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## A BILL FOR AN ACT

RELATING TO LAND USE.

**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 re-  
3 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 goals and clean energy  
9 benchmarks. 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, and  
14 climate change mitigation measures such as increasing clean  
15 energy production and reducing greenhouse gas emissions.

16           Therefore, the legislature finds that it is in the public  
17 interest to consolidate various government land use functions of



1 different agencies into a new structure under an office of  
2 planning and sustainable development in an effort to place all  
3 key decision-making and regulatory responsibility surrounding  
4 land use planning and permitting under one structure.

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

15 SECTION 2. Section 26-18, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17 "(b) The following are placed in the department of  
18 business, economic development, and tourism for administrative  
19 purposes as defined by section 26-35: Hawaii community  
20 development authority, Hawaii housing finance and development  
21 corporation, Hawaii technology development corporation, [~~land~~



1 ~~use commission,~~] natural energy laboratory of Hawaii authority,  
2 office of planning and sustainable development, and any other  
3 boards and commissions as shall be provided by law."

4 SECTION 3. Section 201-2, Hawaii Revised Statutes, is  
5 amended to read as follows:

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

19 [~~(b)~~] ~~The department of business, economic development,~~  
20 ~~and tourism shall have sole jurisdiction over the land use~~  
21 ~~commission under chapter 205, state planning under chapter 225M,~~



1 ~~and the Hawaii State Planning Act under chapter 226. Due to the~~  
2 ~~inherently interdependent functions of development, planning,~~  
3 ~~and land use, these functions shall not be transferred by~~  
4 ~~executive order, directive, or memorandum, to any other~~  
5 ~~department, nor shall these functions be subject to review or~~  
6 ~~approval by any other department.]"~~

7 SECTION 4. Section 205-1, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§205-1 Establishment of the commission.** [†] (a) [†] There  
10 shall be a state land use commission, hereinafter called the  
11 commission. The commission shall consist of nine members who  
12 shall hold no other public office and shall be appointed in the  
13 manner and serve for the term set forth in section 26-34. One  
14 member shall be appointed from each of the counties and the  
15 remainder shall be appointed at large; provided that one member  
16 shall have substantial experience or expertise in traditional  
17 Hawaiian land usage and knowledge of cultural land practices.  
18 The commission shall elect its chairperson from one of its  
19 members. The members shall receive no compensation for their  
20 services on the commission, but shall be reimbursed for actual



1 expenses incurred in the performance of their duties. Six  
2 affirmative votes shall be necessary for any boundary amendment.

3       [+] (b) [+] The commission shall be a part of the  
4 [~~department of business, economic development, and tourism~~]  
5 office of planning and sustainable development for  
6 [~~administration~~] administrative purposes [~~, as provided for in~~  
7 ~~section 26-35~~].

8       [+] (c) [+] The commission may engage employees necessary to  
9 perform its duties, including administrative personnel and an  
10 executive officer. The executive officer shall be appointed by  
11 the commission and the executive officer's position shall be  
12 exempt from civil service. Departments of the state government  
13 shall make available to the commission such data, facilities,  
14 and personnel as are necessary for it to perform its duties.  
15 The commission may receive and utilize gifts and any funds from  
16 the federal or other governmental agencies. It shall adopt  
17 rules guiding its conduct, maintain a record of its activities  
18 and accomplishments, and make recommendations to the governor  
19 and to the legislature through the governor.



1        (d) Notwithstanding any law to the contrary, the  
2 commission shall be exempt from section 26-35 with the exception  
3 of 26-35(a) (2), (3), (7), (8), and subsection (b) shall apply.

4        (e) The land use commission shall maintain its  
5 independence on matters coming before it to which the office of  
6 planning and sustainable development is a party by establishing  
7 and adhering to the process required by section 225M-2(d)."

8        SECTION 5. Section 205-18, Hawaii Revised Statutes, is  
9 amended to read as follows:

10        **"§205-18 ~~[Periodic review]~~ Review of districts.** The  
11 office of planning ~~[shall]~~ and sustainable development may  
12 undertake a review of the classification and districting of all  
13 lands in the State~~[, within five years from December 31, 1985,~~  
14 ~~and every fifth year thereafter]~~. The office, in its ~~[five-~~  
15 ~~year]~~ boundary review, shall focus its efforts on reviewing the  
16 Hawaii state plan, county general plans, and county development  
17 and community plans. Upon completion of the ~~[five-year]~~  
18 boundary review, the office shall submit a report of the  
19 findings to the commission~~[-]~~, governor, legislature, and  
20 appropriate state and county agencies. The office may initiate  
21 state land use boundary amendments which it deems appropriate to



1 conform to these plans. The office may seek assistance of  
2 appropriate state and county agencies and may employ consultants  
3 and undertake studies in making this review."

