
A BILL FOR AN ACT

RELATING TO WATERSHEDS.

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

1 SECTION 1. The legislature finds that an accelerating
2 global movement has led to the enactment of legal rights for
3 nature in many nations around the world, often by incorporating
4 indigenous peoples' worldviews of ecological reciprocity and
5 environmental responsibility. As of 2022, there have been four
6 hundred nine rights of nature initiatives in thirty-nine
7 countries and of these, rights of nature laws currently exist in
8 twenty-four countries, at least seven tribal nations in the
9 United States and Canada, and over sixty cities and counties
10 throughout the United States.

11 The legislature further finds that in New Zealand, Mount
12 Taranaki, Te Urewera National Park, and Whanganui River have
13 been granted legal personhood with all the rights, powers,
14 duties, and liabilities of a legal person by combining
15 traditional indigenous knowledge of the Maori people with the
16 nation's modern legal system. Furthermore, in Ecuador, the
17 Quichua people have enshrined into the nation's constitution



1 their indigenous worldview, granting Pachamama, meaning Mother
2 Nature, where life is believed to reproduce and occur, the right
3 to integral respect for its existence and for the maintenance
4 and regeneration of its life cycles, structures, functions, and
5 evolutionary processes, among other rights. The legislature
6 further finds that many native American tribes and nations, like
7 the Ho-Chunk Nation in Wisconsin, the Ponca Tribe of Indians of
8 Oklahoma, the White Earth Band of Ojibwe in Minnesota, the Sauk-
9 Suiattle Tribe of Washington, the Yurok Tribe in northern
10 California, and the Navajo Nation have adopted various
11 resolutions and enacted laws to establish and protect their
12 indigenous worldview through rights for nature.

13 The legislature recognizes that native Hawaiians, the only
14 indigenous people of Hawaii, face great health and economic
15 inequity in the State. Stemming from historical injustices,
16 these enduring disparities constitute complex and interconnected
17 structures that have and continue to lead to the dispossession
18 of ancestral lands and forceful disconnection of native
19 Hawaiians from their traditional and customary cultural
20 practices. The legislature acknowledges that despite its
21 attempts to strengthen environmental protections as well as



1 economic and social conditions for the native Hawaiian people,
2 the State has struggled to meet its goals and commitments set in
3 these respective policy areas. Rights for nature offer a novel
4 policy approach that can simultaneously and effectively enhance
5 environmental policy outcomes while addressing related
6 indigenous issues through the codification of native Hawaiian
7 traditional and customary cultural principles into the law.

8 The legislature also finds that the Hawai'i Supreme Court
9 has acknowledged in *Ching v. Case* (2019) that the health and
10 well-being of native Hawaiian people are intrinsically tied to
11 their deep feelings and attachment to the land. 'Āina, or land,
12 is of crucial importance to the native Hawaiian people and their
13 culture, religion, economic self-sufficiency, and sense of
14 personal and community well-being. To native Hawaiians, land is
15 not a commodity, but a foundation of their cultural and
16 spiritual identity as Hawaiians, and the natural elements –
17 land, air, water, and ocean – are understood as innately
18 interconnected and interdependent. Further, the 'āina is
19 considered part of their 'ohana, and they care for it as they do
20 members of their families. The Hawai'i Supreme Court has
21 asserted that the State has the highest duty to conserve and



1 protect public trust lands, as the duty of mālama ‘āina, caring
2 for the land.

3 The legislature further finds that there are five hundred
4 fifty-one watersheds across the main Hawaiian islands, which
5 constitute 843,000 acres, or twenty per cent of land area, in
6 Hawai‘i, each with unique and endemic ecosystems that soak up
7 rainfall like a sponge to allow water to drip gradually into the
8 ground. A native Hawaiian proverb says, "Hahai nō ka ua I ka
9 ululā‘au", meaning the rain follows the forest, and is reflective
10 of the native Hawaiian way of life, which observes how
11 communities of humans, plants, and animals all depend on a
12 watershed's hydrological and ecological functions. Today, these
13 watersheds serve as freshwater collection basins, supplying a
14 substantial ground water source for the State and its people.

15 The legislature additionally finds that the increasing
16 degradation of native watershed forests have left rain to fall
17 onto bare earth, which contributes to increasing soil erosion,
18 runoff, floods, wildfires, landslides, less replenishment of the
19 freshwater aquifer, and harmful sediment that permeates coral
20 reefs. By the Aloha+ Challenge, the State has committed to
21 protect thirty per cent of watershed forests by 2030, and as of



1 2022, twenty per cent of the watershed forests are protected.
2 However, progress has since stalled, and further protections are
3 necessary to ensure the greater sustainability of the Hawaiian
4 islands for present and future generations. Native Hawaiian
5 culture recognized fresh water as a vital resource and
6 established ways in which wai, or fresh water, would be used
7 sustainably for the benefit of all people.

8 The purpose of this Act is to enshrine the State's endemic
9 watershed ecosystems with legal rights to exist, flourish, and
10 naturally evolve, in reflection of native Hawaiian traditional
11 and customary cultural values, practice, and worldview. Among
12 these is the notion and practice of mālama 'āina, or care for the
13 land, a foundational tenet to native Hawaiian culture and way of
14 life. All rights secured by this Act shall be inherent,
15 fundamental, and inalienable and shall be self-executing and
16 enforceable against both private and public actors.

17 SECTION 2. The Hawaii Revised Statutes is amended by
18 adding a new chapter to be appropriately designated and to read
19 as follows:

20 "CHAPTER

21 RIGHTS OF NATURE



1 **§ -1 Definitions.** As used in this chapter:

2 "Board" means the board of land and natural resources.

3 "Watershed" has the same meaning as in section 183-31.

4 **§ -2 Watersheds; legal personhood.** (a) Any watershed
5 located in the State shall be recognized as a legal person and
6 shall have the rights, powers, and duties of a legal person,
7 including the right to exist, flourish, and naturally evolve, as
8 reflected by native Hawaiian traditional and customary cultural
9 values, practice, and worldview, including the notion and
10 practice of mālama 'āina.

11 (b) The board shall recognize the legal personhood of
12 watersheds in the State and shall not engage in, or attempt to
13 engage in, activities that violate the rights, powers, and
14 duties bestowed upon any watershed by its establishment as a
15 legal person.

16 **§ -3 Natural resources; uses; activities; leases.** The
17 natural resources found associated with watersheds, including
18 all flora and fauna, shall be considered to have an inalienable
19 connection to the health and well-being of the watershed. No
20 use, activity, or lease involving watersheds shall be approved
21 that compromises or endangers this connection.



1 § -4 **Right of action.** Any individual, public agency, or
2 private entity may bring an action against another individual or
3 entity that violates or attempts to violate the legal personhood
4 of a watershed in the State."

5 SECTION 3. This Act shall take effect upon its approval.

6

INTRODUCED BY: 

JAN 19 2024



H.B. NO. 2077

Report Title:

Rights of Nature; Legal Personhood; Malama Ka Aina; Native Hawaiian Rights; Environment; Watersheds

Description:

Establishes rights for watershed ecosystems to exist, flourish, and naturally evolve, in conjunction with native Hawaiian traditional and customary beliefs, practice, and values, for the benefit of present and future generations.

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