

HOUSE COMMITTEE ON JUDICIARY

Testimony on HB1582, Proposing an Amendment to Article I, Section 2, of the Constitution of the State of Hawaii to Include Access to Clean Drinking Water, Education and Health Care Among the Most Inherent and Inalienable Rights of Individuals

Hearing Date and Time: February 7, 2017, at 2:00 p.m.

Testimony by Navy Region Hawaii

Chair Nishimoto, Vice-Chair San Buenaventura, and Representatives,

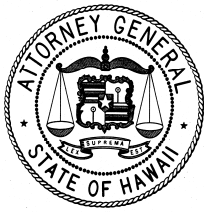
Although Navy Region Hawaii most certainly does not oppose the intent of this bill, it does wish to clarify one statement at the end of Section 1's second paragraph, and asks that this statement be modified accordingly. That statement reads in relevant part "In Hawaii, cesspools and leaking underground fuel tanks have begun to contaminate fresh water resources, and significant potential for further contamination remains."

To the extent that this could possibly refer to the Navy's Red Hill Bulk Fuel Facility, the Committee should know that the Facility's fuel tanks pass tank tightness testing since biannual testing began in 2008. The Navy has since gone to annual testing and the most recent test was just completed on Feb. 2, 2017. Each tank passed this test, once again demonstrating that **there are no leaking tanks at Red Hill**. **This test, conducted over a 5 day period for each tank, confirms** the tanks are within industry standard.

There was a release of fuel from one tank in January 2014, but United States Environmental Protection Agency (EPA) addressed the issue of effects on drinking water in an on-the-record statement made during the first Legislative Red Hill Task Force meeting held on Oct. 6, 2016. From the official record of that meeting, EPA expert Steve Linder said "we think it's very unlikely that that contamination, that mass – from the tanks would get anywhere near the Board of Water Supply Wells."

Since 2006, the Department of Defense invested more than \$200 million to continue modernizing Red Hill and to conduct environmental testing. More information can be found on the Navy's website on Red Hill at www.cnic.navy.mil/redhill. Information is also available on the EPA's website at www.epa.gov/region9/waste/ust/redhill/index.html.

Thank you for the opportunity to clarify the record as to this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 1582, PROPOSING AN AMENDMENT TO ARTICLE I, SECTION 2, OF THE CONSTITUTION OF THE STATE OF HAWAII TO INCLUDE ACCESS TO CLEAN DRINKING WATER, EDUCATION AND HEALTH CARE AMONG THE INHERENT AND INALIENABLE RIGHTS OF INDIVIDUALS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 7, 2017 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Robyn Chun, Deputy Attorney General

Chair Nishimoto and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill and submits these comments.

This bill proposes an amendment to article I, section 2 of the Hawaii State Constitution to include access to clean drinking water, meaningful health care, and a quality education as inalienable rights of all people.

While access to clean drinking water, meaningful health care, and a quality education are indisputably important goals that the State should aspire to, ample state and federal laws already exist to protect access to them. This bill is not merely an affirmation of individual rights. See section 1, lines 8 to 14, on page 3. We advise the committee that elevating these goals to the level of inalienable rights under the State Constitution may have unintended consequences that could lead to litigation against the State.

We are happy to work with the legislature over the course of the session as this bill progresses to try to find appropriate wording that might address this issue.

Thank you for the opportunity to testify on this bill.

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com



February 7, 2017

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Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

The Honorable Scott Nishimoto, Chair, Joy San Buenaventura, Vice Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishimoto, Vice Chair San Buenaventura and Members:

SUBJECT: House Bill 1582: Proposing an Amendment to Article I, Section 2 of the Hawaii State Constitution to Include Access to Clean Drinking Water, Education and Health Care Among the Inherent and Inalienable Rights of Individuals

We strongly support House Bill 1582. This bill proposes the Hawaii State Constitution be amended to include access to clean drinking water, meaningful health care and quality education be among the inherent and inalienable rights of individuals of our state. As a steward of our drinking water, we strongly support the right to clean drinking water and to protect the source of this water – Oahu’s irreplaceable groundwater aquifer.

Since at least 2005, groundwater samples from under and around a Navy owned underground fuel facility in Halawa Valley show the presence of various petroleum contaminants are present in the groundwater. Although the sampling conducted to date indicates that water provided by public water systems remains compliant with standards for safe drinking water, the results of the Navy’s investigation make clear that fuel released from the facility has impacted the very groundwater aquifers that sustain Honolulu’s drinking water supply. Unfortunately, little corrective action has taken place in the ensuing decade to clean up these conditions and, as a result, the significant fuel releases from the facility continue to impact this vital source of drinking water.

Article XI, Section 1 of the Hawaii State Constitution requires that, “[f]or the benefit of present and future generations, the State and its political subdivisions shall protect and conserve ... all natural resources, including ... water ... and shall promote the development and utilization of these resources ... in a manner consistent with their conservation”. The constitution further declares in Article XI, Section 7 that “[a]ll public natural resources are held in trust for the benefit of the people.” and “The State has an obligation to protect, control and regulate the use of Hawaii’s water resources for the benefit of its people.”. The Supreme Court of Hawaii has concluded that this constitutional mandate “encompasses a duty to promote the reasonable and beneficial use of water resources in order to maximize their social and economic benefits to the people of this state” and, moreover, this responsibility is “unlimited by


The Honorable Scott Nishimoto, Chair
The Honorable Joy San Buenaventura, Vice Chair and Members
February 7, 2017
Page 2

any surface-ground distinction,” extending to all water resources, including groundwater. *In re Water Use Permit Applications, 94 Haw. 97, 133-135, 139 (2000).*

House Bill 1592 upholds the right to clean drinking water and affirms the constitutional mandate that this water be protected and held in trust for the benefit of the people. We cannot over emphasize the significance and importance of this bill and urge your passage of this measure.

