

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
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CONSERVATION AND COASTAL LANDS
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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 Committee on
AGRICULTURE AND ENVIRONMENT

Friday, February 11, 2022
1:30 PM

State Capitol, Conference Room 224, Via Videoconference

In consideration of
SENATE BILL 2962

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 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 bill:

- 1) Is unnecessary – the Hawai'i Constitution already provides very similar rights.
- 2) Takes away legislative and executive discretion in decision making and transfers it to the courts
- 3) Can have unintended consequences – e.g. projects derailed as a result of private opposition to public parks, affordable housing, renewable energy, agriculture, 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).

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

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For these reasons we ask that this bill be held.

Thank you for the opportunity to comment on this measure.

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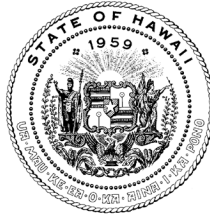
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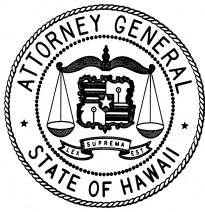
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For these reasons we ask that this bill be held.

Thank you for the opportunity to comment on this measure.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2962, 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 COMMITTEE ON AGRICULTURE AND ENVIRONMENT

DATE: Friday, February 11, 2022 **TIME:** 1:30 p.m.

LOCATION: State Capitol, Via Videoconference

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

Chair Gabbard and Members of the Committee:

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

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

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

In addition, unlike article XI, section 9, the amendment proposed by this bill does not include a reference to laws relating to environmental quality or a healthful environment. Without a reference to laws that set standards for a clean and 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 litigation against the State.

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

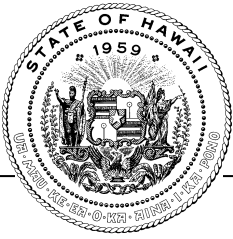
Each person has the right to a clean and healthful environment, including pure water, clean air, and healthy ecosystems, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment, as defined by laws [~~relating to environmental quality, including control of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

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

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

Additionally, there appears to be a typographical error in the language for the new section of article I, contained in section 2 of the bill. On page 2, line 3, “health” should be “healthy”.

Thank you for the opportunity to testify on this bill.



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

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

Statement of
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Director, Office of Planning and Sustainable Development
before the
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in consideration of
SB 2435
**RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT.**

Chair Gabbard, Vice Chair Nishihara, and Members of the Senate Committee on Agriculture and Environment.

The Office of Planning and Sustainable Development (OPSD) offers the following **comments** on SB 2435, which would extend through December 2031 the period in which the Department of Agriculture (DOA) is authorized to certify claims for this tax credit, and also delay the ability to apply for the tax credit for three years after the year the cost is incurred. OPSD prefers SB 3032, an Administration bill, which would extend the certification period for tax credit claims through December 2032, without imposing a three-year delay on the initial filing of the claim application with DOA.

OP **strongly supports** the extension of the qualified agricultural cost tax credit to ensure continued availability of the tax credit to help farmers manage the cost of investments in their farming operations. Successful commercial farming is the most cost-effective way to protect farmland. The IAL incentives were always intended to be a long-term commitment to Hawaii's agricultural industry—like agricultural real property tax dedication provisions—providing permanent tools and services that promote the viability of current and future farmers on Hawaii's best lands, particularly those designated as IAL.

OP offers the following comments but defers to other departments as to their fiscal impact.

1. The three-year delay weakens the utility of the incentive for farmers and provides little relief to farmers who must shoulder the cost of needed farm improvements over that period.

2. Consideration should be given to making this a permanent tax credit and eliminating the need to enact extensions for the tax credit. This would provide more certainty to farmers and allow them to plan and finance long-term investments in their farming operations. A strong agricultural economy requires continued investment in new and upgrades to agricultural infrastructure, equipment, and farm improvements. The State's agricultural incentives should be tailored to support ongoing investment and reinvestment in the operational needs of the agricultural sector.

OPSD respectfully requests consideration of SB 3032 as the preferred vehicle for this measure.

Thank you for the opportunity to testify on this measure.

