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# A BILL FOR AN ACT

RELATING TO SUSTAINABILITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that achieving an  
2 abundant and sustainable future for Hawaii will require  
3 re-envisioning the State's institutional framework to better  
4 integrate sustainability principles into the organizational  
5 structure of state government, especially in planning, land use,  
6 environmental, and economic development programs.

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

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



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

4 The purpose of this Act is to transfer the purpose,  
5 functions, and duties of the office of environmental quality  
6 control and environmental council to the office of planning to  
7 improve the coordination of these related planning functions so  
8 state government can work more efficiently to achieve the  
9 State's long-term environmental quality goals for a more  
10 abundant future for the people of Hawaii.

11 SECTION 2. Chapter 341, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By adding a new section to be appropriately designated  
14 and to read:

15 **"§341- Environmental advisory council; established.**

16 (a) There is created an environmental advisory council not to  
17 exceed fifteen members. Members of the environmental advisory  
18 council shall be appointed by the governor as provided in  
19 section 26-34. The environmental advisory council shall be  
20 established within the office of planning for administrative  
21 purposes. The term of each member shall be four years.



1 Vacancies shall be filled for the remainder of any unexpired  
2 term in the same manner as original appointments. The  
3 environmental advisory council chairperson shall be elected by  
4 the council from among the appointed members of the council.

5 (b) Members shall be appointed to ensure a broad and  
6 balanced representation of educational, business, and  
7 environmentally pertinent disciplines and professions, such as  
8 the natural and social sciences, the humanities, architecture,  
9 engineering, environmental consulting, public health, and  
10 planning; educational and research institutions with  
11 environmental competence; agriculture, real estate, visitor  
12 industry, construction, and media; and voluntary community and  
13 environmental groups. The members of the environmental advisory  
14 council shall serve without compensation but shall be reimbursed  
15 for actual and necessary expenses, including travel expenses,  
16 incurred in the discharge of their duties."

17 2. By amending its title to read:

18 "[~~+~~]CHAPTER 341[~~+~~]"

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

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



1           "(a) The training required by this part shall apply to  
2 members of the land use commission, board of land and natural  
3 resources, commission on water resource management,  
4 environmental advisory council, board of directors of the  
5 agribusiness development corporation, board of agriculture,  
6 legacy land conservation commission, natural area reserves  
7 system commission, and Hawaii historic places review board."

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

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

- 13           (1) The director of health;
- 14           (2) The chairperson of the board of agriculture;
- 15           (3) The adjutant general;
- 16           (4) The director of labor and industrial relations;
- 17           (5) The chairperson of the board of land and natural  
18           resources;
- 19           (6) The director of the office of [~~environmental quality~~  
20           ~~control~~] planning;



- 1 (7) The director of business, economic development, and
- 2 tourism;
- 3 (8) The director of transportation;
- 4 (9) The dean of the University of Hawaii school of public
- 5 health or the dean of the University of Hawaii school
- 6 of medicine, as determined by the governor;
- 7 ~~[(10) The director of the environmental center of the~~
- 8 ~~University of Hawaii;~~
- 9 ~~-(11)]~~ (10) One representative from each committee
- 10 designated by the mayor of each respective county; and
- 11 ~~[-(12)]~~ (11) Other persons appointed by the governor to meet
- 12 the minimum requirements of the Emergency Planning and
- 13 Community Right-to-Know Act of 1986."

14 SECTION 5. Section 150A-10, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§150A-10 Advisory committee on plants and animals.** There  
17 shall be an advisory committee on plants and animals composed of  
18 the chairperson of the board or the chairperson's representative  
19 who shall be chairperson of the committee, the chairperson of  
20 the board of land and natural resources, the director of the  
21 office of ~~[environmental quality control,~~ planning, and the



1 director of [~~department of~~] health, or their designees, and  
2 five other members, with expertise in plants, animals, or  
3 microorganisms, and who, by virtue of their vocation or  
4 avocation, also are thoroughly conversant with modern ecological  
5 principles and the variety of problems involved in the adequate  
6 protection of ~~our~~ the State's natural resources. The latter  
7 five members shall be chosen by the chairperson. The committee  
8 shall advise and assist the department in developing or revising  
9 laws and regulations to carry out and effectuate the purposes of  
10 this chapter and in advising the department in problems relating  
11 to the introduction, confinement, or release of plants, animals,  
12 and microorganisms.

