



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 0502, PROPOSING 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.

BEFORE THE:

SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

DATE: Wednesday, February 03, 2021 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Via Videoconference

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

Chair Gabbard and Members of the Committee:

The Department of the Attorney General provides the following comments.

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 “[e]ach person has a right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.”

The amendment proposed by this bill appears to be unnecessary as the Constitution of the State of Hawaii already recognizes the importance of a clean and healthy environment. 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.”).

While access to a clean and healthy environment, pure water, clean air and healthy ecosystems are indisputably important goals that the State should aspire to, unlike Article XI, Section 9, the amendment proposed by this bill provides that it is “self executing,” which means it does not require implementing legislation. Without any

additional legislation that sets standards or requirements for a clean and healthy environment, the amendment proposed by this bill is too general and ambiguous to be implemented and enforced.

Further, the elevation of these goals to the level of inalienable rights under the State Constitution may have unintended consequences that will lead to increased litigation against the State to enforce these constitutional rights.

Thank you for the opportunity to testify on this bill.



P.O. Box 37158, Honolulu, Hawai'i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Clarence K. Nishihara, Vice Chair

DATE: Wednesday, February 3, 2021

TIME: 1:00 p.m.

PLACE: Via Videoconference

SB 502 PROPOSING A CONSTITUTIONAL AMENDMENT

SUPPORT

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

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for 51 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

The proposed constitutional amendment along with the existing constitutional amendment (Article XI, Section 9) would firmly enshrine in the State Constitution the right to a clean and healthy environment.

Mahalo

Henry Curtis

Executive Director

SB-502

Submitted on: 1/31/2021 8:48:12 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Mulinix	Testifying for Our Revolution Hawaii	Support	No

Comments:

Aloha Kakou,

On behalf of Our Revolution Hawaii's 7,000 members and supporters statewide, we are fully in support of this legislation.

Dave Mulinix, Organizer

Our Revolution Hawaii



SB 502, PROPOSING 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

FEBRUARY 3, 2021 · SENATE AGRICULTURE AND ENVIRONMENT COMMITTEE · CHAIR SEN. MIKE GABBARD

POSITION: Support.

RATIONALE: Imua Alliance supports SB 502, proposing an amendment to Article I of the Constitution of the State of Hawai'i to guarantee all individuals the right to have a clean and healthy environment.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding.

Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring, like seawalls.

Furthermore, according to research conducted by Michael B. Gerrard from Columbia Law School, modern-day slavery tends to increase after natural disasters or conflicts where large numbers of

people are displaced from their homes. In the decades to come, says Gerrard, **climate change will very likely lead to a significant increase in the number of people who are displaced and, thus vulnerable, to human trafficking.** While the Paris Climate Agreement of 2015 established objectives to limit global temperature increases and several international agreements are aimed at combating modern-day slavery, it is highly uncertain whether they will be adequate to cope with the scale of the problem that is likely to occur as a result of climate change.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life. In turn, we must take steps to ensure access to a clean and healthy environment as the worst effects of climate change approach our shores.

Rights of nature laws, including so-called “Green Amendments,” have been enacted in the United States and throughout the world as a means of protecting important ecological and cultural resources. In 2006 and 2007, the town of Tamaqua Borough in Pennsylvania established the first environmental personhood ordinances in the nation, which were intended to combat toxic waste. Since then, other locations have enacted or proposed rights of nature measures, including in 2010 Pittsburgh, Pennsylvania, and in 2020 Orange County, Florida.

Perhaps the most well-known international example of rights of nature legislation is the Te Awa Tupua (Whanganui River Claims Settlement) Act of 2017 enacted by the New Zealand parliament, which was the first piece of legislation to declare a river to be a legal person. The Te Awa Tupua Act bestowed upon the Whanganui River the rights, duties, and powers of a legal person, including the ability to sue those who harm it. Moreover, the Te Awa Tupua Act was aimed at improving the relationship between the government of New Zealand and its indigenous people through the enshrinement of the rights of nature associated with the culturally significant Whanganui River into law.

