

# SB 632

Measure Title: RELATING TO THE ENVIRONMENTAL COURTS.

Report Title: Environmental Court; Judicial Review

Description: Establishes environmental courts as divisions within the circuit courts to hear all proceedings, including certain chapter 91, Hawaii Revised Statutes, proceedings arising from environmental laws. Requires the Judiciary to report to the Legislature on the total number of environmental-related cases filed in the last five years.



## *The Judiciary, State of Hawai'i*

**Testimony to the Senate Committee on Energy and Environment**  
The Honorable Mike Gabbard, Chair  
The Honorable Russell E. Ruderman, Vice Chair

Tuesday, February 11, 2014, 2:50 p.m.  
State Capitol, Conference Room 225

By

Elizabeth Zack  
Supreme Court Staff Attorney

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**Bill No. and Title:** Senate Bill No. 632, Relating to the Environmental Courts.

**Purpose:** Establishes environmental courts as divisions within the circuit court to hear all proceedings, including chapter 91, Hawaii Revised Statutes, proceedings arising from environmental laws. Requires the Judiciary to report to the Legislature on the total number of environmental-related cases filed in the last five years.

**Judiciary's Position:**

The Judiciary offers the following comments.

Senate Bill No. 632 would establish within each circuit an environmental court with separate rules, based upon the belief that "environmental disputes are currently dealt with in a variety of courts" and "this organizational structure inadvertently promotes inconsistent application of the wide variety of environmental laws." In addition to establishing an environmental court in each circuit, Section 6 of SB 632 requires the judiciary to conduct a study to determine the number of environmental-related cases within the past five years.

The Judiciary understands the intent of wanting courts to develop expertise and consistency in environmental cases. We believe, however, that the judiciary already has in place



Senate Bill No. 632, Relating to the Environmental Courts  
Senate Committee on Energy and Environment  
February 11, 2014, 2:50 p.m.  
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processes to ensure consistency in all cases, including cases brought pursuant to the statutory provisions listed in section 7 of SB 632.

At present, all agency appeals to the circuit court, including agency appeals covering environmental issues, are assigned regularly to one designated judge in the first judicial circuit and are rotated among the civil judges in the second, third, and fifth judicial circuits, and are handled in due course. Furthermore, if any party in an environmental case is dissatisfied with the outcome in the circuit courts, that party has a remedy by way of appeal to the Intermediate Court of Appeals and then to the Supreme Court. This appellate process insures consistent application of environmental laws for the trial courts are bound to follow the appellate court decisions.

We recognize that other jurisdictions have established environmental courts after increases in environmental violations, housing/safety code violations, and/or an increase of abandoned residences or littered properties. We do not believe the same issues are present in Hawai'i. However, if the legislature identifies particular areas of concern, it would be beneficial if the bill could be narrowed to focus on those areas as a pilot program.

Although the judiciary believes the present system is adequate in addressing the concerns expressed in this measure, we are always open to discussion and we welcome any questions regarding these matters.

Thank you for the opportunity to comment on Senate Bill No. 632.



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STATE OF HAWAII**

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NEIL ABERCROMBIE  
GOVERNOR

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DIRECTOR  
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Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT**  
Tuesday, February 11, 2014  
2:50 PM  
State Capitol, Conference Room 225

in consideration of  
**SB 632**  
**RELATING TO ENVIRONMENTAL COURTS.**

Chair Gabbard, Vice Chair Ruderman, and Members of the Senate Committee on Energy and Environment.

The Office of Planning supports the intent of the creation of an environmental court in the State of Hawaii with the following comments.

A judicial process that fosters clearly articulated decisions resolving the complex laws and technical facts related to environmental and land use disputes will benefit landowners, regulators, and the public. However, the court should include land use matters and be renamed accordingly.

The focus of the court should not be constrained to "environment." Our key state land use and environmental laws expect decision-makers to balance several needs in the interest of the public's welfare. In particular, the purpose of the Hawaii Environmental Policy Act ("HEPA") is "to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. See L. 1979, c 197, § 1(1), codified as HRS § 343-1. The purpose of Hawaii's land use law is to "preserve, protect and encourage the development of the lands in the State for those uses to which they are best suited for the public welfare[.]" See L. 1961, c 187, § 1. The

purpose of the Hawaii State Planning Act, which guides all county and state agency decisions, is “to set forth the Hawaii state plan that shall serve as a guide for the future long-range development of the State[.]” See L. 1978, c 100, pt of § 2, codified as HRS § 226-1.