13       The chairperson may create ad hoc or permanent  
14 subcommittees, as needed."

15       SECTION 6. Section 195D-21, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17       "(a) The department may enter into a planning process with  
18 any landowner for the purpose of preparing and implementing a  
19 habitat conservation plan. An agreement may include multiple  
20 landowners. Applications to enter into a planning process shall  
21 identify:



- 1 (1) The geographic area encompassed by the plan;
- 2 (2) The ecosystems, natural communities, or habitat types  
3 within the plan area that are the focus of the plan;
- 4 (3) The endangered, threatened, proposed, and candidate  
5 species known or reasonably expected to occur in the  
6 ecosystems, natural communities, or habitat types in  
7 the plan area;
- 8 (4) The measures or actions to be undertaken to protect,  
9 maintain, restore, or enhance those ecosystems,  
10 natural communities, or habitat types within the plan  
11 area;
- 12 (5) A schedule for implementation of the proposed measures  
13 and actions; and
- 14 (6) An adequate funding source to ensure that the proposed  
15 measures and actions are undertaken in accordance with  
16 the schedule.

17 After a habitat conservation plan is prepared, the board shall  
18 notify the public of the proposed habitat conservation plan  
19 through the periodic bulletin of the office of [~~environmental~~  
20 ~~quality control~~] planning and make the proposed plan and the  
21 application available for public review and comment not less



1 than sixty days prior to approval. The notice shall include[7]  
2 but not be limited to[7] identification of the area encompassed  
3 by the plan, the proposed activity, and the ecosystems, natural  
4 communities, and habitat types within the plan area. The notice  
5 shall solicit public input and relevant data."

6 SECTION 7. Section 225M-2, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

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

16 (1) State comprehensive planning and program coordination.  
17 Formulating and articulating comprehensive statewide  
18 goals, objectives, policies, and priorities, and  
19 coordinating their implementation through the  
20 statewide planning system established in part II of  
21 chapter 226;





- 1           (2) Strategic planning. Identifying and analyzing  
2           significant issues, problems, and opportunities  
3           confronting the State, and formulating strategies and  
4           alternative courses of action in response to  
5           identified problems and opportunities by:
- 6           (A) Providing in-depth policy research, analysis, and  
7           recommendations on existing or potential areas of  
8           critical state concern;
- 9           (B) Examining and evaluating the effectiveness of  
10          state programs in implementing state policies and  
11          priorities;
- 12          (C) Monitoring through surveys, environmental  
13          scanning, and other techniques--current social,  
14          economic, and physical conditions and trends; 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



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

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



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

15 (C) Maintaining a centralized depository of state and  
16 national planning references;

17 (5) Land use planning. Developing and presenting the  
18 position of the State in all boundary change petitions  
19 and proceedings before the land use commission,  
20 assisting state agencies in the development and  
21 submittal of petitions for land use district boundary



1 amendments, and conducting periodic reviews of the  
2 classification and districting of all lands in the  
3 State, as specified in chapter 205;

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

8 Also:

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

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

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

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



- 1 (A) The capability of various regions within the
- 2 State to support projected increases in both
- 3 resident populations and visitors;
- 4 (B) The potential physical, social, economic, and
- 5 environmental impact on these regions resulting
- 6 from increases in both resident populations and
- 7 visitors;
- 8 (C) The maximum annual visitor carrying capacity for
- 9 the State by region, county, and island; and
- 10 (D) The appropriate guidance and management of
- 11 selected regions and areas of statewide critical
- 12 concern.