Our state should likewise take steps to preserve access to a clean and healthy environment. From the military's fuel tanks beneath Red Hill to the pesticides unleashed by agrochemical companies on local farmland, our 'āina has been subjected to degradation by those who put corporate profits before public health. Yet, public health should be treated as a sacrosanct fundamental right of Hawai'i's people, who should have the power to take legal action when the precious environment upon which we depend is endangered, thereby undermining the sustainability of our island home. For the sake of our keiki, we cannot afford to wait to solidify strategies to preserve our environmental resources for generations to come.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

SB-502

Submitted on: 2/1/2021 12:35:08 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
laurel brier	Testifying for Kauai Climate Action Coalition	Support	No

Comments:

Let's make Hawaii a leader in addressing the Climate Crisis. Let's make the intentions of our State Constitution loud and clear. Let's make it a Constitution that not only protects our natural beauty and resources but guarantees the right to a clean and healthy environment and stable climate for all its residents. And make that the guiding principle for all future legislation.

Mahalo nui loa



1/29/2021

Agriculture and Environment Committee
Hawai'i State Capitol
Honolulu, Hawai'i 96813

Dear Chair Gabbard, Vice-Chair Nishihara, and Members of the Agriculture and Environment Committee,

The Surfrider Foundation would like to offer this testimony in support of SB502.

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 an amendment to the Hawai'i 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 Hawai'i 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 Hawai'i Constitution that mandates that the State hold public natural resources in trust for the benefit of all people.

Hawai'i 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 be a huge step forward in Hawai'i'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 SB 502, submitted on the behalf of the Surfrider Foundation's 4 Chapters in Hawai'i and all of our members who live in the state and visit to enjoy the many coastal recreational opportunities offered by all of the islands' coastlines.

Sincerely,

Kaitlyn Jacobs
Volunteer Policy Coordinator
Surfrider Foundation, O'ahu Chapter



To: The Senate Committee on Agriculture and Environment
From: Sherry Pollack, Co-Founder, 350Hawaii.org
Date: Wednesday, February 3, 2021, 1:00 pm

In strong support of SB502

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's 6,000 members **strongly support SB502.**

This Bill proposes a constitutional amendment which guarantees individuals the right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. 350Hawaii welcomes the inclusion of healthy ecosystems and a stable climate to existing enforceable Hawaii constitutional rights.

Environmental threats are growing worse and we are facing a climate crisis. Because a stable climate and healthy environments 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. 350Hawaii believes strongly that our constitution should recognize and protect the rights of all people, including future generations, to a stable climate, and a healthy environment. **We therefore suggest an amendment to add verbiage to this legislation that specifically mandates protecting the environment for both present *and* future generations.**

The sooner the rights to a stable climate and a healthy environment 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



SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Clarence N. Nishihara, Vice Chair

Date: Wednesday, February 3, 2021 Time 1:00 p.m. Place: Via Videoconference

Testimony of Kūpuna for the Mo'opuna

SB 502 - PROPOSING 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.

STRONG SUPPORT

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

We, Kūpuna for the Mo'opuna, a group of kūpuna Hawaiian homestead farmers committed to the well-being of Hawai'i for the next generations to come, **are in strong support of SB 502.**

SB 502 seeks a constitutional amendment that will guarantee all individuals the right to have a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate. It also guarantees the preservation of the natural, cultural, scenic, and healthful qualities of Hawai'i's special and limited environment. SB 502 embodies the spirit of our state motto, *ua mau ke ea o ka 'āina i ka pono*, and ensures a safe, clean, and pono Hawai'i for us now and for the next generations to come.

We urge this Committee to PASS SB 502. Mahalo.

Ua mau ke ea o ka 'āina i ka pono!