The focus of the bill should be on the capacity and expertise of judges on the subject of “land use law,” which includes planning, permitting, and environmental laws. To achieve the purposes of Hawaii’s key land use laws, the Hawaii land use system has evolved with the advancement of science to better mitigate, avoid, and minimize reasonably foreseeable impacts from proposed projects on the environment, community, and economy. A court that is well versed in the practice of land use and environmental laws will provide timely, consistent, predictable, and clearly articulated decisions to the benefit of all parties involved.

Consistent with the above, we recommend amending the bill to include judicial review of administrative proceedings, proceedings for declaratory judgment on the validity of agency rules, and legislative county decisions related to subdivision, permitting, and zoning. In addition, the name of the court should be changed to, “Land Use Courts,” to reflect these broader interests.

Thank you for the opportunity to provide testimony on this measure.



**SB632**  
RELATING TO THE ENVIRONMENTAL COURTS  
Senate Committee on Energy and Environment

February 11, 2014

2:50 p.m.

Room 225

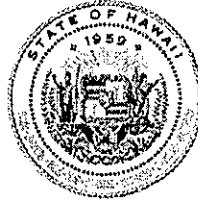
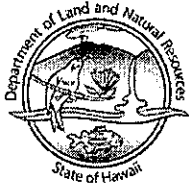
The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB632, which would establish an environmental division within the circuit courts, for the consistent and informed adjudication of disputes regarding Hawai'i's environmental laws.

**Environmental courts will better ensure consistent and informed decision making for disputes involving environmental and cultural laws and resources.** Over the last several years, numerous concerns have been raised regarding potential inconsistencies or lowered judicial scrutiny for legal disputes involving Hawai'i's environmental laws. Such inconsistencies have resulted in the need for protracted and expensive legal appeals, and may foster speculative posturing even in administrative proceedings prior to circuit court involvement. In other jurisdictions, environmental "courts" have been created to address these concerns, by ensuring that environmental laws are adjudicated by a specialized tribunal that can develop institutional knowledge of laws directly related to environmental protection and planning processes. The specialized docket proposed by this bill will provide similar benefits to the adjudication of environmental laws in Hawai'i.

**OHA believes that a circuit court docket specializing in environmental cases may also provide a long-term means to better protect and enforce the rights of OHA's beneficiaries.** Despite the existence of numerous laws recognizing and protecting the interests of Native Hawaiians and the general public in Hawai'i's natural and cultural resources, the enforcement of these laws in some instances requires the possibility of litigation, as well as the ability to confidently assert consistent interpretations of the law to state decision makers. OHA accordingly believes that the existence of a specialized environmental court or docket, as this bill proposes, will in the long-term greatly facilitate the actual implementation of laws that are intended to protect the environmental and cultural interests of both Native Hawaiians and other Hawai'i residents.

Therefore, OHA urges this committee to **PASS** SB632. Thank you for the opportunity to testify.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
WILLIAM J. AILA, JR.  
Chairperson

Before the Senate Committee on  
ENERGY AND ENVIRONMENT

Tuesday, February 11, 2014  
2:50 p.m.  
State Capitol, Room 225

In consideration of  
SENATE BILL 632

Senate Bill 632 proposes to establish environmental courts as divisions within the circuit courts to hear both original actions (involving environmental laws) and appeals from administrative agencies under Hawaii Revised Statutes, Chapter 91. In addition, the Judiciary is to report to the Legislature on the total number of environmental-related cases filed in the last five years.

The Department of Land and Natural Resources ("Department") supports this bill and provides the following comments.

The Department recognizes that consistent application of environmental laws plays a critical role in the management and protection of Hawaii's natural and cultural resources. Consolidating environmental and natural resource law cases to a single judge in one circuit could facilitate the timely, fair, and equitable disposition of such cases.

To this end, it is important that an environmental court judge possess adequate experience and expertise in environmental and natural resource laws, and be well versed in the Department's numerous guiding statutes and administrative rules. The Department would like to work with the State Judiciary in outlining the characteristics of such a system.

