



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 1803, RELATING TO PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

BEFORE THE:

HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND ON WATER AND LAND

DATE: Tuesday, February 8, 2022 **TIME:** 8:40 a.m.

LOCATION: State Capitol, Room 325, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Robyn Chun, Deputy Attorney General or
Candace J. Park, Deputy Attorney General

Chairs Lowen and Tarnas and Members of the Committees:

The Department of the Attorney General (Department) provides the following comments on the bill.

This bill proposes an amendment to article I of the Constitution of the State of Hawaii to add a new section that provides in part that “[a]ll people have an inherent and inalienable right to clean water and air and health ecosystems, including climate, flora, fauna and soil, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.”

As is acknowledged in section 1, the Constitution of the State of Hawaii already recognizes the importance of a healthful environment and Hawaii’s natural resources. See article XI, section 9 (“Each person has the right to a clean and healthful environment as defined by laws relating to environmental quality”). See *also* article XI, section 1 (“[a]ll public natural resources are held in trust by the State for the benefit of the people.”) As a result, as a “complement” to the existing provisions, the amendment proposed by this bill does not make a substantive change to the rights already recognized in article XI, section 9, and article XI, section 1, and is therefore unnecessary.

In addition, unlike article XI, section 9, the amendment proposed by this bill does not include a reference to laws relating to environmental quality or a healthful environment. Without a reference to laws that set standards for a clean and healthful environment (for example, the phrase “as provided by law”), the amendment proposed by this bill is too ambiguous to be readily implemented and any enforcement may result in increased litigation against the State.

Alternatively and preferably, instead of adding a new section to the State Constitution, the Department suggests amending article XI, section 9, to read as follows:

Each person has the right to a clean and healthful environment, including pure water, clean air, and healthy ecosystems, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment, as defined by laws [~~relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources~~].

Any person may enforce this right against any party, public or private through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

In either case, the Department recommends the question to be printed in the ballot be revised as follows:

“Shall the Constitution of the State of Hawaii be amended to recognize and protect the inherent and inalienable right of all people [~~in both present and future generations,~~] to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment, as provided by general law, and to ensure that the State and its political subdivisions shall protect and not infringe upon these rights?”

Additionally, there appears to be a typographical error in section 1 of the bill on page 1, line 4, and in the new section of article I, contained in section 2 of the bill on page 2, line 3, where the references to “health” ecosystems should be to “healthy” ecosystems.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committees on
ENERGY & ENVIRONMENTAL PROTECTION
and
WATER & LAND

Tuesday, February 8, 2022
8:40 AM

State Capitol, Via Videoconference, Conference Room 325

In consideration of
HOUSE BILL 1803

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

House Bill 1803 proposes an amendment to Article I of the Constitution of the State of Hawaii to guarantee all individuals the right to have a clean and healthy environment. **The Department of Land and Natural Resources (Department) opposes this bill.**

On its face, a new constitutional provision that provides for a protected right to a clean and healthy environment sounds like a good idea. We all want a clean and healthy environment. The Department's mission is exactly this: "Enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei, and its visitors, in partnership with others from the public and private sectors."

On a practical level, this proposed provision does not work for two reasons. First, there is already a constitutional provision that says substantially the same thing. Second, this provision could give the impression that new property rights are being created which would give rise to additional proceedings involving the Department, particularly potentially many new contested cases on decisions made by the Board of Land and Natural Resources.

Article XI, Section 9 of the Hawaii constitution already provides substantially the same rights. This Section provides:

Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

Article XI, Section 9 recognizes substantially the same rights as the provision proposed in the bill, but the current constitutional provision requires that those rights also be enforced through some other law relating to the environment. In other words, the right is not property right with a private right of action created by the constitution which allows a contested case proceeding on each decision; instead, the right is applicable through other state laws. That is consistent with how federal law recognizes property rights.

Under federal law property rights are not “created by the Constitution. Rather they are created, and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law - rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.” *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972).

“To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.” *In re Robert’s Tours & Transp., Inc.*, 104 Hawai‘i 98, 106, 85 P.3d 623, 631 (2004) (quoting *Board of Regents*).

Hawaii’s courts have already indicated that they will take a broad view of what laws would support the rights set out in article XI, section 9. Most recently, the Court held that “‘The right to a clean and healthful environment’ is a substantive right guaranteed to each person by article XI, section 9 of the Hawai‘i Constitution.” *In re Application of Maui Elec. Co., Ltd.*, 141 Hawai‘i 249, 260–61, 408 P.3d 1, 12–13 (2017).

The interpretation of the current constitutional provision is broad enough to encompass the reasonable assertion of a property interest based on environmental rights as defined by other laws. Based on the above, there does not appear to be a need for this provision to protect the public’s right to a clean and healthful environment.

Second, this bill could be interpreted as establishing the rights set forth in the proposed provision as a constitutionally protected due process right. As applied, this would mean that any person could allege that a government decision, such as a land management disposition, including a one-year revocable permit or an administratively issued permit, impacts that individual’s right to a clean environment. That person could seek to protect the rights set forth in the proposed provision by challenging the government’s decision.

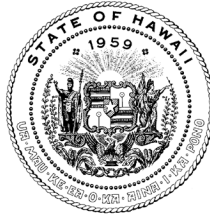
The effect of potentially creating this new property right is that:

- 1) The time and effort spent by members of boards and commissions to make thoughtful decisions on behalf of the public are of little consequence, as all these decisions could be challenged through a contested case process, and ultimately appealed to and decided by the courts. In the democratic balance of powers, this abdicates the roles of the legislature and the executive branches to the greater weight of the judiciary.
- 2) The administrative agencies are already swamped by contested cases. These take an extraordinary amount of time and resources, over months and sometimes years in each case, and cost tens if not hundreds of thousands of dollars in each case in staff and hearing officer and administrative costs. To expand this process based on the uncertainty of whether this provision does create a new right would create an undue administrative burden and take critical personnel and resources away from all other priority work of the agency.

For these reasons we ask that this bill be held.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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SUZANNE D. CASE
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Before the House Committees on
ENERGY & ENVIRONMENTAL PROTECTION
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PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

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On a practical level, this proposed provision does not work for two reasons. First, there is already a constitutional provision that says substantially the same thing. Second, this provision could give the impression that new property rights are being created which would give rise to additional proceedings involving the Department, particularly potentially many new contested cases on decisions made by the Board of Land and Natural Resources.

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Under federal law property rights are not “created by the Constitution. Rather they are created, and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law - rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.” *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972).

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Hawaii’s courts have already indicated that they will take a broad view of what laws would support the rights set out in article XI, section 9. Most recently, the Court held that “‘The right to a clean and healthful environment’ is a substantive right guaranteed to each person by article XI, section 9 of the Hawai‘i Constitution.” *In re Application of Maui Elec. Co., Ltd.*, 141 Hawai‘i 249, 260–61, 408 P.3d 1, 12–13 (2017).

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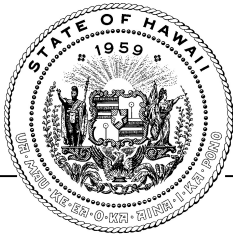
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The effect of potentially creating this new property right is that:

- 1) The time and effort spent by members of boards and commissions to make thoughtful decisions on behalf of the public are of little consequence, as all these decisions could be challenged through a contested case process, and ultimately appealed to and decided by the courts. In the democratic balance of powers, this abdicates the roles of the legislature and the executive branches to the greater weight of the judiciary.
- 2) The administrative agencies are already swamped by contested cases. These take an extraordinary amount of time and resources, over months and sometimes years in each case, and cost tens if not hundreds of thousands of dollars in each case in staff and hearing officer and administrative costs. To expand this process based on the uncertainty of whether this provision does create a new right would create an undue administrative burden and take critical personnel and resources away from all other priority work of the agency.

