

ACT 130

S.B. NO. 3077

A Bill for an Act Relating to Statewide Community Planning.

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

SECTION 1. The legislature finds that with Honolulu's construction of an elevated rail transit system, the State has an opportunity to enhance Oahu's urban environment and increase the quality of life for residents by utilizing sound smart growth and transit-oriented development principles to revitalize neighborhoods and increase affordable housing inventory, among other public benefits. As the largest landowner of properties along the transit line, with approximately two thousand acres under the jurisdiction of various departments, the State must be proactive and coordinate planning and development efforts among state agencies to maximize the benefits of redevelopment of state lands in areas served by public transit.

The legislature further finds that in 2015, the ad-hoc state transit-oriented development task force was convened to identify and determine priority sites and projects that should be considered for transit-oriented development master

planning and development. Task force members included state and city and county agencies, elected officials, and numerous private individuals and entities. In December 2015, the task force submitted a report to the legislature, which included various recommendations such as formally constituting the state transit-oriented development task force to promote effective and efficient transit-oriented development planning and coordination among state agencies and counties statewide.

To ensure that the State has a unified vision and approach toward redevelopment of its properties, the purpose of this Act is to:

- (1) Designate the office of planning as the lead agency to coordinate and advance smart growth and transit-oriented development planning in the State; and
- (2) Establish an interagency council for transit-oriented development within the department of business, economic development, and tourism to coordinate effective and efficient transit-oriented development planning statewide.

This Act also authorizes the department of education to use school impact fees collected from transit-oriented development projects to be used for existing schools in the transit-oriented development area to address increases in school populations due to transit oriented development.

SECTION 2. Chapter 226, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

“§226-A Hawaii interagency council for transit-oriented development.

(a) There is established the Hawaii interagency council for transit-oriented development, which shall be an advisory body exempt from section 26-34, to coordinate and facilitate state agency transit-oriented development planning, and facilitate consultation and collaboration between the State and the counties on transit-oriented development initiatives. The Hawaii interagency council for transit-oriented development shall be established within the department of business, economic development, and tourism for administrative purposes.

(b) The Hawaii interagency council for transit-oriented development shall:

- (1) Serve as the State’s transit-oriented development planning and policy development entity with representation from state and county government and the community;
- (2) Formulate and advise the governor on the implementation of a strategic plan to address transit-oriented development projects, including mixed use and affordable and rental housing projects, on state lands in each county;
- (3) Facilitate the acquisition of funding and resources for state and county transit-oriented development programs, including affordable and rental housing projects, on state lands;
- (4) Monitor the preparation and conduct of plans and studies to facilitate implementation of state transit-oriented development plans prepared pursuant to this section, including but not limited to the preparation of site or master plans and implementation plans and studies;
- (5) Review all capital improvement project requests to the legislature for transit-oriented development projects, including mixed use and affordable and rental housing projects, on state lands within county-designated transit-oriented development zones or within a one-half-

- mile radius of public transit stations, if a county has not designated transit-oriented development zones;
- (6) Recommend policy, regulatory, and statutory changes, and identify resource strategies for the successful execution of the strategic plan;
 - (7) Assemble accurate fiscal and demographic information to support policy development and track outcomes;
 - (8) Consider collaborative transit-oriented development initiatives of other states that have demonstrated positive outcomes; and
 - (9) Report annually to the governor, the legislature, and the mayor of each county on the progress of its activities, including formulation and progress on the strategic plan no later than twenty days prior to the convening of each regular session.
- (c) The strategic plan developed by the Hawaii interagency council for transit-oriented development shall:
- (1) Coordinate with the counties on transit-oriented development;
 - (2) For each county, compile an inventory of state, county, and private sector transit-oriented development projects lacking infrastructure, identifying the type of infrastructure each project lacks, and the approximate timeframe when additional capacity is needed;
 - (3) Prioritize the development of transit-oriented development projects, including mixed use and affordable and rental housing projects, on state lands;
 - (4) Identify financing and prioritize state financing for the public infrastructure, facility, and service investments required to support transit-oriented development, mixed use, and affordable and rental housing project plans; and
 - (5) Encourage and promote partnerships between public and private entities to identify, renovate, and secure affordable housing options on state lands within county-designated transit-oriented development areas or within a one-half-mile radius of public transit stations, if a county has not designated transit-oriented development zones.

