



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2962, S.D. 1, 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:

SENATE COMMITTEES ON JUDICIARY AND ON WAYS AND MEANS

DATE: Thursday, March 3, 2022 **TIME:** 10:30 a.m.

LOCATION: State Capitol, Room 211, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Robyn Chun,
Deputy Attorney General, (808) 586-0618)

Chairs Rhoads and Dela Cruz and Members of the Committees:

The Department of the Attorney General (Department) provides the following comments on this 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 "[t]he 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." (Page 1, lines 3-6).

As is acknowledged in section 1 of this bill, the amendment would "complement existing constitutional provisions" (Page 1, lines 10-11). The Constitution of the State of Hawaii already recognizes the importance of a healthy environment and Hawaii's natural resources. See article XI, section 9 ("[e]ach 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."). Accordingly, as a "complement" to the existing provisions, the amendment proposed by this bill does not

make a substantive change to the rights recognized in article XI, section 9, and article XI, section 1, and would therefore be duplicative.

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 healthy environment (for example, the phrase "as provided by law"), the amendment proposed by this bill is too ambiguous to be readily implemented and enforced and may result in increased frivolous claims against the State. To address this concern, we suggest the proposed amendment be revised by adding "as provided by law" as follows:

"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 as provided by law and shall not be infringed."

The Department also recommends the question to be printed in the ballot be similarly revised as follows:

"Shall the Constitution of the State of Hawaii be amended to ensure 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 as provided by law and shall not be infringed?"

Note that we would also recommend the deletion of the phrase "including future generations" from both the proposed amendment and the ballot question. This is because it is included in "the people" and is therefore unnecessary and redundant.

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 Senate Committees on
JUDICIARY
and
WAYS AND MEANS

Thursday, March 3, 2022
10:30 AM

State Capitol, Conference Room 211, Via Videoconference

In consideration of
SENATE BILL 2962, SENATE DRAFT 1
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.

Senate Bill 2962, Senate Draft 1 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.**

This proposed amendment is part of a national “green amendment” movement initiated for very different circumstances, e.g. fracking, particularly where states have no constitutional environmental protection, and has been described by its [founder](#) as intended to “*bypass the laws* and turn to the ultimate authority—our state and federal constitutions”.

Briefly, the concerns are that this bill:

- 1) Is unnecessary – *the [Hawai'i Constitution already provides very similar rights](#)*, but in a format that respects our legislative and executive functions to establish and implement our laws, by tying the constitutional right to a clean and healthy environment to our environmental quality laws rather than a court's independent judgement.

- 2) In deleting the reference to our environmental quality laws, takes away legislative and executive discretion in environmental quality decision making and *transfers lawmaking to the courts*.
- 3) Can have unintended consequences – e.g. important social projects derailed as a result of private opposition to public parks, affordable housing, renewable energy, agriculture, public works, and any other public or private project, based on anyone’s *assertion* that the project impacts that person’s right to a clean and healthy environment.
- 4) Will be *unworkable* to implement administratively, as it would vastly expand the potential for any person to litigate any legislative and executive decisions through contested cases and in the courts.

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 Hawai‘i 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 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.

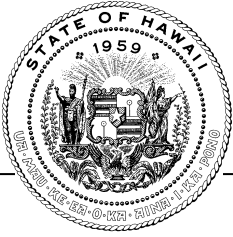
Second, this bill could be interpreted as establishing the rights set forth in the proposed provision as a constitutionally protected due process rights. As applied, this would mean that any person could allege that a government decision, such as a land management disposition, including a one-year revocable 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 is 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 costing 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 whether this provision does create a new right would create an undue administrative burden and takes 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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Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
SENATE COMMITTEES ON WAYS AND MEANS AND JUDICIARY
Friday, March 3, 2022
10:30 AM
State Capitol, Conference Room 211

in consideration of
SB 2962, SD 1
**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 Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Senate Committees.

The Office of Planning and Sustainable Development (OPSD) offers **comments with concerns** on SB 2962, 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 Constitution and the Hawai'i State Planning Act already provide Hawai'i residents a right to a clean and healthful environment as defined by environmental laws. Chapter 226, HRS, Part III of the Priority Guidelines of the Hawai'i State Planning Act establishes 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 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](#)).

The OPSD 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. OPSD supports Hawai'i's Public Trust Doctrine, local and diversified economic development, diversified agriculture, affordable housing, environmental quality, climate resilience, and sustainability. However, the OPSD is concerned that this proposed provision is duplicative of Article XI, Section 9, of the Hawai'i constitution.

The OPSD defers to the State Department of Land and Natural Resources on why this measure is not needed to ensure Hawai'i residents with a clean and healthful environment. If the Committees are inclined to move this measure forward, we encourage the Committees to amend the bill to include the recommendations from the 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 comment on this measure.



2/28/2022

JDC/WAM Committee
Hawaii State Capitol
Honolulu, Hawaii 96813

Dear Chairs Rhoads and Dela Cruz and Members of the Senate Judiciary and Ways and Means Committees,

Position: Support SB2962

The Surfrider Foundation is a national nonprofit organization dedicated to the protection and enjoyment of our ocean, waves, and beaches. Surfrider maintains a network of over 150 chapters and academic clubs nationwide, including 4 chapters in the Hawaiian Islands. The Surfrider Foundation focuses on many aspects of the environment such as coastal protection, plastic pollution, and water quality.

The purpose of this bill- to add a self executing amendment to the Hawaii State Constitution that ensures the right of all people to a clean environment- aligns with our core principles. Currently, two states have a green amendment adapted into their constitutions, Pennsylvania and Montana, and fifteen other states including Hawaii are actively trying to adopt one. This legislation includes language that will strengthen the environmental protections that are already recognized in Article X I , Section 1 of the Hawaii Constitution that mandates that the State hold public natural resources in trust for the benefit of all people.

Hawaii is already a leader in environmental work, after passing one of the Nation's biggest plastic bans and working towards the 30 x 30 marine protection goal, the state is clearly on the forefront of sound environmental legislation; necessary to keep our areas pristine and welcoming to our large tourist base that funds a lot of our economy. Adding this amendment to the State Constitution would make keeping our environment clean an enforceable law, and eliminate loopholes that allow violators to simply move operations or cite a county law.

This bill would prioritize environmental health and justice, and would be an important step forward in Hawaii's conservation efforts, and would allow the Surfrider Foundation to continue in our goal of clean water, a stable climate, and the preservation of our natural areas.

Thank you for your consideration of this testimony in support of SB2962, submitted on the behalf of the Surfrider Foundation's 4 Chapters in Hawaii and all of our members who live in the state and visit to enjoy the incredible ecosystem and natural resources of Hawaii.