Many natural resource enforcement cases are adjudicated at the district court level rather than the circuit court level. The District Courts need greater consistency and equitable disposition. The current bill should be amended to add a separate provision providing cases in the districts of a circuit be consolidated to one district judge or judges sitting in the environmental court.

The Department would be happy to work with the Courts in establishing such a system.

Thank you for the opportunity to testify.

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

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**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**ANN H. KOBAYASHI**  
COUNCILMEMBER, DISTRICT 5  
CHAIR, COMMITTEE ON BUDGET  
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February 10, 2014

The Honorable Mike Gabbard, Chair  
Senate Committee on Energy and Environment  
State Capitol Room 225  
Honolulu, HI 96813

Re: Senate Bill No. 632 - Relating to the Environmental Courts.

Dear Chair Gabbard and members of the Senate Committee on Energy and Environment:

Thank you for the opportunity to testify in support of Senate Bill No. 632, Relating to the Environmental Courts. The purpose of this bill is to establish environmental courts as divisions within the circuit courts to hear all proceedings arising from environmental laws.

This legislation would allow the environmental courts to order compliance with environmental laws, both to remedy the problem at hand and prevent future violations. In particular, the environmental courts potentially would act as a strong deterrent against "hoarder houses" or blighted properties, exotic fish poachers and others who commit crimes against nature.

Hawaii's natural environment needs to be protected for our people and our culture - the consistent application of all environmental laws by environmental courts would promote and protect our island paradise.

I strongly urge your support of Senate Bill No. 632 and make this concept a reality for a cleaner and balanced Hawaiian environment.

Sincerely,

  
Ann H. Kobayashi  
Council District 5





AMERICANS FOR DEMOCRATIC ACTION

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February 7, 2014

TO: Chair Mike Gabbard, Vice Chair Russell Ruderman  
Members of the Senate Energy and Environment Committee

FROM: John Bickel, President  
Americans for Democratic Action/Hawai'i

RE: Support and Comments on SB 632

Americans for Democratic Action/Hawaii supports SB 632. Americans for Democratic Action has been advocating for public policies to promote social justice. One part of this is environmental protection.

While we appreciate the many laws in Hawai'i that do protect the environment, enforcement against violations of our environmental laws is often inconsistent between courts and within agencies. This fosters confusion, undermines compliance, and fuels further litigation. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases.

Establishing a section of our state court system to adjudicate violations of our environmental laws will help to improve enforcement of these laws. Improved enforcement will lead to reliability in the interpretation of and better compliance with environmental laws. This will lead to a clearer environment and better public health for all residents of Hawaii.

This is why we urge you to pass SB 632.

Aloha Senator Gabbard and members of the Energy and Environment Committee,

I support SB 632. The establishment of an Environmental Court will pave the way for more efficient handling and protection of our environment.

As you undoubtedly agree, there is much to preserve and protect regarding our unique island environment. This forward thinking provision will allow for more timely treatment of our many environmental issues, and the many more we will face in the future, as resources dwindle and population grows.

I listened to Judge Michael Wilson talk about his experience in India with its country wide Environmental Court system. I thought to myself, if India can do it, why can't we? Our environment IS the hand that feeds our economy as visitors come to experience our beautiful environment. Setting up an Environmental Court system ensures that this gift we give the world will continue to draw visitors to our precious lands and waters while best protecting them through efficient stewardship.

On behalf of the ten branches of The Outdoor Circle and our over 4.000 members who urge you to pass SB 632, I thank-you.

Alexandra Avery  
President of The Outdoor Circle  
Working to keep Hawai'i clean, green, and beautiful since 1912

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tel: 808-593-0300  
[www.outdoorcircle.org](http://www.outdoorcircle.org) | [facebook.com/TheOutdoorCircle](https://facebook.com/TheOutdoorCircle) | [@OutdoorCircleHI](https://twitter.com/OutdoorCircleHI)

Senator Mike Gabbard

Committee on Energy and Environment

Keep the Hawaiian Islands Beautiful strongly supports SB 632, and asks that the Committee on Energy and Environment, under your leadership, express its commitment to keeping Hawaii in the forefront of advances in environmental justice nationwide by passing SB 632 out of committee.