§226-B Hawaii interagency council for transit-oriented development membership. (a) The Hawaii interagency council for transit-oriented development shall be composed of the following members:

- (1) Director of the office of planning, who shall serve as co-chair;
- (2) Executive director of the Hawaii housing finance and development corporation, who shall serve as co-chair;
- (3) Chief of staff, office of the governor;
- (4) Chairperson of the board of land and natural resources;
- (5) Director of transportation;
- (6) Comptroller;
- (7) Director of health;
- (8) Director of human services;
- (9) Director of public safety;
- (10) Chairperson of the Hawaiian homes commission;
- (11) Chairperson of the stadium authority;
- (12) President of the University of Hawaii;
- (13) Superintendent of education;
- (14) Executive director of the Hawaii community development authority;
- (15) Executive director of the Hawaii public housing authority;
- (16) One member of the house of representatives to be designated by the speaker of the house of representatives; provided that the speaker

- of the house of representatives may designate a second member of the house of representatives to serve as an alternate;
- (17) One member of the senate to be designated by the president of the senate; provided that the president of the senate may designate a second member of the senate to serve as an alternate;
 - (18) The mayor of each county;
 - (19) A representative of the Honolulu field office of the United States Department of Housing and Urban Development, who shall be requested to serve on a non-voting ex-officio basis by the governor;
 - (20) A representative of the business community, to be designated by the governor;
 - (21) A representative of the community who is a housing advocate, to be designated by the governor; and
 - (22) A representative of the community with experience in housing and real estate development, to be designated by the governor.

(b) The nongovernmental members of the Hawaii interagency council for transit-oriented development shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(c) Except as provided in subsection (a)(16) and (17), if a member of the Hawaii interagency council for transit-oriented development is unable to attend a meeting, that member may appoint a designee to attend and to act on the member's behalf during the meeting."

SECTION 3. Section 225M-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The office of planning shall gather, analyze, and provide information to the governor to assist in the overall analysis and formulation of state policies and strategies to provide central direction and cohesion in the allocation of resources and effectuation of state activities and programs and effectively address current or emerging issues and opportunities. More specifically, the office shall engage in the following activities:

- (1) State comprehensive planning and program coordination. Formulating and articulating comprehensive statewide goals, objectives, policies, and priorities, and coordinating their implementation through the statewide planning system established in part II of chapter 226;
- (2) Strategic planning. 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 by:
 - (A) Providing in-depth policy research, analysis, and recommendations on existing or potential areas of critical state concern;
 - (B) Examining and evaluating the effectiveness of state programs in implementing state policies and 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 implementa-

tion 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
 - (C) Recognizing the presence of federal defense and security forces and agencies in the State as important state concerns;
- (4) Statewide planning and geographic information system. Collecting, integrating, analyzing, maintaining, and disseminating various forms of data and information, including geospatial data and information, to further effective state planning, policy analysis and development, and delivery of government services by:
- (A) Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research, conversions, and integration to provide a common database for governmental planning and geospatial analyses by state agencies;
 - (B) Planning, coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system and associated geospatial database. The office shall be the lead agency responsible for coordinating the maintenance of the multi-agency, statewide planning and geographic information system and coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications and other spatial data analyses to enhance decision-making. The office shall promote and encourage free and open data sharing among and between all government agencies. To ensure the maintenance of a comprehensive, accurate, up-to-date geospatial data resource that can be drawn upon for decision-making related to essential public policy issues such as land use planning, resource management, homeland security, and the overall health, safety, and well-being of Hawaii's citizens, and to avoid redundant data development efforts, state agencies shall provide to the shared system either their respective geospatial databases or, at a minimum, especially in cases of secure or confidential data sets that cannot be shared or must be restricted, metadata describing existing geospatial data. In cases where agencies provide restricted data, the office of planning shall ensure the security of that data; and
 - (C) Maintaining a centralized depository of state and national planning references;
- (5) Land use planning. Developing and presenting the position of the State in all boundary change petitions and proceedings before the land use commission, assisting state agencies in the development and submittal of petitions for land use district boundary amendments, and conducting periodic reviews of the classification and districting of all lands in the State, as specified in chapter 205;
- (6) Coastal and ocean policy management. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also, developing and maintaining an ocean and coastal resources information, planning, and manage-

ment system further developing and coordinating implementation of the ocean resources management plan, and formulating ocean policies with respect to the exclusive economic zone, coral reefs, and national marine sanctuaries;

