



The Hawaii Green Amendment

Strengthening Environmental Justice, Protection & Healthy Communities

Passage of the Hawaii Green Amendment will allow the people of Hawaii to proactively protect our environment, communities and state economy. Our state constitution provides the overarching legal structure, principles and obligations to which all state government action must conform. The Hawaii Green Amendment will ensure that all government officials – including at both the local and state level -- will work to advance proactive environmental protection at every level of the decisionmaking process. The Hawaii Green Amendment will help ensure that existing environmental laws and regulations are implemented to their full potential; will provide a basis for advancing new needed protections (e.g. through legislation, regulation or government action); and will provide a basis to secure protective government action when a gap in the law is identified.

The Hawaii Green Amendment will strengthen the healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, toxic tort lawsuits, drought and declining property values, by ensuring government actions avoid environmental degradation rather than responding to it after-the-fact.

The Hawaii Green Amendment will place the rights to a clean and healthy environment legally on par with other fundamental rights such as private property rights, free speech, and religious freedom. When two rights are implicated by government action – such as property and environment – government will have to work to balance and protect both sets of rights. By lifting up environmental rights, we can ensure they are not ignored in service to profit or political objectives.

When there are critical issues of environmental concern not addressed by existing law, the Hawaii Green Amendment can be utilized to fill these gaps in protection until such time as the law catches up and addresses the areas of concern. PFAS was allowed to contaminate drinking water and environments across Hawaii for decades because there were no laws or regulations that empowered government to provide needed protections. A Green Amendment can help fill environmental protection gaps.

The Hawaii Green Amendment will strengthen existing laws as a tool for environmental protection as well as provide a foundation for passage and implementation of strengthened protections. By recognizing constitutional protection of environmental rights, the Green Amendment will strengthen the interpretation, application and enforcement of existing laws while also providing a strong platform for needed, but missing, community and environmental protection legislation.

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The Hawaii Green Amendment will strengthen environmental protections beyond existing state protections by explicitly recognizing an independent enforceable right of the people to a clean and healthy environment; mandating a focus on preventing environmental pollution and degradation rather than a focus on control of harm; elevating environmental rights to the constitution's bill of rights which brings additional legal strength for environmental protection and environmental justice; ensuring environmental rights must be protected generationally; and ensuring informed government decisionmaking is a constitutional pre-requisite to taking action that could infringe upon environmental rights.

Indigenous communities and people of color in Hawaii continue to be disproportionately impacted by environmental pollution and degradation. Creating an overarching constitutional right to be equitably protected is an essential tool for supporting enforceable environmental justice. The Hawaii Green Amendment will ensure all communities – regardless of race, ethnicity, geography or wealth – have the same rights to clean water and air, a healthful environment and climate, healthy native ecosystems, and beaches will create a constitutional duty on all government officials to protect essential natural resources and environmental rights equitably.

Throughout the legislative, regulatory, permitting and decisionmaking process at all levels of government, the Hawaii Green Amendment will ensure government officials take steps to protect the state's natural resources for present and future generations. Generational protection obligations ensure a more informed, forward thinking, and holistic approach to environmental action because government officials must now be thinking long term, including considering cumulative impacts over time.

The Hawaii Green Amendment, with its Bill of Rights placement, provides for equitable remedies, ensuring the focus is on remedying government action causing an unconstitutional environmental rights violation. The Green Amendment will not seek money payouts for environmental harms but instead will focus judicial decisionmaking on remedies that secure protection for all communities potentially impacted by unconstitutional government action.

It is the right of the people of Hawaii to determine if they want the right to a clean and healthy environment added to the state constitution. The constitution is the People's document. It should be left to the people of Hawaii to determine whether or not to amend it. A vote of the legislature will not in and of itself amend the constitution, it will mean the people can vote in on whether the people Hawaii want to amend our constitution.

The Hawaii Green Amendment provides:

Article I of the Constitution of the State of Hawaii is amended by adding a new section as follows:

ENVIRONMENTAL RIGHTS

The inherent and inalienable right of the people, including present and 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.

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