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

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



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



- 1 initiative and the Hawaii clean energy  
2 initiative;
- 3 (B) Refine the definition of "transit-oriented  
4 development" in the context of Hawaii, while  
5 recognizing the potential for smart growth  
6 development patterns in all locations;
- 7 (C) Clarify state goals for transit-oriented  
8 development and smart growth that support the  
9 principles of the Hawaii State Planning Act by  
10 preserving non-urbanized land, improving worker  
11 access to jobs, and reducing fuel consumption;
- 12 (D) Target transit-oriented development areas for  
13 significant increase in affordable housing and  
14 rental units;
- 15 (E) Conduct outreach to state agencies to help  
16 educate state employees about the ways they can  
17 support and benefit from transit-oriented  
18 development and the State's smart growth goals;
- 19 (F) Publicize coordinated state efforts that support  
20 smart growth, walkable neighborhoods, and  
21 transit-oriented development;





1 (G) Review state land use decision-making processes  
2 to identify ways to make transit-oriented  
3 development a higher priority and facilitate  
4 better and more proactive leadership in creating  
5 walkable communities and employment districts,  
6 even if transit will only be provided at a later  
7 date; and

8 (H) Approve all state agencies' development plans for  
9 parcels along the rail transit corridor. For the  
10 purposes of this subparagraph, "development  
11 plans" means conceptual land use plans that  
12 identify the location and planned uses within a  
13 defined area[-]; and

14 (11) Environmental review. Performing duties set forth  
15 under chapter 343, serving the governor in an advisory  
16 capacity on all matters relating to environmental  
17 review, and having such powers delegated by the  
18 governor as are necessary to coordinate and, when  
19 requested by the governor, direct all state  
20 governmental agencies in matters concerning  
21 environmental quality control, including:



- 1            (A) Advising and assisting private industries,
- 2                            government department and agencies, and other
- 3                            persons on the requirements of chapter 343; and
- 4            (B) Conducting public education programs on
- 5                            environmental quality control;
- 6                            provided that the office shall adopt rules in
- 7                            accordance with chapter 91 to implement this
- 8                            paragraph."

9            SECTION 8. Section 225P-4, Hawaii Revised Statutes, is  
 10 amended by amending subsection (c) to read as follows:

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

- 13            (1) The director of the office of planning or the
- 14                            director's designee, who shall serve as chairperson;
- 15            (2) The chairperson of the board of agriculture or the
- 16                            chairperson's designee;
- 17            (3) The chairperson of the board of land and natural
- 18                            resources or the chairperson's designee;
- 19            (4) The director of transportation or the director's
- 20                            designee;



- 1           (5) The deputy director of the department of health's
- 2           environmental health administration or the deputy
- 3           director's designee;
- 4           (6) The [~~director of the office of environmental quality~~
- 5           ~~control or the director's designee;~~] state
- 6           sustainability coordinator;
- 7           (7) The director of the environmental law program at the
- 8           University of Hawaii at Manoa William S. Richardson
- 9           school of law;
- 10          (8) The administrator of the division of forestry and
- 11          wildlife within the department of land and natural
- 12          resources or the administrator's designee;
- 13          (9) One member who is also a member of the climate change
- 14          mitigation and adaptation commission;
- 15          (10) One researcher from the college of tropical
- 16          agriculture and human resources at the University of
- 17          Hawaii at Manoa;
- 18          (11) One extension agent from the college of tropical
- 19          agriculture and human resources at the University of
- 20          Hawaii at Manoa;



- 1 (12) Four members, one each to be appointed by the  
2 respective mayors of the city and county of Honolulu,  
3 and the counties of Hawaii, Kauai, and Maui; and
- 4 (13) Four members to be jointly selected and invited to  
5 participate by the president of the senate and the  
6 speaker of the house of representatives, of which  
7 two members shall be selected from an environmental  
8 nonprofit organization, and two members shall be  
9 selected from an agricultural or ranching association.

10 Task force members may recommend to the task force  
11 additional members with appropriate specialized expertise,  
12 subject to approval by the chairperson."

13 SECTION 9. Section 279A-4, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 **"§279A-4 Statewide transportation council; establishment.**

16 To assist and advise the [state] department of transportation in  
17 the development of the statewide transportation plan there is  
18 hereby established a statewide transportation council consisting  
19 of [~~fourteen~~] thirteen members. The members of the council  
20 shall be the [~~directors of the state department~~] director of  
21 transportation[~~, the state department~~]; director of business,



1 economic development, and tourism[~~, the state department~~];  
 2 director of health[~~, the state office of environmental quality~~  
 3 ~~control, and the~~]; director of the office of planning[~~, the~~];  
 4 chairperson of the board of agriculture[~~, the~~]; planning  
 5 directors of each of the four counties[~~,~~]; and [~~the~~]  
 6 transportation directors of each of the four counties. The  
 7 members may be represented at council meetings by their  
 8 designated alternates. The director of the state department of  
 9 transportation shall submit recommendations to the council for  
 10 additional ex officio[+], [+] nonvoting members who, upon the  
 11 majority vote of the council, shall be invited to serve.