For these reasons we ask that this bill be held.

Thank you for the opportunity to comment on this measure.



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

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Telephone: (808) 587-2846
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Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
**HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND WATER AND LAND**
Tuesday, February 8, 2022
8:40 AM
State Capitol, Conference Room 325

in consideration of
HB 1803
**PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE
STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND
INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND
HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION
OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE
ENVIRONMENT.**

Chairs Lowen and Tarnas, Vice Chairs Marten and Branco, and Members of the House Committees on Energy and Environmental Protection and Water and Land:

The Office of Planning and Sustainable Development (OPSD) **supports the intent** of HB 1803, which proposes a constitutional amendment that recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. The bill provides that the State and its subdivisions shall protect and shall not infringe upon these rights.

The Hawai'i State Planning Act includes a very important part of law which aligns with the intent of this bill. Part III of the Priority Guidelines of the Hawai'i State Planning Act is included to establish overall priority guidelines to address areas of statewide concern, and directs the state to strive to improve the quality of life for Hawai'i's present and future generations through the pursuit of desirable courses of action in seven major areas of statewide concern which merit priority attention: economic development, population growth and land resource management, affordable housing, crime and criminal justice, quality education, principles of sustainability, and climate change adaptation. Specifically, the priority guidelines for the state which include the: Economic Priority Guidelines ([HRS §226-103](#)), Population Growth and Land Resources Priority Guidelines ([HRS §226-104](#)), Sustainability Priority Guidelines ([HRS §226-108](#)), and Climate Change Adaptation Priority Guidelines ([HRS §226-109](#)) align with the intent of this legislation.

The Office of Planning and Sustainable Development supports proposals that jointly and mutually enhance local economies, the environment, and community well-being for the present and future benefit of the people of Hawai‘i. As an Agency which supports Hawai‘i’s Public Trust Doctrine, local and diversified economic development, diversified agriculture, affordable housing, environmental quality, climate resilience, and sustainability, the Office of Planning and Sustainable Development agrees with HB 1803, that all people have an inherent right to clean water and air and ecosystems, including climate, flora, fauna and soil, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment belonging to both present and future generations of Hawai‘i.

The Office of Planning and Sustainable Development defers to the State Department of the Attorney General in terms of the correct language and placement of the proposed amendment within Hawai‘i’s State Constitution and how the question should be printed on the ballot.

Thank you for the opportunity to testify on this measure.



Hawai'i's voice for wildlife
Kō Hawai'i o nā holoholona lōhiu

**Before the House Committee on
Energy and Environmental Protection
and
Water and Land**

**Tuesday, February 8, 2022
8:40am**

State Capitol, Conference Room 325, Via Videoconference

**In consideration of
HOUSE BILL 1803
PROPOSING AMENDMENT TO ARTICLE 1...**

Conservation Council For Hawaii supports HB1803. Hawaii has faced great degradation of its immensely unique ecosystems, biodiversity, and native species. Protecting our island homes natural resources is imperative not only for human inhabitants of our islands, but our native plants and animals, both on land and marine. Protecting our freshwater resources means protecting vast ecosystems, ensuring that our aquifers and watershed our protected is the only avenue we have in preserving clean water, our delicate ecosystems, and combatting climate change.

Thank you for the opportunity to provide our testimony in supporting HB1803.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS		MAILING ADDRESS	
John Bickel, President	Melodie Aduja	Jan Lubin	Bill South	P.O. Box 23404
Alan Burdick, Vice President	Keola Akana	John Miller	Zahava Zaidoff	Honolulu
Dave Nagajji, Treasurer	Juliet Begley	Jenny Nomura		Hawaii 96823
Doug Pyle, Secretary	Stephanie Fitzpatrick	Stephen O'Harrow		

February 3, 2022

TO: Chairs Lowen & Tarnas and Members of the EEP & WAL Committees

RE: **HB 1803** PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

Support for hearing on February 8

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill as we support the recognition and protection of rights of people to to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President

HB-1803

Submitted on: 2/6/2022 9:50:05 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Henry Curtis	Life of the Land	Support	No

Comments:

Life of the Land supports this constitutional amendment

This is critical

Please pass

HB-1803

Submitted on: 2/6/2022 12:26:24 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
laurel brier	Kauai women's caucus	Support	No

Comments:

We are in a Climate Emergency. Protecting our environment is protecting our people. Put it on the ballot and let the people decide.

HB-1803

Submitted on: 2/6/2022 2:16:45 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Travis Idol	Hawaii Interfaith Power and Light	Support	No

Comments:

I am the President of Hawaii Interfaith Power and Light (HIPL), a local nonprofit dedicated to helping religious people and communities in Hawaii respond to the climate crisis from an interfaith as well as their own personal religious beliefs, values, and vision for the future.

HIPL is in strong support of HB1803, the Green Amendment. Clean water, clean air, and a livable climate are gifts of Creation given to all of us. It is our duty and responsibility to honor this gift and be faithful stewards of it. For Native Hawaiians, malama aina is a phrase many of us have adopted to represent this recognition of the value of this gift and our responsibility to care for it so that we are taken care of.

To ensure that all of us are able to enjoy this gift and take responsibility to care for it, we agree that we should enshrine in law our right to clean air, water, and a livable climate. This right is no less fundamental or important as the right such to free speech and religion. Indeed, without a livable planet, what value do these other rights have?

HB1803 proposes a Hawaii constitutional amendment. The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction.

While environmental protections of various stripes are already a part of our laws and statues, the holistic idea of healthy functioning ecosystems that support human well-being, and the climate itself, are currently not recognized and protected as inalienable rights and given constitutional recognition and protection. The health of the environment and environmental impacts should be considered as essential for any type of planning, decision making, and regulating, much like other fundamental and protected rights we have as individuals and communities.

We urge you to support HB1803.



Environmental Caucus of The Democratic Party of Hawai'i

To: Hon. Nicole E. Lowen, Chair
Hon. Lisa Marten, Vice Chair
Members of the Committee on Energy & Environmental Protection

Hon. David A. Tarnas, Chair
Hon. Patrick Pihana Branco, Vice Chair
Members of the Committee on Water & Land

Re: **HB 1803 – PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT**

Hearing: Tuesday, February 8, 2022, 8:40 a.m., Conference Rm. 325 & Via Videoconference

Position: **Strong Support**

Aloha, Chairs Lowen and Tarnas, Vice Chairs Marten and Branco, and Members of the Committees on Energy & Environment and Water & Land:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of HB 1803. This measure would propose a constitutional amendment that recognizes and protects, for present and future generations, the inherent and inalienable for all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. It also provides that the State and its subdivisions shall protect and shall not infringe upon these rights.

The proposed Bill of Rights amendment will raise up our environmental rights under Article XI, § 9 to become part of Article I Bill of Rights and will be protected against government overreach and infringement. Article I also ensures that the state government is constitutionally bound to protect the environmental rights of native Hawaiians (Article XII § 4, Public Land Trust) and the general public (Article XI § 1).



Environmental Caucus of The Democratic Party of Hawai'i

February 8, 2022
Page 2

The addition of environmental rights to the Hawaii Bill of Rights will ensure that environmental protection and environmental justice will be given the highest priority in preventing environmental pollution and degradation throughout any government decision making process.