Keep the Hawaiian Islands Beautiful is a local 501(c)(3) non-profit, serving as the Hawaii State affiliate of the national Keep America Beautiful organization. KHIB provides support to a wide variety of environmentally active groups, organizations, and agencies.

Including volunteers, the environmentally active, involved, and concerned citizens of this State number in the thousands. Those who may not be actively participating in the various beach cleanups, graffiti removal efforts, roadside trash removal, beautification, and other "hands-on" activities, but nevertheless show their interest and concern by donating to these efforts or take the time and effort to voluntarily recycle everything from cell phones to appliances, number in the tens of thousands.

These are your constituents, they are impacted by violations of State environmental laws, and they are looking for leadership from you in those areas that directly affect their quality of life, and without a doubt one of these more significant areas is the environment.

As outlined in SB 632, the establishment of an environmental court in Hawaii will bring significant benefits to the State in both the short- and long-term. It gives visibility and presence to Hawaii's commitment to environmental stewardship, and will help ensure fair and equal application of our rapidly evolving environmental laws, with both direct and indirect benefits to our economy.

Keep the Hawaiian Islands Beautiful asks for your leadership in support of SB 632.

Mahalo,

Michael C. Owens, President

**Keep the Hawaiian Islands Beautiful**

743 Waiakamilo Rd Ste H, Honolulu HI 96817-4336 USA

Ph: (808) 383-8177 Fax: (808) 847-5301

[mowens@khib.org](mailto:mowens@khib.org) [www.khib.org](http://www.khib.org)

Please consider the environment before printing this email.

# **BIA-HAWAII**

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THE VOICE OF THE CONSTRUCTION INDUSTRY

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## **Testimony to the Senate Committee on Energy and the Environment**

**Tuesday, February 11, 2014**

**2:50 p.m.**

**State Capitol, Room 225**

### **RE: S.B. 632, Relating to the Environmental Courts**

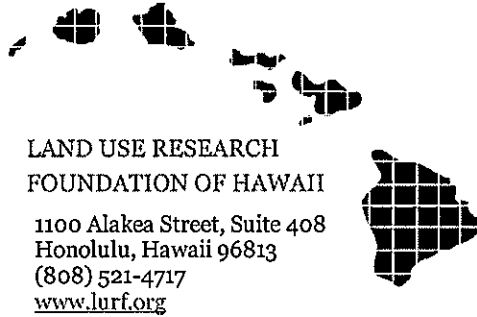
Dear Chair Gabbard, Vice-Chair Ruderman, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii is **opposed** to S.B. 632, which would establish environmental courts as divisions within the circuit courts to hear all proceedings, including certain chapter 91, Hawaii Revised Statutes, proceedings arising from environmental laws. The bill would also require the Judiciary to report to the Legislature on the total number of environmental-related cases filed in the last five years.

Environmental disputes are not handled by a variety of courts. Currently, our state Circuit Courts have jurisdiction over appeals of any administrative decisions, and exclusive jurisdiction over virtually all disputes that would involve environmental matters. This bill unnecessarily expands our current court system.

We appreciate the opportunity to share with you our views.



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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[www.lurf.org](http://www.lurf.org)

February 7, 2014

Senator Mike Gabbard, Chair  
Senator Russell E. Ruderman, Vice Chair  
Senate Committee on Energy and Environment

**Testimony in Opposition to SB 632, Relating to the Environmental Courts  
(Establishes environmental courts as divisions within the circuit courts to preside over proceedings arising from environmental laws. Requires the Judiciary to report to the Legislature on the total number of environmental-related cases filed in the last five years.)**

**Tuesday, February 11, 2014, 2:50 p.m., in Conference Room 225**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **in opposition to SB 632**, and to offer comments.

**SB 632.** The purpose of this bill is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts within the circuit courts.

**LURF's Position.** LURF members include private property owners, farmers, ranchers and agricultural operators who, as agricultural and environmental stakeholders, understand the need to protect the State's natural resources. LURF therefore supports the intent of this bill which is to promote and protect Hawaii's natural environment. From a practical perspective, however, LURF is unable to support the establishment of environmental courts as an appropriate or proper mechanism to attain that stated objective.