12       The department of transportation shall furnish staff  
 13 support to the council; such staff may be exempt from  
 14 chapter 76. The director of transportation shall be the  
 15 chairperson of the council. All decisions of the council shall  
 16 be by majority vote unless otherwise provided."

17       SECTION 10. Section 341-2, Hawaii Revised Statutes, is  
 18 amended as follows:

19       1. By amending the definitions of "council", "director",  
 20 and "office" to read:



1        "Council" means the environmental advisory council  
2 established in [~~section 341-3(e).~~] this chapter.

3        "Director" means the director of [~~environmental quality~~  
4 ~~control.~~] the office of planning.

5        "Office" means the office of [~~environmental quality control~~  
6 ~~established in section 341-3(a).~~] planning."

7        2. By repealing the definition of "center".

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

10       3. By repealing the definition of "university".

11       [~~"University" means the University of Hawaii."~~]

12       SECTION 11. Section 341-6, Hawaii Revised Statutes, is  
13 amended to read as follows:

14        "**§341-6 Functions of the environmental advisory council.**

15 The environmental advisory council shall serve as a liaison  
16 between the [~~director~~] office of planning and the general public  
17 by soliciting information, opinions, complaints,  
18 recommendations, and advice concerning ecology and environmental  
19 quality through public hearings or any other means and by  
20 publicizing such matters as requested by the director pursuant  
21 to section 341-4(b)(3). The environmental advisory council may



1 make recommendations concerning ecology and environmental  
2 quality to the ~~[director]~~ office of planning and shall meet at  
3 the call of the council chairperson or the director of the  
4 office of planning upon notifying the council chairperson. The  
5 environmental advisory council shall monitor the progress of  
6 state, county, and federal agencies in achieving the State's  
7 environmental goals and policies and ~~[with the assistance of the~~  
8 ~~director shall make an annual report with recommendations for~~  
9 ~~improvement to the governor, the legislature, and the public no~~  
10 ~~later than January 31 of each year.]~~ shall submit its report and  
11 recommendations for improvements concerning ecology and  
12 environmental quality to the office of planning, which shall  
13 include the report and recommendations in its annual report to  
14 the legislature. All state and county agencies shall cooperate  
15 with the council ~~[and assist in the preparation of such a~~  
16 ~~report]~~ by-responding to its requests for information ~~[made by~~  
17 ~~the council.~~ ~~The council may delegate to any person such power~~  
18 ~~or authority vested in the council as it deems reasonable and~~  
19 ~~proper for the effective administration of this section and~~  
20 ~~chapter 343, except the power to make, amend, or repeal rules]."~~



1 SECTION 12. Section 343-2, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By inserting a new definition to be appropriately  
4 inserted and to read:

5 "Director" means the director of the office of planning."

6 2. By amending the definition of "council" to read:

7 "Council" means the environmental advisory council."

8 3. By amending the definition of "office" to read:

9 "Office" means the office of [~~environmental quality~~  
10 control.] planning."

11 SECTION 13. Section 343-5, Hawaii Revised Statutes, is  
12 amended by amending subsection (e) to read as follows:

13 "(e) Whenever an applicant proposes an action specified by  
14 subsection (a) that requires approval of an agency and that is  
15 not a specific type of action declared exempt under  
16 section 343-6, the agency initially receiving and agreeing to  
17 process the request for approval shall require the applicant to  
18 prepare an environmental assessment of the proposed action at  
19 the earliest practicable time to determine whether an  
20 environmental impact statement shall be required; provided that  
21 if the agency determines, through its judgment and experience,





1 that an environmental impact statement is likely to be required,  
2 the agency may authorize the applicant to choose not to prepare  
3 an environmental assessment and instead prepare an environmental  
4 impact statement that begins with the preparation of an  
5 environmental impact statement preparation notice as provided by  
6 rules. The final approving agency for the request for approval  
7 is not required to be the accepting authority.