Sincerely,

Lauren Blickley
Hawaii Regional Manager
Surfrider Foundation

SB-2962-SD-1

Submitted on: 2/28/2022 9:27:33 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robert Culbertson	Testifying for Big Island 'Reef Keepers' Hui	Support	No

Comments:

Aloha Senators!

- The Green Amendment is about laying the foundation for good government decision-making. A healthy economy depends on a healthy environment, and healthy communities. 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.

- 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**.

Please pass this remarkable legislation.

Your grandchildren will love you for it!

R A Culbertson

Honokaa

SB-2962-SD-1

Submitted on: 3/1/2022 1:35:17 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

Let the people decide - to give a higher priority to clean water, clean air, a stable climate, a livable planet. There can be no higher priority. Put it on the ballot.

SB-2962-SD-1

Submitted on: 3/1/2022 5:19:03 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Christopher Dean	Testifying for Recycle Hawaii and Clean the Pacific	Support	No

Comments:

The world is in a dire situation. Everyday 200 species of animals go extinct. Habitat loss, toxic forever chemicals, plastic waste, the climate disaster, pollution, it's all destroying the web of life that we cannot survive without. How did we let our planet become so trashed? It's fraud, that's how. We've been cooking the books, the worst accounting fraud since money was invented. On the liabilities spreadsheet, there's things like labor, materials, transportation, taxes and on and on, but there's no column for the cost of environmental degradation. What happens when you have a liability that you don't acknowledge for over a hundred years? Bankruptcy, that's what, except this time we're not talking about a business, we're talking about our global society, we're talking about life on Earth. Now it's time for an audit, before the planetary ecosystems completely collapse. I encourage you to seek out the truth, seek out the thousands of critical environmental emergencies we face. The science is out there, I spend a lot of time reading about it. That's what this bill does, it opens our eyes, it forces us to acknowledge the truth. We need to face the truth, because ignorance is not bliss, it's death.

SB-2962-SD-1

Submitted on: 3/1/2022 7:19:10 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
robert brower	Testifying for Surfrider Foundation Kauai	Support	No

Comments:

This is a very important principal which gives our natural environment constitutional rights. We are in strong support

March 3, 2022

The Honorable Donovan M. Dela Cruz, Chair

Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair

Senate Committee on Judiciary

Via Videoconference

RE: Senate Bill 2962, SD1, Proposing an Amendment to Article I of the Constitution of the State of Hawaii

HEARING: Thursday, March 3, 2022, at 10:30 a.m.

Aloha Chair Dela Cruz, Chair Rhoads, 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 11,000 members. HAR **provides comments** on Senate Bill 2962, SD1, which proposes a constitutional amendment that ensures 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.

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.

SB-2962-SD-1

Submitted on: 3/1/2022 11:45:04 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dave Mulinix	Testifying for Our Revolution Hawaii	Support	No

Comments:

Aloha Chair Rhoads, Chair Dela Cruz, and Committee Members,

On behalf of Our Revolution Hawaii's 5,000 members and supporters statewide, we stand in **STRONG SUPPORT** of SB2962, aka the Green Amendment, that proposes a constitutional amendment that ensures 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.

Passage of SB2962 is important because environmental rights as proposed in this bill are not addressed by other existing constitutional provisions in the Hawaii constitution: Ensuring the rights to clean, safe and healthy environments are given the same constitutional standing and protection as other human, civil and political rights in the Hawaii constitution is of importance and value; and it is a goal that is not achieved with other existing constitutional language.

While Article XI, Section 1 speaks to the obligation of the state to protect natural resources, it does not speak to the rights of the people to clean and healthy environments.

Article XI, Section 9 is framed to acknowledge the rights and duties of state government to protect the environment, and the ability of people to enforce existing environmental protection laws, but it does not in fact recognize the inalienable rights of people to a clean and healthy environment ensuring that recognition of rights guides government action. As a result, the proposed Green Constitutional Amendment will fill a gap that exists in Hawaii's constitution.

Also 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.

Please pass SB2962 and protect and ensure our rights to a clean healthy environment.

Mahalo for your kind attention.

David Mulinix, Cofounder & Statewide Organizer

Our Revolution Hawaii.



To: The Senate Committee on Judiciary (JDC)
and
The Senate Committee on Ways and Means (WAM)
Date: Thursday, March 3, 2022, 10:30 am

In strong support of SB2962 SD1

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and members of the JDC and WAM 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 SB2962 SD1** which proposes a constitutional amendment that ensures 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 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. Simply editing Article XI Section 9, as has been suggested by some, will not accomplish the goal of ensuring that the rights of the people to a clean, healthy and safe environment, including water, air, beaches, climate and native ecosystems are given the same constitutional recognition and protection as other fundamental rights. 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.

Opponents of this measure have cited several unsubstantiated claims including a concern that it will create increased litigation and that “administrative agencies are already swamped by contested cases.” However, Green Amendments do not support frivolous litigation. In fact, there is no foundation upon

which to suggest that the people of Hawaii would abuse the proposed environmental rights provision. In Pennsylvania and Montana, where Green Amendments now exist, there has not been an onslaught of frivolous litigation relying on constitutional environmental rights. Rather, the lawsuits brought have been reasonable and helped to shape the understanding of the constitutional requirement. It is important to note that 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. Clearly, these were all reasonable and in the best interests of all. And if it is true, as was stated by an opponent of this measure, that government agencies are swamped now with contested cases, we must ask why is this so? And if this is in fact so, then there may be room for improvement in the decision-making processes of some of these agencies.

With a Green Amendment, government agencies would need to consider our environmental rights when executing their duties. It would not be an afterthought as it is now. **BOTTOMLINE:** The people's fundamental right to clean water and air, healthful environment and climate, and healthy native ecosystems, should be enshrined in our Bill of Rights, not dependent on laws on the books.

We all need clean water and air, a healthy environment and climate to live healthy, long and good quality lives. Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation. 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

SB-2962-SD-1

Submitted on: 3/2/2022 9:20:54 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Testifying for Climate Protectors Hawai'i and Hawai'i Reef and Ocean Coalition	Support	No

Comments:

To: The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means, and

The Honorable Karl Rhoads, Chair, The Honorable Jarrett Keohokalole, Vice Chair, and Members of the Senate Committee on Judiciary

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

Re: Hearing SB2962 SD1, 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: Thursday, March 3, 2022, 10:30 a.m., by videoconference

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the Senate Committees on Ways and Means and Judiciary!

The Climate Protectors Hawai'i and Hawai'i Reef and Ocean Coalition STRONGLY SUPPORT SB2962 SD1! 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 Hawai'i 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 fundamental right to clean water and air, healthful environment and climate, healthy native ecosystems, and beaches.