SB-2962

Submitted on: 2/9/2022 9:30:23 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Aloha Chair Gabbard, Vice Chair [Nishihara](#) and Committee Members [Acasio](#), [Fevella](#), and [Rhoads](#),

On behalf of Our Revolution Hawaii's 5,000 members & supporters statewide, we stand in Strong Support of SB2962 that proposes a constitutional amendment that *recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. Provides that the State and its subdivisions shall protect and shall not infringe upon these rights.*

Passage of SB2962 is important because our current laws and protections aren't working. Corporate for-profit institutions with their heavy influence in government have continually blocked efforts to protect our community from environmental degradation and climate breakdown. SB2962 would firmly enshrine in the Hawaii Constitution the right to a clean and healthy environment, thereby helping to strengthen laws on the books, and help fill the gaps that are left.

Please vote in support of SB2962.

Mahalo Nui Loa for your kind attention,

David Mulinix, Cofounder & Organizer

Our Revolution Hawaii

SB-2962

Submitted on: 2/9/2022 7:11:02 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Christopher Dean	Testifying for Clean The Pacific	Support	Yes

Comments:

As the Founder of Clean The Pacific and a surfer, I have seen the destruction and pollution of our world first hand. Many people are so caught up in their day to day lives, working, chores, taking care of their families, they really don't notice anything is out of order. Maybe they see some nature documentaries that are disturbing, but it's just TV, not necessarily reality. But when you're down in the trenches, it all gets real. When I'm wrestling with nets that weigh a ton on the beaches of North Kohala I see other things too, like the entire bay covered with a layer of plastic particles. I was cleaning along the base of the cliff one day and the next day that entire cliff had collapsed, so that trees that were growing on top of the cliff were now growing on the beach. You wouldn't even know that if you came down to the beach that day for your first time. You would most likely assume that that tree had sprouted up on the beach as a sapling. That's a demonstration that no coastal area is safe for development. The ice is melting all over the planet and the ocean is rising because of it. That's happening because we burn fossil fuels.

It's one of a myriad examples of how humanity is destroying this planet through commodification of nature. I would encourage all of you to go onto Google Earth Satellite and zoom out so that you can see the entire United States, or Europe, or Asia or virtually anywhere. Then, find the largest patch of dark green you can find and zoom in on that. Don't bother zooming in on the light green, that land has already been taken by humanity for agricultural purposes. Now, look what you thought was going to be forest. You'll see that it has houses, roads, and commercial activity. Notice it's fractured and exploited. Do you see variations in color and texture in the forest that have geometric shapes? That's not a factor of satellite imagery, or digital variations, that's deforestation and plantations. Many people think forestry is sustainable if they clear cut and then replant, it is not. It takes many decades for the understory to develop, for all the animals who were traumatized by the logging and bulldozers, to overcome their fear and dare to start a family again in the 2nd or 3rd growth forest. They're right to be afraid and they're making a big mistake by starting a family in this fake forest, because it's not a forest, it's a tree plantation destined to be logged again in the near future.

We need this legislation to implement a self imposed check on our consumption and abuse of the natural world, because no one else is going to do it for us, except perhaps a virus. Believe me when I tell you, you do NOT want mother nature to correct this imbalance for us. That's another thing I've learned as a surfer, you can't beg for your life, plead for mercy or escape from mother nature. She can't be reasoned with, she can't be bargained with and she absolutely will not stop

until she is done correcting our behavior. Our only hope of survival is to open our arms, embrace Mother Nature, revere Mother Nature, take care of Mother Nature, because if she dies, we all die.

SB-2962

Submitted on: 2/10/2022 8:11:45 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

This is not a Republican vs Democrat issue.

This is common sense.

"All people have an inherent and inalienable right to clean water and air and health (sic) ecosystems, including climate, flora, fauna and soil, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. These rights belong to both present and future generations."

Thank you for hearing and supporting this measure.

SB 2962 TESTIMONY

To: Senate Committee on Agriculture and the Environment
Hearing on Feb. 11, 2022 at 1:30 p.m.

From: John Kawamoto

Position: Support

Article XI, Section 1 of Hawaii's Constitution designates the State government as the trustee of Hawaii's natural environment to benefit the people of Hawaii, 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, 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. All public natural resources are held in trust by the State for the benefit of the people.