8 For environmental assessments for which a finding of no  
9 significant impact is anticipated:

- 10 (1) A draft environmental assessment shall be made  
11 available for public review and comment for a period  
12 of thirty days;
- 13 (2) The office shall inform the public of the availability  
14 of the draft environmental assessment for public  
15 review and comment pursuant to section 343-3; and
- 16 (3) The applicant shall respond in writing to comments  
17 received during the review and the applicant shall  
18 prepare a final environmental assessment to determine  
19 whether an environmental impact statement shall be  
20 required. A statement shall be required if the agency  
21 finds that the proposed action may have a significant



1 effect on the environment. The agency shall file  
2 notice of the agency's determination with the office,  
3 which, in turn, shall publish the agency's  
4 determination for the public's information pursuant to  
5 section 343-3.

6 The draft and final statements, if required, shall be  
7 prepared by the applicant, who shall file these statements with  
8 the office.

9 The draft statement shall be made available for public  
10 review and comment through the office for a period of  
11 forty-five days. The office shall inform the public of the  
12 availability of the draft statement for public review and  
13 comment pursuant to section 343-3.

14 The applicant shall respond in writing to comments received  
15 during the review and prepare a final statement. The office,  
16 when requested by the applicant or agency, may make a  
17 recommendation as to the acceptability of the final statement.

18 The authority to accept a final statement shall rest with  
19 the agency initially receiving and agreeing to process the  
20 request for approval. The final decision-making body or  
21 approving agency for the request for approval is not required to



1 be the accepting authority. The planning department for the  
2 county in which the proposed action will occur shall be a  
3 permissible accepting authority for the final statement.

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

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

20 In any acceptance or nonacceptance, the agency shall  
21 provide the applicant with the specific findings and reasons for



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

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

12 "(a) After consultation with the affected agencies[~~7~~] and  
13 the environmental advisory council, the [~~council~~] office of  
14 planning shall adopt, amend, or repeal necessary rules for the  
15 purposes of this chapter in accordance with chapter 91  
16 including[~~7~~] but not limited to[~~7~~] rules that shall:

17 (1) Prescribe the procedures whereby a group of proposed  
18 actions may be treated by a single environmental  
19 assessment or statement;

20 (2) Establish procedures whereby specific types of  
21 actions, because they will probably have minimal or no



1 significant effects on the environment, are declared  
2 exempt from the preparation of an environmental  
3 assessment;

4 (3) Prescribe procedures for the preparation of an  
5 environmental assessment;

6 (4) Prescribe the contents of an environmental assessment;

7 (5) Prescribe procedures for informing the public of  
8 determinations that a statement is either required or  
9 not required, for informing the public of the  
10 availability of draft environmental impact statements  
11 for review and comments, and for informing the public  
12 of the acceptance or nonacceptance of the final  
13 environmental statement;

14 (6) Prescribe the contents of an environmental impact  
15 statement;

16 (7) Prescribe procedures for the submission, distribution,  
17 review, acceptance or nonacceptance, and withdrawal of  
18 an environmental impact statement; and

19 (8) Establish criteria to determine whether an  
20 environmental impact statement is acceptable or not[~~+~~  
21 and



1       ~~(9) Prescribe procedures to appeal the nonacceptance of an~~  
2           ~~environmental impact statement to the environmental~~  
3           ~~council]."~~

4           SECTION 15. Section 343-7, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§343-7 Limitation of actions.** (a) Any judicial  
7 proceeding, the subject of which is the lack of assessment  
8 required under section 343-5, shall be initiated within  
9 one hundred twenty days of the agency's decision to carry out or  
10 approve the action, or, if a proposed action is undertaken  
11 without a formal determination by the agency that a statement is  
12 or is not required, a judicial proceeding shall be instituted  
13 within one hundred twenty days after the proposed action is  
14 started. The [~~council~~] office, any agency responsible for  
15 approval of the action, or the applicant shall be adjudged an  
16 aggrieved party for the purposes of bringing judicial action  
17 under this subsection. Others, by environmental court action,  
18 may be adjudged aggrieved.