In Hawai'i, environmental protection and this amendment are rooted in the traditions and collective conscience of the people. Environmental protection 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.

Hawaii's Constitution currently protects each person's "right to a clean and healthful environment as defined by laws relating to environmental quality." Article XI, Section 9. But, a right as defined by laws is very different from a fundamental right. Because "a healthful environment and climate," and "healthy native ecosystems" are currently not recognized and protected as fundamental, inalienable rights in the Hawaii's Constitution's 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 Hawai'i. 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.

The Climate Protectors Hawai'i and Hawai'i Reef and Ocean Coalition particularly applaud the inclusion of healthful climate and healthy native ecosystems in the rights that would be recognized and protected in this amendment, if adopted. The Climate Protectors Hawai'i and Hawai'i Reef and Ocean Coalition were both formed out of concern for these overlooked (and typically degraded) public interests. The Hawai'i Reef and Ocean Coalition shares this interest in a healthful climate, which is also critical for corals and other marine life that are dying primarily from warming, more acidic oceans, as well as in "healthy native ecosystems."

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. The amendment also could spur State agencies to exercise greater care in decisionmaking to better protect the environment and minimize contested cases and lawsuits.

Concerns about frivolous lawsuits and contested cases are unfounded. 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 native 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.

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."**

The Climate Protectors Hawai'i and the Hawai'i Reef and Ocean Coalition ask the Committees to advance this bill to continue discussion of this important right for the people of Hawai'i!

Mahalo!

Climate Protectors Hawai'i and Hawai'i Reef and Ocean Coalition (by Ted Bohlen)



Environmental Caucus of
The Democratic Party of Hawai'i



March 2, 2022

To: The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means, and

The Honorable Karl Rhoads, Chair, The Honorable Jarrett Keohokalole, Vice Chair, and Members of the Senate Committee on Judiciary

Hawai'i has very fragile ecosystems, from our coral reefs that are suffering from warming oceans, to our 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 would let the people decide whether the Hawaii Constitution's Bill of Rights should be amended to protect the people's fundamental right to clean water and air, healthful environment and climate, healthy native ecosystems, and beaches.

The Amendment would raise up environmental rights and ensure that they are given the same highest constitutional recognition as other fundamental rights. The Bill of Rights placement will make clear that environmental rights are 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.

Some concerns have been raised in public comment to date that are worthy of upfront consideration:

Whether to add constitutional environmental rights to the Bill of Rights of the state constitution most appropriately lies with the people: As recognized in Article 1 Section 1 of the Hawaii Constitution: "All political power of this state is inherent in the people...." The constitutional amendment proposed in SB2962 SD1 will allow the people to consider whether they would like their constitution amended to include as an overarching guiding principle and right, the rights of all the people of Hawaii to clean water and air, to a healthful environment and climate, to healthy native ecosystems and beaches. It is appropriate that the people of the state are the ones that will make this decision, and support of the legislature will provide important acknowledgement of the authority of the people of the state.

Adding constitutional environmental rights to our state's Bill of Rights will in no way undermine or shift the existing constitutionally granted authority of the legislature to the judicial branch of government: Article III, Section 1 makes clear that all legislative authority is instilled with the state legislature but that it is to be exercised consistent with the constitution. Addition of the proposed environmental rights amendment will in no way shift the authorities articulated in the constitution of the legislative, executive or judicial branches of government. The judiciary will provide the same role in interpreting and applying the new amendment as they do with other constitutional provisions, including providing appropriate deference to the legislature as it carries out its duties and functions. It is in keeping with Article III Section 1 that the people, through this amendment, will provide the overarching constitutional guidance regarding environmental rights that Article III Section 1 envisions.

It is incorrect to suggest that adding a new Bill of Rights provision to the constitution will usurp the authority of the legislative and executive branches of government. There is no reason to suspect the judicial

branch of government would overreach in the realm of environmental rights given that it has not done so in the realm of other fundamental rights.

Constitutional environmental rights are a matter of human dignity appropriately recognized in our state's Bill of Rights: The right to a clean, safe and healthy environment is a matter of human dignity and the recognition of those fundamentals essential to healthy and vibrant human lives is legally, constitutionally and morally appropriate. Hawaii's Bill of Rights recognizes the rights of people to the enjoyment of life, liberty and the pursuit of happiness, and the acquiring and possessing of property (Article 1 Section 2); the rights to freedom of religion, assembly, press and speech (Article 1 Section 4); the rights to due process and to not be discriminated against because of one's race, religion, sex or ancestry (Article 1 Section 5); the right to privacy (Article 1 Section 6) and to be free from unreasonable searches and seizures (Article 1 Section 7) and more. Respecting and protecting environmental rights -- those healthy environments and natural resources that sustain our very lives -- is no less worthy of this highest regard.

Environmental rights as proposed are not addressed by other existing constitutional provisions in the Hawaii constitution: Ensuring the rights to clean, safe and healthy environments are given the same constitutional standing and protection as other human, civil and political rights in the Hawaii constitution is of importance and value; and it is a goal that is not achieved with other existing constitutional language. While Article XI, Section 1 speaks to the obligation of the state to protect natural resources, it does not speak to the rights of the people to clean and healthy environments. Article XI, Section 9 is framed to acknowledge the rights and duties of state government to protect the environment, and the ability of people to enforce existing environmental protection laws, but it does not in fact recognize the inalienable rights of people to a clean and healthy environment ensuring that recognition of rights guides government action. As a result, the proposed Green Constitutional Amendment will fill a gap that exists in Hawaii's constitution.

There is no foundation upon which to suggest the people of Hawaii would abuse the proposed environmental rights provision: Suggestions that Hawaiian communities will seek to abuse a new environmental right by bringing frivolous or needless lawsuits is without evidence or merit. Hawaiians have not abused other Bill of Rights protections with baseless claims, and there is no reason to believe that would happen here. In the 3 states that have such rights already, we see the rights being cited in order to secure meaningful and important government decisionmaking, and only used in the courts when existing laws or government action is not providing needed environmental protections.

The proposed environmental rights amendment will provide helpful guidance for all branches of government in Hawaii, just as it has done so in other states: It is incorrect to suggest that the amendment will be unworkable, the provisions in the 3 states where they exist are providing helpful procedural and substantive protections for all branches of government when beneficial and needed.

By way of further explanation and helpful detail:

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.