In our view, when enacted, this Constitutional Amendment should be highly beneficial as it will provide all people with an inherent and inalienable Constitutional right to clean water and air and healthy ecosystems, including climate, flora, fauna and soil, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. Mahalo for the opportunity to testify on this very important matter.

Melodie Adaja

Co-Chair, Environmental Caucus of the
Democratic Party of Hawai'i
Email: legislativepriorities@gmail.com

Alan A. Burdick

Co-Chair, Environmental Caucus of the
Democratic Party of Hawai'i
Email: legislativepriorities@gmail.com

HB-1803

Submitted on: 2/6/2022 4:29:35 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
laurel brier	Kauai women's caucus	Support	No

Comments:

Water is life. Ultimately the government must answer to the well being of the people



To: The House Committee on Energy and Environmental Protection (EEP)
and
The House Committee on Water & Land (WAL)
From: Sherry Pollack, 350Hawaii.org
Date: Tuesday, February 8, 2022, 8:40am

In strong support of HB1803

Aloha Chairs Lowen and Tarnas, Vice Chairs Marten and Branco, and members of the EEP and WAL committees,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org is in **strong support of HB1803 but proposes amendments that are appended in a proposed draft HD1.**

The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction. 350Hawaii welcomes the inclusion of a Green Amendment in which environmental rights are given highest constitutional recognition and protection, on par with other fundamental rights such as speech.

The amendment would be a tool to help put a focus on the prevention of environmental harm, as well as provide legislators and regulators constitutional grounding upon which to advance positive and strengthened environmental protections. Environmental threats are growing worse and we are facing a climate crisis. Because healthy environments, including climate, are currently not recognized and protected as inalienable rights and given constitutional recognition and protection, protecting these basic human needs becomes an afterthought in government decision making, and sometimes is not considered at all. The health of the environment and environmental impacts should be considered first, at the start of planning, decision making, and regulating. Our constitution should recognize and protect the rights of all people, **including future generations.**

We all need clean water and air, a healthy environment and climate to live healthy, long and good quality lives. And so it is just and right that we should ensure our environmental rights are protected as firmly and powerfully as the other fundamental rights we hold dear.

350Hawaii respectfully requests the Committees revise the wording of the proposed Green Amendment. These changes clarify the meaning and simplify the language. It is important to recognize the rights as “fundamental” to include future generations, to correct language around climate, and to clarify “healthy native ecosystems,” and add beaches. These changes are captured in the draft proposed bill HD1 appended to this testimony. The amendment would now read:

“The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.”

Here is a proposed draft HD1 bill thanks to Representative Perruso:

THE HOUSE OF REPRESENTATIVES THIRTY-FIRST LEGISLATURE, 2022 H.B. NO.1803
STATE OF HAWAII PROPOSED HD1

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

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

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii stating that: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed. This fundamental right is rooted in the traditions and collective conscience of the state's people, including Native Hawaiians' traditional and ongoing special relationship to the environment and 'āina. The amendment will complement existing Constitutional provisions and raise up protection of the human health, natural, and cultural values of the environment that are essential to support life in Hawaii.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

“ENVIRONMENTAL RIGHTS

The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.”

SECTION 3. The question to be printed on the ballot shall be as follows: "Shall the Constitution of the State of Hawaii be amended to add a new section to Article I, the Bill of Rights, to read: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed?"

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

INTRODUCED BY: _____

Report Title: Constitutional Amendment; Green Amendment; Environmental Rights

Description: Proposes a constitutional amendment stating that: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.

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

The sooner these rights are recognized, the better off the future will be for our children.

Mahalo for the opportunity to testify in **strong support** of this very important legislation.

Sherry Pollack
Co-Founder, 350Hawaii.org

HB-1803

Submitted on: 2/7/2022 2:42:56 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dave Mulinix	Our Revolution Hawaii	Support	Yes

Comments:

Aloha Chair Lowen, Vice Chair Marten, and Committee Members [Hashem](#), [Matayoshi](#), [Matsumoto](#), [Perruso](#), [Todd](#), [Tokioka](#),

On behalf of Our Revolution Hawaii's 5,000 members & supporters statewide, we stand in Strong Support of HB1803 that proposes a constitutional amendment that *recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. Provides that the State and its subdivisions shall protect and shall not infringe upon these rights.*

Passage of HB1803 is important because our current laws and protections aren't working. Corporate for-profit institutions with their heavy influence in government have continually blocked efforts to protect our community from environmental degradation and climate breakdown. HB1803 would firmly enshrine in the Hawaii Constitution the right to a clean and healthy environment, thereby helping to strengthen laws on the books, and help fill the gaps that are left.

Please vote in support of HB1803.

Mahalo Nui Loa for your kind attention,

David Mulinix, Organizer & Cofounder

Our Revolution Hawaii

KO'OLAUA WAIALUA
ALLIANCE



Feb 7, 2022

Aloha Chair and Committee Members,

The Ko'olau Waialua Alliance would like to express support for bill HB1803. We have testified in support of the companion bill in the Senate. Please show your support for these fundamental rights and protect Hawaii's beauty and ability to sustain life for the future.

Mahalo for advancing this measure,

Angela Huntemer for the members of the Ko'olau Waialua Alliance.
808-224-3101

koolauwaialuaalliance@protonmail.com

The Ko'olau Waialua Alliance is a grassroots network of residents and community groups across Oahu's north and windward shores that believes that our health and well-being are woven together in the same cloth, that problems affecting one community in the region threaten us all, and that works to foster a just and sustainable region for current and future generations.



February 7, 2022

Members of the Committee on Agriculture and Environment,

I would like to comment regarding HB1803, the revised draft language put forth by Representative Perruso, i.e. the proposal to add environmental rights to the Bill of Rights of the Hawaii Constitution.

My name is Maya van Rossum, I am an attorney, leader of the organization Green Amendments For The Generations, and author of the book titled *The Green Amendment, Securing Our Right to a Healthy Environment*, focused on the power and importance of Bill of Rights constitutional recognition and protection of environmental rights.

Adding Environmental Rights to the State Bill of Rights will provide important and valuable additional protections for the natural resources and people of Hawaii.

The Environmental Rights amendment being proposed will ensure the environmental rights of Hawaii's people are given the same highest constitutional recognition as other fundamental rights. In addition, the Bill of Rights placement will raise up environmental rights so they become part of the guiding obligations and principles for all government action and legislation – rather than the people's environmental rights being defined by legislation passed, the amendment will flip the script ensuring that when government acts it will carry out the mandates of the amendment.

While Hawaii has in place important environmental protections in its constitution as recognized and applied by the courts, the proposed environmental rights amendment will help strengthen the goal of enforceable environmental rights.

Article XI, Section 1 establishes the state of Hawaii to be a trustee of the natural resources of the state to be protected for present and future generations. The courts have effectively interpreted this trustee obligation as providing important substantive and procedural protections.

Article XI, Section 9 is significantly different. The provision promises that “Each person has the right to a clean and healthful environment as defined by laws relating to environmental quality.” While the courts have recognized that this provision gives the people the right to enforce environmental laws in court, the substantive right under this provision remains unclear.

Hawaii can look to those states that have amendments of this kind to see how the amendment is likely to be used to secure environmental rights recognition and protection.