- **There is No Justification or Need for This Bill.**
  - **Most Environmental-Related Cases are Resolved Through Administrative Proceedings and Not by the Courts.**

LURF believes there is no need for this legislation, as most environmental-related cases in this State are heard by administrative hearings officers and resolved outside of the regular court system. Only appeals of the administrative decisions are brought in State circuit court, and

LURF understands that the number of such appeal cases is limited and would not justify the establishment of a special type of court.

- **There is no Substantiation that the State Courts' Present System of Handling Environmental Cases is Deficient or that Establishment of Environmental Courts Would Actually Improve the Outcome of Such Cases.**

Proponents of this measure have not identified any actual inadequacies or deficiencies of the courts' present handling of environmental cases, or any unsound decisions arising from the courts' application of environmental laws. Neither have proponents of this bill shown that establishment of environmental courts will 1) actually improve the consistency and uniformity of the application of environmental laws<sup>1</sup>; and 2) that consistent and uniform application of laws to environmental cases will "promote and protect Hawaii's natural environment," as claimed.

LURF believes the significant cost and expense of establishing the proposed environmental courts (which would necessarily entail everything from the establishment of the environmental courts, the framework and function of said courts within the existing circuit court system, to the development and adoption of environmental court rules) warrants more than speculative results, and that such a proposal must be supported by convincing data and findings by the State Judiciary (the State's authority on such matters), which has, in fact, previously provided testimony in opposition to this bill.

In its testimony, the State Judiciary clearly indicated that on Oahu, agency appeals covering environmental issues are already assigned regularly to one designated circuit court judge, and are handled in due course by civil judges on a rotation basis on the other islands. The Judiciary further stated that its research has not found the present court system deficient in providing uniform application of environmental laws, and that any dissatisfied party could appeal to the State appellate courts, which appellate process would insure consistent application of environmental laws.

According to the Judiciary, there was also no data available to indicate that the establishment of environmental courts would serve to deter further environmental law violations, resolve environmental cases more expeditiously than the present circuit court system.

- **Other, Less Costly and Potentially More Efficient Options Should be Explored and Pursued.**

Other options do not appear to have been discussed or even explored. LURF understands, for example, that other State agencies have suggested the establishment of an improved administrative law judicial system, including appointment of long-term hearings officers with specialized knowledge and experience. Such a system could be implemented more economically and could handle environmental, as well as other types of cases arising from all state agencies. If established, such an administrative judicial system could perhaps better fulfill the intent of this bill by ensuring more uniform and consistent application of specialized laws such as environmental laws.

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<sup>1</sup> It must be further noted that from a legal standpoint, the consistent and uniform application of law (environmental or otherwise) does not necessarily assure a better outcome or decision in a case. Consistent and uniform application of law that is bad, for example, would nevertheless result in poor outcomes and decisions.

In view of the noted circumstances, there appears to be no viable justification or support for this proposed measure, and given the opinion of the Judiciary – the State’s ultimate authority and expert on matters relating to the courts, it is difficult to understand why SB 632 continues to be urged.

For the reasons stated above, LURF **must strongly oppose SB 632**, and respectfully requests that this bill be held in Committee.

Thank you for the opportunity to present testimony regarding this matter.



## **Get The Drift & Bag It!**

### COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair  
Senator Russell E. Ruderman, Vice Chair

### NOTICE OF HEARING

DATE: Tuesday, February 11, 2014

Ref: SB 632

Good Afternoon,

My name is Chris Woolaway and I serve as the Hawai'i State Coordinator of the International Coastal Cleanup (ICC) which in Hawai'i is called "Get The Drift and Bag It!". "Get the Drift" is a program under the Statewide non-profit "Keep the Hawaiian Islands Beautiful" and it is also part of the largest global volunteer effort.

"Get The Drift and Bag It!" has been held in Hawaii since 1988 and since that time the problems such as illegal dumping have been well documented in our community. This illegal dumping, littering, along with other community environmental health and safety problems, have brought neighbors against neighbors and communities against communities-It is most divisive!

Many of these community problems already have governmental actions addressed through State/County laws and zoning but the enforcement and/or fines are difficult to implement for our law enforcement professionals. Those in our communities trying to take responsibility for the environmental health around them find enforcement of the existing laws/zoning frustrating and with unequal treatment. The Environmental Court has been successfully addressing these and other health and safety problems in other communities on the mainland since 1979.

