

ACT 178

H.B. NO. 243

A Bill for an Act Relating to Sea Level Rise Adaptation.

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

SECTION 1. The legislature finds that climate change and sea level rise pose significant, dangerous, and imminent threats to the State's social and economic well-being, public safety, nature and environments, cultural resources, property, infrastructure, and government functions and will likely have a disproportionate impact on low-income and otherwise vulnerable communities. Chronic impacts of sea level rise, including coastal erosion, high tide flooding, and annual high wave flooding, are already impacting many low-lying coastal areas and are predicted to increase in extent and severity in the coming decades. Climate change and sea level rise will exacerbate the impacts of disaster events, such as hurricanes, extreme rainfall, high-wave events, and tsunamis.

The legislature further finds that a 2017 report by the National Oceanic and Atmospheric Administration projects that 3.2 feet of global mean sea level rise will occur by 2100 in an intermediate scenario and could occur as early as the 2060s in an extreme scenario.

The legislature notes that the Hawaii sea level rise vulnerability and adaptation report completed by the department of land and natural resources and accepted by the Hawaii climate change mitigation and adaptation commission, along with map data available via the Hawaii sea level rise viewer online mapping tool and the Hawaii statewide GIS program, provide a relevant assessment, based on the best available science, of the State's coastal areas' exposure to the chronic impacts of sea level rise. The state hazard mitigation plan provides expanded assessment of natural hazards and potential impacts of disaster events in recognition of climate change and sea level rise. Both documents provide current references; are consistent with sea level rise projections reported in the latest and best available science, including National Oceanic and Atmospheric Administration reporting; and serve as key references for the State in assessing vulnerabilities and developing actions to improve resilience to impacts of sea level rise and extreme climate events, and therefore can serve as useful tools for state agencies with operational responsibilities over state facilities in preparing for sea level rise.

To successfully adapt to climate change and sea level rise, state agencies having operational responsibilities over state facilities must plan, coordinate, and act to assure Hawaii's sustainable and resilient future. In 2017, the legislature passed Act 32, Session Laws of Hawaii 2017, which formally established the Hawaii climate change mitigation and adaptation commission, for which the office of planning serves as a co-chair. To support the implementation of statewide climate change adaptation planning and coordination, the legislature enacted Act 45, Session Laws of Hawaii 2020, which requires the office of planning to serve as the lead agency for the State to coordinate sea level rise adaptation and climate change planning and coordination.

The legislature further finds that the climate change adaptation priority guidelines of the Hawaii State Planning Act, codified in section 226-109, Hawaii Revised Statutes, expresses that the State should prepare to address the impacts of climate change. More specifically, section 226-109(7), Hawaii Revised Statutes, directs the State to "[p]romote sector resilience in areas such as water, roads, airports, and public health, by encouraging the identification of climate change threats, assessment of potential consequences, and evaluation of adaptation options[.]"

The legislature recognizes that the practice of statewide sea level rise adaptation will require comprehensive and long-term planning and that collectively, state agencies having operational responsibilities over state facilities must work collaboratively over time through a centralized coordinating agency to identify existing and planned facilities that are vulnerable to sea level rise, flooding impacts, and natural hazards. The legislature also finds that the American Jobs Plan, proposed by the President of the United States in March 2021, could provide potential federal moneys to fund the planning, coordination, and revitalization of state facilities and infrastructure that are threatened by the impacts of climate change and that are vulnerable to sea level rise, flooding impacts, and natural hazards.

The purpose of this Act is to:

- (1) Require the office of planning, in coordination with state agencies with operational responsibilities over state facilities, to:
 - (A) Identify existing and planned facilities that are vulnerable to sea level rise, flooding impacts, and natural hazards;
 - (B) Assess options to mitigate the impacts of sea level rise to those facilities; and
 - (C) Submit annual reports to the governor, legislature, and Hawaii climate change mitigation and adaptation commission regarding vulnerability and mitigation assessments for state facilities and progress in implementing sea level rise and disaster resiliency considerations;
- (2) Update and reaffirm the role of the office of planning to coordinate climate change adaptation and sea level rise adaptation among all state agencies to improve the interagency coordination of these activities; and
- (3) Amend the Hawaii State Planning Act to include sustainable development, climate change adaptation, and sea level rise adaptation as objectives for facility systems.

SECTION 2. Chapter 225M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§225M- Coordination of sea level rise adaptation activities. The office of planning, in cooperation with each state agency having operational responsibilities over state facilities, shall:

- (1) Begin statewide sea level rise adaptation coordination by working with state agencies to identify existing and planned facilities, including critical infrastructure, that are vulnerable to sea level rise, flooding impacts, and natural hazards, utilizing projections and map data from the most recent update of the Hawaii sea level rise vulnerability and adaptation report, the State of Hawaii hazard mitigation plan, and any other pertinent data and scientific reports to aid in this planning;
- (2) Assess a range of options for mitigating impacts of sea level rise to those existing and planned state facilities; and
- (3) Submit an annual report to the governor, legislature, and the Hawaii climate change mitigation and adaptation commission no later than twenty days prior to the convening of each regular session regarding the vulnerability and mitigation assessments for state facilities and progress made toward implementing sea level rise adaptation in future plans, programs, and capital improvement needs and decisions.”

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 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
 - (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, and sea level rise adaptation coordination. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also:
 - (A) Developing and maintaining an ocean and coastal resources information, planning, and management system;
 - (B) Further developing and coordinating implementation of the ocean resources management plan; ~~and~~
 - (C) Formulating ocean policies with respect to the exclusive economic zone, coral reefs, and national marine sanctuaries; and
 - (D) Coordinating sea level rise adaptation with state agencies having operational responsibilities over state facilities to identify existing and planned facilities, including critical infrastructure, that are vulnerable to sea level rise, flooding impacts, and natural hazards;
- (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;
- (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 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 226-14, Hawaii Revised Statutes, is amended to read as follows:

“§226-14 Objective and policies for facility systems—in general. (a) Planning for the State’s facility systems in general shall be directed towards achievement of the objective of water, transportation, sustainable development, climate change adaptation, sea level rise adaptation, waste disposal, and energy and telecommunication systems that support statewide social, economic, and physical objectives.

(b) To achieve the general facility systems objective, it shall be the policy of this State to:

- (1) Accommodate the needs of Hawaii's people through coordination of facility systems and capital improvement priorities in consonance with state and county plans.
- (2) Encourage flexibility in the design and development of facility systems to promote prudent use of resources and accommodate changing public demands and priorities.
- (3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.
- (4) Pursue alternative methods of financing programs and projects and cost-saving techniques in the planning, construction, and maintenance of facility systems.
- (5) Identify existing and planned state facilities that are vulnerable to sea level rise, flooding impacts, and natural hazards.
- (6) Assess a range of options to mitigate the impacts of sea level rise to existing and planned state facilities."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 2021.

(Approved July 2, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.