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

However, the State's responsibility lacks an accountability mechanism. Responsibility is incomplete unless there is an accountability mechanism to ensure that the responsibility is being carried out. In proposing an amendment to Hawaii's Constitution, SB 2962 seeks to create the needed accountability.

The Constitutional Green Amendment may be a new idea in Hawaii, but Pennsylvania has had it for more than half a century. In Pennsylvania the amendment has stopped polluting activities. Its principles 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 environment is under assault, and climate change is bearing down upon us. The Constitutional Green Amendment will help to ensure that Hawaii's natural environment is preserved for future generations.

For the foregoing reasons I support SB 2962.

SB-2962

Submitted on: 2/8/2022 2:41:40 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Angela Huntmer	Individual	Support	No

Comments:

Dear Chair and Committee Members,

I am writing in full support of Bill SB2962. It is so important that we do this for our children.

Thank You,

Angela Huntmer

SB-2962

Submitted on: 2/8/2022 8:10:09 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

To: Agriculture and Environment Committee (AEN), Chair Mike Gabbard and Vice Chair Clarence K Nishihara

I strongly support SB2962.

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

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

With HB1803 in place, environmental protection will be a part of the process of decision making at every level. The focus will be on prevention rather than the necessity and expense of a cure. Also, protection will be available for any gaps in state environmental laws. Please continue to be a leader among states and make Hawai'i the fourth state to enact a Green Constitutional Amendment

Sherryl Royce

SB-2962

Submitted on: 2/8/2022 8:21:52 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Aloha Chair Gabbard, Vice Chair Nishihara, and AEN Committee members,

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

Mahalo,
Dylan Ramos

SB-2962

Submitted on: 2/8/2022 8:39:15 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Denise E Antolini	Individual	Support	No

Comments:

Aloha Chair Gabbard, Vice Chair Nishihara, and Committee Members,

I write in **strong support** of SB2962.

I have practiced or taught environmental law in Hawai'i since 1990.

Despite the web of strong environmental statutes in Hawai'i, many issues still slip through the enforcement cracks, to the detriment of public health and the environment.

This bill would provide a critical safety net by enshrining environmental fundamental rights into our Constitution, complementing and strengthening our existing legal system.

Particularly with the looming twin crises of biodiversity loss and climate change, more legal tools are needed to protect the public interest and support the ability of citizens to vindicate their rights to "clean water and air and health ecosystems, including climate, flora, fauna and soil, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment."

Mahalo for supporting this bill.

Denise Antolini

Law Professor, William S. Richardson School of Law

(title and institution for identification purposes only; this testimony is submitted in my individual capacity and does not necessarily represent the views of the Law School or University)

SB-2962

Submitted on: 2/8/2022 10:05:47 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Keith Neal	Individual	Support	No

Comments:

I strongly support a Green Amendment. A Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. Environmental impacts need be in the forefront of governmental planning, decision making, and regulation.

Ua mau ke ea o ka aina i ka pono

SB-2962

Submitted on: 2/8/2022 10:07:57 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Dear Chair Gabbard, Vice Chair Nishihara and the Committee on Agriculture and the Environment,

My name is Caroline Kunitake and I am a long time resident of Honolulu, HI. I am submitting testimony in strong support of SB 2962.

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

Please approve this bill so that we may rightfully amend our Hawaii State Constitution to protect our precious and fragile environment for our current and future generations.

Thank you for your time and attention to this important matter.

Mahalo,

Caroline Kunitake

SB-2962

Submitted on: 2/9/2022 12:24:45 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Strong support!

SB-2962

Submitted on: 2/9/2022 12:44:41 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kimeona Kane	Individual	Support	No

Comments:

Aloha nui,

Please make these ammendments to the constitution to ensure that we are protecting the simply basic realities of life for our future generations to have. It is not a matter of if, this should have been done a long time ago. As these aspects are now threatened, we are fighting an uphill battle to make things right. Please pass this bill and move our futures into a path of appreciation and recognition of the very critical life elements.

Mahalo nui,
Kimeona Kane

SB-2962

Submitted on: 2/9/2022 5:36:18 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Richard Camp	Individual	Support	No

Comments:

I am in strong support of the Green Amendment.



