory council.**

9 The environmental advisory council shall serve as a liaison  
10 between the [~~director~~] office of planning and the general public  
11 by soliciting information, opinions, complaints,  
12 recommendations, and advice concerning ecology and environmental  
13 quality through public hearings or any other means and by  
14 publicizing such matters as requested by the director pursuant  
15 to section 341-4(b)(3). The environmental advisory council may  
16 make recommendations concerning ecology and environmental  
17 quality to the [~~director~~] office of planning and shall meet at  
18 the call of the council chairperson or the director of the  
19 office of planning upon notifying the council chairperson. The  
20 environmental advisory council shall monitor the progress of  
21 state, county, and federal agencies in achieving the State's



1 environmental goals and policies [~~and with the assistance of the~~  
2 ~~director shall make an annual report with recommendations for~~  
3 ~~improvement to the governor, the legislature, and the public no~~  
4 ~~later than January 31 of each year. All state and county~~  
5 ~~agencies shall cooperate with the council and assist in the~~  
6 ~~preparation of such a report by responding to requests for~~  
7 ~~information made by the council. The council may delegate to~~  
8 ~~any person such power or authority vested in the council as it~~  
9 ~~deems reasonable and proper for the effective administration of~~  
10 ~~this section and chapter 343, except the power to make, amend,~~  
11 ~~or repeal rules]."~~

12 SECTION 3. Section 10-41, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) The training required by this part shall apply to  
15 members of the land use commission, board of land and natural  
16 resources, commission on water resource management,  
17 environmental advisory council, board of directors of the  
18 agribusiness development corporation, board of agriculture,  
19 legacy land conservation commission, natural area reserves  
20 system commission, and Hawaii historic places review board."



1       SECTION 4. Section 128D-31, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) Additionally, within ten days of receiving an  
4 application and processing fee, the department shall:

5       (1) Post a sign at the site notifying the public of  
6 participation in the voluntary response program, the  
7 public's opportunity to comment, and how a copy of the  
8 application may be obtained; and

9       (2) Send a brief summary of the application to the office  
10 of [~~environmental quality control~~] planning for  
11 publication in the office's bulletin along with  
12 instructions for obtaining a copy of the application  
13 and commenting procedures to the department.

14 The comment period shall run concurrently with and shall not  
15 delay the application process."

16       SECTION 5. Section 128E-2, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18       "(b) The commission shall consist of the following  
19 members, who shall be appointed by the governor as provided in  
20 section 26-34:

21       (1) The director of health;



- 1 (2) The chairperson of the board of agriculture;
- 2 (3) The adjutant general;
- 3 (4) The director of labor and industrial relations;
- 4 (5) The chairperson of the board of land and natural
- 5 resources;
- 6 (6) The director of the office of [~~environmental quality~~
- 7 ~~control,~~] planning;
- 8 (7) The director of business, economic development, and
- 9 tourism;
- 10 (8) The director of transportation;
- 11 (9) The dean of the University of Hawaii school of public
- 12 health or the dean of the University of Hawaii school
- 13 of medicine, as determined by the governor;
- 14 [~~(10) The director of the environmental center of the~~
- 15 ~~University of Hawaii;~~
- 16 ~~(11)~~] (10) One representative from each committee
- 17 designated by the mayor of each respective county; and
- 18 [~~(12)~~] (11) Other persons appointed by the governor to meet
- 19 the minimum requirements of the Emergency Planning and
- 20 Community Right-to-Know Act of 1986."



1       SECTION 6. Section 150A-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§150A-10 Advisory committee on plants and animals.** There  
4 shall be an advisory committee on plants and animals composed of  
5 the chairperson of the board or the chairperson's representative  
6 who shall be chairperson of the committee, the chairperson of  
7 the board of land and natural resources, the director of the  
8 office of [~~environmental quality control,~~] planning or their  
9 designee, the director of department of health or their  
10 designees, and five other members, with expertise in plants,  
11 animals, or microorganisms, and who, by virtue of their vocation  
12 or avocation, also are thoroughly conversant with modern  
13 ecological principles and the variety of problems involved in  
14 the adequate protection of our natural resources. The latter  
15 five members shall be chosen by the chairperson. The committee  
16 shall advise and assist the department in developing or revising  
17 laws and regulations to carry out and effectuate the purposes of  
18 this chapter and in advising the department in problems relating  
19 to the introduction, confinement, or release of plants, animals,  
20 and microorganisms.





1       The chairperson may create ad hoc or permanent  
2 subcommittees, as needed."

3       SECTION 7. Section 186-3, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5       "(b) All public hearings required by statute or rules of  
6 the department shall be held before any management plan is  
7 approved. The management plan shall be available to the public  
8 not less than thirty days before approval. Notice of its  
9 availability shall be published in the bulletin of the office of  
10 ~~[environmental quality control]~~ planning. The plan shall be  
11 reviewed periodically by the board or its employees or  
12 authorized agents at intervals of no more than every five years.  
13 The review shall determine whether the owner has met the  
14 objectives in the management plan. The board may approve or  
15 require in consultation with the landowner alteration of the  
16 management plan to adapt to current conditions."