SB-502

Submitted on: 2/2/2021 10:47:27 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	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: Hawaii Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing SB 502–PROPOSING 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.

Wednesday February 3, 2021, 1:00 p.m., by videoconference

Position: **Strongly Support SB502**, but suggest an amendment of one portion.

The HAWAI'I REEF AND OCEAN COALITION – HIROC – was formed in 2017 by coral reef scientists, educators, local Hawaii environmental organizations, elected officials, and others to address the crisis facing Hawaii's coral reefs and other marine life. Coral reefs are already being severely harmed by ocean waters that are warming and becoming more acidic as a result of greenhouse gas emissions worldwide. Coral reefs are also being harmed in Hawaii by sediment and nutrient runoff from the land, by overfishing, especially of herbivores, and sunscreen chemicals.

This Bill proposes a constitutional amendment which guarantees individuals the right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. HIROC applauds the inclusion of healthy ecosystems and a stable climate in particular in the rights that would be guaranteed in this amendment, if adopted, as they would directly affect the public interest in the health of coral reefs and other aquatic life. HIROC was formed out of concern for this overlooked (and typically degraded) public interest.

Environmental threats are growing worse and we are facing an existential climate crisis and rapid declines in aquatic life. Because a stable climate and healthy environments are not recognized and protected as inalienable rights and given constitutional

recognition and protection, protecting these basic needs becomes an afterthought in government decision making, and sometimes is not considered at all. This bill could begin to rectify that deficiency. The sooner the rights to a stable climate and healthy ecosystems are recognized, the better off the future will be for our children, oceans, coral reefs and other marine life.

HIROC does suggest one amendment to the bill as drafted. At the end of Section 2 it says: "The reserved rights stated herein are on par with other protected inherent and inalienable rights **and may not be diminished through the interpretation or implementation of Article XI, Section 9.**" The bolded language should be deleted; it is unnecessary and could be a distraction from what, even without the language, would still be a very significant amendment for the environment and the people of Hawaii.

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

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



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 2, 2021

The Honorable Senator Mike Gabbard
The Honorable Senator Clarence Nishihara
Members of the Senate Committee on
Agriculture and Environment

RE: **SB 502- Proposing Amendment to Article I of the Constitution to Guarantee All Individuals the Right to Have a Clean and Healthy Environment**
Hearing date: Wednesday, February 3, 2021 at 1:00PM

Aloha Chair Gabbard, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii to provide **COMMENTS** on SB 502. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals. NAIOP Hawaii strongly supports the development of housing for Hawaii residents at all levels of income, especially affordable housing projects.

SB 502 proposes a constitutional amendment to guarantee all individuals the right to have a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. The newly established right would be self-executing and may not be diminished through the interpretation and implementation of Article XI, Section 9.

NAIOP respects and encourages the efforts of the legislature to assure a clean and healthy environment for all. However, the language in SB 502 bestowing this individual right is so broad and ambiguous and could have very dire unintended consequences like shutting down tourism and all other parts of Hawaii's economy. Therefore, we encourage the legislature to carefully study the benefits and pitfalls of expanding the constitution in this manner before passing such as measure. The study should include a detailed and date driven cost-benefit analysis prepared by a financial auditor to determine the impacts of such a broad amendment.

Mahalo for your consideration,

Catherine Camp, President
NAIOP Hawaii

SB-502

Submitted on: 2/2/2021 12:50:41 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maxx Phillips	Testifying for Center for Biological Diversity	Oppose	No

Comments:

The Center for Biological Diversity submits this testimony in opposition to SB502

SB-502

Submitted on: 1/31/2021 7:47:40 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

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

Comments:

On behalf of our family and the families of the more than 40 individuals who work at Skyline Hawai'i, we strongly support SB502, and urge that you pass the bill.

While the Constitution currently mandates a trust obligation of the State to protect Hawaii's natural beauty and all natural resources, I support an amendment to the State's Bill of Rights that goes further and guarantees an individual's right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.