Currently there are 3 states – Pennsylvania, Montana, and as of November 2021, New York - - benefitting from constitutional Green Amendments of this kind. In Pennsylvania and Montana, the two states that have had enshrined environmental rights in their state constitution bill of rights for a number of years now, legislators, regulators, the state attorney

general, the governor, local government and the courts have successfully used the constitutional language to protect the environment while balancing multiple community interests including property rights and economic development. When needed, the legal actions filed have not been to stymie economic development but rather to address serious issues of public concern – protecting drinking water, supporting government action to secure responsible party clean-up of toxic contamination, and protecting local authority intended to protect local environments.

Overall the amendment is being used to support and secure better government decision-making that avoids environmental pollution and degradation. In those situations where a constitutional violation is found, the remedy secured in the courts has been an equitable remedy to reverse the unconstitutional action and allow the opportunity for a remedy.

Article I protection of environmental rights and recognition of this as a fundamental right will require and strengthen important procedural and substantive environmental rights protections.

As happens with other fundamental rights, placement of this language in Article I will ensure that government prioritizes environmental protection and work to avoid environmental pollution and degradation as part of the decision-making process; when there is the best opportunity for preventing harm including (but not limited to) when crafting and implementing legislation and regulations, when issuing permits, approving development, and considering how to address ongoing environmental concerns.

The compliment of individual rights with the existing recognized role of government as trustee will strengthen environmental justice protections, ensuring all government officials ensuring equitable environmental protection regardless of race, ethnicity, or socioeconomic status.

Placement in Article I ensures environmental rights are protected on par with other fundamental rights and ensures fair balancing of rights when needed. For example, when there is a tension between property rights and protecting the environmental rights of the people, the two will have to be balanced and both protected. Ensuring environmental rights protection will also, by its nature, strengthen property rights protection because too often pollution migrates on to the property of others. The complement of property rights with environmental rights will allow us to better protect the sanctity of families and homes.

While the amendment will be a tool to prevent environmental harm, it will also provide legislators & regulators constitutional grounding upon which to advance positive and strengthened environmental protections.

Article I protection of environmental rights will ensure environmentally sustainable and protective economic development.

While it has been suggested that the proposed environmental rights amendment will stymie economic development in Hawaii, this is not the intent, and in practice this has not been the result of these important amendments in the states where Green Amendments currently exist.

First and foremost, advancing Bill of Rights recognition for environmental rights is about protecting the people and the natural resources they depend upon. Constitutional environmental rights are not

intended to prevent development or economic growth; but instead aim to ensure that industry and business advance sustainably, using standards and practices that best protect the environment and other constitutional rights, like the property rights of those that would be harmed by migrating pollution for example.

In addition, constitutional environmental rights protection will enhance economic development by encouraging sustainable, environmentally protective, and innovative development, industry, and businesses that support jobs and economic growth but at the same time avoid the economic, health and safety harms that result from environmental pollution and degradation. The environmental rights amendment will provide a powerful incentive and mandate for government officials to render decisions and advance businesses in ways that accomplish economic and business objectives, while at the same time protecting water, air, beaches, soils, forests, wetlands, climate and other natural resources critical to sustaining healthy, safe and successful lives and economies.

I thank you for the opportunity to comment.

With respect, regards and appreciation,



Maya K. van Rossum
Founder, Green Amendments For The Generations



February 7, 2022

Members of the House Committees on Energy and Environmental Protection and Water and Land and Senate Committee on Agriculture and Environment,

We are writing in support of HB1803 and companion Senate bill SB2962, the proposal to add environmental rights to the Bill of Rights of the Hawaii Constitution. We support use of the revised draft language put before the committee by Representative Amy Perruso.

The proposed Bill of Rights amendment proposed by HB1803 will raise up our environmental rights so they become part of the guiding obligations and principles for all government action and legislation here in Hawaii. Adding environmental rights to our Hawaii Bill of Rights will ensure that environmental protection and environmental justice are given high priority and that there is a focus on preventing environmental pollution and degradation throughout government decisionmaking when there is the best opportunity for preventing harm. While Hawaii's Constitution Article XI Section 9 recognizes the right of each person to "a clean and healthful environment," it leaves those rights to be defined by law, which is a fundamentally different approach than that being taken by HB1803 wherein environmental rights are placed on par with other fundamental rights we hold dear.

The proposed amendment will ensure that when there are competing interests, environmental protection and rights will be an equal part of the balancing of rights to be protected by government action and decisions, rather than becoming subservient to other asserted rights, goals and needs.

Environmental protection and economic development are not mutually exclusive, in fact they are inextricably connected – a healthy economy depends on a healthy environment, healthy communities and healthy people. The proposed environmental rights amendment will ensure that as we grow jobs and our economy, we also protect the environment for the health and safety of present and future generations. As a result, securing Bill of Rights protection for our environmental rights is not intended to, nor would it be expected to, prevent economic growth in our state. But it will ensure that business, industry and economic development and existing business operations advance sustainably and in ways that protect environmental interests, justice and rights.

In addition the amendment will provide a powerful foundation on which our Hawaii government officials can conceive and advance beneficial environmental protection laws, policies, programs and decisions.

We all need clean water and air, a healthful environment and climate, and healthy native ecosystems to live healthy, long and good quality lives. And so, it is just and right that we should ensure our environmental rights are protected as firmly as the other fundamental rights we hold dear.

Thank you for the opportunity to comment.

Mahalo,

Ted Bohlen, Co-Founder, Hawaii Reef and Ocean Coalition

Sherry Pollack, Co-Founder, 350Hawaii

Dave Mulinix, Co-Founder, Our Revolution Hawaii

Melodie Aduja & Alan Burdick, Co-Chairs, Environmental Caucus of the Democratic Party

Cara Oba, Climate Protectors Coalition Hawaii

Lauren Blickley, Hawaii Regional Manager, Surfrider Foundation

Maya van Rossum, Founder, Green Amendments for the Generations

HB-1803

Submitted on: 2/7/2022 7:44:26 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Hawai'i Reef and Ocean Coalition	Support	Yes

Comments:

To: The Honorable Nicole Lowen, Chair, the Honorable Lisa Marten, Vice Chair, and Members of the House Committee on Energy and Environmental Protection and

The Honorable David Tarnas, Chair, the Honorable Patrick Pihana Branco, Vice Chair, and Members of the House Committee on Land and Water

From: Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing **HB1803**, PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

Hearing: Tuesday, February 8, 2022, 8:40 a.m., by videoconference

Aloha Chair Lowen, Vice Chair Marten, and members of the House Committee on Energy and Environmental Protection and Chair Tarnas, Vice Chair Pihana Branco and Members of the House Committee on Land and Water:

The Hawai'i Reef and Ocean Coalition is a group focused on protecting coral reefs and marine life. **The Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS HB1803, but proposes amendments that are appended in a proposed draft HD1.**

Hawai'i has very fragile ecosystems, from coral reefs that are suffering from warming oceans, to drinking water polluted with petroleum spilled from underground storage tanks. These fragile ecosystems need protection now more than ever, as environmental threats are growing worse and we are facing an existential climate crisis and rapid declines in aquatic life.

This bill proposes a constitutional amendment to Article I, the Hawaii Bill of Rights, to provide more protection of environmental rights. If approved by voters, the Green Constitutional Amendment as drafted "in this bill would recognize and protect the right to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic,

and healthful qualities of the environment. Hawaii's Constitution currently has some protections for "a clean and healthful environment," but only "as defined by laws relating to environmental quality," not as a fundamental right (Article XI, Section 9). Because "a **healthful environment and climate**," and "**healthy ecosystems**" are currently not recognized and protected as fundamental, inalienable rights in our Bill of Rights, protecting these basic human needs sometimes becomes an afterthought in government laws and decision making, and sometimes is not considered at all. The inclusion of this fundamental right in Article I would complement, not supplant, the existing recognized role of government as public trustee of all public natural resources in Article XI, Section 1.