Wednesday, February 9, 2022

Proposing a ConAm to Article I of the Constitution
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) supports SB2962 which proposes a Constitutional Amendment to Article I of the Hawaii State Constitution.

PHI is in strong support. It is paramount that Hawai'i protects its people and 'Āina to the fullest extent possible.

We urge the Committee to support SB2962.

Mahalo for the opportunity to testify,

Gary Hooser
Executive Director
Pono Hawai'i Initiative

SB-2962

Submitted on: 2/9/2022 7:39:00 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Please support SB 2962.

I am a 12 year resident of Kauai. I'm extremely concerned about the climate crisis and urge you to support 2962.As it relates to the climate, our current laws and protections aren't working. Corporate for-profit institutions with their heavy influence in government have continually blocked efforts to protect our community from environmental degradation and climate breakdown. This bill would firmly enshrine in the Hawaii Constitution the right to a clean and healthy environment, thereby helping to strengthen laws on the books, and help fill the gaps that are left.

If we want a right to a clean and healthy environment we have to put it in the bill of rights. This is what the Green Amendment would do.

Again, please support SB 2962.

SB-2962

Submitted on: 2/9/2022 7:53:21 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jessica Haskin	Individual	Support	No

Comments:

Aloha!!

I am in strong support of the Green Amendment. As you all know, 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 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.

Watching what is happening in the world around us, we can see that environmental threats are growing worse and we are facing a huge 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.

Our current Constitution does not do enough to recognize the importance of a healthful environment and Hawaii's natural resources. Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.

This is SO important. I STRONGLY support this bill.

Thank you very much for your time,

Jessica Haskin

SB-2962

Submitted on: 2/9/2022 8:35:24 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

The power is in the words of intention. It is important for the state to take this stand showing which way it faces.

SB-2962

Submitted on: 2/9/2022 10:05:12 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lisa Bishop	Testifying for Friends of Hanauma Bay	Support	No

Comments:

Aloha Chair Gabbard, Vice Chair Nishihara, and Committee Members,

Friends of Hanauma Bay strongly supports SB2962 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.

Mahalo for the opportunity to testify on this important measure!

Please pass SB2962!

Lisa Bishop

President

Friends of Hanauma Bay

SB-2962

Submitted on: 2/9/2022 10:10:48 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Audrey Enseki-Tom	Individual	Support	No

Comments:

I strongly support SB2962. All state agencies need to consider the near and long-term environmental impacts of their actions. The Red Hill disaster is just another example of poor foresight. The people of Hawaii deserve to have our home protected!

SB-2962

Submitted on: 2/9/2022 11:36:34 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Harriet Burkholder	Individual	Support	No

Comments:

I strongly support this amendment. The rights to clean water, air and ecosystems are basic human needs and must be protected at all costs.



AMERICANS FOR DEMOCRATIC ACTION

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Bill South
Zahava Zaidoff

P.O. Box 23404
Honolulu
Hawaii 96823

February 9, 2022

TO: Chair Gabbard and Members of the AEN Committee

RE: SB 2962 PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO RECOGNIZE AND PROTECT THE INHERENT AND INALIENABLE RIGHT OF ALL PEOPLE TO CLEAN WATER AND AIR AND HEALTHY ECOSYSTEMS, INCLUDING CLIMATE, AND TO THE PRESERVATION OF THE NATURAL, CULTURAL, SCENIC, AND HEALTHFUL QUALITIES OF THE ENVIRONMENT.

Support for hearing on February 11

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

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

Thank you for your favorable consideration.

Sincerely,

John Bickel, President

SB-2962

Submitted on: 2/9/2022 1:18:33 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
James R. Doyle	Individual	Support	No

Comments:

I strongly support bill SB2962 and ask you to please support it, for the future of our environment and to protect the very special home we all share. To many private interests are opposed to this legislation in order to protect their own interests, and not those of us who live here, and need our clean water, protected land, and the oceans that we all depend on. Thank you for your consideration.

