

ACT 76

H.B. NO. 894

A Bill for an Act Relating to State Planning.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 226, Hawaii Revised Statutes, is amended by amending Part II to read as follows:

“PART II. PLANNING COORDINATION AND IMPLEMENTATION

§226-51 Purpose. The purpose of this part is to establish a statewide planning system to coordinate and guide all major state and county activities and to implement the overall theme, goals, objectives, policies, and priority guidelines.

§226-52 Statewide planning system. (a) The statewide planning system shall consist of the following policies, plans, and programs:

- (1) The overall theme, goals, objectives, and policies established in this chapter that shall provide the broad guidelines for the State[.];
- (2) The priority guidelines established in this chapter that shall provide guidelines for decisionmaking by the State and the counties for the immediate future and set priorities for the allocation of resources. The formulation and revision of state functional plans shall be in conformance with the priority guidelines[.];
- (3) State functional plans that shall be prepared to address, but not be limited to, the areas of agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, and transportation[, and water resources development]. The preparing agency for each state functional plan shall

also consider applicable federal laws, policies, or programs that impact upon the functional plan area. State functional plans shall define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. County general plans and development plans shall be taken into consideration in the formulation and revision of state functional plans[.];

- (4) County general plans that shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. County general plans or development plans shall further define the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. State functional plans shall be taken into consideration in amending the county general plans[.]; and
- (5) State programs that shall include[,] but not be limited to[, those] programs involving coordination and review; research and support; design, construction, and maintenance; services; and regulatory powers. State programs that exercise coordination and review functions shall include[,] but not be limited to[,] the state clearinghouse process, the capital improvements program, and the coastal zone management program. State programs that exercise regulatory powers in resource allocation shall include[,] but not be limited to[,] the land use and management programs administered by the land use commission and the board of land and natural resources. State programs shall further define, implement, and be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter.

(b) The statewide planning system shall also consist of several implementation mechanisms[.]; including:

- (1) [The overall] Overall plan review, coordination, and evaluation [process]. [The overall] Overall plan review, coordination, and evaluation shall be conducted by [the policy council, with the assistance of] the office[.];
- (2) The state budgetary, land use, and other decisionmaking processes. The state budgetary, land use, and other decisionmaking processes shall consist of:
 - (A) [Program] The program appropriations process. The appropriation of funds for major programs under the biennial and supplemental budgets shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter[.];
 - (B) [Capital] The capital improvement project appropriations process. The appropriation of funds for major plans and projects under the capital improvements program shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter[.];

- (C) [Budgetary] The budgetary review process of the department of budget and finance. The budgetary review and allocation process of the department of budget and finance shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter[.];
- (D) Land use decisionmaking processes of state agencies. Land use decisions made by state agencies shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter. The rules adopted by appropriate state agencies to govern land use decisionmaking shall be in conformance with the overall theme, goals, objectives, and policies contained within this chapter[.]; and
- (E) All other regulatory and administrative decisionmaking processes of state agencies, which shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter. Rules adopted by state agencies to govern decisionmaking shall be in conformance with the overall theme, goals, objectives, and policies contained within this chapter[.];
- (3) The strategic planning processes. The office and other state agencies shall conduct strategic planning activities to identify and analyze significant issues, problems, and opportunities confronting the State, including the examination and evaluation of state programs in implementing state policies and the formulation of strategies and alternative courses of action in response to identified problems and opportunities. Strategic planning processes may include the conduct of surveys and other monitoring instruments such as environmental scanning to assess current social, economic, and physical conditions and trends. In conducting strategic planning activities, the office and other state agencies shall ensure that general public and agency concerns are solicited and taken into consideration. The formation of task forces, ad hoc committees, or other advisory bodies comprised of interested parties may serve to facilitate public involvement in specific planning projects; and
- [(3)] (4) Other coordination processes which include the use of the state clearinghouse process. The state clearinghouse shall coordinate the review of all federally-assisted and direct federal development projects which are covered under the state clearinghouse process [and shall notify the policy council of all proposed federally-assisted or direct federal development projects which conflict with this chapter, or any functional plan approved under this chapter].