We all need clean water and air, and a healthful environment and climate, to live healthy, long and good quality lives. And so it is just and right that we should ensure our environmental rights are protected as firmly and powerfully as the other fundamental rights we hold dear. We need environmental protection rights raised up to be on par with other fundamental rights such as speech, assembly and religious freedoms.

This Constitutional amendment would provide a new and important tool for protecting the State's environment. This new amendment may fill a significant gap where there is not yet a law to address a serious environmental condition or threat, until legislative protections can catch up, and strengthen enforceable environmental rights that belong to all the people of Hawaii. HIROC particularly applauds the inclusion of **healthy ecosystems** in the rights that would be guaranteed in this amendment, if adopted, as they would directly affect the public interest in the health of coral reefs and other aquatic life. HIROC was formed out of concern for this overlooked (and typically degraded) public interest. A **healthful Climate** is also critical, as corals and other marine life are dying primarily from warming, more acidic oceans.

This Green Constitutional Amendment would be a powerful value-added tool for advancing economic development in ways that also ensures environmental protection. The recognition of fundamental environmental rights can also benefit the State. The amendment could provide a foundation for government efforts to pursue polluters. In Pennsylvania and Montana, two states with Bill of Rights protection for environmental rights, the legal actions filed reportedly have been to address serious issues of public concern – protecting drinking water, supporting government action to secure responsible party clean-up of toxic contamination, and protecting local zoning authority intended to protect local environments. New York recently became the third state to adopt a Green Constitutional Amendment. In addition to Hawai'i, at least nine other states are considering similar amendments at this time.

Broad language is characteristic of fundamental Constitutional rights such as speech, assembly and religion. Such rights should be broadly drafted so their vitality will carry well into the future. The terms "clean water and air," and "healthy ecosystems," are no less clear than the language in other Hawai'i Bill of Rights provisions, e.g., the right to "peaceably to assemble", the "right of the people to privacy," the right to be free from "excessive bail"; these terms are all open to interpretation. Hawaii's government officials and courts are well-equipped to define, interpret and apply constitutional environmental rights language using standard principles of legislative interpretation and constitutional law – they have done so successfully with other

Article 1 amendments; they are well equipped to do so as needed for environmental rights as well.

In Hawai‘i, environmental protection is rooted in the traditions and collective conscience of the people. It is deeply honored and valued as part of the culture, beliefs, way of life, and economy. Native Hawaiians have had a traditional and on-going special relationship to the environment and ‘aina.

Hawai‘i Reef and Ocean Coalition asks the Committees to revise the wording of the proposed Green Constitutional Amendment. These changes clarify the meaning and simplify the language. It is important to recognize the rights as “fundamental, “ to include future generations, to correct language around climate, and to clarify “healthy native ecosystems,” and add beaches. **These changes are captured in the draft proposed bill HD1 appended to this testimony. The amendment would now read:**

“The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.”

Here is a proposed draft HD1 bill. Thanks to Representative Perruso!:

THE HOUSE OF REPRESENTATIVES

THIRTY-FIRST LEGISLATURE, 2022

STATE OF HAWAII H.B. NO.1803 PROPOSED HD1

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

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

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii stating that: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed. This fundamental right is rooted in the traditions and collective conscience of the state's people, including Native Hawaiians' traditional and ongoing special relationship to the environment and 'āina. The amendment will complement existing Constitutional provisions and raise up protection of the human health, natural, and cultural values of the environment that are essential to support life in Hawaii.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

“ENVIRONMENTAL RIGHTS

The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.”

SECTION 3. The question to be printed on the ballot shall be as follows: ”Shall the Constitution of the State of Hawaii be amended to add a new section to Article I, the Bill of Rights, to read: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed?”

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

INTRODUCED BY: _____

Report Title: Constitutional Amendment; Green Amendment; Environmental Rights

Description: Proposes a constitutional amendment stating that: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.

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Mahalo for the opportunity to testify! Please pass this very important legislation!

HAWAI'I REEF AND OCEAN COALITION (by Ted Bohlen).

February 8, 2022

The Honorable Nicole E. Lowen, Chair

House Committee on Energy & Environmental Protection

The Honorable David A. Tarnas, Chair

House Committee on Water & Land

Via Videoconference

RE: House Bill 1803, Proposing an Amendment to Article I of the Constitution of the State of Hawaii

HEARING: Tuesday, February 8, 2022, at 8:40 a.m.

Aloha Chair Lowen, Chair Tarnas, and Members of the Joint Committees,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 10,800 members. HAR **provides comments** on House Bill 1803, which proposes a constitutional amendment that recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. Provides that the State and its subdivisions shall protect and shall not infringe upon these rights

While HAR supports efforts to provide a clean and healthy environment, HAR believes the Hawai'i State Constitution already provides for such efforts. Some examples are:

- **Article IX, Preservation of a Healthful Environment**

Section 8. The State shall have the power to promote and maintain a healthful environment, including the prevention of any excessive demands upon the environment and the State's resources.

- **Article XI, Conservation Control and Development of Resources**

Section 1. For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

Section 9. Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

As such, HAR believes this constitutional amendment may not be necessary. Furthermore, making this an inalienable right may open the State and other parties to litigation.

Mahalo for the opportunity to testify.

HB-1803

Submitted on: 2/7/2022 9:30:28 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cara Oba	Climate Protectors Hawai'i	Support	No

Comments:

To: The Honorable Nicole Lowen, Chair, the Honorable Lisa Marten, Vice Chair, and Members of the House Committee on Energy and Environmental Protection and

The Honorable David Tarnas, Chair, the Honorable Patrick Pihana Branco, Vice Chair, and Members of the House Committee on Land and Water

From: Climate Protectors Hawai'i (submitted by Cara Oba)

Re: Hearing **HB1803**, PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

Hearing: Tuesday, February 8, 2022, 8:40 a.m., by videoconference

Aloha Chair Lowen, Vice Chair Marten, and members of the House Committee on Energy and Environmental Protection and Chair Tarnas, Vice Chair Pihana Branco and Members of the House Committee on Land and Water:

The Climate Protectors Hawai'i is a group focused on mitigating the climate emergency we face. **The Climate Protectors Hawai'i STRONGLY SUPPORTS HB1803, but proposes amendments that are appended in a proposed draft HD1.**

Hawai'i has very fragile ecosystems, from coral reefs that are suffering from warming oceans, to drinking water polluted with petroleum spilled from underground storage tanks. These fragile ecosystems need protection now more than ever, as environmental threats are growing worse and we are facing an existential climate crisis and rapid declines in aquatic life.

This bill proposes a constitutional amendment to Article I, the Hawaii Bill of Rights, to provide more protection of environmental rights. If approved by voters, the Green Constitutional Amendment as drafted "in this bill would recognize and protect the right to clean water and and

healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. Hawaii's Constitution currently has some protections for "a clean and healthful environment," but only "as defined by laws relating to environmental quality," not as a fundamental right (Article XI, Section 9). Because "a healthful environment and climate," and "healthy ecosystems" are currently not recognized and protected as fundamental, inalienable rights in our Bill of Rights, protecting these basic human needs sometimes becomes an afterthought in government laws and decision making, and sometimes is not considered at all. The inclusion of this fundamental right in Article I would complement, not supplant, the existing recognized role of government as public trustee of all public natural resources in Article XI, Section 1.