Simply editing Article XI Section 9, as has been suggested by some, will not accomplish the goal of ensuring that the rights of the people to a clean, healthy and safe environment, including water, air, beaches, climate and native ecosystems are given the same constitutional recognition and protection as other fundamental rights. There is legal strength and value in recognizing environmental rights as being on par with other fundamental rights in the Bill of Rights section of the constitution. The proposed amendment will ensure that environmental rights are given the same legal and constitutional standing, that it is given highest priority in government decisionmaking, and that it cannot be made subservient to other rights such as property rights but instead must be given equal consideration and equitable protection.

Notably, At its core, what is being asked for here is that the people get to make the decision. If this amendment passes through the legislature, it will not result in a constitutional amendment, it will simply mean that the question will be placed before the people to decide. As recognized in Article 1 Section 1 of the Hawaii Constitution: “All political power of this state is inherent in the people...” With this amendment the people will be given the opportunity to express their desire that their need for a clean, healthy and safe environment is given the same respect and protection as other rights such as the section 2 right to “pursue happiness”, the section 4 right to “freedom of speech” and “peaceably to assemble”, the section 6 “right of the people to privacy” and the section 17 right to “keep and bear arms”, amongst others. This amendment simply ensures the minimum necessities to live a life of dignity – including clean and healthy air, water, beaches, native ecosystems, climate and environments.

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 amendments are 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 works 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, issuing permits, approving development, and considering how to address ongoing environmental concerns.

The complement of individual rights with the existing recognized role of government as trustee will strengthen environmental justice protections, ensuring all government officials ensure 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 and 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.

We thank you for the opportunity to comment.

With respect, regards and appreciation,

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

Sherry Pollack, Co-Founder, 350Hawaii

David Mulinix, Co-Founder, Our Revolution Hawaii

Melodie Aduja and Alan Burdick, Co-Chairs, The Environmental Caucus of the Democratic Party of Hawaii

Lauren Blickley, Hawaii Regional Manager, Surfrider Foundation

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

LATE



Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable Donovan Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Re: **SB 2962 SD 1 – 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: Thursday, March 3, 2022, 10:30 a.m., Conference Rm 211 & Videoconference
Position: **Strong support**

Aloha, Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SB 2962 SD 1. This measure would propose a constitutional amendment that ensures 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 amendment would recognize and protect the right of all to the preservation of natural, cultural, scenic, and healthful qualities of the environment. This amendment will complement existing constitutional provisions and raise up protection of human health, cultural, and natural values of the environment that are sentential to support Hawaiian life.

Thank you very much for the opportunity to testify. Please support and pass this bill.

Melodie Akeja

Alan Burdick

Co-Chairs, Environmental Caucus of the Democratic Party of Hawai'i

Email: legislativepriorities@gmail.com

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 3:09:03 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rita Ryan	Testifying for Climate Action Advisory Committee of Maui County	Support	No

Comments:

To our Honored Public Servants in the Hawaii Senate-

Our ask is simple:

- **Clean** Water
- **Clean** Air
- **Healthy** Environment
- **Livable** Climate

If not now, WHEN?

With Aloha,

Rita Ryan

Climate Action Advisory Committee of Maui County

Climate Reality Project, Maui County

Maui Nui EV Association

350Hawaii.org

SB-2962-SD-1

Submitted on: 2/28/2022 7:14:29 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

Strongly support!

SB-2962-SD-1

Submitted on: 2/28/2022 8:06:08 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

Aloha,

My name is Dylan Ramos, I live in Kaimuki, and 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

SB-2962-SD-1

Submitted on: 2/28/2022 8:50:30 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Natalia Kailani	Individual	Support	No

Comments:

I fully support SB 2962 because I believe that it is an inherent right for EVERYONE to have access to clean water, clean air, and a healthy environment. Making steps towards climate action now is crucial for our future. Climate change is real and our laws need to adjust to our current climate crisis.

SB-2962-SD-1

Submitted on: 2/28/2022 9:10:53 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Matthew Geyer	Individual	Support	No

Comments:

Our air, our water, our environment is being constantly degraded and threatened by unrestricted industrial pollution. This is not a Republican vs Democrat issue, it's common sense. The organizations who testify against this measure are the ones who are worried they won't be able to continue to destroy the environment without consequences. Passing this measure now will earn you the gratitude of this generation and many generations to come. Thank you for hearing and supporting SB2962 SD1, the Green Amendment.

SB-2962-SD-1

Submitted on: 2/28/2022 9:20:49 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Debbie Millikan	Individual	Support	No

Comments:

I write in **STRONG SUPPORT** of SB2962 SD1 to add a Green Amendment to the Constitution.

We must protect our air, water and the right to survival of human species. The latest IPCC report, 6th Assessment, Impacts, Adaptation and Vulnerability which describes how leadership has failed on climate change. But we all know that Hawai'i has been ahead of the curve all along.

Let's do more. Let's pass the Green Amendment.

Mahalo nui for the opportunity to testify.

SB-2962-SD-1

Submitted on: 2/28/2022 10:11:06 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Daniela Minerbi	Individual	Support	No

Comments:

Clean water, clean air and a healthy ecosystem are basic human rights,

I support this SB2962 SD1,

thank you for this opportunity, Daniela Minerbi

SB-2962-SD-1

Submitted on: 2/28/2022 10:11:17 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

Aloha Chair Dela Cruz, Vice Chair Agaran, Committee on Ways and Means, Chair Rhoads, Vice Chair Keohokalole, Committee on Judiciary,

I am submitting testimony to support SB2962 SD1. Please pass SB2962 SD1. Hawaii is our home and we need to care for our environment so that future generations will have a chance to enjoy its beauty.

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.

Thank you for taking the time to review this issue. I appreciate the opportunity to provide testimony in support of SB2962 SD1.

Mahalo,

Caroline Kunitake

SB-2962-SD-1

Submitted on: 2/28/2022 10:36:40 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

There is no Climate problem just a Communist problem!!

SB-2962-SD-1

Submitted on: 2/28/2022 11:17:26 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Peter Greenhill	Individual	Support	No

Comments:

- 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.

- SB2962 SD1 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.

- The Green Amendment is about laying the foundation for good government decision-making. A healthy economy depends on a healthy environment, and healthy communities. 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.

- 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.

SB-2962-SD-1

Submitted on: 3/1/2022 12:44:15 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thomas Craig	Individual	Support	No

Comments:

This amendment would enshrine in the State Constitution the public's right to a clean and safe environment. Along side the Public Trust Doctrine where it belongs.

SB-2962-SD-1

Submitted on: 3/1/2022 5:20:22 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cate Waidyatilleka	Individual	Support	No

Comments:

This is ESSENTIAL! Take this bold step! For our keiki.

SB-2962-SD-1

Submitted on: 3/1/2022 9:51:32 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
John NAYLOR	Individual	Support	No

Comments:

Aloha,

In Strong Support before it's too late !