17       SECTION 8. Section 195D-4, Hawaii Revised Statutes, is  
18 amended as follows:

19       1. By amending subsection (g) to read:

20       "(g) After consultation with the endangered species  
21 recovery committee, the board may issue a temporary license as a



1 part of a habitat conservation plan to allow a take otherwise  
2 prohibited by subsection (e) if the take is incidental to, and  
3 not the purpose of, the carrying out of an otherwise lawful  
4 activity; provided that:

5 (1) The applicant, to the maximum extent practicable,  
6 shall minimize and mitigate the impacts of the take;

7 (2) The applicant shall guarantee that adequate funding  
8 for the plan will be provided;

9 (3) The applicant shall post a bond, provide an  
10 irrevocable letter of credit, insurance, or surety  
11 bond, or provide other similar financial tools,  
12 including depositing a sum of money in the endangered  
13 species trust fund created by section 195D-31, or  
14 provide other means approved by the board, adequate to  
15 ensure monitoring of the species by the State and to  
16 ensure that the applicant takes all actions necessary  
17 to minimize and mitigate the impacts of the take;

18 (4) The plan shall increase the likelihood that the  
19 species will survive and recover;



- 1 (5) The plan takes into consideration the full range of  
2 the species on the island so that cumulative impacts  
3 associated with the take can be adequately assessed;
- 4 (6) The measures, if any, required under section  
5 195D-21(b) shall be met, and the department has  
6 received any other assurances that may be required so  
7 that the plan may be implemented;
- 8 (7) The activity, which is permitted and facilitated by  
9 issuing the license to take a species, does not  
10 involve the use of submerged lands, mining, or  
11 blasting;
- 12 (8) The cumulative impact of the activity, which is  
13 permitted and facilitated by the license, provides net  
14 environmental benefits; and
- 15 (9) The take is not likely to cause the loss of genetic  
16 representation of an affected population of any  
17 endangered, threatened, proposed, or candidate plant  
18 species.
- 19 Board approval shall require an affirmative vote of not less  
20 than two-thirds of the authorized membership of the board after  
21 holding a public hearing on the matter on the affected island.



1 The department shall notify the public of a proposed license  
2 under this section through publication in the periodic bulletin  
3 of the office of [~~environmental quality control~~] planning and  
4 make the application and proposed license available for public  
5 review and comment for not less than sixty days prior to  
6 approval."

7 2. By amending subsection (i) to read:

8 "(i) The department shall work cooperatively with federal  
9 agencies in concurrently processing habitat conservation plans,  
10 safe harbor agreements, and incidental take licenses pursuant to  
11 the Endangered Species Act. After notice in the periodic  
12 bulletin of the office of [~~environmental quality control~~]  
13 planning and a public hearing on the islands affected, which  
14 shall be held jointly with the federal agency, if feasible,  
15 whenever a landowner seeks both a federal and a state safe  
16 harbor agreement, habitat conservation plan, or incidental take  
17 license, the board, by a two-thirds majority vote, may approve  
18 the federal agreement, plan, or license without requiring a  
19 separate state agreement, plan, or license if the federal  
20 agreement, plan, or license satisfies, or is amended to satisfy,  
21 all the criteria of this chapter. All state agencies, to the



1 extent feasible, shall work cooperatively to process  
2 applications for habitat conservation plans and safe harbor  
3 agreements on a consolidated basis including concurrent  
4 processing of any state land use permit application that may be  
5 required pursuant to chapter 183C or 205, so as to minimize  
6 procedural burdens upon the applicant."

7 SECTION 9. Section 195D-21, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) The department may enter into a planning process with  
10 any landowner for the purpose of preparing and implementing a  
11 habitat conservation plan. An agreement may include multiple  
12 landowners. Applications to enter into a planning process shall  
13 identify:

- 14 (1) The geographic area encompassed by the plan;
- 15 (2) The ecosystems, natural communities, or habitat types  
16 within the plan area that are the focus of the plan;
- 17 (3) The endangered, threatened, proposed, and candidate  
18 species known or reasonably expected to occur in the  
19 ecosystems, natural communities, or habitat types in  
20 the plan area;



(4) The measures or actions to be undertaken to protect, maintain, restore, or enhance those ecosystems, natural communities, or habitat types within the plan area;

(5) A schedule for implementation of the proposed measures and actions; and

(6) An adequate funding source to ensure that the proposed measures and actions are undertaken in accordance with the schedule.

After a habitat conservation plan is prepared, the board shall notify the public of the proposed habitat conservation plan through the periodic bulletin of the office of ~~environmental quality control~~ planning and make the proposed plan and the application available for public review and comment not less than sixty days prior to approval. The notice shall include~~[7]~~ but not be limited to~~[7]~~ identification of the area encompassed by the plan, the proposed activity, and the ecosystems, natural communities, and habitat types within the plan area. The notice shall solicit public input and relevant data."