SB-2962

Submitted on: 2/9/2022 3:31:23 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

I STRONGLY support the passage of SB2962. Hawaii is in the unique position of having no backup plan if our water becomes poisoned. We cannot import or divert water from another state. We are all living together in a relatively small space of land. We have nowhere to go if our land becomes poisoned or if our air becomes unbreathable because the winds have died down due to climate change. We must protect this small, unique, breathtakingly beautiful place we call home at all costs. Please don't listen to the scare tactics of special interests. It's time for our leaders to be bold and forge into the future with a clear vision of a clean and healthy environment for us all to live in. There is no doubt that beauty and a healthy environment are good for the bottom line. We will make more money as a state if we take care of the aina. Please pass this critical bill.

SB-2962

Submitted on: 2/9/2022 3:35:10 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
ANDREW ISODA	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 proposes a Hawaii constitutional amendment. The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction.

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

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

- Our current Constitution does not do enough to recognize the importance of a healthful environment and Hawaii's natural resources. Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.

SB-2962

Submitted on: 2/9/2022 6:53:13 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Aloha AEN Committee

I am in strong support of the Green Amendment. Hawaii has accepted the challenge of trying to embrace Sustainability. This green amendment will help in achieving our sustainable goals. I agree that rights to environmental protection should be raised to be on par with other fundamental rights such as speech and religious freedoms.

Mahalo,

TlalocTokuda

Kailua Kona HI 96740



Senate Committee on Agriculture & Environment

Friday, February 11th, 2022, 1:30p.m. Conference Room 224

Hawai'i Alliance for Progressive Action Supports: SB2962

Aloha Chair Gabbard, Vice Chair Nishihara and Members of the Committees,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting testimony in **support of SB2962**.

SB2962 proposes a constitutional amendment that recognizes and protects, for present and future generations, the inherent and inalienable right of all people to clean water and air and healthy ecosystems, including climate, and to the preservation of the natural, cultural, scenic, and healthful qualities of the environment. Provides that the State and its subdivisions shall protect and shall not infringe upon these rights.

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

The goal of the measure is to secure for all people the Constitutional recognition and protection of their inalienable rights to pure water, clean air, and healthy ecosystems including climate.

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

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

Please pass SB2962. Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Anne Frederick', is positioned above the typed name.

Anne Frederick
Executive Director

SB-2962

Submitted on: 2/9/2022 8:50:33 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ruby Pap	Individual	Support	No

Comments:

I strongly support a constitutional amendment, to be placed on the ballot, recognizing the right of all Hawai`i citizens to a healthy and clean environment. This amendment will ensure that environmental laws are enforced and provide a foundation for a clean and healthy future for our keiki. Mahalo!

SB-2962

Submitted on: 2/9/2022 9:04:08 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sara DiGrazia	Individual	Support	No

Comments:

Aloha,

I strongly support this bill. It is beyond time that this State, and every State and Country in the world make it an absolute priority to secure a livable planet for this and future generations. It is time for big action which requires of us the kind of courage and forward thinking that is reflected in this bill.

Thank you for hearing my testimony,

Sara DiGrazia, Psy.D.

SB-2962

Submitted on: 2/9/2022 9:07:16 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Senators,

I strongly support SB2962

This bill is the foundation of all environmental and climate concerns. We all know that a foundation has to be strong. Senators, you have within your reach the ability to show the people of Hawaii that you recognize the importance of a healthful environment and Hawaii's natural resources by voting to strengthen our constitution. Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.

The aina is and always will be a top priority in the Hawaiian culture, as well as, to all of the people of Hawaii. The land, the fresh water, the ocean environment, the air we breathe, and the many ecosystems that exist here need support. It is true that we need strong protection now more than ever before. We must strongly act to secure hope for our people and future generations.

Certainly, you will not turn your back on the Planet and the sacred Hawaiian Island chain. We have so many challenges out here in the Pacific. It is up to us to make ourselves stronger. We humbly ask our legislators to do the right thing. We need your help to pass the Green Amendment

Please support SB2962

Mahalo,

Noreen Dougherty



Environmental Caucus of The Democratic Party of Hawai'i

Friday, February 11, 2022

To: The Honorable Mike Gabbard , Chair
The Honorable Clarence K. Nishihara, Vice Chair
Senate Committee on Agriculture and Environment

Re: **SB 2962 – 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: Friday, February 11, 2022, 1:30 p.m., Conference Rm 224 & Videoconference
Position: **Strong support**

Aloha, Chair Gabbard, Vice Chair Nishihara, and Members of the Committee on Agriculture and Environment:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SB 2962. This measure would 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. It also provides that the State and its subdivisions shall protect and shall not infringe upon these rights.