JN Makawao

SB-2962-SD-1

Submitted on: 3/1/2022 9:07:06 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gwendellyn Cruise	Individual	Support	No

Comments:

This amendment is critical to the longterm health of Hawaii's economy, in addition to our own health and the health of the natural environment. If we want Hawaii to thrive economically into the future, we MUST ensure, through every means that we have, the vitality of our natural environment. Just consider for one moment the effect that eroded or polluted beaches and tainted water systems will have not only on the number of visitors who come here, but also on the number of residents who choose to stay here. Hawaii is expensive. It's hard enough to keep people here. The ones who stay stay because of our incredible natural beauty and the healthy lifestyles that a beautiful, clean environment supports. If that erodes - and it will erode if we don't do everything in our power to protect it - then Hawaii's economy will suffer. Please consider the health of Hawaii's inhabitants and the long-term health of Hawaii's economy, and pass this critically important bill.

SB-2962-SD-1

Submitted on: 3/1/2022 9:59:11 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Melissa Barker	Individual	Support	No

Comments:

Honorable Members,

I respectfully ask that you vote in favor of SB2962 SD1. The Green Amendment is extremely important to our future.

Thank you,

Melissa Barker

SB-2962-SD-1

Submitted on: 3/1/2022 10:49:46 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Carey Vierra	Individual	Support	No

Comments:

Aloha,

We all need clean water and air, a healthy environment and climate to live healthy, long and good quality lives. I want my children and grandchildren to inherit a healthy planet. 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.

Mahalo

SB-2962-SD-1

Submitted on: 3/1/2022 11:12:28 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Diane Ware	Individual	Support	No

Comments:

Dear Chairs and Committee Members,

This measure is one of the most important ones of this session and I keep testify in strong support. I am concerned about climate change. It keeps getting warmer, even hot in Volcano with its native forests. I have lived here 30 years and in the last 10 have experienced devastating droughts that kill 'ohia trees and hapu'u. Lawns and the golf course grasses turn brown and many native plants wilt. I am also concerned about sea rise and lingering hurricanes and their damage.

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**. Please act now to mitigate climate risks.

Respectfully,

Diane Ware, 99-7815 Kapoha Pl, Volcano Hi 96785

SB-2962-SD-1

Submitted on: 3/1/2022 11:57:36 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shannon Matson	Individual	Support	No

Comments:

Aloha Chairs and Committeemembers,

This is my favorite bill this session. Maybe even this decade. This sort of legislation is exactly the big picture sort of thing that we, the people, want to see/hear from our leaders. I was born and raised on Hawai'i Island and am currently serving as the Vice Chair of the Democratic Party of Hawai'i and while I feel that this Amendment is absolutely in line with what other members of my party believe, I am submitting this testimony on behalf of myself and my 'ohana only. I have 2 children who are keiki 'o ka 'āina and are equally concerned with protecting and preserving the environment. We want to ensure that ALL of our fellow humans and animals and plants have a chance to breathe clean air, drink clean water, enjoy a clean ocean, and eat food from clean land. This is crucial to guiding decision making for yourselves and future generations of leaders, to make certain that our basic rights to access a healthy environment are prioritized. We believe in an abundant and thriving Hawai'i and that it is our duty and kuleana to work together to protect and keep our natural resources healthy. Please show that you agree with this basic, fundamental right and vote to support this.

Mahalo nui loa,

Shannon Matson

SB-2962-SD-1

Submitted on: 3/1/2022 12:06:36 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dale Jensen	Individual	Support	No

Comments:

Dear Members of Judiciary and Ways and Means Committees:

I am writing to encourage passage of the Green Amendment under consideration. In the entire history of the United States, there has never been such an amendment that would ensure rights of environmental protection are on par with other fundamental rights such as speech and religious freedoms. Such an amendment is needed now as we watch our world be degraded by human actions everywhere.

Please allow Hawaii to stand as an example to the rest of our country that clean water, clean air and a healthy environment for our population is among our most cherished rights.

This amendment so embodies what the Hawaiians and native peoples all across our country believed. It was deeply embedded in their everyday decision-making. Unfortunately, the western colonial economic model prevalent in the US and in Hawaii did not see the value of such absolute safeguards of the environment and allowed short term material gains to take on greater importance than our life-giving environment.

In these days of looming climate threat, now is the time to take a stand, be creative, be a leader and pass the Green Amendment. Please make a vote for the people of Hawaii and your grandchildren by passing this measure.

Sincerely,

Dale Jensen, Prof Engineer, Kailua

SB-2962-SD-1

Submitted on: 3/1/2022 2:49:33 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

I strongly support SB 2962 SD1. The Hawaii Constitution's Bill of Rights should protect the people's fundamental right to clean water and air, a healthful environment and climate, healthy ecosystems, and beaches.

SB-2962-SD-1

Submitted on: 3/1/2022 1:35:46 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
DAVID JONES	Individual	Support	No

Comments:

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.

- SB2962 SD1 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.

- The Green Amendment is about laying the foundation for good government decision-making. A healthy economy depends on a healthy environment, and healthy communities. 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.

- 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.

SB-2962-SD-1

Submitted on: 3/1/2022 2:55:14 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shannon Rudolph	Individual	Support	No

Comments:

SUPPORT

SB-2962-SD-1

Submitted on: 3/1/2022 3:37:32 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
tlaloc tokuda	Individual	Support	No

Comments:

Dear JDC & WAM Chair and Committee,

We are relieved and hopeful after you have past it on. I super support SB2962 SD1

The latest [report by the IPCC](#) on climate change paints a dark picture and unless greenhouse gas emissions are reduced quickly, we face an uncertain future where the planet and all its inhabitants are overwhelmed by sea level rise, storms, floods, disease, heat waves, deforestation, epic wild fires and hunger. I'm a member of 350HI and one of our goals is to lobby to assist getting good bills passed and bad bills defeated. However we have seen over the past 5 years that the legislature doesn't act as if we we're in a crisis BUT WE ARE! This complacency means good bills aren't passed and bad bills are! The Green amendment is a very good bill.

SB2962 SD1 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.

- The Green Amendment is about laying the foundation for good government decision-making. A healthy economy depends on a healthy environment, and healthy communities. 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.

- 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.

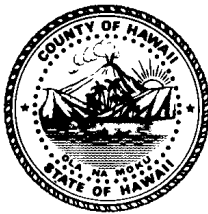
My supportive statement isn't original. However i am a firm believer in the Green Amendment because it is what's missing in our constitution. Hawaiian's had sustainability and environment as a pillar of their system, Now i hope we are incorporating it also. Please do the right thing and pass the green amendment.