SECTION 10. Section 195D-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



1       "(a) To encourage landowners to voluntarily engage in  
2 efforts that benefit endangered, threatened, proposed, and  
3 candidate species, except as otherwise provided by law, the  
4 board, upon approval by not less than two-thirds of the board's  
5 authorized membership, after a public hearing on the island  
6 affected, may enter into a safe harbor agreement with one or  
7 more landowners to create, restore, or improve habitats or to  
8 maintain currently unoccupied habitats that threatened or  
9 endangered species can be reasonably expected to use, if the  
10 board determines that the cumulative activities, if any,  
11 contemplated to be undertaken within the areas covered by the  
12 agreement are environmentally beneficial. In the event the  
13 board votes to enter into a safe harbor agreement for which the  
14 majority of the endangered species recovery committee  
15 recommended disapproval, the board may not enter into the safe  
16 harbor agreement unless the agreement is approved by a two-  
17 thirds majority vote of both houses of the legislature. The  
18 board shall notify the public of the proposed safe harbor  
19 agreement through the periodic bulletin of the office of  
20 [~~environmental quality control~~] planning and make the proposed



1 agreement available for public review and comment not less than  
2 sixty days prior to approval."

3 SECTION 11. Section 195D-24, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§195D-24 Confidentiality.** All information submitted to  
6 the board by a landowner pursuant to section 195D-21 or 195D-22,  
7 in the course of preparing a habitat conservation plan or safe  
8 harbor agreement for private lands, respectively, shall be kept  
9 confidential until notice of the proposed plan or agreement is  
10 published in the periodic bulletins of the office of  
11 ~~[environmental quality control.]~~ planning. For habitat  
12 conservation plans or safe harbor agreements for private lands,  
13 the precise location of any threatened or endangered species may  
14 remain confidential."

15 SECTION 12. Section 205A-30, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§205A-30 Emergency and minor permits.** Each county  
18 authority shall provide specific procedures consistent with this  
19 part for the issuance of special management area emergency  
20 permits or special management area minor permits, pursuant to  
21 the procedural requirements within this part, and judicial





1 review from the grant and denial thereof. The lead agency shall  
2 file notice of special management area minor permits in the next  
3 available issue of the periodic bulletin of the office of  
4 ~~[environmental quality control.]~~ planning."

5 SECTION 13. Section 205A-42, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) The chairperson of the board of land and natural  
8 resources shall cause a public notice to be published in the  
9 periodic bulletin published by the office of ~~[environmental~~  
10 ~~quality control.]~~ planning. All comments to the application for  
11 shoreline certification shall be submitted in writing to the  
12 state land surveyor no later than fifteen calendar days from the  
13 date of the public notice of the application. Notice of  
14 application for certification shall be identified by tax map key  
15 number, and where applicable, street address and nearest town."

16 SECTION 14. Section 225M-2, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) The office of planning shall gather, analyze, and  
19 provide information to the governor to assist in the overall  
20 analysis and formulation of state policies and strategies to  
21 provide central direction and cohesion in the allocation of



1 resources and effectuation of state activities and programs and  
2 effectively address current or emerging issues and  
3 opportunities. More specifically, the office shall engage in  
4 the following activities:

5 (1) State comprehensive planning and program coordination.

6 Formulating and articulating comprehensive statewide  
7 goals, objectives, policies, and priorities, and  
8 coordinating their implementation through the  
9 statewide planning system established in part II of  
10 chapter 226;

11 (2) Strategic planning. Identifying and analyzing  
12 significant issues, problems, and opportunities  
13 confronting the State, and formulating strategies and  
14 alternative courses of action in response to  
15 identified problems and opportunities by:

16 (A) Providing in-depth policy research, analysis, and  
17 recommendations on existing or potential areas of  
18 critical state concern;

19 (B) Examining and evaluating the effectiveness of  
20 state programs in implementing state policies and  
21 priorities;



(C) Monitoring through surveys, environmental scanning, and other techniques--current social, economic, and physical conditions and trends; and

(D) Developing, in collaboration with affected public or private agencies and organizations, implementation plans and schedules and, where appropriate, assisting in the mobilization of resources to meet identified needs;

(3) Planning coordination and cooperation. Facilitating coordinated and cooperative planning and policy development and implementation activities among state agencies and between the state, county, and federal governments, by:

(A) Reviewing, assessing, and coordinating, as necessary, major plans, programs, projects, and regulatory activities existing or proposed by state and county agencies;

(B) Formulating mechanisms to simplify, streamline, or coordinate interagency development and regulatory processes; and



1 (C) Recognizing the presence of federal defense and  
2 security forces and agencies in the State as  
3 important state concerns;

4 (4) Statewide planning and geographic information system.  
5 Collecting, integrating, analyzing, maintaining, and  
6 disseminating various forms of data and information,  
7 including geospatial data and information, to further  
8 effective state planning, policy analysis and  
9 development, and delivery of government services by:

10 (A) Collecting, assembling, organizing, evaluating,  
11 and classifying existing geospatial and  
12 non-geospatial data and performing necessary  
13 basic research, conversions, and integration to  
14 provide a common database for governmental  
15 planning and geospatial analyses by state  
16 agencies;