We all need clean water and air, and a healthful environment and climate to live healthy, long and good quality lives. And so it is just and right that we should ensure our environmental rights are protected as firmly and powerfully as the other fundamental rights we hold dear. We need environmental protection rights raised up to be on par with other fundamental rights such as speech, assembly and religious freedoms.

This Constitutional amendment would provide a new and important tool for protecting the State's environment. This new amendment may fill a significant gap where there is not yet a law to address a serious environmental condition or threat, until legislative protections can catch up, and strengthen enforceable environmental rights that belong to all the people of Hawaii.

This Green Constitutional Amendment would be a powerful value-added tool for advancing economic development in ways that also ensures environmental protection. The recognition of fundamental environmental rights can also benefit the State. The amendment could provide a foundation for government efforts to pursue polluters. In Pennsylvania and Montana, two states with Bill of Rights protection for environmental rights, the legal actions filed reportedly have been to address serious issues of public concern – protecting drinking water, supporting government action to secure responsible party clean-up of toxic contamination, and protecting local zoning authority intended to protect local environments. New York recently became the third state to adopt a Green Constitutional Amendment. In addition to Hawai'i, at least nine other states are considering similar amendments at this time.

Broad language is characteristic of fundamental Constitutional rights such as speech, assembly and religion. Such rights should be broadly drafted so their vitality will carry well into the future. The terms "clean water and air," and "healthy ecosystems," are no less clear than the language in other Hawai'i Bill of Rights provisions, e.g., the right to "peaceably to assemble", the "right of the people to privacy," the right to be free from "excessive bail"; these terms are all open to interpretation. Hawaii's government officials and courts are well-equipped to define, interpret and apply constitutional environmental rights language using standard principles of legislative interpretation and constitutional law – they have done so successfully with other Article 1 amendments; they are well equipped to do so as needed for environmental rights as well.

In Hawai'i, environmental protection is rooted in the traditions and collective conscience of the people. It is deeply honored and valued as part of the culture, beliefs, way of life, and economy.

Native Hawaiians have had a traditional and on-going special relationship to the environment and ‘aina.

Climate Protectors Hawai‘i asks the Committees to revise the wording of the proposed Green Constitutional Amendment. These changes clarify the meaning and simplify the language. It is important to recognize the rights as “fundamental, “ to include future generations, to correct language around climate, and to clarify “healthy native ecosystems,” and add beaches. **These changes are captured in the draft proposed bill HD1 appended to this testimony. The amendment would now read:**

“The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.”

Here is a proposed draft HD1 bill. Thanks to Representative Perruso!:

THE HOUSE OF REPRESENTATIVES THIRTY-FIRST LEGISLATURE, 2022 H.B.
NO.1803
STATE OF HAWAII PROPOSED HD1

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

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

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii stating that: The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed. This fundamental right is rooted in the traditions and collective conscience of the state's people, including Native

Hawaiians' traditional and ongoing special relationship to the environment and 'āina. The amendment will complement existing Constitutional provisions and raise up protection of the human health, natural, and cultural values of the environment that are essential to support life in Hawaii.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

“ENVIRONMENTAL RIGHTS

The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed.”

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Mahalo for the opportunity to testify! Please pass this very important legislation!

CLIMATE PROTECTORS HAWAI'I (submitted by Cara Oba).



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 8, 2022**

HB 1803 PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

Good morning, Chairperson Lowen and Chairperson Tarnas and members of the House Committee on Energy and Environmental Protection and the House Committee on Water and Land. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We are opposed to HB 1803 Proposing An Amendment To Article I Of The Constitution Of The State Of Hawaii To Recognize And Protect The Inherent And Inalienable Right Of All People To Clean Water And Air And Healthy Ecosystems, Including Climate, And To The Preservation Of The Natural, Cultural, Scenic, And Healthful Qualities Of The Environment. This measure proposes a constitutional amendment that recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. Provides that the State and its subdivisions shall protect and shall not infringe upon these rights.

Retailers continue to be concerned about our aina and have supported many initiatives that preserve and protect our environment. However, we do not feel that this type of legislation is needed as it is already addressed. While everyone who live and visits Hawaii wants to have a clean and healthy environment, Hawaii's constitution already provides for this.

This measure also has far more reaching consequence beyond what is stated. We believe that the larger picture and the true effects of this bill should be looked into and understood. We would also like to point out that to expand this measure to include "clean water and air, and healthy ecosystems, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment" is vague and ambiguous and could have adverse effects to not only business, but the state as well. The interpretation could annihilate not only many businesses but entire industries like that of tourism.

For these reasons, we respectfully urge you to hold this bill.

Mahalo again for this opportunity to testify.

HB-1803

Submitted on: 2/1/2022 3:48:56 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
lynne matusow	Individual	Support	No

Comments:

I am in full support. Imua Red Hill removal.

HB-1803

Submitted on: 2/1/2022 6:08:34 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Joseph Kohn MD	Individual	Support	No

Comments:

Strongly Support HB1803 / SB2962

Mālama 'Āina

www.WeAreOne.cc

HB 1803 TESTIMONY

To: House Committee on Energy and Environmental Protection
House Committee on Water and Land
Hearing on Feb. 8, 2022 at 8:40 a.m.

From: John Kawamoto

Position: Support

Article XI, Section 1 of Hawaii's Constitution designates the State government as the trustee of Hawaii's natural environment to benefit the people of Hawaii. This responsibility is well conceived because no other entity has control over public and private interests.

The people of Hawaii have a right to clean air, pure water, and to the preservation of the natural, scenic, cultural, historic, and esthetic values of the environment.

However, the State's responsibility for the natural environment lacks an accountability mechanism. Although the State is responsible to maintain a clean and healthy environment, there is no mechanism to ensure that the State is carrying out its full responsibility.

In proposing an amendment to Hawaii's Constitution, this bill seeks to create the needed accountability. If ultimately adopted, the amendment would enable action to be taken in cases where the State does not fulfill its responsibility of maintaining a clean and healthy environment.

Conceptually, the Constitutional Green Amendment is sound, but there may be some hesitancy to adopt it because it is such a new idea in Hawaii. We should take a lesson from Pennsylvania, which has had a Green Amendment for more than 50 years. It has been used to stop polluting activities, and its principles have been incorporated by state agencies that have responsibility for the environment. The amendment has forced developers and others to plan their project to minimize adverse environmental impacts.

New York and Montana recently followed Pennsylvania in adopting a Green Amendment, and other states, like Hawaii, are considering it.

Hawaii's environment is under continual attack, and climate change is bearing down upon us. The Constitutional Green Amendment will help to ensure that Hawaii's natural environment is preserved for future generations.

For the foregoing reasons I support HB 1803.

HB-1803

Submitted on: 2/1/2022 8:34:38 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

Who are you trying to Fool we are not that Stupied all this climet Crap is all Bull Shit!!

HB-1803

Submitted on: 2/2/2022 10:47:40 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kimeona Kane	Individual	Support	Yes

Comments:

Aloha nui,

Kimeona Kane from Waimānalo in support of this item. It makes complete and clear sense that we protect these aspects of life for all in perpetuity. It seems crazy that it must be written out in this way, however I recognize that these aspects of life are in danger and threatened by many things. As an aloha ‘āina, I truly believe we must protect these aspects of life fiercely.

Mahalo nui,
Kimeona Kane

HB-1803

Submitted on: 2/3/2022 8:56:52 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tawn Keeney	Individual	Support	No

Comments:

It is important that society be given every available tool to address the existential threats to society and the natural world. At the same time it is important to realize that in the several states which have existing Constitutional guarantees as described in this bill, there has not been an abuse or overuse of the rights which it bestows.

