A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE XI OF THE HAWAI'I CONSTITUTION TO
PROMOTE THE CONSERVATION AND PROTECTION OF THE STATE'S
BEACH RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that Hawaii's public trust doctrine, which states in part that "all public natural resources are held in trust by the state for the benefit of the people," requires the State to ensure that the public trust resources will not be used in a way that causes serious damage or destroys the resources. In the face of rising sea levels, preserving, protecting, and restoring the critical nearshore environment while preserving and protecting access to Hawaii's beaches is in the best interest of public safety and economic stability.

The legislature further finds that, pursuant to the precautionary principle, where there are present or potential threats of serious damage to natural resources, the lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation. In addition, where uncertainty exists, the State's duty to perform
as a public trustee requires a presumption in favor of public
resource protection.

The legislature further finds that Act 32, Session Laws of
Hawaii 2017, established the Hawaii climate change mitigation
and adaptation commission to address the urgent issue of sea-
level rise in the State. The commission, which comprises
various state and county officials, has provided the legislature
with a comprehensive sea-level report in which risk levels are
clearly identified. Based on findings in this report, the
legislature also finds it imperative to start implementing the
commission's recommendations.

The legislature finds that the State has the authority and
duty to assure the State's beaches are put to reasonable and
beneficial use so that the beach resources are maintained for
future generations. The legislature further finds that the
erosion and inundation of beaches across the State has created a
public safety hazard as well as a critical situation for many
beach-side property owners, including owners of both residential
and commercial properties.

Accordingly, the purpose of this Act is to propose
amendments to article XI of the Constitution of the State of
Hawaii to promote the conservation and protection of Hawaii's 
beach resources.

SECTION 2. Article XI of the Constitution of the State of 
Hawaii is amended by adding a new section to be appropriately 
designated and to read as follows:

"BEACHES

Section. The State shall manage, preserve, and control, 
in perpetuity for the benefit of future generations, beaches 
located throughout the State. The management of beaches shall 
be subject to policies and criteria established by the 
legislature, which shall ensure public use of the beaches as a 
protected state resource."

SECTION 3. Article XI, section 1, of the Constitution of 
the State of Hawaii is amended to read as follows:

"CONSERVATION AND DEVELOPMENT OF RESOURCES

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, beaches, 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."

SECTION 4. The question to be printed on the ballot shall be as follows:

"Shall the State Constitution be amended to permit the State to manage beaches statewide, in perpetuity, as protected state resources?"

SECTION 5. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 6. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

INTRODUCED BY: ________

JAN 24 2019
Report Title:
Beaches; Public Trust; Preservation; Constitutional Amendment

Description:
Proposes amendments to the Constitution of the State of Hawaii to permit the State to manage beach resources statewide and in perpetuity.

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