4 SECTION 6. Section 225M-1, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§225M-1 Purpose.** (a) The purpose of this chapter is to  
7 establish an office of planning and sustainable development to  
8 assist the governor [~~and the director of business, economic~~  
9 ~~development, and tourism~~], the legislature, and state and county  
10 agencies in maintaining an overall framework to guide the  
11 development of the State through a continuous process of  
12 comprehensive, long-range, and strategic planning to meet the  
13 physical, economic, and social needs of Hawaii's people, and  
14 provide for the wise use of Hawaii's resources in a coordinated,  
15 efficient, and economical manner, including the conservation of  
16 those natural, environmental, recreational, scenic, historic,  
17 and other limited and irreplaceable resources which are required  
18 for future generations.

19 The establishment of an office of planning and sustainable  
20 development in the department of business, economic development,  
21 and tourism, for administrative purposes, is intended to:



1 (1) Fix responsibility and accountability to successfully  
2 carry out statewide planning programs, policies, and  
3 priorities;

4 (2) Improve the efficiency and effectiveness of the  
5 operations of the executive branch; and

6 (3) Ensure comprehensive planning and coordination to  
7 enhance the quality of life of the people of Hawaii.

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

16 SECTION 7. Section 225M-2, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§225M-2 Office of planning[7] and sustainable**  
19 **development, establishment; responsibilities.** (a) There is  
20 established the office of planning and sustainable development  
21 within the department of business, economic development, and



1 tourism an office of planning[~~7~~] for administrative purposes  
2 only. The head of the office shall be known as the director of  
3 the office of planning[~~7~~] and sustainable development, referred  
4 to in this chapter as director. The director shall serve as a  
5 member of the governor's cabinet and have: [~~training~~]

6 (1) Training in the field of urban or regional planning,  
7 public administration, or other related fields;

8 [~~experience~~]

9 (2) Experience in programs or services related to  
10 governmental planning; and [~~experience~~]

11 (3) Experience in a supervisory, consultative, or  
12 administrative capacity.

13 The director shall be nominated by the governor and, by and with  
14 the advice and consent of the senate, appointed by the governor  
15 without regard to chapter 76, and shall be compensated at a  
16 salary level set by the governor. The director shall be  
17 included in any benefit program generally applicable to the  
18 officers and employees of the State. The director [~~shall~~] may  
19 retain [~~such~~] staff as may be necessary for the purposes of this  
20 chapter, in conformity with chapter 76. [~~The director shall~~  
21 ~~report to the director of business, economic development, and~~



1 ~~tourism and shall not be required to report directly to any~~  
2 ~~other principal executive department.]~~ The director may also  
3 employ staff without regard to chapter 76, as authorized in this  
4 chapter and as may be necessary.

5 (b) The office of planning and sustainable development  
6 shall gather, analyze, and provide information to the governor,  
7 the legislature, and state and county agencies to assist in the  
8 overall analysis and formulation of state policies and  
9 strategies to provide central ~~direction and cohesion in the~~  
10 allocation of resources and effectuation of state activities and  
11 programs and effectively address current or emerging issues and  
12 opportunities. More specifically, the office shall engage in  
13 the following activities:

- 14 (1) State comprehensive planning and program coordination.  
15 Formulating and articulating comprehensive statewide  
16 goals, objectives, policies, and priorities, and  
17 coordinating their implementation through the  
18 statewide planning system established in part II of  
19 chapter 226;
- 20 (2) Strategic planning. Identifying and analyzing  
21 significant issues, problems, and opportunities



1           confronting the State, and formulating strategies and  
2           alternative courses of action in response to  
3           identified problems and opportunities by:

4           (A) Providing in-depth policy research, analysis, and  
5           recommendations on existing or potential areas of  
6           critical state concern;

7           (B) Examining and evaluating the effectiveness of  
8           state programs in implementing state policies and  
9           priorities;

10          (C) Monitoring [~~through surveys, environmental~~  
11           ~~scanning, and other techniques current~~] current  
12           social, economic, and physical conditions and  
13           trends[+] through surveys, environmental  
14           scanning, and other techniques; and

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

20          (3) Planning coordination and cooperation. Facilitating  
21           coordinated and cooperative planning and policy



1 development and implementation activities among state  
2 agencies and between the state, county, and federal  
3 governments, by:

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

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

11 (C) Recognizing the presence of federal defense and  
12 security forces and agencies in the State as  
13 important state concerns;

14 (4) Statewide planning and geographic information system.  
15 Collecting, integrating, analyzing, maintaining, and  
16 disseminating various forms of data and information,  
17 including geospatial data and information, to further  
18 effective state planning, policy analysis and  
19 development, and delivery of government services by:

20 (A) Collecting, assembling, organizing, evaluating,  
21 and classifying existing geospatial and non-



1 geospatial data and performing necessary basic  
2 research, conversions, and integration to provide  
3 a common database for governmental planning and  
4 geospatial analyses by state agencies;

5 (B) Planning, coordinating, and maintaining a  
6 comprehensive, shared statewide planning and  
7 geographic information system and associated  
8 geospatial database. The office shall be the  
9 lead agency responsible for coordinating the  
10 maintenance of the multi-agency, statewide  
11 planning and geographic information system and  
12 coordinating, collecting, integrating, and  
13 disseminating geospatial data sets that are used  
14 to support a variety of state agency applications  
15 and other spatial data analyses to enhance  
16 decision-making. The office shall promote and  
17 encourage free and open data sharing among and  
18 between all government agencies. To ensure the  
19 maintenance of a comprehensive, accurate, up-to-  
20 date geospatial data resource that can be drawn  
21 upon for decision-making related to essential



1 public policy issues such as land use planning,  
2 resource management, homeland security, and the  
3 overall health, safety, and well-being of  
4 Hawaii's citizens, and to avoid redundant data  
5 development efforts, state agencies shall provide  
6 to the shared system either their respective  
7 geospatial databases or, at a minimum, especially  
8 in cases of secure or confidential data sets that  
9 cannot be shared or must be restricted, metadata  
10 describing existing geospatial data. In cases  
11 where agencies provide restricted data, the  
12 office of planning and sustainable development  
13 shall ensure the security of that data; and  
14 (C) Maintaining a centralized depository of state and  
15 national planning references;

16 (5) Land use planning. Developing and presenting the  
17 position of the State in all boundary change petitions  
18 and proceedings before the land use commission<sup>[7]</sup> and  
19 assisting state agencies in the development and  
20 submittal of petitions for land use district boundary  
21 amendments, and conducting periodic reviews of the



1 classification and districting of all lands in the  
2 State, as specified in chapter 205;

3 (6) Coastal and ocean policy management, and sea level  
4 rise adaptation coordination. Carrying out the lead  
5 agency responsibilities for the Hawaii coastal zone  
6 management [~~program~~] division, as specified in  
7 chapter 205A. Also:

8 (A) Developing and maintaining an ocean and coastal  
9 resources information, planning, and management  
10 system;

11 (B) Further developing and coordinating  
12 implementation of the ocean resources management  
13 plan; and

14 (C) Formulating ocean policies with respect to the  
15 exclusive economic zone, coral reefs, and  
16 national marine sanctuaries;

17 (7) Regional planning and studies. Conducting plans and  
18 studies to determine:

19 (A) The capability of various regions within the  
20 State to support projected increases in both  
21 resident populations and visitors;



1 (B) The potential physical, social, economic, and  
2 environmental impact on these regions resulting  
3 from increases in both resident populations and  
4 visitors;

5 (C) The maximum annual visitor carrying capacity for  
6 the State by region, county, and island; and

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

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

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

18 (9) Climate adaptation and sustainability planning and  
19 coordination. ~~[Conducting]~~ Acting as the lead agency  
20 to coordinate, conduct plans and studies, and  
21 ~~[preparing]~~ prepare reports as follows:



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- 1 (A) Develop, monitor, and evaluate strategic climate  
2 adaptation plans and actionable policy  
3 recommendations for the State and counties  
4 addressing expected statewide climate change  
5 impacts identified under chapter 225P and  
6 sections 226-108 and 226-109; and
- 7 (B) Provide planning and policy guidance and  
8 assistance to state and county agencies regarding  
9 climate change and sustainability; and
- 10 (10) Smart growth and transit-oriented development. Acting  
11 as the lead agency to coordinate and advance smart  
12 growth and transit-oriented development planning  
13 within the State as follows:
- 14 (A) Identify transit-oriented development  
15 opportunities shared between state and county  
16 agencies, including relevant initiatives such as  
17 the department of health's healthy Hawaii  
18 initiative and the Hawaii clean energy  
19 initiative;
- 20 (B) Refine the definition of "transit-oriented  
21 development" in the context of Hawaii, while



- 1 recognizing the potential for smart growth  
2 development patterns in all locations;
- 3 (C) Clarify state goals for transit-oriented  
4 development and smart growth that support the  
5 principles of the Hawaii State Planning Act by  
6 preserving non-urbanized land, improving worker  
7 access to jobs, and reducing fuel consumption;
- 8 (D) Target transit-oriented development areas for  
9 significant increase in affordable housing and  
10 rental units;
- 11 (E) Conduct outreach to state agencies to help  
12 educate state employees about the ways they can  
13 support and benefit from transit-oriented  
14 development and the State's smart growth goals;
- 15 (F) Publicize coordinated state efforts that support  
16 smart growth, walkable neighborhoods, and  
17 transit-oriented development;
- 18 (G) Review state land use decision-making processes  
19 to identify ways to make transit-oriented  
20 development a higher priority and facilitate  
21 better and more proactive leadership in creating