As with the other testimony being presented, our economy is our environment for our residents and for our visitors. Our hope is that you will pass Senate Bill 632, which will provide the tools to improve our neighborhoods and sustain long-term better health and safety in our communities statewide.

Mahalo, Chris

Chris Woolaway  
Hawai'i State Coordinator  
International Coastal Cleanup  
P.O. Box 25008  
Honolulu, HI 96825

[www.getthedriftandbagit.com](http://www.getthedriftandbagit.com)

The ICC is sponsored nationally and internationally by the Ocean Conservancy.

*Ocean Conservancy promotes healthy and diverse ocean ecosystems and opposes practices that threaten ocean life and human life. Through research, education, and science-based advocacy, Ocean Conservancy informs, inspires, and empowers people to speak and act on behalf of the oceans. In all its work, Ocean Conservancy strives to be the world's foremost advocate for the oceans.*





*The Lani-Kailua Outdoor Circle  
P.O. Box 261  
Kailua, Hawaii 96734*

*Testimony to the Senate Committee on Energy and Environment  
Hearing: Tuesday, February 11, 2014  
Conference Room 225: 2:50PM*

**In Support of SB 632: Relating to the Environmental Courts**

Dear Chair Gabbard, Vice Chair Ruderman, and Members of the Senate Committee on Energy and Environment,

The Lani-Kailua Branch of The Outdoor Circle strongly supports SB 632 and the creation of an Environmental Court in the State of Hawaii.

Appeals are costly and time consuming and environmental damage can go unchecked if disputes are not dealt with in a clear and consistent fashion.

An Environmental Court, with a judge having expertise in environmental rather family or criminal law, for example, will more expeditiously resolve the complex laws related to environmental disputes.

We urge you to vote **YES** on SB 632 and join us in our ongoing effort to keep Hawaii "Clean, Green and Beautiful".

Mahalo,

Pauline Mac Neil  
Lani-Kailua Outdoor Circle  
Public Affairs  
Kailua, HI 96734

**SB632**

Submitted on: 2/6/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

**SB632**

Submitted on: 2/6/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
C. Kauai Lucas	Individual	Comments Only	No

Comments: Aloha Senator Gabbard and members of the Energy and Environment Committee, Thank you for this opportunity to testify in strong support of SB 632 to establish an Environmental Court in the State of Hawaii. As a society, we in Hawaii value our natural environment above most other things. We enshrined in our constitution that all residents have a right to a "clean and healthful environment." We departments at the state and county levels entrusted with protecting our natural resources for use now and forever into the future. Yet, enforcement against violations of our environmental laws is often inconsistent between courts. This fosters confusion, undermines compliance, and fuels further litigation. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases. Establishing a section of our state court system to adjudicate violations of our environmental laws will help to improve enforcement of these laws. Improved enforcement will lead to reliability in the interpretation of and better compliance with environmental laws. This will mean a clearer environment and better public health for all residents of Hawaii. This is why I urge you to pass SB 632. Thank you, Kauai Lucas Honolulu, Hawaii 96824

**SB632**

Submitted on: 2/7/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Moran	Individual	Support	No

Comments: Aloha Chair & ENE committee. Please pass this measure. We have watched so much of the vital elements on our natural environment deteriorate, it is obvious we must do more, such as this action. Our lands are poisoned, coral reef system deteriorated, and water sources imperiled. Even those unconcerned about the environment are concerned about the economy, and in Hawaii the environment is a huge part of our economy. Please do not let this opportunity slip by. Mahalo, Mike Moran Kihei

**SB632**

Submitted on: 2/7/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Douglas	Individual	Support	No

**SB632**

Submitted on: 2/7/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Lu Kelley	Individual	Support	No