Tawn Keeney MD

HB-1803

Submitted on: 2/5/2022 10:38:28 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cynthia Punihaole Kennedy	Individual	Support	No

Comments:

Honorable Chair Nicole Lowen, Vice Chair Lisa Marten and members of the Energy & Environmental Protection

I Strongly Support HB 1803 with an amendment to add the following proposed Constitutional Amendment to the Bill of Rights;

"The fundamental right of the people, including future generations, to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches, shall be protected and shall not be infringed."

HB-1803

Submitted on: 2/5/2022 10:45:27 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dylan Ramos	Individual	Support	No

Comments:

Aloha Chair Lowen, Chair Tarnas, Vice Chair Marten, Vice Chair Branco, and EEP/WAL Committee members,

I am testifying in strong support of SB2962 to propose a Hawaii Green Amendment. Accountability is key, and that is what this constitutional amendment would give not only to us, but to future generations as well. Hawaii's existing environmental protections, including constitutional ones such as Article XI Section 9, would be complemented and strengthened by a green amendment in Hawaii's Bill of Rights. At the very least, to any of your colleagues who are hesitant about this bill, please ask them to pass it so the question can be put to a vote and the people can decide.

Mahalo,
Dylan Ramos

HB-1803

Submitted on: 2/5/2022 4:14:17 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
David Dinner	Individual	Support	No

Comments:

Now if we can put some teeth in this so it actually happens, we will get somewhere.

HB-1803

Submitted on: 2/5/2022 5:22:54 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tadia Rice	Individual	Support	No

Comments:

Aloha House of Representatives:

Our current laws and protections aren't working. Corporate for-profit institutions with their heavy influence in government have continually blocked efforts to protect our community from environmental degradation and climate breakdown. This bill would firmly enshrine in the Hawaii Constitution the right to a clean and healthy environment, thereby helping to strengthen laws on the books, and help fill the gaps that are left.

I am in strong support of the Green Amendment. We all need clean water, clean air, and a livable climate. To ensure this, we need these rights to environmental protection raised to be on par with other fundamental rights such as speech and religious freedoms.

HB1803 proposes a Hawaii constitutional amendment. The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction.

Environmental threats are growing worse and we are facing a climate crisis. Because healthy environments, including climate, are currently not recognized and protected as inalienable rights and given constitutional recognition and protection, protecting these basic human needs becomes an afterthought in government decision making, and sometimes is not considered at all. The health of the environment and environmental impacts should be considered first, at the start of planning, decision making, and regulating. Our constitution should recognize and protect the rights of all people, including future generations.

We all need clean water and air, a healthy environment and climate to live healthy, long and good quality lives. And so it is just and right that we should ensure our environmental rights are protected as firmly and powerfully as the other fundamental rights we hold dear.

Please pass HB1803. Mahalo.

HB-1803

Submitted on: 2/6/2022 6:11:11 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Noreen Dougherty	Individual	Support	No

Comments:

Hawaii State Congress representatives:

Please begin this Legislative session in strong support of the environment. Everyone benefits from the passing of HB1803. All Life on earth benefits from clean air and clean water. As an educator of young children, it is clear to me that top priorities during this legislative session are the environment, recognizing that clean air and water are certainly inalienable rights that deserve strong protection, and the need for healthy rich soil to raise our keiki for generations to come. There is much work ahead. The environment is a top priority because time is running out.

"Come senators, congressmen
Please heed the call
Don't stand in the doorway
Don't block up the hall" B. Dylan

It is now a crucial time for us to make necessary changes and show our strong support of the environment. I look forward to positive changes this legislative session. Please support HB1803 and other bills supporting a healthy environment. Mahalo nui loa.

Noreen Dougherty

Kapaa, Hawaii.

HB-1803

Submitted on: 2/6/2022 9:54:38 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Nicole E. Lowen, Vice Chair Lisa Marten and the Committee on Energy & Environmental Protection.

I support HB 1803. Please pass this Hawaii constitutional amendment.

HB1803 proposes a Hawaii constitutional amendment. The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction.

Thank you for your time and attention to this matter.

Mahalo,

Caroline Kunitake

HB-1803

Submitted on: 2/6/2022 11:15:39 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
malia holmes-baker	Individual	Support	No

Comments:

We are in need of clean water, clean air, and a livable climate. Let's get the Green Amendment for Hawaii!

HB-1803

Submitted on: 2/6/2022 12:28:20 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Megan Lamson Leatherman	Individual	Support	No

Comments:

Mahalo for this opportunity to testify and share my WHOLEHEARTED SUPPORT of this bill (HB1803) that "proposes a constitutional amendment that recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. Provides that the State and its subdivisions shall protect and shall not infringe upon these rights."

Please pass this (HB1803) and companion bill ([SB2962](#)) for all the residents of Hawai'i, past and future, and also inclusive of all the plants, animals, and physical elements (including water, rocks) that are unable to provide a voice in this 2022 legislative process. Many thanks for your time, consideration, and representation.

Me ka mahalo,

Megan Lamson Leatherman, M. Sc.

Honalo, Hawai'i

HB-1803

Submitted on: 2/6/2022 4:51:11 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Roseann Michaud	Individual	Support	No

Comments:

I strongly support the Green Amendment. We all have the right to clean water, air and a livable climate. This bill will strengthen our environmental rights now and into the future.

HB-1803

Submitted on: 2/6/2022 8:09:12 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tapani Vuori	Individual	Support	No

Comments:

To: The Honorable Nicole Lowen, Chair, the Honorable Lisa Marten, Vice Chair, and Members of the House Committee on Energy and Environmental Protection and

The Honorable David Tarnas, Chair, the Honorable Patrick Pihana Branco, Vice Chair, and Members of the House Committee on Water and Land

From: Tapani Vuori

Re: Hearing **HB1803**, PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

Hearing: Tuesday, February 8, 2022, 8:40 a.m., by videoconference

Aloha Chair Lowen, Vice Chair Marten, and members of the House Committee on Energy and Environmental Protection and Chair Tarnas, Vice Chair Pihana Branco and Members of the House Committee on Water and Land:

I, Tapani Vuori, strongly support HB 1803.

"Clean water and air and healthy ecosystems belong to all of us today and to future generations". I would actually go further and argue that we cannot continue to objectify the environment and ecosystems and assign ownership of them but rather we should have a right to enjoy them; today and into the future. Environment and ecosystems themselves should have inherent and inalienable rights.

Most recently in 2019 Peru's Marañón River Kukama communities and in 2017 New Zeland's Te Awa Tupua, Whanganui river communities were able to declare the rivers in their communities as a person with rights. If our legal system recognizes corporations as a legal person then not extending that same right to nature seems illogical.

Here is an excerpt from the below article. River = Nature.

"Granting a river the rights of a person, he added, "changes our relationship ... from one of owner and commander and exploiter to one of a co-inhabitant and shared rights holder. It's just a completely different dynamic." - Grant Wilson

<https://www.ncronline.org/news/earthbeat/river-person-advocates-legal-rights-nature-say-yes>

Thank you for the opportunity to testify and I urge you to pass HB1803 which in itself is going to be a great start and it goes a long way towards for us to recognize the value of nature and give it the respect and rights it deserves.

HB-1803

Submitted on: 2/6/2022 9:20:49 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cheryl Ho	Individual	Support	No

Comments:

Aloha, Chairperson Lowen; Vice Chair Marten; and members of the Energy and Environmental Protection Committee!