19           (b) Any judicial proceeding, the subject of which is the  
20 determination that a statement is required for a proposed  
21 action, shall be initiated within sixty days after the public



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

10 (c) Any judicial proceeding, the subject of which is the  
11 acceptance or nonacceptance of an environmental impact statement  
12 required under section 343-5, shall be initiated within  
13 sixty days after the public has been informed pursuant to  
14 section 343-3 of the acceptance or nonacceptance of such  
15 statement. [~~The council shall be adjudged an aggrieved party~~  
16 ~~for the purpose of bringing judicial action under this~~  
17 ~~subsection.] Affected agencies and persons who provided written  
18 comment to [~~such~~] an accepted statement during the designated  
19 review period shall be adjudged aggrieved parties for the  
20 purpose of bringing judicial action under this subsection;  
21 provided that for aggrieved parties, the contestable issues~~



1 shall be limited to issues identified and discussed in the  
2 written comment[-], and for applicants bringing judicial action  
3 under this section on the nonacceptance of a statement, the  
4 contestable issues shall be limited to those issues identified  
5 by the accepting authority as the basis for nonacceptance of the  
6 statement."

7 SECTION 16. Sections 128D-31, 186-3, 195D-4, 195D-22,  
8 195D-24, 205A-30, 205A-42, 501-33, and 669-1 are amended by  
9 substituting the word "planning" wherever the term  
10 "environmental quality control" appears, as the context  
11 requires.

12 SECTION 17. Subpart G of part IV of chapter 304A, Hawaii  
13 Revised Statutes, is repealed.

14 SECTION 18. Section 341-3, Hawaii Revised Statutes, is  
15 repealed.

16 [~~"§341-3 Office of environmental quality control;~~  
17 ~~environmental center; environmental council.~~ (a) There is  
18 ~~created an office of environmental quality control that shall be~~  
19 ~~headed by a single executive to be known as the director of~~  
20 ~~environmental quality control who shall be appointed by the~~  
21 ~~governor as provided in section 26-34. This office shall~~





1 ~~implement this chapter and shall be placed within the department~~  
2 ~~of health for administrative purposes. The office shall perform~~  
3 ~~its duties under chapter 343 and shall serve the governor in an~~  
4 ~~advisory capacity on all matters relating to environmental~~  
5 ~~quality control.~~

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

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



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

12 SECTION 19. Section 341-4, Hawaii Revised Statutes, is  
13 repealed.

14 [~~"§341-4 Powers and duties of the director. (a) The~~  
15 ~~director shall have such powers delegated by the governor as are~~  
16 ~~necessary to coordinate and, when requested by the governor, to~~  
17 ~~direct pursuant to chapter 91 all state governmental agencies in~~  
18 ~~matters concerning environmental quality.~~

19 ~~(b) To further the objective of subsection (a), the~~  
20 ~~director shall:~~



- 1       ~~(1) Direct the attention of the university community and~~  
2       ~~the residents of the State in general to ecological~~  
3       ~~and environmental problems through the center and the~~  
4       ~~council, respectively, and through public education~~  
5       ~~programs;~~
- 6       ~~(2) Conduct research or arrange for the conduct of~~  
7       ~~research through contractual relations with the~~  
8       ~~center, state agencies, or other persons with~~  
9       ~~competence in the field of ecology and environmental~~  
10       ~~quality;~~
- 11       ~~(3) Encourage public acceptance of proposed legislative~~  
12       ~~and administrative actions concerning ecology and~~  
13       ~~environmental quality, and receive notice of any~~  
14       ~~private or public complaints concerning ecology and~~  
15       ~~environmental quality through the council;~~
- 16       ~~(4) Recommend programs for long-range implementation of~~  
17       ~~environmental quality control;~~
- 18       ~~(5) Submit direct to the governor and to the legislature~~  
19       ~~such legislative bills and administrative policies,~~  
20       ~~objectives, and actions, as are necessary to preserve~~  
21       ~~and enhance the environmental quality of the State;~~



- 1       ~~(6) Conduct public educational programs; and~~
- 2       ~~(7) Offer advice and assistance to private industry,~~
- 3               ~~governmental agencies, or other persons upon request.~~

4       ~~(c) The director shall adopt rules pursuant to chapter 91~~  
 5 ~~necessary for the purposes of implementing this chapter." ]~~

6       SECTION 20. All rights, powers, functions, and duties of  
 7 the office of environmental quality control are transferred to  
 8 the office of planning.