§226-53 [Policy council; composition; voting rights. (a) There is established a policy council whose membership shall include the following:

- (1) The planning director from each county.
- (2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the

counties of Maui and Hawaii; provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii and one from east Hawaii, appointed by the governor from a list of public persons from each county which shall through its mayor or council, submit no less than three names for each appointive public member to which the county is entitled. The governor shall request lists of public persons from the respective mayors for appointment to the policy council. Within thirty days following the date of the governor's request, the mayor of the respective county shall submit the list to the council of the respective county for advice and consent. Within sixty days of the date of the governor's request, the mayor shall submit the list of public persons, with the advice and consent of the council of the respective county, to the governor for appointment to the policy council. If the mayor fails to submit a list to the council within thirty days of the date of the governor's request, the council shall submit a list to the governor within sixty days of the governor's request. If a list of public persons is not submitted by either the mayor or the council to the governor within sixty days following the date of the request for such a list, the governor shall appoint the public members from that county in accordance with the applicable geographic representation set forth above without nominations from that mayor.

- (3) The directors or chairpersons from the departments of agriculture, budget and finance, land and natural resources, health, human services, transportation, and labor and industrial relations; the director of business and economic development or a designated representative; the director of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the housing finance and development corporation; the executive officer of the land use commission; and the director of the office of state planning.

In order to obtain the participation of the federal government in the overall state planning process, the governor shall invite the chairperson of or designated person from the Federal Executive Board located in the state, and the Commander in Chief of the Pacific (CINCPAC) or a designated person from the United States Department of Defense located in the state, to sit as nonvoting ex officio members of the policy council.

The director of the office of state planning shall serve as chairperson of the council.

The terms of the nine members from the public shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public shall be appointed consecutively to more than two terms; provided that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state or federal governmental member participating in policy council deliberations shall be borne by the member's respective

governmental agency. Travel expenses incurred by county planning directors participating in policy council deliberations shall be reimbursed by the office of state planning. A public member shall receive no compensation for the member's services, but each shall be reimbursed by the office of state planning for necessary expenses incurred in the performance of the member's duties.

(b) There shall be a total of eighteen voting members on the policy council. The voting rights shall be apportioned as follows:

- (1) The planning director from each county shall each be entitled to one vote;
- (2) The nine members from the public shall each be entitled to one vote; and
- (3) The chairman of the council and four of the state agency heads herein described shall each be entitled to one vote.

The governor, in consultation with the director of the office of state planning, shall determine which of the other state agency heads described herein shall have voting rights on the basis of the subject matter or functional area before the policy council. The governor may also rotate the voting rights among those state agency heads deemed most affected by the nature of the subject matter or functional area before the policy council; provided that the state agency heads shall not cast more than five votes on any one issue before the policy council. State agency heads who are not entitled to vote upon a given subject or functional area shall serve as ex-officio members of the policy council.

(c) All recommendations made to the legislature by the policy council shall be approved by two-thirds of its voting members, which shall not preclude minority reports.

§226-54 Policy council; duties. The policy council shall:

- (1) Provide a forum for the discussion of conflicts between and among this chapter, functional plans, county general plans and development plans, and state programs;
- (2) Transmit to the governor, legislature, and the mayors and legislative bodies of the respective counties its findings and recommendations on all conflicts as described above, and on the resolution of conflicts;
- (3) Review and evaluate state functional plans for conformance with the provisions of this chapter, seek to resolve any identified conflicts, and transmit its findings and recommendations to the legislature;
- (4) Advise the legislature on the administration, amendment, and review of this chapter, including the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter;
- (5) Adopt rules in accordance with section 226-56 to provide procedures for public input into the amendment processes and for submittal of proposed amendments;
- (6) Maintain a record of its activities;
- (7) Conduct a comprehensive review of part I of this chapter at least every four years following enactment by the legislature, and part III of this chapter at least every odd-numbered year to coincide with the state budget process; and
- (8) Prepare a biennial report to the legislature in accordance with section 226-62.