My name is Cheryl Ho. I live in Nu‘uanu.

I wish to voice my strong support for HB 1803, and to thank Representatives

PERRUSO, ELI, ICHIYAMA, ILAGAN, KAPELA, LOPRESTI, LOWEN, MARTEN, TARNAS, and WILDBERGER for introducing this bill.

Hawai‘i was a leader in declaring a Climate Emergency last year. Since then, global climate change has only led to more disasters. Hawai‘i has experienced torrential rains, flooding, the continued erosion of our shorelines. Now, we are witnessing the effects of the U.S. Navy’s callous disregard for the health of O‘ahu’s residents through the Red Hill water pollution.

I have watched a convincing seminar documenting the extensive work of Maya van Rossum, an environmental lawyer. She is doing an outstanding job of impressing states with the need to establish a firm basis for addressing the dire need for climate action. I have come to believe that Article One of our Hawai‘i State Constitution needs to be amended to declare the basic, inalienable right of every resident, *present and future*, to clean water and air and healthy ecosystems, including climate. If we proceed on this premise, our laws will be subject to a standard of values and action that will move Hawai‘i toward greater health and safety, rather than the present trajectory toward disaster and decline. We need to save these islands for our children and grandchildren to thrive in.

Mahalo for hearing my testimony!

Cheryl Ho

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
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Tamara Paltin
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Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 7, 2022

TO: Committee on Energy & Environmental Protection
Representative Nicole E. Lowen, Chair
Representative Lisa Marten, Vice Chair

FROM: Kelly Takaya King, Maui County Councilmember

HEARING: Tuesday, February 8, 2022 at 8:40 a.m.,
House Conference Room 325 via Videoconference

SUBJECT: **Testimony on HB1803 PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT**
STRONG SUPPORT

Dear Honorable Chair Lowen, Vice Chair Marten and Committee Members,

Thank you for the opportunity to testify in strong support of this important measure, HB1803. As a member of the Maui County Council and the Chair of the Climate Action, Resilience and Environment Committee, Vice Chair of the Hawaii State Association of Counties, a member of the Local Government Advisory Committee to the United States Environmental Protection Agency, and a member of ICLEI USA, I work on the county, state, national and international levels to combat climate change and to protect the environment. Like all of you, I am haunted by the dire threats facing our communities, environment, and planet and the need for increasingly drastic action to protect them.

February 7, 2022

Page 2

Passing HB1803 would allow the people of Hawaii to vote to amend Article I of the Hawaii State Constitution to recognize their inherent and inalienable right to the fundamental necessities of human existence -- clean water, clean air and healthy ecosystems, including climate, plants, animals, and soil -- and to preserve our natural, cultural, scenic and healthy environment.

Environmental justice would be served, as people would be empowered to vote on these rights. Passage of the constitutional amendment would also constitute a major statement and step forward in recognizing the critical importance of our environment and the absolute need for its protection.

States around the country have begun to consider and pass these state constitutional amendments, including New York, Pennsylvania and Montana, with several other states working on the issue. Green Amendments for the Generations, a nonprofit working on this issue, is working to pass green amendments in all 50 states and at the federal level.

Hawai'i is famous for, and uniquely dependent on, our precious environmental beauty, and supporting this ballot issue will ensure we continue to be leaders in environmental protection. I urge you to pass HB1803 and allow our voters the opportunity to vote on the constitutional amendment.

Mahalo nui loa,

Handwritten signature of Kelly T. King in cursive script.

Kelly Takaya King, Maui County Council
Chair, Climate Action, Resilience and Environment Committee
Member, Local Government Advisory Committee to U.S. EPA
ICLEI Delegate to COP26

HB-1803

Submitted on: 2/6/2022 10:48:07 PM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Andrea Nandoskar	Individual	Support	No

Comments:

Strongly support and encourage adoption of the revised version, proposed HD1.

Why are we alive if not to support thriving life including the continuation of the human species? I'm 61 and have seen more environmental degradation in my short lifetime than multiple generations of my ancestors. It is heartbreaking to know that my child and future grandchildren are inheriting a natural world grossly out of balance and teetering on multi-system collapse. While this amendment will not address all of our challenges, it will take an important step toward elevating human rights to clean water and air and healthy ecosystems, and to the preservation of the natural, cultural, scenic and human health qualities of environment legally on par with other fundamental rights, including property rights.

Please support this bill.

Mahalo for your consideration.

HB-1803

Submitted on: 2/7/2022 6:18:30 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
shantee brown	Individual	Support	No

Comments:

i support HB1803

HB-1803

Submitted on: 2/7/2022 6:55:52 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Janet L Pappas	Individual	Support	No

Comments:

Dear Hawaii legislators,

Over the past century humanity has taken Earth as we knew it to the brink of annihilation. We must change course before it is too late. We who have been here, blithely polluting and taking rather than caring and harmonizing with natural processes must do what we can to ensure that future generations can live without undue hardship.

Let's start today by declaring our intentions to right these wrongs, starting with our own state of Hawaii. Bill HB1803 (the Green Amendment) will require us to protect our environment, including the air, water, land, ecosystems and climate upon which we depend.

It will take the combined efforts of all of us. Please pass this bill immediately so we can get started.

Sincerely,

Jan Pappas

Aiea, Hawaii

HB-1803

Submitted on: 2/7/2022 7:17:09 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lana Brodziak	Individual	Support	No

Comments:

Please support this important Amendment to our State Consitution.

If our citizen's are not provided with the Constitutional Right to Clean Air to breath and the Constitutional Right to Clean Water to drink, how can we participate in society as actively engaged and productive citizens when we are sick?

We have laws and systems related to provding these conditions, but we have not provided the legal frame work for a fundamental Right to these basic human needs for survival.

We, as humans, are not an isolated biological entity. Our survival depends on functioning natural ecosystems. A Green Amendment to our Constitution helps ensure that natural ecosystems are highly regarded, as part of the intrinsic needs of humans, when developing public policy.

Mahalo for considering my comments and thoughts.

HB-1803

Submitted on: 2/7/2022 7:55:18 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Matthew Geyer	Individual	Support	Yes

Comments:

I am testifying in support of HB1803

We need to do all we can to protect our land, air and water from pollution and over use.

Thank you for hearing and supporting this measure

HB-1803

Submitted on: 2/7/2022 8:29:48 AM

Testimony for EEP on 2/8/2022 8:40:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sherryl Royce	Individual	Support	No

Comments:

To: Energy and Environmental Protection Committee (EEP), Chair Nicole Lowen and Vice Chair Lisa Marten, and Water and Land (WAL), Chair David Tarnas and Vice Chair Patrick Pihana Branco

I strongly support HB1803.

I want a livable Earth for my grandchildren and my grandchildren’s grandchildren. We have done great harm to our Earth, and we must act now and act strongly, before the window of opportunity closes and our island home is too damaged to be repaired.

Although Hawaii can take pride in already having environmental protections in its constitution, these protections need to be enhanced. We need the strength of HB1803, the Green Constitutional Amendment. This elevates the protections to the level of inalienable rights. We all, including future generations, should have the fundamental right to a clean, healthy environment, with clean water and air, healthy reefs and shorelines, with protected ecosystems preserving the natural and cultural qualities of our ‘āina.

With HB1803 in place, environmental protection will be a part of the process of decisionmaking at every level. The focus will be on prevention rather than the necessity and expense of a cure. Also protection will be available for any gaps in state environmental laws.

Please continue to be a leader among states and make Hawai‘i the fourth state to enact a Green Constitutional Amendment

Sherryl Royce