Comments: Aloha Senator Gabbard and members of the Energy and Environment Committee, Mahalo for this opportunity to testify in strong support of SB 632 to establish an Environmental Court in the State of Hawaii. As a society, we in Hawaii value our natural environment above most other things. We enshrined in our constitution that all residents have a right to a "clean and healthful environment." We have departments at the state and county levels entrusted with protecting our natural resources for use now and forever into the future. Yet, enforcement against violations of our environmental laws is often inconsistent between courts and within agencies. This fosters confusion, undermines compliance, and fuels further litigation. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases. Establishing a section of our state court system to adjudicate violations of our environmental laws will help to improve enforcement of these laws. Improved enforcement will lead to reliability in the interpretation of and better compliance with environmental laws. This will lead to a clearer environment and better public health for all residents of Hawaii. This is why I urge you to pass SB 632. Thank you, Mary Lu Kelley Lawai, Hawaii

Aloha Senator Gabbard and members of the Energy and Environment Committee,

My name is Jeremy Lam and I am testifying in strong support of SB 632 to establish an Environmental Court in the State of Hawaii. Our State does not have an Environmental Services Department that can focus on environmental issues and enforce environmental laws. DLNR does the best that they can with little staff for following criminal cases. The land and water cannot protect themselves.

As a society, we in Hawaii value our natural environment above most other things. Our constitution says that all residents have a right to a "clean and healthful environment." It further says the life of the land is preserved in righteousness.

It is clear that environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases. Establishing a section of our state court system to handle violations of our environmental laws will help to improve enforcement of these laws. The State will be able to collect fines to help fund the court. It could be a win win situation for our community.

Please pass SB 632.

Jeremy Lam, M.D.  
2230 Kamehameha Avenue  
Honolulu, HI 96822  
[drjlam@aol.com](mailto:drjlam@aol.com)

**SB632**

Submitted on: 2/7/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

**SB632**

Submitted on: 2/8/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
IRA CALKINS	Individual	Support	Yes

Comments: IRA CALKINS GOVERNMENTAL RESEARCHER 730 Captain Cook Ave Unit 426 Honolulu, Hawaii 96813-2161 Your actions will prove the following assertions to be the truth and factual. The Democratic Party Line has taken away the voice of the people in the making of laws. Taxation with out representation in the State of Hawaii. It appears the Hawaii State Legislators are being blackmailed in to voting the Democratic party line, or else the Democratic Party will not support the State of Hawaii Legislators in all state wide elections. It does not matter what the tax payers think, the Democratic Party line lays down the law on all bills before the State of Hawaii Legislature. The chairman's in all committee meetings has a predisposed script to follow that the Speaker of the House, and the Speaker of the Senate has given the Committee Chairs to follow, to instruct the committee members how to vote on a any given measures, all Bills in all committees of the State of Hawaii Legislature. It is determined ahead of time by the Democratic Party members how a committee member will vote when staying with in the party line on any given Bill in the State of Hawaii Legislature, Democracy has been taken away from the tax payers in the State of Hawaii. Ira Calkins Honolulu 4696434 or 3498667 FAX 808-545-4707 Washington D.C. 202-697-9782

**SB632**

Submitted on: 2/8/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Brodie Lockard	Individual	Support	No

**SB632**

Submitted on: 2/8/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Evern Williams	Individual	Support	No

Aloha Senator Shimabukuro and Senator Gabbard and members of Senate Committee on Energy and Environment. I tried to submit my testimony via the legislature website like i have in the past. It now requires that I sign in with my email and a password in order to submit testimony. I tried and it is not accepting my attempts so I am submitting testimony for the tuesday hearing this way.

I am out of town this week- so this is the only way I can testify on Tuesday's hearing.

I am in support of SB 632. I have been involved with litter issues for more than a decade as an affiliate of Keep American

Beautiful. It has been difficult to affect change in our community with regard to dumping. In the past we have dealt with issues of stream maintenance and dumping of: abandoned vehicles, tires, household items and construction waste. In my opinion the enforcement dumping and environmental laws has not been treated effectively. It seems easier to dump waste material than to do the "right thing". It is often only when there is a lot of publicity will government get involved. This excess publicity in my opinion does not lead to good public policy.

Passage of this bill will help us better understand how environmental laws are being enforced. This will perhaps to better environmental laws.

Please pass this bill out of committee.

Aloha Mark Suiso

Aloha Senator Gabbard and members of the Energy and Environmental Committee,

Thank you for this opportunity to testify in strong support of SB 632 to establish an Environmental Court in the State of Hawaii.