Mahalo for your consideration,

Tlaloc Tokuda

Kailua Kona HI 96740

REBECCA VILLEGAS
Council Member
District 7, Central Kona



PHONE: (808) 323-4267
FAX: (808) 323-4786
EMAIL: Rebecca.villegas@hawaiicounty.gov

HAWAI'I COUNTY COUNCIL

*West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740*

March 1, 2022

TESTIMONY OF REBECCA VILLEGAS

COUNCIL MEMBER, HAWAI'I COUNTY COUNCIL

ON SB 2962 SD1, 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.

Committee on Judiciary

Committee on Ways and Means

Thursday, March 3, 2022 10:30 a.m.

Aloha Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

I thank you for the opportunity to testify in support of SB 2962 SD1, my testimony is submitted in my individual capacity as a member of the Hawai'i County Council and Chair of the Hawai'i County Council Climate Resilience and Natural Resource Management Committee.

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. This amendment will complement existing constitutional provisions and raise up protection of human health, natural, and cultural values of the environment that are sentential to support life in Hawaii.

For the reasons stated above I urge the Committee on Judiciary and the Committee on Ways and Means to support this measure. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.

Rebecca Villegas
Council Member, Hawai'i County Council

Hawai'i County is an Equal Opportunity Provider and Employer.

SB-2962-SD-1

Submitted on: 3/1/2022 4:09:43 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nako'o Warrington	Individual	Support	No

Comments:

In strong support of SB 2962!

The purpose and intent of this measure is to propose 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. **Amene!**

SB-2962-SD-1

Submitted on: 3/1/2022 4:32:11 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ellie S. Jones	Individual	Support	No

Comments:

Dear hearing committee for SB2962,

People have a fundamental right to clean water and air, but currently Hawai'i's Constitution does not have specific written sections on protecting this right. I support this bill to amend Article 1 of the Constitution of the State of Hawai'i to recognize and protect the right of people and all future generations to a healthy environment, climate, native ecosystems, and beaches.

Thank you for your time and consideration of this important amendment.

Sincerely,

Ellie S Jones

SB-2962-SD-1

Submitted on: 3/1/2022 4:33:02 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Emily Garland	Individual	Support	No

Comments:

Aloha,

Please support the Green Amendment. This bill will strengthen Hawaii's environmental protections. The climate crisis is growing ever dire and the time to act is now. Clean water and air are essential to human life. We must protect these and other environmental rights.

Mahalo,

Emily Garland

Hilo

SB-2962-SD-1

Submitted on: 3/1/2022 5:30:40 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lisa Hinano Rey	Individual	Support	No

Comments:

I strongly feel that the Hawaii Constitution's Bill of Rights should include strong language that urges governing bodies and lawmakers to protect fundamental rights such as clean water and air, high functioning ecosystems, and safe beaches.

SB-2962-SD-1

Submitted on: 3/1/2022 6:59:07 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kehaulani Ah Yo	Individual	Support	No

Comments:

I, Kehaulani Ah Yo, strongly support SB2962! Over the past couple of years, I have had the unique privilege to earn my Hawaiian Studies degree, while learning about and studying the importance of Hawai'i's ecosystems, the water system, climate control, and the unfortunate decline that is occurring with the aquatic life, in large part due to pollution and spilling from underground tankers. If SB2962 were to pass, it would ensure the right to clean water and air was protected, the environment and climate would remain healthy, and the ecosystems and beaches would be healthy and protected. The bill would allow the essential environmental elements to be protected. Protecting the environment is an incredibly important value to the Native Hawaiians and the relationship between the Hawaiians and their land, is one that should not be compromised. We only have one Hawai'i', so may we always protect it to our fullest capacity. Thank you.

SB-2962-SD-1

Submitted on: 3/1/2022 8:03:29 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
L. Osterer	Individual	Support	No

Comments:

Environmental threats are growing worse with the climate crisis. We need legal grounds in our state constitution to require protection of healthy environments, Why? Because often, protecting these basic human needs only become an issue for government after the damage is done in the way of fines or lawsuits. Sometimes the damage is irreparable. The health of the environment and environmental impacts should be considered first, at the start of planning, decision making, and regulating. Hawaii will only remain a very special place if we set the standards in advance. We all need clean water and air, a healthy environment free of pollution and contaminants, resourceful conservation of food and water, and cooperation to live healthy, long and good quality lives.

The proposed environmental rights amendment will ensure that as our population needs grow, we protect the environment for the health and safety of present and future generations.

Thank you for your consideration,

L. Osterer. registered voter, concerned long-time resident.

SB-2962-SD-1

Submitted on: 3/1/2022 9:58:38 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
janice palma-glennie	Individual	Support	No

Comments:

aloha,

i ask that you support SB2962 SD1(with the amendment) to shore up and support our State Constitution and its mandate to protect our environment in the most significant of ways.

the power of corporate and special interest money has overtaken our democracy and continues to wreak havoc with efforts to maintain a balance between economic security and overall health and well-being of our residents. those special interests are often at odds with the long-term goals and needs of real people -- people who live in and visit our islands. More importantly, it will help protect the living environment upon which we all depend to survive and thrive.

i've been an environmental/cultural advocate in Hawai'i for over 35 years. i know the challenges faced in trying to keep up with the relentless drumbeat of those who see hawaii as a cash cow -- the Golden goose they're strangling for short-term gain.

please take this "Golden" opportunity to protect the nest we love and need: Give your strongest support for SB2962 HD1.

mahalo and sincerely,

janice palma-glennie

kailua-kona

SB-2962-SD-1

Submitted on: 3/1/2022 10:16:48 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kaʻiʻiʻikea Jackson	Individual	Support	No

Comments:

To: The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means, and

The Honorable Karl Rhoads, Chair, The Honorable Jarrett Keohokalole, Vice Chair, and Members of the Senate Committee on Judiciary

Re: Hearing SB2962 SD1, 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: Thursday, March 3, 2022, 10:30 a.m., by videoconference

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the Senate Committees on Ways and Means and Judiciary,

The *Hawaii Constitution's Bill of Rights* should protect the people's fundamental right to clean water and air, a healthful environment and climate, healthy ecosystems, and beaches.

With fragile ecosystems, Hawai'i's land and oceans need to be protected to ensure sustainability for future generations. As a people, the right to clean water and air is inalienable and should be protected within the constitution of Hawai'i.

I support the advancement of the amendment to Article 1 of the Constitution of the State of Hawai'i, SB 2962.

SB-2962-SD-1

Submitted on: 3/2/2022 3:42:06 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michele Harman	Individual	Support	No

Comments:

Aloha and mahalo for all that you do to keep our islands and communities healthy.