1 walkable communities and employment districts,  
2 even if transit will only be provided at a later  
3 date; and

4 (H) Approve all state agencies' development plans for  
5 parcels along the rail transit corridor. For the  
6 purposes of this subparagraph, "development  
7 plans" means conceptual land use plans that  
8 identify the location and planned uses within a  
9 defined area.

10 (c) The office shall consist of the following planning and  
11 coordination divisions and programs:

- 12 (1) The coastal zone management division;
- 13 (2) The economic development planning program;
- 14 (3) The Hawaii geographic information system;
- 15 (4) The land use division; and
- 16 (5) The statewide sustainability division.

17 (d) The land use commission's executive officer, chief  
18 clerk, and employees shall be administratively attached to the  
19 office and the provisions of section 205-1(c) shall apply.

20 (e) The office of planning and sustainable development and  
21 the land use commission shall establish procedures and



1 safeguards to avoid actual or perceived conflicts of interest  
2 that may otherwise arise as a result of any proceedings before  
3 the land use commission to which the office of planning and  
4 sustainable development is a party, including but not limited to  
5 petitions for amendments to district boundaries involving land  
6 areas greater than fifteen acres pursuant to section 205-4, and  
7 contested case proceedings pursuant to section 205-19. These  
8 procedures and safeguards shall include a reporting structure  
9 for the land use commission and its executive director and  
10 employees that is separate from the reporting structure for the  
11 land use division of the office."

12 SECTION 8. Section 225M-8, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~§~~225M-8(~~§~~)] **Statewide sustainability** [~~branch~~;  
15 **division; established**. The statewide sustainability [~~branch~~]  
16 division is established within the office of planning. The  
17 state sustainability coordinator shall serve as the  
18 administrator of the [~~branch~~.] division. The [~~branch~~] division  
19 shall have the following duties:

20 (1) Develop, organize, and promote policies and programs  
21 that assist in the meeting of Hawaii's numerous



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1 sustainability and climate policies and goals, and the  
2 priority guidelines and principles to promote  
3 sustainability set forth in section 226-108;

4 (2) Identify, evaluate, and make recommendations regarding  
5 proposed legislation, regulatory changes, or policy  
6 modifications to the governor, the legislature,  
7 government agencies, private entities, and other  
8 bodies for the purpose of encouraging activities that  
9 best sustain, protect, and enhance the quality of the  
10 environment, economy, and community for the present  
11 and future benefit of the people of Hawaii; and

12 (3) Develop and promote proposals that jointly and  
13 mutually enhance local economies, the environment, and  
14 community well-being for the present and future  
15 benefit of the people of Hawaii."

16 SECTION 9. Sections 4E-1, 6K-6, 195-6, 200D-2, 201-102,  
17 205-4, 205-6, 205-47, 205-48, 205-49, 205-50, 205A-1, 214-4,  
18 223-2, 223-3, 225M-3, 225M-4, 225P-3, 225P-4, 225P-6, 226-2,  
19 226-53, 226-56, 226-59, 226-64, 226-65, and 279A-4, Hawaii  
20 Revised Statutes, are amended by substituting the phrase "office  
21 of planning and sustainable development", or similar term,



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1 wherever the phrase "office of planning", or similar term,  
2 appears, as the context requires.

3 SECTION 10. Sections 205A-1, 205A-2, 205A-3, 205A-3.5,  
4 205A-4, 225P-3, and 226-52, Hawaii Revised Statutes, are amended  
5 by substituting the phrase "coastal zone management division",  
6 or similar term, wherever the phrase "coastal zone management  
7 program", or similar term, appears, as the context requires.

8 SECTION 11. This Act does not affect rights and duties  
9 that matured, penalties that were incurred, and proceedings that  
10 were begun before its effective date.

11 SECTION 12. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 13. This Act shall take effect upon its approval.

14

INTRODUCED BY:



JAN 26 2021



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**Report Title:**

Land Use; Planning; Permitting; Land Use Commission; Office of Planning and Sustainable Development; Department of Business, Economic Development, and Tourism; Reorganization

**Description:**

Reorganizes and integrates the land use commission within a modified office of planning, which is renamed as the office of planning and sustainable development. Reclassifies the coastal zone management program and statewide sustainability branch as divisions within the office of planning and sustainable development.

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

