

GREEN AMENDMENT CHECKLIST

Essential Elements of an Effective
Environmental Rights Amendment



Every state across the nation needs a Green Amendment ... a constitutional provision that recognizes and protects each person's right to clean water, clean air, a stable climate and a healthy environment as an inalienable right on par with other fundamental rights we hold dear like the rights to free speech, freedom of religion and private property rights.

And when the people are ready and the time is right, the United States also needs a Green Amendment added to our federal constitution.

Only two states currently have Green Amendments as defined by the For The Generation's Green Amendment movement: Pennsylvania and Montana. While other states talk about the environment in their constitution's, they do not protect the right to clean water, clean air, a stable climate and a healthy environment as an inalienable right giving it the highest level of legal recognition and protection; instead they talk about them as good policy or in need of state legislation. Some states don't mention environmental protection at all.

This checklist will help your state create a true Green Amendment. For further assistance in crafting the perfect Green Amendment for your state email GAFTG@ForTheGenerations.org or phone 215-369-1188.

- ✓ The provision should be placed in the Declaration of Rights/Bill of Rights section of the constitution and make clear that the rights enumerated are reserved rights that are inherent and inalienable and belong to the people, e.g. are "rights reserved to the people".
- ✓ The provision should clearly be grounded in response to environmental degradation that has occurred in the state. Clear legislative history about the origins of the amendment will help guide future legislative efforts and judicial interpretation.
- ✓ The provision should mention specific environmental values to be protected such as pure water, clean air, ecologically healthy habitats, stable climate, etc.
- ✓ The provision should include a broad holistic perspective on the values of protecting a healthy environment.
- ✓ The provision must be self-executing so it does not require passage of laws in order for it to take effect and for the environmental rights of the people to be vindicated.
- ✓ The provision should be generational in focus (i.e. it should explicitly acknowledge that the environmental rights belong to both present and future generations and therefore must be protected for all generations.)

- ✓ The provision should recognize that environmental rights are inherent, inalienable, and indefeasible rights of all people.
- ✓ The rights provision should be drafted so that it is on equal footing with other political rights such as property rights and freedom of speech. Placing environmental rights protections in the Declaration of Rights/Bill of Rights section of a Constitution helps achieve this goal.
- ✓ The provision should serve as a limitation on government action or inaction that would otherwise infringe on these rights.
- ✓ The provision should identify environmental rights as being rights of every individual, not just collective rights of the state as a whole. This helps to ensure that all people, regardless of race, ethnicity or income, have the same rights that must be protected equitably.
- ✓ The provision should recognize the government's public trust duties, broadly defining the body of the trust to include public natural resources and environmental values and not simply publicly-owned land, navigational waters, and/or tideland resources.
- ✓ The responsibilities to protect the environmental values, including trustee obligations, should clearly apply to all branches and all levels of government.
- ✓ The language should specifically use the word "trustee" to solidify the relationship between the government and the citizenry – the government is not the proprietor of the environment, but is the trustee. Using trustee language implicates traditional trustee duties such as loyalty, prudence, impartiality, and providing the necessity for an accounting of the trust. Trust language is also important for ensuring environmental justice and generational protection.
- ✓ The provision should include both affirmative duties to protect the environment and prohibitory duties (i.e., governmental actors have an obligation to refrain from legislative enactments, executive action, permitting or otherwise encouraging the degradation, diminution, or depletion of public natural resources that would occur through direct government action or indirectly, because of the government's failure to restrain the actions of others).
- ✓ The provision should necessitate a pre-action analysis that ensures actions taken and decisions made do not infringe upon environmental rights.



**GREEN AMENDMENTS
FOR THE GENERATIONS**

Pure Water. Clean Air. Healthy Environment.

Our right to pure water, clean air, a stable climate and a healthy environment are inherent, indefeasible and inalienable rights retained by the people of all Generations. There can be no life, liberty or happiness without a healthy environment.

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