Thank you for supporting this bill and recognizing the importance of our environment and unique Hawaiian ecosystems - and each person's right to enjoy safe, healthy and clean air and water by passing this bill.

Aloha,

Daniel Boren

SB-502

Submitted on: 1/31/2021 8:57:54 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacy K. Tang	Individual	Support	No

Comments:

We've reached the point in our Capitalism driven society, where **WE THE PEOPLE**, need to be protected from, **we the corporations**.

IT'S TIME TO PUT PEOPLE, FIRST.

We protect our state's natural beauty and natural resources, but how about an amendment to the State's Bill Of Rights, that goes further? I support guarantees for an individual's right, to a clean and healthy environment. Pure water, clean air, healthy ecosystems, while preserving the natural, cultural, scenic and healthful qualities of the environment. This can only lead to a climate stable environment for everyone.

SB-502

Submitted on: 1/31/2021 9:26:21 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

I'm writing in support of SB 502. While the Constitution currently mandates a trust obligation of the State to protect Hawaii's natural beauty and all natural resources, I support an amendment to the State's Bill of Rights that goes further and guarantees an individual's right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.

Please support.

me ke aloha 'Ä• ina,

Nanea Lo

SB-502

Submitted on: 1/31/2021 9:36:58 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
P Noel Bobilin	Individual	Support	No

Comments:

Aloha, I am writing in support of SB502. It is the right of every individual to have a clean and healthy environment, including pure water, clear air, healthy ecosystems, and a stable climate, and the preservation of natural, cultural, Scenic, and healthful qualities of the environment.

Mahalo

PN Bobilin, Fern Forest, Hawaii

SB-502

Submitted on: 1/31/2021 12:40:07 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Gray	Individual	Support	No

Comments:

It is very important that our state needs to step up and make our own laws about our own islands. The federal gov. under Pres. Trump made war on all of our federal protections. It should be clear to everyone that our ability to protect our water, air and land from greedy corporate polluters is in danger every 4 years. We need to protect ourselves

now. Mahalo,
Laura Gray R.N.

SB-502

Submitted on: 1/31/2021 2:50:02 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Hixon	Individual	Support	No

Comments:

Aloha-- While our Constitution currently mandates a trust obligation of the State to protect Hawaii's natural beauty and all natural resources, I support an amendment to the State's Bill of Rights that goes further and guarantees an individual's right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. Mahalo.

SB-502

Submitted on: 2/1/2021 6:44:35 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Camp	Individual	Support	No

Comments:

I support SB502. I support an amendment to the State's Bill of Rights that goes further and guarantees an individual's right to a clean and healthy environment

SB-502

Submitted on: 2/1/2021 3:58:04 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sara DiGrazia	Individual	Support	No

Comments:

Dear Senators,

I am a mother of two children who wishes to do everything in my power to leave them a liveable planet. Please do what you can and support this bill.

With Gratitude,

Sara DiGrazia, Psy.D.

SB-502

Submitted on: 2/1/2021 4:03:51 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Taylor Roberts	Individual	Support	No

Comments:

Dear Senators,

Please support this bill along with the health of our citizens!

-Taylor Roberts

Chair Mike Gabbard
Vice Chair Clarence Nishihara

Senate Committee on Agriculture & Environment

Wednesday, February 3, 2021
1:00PM

**TESTIMONY IN SUPPORT OF SB502 PROPOSING 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**

Aloha Chair Gabbard, Vice Chair Nishihara, Members of the Senate Committee on Agriculture & Environment,

My name is Jun Shin, I am a Junior at the University of Hawai'i at Mānoa and currently serve as an at-large board member for the Young Progressives Demanding Action. I am testifying today as an individual in **SUPPORT** of **SB502**.