I am in strong support of the Green Amendment.

We have a water contamination crisis at Kapūkakā/Red Hill due to a permit provided to the Navy to store jet fuel 100 feet over our aquifer. Often, lower importance is given to environmental health and sustainability. The Green Amendment will provide the strongest foundation for our future.

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

Mahalo nui for your time, michele

SB-2962-SD-1

Submitted on: 3/2/2022 7:15:43 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

Aloha esteemed Senator members of the JDC / WAM Committees,

Mahalo for this opportunity to lend my **FULL SUPPORT of this senate bill 2962 (SD1)** that would add a "green amendment" into our State constitution. This initiative is crucial in allowing our local and state governments to prioritize clean water, air, ecosystems, and protect the abundance of natural and cultural resources in Hawai'i Nei. Please pass this bill and allow it to cross over into the House this session. The health and wellness of Hawai'i residents and inhabitants (including native flora and fauna) into the future are dependent on efforts like this Green Amendment moving forward with full support from Legislators. Please vote with your constituents and their mo'opuna in mind and vote 'AE on this bill.

Me ka mahalo,

Megan Lamson Leatherman, M. Sc.

Honalo, Hawai'i

SB-2962-SD-1

Submitted on: 3/2/2022 7:28:41 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Peter T. Burt	Individual	Support	No

Comments:

All scientific evidence points to a rapid degradation of ecosystems around the world, and the human populations that depend on those ecosystems are already suffering the first consequences. These are not merely "soft" effects, such as reductions in the number of songbirds or a drop in the aesthetic value of a vista; these are very concrete effects such as the collapse of fisheries, increased wildfires, and the spread of infectious diseases to new locations. Hawai'i is already suffering many of these effects and will suffer more in the future. As a remote island chain Hawai'i has more control over its own ecosystems, but the state and people of Hawai'i also faces greater risks because of this isolation.

Our current economy is heavily dependent on tourism, and tourists come to Hawai'i largely because it is a "tropical paradise". Will tourists still come when the coral reefs are largely gone and the risk of wildfire has made planning a trip nearly impossible?

Similarly, Hawai'i is currently very dependent on the mainland for many staple foods. It is increasingly likely that environmental upheaval on the mainland and around the world will make these staples much more expensive in the coming decades, with the very real possibility that supplies to Hawai'i will simply be cut off as production dwindles. For example, at current rates of warming it is predicted that within three decades Missouri farmers will no longer be able to grow wheat. This makes food independence a key priority for Hawai'i, and food independence is closely tied to a healthy environment.

I support the Green Amendment for the simple reason that healthy ecosystems are necessary to maintain our way of life here in Hawai'i. Our very survival depends on maintaining and improving the health of the air, water, and land that sustains us.

SB-2962-SD-1

Submitted on: 3/2/2022 8:29:10 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
randy wolfshagen	Individual	Support	No

Comments:

This is a must pass bill.

This will codify Hawaii's commitments to always do teh pono thing when it comes to malama kai aina.

- Randy, Mirka, and Pueo Wolfshagen / Kekaha

SB-2962-SD-1

Submitted on: 3/2/2022 9:48:29 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Stuart Coleman	Individual	Support	No

Comments:

SB-2962-SD-1

Submitted on: 3/2/2022 10:27:39 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

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

Comments:

I strongly support SB 2962 SD1.

SB-2962-SD-1

Submitted on: 3/1/2022 10:18:48 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kaʻiʻiʻikea Jackson	Individual	Support	No

Comments:

To: The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means, and

The Honorable Karl Rhoads, Chair, The Honorable Jarrett Keohokalole, Vice Chair, and Members of the Senate Committee on Judiciary

Re: Hearing SB2962 SD1, 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: Thursday, March 3, 2022, 10:30 a.m., by videoconference

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the Senate Committees on Ways and Means and Judiciary,

The *Hawaii Constitution's Bill of Rights* should protect the people's fundamental right to clean water and air, a healthful environment and climate, healthy ecosystems, and beaches.

With fragile ecosystems, Hawai'i's land and oceans need to be protected to ensure sustainability for future generations. As a people, the right to clean water and air is inalienable and should be protected within the constitution of Hawai'i.

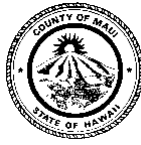
I support the advancement of the amendment to Article 1 of the Constitution of the State of Hawai'i, SB 2962.

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
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

March 2, 2022

TO: Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

FROM: Kelly Takaya King, Maui County Councilmember

HEARING: March 3, 2022 at 10:30 p.m., Senate Conference Room 211 &
Videoconference

SUBJECT: **Testimony on SB2962, SD1 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**

Dear Honorable Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Committee Members,

Thank you for the opportunity to testify in strong support of this important measure, SB2962, SD1. As Chair of the Maui County Council's Climate Action, Resilience and Environment Committee, a member of the Local Government Advisory Committee to the U.S. Environmental Protection Agency, and a member of the ICLEI USA board of directors, I have been working 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.

Passing SB2962, SD1 would allow the people of Hawaii to vote to amend Article I of the Hawai'i State Constitution to recognize "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

March 2, 2022

Page 2

protected and shall not be infringed.” Explicitly recognizing this right in the constitution of people to these necessities of human existence is critical at this precarious time for our State’s natural environment, and indeed, the planet.

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, Pennsylvanian 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 SB2962, SD1 and allow our voters the opportunity to vote on the constitutional amendment.

Mahalo nui loa,

A handwritten signature in cursive script that reads "Kelly T. King".

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

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 10:31:25 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Amy McCarthy	Individual	Support	No

Comments:

Aloha and mahalo to all of you who shoulder the burden of working, deliberating and acting thoughtfully on behalf of your community, the people of Hawaii. I am grateful for the opportunity to voice my strong support of this groundbreaking constitutional amendment which finally names and protects our rights to the natural elements upon which all life, all of our lives and livelihoods depend. I believe that the law has previously assumed, taken for granted the constancy of the life sustaining blessings of the natural world, but now the truth is undeniable that our human actions can limit, pollute, and destroy these fundamental necessities, and legally naming and protecting the peoples right to clean water, air, and healthy ecosystems is necessary to protect and secure our lives and our future.

When I was a little girl, my Dad told me that the rainforest was being slashed and burned at the rate of one acre per second in order to raise cattle grass, even though this method left the land completely depleted and destroyed within just a few years. I knew how big an acre was, and how quickly seconds pass, and I was horrified to think of that immense destruction. I wanted to get very rich and buy the rainforest so I could protect it as a rainforest. I failed that mission. Now, thirty years later, those such destructive, polluting practices continue and more. The news of environmental degradation gets ever more dire and ever closer to home. The problems caused by human action on our planets ecosystems is ever more undeniably affecting each of our lives today and threatening the possibility of life in the future for our children.