17 (B) Planning, coordinating, and maintaining a  
18 comprehensive, shared statewide planning and  
19 geographic information system and associated  
20 geospatial database. The office shall be the  
21 lead agency responsible for coordinating the



1 maintenance of the multi-agency, statewide  
2 planning and geographic information system and  
3 coordinating, collecting, integrating, and  
4 disseminating geospatial data sets that are used  
5 to support a variety of state agency applications  
6 and other spatial data analyses to enhance  
7 decision-making. The office shall promote and  
8 encourage free and open data sharing among and  
9 between all government agencies. To ensure the  
10 maintenance of a comprehensive, accurate,  
11 up-to-date geospatial data resource that can be  
12 drawn upon for decision-making related to  
13 essential public policy issues such as land use  
14 planning, resource management, homeland security,  
15 and the overall health, safety, and well-being of  
16 Hawaii's citizens, and to avoid redundant data  
17 development efforts, state agencies shall provide  
18 to the shared system either their respective  
19 geospatial databases or, at a minimum, especially  
20 in cases of secure or confidential data sets that  
21 cannot be shared or must be restricted, metadata



1 describing existing geospatial data. In cases  
2 where agencies provide restricted data, the  
3 office of planning shall ensure the security of  
4 that data; and

5 (C) Maintaining a centralized depository of state and  
6 national planning references;

7 (5) Land use planning. Developing and presenting the  
8 position of the State in all boundary change petitions  
9 and proceedings before the land use commission,  
10 assisting state agencies in the development and  
11 submittal of petitions for land use district boundary  
12 amendments, and conducting periodic reviews of the  
13 classification and districting of all lands in the  
14 State, as specified in chapter 205;

15 (6) Coastal and ocean policy management, and sea level  
16 rise adaptation coordination. Carrying out the lead  
17 agency responsibilities for the Hawaii coastal zone  
18 management program, as specified in chapter 205A.

19 Also:



- 1 (A) Developing and maintaining an ocean and coastal  
2 resources information, planning, and management  
3 system;
- 4 (B) Further developing and coordinating  
5 implementation of the ocean resources management  
6 plan; and
- 7 (C) Formulating ocean policies with respect to the  
8 exclusive economic zone, coral reefs, and  
9 national marine sanctuaries;
- 10 (7) Regional planning and studies. Conducting plans and  
11 studies to determine:
- 12 (A) The capability of various regions within the  
13 State to support projected increases in both  
14 resident populations and visitors;
- 15 (B) The potential physical, social, economic, and  
16 environmental impact on these regions resulting  
17 from increases in both resident populations and  
18 visitors;
- 19 (C) The maximum annual visitor carrying capacity for  
20 the State by region, county, and island; and



(D) The appropriate guidance and management of selected regions and areas of statewide critical concern.

The studies in subparagraphs (A) to (C) shall be conducted at appropriate intervals, but not less than once every five years;

(8) Regional, national, and international planning. Participating in and ensuring that state plans, policies, and objectives are consistent, to the extent practicable, with regional, national, and international planning efforts;

(9) Climate adaptation and sustainability planning and coordination. Conducting plans and studies and preparing reports as follows:

(A) Develop, monitor, and evaluate strategic climate adaptation plans and actionable policy recommendations for the State and counties addressing expected statewide climate change impacts identified under chapter 225P and sections 226-108 and 226-109; and





(B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change and sustainability; ~~and~~

(10) Smart growth and transit-oriented development. Acting as the lead agency to coordinate and advance smart growth and transit-oriented development planning within the State as follows:

(A) Identify transit-oriented development opportunities shared between state and county agencies, including relevant initiatives such as the department of health's healthy Hawaii initiative and the Hawaii clean energy initiative;

(B) Refine the definition of "transit-oriented development" in the context of Hawaii, while recognizing the potential for smart growth development patterns in all locations;

(C) Clarify state goals for transit-oriented development and smart growth that support the principles of the Hawaii State Planning Act by



1 preserving non-urbanized land, improving worker  
2 access to jobs, and reducing fuel consumption;

3 (D) Target transit-oriented development areas for  
4 significant increase in affordable housing and  
5 rental units;

6 (E) Conduct outreach to state agencies to help  
7 educate state employees about the ways they can  
8 support and benefit from transit-oriented  
9 development and the State's smart growth goals;

10 (F) Publicize coordinated state efforts that support  
11 smart growth, walkable neighborhoods, and  
12 transit-oriented development;

13 (G) Review state land use decision-making processes  
14 to identify ways to make transit-oriented  
15 development a higher priority and facilitate  
16 better and more proactive leadership in creating  
17 walkable communities and employment districts,  
18 even if transit will only be provided at a later  
19 date; and

20 (H) Approve all state agencies' development plans for  
21 parcels along the rail transit corridor. For the



1 purposes of this subparagraph, "development  
2 plans" means conceptual land use plans that  
3 identify the location and planned uses within a  
4 defined area[-]; and

5 (11) Environmental Review. Performing duties set forth  
6 under chapter 343, serving the governor in an advisory  
7 capacity on all matters relating to environmental  
8 review, and having such powers delegated by the  
9 governor as are necessary to coordinate and, when  
10 requested by the governor, direct, pursuant to  
11 chapter 91, all state governmental agencies in matters  
12 concerning environmental quality control, including:

13 (A) Advising and assisting private industries,  
14 government department and agencies, and other  
15 persons on the requirements of chapter 343; and

16 (B) Conducting public education programs on  
17 environmental quality control;

18 provided that the office shall adopt rules in  
19 accordance with chapter 91 to implement this  
20 paragraph."