- (7) Regional planning and studies. Conducting plans and studies to determine:
- (A) The capability of various regions within the State to support projected increases in both resident populations and visitors;
 - (B) The potential physical, social, economic, and environmental impact on these regions resulting from increases in both resident populations and visitors;
 - (C) The maximum annual visitor carrying capacity for 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; ~~and~~
- (9) Climate adaptation planning. 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 Act 286, Session Laws of Hawaii 2012, through the year 2050;
- (B) Provide planning and policy guidance and assistance to state and county agencies regarding climate change; and
- (C) Publish its findings, recommendations, and progress reports on actions taken no later than December 31, 2017, and its annual report to the governor and the legislature thereafter~~[-]; 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 preserving non-urbanized land, improving worker access to jobs, and reducing fuel consumption;
- (D) Target transit-oriented development areas for significant increase in affordable housing and rental units;
- (E) Conduct outreach to state agencies to help educate state employees about the ways they can support and benefit from transit-oriented development and the State's smart growth goals;
- (F) Publicize coordinated state efforts that support smart growth, walkable neighborhoods, and transit-oriented development;

- (G) Review state land use decision-making processes to identify ways to make transit-oriented development a higher priority and facilitate better and more proactive leadership in creating walkable communities and employment districts, even if transit will only be provided at a later date; and
- (H) Approve all state agencies' development plans for parcels along the rail transit corridor. For the purposes of this subparagraph, "development plans" means conceptual land use plans that identify the location and planned uses within a defined area."

SECTION 4. Section 302A-1608, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1608 Accounting and expenditure requirements. (a) Each designated school impact district shall be a separate benefit district. Fees collected within each school impact district shall be spent only within the same school impact district for the purposes collected.

(b) Land dedicated by the developer shall be used only as a site for the construction of one or more new schools or for the expansion of existing school facilities. If the land is never used for the school facility, it shall be returned to the developer, or the developer's successor in interest. Once used, the land may be sold, with the proceeds used to acquire land for school facilities in the same school impact district.

(c) If the land is not used for a school facility within twenty years of its dedication, it shall be returned to the developer, or the developer's successor in interest.

(d) Once used for school facilities, all or part of the land may be later sold. Proceeds from the sale shall be used to acquire land for school facilities in the same school impact district.

(e) Fee in lieu funds may be used for school site land acquisition and related expenses, including surveying, appraisals, and legal fees. Fee in lieu funds shall not be used for the maintenance or operation of existing schools in the district, construction costs, including architectural, permitting, or financing costs, or for administrative expenses.

(f) Notwithstanding any other law to the contrary, fee in lieu funds from projects within a county-designated transit oriented development zone may also be used to purchase completed construction, construct new school facilities in new or existing school sites, improve or renovate existing structures for school use, or lease land or facilities for school use within a county-designated transit oriented development zone.

~~(f)~~ (g) Construction cost component impact fees shall be used only for the costs of new school facilities that expands the student capacity of existing schools or adds student capacity in new schools. Construction cost component impact fees may not be used to replace an existing school located within the same school impact district, either on the same site or on a different site.

~~(g)~~ (h) Eligible construction costs include planning, engineering, architectural, permitting, financing, and administrative expenses, and any other capital equipment expenses pertaining to educational facilities.

~~(h)~~ (i) Construction cost component impact fees shall not be expended for:

- (1) The maintenance or operation of existing schools in the district; or
- (2) Portable or temporary facilities.

~~[(j)]~~ (i) If a closure, demolition, or conversion of an existing permanent department facility within a school impact district that has the effect of reducing student capacity occurs, an amount of new student capacity in permanent buildings equivalent to the lost capacity shall not be funded with school impact fees.

~~[(j)]~~ (k) Fees in lieu, proceeds from the sale of all or part of an existing school site that has been dedicated by a developer pursuant to the requirements of this subpart, and construction cost component impact fees shall be expended or encumbered within twenty years of the date of collection. Fees shall be considered spent or encumbered on a first-in, first-out basis. An expenditure plan for all collected impact fees shall be incorporated into the annual budget process of the department and subject to legislative approval of the budget.”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2016-2017 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

Note

1. Edited pursuant to HRS §23G-16.5.