I have nine nieces and nephews. They range in age from nearly two to 11 years old. They are sweet and bright and creative and wonderful! I think of them when I hear the dire warnings and predictions of research scientists. "The ocean will have more plastic than fish in it by 2050". "Farmland is becoming too salinated to be commercially productive at the rate of 500 acres per day". "The great barrier reef is dead due to rising ocean temperatures". And we can feel and see the effects of destructive polluting human practices even closer to home; in our daily lives here on Oahu. We can see and feel trash in the ocean and waterways of Honolulu. There is plastic of all shapes and sizes to be found throughout the sand and shore of East Oahu. Our own friends and neighbors of Honolulu have suffered skin blisters, gastrointestinal problems, miscarried pregnancies, and deceased pets due to polluted water. What do we tell our young children about the state of the world? When do we tell them? What can we hope for their lives in the future, and perhaps their future childrens lives? How do we prepare the children for life in the future? How do we prepare *for* them? What do we do?

I believe this constitutional amendment is a powerful and pivotal step toward securing a safe and healthy future for ourselves and all our keiki. I love my nieces and nephews. I feel like there is no hope in life without the possibility of a blessed future for the next generations, and so I beg you to pass this amendment and make it the law. Please, give your strong support to ecological protections as much as you can, as long as you can, while you can. Please, dedicate your wisdom to the future, use the power of all the people you represent, and make right choices for us all which put the health and safety of Hawaii and her people first.

From January 24 to March 13, 2020, I worked going door-to-door canvassing Oahu neighborhoods on behalf of Environment America; a mainland based non-profit organization which funds research and lobbyists for the purpose of supporting and protecting specific ecosystems in 27 states. We were working on starting the Hawaii chapter of Environment America with a focus on protecting the Endangered Species Act which was, at the time, slated for redaction/peel along with about 100 other environmental laws and protections. I had the opportunity to speak directly with members of Oahu communities, mostly on their own doorsteps, about their views on protecting Hawaii's native species and the ecosystems they depend on. Happily, I found that about 75% of the people I spoke to highly value the nature and wildlife of Hawaii and they appreciated and supported the work we were doing, whether or not they actually got involved with our organization. I was also rather disheartened to find that about 20% of the residents did not care about ecological protections at all. The vast majority of those apathetic said that they did not care about taking action to protect local ecology because they would probably be dead by the time they might notice any ill effects. A few people were kind and receptive, but disagreed with our work because they simply did not believe that human action could have that great an impact on the natural world. Most disheartening was one man who was actually doing Marine research study with the University of Hawaii. He told me his professor taught him it was already too late, and that rising ocean temperatures had already doomed the coral reef to die as it cannot survive more than a few degrees shift in water temperature.

I cannot ever believe it is too late to support and protect our air, water, land, wildlife and ecosystems. We need hope for the future to survive today. We must do whatever we can to give our future, our keiki as much hope for a healthy future as possible. So once again I beg you please to support this Green ammendment, support ecological protection and sustainable practices wherever you can. The Climate Crisis IS a State of Emergency, but its not too late! We cannot wait, or hesitate. All change takes time and practice. We must act boldy now to allow time for us to learn and grow from our efforts, time to refocus, rededicate, and reimagine ourselves as we work to co-create a future of health, hope, and possibility.

Mahalo Nui Loa

sincerely, Amy McCarthy

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 11:05:23 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Erika Faith Calig	Individual	Support	No

Comments:

Thank you for supporting this Bill which stands strongly for the health of our island, the resouces that keep us sustained, and insures clean water for future generations.

Our lands cannot stand up for themselves. We must do what is right to protect it!

Aloha, Erika F Calig

Kapaa, HI

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 11:34:12 AM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mary Lu Kelley	Individual	Support	No

Comments:

Aloha. 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. SB2962 SD1 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.

Special interest groups have submitted testimony opposing this bill stating it is not necessary and may open the state up to litigation. We say **our current Constitution does not adequately protect us**. Take our current water contamination crisis from Red Hill and consider the permit provided to the Navy to store jet fuel 100 feet over our sole source aquifer. With a Green Amendment, government agencies would need to consider our environmental rights when executing their duties, it would not be an afterthought as it is now. **We all need clean water, clean air, and a livable climate.** Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.

BOTTOMLINE: If you want a right to a clean and healthy environment you have to put it in the bill of rights. This is what the Green Amendment is all about.

Pleae pass SB2962 SD1!!

Thank you.

LATE

SB 2962 SD 1 TESTIMONY

To: Senate Committee on Judiciary
Senate Committee on Ways and Means

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, as follows:

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 . . . All public natural resources are held in trust by the State for the benefit of the people.

This State responsibility is well conceived because no other entity has control over public and private natural resources. Furthermore, State government has the authority to carry out this responsibility.

However, the State's responsibility lacks an accountability mechanism to ensure that the responsibility is being carried out. In proposing an amendment to Hawaii's Constitution, this bill seeks to create the needed accountability.

The Constitutional Green Amendment may be a new idea in Hawaii, but Pennsylvania has had one for more than half a century. In Pennsylvania, the amendment has stopped polluting activities such as fracking. Principles of the Constitutional Green Amendment have been incorporated into the permit and operational programs of state agencies that have responsibility for the environment. The amendment has forced developers and others who have an adverse impact on the environment to plan their project to minimize negative environmental impact.

New York and Montana have followed Pennsylvania in adopting a Constitutional Green Amendment. Hawaii and other states are considering it.

Hawaii's natural environment is under assault. It is being degraded as a result of human activity. Native species are becoming extinct because of the loss of their natural habitat. The Constitutional Green Amendment will help to ensure that Hawaii's natural environment is preserved for future generations.

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 3:10:04 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nicole RK Kama'i	Individual	Support	No

Comments:

I strongl support SB2962. The Hawaii Constitution’s Bill of Rights should protect the people’s fundamental right to clean water and air, healthful environment and climate, healthy ecosystems, and beaches.

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 7:56:42 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
GORAN RAD	Individual	Support	No

Comments:

I support !

Thank you !

LATE

SB-2962-SD-1

Submitted on: 3/2/2022 9:00:27 PM

Testimony for JDC on 3/3/2022 10:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Carolyn Eaton	Individual	Support	No

Comments:

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran,

I strongly support this bill. The critical importance of such strong protection has come into focus lately. Hawai'i is more vulnerable than we ever realized and faces an intransigent arm of the Federal government. Mahalo for allowing me to place my views before you.