Given how crucial water, air, and the rest of our ecosystem is to our basic survival, I think it's really worth elevating a right to a clean and healthy environment into our Bill of Rights, joining other critical rights that we have enshrined in our Constitution. This will ensure that environmental concerns have an elevated place around policy discussions that deal with energy, land use, water rights, development, etc. It will also give marginalized communities an important constitutional tool to challenge harmful laws and other environmental injustices happening in their backyard.

I am in **SUPPORT** of **SB502** and ask that you vote to pass this bill out of your committee.

Mahalo for the opportunity to testify,

Jun Shin,
1561 Kanunu Street
Honolulu, HI 96814
Cell: 808-255-6663
Email: junshinbusiness729@gmail.com

SB-502

Submitted on: 2/1/2021 8:55:59 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan A Sparks	Individual	Support	No

Comments:

Due to the various political influences, it is sometimes difficult to do the right thing. While the Constitution currently mandates a trust obligation of the State to protect Hawaii's natural beauty and all natural resources, I support an amendment to the State's Bill of Rights that goes further and guarantees an individual's right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.

Mahalo.

Nathan Sparks

SB-502

Submitted on: 2/1/2021 9:20:18 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Koohan Paik	Individual	Support	No

Comments:

Please support this important bill.

SB-502

Submitted on: 2/1/2021 10:24:34 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Natalie Wohner	Individual	Support	No

Comments:

I am in strong support of SB502. It is our kuleana to protect this environment and the health of all future generations. Mahalo for your time.

SB-502

Submitted on: 2/1/2021 10:44:35 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

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

Please support SB502.

I support an amendment to the State's Bill of Rights that guarantees an individual's right to a clean and healthy environment, including pure water, clean air, healthy ecosystems and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.

Mahalo,

Caroline Kunitake

SB-502

Submitted on: 2/1/2021 11:02:24 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Kawamoto	Individual	Support	No

Comments:

I support SB 502, which proposes to amend the State Constitution by strengthening existing environmental protections that were adopted more than 40 years ago.

In 1978, Hawaii took the visionary step of amending the State Constitution to entrust to the Legislature the obligation to pass enforceable environmental laws, thereby affirming the legislative approach to environmental protection.

Since then, climate change has been accelerating, and environmental concerns have grown. The burning of fossil fuel, which puts greenhouse gases in the atmosphere, has been slowed only because of Covid-19. As the global economy begins to improve, fossil fuel use will increase unless we do much more to reduce its consumption. Climate change has already caused plant and animal species to become extinct, and now it is threatening the human species. Hawaii must do its part to control climate change.

SB 502 proposes to take the existing Constitutional environmental protections a step further. This bill recognizes the individual right to pure water, clean air, healthy ecosystems, a stable climate, and the natural, cultural, scenic, and healthful qualities of the environment. Government action must ensure that this right is honored.

This individual right would be an enforceable right, on par with other individual rights such as the right to free speech, due process, and religious freedom. Just as laws have been passed to ensure these existing rights, stronger laws will be passed to ensure the right to a clean environment.

For the foregoing reasons, I support SB 502.

SB-502

Submitted on: 2/1/2021 11:48:07 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

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

Comments:

I am writing in support of Bill **SB502**. As a scientist, surfer, and resident of Oahu, I feel that a clean environment is a right for all people and animals. Please vote for legislation that prioritizes human and animal health instead of the interests of corporations and their lobbyists. The people of Hawaii have spoken out many times- clean air and water are required for us to thrive. Chemical industry waste and their discarded products are not. Thank you. -Daniel Amato

SB-502

Submitted on: 2/2/2021 8:44:06 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Benyshek	Individual	Support	No

Comments:

Aloha, I am writing to express my strong SUPPORT for Bill SB502, which would add a green amendment to the Constitution of Hawaii ensuring clean air, water, and land, a fundamental right for all people. This bill directly targets Hawaii's injustice, because environmental quality is often lacking in lower income communities. Thank you for your time and consideration.

