

RE: S.B. No. 502
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii
Sir:

Your Committee on Agriculture and Environment, to which was referred S.B. No. 502 entitled:

"A BILL FOR AN ACT 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," begs leave to report as follows:

The purpose and intent of this measure is to propose an amendment to article I of the Hawaii State Constitution to guarantee all individuals the right to a clean and healthy environment.

Your Committee received testimony in support of this measure from Life of the Land, Our Revolution Hawaii, Imua Alliance, Kauai Climate Action Coalition, Surfrider Foundation Hawaii's Region; 350Hawaii.org, Kūpuna for the Mo'opuna, Hawaii Reef and Ocean Coalition, Green Amendments for the Generations, and twenty-four individuals. Your Committee received testimony in opposition to this measure from the Center for Biological Diversity. Your Committee received comments on this measure from the Department of the Attorney General and NAIOP Commercial Real Estate Development Association Hawaii Chapter.

Your Committee finds that the goals of this measure are to:

(1) Advance better government decision-making that will advance economic development, business and community interests in a way that avoids environmental pollution and harm to avoid the costs, health harms, lost property values, diminished quality of life, and other adverse impacts that pollution and environmental degradation cause; and

(2) Support government actions, community and business interests that are beneficial for environmental protection, such as advancing clean energy projects, environmentally beneficial development, bans on plastic, or other government efforts intended to proactively advance environmental protection and benefits.

Your Committee finds that the language of the proposed constitutional amendment in this measure recognizes and protects the alienable rights of all people, including future generations, to clean water, clean air, a stable climate, and healthy environments and makes clear that government's duties, as a trustee, to protect the environment for the benefit of the residents and future generations of their states. Clean water, clean air, a stable climate, and a healthy environment are essential for supporting physical, mental, and economic health of the State's residents and their placement in the Hawaii State Constitution would confirm the self-executing nature of the provision and liken the right to a healthy environment with other fundamental rights, like freedom of religion, freedom of speech, property rights and due process rights. Recognizing the right to a clean and healthy environment in the Hawaii State Constitution would ensure a proper and equitable balance of these rights by the legislative and judicial branches of government.

Your Committee further finds that while the State has strong constitutional and statutory environmental protections, there are still a plethora of ongoing environmental justice issues. Minority, indigenous, and immigrant communities continue to be targeted for highly polluting and environmentally and culturally degrading activities. In addition, poor implementation, and politically expedient rollbacks of protections are commonplace. This proposed constitutional amendment seeks to encourage sustainable, environmentally protective, and innovative development, industry, and business growth by providing powerful incentives for government officials to render decisions that advance economic objectives while protecting natural resources critical to sustaining healthy ecosystems.

Your Committee has amended this measure by deleting language that would have provided that the reserved environmental rights may not be diminished through the interpretation or implementation of article XI, section 9, of the Hawaii State Constitution.

As affirmed by the record of votes of the members of your Committee on Agriculture and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 502, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on behalf of the members of the Committee on
Agriculture and Environment,

MIKE GABBARD, Chair