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 the human health, cultural, and natural values of the environment that are essential to support Hawaiian life.

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

Melodie Atejia

Alan Burdick

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

Email: legislativepriorities@gmail.com

SB-2962

Submitted on: 2/10/2022 12:02:10 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

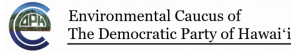
Comments:

Strongly support and encourage adoption of a revised version, proposed SD1.

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

Please support this bill.

Mahalo for your consideration.



February 10, 2022

Members of the Senate Committee on Agriculture and Environment,

We are writing in support of Senate bill SB2962, the proposal to add environmental rights to the Bill of Rights of the Hawaii Constitution. We are in strong support of this proposal to protect the inherent and inalienable right of all people to clean water and air and healthy ecosystems.

The proposed Bill of Rights amendment proposed by SB2962 will raise up our environmental rights so they become part of the guiding obligations and principles for all government action and legislation here in Hawaii. Adding environmental rights to our Hawaii Bill of Rights will ensure that environmental protection and environmental justice are given high priority and that there is a focus on preventing environmental pollution and degradation throughout government decisionmaking when there is the best opportunity for preventing harm. While Hawaii's Constitution Article XI Section 9 recognizes the right of each person to "a clean and healthful environment," it leaves those rights to be defined by law, which is a fundamentally different approach than that being taken by SB2962 wherein environmental rights are placed on par with other fundamental rights we hold dear.

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

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

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

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

Thank you for the opportunity to comment.

Mahalo,

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

Sherry Pollack, Co-Founder, 350Hawaii

Dave Mulinix, Co-Founder, Our Revolution Hawaii

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

Cara Oba, Climate Protectors Coalition Hawaii

Lauren Blickley, Hawaii Regional Manager, Surfrider Foundation

Maxx Phillips, Hawaii Director, The Center for Biological Diversity

Maya van Rossum, Founder, Green Amendments for the Generations



February 10, 2022

Members of the Committee on Agriculture and Environment,

I would like to comment regarding SB2962, i.e. the proposal to add environmental rights to the Bill of Rights of the Hawaii Constitution.

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

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

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

While Hawaii has in place important environmental protections in its constitution as recognized and applied by the courts, the proposed environmental rights amendment will help strengthen the goal of enforceable environmental rights. Article XI, Section 1 establishes the state of Hawaii to be a trustee of the natural resources of the state to be protected for present and future generations. The courts have effectively interpreted this trustee obligation as providing important substantive and procedural protections. Article XI, Section 9 is significantly different. The provision promises that “Each person has the right to a clean and healthful environment as defined by laws relating to environmental quality.” While the courts have recognized that this provision gives the people the right to enforce environmental laws in court, the substantive right under this provision remains unclear.

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. 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 compliment 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.

I thank you for the opportunity to comment.

With respect, regards and appreciation,

A handwritten signature in blue ink that reads "Maya K. van Rossum". The signature is written in a cursive style with a horizontal line extending to the right.

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

SB-2962

Submitted on: 2/10/2022 7:53:49 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

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

Tawn Keeney MD

SB-2962

Submitted on: 2/10/2022 8:09:18 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

To: The Honorable Michael Gabbard, Chair, the Honorable Clarence Nishihara, Vice Chair, and Members of the Senate Committee on Agriculture and Environment

From: Tapani Vuori

Re: Hearing **SB2962**, 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: Friday, February 11, 2022, 1:30 p.m., by videoconference

Aloha Chair Gabbard, Vice Chair Nishihara, and members of the Senate Committee on Agriculture and Environment:

I STRONGLY SUPPORT SB2962, but propose the language to reflect the below sentence.

“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.”

Thank you.

Aloha,

Tapani Vuori

SB-2962

Submitted on: 2/10/2022 8:42:02 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

I humbly ask for you support of SB2962, Green Amendment.