SB-502

Submitted on: 2/2/2021 7:12:16 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Travis Idol	Individual	Support	No

Comments:

I support this legislation because it clarifies a basic and inalienable right that we as citizens have to a livable and protected environment, including our cultural heritage. This right needs to be a foundational one that can be used as a basic criterion to evaluate other laws, policies, and management decisions. It does not mean that we cannot change and adapt to other needs and circumstances, but it does mean we have to consider the effects on this fundamental right and uphold and promote it as much as possible. This right also aligns with a strong Hawaiian cultural value, kuleana, that expresses our responsibilities to each other and to the world we live in. Our deep and familial connection to the natural world and each other is also a core Hawaiian value. This law will help us reconnect to our cultural roots as well as ensure a more livable and thriving future. I urge you to support this bill, as well.

SB-502

Submitted on: 2/3/2021 1:57:41 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Pappas	Individual	Support	No

Comments:

Dear Legislators,

Each person has a right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate; and to the preservation of the natural, cultural, scenic and healthful qualities of the environment. This is what we must strive for, and we must start now. Please pass Bill SB502.

Grammatical remark: I think there should be a semi-colon after the word "climate" in the wording of the resolution.

Thank you,

Jan Pappas

Aiea, Hawaii

SB-502

Submitted on: 2/3/2021 8:36:41 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Individual	Support	No

Comments:

Mahalo for considering this important measure.

LATE

SB-502

Submitted on: 2/3/2021 10:14:09 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
noel kent	Individual	Support	No

Comments:

SB502 provides a needed framework for guaranteeing the kind of livable Hawai'i which we all want for those who come after us. It sets out the rights our citizens have to a decent, livable ecosystem and the obligations our government has to ensure it protects that ecosystem. This is invaluable.

Please pass this legislation. Mahalo Noel Kent

LATE

SB-502

Submitted on: 2/3/2021 10:30:20 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Dinner	Individual	Support	No

Comments:

This is a basic right of all people which should not require a law, but in these times of corporate and military power, does.

LATE

SB-502

Submitted on: 2/3/2021 10:45:10 AM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Leveen	Individual	Support	No

Comments:

Yes I absolutely support this bill.

LATE

SB-502

Submitted on: 2/3/2021 12:32:19 PM

Testimony for AEN on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Diaz	Individual	Support	No

Comments:

RE: [SB502](#): Proposing a Constitutional Ammendment to Article I of the Hawaii State Constitution

I STRONGLY SUPPORT SB502:

SB 502 PROPOSING 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.

Lisa Diaz

76-223 Haoa st

Kailua Kona, HI 96740



LATE

February 3, 2021

Member of the Committee on Agriculture and Environment,

I would like to offer testimony regarding SB502, 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 proposed by SB502 is an important addition to the Hawaii Constitution, providing a new and important tool for protecting the natural resources of the state and the ensuring the environmental rights of Hawaii's people are given the appropriate high level of recognition that is given to other fundamental rights like speech, religion, property, and civil rights.

While Hawaii has in place important environmental protections in its constitution as recognized and applied by the courts, SB502 will help fill an important gap that will 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. While the provision promises that "Each person has the right to a clean and healthful environment" that right is defined by the laws passed by state government. That dependence on legislation, and the failure to be self-executing by its terms provides significant limitations on the asserted right, can subject environmental rights to the politics of the day, and can deny critical protections in those areas where the law is not strong enough or there is a gap in legislative protection. By contrast, SB502 will put in place a self-executing right to a healthy environmental that belongs to all the people of Hawaii and will ensure that environmental rights are given the same strength and

constitutional standing as other fundamental rights such as private property rights; and the additional substantive and procedural protections discussed below will provide a more assured and robust set of protections that apply when and where the people need them.

