



Advancing a Hawaii Green Amendment Ensuring an Enforceable Right to a Clean & Healthy Environment

A Green Constitutional Amendment added to the Hawaii Bill of Rights will help strengthen environmental protection, environmental justice, and strengthen protection for the cultural and human health benefits of a clean and healthy environment in Hawaii.

Article 1 recognition and protection of environmental rights will:

- √ ...Place the 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.
- √ ... Ensure government decisions and action prioritize environmental protection and pollution prevention in order to ensure environmental rights protection and advance environmental justice;
- √ ... Ensure that every government official in the state will work to advance environmental protection at every level of the decisionmaking process, rather than waiting until the end of the process when the focus is necessarily on permitting rather than prevention.
- √ ... Fill the gaps in environmental laws and provide a legal basis for securing water, air and environmental protection even in those situations where there is no state law or regulation to provide protection;
- √ ... Strengthen environmental justice by ensuring all communities – regardless of race, ethnicity or socioeconomic status – have the same rights to a clean and healthy environment, thereby ensuring government officials protect all communities equitably;

Proposed Hawaii Green Amendment Language:

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

Section . All 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. These rights belong to both present and future generations. The State and its subdivision shall protect and not infringe upon these rights.

**Note: should be "healthy"*

- √ ... Prioritize the cultural values of indigenous communities to a healthy environment, protect sacred lands from environmental desecration, and honor traditional cultural connection to healthy natural resources;
- √ ... Secure environmental decisionmaking that considers and protects the rights of future generations to a healthy environment that ensures their future safety, security and health, including physically as well as economically;
- √ ... Ensure consideration of existing environmental conditions and cumulative impacts as part of decisionmaking so the additive impact of new pollution/degradation is considered;
- √ ... Empower communities to address unconstitutional infringement on environmental rights such as clean water and air, by providing constitutional grounding for their advocacy and access to the courts for redress;
- √ ... Strengthen the healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, drought and declining property values by ensuring government laws, regulations, decisions, permits and actions avoid environmental degradation rather than responding to it after-the-fact;
- √ ... 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;
- √ ... Ensure government and business seek to advance environmentally sustainable and protective business, development and industry operations.

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;

While Article XI, Section 1 of the Hawaii Constitution recognizes that the State holds public natural resources—including land, water, air, minerals and energy sources—in trust for the benefit of all people;¹ the individual right to a clean and healthy environment found in Article XI, Section 9² is limited to those protections provided by legislation, rather than being a true right of, by and for the people. In addition, its placement in Article XI versus Article 1 means it is not on par with other fundamental rights; and thereby can be subject to different legal standards of protection.

Adding a Bill of Rights amendment – a Green Constitutional Amendment - that recognizes and protects the rights of all Hawaiians to clean water and air and healthy ecosystems will strengthen environmental protection, environmental justice, protection of the cultural values of a healthy environment important to indigenous communities, the rights of future generations to a healthy environment, will ensure a focus on prevention of environmental harm and will strengthen the ability for communities to hold government accountable when environmental rights are violated.

More info & Resources at: www.HIGreenAmendment.org

¹ Hawaii Constitution, Article XI, Section 1: For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.

² Hawaii Constitution, Article XI, Section 9: Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.