§226-55] Office of state planning; duties. The office shall provide technical assistance [and staff services to the policy council] in administering this

chapter. To further the intent and purpose of this chapter, the office shall:

- (1) Provide recommendations to the governor and [the policy council] state and county agencies on conflicts between and among this chapter, state functional plans approved by the governor, county general plans and development plans, and state programs;
- (2) Review and evaluate this chapter and recommend amendments as needed to the [policy council;] legislature;
- (3) Review, as necessary, major plans, programs, projects, and regulatory activities proposed by state and county agencies, and provide advisory opinions and reports to the [policy council] governor as needed;
- (4) Analyze existing state policies, planning and program operations, laws, rules, and practices relative to formulation, implementation, and coordination of the state plan;
- (5) Review state capital improvement projects for consistency with this chapter and as necessary report findings and recommendations to the governor prior to allocation of funds;
- (6) Conduct strategic planning by identifying and analyzing significant issues, problems, and opportunities confronting the State, and formulating strategies and alternative courses of action in response to identified problems and opportunities;
- [(6)] (7) Conduct special studies and prepare reports that address major policy issues relating to statewide growth and development;
- [(7)] (8) Cooperate with all public agencies to ensure an ongoing, uniform, and reliable base of data and projections;
- [(8)] (9) Assist the [policy council] legislature in conducting [a comprehensive review] reviews of [part I at least every four years following enactment by the legislature, and part III at least every odd-numbered year;] parts I, II, and III as necessary;
- [(9)] Assist the policy council in preparing and submitting its biennial review and report to the legislature in accordance with section 226-62;
- (10) Prepare and adopt in consultation with the policy council, administrative guidelines in accordance with this chapter and chapter 91;
- [(11)] (10) Provide other technical assistance [and staff services] to the [policy council] governor and state and county agencies as needed; and
- [(12)] Prepare guidelines for the development and implementation of the state functional plans in accordance with sections 226-57 and 226-58.]
- (11) Prepare a report identifying emerging issues for use in the revision of parts I and III, including the updating of state functional plans. The report may include a scan of conditions and trends in population, the economy, and the environment, linking the findings of the state scanning project with policy and program activities.

The office may contract with public and private agencies and persons for special research and planning assistance.

[§226-56] §226-54 [Amendments to the overall theme, goals, objectives, policies, and priority guidelines.] Amendments to this chapter. [The policy council shall adopt rules for amendments to the goals, objectives, policies, and priority guidelines.] Amendments to this chapter shall be adopted in accordance with the legislative review process. Proposals from the general public to initiate amendments to any provision of this chapter, shall be subject to the

following provisions:

- (1) Any person may submit [to the office] proposals [for the revision of the overall theme, goals, objectives, policies, and priority guidelines;] to amend this chapter to the office and the legislature; and
- (2) The office shall review [the] proposed amendments [to the overall theme, goals, objectives, policies, and priority guidelines] and [shall] submit its findings and recommendations to the [policy council;] legislature thirty days prior to the convening of the next legislative session.
- [(3) The policy council shall submit its final recommendations on the amendments to the overall theme, goals, objectives, policies, and priority guidelines to the legislature thirty days prior to the convening of the next legislative session following its review of the proposed amendments, along with minority reports, if any; and
- (4) The policy council, in reviewing the proposed amendments of the office, shall make public its findings and recommendations and shall hold public hearings in each county of the state in accordance with chapter 91. There shall be not less than two public hearings in each county on the recommended revisions to the overall theme, goals, objectives, and policies of the state plan; provided that there shall be not less than three public hearings in the city and county of Honolulu and there shall be not less than one public hearing on each of the islands of Maui, Molokai, and Lanai in the county of Maui.]

[§226-57] §226-55 Functional plans; preparation. (a) The state agency head primarily responsible for a given functional area shall prepare the functional plan for the area. In the preparation of the functional plan, the state agency head shall work in close cooperation with the advisory committee, respective officials, and people of each county. In the formulation of the functional plan, the preparing agency shall solicit public views and concerns. The formulation and revision of a state functional plan shall conform to the provisions of this chapter and shall take into consideration the county general plans. Functional plans and any revisions thereto shall be approved by the governor to serve as guidelines [to] for funding and implementation by state and county agencies.

(b) The functional plan shall identify priority issues in the functional area and shall contain objectives [to be achieved and], policies, and implementing actions to [be pursued in the primary field of activity and shall address major programs and the location of major facilities.] address those priority issues. Actions may include organizational or management initiatives, facility or physical infrastructure development initiatives, initiatives for programs and services, or legislative proposals.

