



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 1, 2011, 8:00 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1577 WITH PROPOSED AMENDMENTS

Aloha Chair Morita and Members of the Committee:

The Hawai'i Chapter of the Sierra Club supports the intent of HB 1577, which proposes a constitutional amendment to reaffirm and strengthen the State's commitment to environmental justice for populations disproportionately impacted by harmful environmental actions.

While we support this measure, we question whether the proposed language accomplishes the intent. Having a "commitment" is not the same as actually protecting minorities' environmental justice rights. Please consider this language instead:

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. Each person has the right to be free from any form of subconscious or institutional discrimination, such as actions that may disproportionately impact the health and environment of native Hawaiians, ethnic minorities, and low-income populations.

Mahalo for the opportunity to testify.



Recycled Content

Robert D. Harris, Director

House Bill -- HB 1577

Testimony of Abbey Seth Mayer, Vice President, Government Relations
The Resort Group

Given to the House Committee on Energy & Environmental Protection
Feb. 1, 2011 8:00AM

Aloha Chair Morita, Vice Chair Coffman and Members of the Committee,

The Resort Group supports the proposed Amendment to Article XI, Section 9 of the Hawaii Constitution and thanks the Committee for hearing this measure.

Environmental justice surpasses the protection of natural resources for their own sake. Rather, environmental justice is focused on the protection of the poorest populations and communities, as well as all ethnic minorities, from bearing a disproportionate burden of environmental injuries and exposure to toxins.

The Resort Group supports environmental equity and believes sound environmental policy is also sound economic policy. In Hawaii, this truth is magnified by our dependence on a pristine environment for the ongoing sustainable success of our tourism industry, as well as for our residents' day-to-day lives – for now and for our future.

We also note, as one example, that West Oahu and the Leeward Coast communities have borne the heaviest burden of Oahu's landfills over the past several decades. This burden has been ongoing, day-in and day-out for these communities' residents and visitors. The recent catastrophic failure of Waimanalo Gulch Sanitary Landfill highlights the terrible nature of this burden.

The Resort Group supports HB1577, inasmuch as this proposed Amendment to Article XI, Section 9 will assist all Hawaii's people to achieve environmental equity.

repmorita@capitol.hawaii.gov

February 1, 2011

Hon. Hermina M. Morita, Chair
Committee on Energy & Environmental Protection
Room 314 – State Capitol
Honolulu, Hawai'i 96813

Re: HB 1577 – Proposing an amendment to Article XI, Section 9, of the Constitution of the State of Hawaii to reaffirm and strengthen the state's commitment to Environmental Rights

Dear Chair Morita & Members of EEP:

My name is Ronald Y. Amemiya and I represent the Ironworkers Union Local 625 Stabilization Fund.

As all of Hawaii experienced within the past month, massive, severe and crushing rain hammered many parts of our island chain, including the Waianae Coast. The environmental problems, especially the widespread dispersion of medical waste generated by the breach at the Waimanalo Gulch Landfill above Ko Olina that takes in all of Oahu's household o'pala, has received almost daily media coverage. As prominently reported, medical waste was found as far down the coast in Makaha, approximately 10 miles away from this household landfill.

Although not as widely reported, a severe breach at the PVT Landfill, right adjacent to and adjoining Nanakuli Town, that takes in all of Oahu's *construction, demolition and asbestos* o'pala, also caused these hazardous waste materials to flow into the neighborhood. As we have been informed, even a refrigerator, came tumbling down from at least 750 feet away, the required and designated "buffer zone." Needless to say, storm water containing hazardous material ran rampant through the neighborhood.

Despite the obvious environmental and health hazards created by the breach at these 2 landfills on the Waianae Coast, our present constitutional and statutory framework makes it difficult for anyone, especially private citizens, to bring judicial action to right the wrong that has been committed. Our constitutional and statutory framework should be amended to permit necessary judicial action without impediments blocking the way.

We believe that a constitutional amendment to Article XI, Section 9, would pave the way for the citizens of the Waianae Coast and others similarly situated, to gain access to our courts to bring necessary action. An extensive treatise written by Chasid M. Sapolu, a 2010 graduate of the William S. Richardson School of Law, and a product of the Waianae Coast, thoroughly and systematically discusses why there is a need for such an amendment to Article XI, Section 9 of our constitution.

As Mr. Sapolu writes in the *Asian-Pacific Law & Policy Journal*, the Waianae Coast is home to many ethnic populations, including native Hawaiians, other Pacific islanders, and Asians. And, the coast is the home to 11 of 18 sewage treatment plants, active landfills, and power plants on Oahu. It can be safely said that the Waianae Coast is the “dumping ground” for o’pala on the island of Oahu. Mr. Sapolu concludes that there is “*environmental injustice*” on the Waianae Coast.


In his treatise, the author points out that the percentage of residents on the Waianae Coast living below the poverty level is 21.9 percent, more than double that of all other Oahu residents that stands at 9.9 percent. He goes further to express that most landfills in the United States are situated near neighborhoods where the poor and minority, who do not have the means to bring court action, reside.

Mr. Sapolu guides us through the development of the law in Hawaii expanding native Hawaiian rights, commencing from certain amendments that were established during the 1978 constitutional convention. Specifically, he refers to the amendment to Article XI, Section 9 which “guarantees every person the *right to a clean and healthful environment.*” Despite this language, Hawaii’s present constitutional and statutory scheme make it extremely difficult for native Hawaiians who may have suffered *environmental injustice* to have their grievances brought to court. While going through his thorough discussion, the author examines the Hawaii Supreme Court cases of Kalipi v. Hawaiian Trust Company, Ltd. decided in 1982, and, Ka Pa’akai o ka’aina v. State of Hawai’i Land Use Commission decided in 2002.

The author concludes that an amendment to Article XI, section 9, of the Hawaii Constitution would reaffirm and strengthen the state’s commitment to environmental justice for certain populations that are disproportionately impacted by harmful environmental actions.

We respectfully request that Mr. Sapolu’s treatise be examined thoroughly to gain the insight which he provides for the justification leading to such an amendment. We believe that such an amendment is necessary to protect the environmental rights of native Hawaiians on the Waianae Coast and throughout the State of Hawaii.

Sincerely,


Ronald Y. Amemiya
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coffman3 - Sean

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 01, 2011 7:52 AM
To: EEPtestimony
Cc: marti@kahea.org
Subject: Testimony for HB1577 on 2/1/2011 8:00:00 AM

Testimony for EEP 2/1/2011 8:00:00 AM HB1577

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Marti Townsend
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Submitted on: 2/1/2011

Comments:

Aloha Chairwoman Morita and members of the House Committee on Energy and the Environment,

Mahalo for hearing this bill. KAHEA is in strong support of HB 1577. Hawaii has an obligation to ensure that communities are not disproportionately harmed by the unwanted land uses that come with modern society -- power plants, landfills, and other industrial facilities.

The push towards a more sustainable Hawaii is also a push for a fairer, more equitable Hawaii, where some residents are forced to give up their health in exchange for our collective convenience.