Thank you,

Melissa Barker

Kapaa, Kauai



To: The Senate Committee on Agriculture and Environment
From: Sherry Pollack, Co-Founder, 350Hawaii.org
Date: Friday, February 11, 2022, 1:30 pm

In strong support of SB2962

Aloha Chair Gabbard, Vice Chair Nishihara, and Committee members of AEN;

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 but proposes amendments that are appended in a proposed draft SD1.**

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

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

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

350Hawaii respectfully requests the Committees revise the wording of the proposed Green Amendment. These changes clarify the meaning and simplify the language. It is important to recognize the rights as “fundamental” to include future generations, to correct language around climate, and to clarify “healthy native ecosystems,” and add beaches. These changes are captured in the draft proposed bill SD1 appended to this testimony. The amendment would now read:

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

Here is a proposed draft SD1 bill thanks to Senator Gabbard:

THE SENATE THIRTY-FIRST LEGISLATURE, 2022 S.B. NO.2962
STATE OF HAWAII PROPOSED SD1

A BILL FOR AN ACT

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

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

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

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

“ENVIRONMENTAL RIGHTS

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

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

SECTION 4. New constitutional material is underscored.

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

INTRODUCED BY: _____

Report Title: Constitutional Amendment; Green Amendment; Environmental Rights

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

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

Opponents of this measure have cited a concern that it will create increased litigation and that “administrative agencies are already swamped by contested cases.” Green Amendments do not support frivolous litigation. 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. And we have to ask, why are government agencies swamped now with contested cases? 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. **We all need clean water, clean air, a healthful environment and climate.** 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

Submitted on: 2/10/2022 11:46:54 AM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Meredith Buck	Individual	Support	No

Comments:

I submit my testimony in enthusiastic support of SB2962, also known as the Green Amendment, which 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.

We have already seen time and again the dire consequences that occur when environmental rights are not considered in development plans and other ventures. As if we need to see again, we need only look to the current situation at Red Hill, or the health impacts on children where big agribusiness has tested pesticides next to their schools, or to the ways that shoreline development has demolished food security for Kānaka Maoli. We can also look to irreversible climate change, to unprecedented species loss, to soil degradation and polluted waterways and the ongoing displacement of Indigenous and Aboriginal people. The instances seem to be endless, and at this point they are embedded in our daily lives in all directions.

I am a 5th generation descendant of Portuguese plantation workers in Kona, but I grew up outside of DC where my dad's side is from. Growing up I remember the sense of deep disappointment and betrayal that I felt, knowing that previous generations failed to protect the forests, streams, valleys, and meadows of our area. I remember being 9 years old and wondering why all the adults spoke with urgency about saving endangered species, yet actively destroyed the habitats of those very species. It wasn't until later that I learned ecosystems were not often accounted for because environmental language didn't exist in legal language and therefore could not be recognized or protected. Now as an adult, I look for what I can do to ensure that my future grandchildren and great-great-grandchildren do not know that disappointment and that betrayal I came to know all too well. Supporting SB2962 is a small but important step toward that reality.

Please pass SB2962 in protection of all our rights to a clean, safe, and livable environment here in Hawai'i nei for many generations to come.

SB-2962

Submitted on: 2/10/2022 12:18:30 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.

SB-2962

Submitted on: 2/10/2022 1:04:03 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Please support a Green Amendment to the Hawaii State Constitution.

It is very important to ensure that our citizens have a Right to clean water for drinking and clean air for breathing. We have many regulations to help protect our human health and environment, but we don't actually have a legal Right to these key aspects of living a healthy life.

How can we expect our citizens to live healthy and productive lives, if their health is poor?

We have recently had a perfect example of how laws, regulations, "Best-Engineering solutions available" and good intent, still don't protect the main source of drinking water on O'ahu.

By having a Right to clean water and clean air, among many other components of this Green Amendment, we can work from a solid framework for meeting our community's need for clean water and clean air.

Mahalo for considering my comments.

SB-2962

Submitted on: 2/10/2022 1:11:19 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Dear Chair AEN Committee and Members,

I, Diane Ware, 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.

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

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

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

Our current Constitution does not do enough to recognize the importance of a healthful environment and Hawaii's natural resources. Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.