Thank you for the opportunity to testify.

Very truly yours,


ERNEST Y.W. LAU, P.E.
Manager and Chief Engineer

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 1:49 PM
To: JUDtestimony
Cc: laurie.field@ppvnh.org
Subject: *Submitted testimony for HB1582 on Feb 7, 2017 14:00PM*

Categories: Blue Category

HB1582

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Committee on JUDICIARY
Tuesday, February 7, 2017 2:00 p.m.
Conference Room 325

HB1582

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Nishimoto, Vice-Chair San Buenaventura and Committee Members:

The League of Women Voters of Hawaii supports the intent of HB1582, with the following reservations. The League has long established positions that support action to reach a goal of having an equal educational opportunity for each child and financing procedures to reach this goal. League also has a strong social policy position that promotes action to support a health care system for Hawaii that provides access to a basic level of quality care for all Hawaii residents. Our energy position (supported with studies from 1976, beginning more than four decades ago) includes our deep concern for the impact of alternate energy sources on the environment, including water.

We applaud the Legislators who are attempting to address a gap in basic necessities for having a decent, safe and healthy life for all of Hawaii's citizens. However, we have concerns over the broadly stated objectives of 'access to clean drinking water, meaningful health care, and a quality education.' We would like to see these terms defined by the Legislature. For example, is a 'quality education' one that matches the same that the most wealthy resident of Hawaii is able to afford for his or her child? From where will the funding come to provide this 'quality education'? Does this include that every public school teacher who is currently teaching in an early education classroom (Grades pre-K through Grade 3) will have an early childhood education certificate that qualifies him/her to teach this special age group? Does 'access to clean drinking water' mean that 'the water is available – one just needs to purchase it or filter it through purchasing ones own equipment?' That would hardly be fair to our state's citizens, some of whom, through no fault of their own are drinking contaminated water. And who defines 'meaningful health care'?

Thank you for the opportunity to testify on this important measure.



LATE

49 South Hotel Street, Room 314 | Honolulu, HI 96813
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Committee on JUDICIARY
Tuesday, February 7, 2017 2:00 p.m.
Conference Room 325

HB1582

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LATE

Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice-President

Monday, February 7, 2017

House Committee on Judiciary
Hawaii State Legislature
State Capitol
415 South Beretania Street

Aloha Chair Nishimoto, Vice Chair San Buenaventura and committee members,

UNITE HERE Local 5 – a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii would like to register our support for HB 1582.

As a community, we believe there are certain rights inherent to us all. We support HB 1582 that proposes a constitutional amendment to ensure access to clean drinking water, health care and a quality education.

Mahalo for your time and we hope you will pass HB 1582.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 2:23 PM
To: JUDtestimony
Cc: dannygr@hawaiiantel.net
Subject: Submitted testimony for HB1582 on Feb 7, 2017 14:00PM

HB1582

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Grantham	Individual	Support	No

Comments: Rights that depend on having money are not rights at all.

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JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 3:19 PM
To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1582 on Feb 7, 2017 14:00PM*

HB1582

Submitted on: 2/3/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 4:31 AM
To: JUDtestimony
Cc: akamaimom@gmail.com
Subject: Submitted testimony for HB1582 on Feb 7, 2017 14:00PM

Categories: Blue Category

HB1582

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Support	No

Comments: It is imperative that the State of Hawaii be clear in their role of healthy drinking water as we see threats to this resource increasing on every island from Red Hill to Mahaulepu and beyond. Felicia Cowden Kilauea, Kauai

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 5:13 PM
To: JUDtestimony
Cc: teresa.parsons@hawaii.edu
Subject: Submitted testimony for HB1582 on Feb 7, 2017 14:00PM

Categories: Purple Category

HB1582

Submitted on: 2/6/2017
Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments: Representatives, I stand in support of this House Bill proposing a Constitutional amendment for the next election. Now, more than ever, protections at the State level are needed to ensure the sustainability of our island home. This amendment will allow the people of Hawai'i an opportunity to affirm the importance of access to basic necessities for themselves and future generations by providing guidance to elected leaders to boldly address the growing challenges to a clean environment. This measure will ensure the individual rights of all people to clean drinking water, meaningful healthcare, and a quality education. I urge you to support this measure fully. Mahalo for the opportunity to submit testimony on this important issue.

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SIERRA CLUB OF HAWAII
MĀLAMA I KA HONUA. *Cherish the Earth.*

SENATE COMMITTEE ON THE JUDICIARY

Tuesday, February 7, 2017 2PM Conference Room 325

In SUPPORT of HB 1582 Proposing a constitutional amendment

Aloha Chairman Nishimoto and members of the Judiciary Committee,

The Sierra Club of Hawai'i supports the intent of HB 1582, which seeks to establish an individual right to clean water, meaningful health care, and a quality education.

We have 20,000 members and supporters throughout the Hawaiian Islands. Since 1968, the Sierra Club of Hawai'i has been working to protect the unique natural and cultural resources of our islands.

We live in uncertain times. Between dramatic changes in federal laws and policies around health care and education and unpredictable weather patterns due to climate change, our residents need security and confidence that Hawai'i will do all that it can to meet their basic needs. The proposal offered in this bill provides a valuable opportunity to discuss our obligations to the people of Hawai'i during these particularly concerning times.

We feel this type of constitutional amendment is necessary to provide the kind of certainty and confidence our residents need to be successful. The Club looks forward to working with legislators to advance this proposal in the right way and at the right time.

Thank you very much for this opportunity to provide testimony on this important issue.

Mahalo,

Marti Townsend
Director