1 SECTION 15. Section 225P-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) The membership of the greenhouse gas sequestration  
4 task force shall be as follows:

5 (1) The director of the office of planning or the  
6 director's designee, who shall serve as chairperson;

7 (2) The chairperson of the board of agriculture or the  
8 chairperson's designee;

9 (3) The chairperson of the board of land and natural  
10 resources or the chairperson's designee;

11 (4) The director of transportation or the director's  
12 designee;

13 (5) The deputy director of the department of health's  
14 environmental health administration or the deputy  
15 director's designee;

16 (6) The ~~[director of the office of environmental quality~~  
17 ~~control or the director's designee;]~~ state  
18 sustainability coordinator;

19 (7) The director of the environmental law program at the  
20 University of Hawaii at Manoa William S. Richardson  
21 school of law;



- 1           (8) The administrator of the division of forestry and  
2           wildlife within the department of land and natural  
3           resources or the administrator's designee;
- 4           (9) One member who is also a member of the climate change  
5           mitigation and adaptation commission;
- 6           (10) One researcher from the college of tropical  
7           agriculture and human resources at the University of  
8           Hawaii at Manoa;
- 9           (11) One extension agent from the college of tropical  
10          agriculture and human resources at the University of  
11          Hawaii at Manoa;
- 12          (12) Four members, one each to be appointed by the  
13          respective mayors of the city and county of Honolulu,  
14          and the counties of Hawaii, Kauai, and Maui; and
- 15          (13) Four members to be jointly selected and invited to  
16          participate by the president of the senate and the  
17          speaker of the house of representatives, of which two  
18          members shall be selected from an environmental  
19          nonprofit organization, and two members shall be  
20          selected from an agricultural or ranching association.



1 Task force members may recommend to the task force  
2 additional members with appropriate specialized expertise,  
3 subject to approval by the chairperson."

4 SECTION 16. Section 279A-4, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§279A-4 Statewide transportation council; establishment.**

7 To assist and advise the state department of transportation in  
8 the development of the statewide transportation plan there is  
9 hereby established a statewide transportation council consisting  
10 of [~~fourteen~~] thirteen members. The members of the council  
11 shall be the directors of the state department of  
12 transportation, the state department of business, economic  
13 development, and tourism, the state department of health, the  
14 [~~state office of environmental quality control,~~] and the office  
15 of planning, the chairperson of the board of agriculture, the  
16 planning directors of each of the four counties, and the  
17 transportation directors of each of the four counties. The  
18 members may be represented at council meetings by their  
19 designated alternates. The director of the state department of  
20 transportation shall submit recommendations to the council for



1 additional ex officio[+], [ ] nonvoting members who, upon the  
2 majority vote of the council, shall be invited to serve.

3 The department of transportation shall furnish staff  
4 support to the council; such staff may be exempt from  
5 chapter 76. The director of transportation shall be the  
6 chairperson of the council. All decisions of the council shall  
7 be by majority vote unless otherwise provided."

8 SECTION 17. Section 343-2, Hawaii Revised Statutes, is  
9 amended as follows:

10 1. By amending the definition of "council" to read:  
11 ""Council" means the environmental advisory council."

12 2. By amending the definition of "office" to read:  
13 ""Office" means the office of [~~environmental quality~~  
14 ~~control.~~] planning."

15 SECTION 18. Section 343-5, Hawaii Revised Statutes, is  
16 amended by amending subsection (e) to read as follows:

17 "(e) Whenever an applicant proposes an action specified by  
18 subsection (a) that requires approval of an agency and that is  
19 not a specific type of action declared exempt under section  
20 343-6, the agency initially receiving and agreeing to process  
21 the request for approval shall require the applicant to prepare



1 an environmental assessment of the proposed action at the  
2 earliest practicable time to determine whether an environmental  
3 impact statement shall be required; provided that if the agency  
4 determines, through its judgment and experience, that an  
5 environmental impact statement is likely to be required, the  
6 agency may authorize the applicant to choose not to prepare an  
7 environmental assessment and instead prepare an environmental  
8 impact statement that begins with the preparation of an  
9 environmental impact statement preparation notice as provided by  
10 rules. The final approving agency for the request for approval  
11 is not required to be the accepting authority.