SB2962 proposes a Hawaii constitutional amendment. The Green Amendment will serve to strengthen the environmental protections currently recognized in our Hawaii Constitution. This is needed now more than ever in these times where ecosystems and our climate are facing destruction.

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

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

Our current Constitution does not do enough to recognize the importance of a healthful environment and Hawaii's natural resources. Having the Green Amendment would support and secure better government decision-making that avoids environmental pollution and degradation.

Our actions to mitigate climate disasters must be Bold. I urge you to pass this bill and get to work on specific actions to reverse climate change and GHG emissions.

 Mahalo nui,

Diane Ware

99-7815 KapohaPl.

Volcano HI 96785

SB-2962

Submitted on: 2/10/2022 1:15:53 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Aloha,

Thank you for your attention to this important cause. I am in support of SB2962 because a clean, healthy enviroment is necessary for our species to thrive & live a long life. We must care for our planet and do everything in our power to use resources sustainably.

Mahalo,

Kelly Rice

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair
Committee on Agriculture and Environment

Michaella Villanueva, High School Senior at 'Aiea High School, 'Aiea, O'ahu, HI

Thursday, February 10, 2022

Support for S.B. No. 2962, relating to The Green Amendment

I am testifying in support of S.B No. 2962, which amends the state constitution to recognize the inherent right of all people to clean water, air, and healthy ecosystems. When I moved to O'ahu about 4 years ago I remember being amazed with how progressive the laws and culture here were around environmental protection. There was the 2045 goal to be completely carbon neutral, there was the Bill 40 plastic ban, and there was the ubiquitous "mālama 'āina." To me, Hawai'i was the prime example of a state taking action against the threat of climate change.

The Green Amendment would advance our climate action plan by elevating our basic right to a clean environment and allowing us to act upon it. It is frustrating to be a young person and to be handed all the responsibility of tackling climate change without the foundation to make these great changes. The Green Amendment itself doesn't take direct action towards climate change, but this generation needs the Green Amendment to push forward with equitable climate action.

My generation and all the generations to come deserve to have their right to clean water, air, and ecosystem to be protected by law for their health and for our future. I urge the committee to pass S.B. No. 2962. Thank you for this opportunity to testify.

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

February 9, 2022

TO: Committee on Agriculture and Environment
Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

FROM: Kelly Takaya King, Maui County Councilmember

HEARING: February 11, 2022 at 1:30 p.m., Senate Conference Room 224 &
Videoconference

SUBJECT: **Testimony on SB2962 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 Chair Gabbard, Vice Chair Nishihara and Committee Members,

Thank you for the opportunity to testify in support of this important measure, SB2962. As a member of the Maui County Council and the Chair of the Climate Action, Resilience and Environment Committee, Vice Chair of the Hawaii State Association of Counties, a member of the Local Government Advisory Committee to the United States Environmental Protection Agency, and a member of ICLEI and as a recent delegate to COP26, I work on the county, state, national and international levels to combat climate change and to protect the environment. I am haunted by the dire threats facing our communities,

February 9, 2022
Page 2

environment, and planet and the need for increasingly drastic action to protect them.

Passing SB2962 would allow the people of Hawaii to vote to amend Article I of the Hawaii State Constitution to recognize their inherent and inalienable right to clean water, clean air and healthy ecosystems, including climate, plants, animals, and soil, and to preserve our natural, cultural, scenic and healthy environment. These elements are the fundamental necessities of human existence.

Environmental justice would be served, as people would be empowered to enforce 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. The goal of Green Amendments for the Generations, a nonprofit working on this issue, is to pass green amendments in all 50 states and at the federal level.

Hawaii is famous for and uniquely dependent on our precious environmental beauty, and we should continue to be leaders in environmental protection. I urge you to pass SB2962 and allow Hawaii voters the opportunity to vote on the constitutional amendment.

Mahalo nui loa,



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

SB-2962

Submitted on: 2/10/2022 10:18:50 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kenani Gramberg	Testifying for Waimanalo Neighborhood Board	Support	No

Comments:

I support this bill for our natural resources deserves protection!

SB-2962

Submitted on: 2/10/2022 6:35:28 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

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

Comments:

Support