Importantly, and to ensure that there is no confusion of interpretation and application, SB502 makes clear that Article XI, Section 9 and its language limiting environmental rights to only the environmental protections articulated in legislation cannot be used to transform the overarching and self-executing nature of the new Article 1 constitutional environmental rights language. SB502, as written, ensures environmental rights are on par with all other fundamental rights and that courts have the ability to ensure that the language of pure water, clean air, healthy ecosystems, stable climate, and “the preservation of the natural, cultural, scenic and healthful qualities of the environment” are informed by, but not shackled by legislative action if science, cumulative impacts, existing local conditions, and environmental justice concerns demonstrate that stronger protections are constitutionally warranted.

In addition to ensuring the right to pure water, clean air, healthy ecosystems and a stable climate, the proposed language gives specific voice to other important environmental values. Notably, the cultural environmental values of Hawaii’s indigenous communities receive explicit protection. This will be a powerful complement to Article XII, Section 7 of the Hawaii Constitution focused on preserving and protecting customary and traditional Native Hawaiian rights. The human health values of the environment are highlighted as critical for protection. And recognizing the natural and scenic values ensures that the natural beauty, the ecosystem support, the recreational and the quality-of-life values so important are also given a place in thoughtful decision-making.

Article I protection of environmental rights will require and strengthen important procedural and substantive environmental rights protections.

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

Article I placement will help ensure that in those instances when government does knowingly infringe on environmental rights there is a compelling state interest and there has been a conscious effort to minimize the impacts on the right, i.e., minimize environmental harm.

The compliment of individual rights with the existing recognized role of government as trustee will strengthen environmental justice protections, ensuring all government officials at every level of government are constitutionally required to treat all people and communities equitably, regardless of race, ethnicity, wealth and geography, and may not

consistently/repeatedly sacrifice the rights of one person or community for the benefit of others.

Placement in Article I ensures environmental rights are protected on par with other fundamental rights (e.g., speech, due process, property rights) and ensures fair balancing of rights when needed. For example, if both property and environmental rights might be affected by government action then both must be considered, balanced and protected by the final outcome. This on par balancing is not constitutionally assured by the current Article XI Section 9 language as it is not in the bill of rights.

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

The language in the proposed amendment is appropriately broad.

Broad language is characteristic of protected Article I rights. The terms ‘pure water’, ‘clean air’, ‘healthy ecosystems’, ‘stable climate’ are no less clear than the language in other Hawaii 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.

As with other language in the Bill of Rights, there is a well exercised and understood process for defining key terms as these:

- ⇒ definition will begin with the legislative and executive arms of government through passage of legislation, regulations, policies, and decision-making that respects and protects the rights.
- ⇒ It is then incumbent on the people and the courts to challenge and/or support such decisions through the judicial system, which will provide further refinement, guidance and understanding as to how these terms are to be applied and fulfilled.

Hawaii’s government officials, courts and justices are well-equipped to define, interpret and apply constitutional environmental rights language using standard principles of legislative interpretation, constitutional law and trust law.

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 two states where they currently exist, Pennsylvania and Montana.

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 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, soils, food, forests, wetlands, climate and other natural resources critical to sustaining healthy, safe and successful lives and economies.

In Pennsylvania and Montana, the two states that have already enshrined environmental rights in their state constitution bill of rights, legislators, regulators, the state attorney general, the governor, town councils and the courts have successfully used the constitutional language to protect the environment while balancing multiple community interests including property rights and economic development.

In Hawaii, where environmental protection is so deeply honored and valued as part of your culture, beliefs, way of life and economy, SB502 becomes a powerful value-added tool for advancing economic development that also ensures environmental protection.

In Pennsylvania and Montana, the two states with Bill of Rights protection for environmental rights, 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 zoning authority intended to protect local environments.

I hope you will vote SB502 out of committee so it can advance through the legislative process, and ultimately be put before the people of Hawaii to decide whether they would like Bill of Rights protection for environmental rights.

With respect, regards and appreciation,



Maya K. van Rossum
Founder/Leader/Attorney