12 For environmental assessments for which a finding of no  
13 significant impact is anticipated:

- 14 (1) A draft environmental assessment shall be made  
15 available for public review and comment for a period  
16 of thirty days;
- 17 (2) The office shall inform the public of the availability  
18 of the draft environmental assessment for public  
19 review and comment pursuant to section 343-3; and
- 20 (3) The applicant shall respond in writing to comments  
21 received during the review and the applicant shall





1           prepare a final environmental assessment to determine  
2           whether an environmental impact statement shall be  
3           required. A statement shall be required if the agency  
4           finds that the proposed action may have a significant  
5           effect on the environment. The agency shall file  
6           notice of the agency's determination with the office,  
7           which, in turn, shall publish the agency's  
8           determination for the public's information pursuant to  
9           section 343-3.

10          The draft and final statements, if required, shall be  
11       prepared by the applicant, who shall file these statements with  
12       the office.

13          The draft statement shall be made available for public  
14       review and comment through the office for a period of forty-five  
15       days. The office shall inform the public of the availability of  
16       the draft statement for public review and comment pursuant to  
17       section 343-3.

18          The applicant shall respond in writing to comments received  
19       during the review and prepare a final statement. The office,  
20       when requested by the applicant or agency, may make a  
21       recommendation as to the acceptability of the final statement.



1       The authority to accept a final statement shall rest with  
2 the agency initially receiving and agreeing to process the  
3 request for approval. The final decision-making body or  
4 approving agency for the request for approval is not required to  
5 be the accepting authority. The planning department for the  
6 county in which the proposed action will occur shall be a  
7 permissible accepting authority for the final statement.

8       Acceptance of a required final statement shall be a  
9 condition precedent to approval of the request and commencement  
10 of the proposed action. Upon acceptance or nonacceptance of the  
11 final statement, the agency shall file notice of the  
12 determination with the office. The office, in turn, shall  
13 publish the determination of acceptance or nonacceptance of the  
14 final statement pursuant to section 343-3.

15       The agency receiving the request, within thirty days of  
16 receipt of the final statement, shall notify the applicant and  
17 the office of the acceptance or nonacceptance of the final  
18 statement. The final statement shall be deemed to be accepted  
19 if the agency fails to accept or not accept the final statement  
20 within thirty days after receipt of the final statement;  
21 provided that the thirty-day period may be extended at the



1 request of the applicant for a period not to exceed fifteen  
2 days.

3 In any acceptance or nonacceptance, the agency shall  
4 provide the applicant with the specific findings and reasons for  
5 its determination. ~~[An applicant, within sixty days after~~  
6 ~~nonacceptance of a final statement by an agency, may appeal the~~  
7 ~~nonacceptance to the environmental council, which, within thirty~~  
8 ~~days of receipt of the appeal, shall notify the applicant of the~~  
9 ~~council's determination. In any affirmation or reversal of an~~  
10 ~~appealed nonacceptance, the council shall provide the applicant~~  
11 ~~and agency with specific findings and reasons for its~~  
12 ~~determination. The agency shall abide by the council's~~  
13 ~~decision.]"~~

14 SECTION 19. Section 343-6, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) After consultation with the affected agencies, the  
17 ~~[council]~~ office of planning shall adopt, amend, or repeal  
18 necessary rules for the purposes of this chapter in accordance  
19 with chapter 91 including[7] but not limited to[7] rules that  
20 shall:



- 1 (1) Prescribe the procedures whereby a group of proposed  
2 actions may be treated by a single environmental  
3 assessment or statement;
- 4 (2) Establish procedures whereby specific types of  
5 actions, because they will probably have minimal or no  
6 significant effects on the environment, are declared  
7 exempt from the preparation of an environmental  
8 assessment;
- 9 (3) Prescribe procedures for the preparation of an  
10 environmental assessment;
- 11 (4) Prescribe the contents of an environmental assessment;
- 12 (5) Prescribe procedures for informing the public of  
13 determinations that a statement is either required or  
14 not required, for informing the public of the  
15 availability of draft environmental impact statements  
16 for review and comments, and for informing the public  
17 of the acceptance or nonacceptance of the final  
18 environmental statement;
- 19 (6) Prescribe the contents of an environmental impact  
20 statement;



1 (7) Prescribe procedures for the submission, distribution,  
2 review, acceptance or nonacceptance, and withdrawal of  
3 an environmental impact statement;

4 (8) Establish criteria to determine whether an  
5 environmental impact statement is acceptable or not;  
6 and

7 (9) Prescribe procedures to appeal the nonacceptance of an  
8 environmental impact statement to the environmental  
9 advisory council."

10 SECTION 20. Section 343-7, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "(a) Any judicial proceeding, the subject of which is the  
13 lack of assessment required under section 343-5, shall be  
14 initiated within one hundred twenty days of the agency's  
15 decision to carry out or approve the action, or, if a proposed  
16 action is undertaken without a formal determination by the  
17 agency that a statement is or is not required, a judicial  
18 proceeding shall be instituted within one hundred twenty days  
19 after the proposed action is started. The council or office,  
20 any agency responsible for approval of the action, or the  
21 applicant shall be adjudged an aggrieved party for the purposes



1 of bringing judicial action under this subsection. Others, by  
2 environmental court action, may be adjudged aggrieved.

