A BILL FOR AN ACT

RELATING TO WATERSHEDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that an accelerating global movement has led to the enactment of legal rights for nature in many nations around the world, often by incorporating indigenous peoples' worldviews of ecological reciprocity and environmental responsibility. As of 2022, there have been four hundred nine rights of nature initiatives in thirty-nine countries and of these, rights of nature laws currently exist in twenty-four countries, at least seven tribal nations in the United States and Canada, and over sixty cities and counties throughout the United States.

The legislature further finds that in New Zealand, Mount Taranaki, Te Urewera National Park, and Whanganui River have been granted legal personhood with all the rights, powers, duties, and liabilities of a legal person by combining traditional indigenous knowledge of the Maori people with the nation's modern legal system. Furthermore, in Ecuador, the Quichua people have enshrined into the nation's constitution
their indigenous worldview, granting Pachamama, meaning Mother 
Nature, where life is believed to reproduce and occur, the right 
to integral respect for its existence and for the maintenance 
and regeneration of its life cycles, structures, functions, and 
evolutionary processes, among other rights. The legislature 
further finds that many native American tribes and nations, like 
the Ho-Chunk Nation in Wisconsin, the Ponca Tribe of Indians of 
Oklahoma, the White Earth Band of Ojibwe in Minnesota, the Sauk-
Suiattle Tribe of Washington, the Yurok Tribe in northern 
California, and the Navajo Nation have adopted various 
resolutions and enacted laws to establish and protect their 
indigenous worldview through rights for nature.

The legislature recognizes that native Hawaiians, the only 
indigenous people of Hawaii, face great health and economic 
iequity in the State. Stemming from historical injustices, 
these enduring disparities constitute complex and interconnected 
structures that have and continue to lead to the dispossession 
of ancestral lands and forceful disconnection of native 
Hawaiians from their traditional and customary cultural 
practices. The legislature acknowledges that despite its 
attempts to strengthen environmental protections as well as
economic and social conditions for the native Hawaiian people, the State has struggled to meet its goals and commitments set in these respective policy areas. Rights for nature offer a novel policy approach that can simultaneously and effectively enhance environmental policy outcomes while addressing related indigenous issues through the codification of native Hawaiian traditional and customary cultural principles into the law.

The legislature also finds that the Hawai'i Supreme Court has acknowledged in Ching v. Case (2019) that the health and well-being of native Hawaiian people are intrinsically tied to their deep feelings and attachment to the land. ‘Aina, or land, is of crucial importance to the native Hawaiian people and their culture, religion, economic self-sufficiency, and sense of personal and community well-being. To native Hawaiians, land is not a commodity, but a foundation of their cultural and spiritual identity as Hawaiians, and the natural elements — land, air, water, and ocean — are understood as innately interconnected and interdependent. Further, the ‘āina is considered part of their 'ohana, and they care for it as they do members of their families. The Hawai'i Supreme Court has asserted that the State has the highest duty to conserve and
protect public trust lands, as the duty of mālama ʻāina, caring
for the land.

The legislature further finds that there are five hundred
fifty-one watersheds across the main Hawaiian islands, which
constitute 843,000 acres, or twenty per cent of land area, in
Hawai'i, each with unique and endemic ecosystems that soak up
rainfall like a sponge to allow water to drip gradually into the
ground. A native Hawaiian proverb says, "Hahai nā ka ua I ka
ululā'au", meaning the rain follows the forest, and is reflective
of the native Hawaiian way of life, which observes how
communities of humans, plants, and animals all depend on a
watershed's hydrological and ecological functions. Today, these
watersheds serve as freshwater collection basins, supplying a
substantial ground water source for the State and its people.

The legislature additionally finds that the increasing
degradation of native watershed forests have left rain to fall
onto bare earth, which contributes to increasing soil erosion,
runoff, floods, wildfires, landslides, less replenishment of the
freshwater aquifer, and harmful sediment that permeates coral
reefs. By the Aloha+ Challenge, the State has committed to
protect thirty per cent of watershed forests by 2030, and as of
2022, twenty per cent of the watershed forests are protected. However, progress has since stalled, and further protections are necessary to ensure the greater sustainability of the Hawaiian islands for present and future generations. Native Hawaiian culture recognized fresh water as a vital resource and established ways in which wai, or fresh water, would be used sustainably for the benefit of all people.

The purpose of this Act is to enshrine the State's endemic watershed ecosystems with legal rights to exist, flourish, and naturally evolve, in reflection of native Hawaiian traditional and customary cultural values, practice, and worldview. Among these is the notion and practice of mālama ʻāina, or care for the land, a foundational tenet to native Hawaiian culture and way of life. All rights secured by this Act shall be inherent, fundamental, and inalienable and shall be self-executing and enforceable against both private and public actors.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

RIGHTS OF NATURE
§ -1 Definitions. As used in this chapter:
"Board" means the board of land and natural resources.
"Watershed" has the same meaning as in section 183-31.

§ -2 Watersheds; legal personhood. (a) Any watershed located in the State shall be recognized as a legal person and shall have the rights, powers, and duties of a legal person, including the right to exist, flourish, and naturally evolve, as reflected by native Hawaiian traditional and customary cultural values, practice, and worldview, including the notion and practice of mālama ʻāina.

(b) The board shall recognize the legal personhood of watersheds in the State and shall not engage in, or attempt to engage in, activities that violate the rights, powers, and duties bestowed upon any watershed by its establishment as a legal person.

§ -3 Natural resources; uses; activities; leases. The natural resources found associated with watersheds, including all flora and fauna, shall be considered to have an inalienable connection to the health and well-being of the watershed. No use, activity, or lease involving watersheds shall be approved that compromises or endangers this connection.
§ 4 Right of action. Any individual, public agency, or private entity may bring an action against another individual or entity that violates or attempts to violate the legal personhood of a watershed in the State."

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: [Signature]

JAN 19 2024
Report Title:
Rights of Nature; Legal Personhood; Malama Ka Aina; Native Hawaiian Rights; Environment; Watersheds

Description:
Establishes rights for watershed ecosystems to exist, flourish, and naturally evolve, in conjunction with native Hawaiian traditional and customary beliefs, practice, and values, for the benefit of present and future generations.

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