9       SECTION 21. All rules, policies, procedures, guidelines,  
 10 and other material adopted or developed by the department of  
 11 health, environmental council, or office of environmental  
 12 quality control to implement provisions of the Hawaii Revised  
 13 Statutes that are reenacted or made applicable to the office of  
 14 planning by this Act shall remain in full force and effect until  
 15 amended or repealed by the office of planning pursuant to  
 16 chapter 91, Hawaii Revised Statutes.

17       In the interim, every reference to the department of  
 18 health, environmental council, office of environmental quality  
 19 control, director of health, or director of the office of  
 20 environmental quality control in those rules, policies,  
 21 procedures, guidelines, and other material shall refer to the



1 office of planning, director of the office of planning,  
2 environmental advisory council, or chairperson of the  
3 environmental advisory council, as appropriate.

4 SECTION 22. All individuals currently employed at the  
5 office of environmental quality control are transferred to the  
6 office of planning.

7 Each employee impacted by this Act who occupies a civil  
8 service position shall retain their civil service status,  
9 whether permanent or temporary. Each employee shall be  
10 transferred without loss of salary, seniority (except as  
11 prescribed by applicable collective bargaining agreements),  
12 retention points, prior service credit, any vacation and sick  
13 leave credits previously earned, and other rights, benefits, and  
14 privileges, in accordance with state personnel laws and this  
15 Act; provided that the employees possess the minimum  
16 qualifications and public employment requirements for the class  
17 or position to which transferred or appointed, as applicable;  
18 provided further that subsequent changes in status may be made  
19 pursuant to applicable civil service and compensation laws.

20 Any employee who, prior to this Act, is exempt from civil  
21 service may retain the employee's exempt status after the



1 transfer in this Act, but shall not be appointed to a civil  
2 service position as a consequence of this Act. Any exempt  
3 employee that is transferred by this Act shall not suffer any  
4 loss of prior service credit, vacation or sick leave credits  
5 previously earned, or other employee benefits or privileges as a  
6 consequence of this Act; provided that the employees possess  
7 legal and public employment requirements for the position to  
8 which transferred or appointed, as applicable; provided further  
9 that subsequent changes in status may be made pursuant to  
10 applicable employment and compensation laws. The director of  
11 the office of planning may prescribe the duties and  
12 qualifications of these employees and fix their salaries without  
13 regard to chapter 76, Hawaii Revised Statutes.

14 SECTION 23. All appropriations, records, equipment,  
15 machines, files, supplies, contracts, books, papers, documents,  
16 maps, and other personal property heretofore made, used,  
17 acquired, or held by the office of environmental quality control  
18 relating to the functions transferred to the office of planning  
19 shall be transferred with the functions to which they relate.

20 SECTION 24. The members serving on the environmental  
21 council as of the effective date of this Act shall continue to



1 serve for the remainder of their respective terms as initial  
2 members of the environmental advisory council established by  
3 section 341- , Hawaii Revised Statutes, in section 2 of this  
4 Act. As vacancies occur on the environmental advisory council,  
5 the vacancies shall be filled in accordance with  
6 section 341- , Hawaii Revised Statutes, established by  
7 section 2 of this Act.

8 SECTION 25. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 26. This Act shall take effect on July 1, 2021.



**Report Title:**

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

**Description:**

Establishes the Environmental Advisory Council. Transfers the rights, powers, employees, appropriations, and other personal property from the Office of Environmental Quality Control to the Office of Planning. Transfers all rules adopted or developed by the Department of Health, Office of Environmental Quality Control, or Environmental Council to the Office of Planning. Amends the ability for an applicant to appeal nonacceptance of an environmental impact statement from the Environmental Council to the Environmental Court. (CD1)

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