3 (b) Any judicial proceeding, the subject of which is the  
4 determination that a statement is required for a proposed  
5 action, shall be initiated within sixty days after the public  
6 has been informed of such determination pursuant to section  
7 343-3. Any judicial proceeding, the subject of which is the  
8 determination that a statement is not required for a proposed  
9 action, shall be initiated within thirty days after the public  
10 has been informed of such determination pursuant to section  
11 343-3. The council or the applicant shall be adjudged an  
12 aggrieved party for the purposes of bringing judicial action  
13 under this subsection. Others, by environmental court action,  
14 may be adjudged aggrieved.

15 (c) Any judicial proceeding, the subject of which is the  
16 acceptance or nonacceptance of an environmental impact statement  
17 required under section 343-5, shall be initiated within sixty  
18 days after the public has been informed pursuant to section  
19 343-3 of the acceptance of such statement. [~~The council shall~~  
20 ~~be adjudged an aggrieved party for the purpose of bringing~~  
21 ~~judicial action under this subsection.~~] Affected agencies and



1 persons who provided written comment to such statement during  
2 the designated review period shall be adjudged aggrieved parties  
3 for the purpose of bringing judicial action under this  
4 subsection; provided that for aggrieved parties, the contestable  
5 issues shall be limited to issues identified and discussed in  
6 the written comment[-], and for applicants, the contestable  
7 issues shall be limited to those issues identified by the  
8 accepting authority as the basis for nonacceptance of the  
9 statement."

10 SECTION 21. Section 501-33, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "[+] (b) [+] The applicant shall supply the office of  
13 [~~environmental quality control~~] planning with notice of the  
14 application, for publication in the office's periodic bulletin  
15 in compliance with section 343-3(c)(4). The application shall  
16 not be approved unless the office of [~~environmental quality~~  
17 ~~control~~] planning has published notice in the office's periodic  
18 bulletin."

19 SECTION 22. Section 669-1, Hawaii Revised Statutes, is  
20 amended by amending subsection (e) to read as follows:



1       "(e) Action may be brought by any person to quiet title to  
2 land by accretion; provided that no action shall be brought by  
3 any person other than the State to quiet title to land accreted  
4 along the ocean after May 20, 2003, except that a private  
5 property owner whose eroded land has been restored by accretion  
6 may also bring such an action for the restored portion. The  
7 person bringing the action shall prove by a preponderance of the  
8 evidence that the accretion is natural and permanent and that  
9 the land accreted before or on May 20, 2003. The person  
10 bringing the action shall supply the office of [~~environmental~~  
11 ~~quality control~~] planning with notice of the action for  
12 publication in the office's periodic bulletin in compliance with  
13 section 343-3(c)(4). The quiet title action shall not be  
14 decided by the court unless the office of [~~environmental quality~~  
15 ~~control~~] planning has properly published notice of the action in  
16 the office's periodic bulletin.

17       As used in this section, "permanent" means that the  
18 accretion has been in existence for at least twenty years. The  
19 accreted portion of land shall be considered within the  
20 conservation district. Land accreted after May 20, 2003, shall





1 be public land except as otherwise provided in this section.

2 Prohibited uses are governed by section 183-45."

3 SECTION 23. Subpart G of part IV of chapter 304A, Hawaii  
4 Revised Statutes, is repealed.

5 SECTION 24. Section 341-2, Hawaii Revised Statutes, is  
6 repealed.

7 [~~"§341-2 Definitions. As used in this chapter, unless the~~  
8 ~~context otherwise requires:~~

9 ~~"Center" means the University of Hawaii environmental~~  
10 ~~center established in section [304A-1551].~~

11 ~~"Council" means the environmental council established in~~  
12 ~~section 341-3(e).~~

13 ~~"Director" means the director of environmental quality~~  
14 ~~control.~~

15 ~~"Office" means the office of environmental quality control~~  
16 ~~established in section 341-3(a).~~

17 ~~"University" means the University of Hawaii." ]~~

18 SECTION 25. Section 341-3, Hawaii Revised Statutes, is  
19 repealed.

20 [~~"§341-3 Office of environmental quality control;~~  
21 ~~environmental center; environmental council. (a) There is~~



~~1 created an office of environmental quality control that shall be  
2 headed by a single executive to be known as the director of  
3 environmental quality control who shall be appointed by the  
4 governor as provided in section 26-34. This office shall  
5 implement this chapter and shall be placed within the department  
6 of health for administrative purposes. The office shall perform  
7 its duties under chapter 343 and shall serve the governor in an  
8 advisory capacity on all matters relating to environmental  
9 quality control.~~

~~10 (b) The environmental center within the University of  
11 Hawaii shall be as established under section [304A-1551].~~

~~12 (c) There is created an environmental council not to  
13 exceed fifteen members. Except for the director, members of the  
14 environmental council shall be appointed by the governor as  
15 provided in section 26-34. The council shall be attached to the  
16 department of health for administrative purposes. Except for  
17 the director, the term of each member shall be four years,  
18 provided that, of the members initially appointed, five members  
19 shall serve for four years, five members shall serve for three  
20 years, and the remaining four members shall serve for two years.  
21 Vacancies shall be filled for the remainder of any unexpired~~



~~term in the same manner as original appointments. The director shall be an ex officio voting member of the council. The council chairperson shall be elected by the council from among the appointed members of the council.~~

~~Members shall be appointed to assure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, environmental consulting, public health, and planning; educational and research institutions with environmental competence; agriculture, real estate, visitor industry, construction, media, and voluntary community and environmental groups. The members of the council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties."]~~

SECTION 26. Section 341-4, Hawaii Revised Statutes, is repealed.