Judge Larry E. Potter of Memphis, Tennessee, created the third environmental court in the United States in 1982. "Many of the concepts that are now standard to this type of court in America were designed and developed under his leadership. CNN described him as a "national role model". Judge Potter travels and consults frequently working in major cities in America helping establish environmental courts." Two years ago, Judge Potter visited Hawaii at the request of Keep Hawaiian Islands Beautiful, an affiliate of Keep America Beautiful, to share the importance of establishing an environmental court in the State of Hawaii.

It is overdue for Hawaii to establish its own environmental court to protect the priceless natural environment of our islands. Our State constitution states that all residents have a right to a "clean and healthful environment". We have departments in the State and County levels protecting our natural resources but enforcement against violations are not always clear enough which causes confusion and because of environmental statutes and regulations are sometimes technical and require considerable study.

Establishing a section of our state court system to address violations of our environmental laws will help to improve enforcement of these laws which would lead to better interpretation of the laws and better compliance with environmental laws. The result is a cleaner and healthier environment for the people of Hawaii and for our future generations.

This is why I urge you to pass SB 632.

Mahalo nui loa,  
Elaine Malina  
Kihei, Maui, Hawaii

Maui Outdoor Circle President



THE SENATE

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair  
Senator Russell E. Ruderman, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 11, 2014

Ref: SB 632

In Hawaii, the Environment is the Economy.

Keep America Beautiful's (KAB) role in the area of environmental courts is a direct result of the community affiliates longstanding involvement in local effort to reduce litter and improve community waste handling practices.

The nation's first environmental court was established in 1978. As the concept for a special court to hear environmental cases focused on changing people's attitudes and behaviors, the benefits and environmental safeguards that these courts are now providing have created a KAB national resource initiative that is being proposed for Hawaii.

It was at the national KAB conference that I first heard Judge Larry Potter discuss the Memphis Shelby County (TN) Division 14 Environmental Courts. Judge Potter visited Hawaii and spoke at the statewide Lualima conference of 2008. His analysis of our judicial system, legislative process, and citizen's involvement indicated the concept of environmental court could be initiated without prohibitive costs administratively or legislatively and discussed this with Chief Justice Moon; he spoke before a legislative group and the University of Hawaii at Manoa William S. Richardson School of Law Environmental Law Program.

In 2012, Judge Potter returned to keynote the Lualima Conference held on Maui and a Senate Bill was proposed by Senator Gil Keith-Agaran and others to further advance this initiative into a judicial commitment which benefits our communities statewide.

Passage of SB632 this session can begin the necessary docket that compliments our Hawaiian environmental law and continues to keep the Hawaiian Islands beautiful.

Mahalo, Jan

Jan Dapitan  
Executive Director (KAB)  
Keep the Hawaiian Islands Beautiful

**SB632**

Submitted on: 2/10/2014

Testimony for ENE on Feb 11, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michelle Matson	Individual	Support	No

**SB 632**

Please support this bill that provides a venue in the courts for environmental issues to be heard by judges that are uniquely qualified to deliberate and decide on these kinds of cases.

Diane Harding  
167 Ainoni Street  
Kailua  
262-1826

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**Testimony in SUPPORT of SB 632 RELATING TO THE ENVIRONMENTAL COURTS**

**Before the  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT**

**Tuesday, February 11, 2014 2:50 p.m.**

Aloha Senator Gabbard and members of the Energy and Environment Committee,

Thank you for this opportunity to testify in strong **SUPPORT** of SB 632 to establish an Environmental Court in the State of Hawaii.

Hawaii's constitution ensures that all residents have a right to a "clean and healthful environment." We have departments at the state and county levels entrusted with protecting our natural resources for use now and forever into the future.

Yet, enforcement against violations of our environmental laws is often inconsistent between courts and within agencies. This fosters confusion, undermines compliance, and fuels further litigation. Environmental statutes and regulations are sometimes very technical and require considerable study before judges are equipped to rule in these cases.

I urge you to pass SB 632 because establishing a section of our state court system to adjudicate violations of our environmental laws will help to improve enforcement of these laws. Improved enforcement will lead to reliability in the interpretation of and better compliance with environmental laws. This will lead to a cleaner environment and better public health for all residents of Hawaii.

Thank you for this opportunity to testify.

Erik Kvam