(c) For each functional plan, the governor shall establish an advisory committee, where an advisory body which meets the criteria set out hereunder is not already in existence, whose membership shall be composed of at least one public official from each county to be nominated by the mayor of each county; members of the public; experts in the field for which a functional plan is being prepared; and state officials. The governor shall request the nominations from each of the respective mayors and shall appoint the public official nominated by the mayor of the respective county to serve on the advisory committee. If the nominations of county officials by a mayor are not submitted to the governor within sixty days following the date of the governor's request for such nominations, the governor shall appoint at least one public official from that county to serve on the advisory committee without nominations from that mayor. The committee shall advise the

state agency in preparing [a], implementing, monitoring, and updating the functional plan to be in conformance with the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. The [approved] draft functional plan[.] shall be submitted to [the policy council] relevant federal, state, and county agencies for review and [evaluation]. The committee shall also advise the state agency in the implementation, monitoring, and future updating of the plan.] input. The advisory committee shall serve as a permanent advisory body to the state agency responsible for preparing each respective functional plan. The terms of members from the public and experts in the field for which a functional plan is prepared shall be for four years. Each term shall commence on July 1 and expire on June 30. No member from the public or expert in the field shall be appointed consecutively to more than two terms. These appointments shall not be subject to senate confirmation, and shall be exempt from sections 26-34(a) and 78-4(a) regarding the appointment to boards and commissions.

[§226-58] §226-56 Functional plans; form and submittal. (a) Functional plans shall be prepared to further define and implement statewide [guidelines with respect to] goals, objectives, policies, and priority guidelines[.] contained in this chapter.

(b) Functional plans shall be prepared and revised in accordance with guidelines developed by the department of budget and finance.

[(b)] (c) The governor shall transmit approved state functional plans to the legislature for its information.

(c) An approved functional plan shall be submitted to the policy council for its review and evaluation prior to its transmittal to the legislature. The policy council shall submit findings and recommendations to the legislature on each functional plan reviewed, in terms of its conformance with this chapter.]

[§226-59] §226-57 Functional plans; implementation. (a) Functional plans shall be used [as guidelines to implement] to guide the allocation of resources for the implementation of state policies adopted by the legislature.

(b) The legislature, upon a finding of overriding statewide concern, may determine in any given instance that the site for a specific project may be other than that designated [on] in the county general plan; provided that any proposed facility or project contained in a county general plan shall not require the actual development or implementation of that facility or project or [the] its inclusion [of the same] in any state functional plan by any state agency. The implementation of functional plans shall conform to existing laws, rules, [and] standards, and this chapter.

[§226-60] §225-58 County general plans. (a) The county general plans and development plans shall be formulated with input from the state and county agencies as well as the general public.

County general plans or development plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. The county general plans or development plans shall further define applicable provisions of this chapter[.]; provided that any amendment to the county general plan of each county shall not be contrary to the county charter. The formulation, amendment, and implementation of county general plans or development plans shall take into consideration statewide objectives, policies, and programs stipulated in state functional plans approved in consonance with this chapter.

(b) County general plans shall be formulated on the basis of sound rationale, data, analyses, and input from state and county agencies and the general public, and contain objectives and policies as required by the charter of each county. Further, the county general plans should:

- (1) Contain objectives to be achieved and policies to be pursued with respect to population density, land use, transportation system location, public and community facility locations, water and sewage system locations, visitor destinations, urban design, and all other matters necessary for the coordinated development of the county and regions within the county[.]; and
- (2) Contain implementation priorities and actions to carry out policies to include but not be limited to[,] land use maps, programs, projects, regulatory measures, standards and principles, and interagency coordination provisions.

[§226-61] §226-59 State programs. (a) The formulation, administration, and implementation of state programs shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter.

(b) The director of the office of state planning shall assist the governor in assuring that state programs are in conformance with this chapter.

[§226-62 Biennial review and report. (a) The policy council, with the assistance of the office, shall prepare a biennial report for submittal to the legislature, mayors, and county councils. The biennial report shall contain recommendations for legislative consideration and action. Major components of the review and report shall include the following:

- (1) An assessment of progress being made in attaining the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter and the state functional plans;
- (2) Recommendations to improve coordination between and among the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter, county general plans and development plans, state functional plans, and state programs; and
- (3) An assessment of legislation and programs of the preceding two years that have major statewide or countywide impact in terms of their consistency with this chapter.

(b) The biennial review and report shall be submitted to the legislature, mayors, and the county councils no later than February 1 of each odd numbered year.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1991.)