~~["§341-4 Powers and duties of the director. (a) The director shall have such powers delegated by the governor as are necessary to coordinate and, when requested by the governor, to~~



1 ~~direct pursuant to chapter 91 all state governmental agencies in~~  
2 ~~matters concerning environmental quality.~~

3 ~~(b) To further the objective of subsection (a), the~~  
4 ~~director shall:~~

5 ~~(1) Direct the attention of the university community and~~  
6 ~~the residents of the State in general to ecological~~  
7 ~~and environmental problems through the center and the~~  
8 ~~council, respectively, and through public education~~  
9 ~~programs;~~

10 ~~(2) Conduct research or arrange for the conduct of~~  
11 ~~research through contractual relations with the~~  
12 ~~center, state agencies, or other persons with~~  
13 ~~competence in the field of ecology and environmental~~  
14 ~~quality;~~

15 ~~(3) Encourage public acceptance of proposed legislative~~  
16 ~~and administrative actions concerning ecology and~~  
17 ~~environmental quality, and receive notice of any~~  
18 ~~private or public complaints concerning ecology and~~  
19 ~~environmental quality through the council;~~

20 ~~(4) Recommend programs for long range implementation of~~  
21 ~~environmental quality control;~~



1       ~~(5) Submit direct to the governor and to the legislature~~  
2       ~~such legislative bills and administrative policies,~~  
3       ~~objectives, and actions, as are necessary to preserve~~  
4       ~~and enhance the environmental quality of the State,~~  
5       ~~(6) Conduct public educational programs; and~~  
6       ~~(7) Offer advice and assistance to private industry,~~  
7       ~~governmental agencies, or other persons upon request.~~  
8       ~~(e) The director shall adopt rules pursuant to chapter 91~~  
9       ~~necessary for the purposes of implementing this chapter." ]~~

10       SECTION 27. All rights, powers, functions, and duties of  
11       the office of environmental quality control are transferred to  
12       the office of planning.

13       SECTION 28. All individuals currently employed at the  
14       office of environmental quality control are transferred to the  
15       office of planning.

16       Each employee impacted by this Act who occupies a civil  
17       service position shall retain their civil service status,  
18       whether permanent or temporary. Each employee shall be  
19       transferred without loss of salary, seniority (except as  
20       prescribed by applicable collective bargaining agreements),  
21       retention points, prior service credit, any vacation and sick



1 leave credits previously earned, and other rights, benefits, and  
2 privileges, in accordance with state personnel laws and this  
3 Act; provided that the employees possess the minimum  
4 qualifications and public employment requirements for the class  
5 or position to which transferred or appointed, as applicable;  
6 provided further that subsequent changes in status may be made  
7 pursuant to applicable civil service and compensation laws.

8 Any employee who, prior to this Act, is exempt from civil  
9 service may retain the employee's exempt status after the  
10 transfer in this Act, but shall not be appointed to a civil  
11 service position as a consequence of this Act. Any exempt  
12 employee that is transferred by this Act shall not suffer any  
13 loss of prior service credit, vacation or sick leave credits  
14 previously earned, or other employee benefits or privileges as a  
15 consequence of this Act; provided that the employees possess  
16 legal and public employment requirements for the position to  
17 which transferred or appointed, as applicable; provided further  
18 that subsequent changes in status may be made pursuant to  
19 applicable employment and compensation laws. The director of  
20 the office of planning may prescribe the duties and



1 qualifications of these employees and fix their salaries without  
2 regard to chapter 76, Hawaii Revised Statutes.

3 SECTION 29. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers, documents,  
5 maps, and other personal property heretofore made, used,  
6 acquired, or held by the office of environmental quality control  
7 relating to the functions transferred to the office of planning  
8 shall be transferred with the functions to which they relate.

9 SECTION 30. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 31. This Act shall take effect on July 1, 2050.



# H.B. NO. 1318 H.D. 1

**Report Title:**

Environmental Review; Office of Environmental Quality Control;  
Office of Planning; Environmental Advisory Council;  
Establishment

**Description:**

Establishes the environmental advisory council. Transfers the rights, powers, employees, appropriations, and other personal property from the office of environmental quality control to the office of planning. Amends the ability for an applicant to appeal nonacceptance of an environmental impact statement from the environmental council to the environmental advisory council. Effective 7/1/2050. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

