



## WASHINGTON GREEN AMENDMENT FREQUENTLY ASKED QUESTIONS

### **1. *Washington's environmental protection laws are among some of the most robust in the U.S. Why is a Green Amendment necessary?***

While Washington state has a robust set of environmental protection laws, as written, these laws are unable to ensure equitable and adequate environmental protection in all situations. Among their limitations, gaps and loopholes allow for harmful levels of pollution. The laws are unable to keep up with emerging contaminants and new technologies, too often only providing protection after the fact once irreparable harm has been inflicted. Existing laws also fail to include adequate ability for regulators to fully address unique circumstances, including equitable treatment of all communities, and as a result not fully stopping damage to our communities. In addition, our state legislative and regulatory process provides greater access for corporate leaders than Washington residents to influence the crafting, implementation and enforcement of existing laws. Washington's current environmental laws provide corporate leaders more influence than Washington residents when it comes to implementing and enforcing (or not enforcing) existing laws. Finally, future legislatures could repeal or weaken environmental legislation when the winds of politics change.

A constitutional amendment, in contrast, ensures overarching protections that will strengthen existing laws and mandate equitable protection for all communities. Adding the right to clean air and water, and healthy environment, to our constitution's Declaration of Rights ensures all government action includes protecting land and water as an essential directive, and that when the laws, as written, are unable to achieve critical protections, the people of Washington have the opportunity to seek and secure a remedy. Since all government action is done in service to advancing the state constitution, the Washington Green Amendment will ensure that every government official in the state will work to advance environmental protection at every level of the decision-making process to avoid the degradation of land and water rather than responding to it after the fact. A Washington Green Amendment will not displace any arm of government, it will simply ensure that the people of our state always have a meaningful role at the decision-making table and that all government action in the state is guided by the obligation to equitably protect the environmental rights of all the people and to ensure our precious natural resources are protected for present and future generations.

***For more information: [www.WAGreenAmendment.org](http://www.WAGreenAmendment.org)***

**2. *Some communities are disproportionately impacted by industrial pollution, toxic waste, and the effects of climate change. How will the Washington Green Amendment provide equitable protection?***

The Washington Green Amendment establishes that **all communities**, regardless of race, ethnicity or socioeconomic status, have the same legal rights to clean air and water, a stable climate and healthy environments. It provides constitutional grounding for advocacy and ensures an opportunity to secure court intervention for addressing equitable protections of air, land, and water when needed.

**3. *Will the Washington Green Amendment spawn frivolous lawsuits and/or constitutional litigation targeting private companies or property owners?***

A Washington Green Amendment prohibits government action that infringes on constitutional rights and/or violates constitutional obligations; as a result, enforcement actions apply to government action, and will not result in legal actions filed against private parties.

A Washington Green Amendment will not support or encourage frivolous lawsuits. There exist many prohibitions against frivolous litigation, including sanctions against attorneys who engage in such a practice. In addition, we have not seen constitutional protections inspiring a mass of frivolous litigation with regard to other fundamental rights, and there is no reason to believe we would see such inappropriate legal abuses with the Green Amendment. Finally, the lack of such lawsuits in Montana, Pennsylvania and New York, where Green Amendments already exist, confirms that frivolous litigation is not an expected outcome from the passage of a Washington Green Amendment.

**4. *How will the Green Amendment affect government decision-making and activities?***

Just as the right to free speech protects Washingtonians from government infringement on speech, a right to clean and healthy water, air, ecosystems and environment provides overarching guidance to ensure environmental rights are protected. This necessarily requires that environmental impacts and equity concerns be considered early in the process, when prevention of pollution and degradation is more achievable and is more cost-efficient. It supports fairness by requiring equitable protection of all communities and helping to ensure protection for future generations.

In order to fulfill the trustee obligation to protect natural resources and to ensure environmental rights are protected in accord with the constitution, government officials are obliged to consider science, facts, and cumulative impacts as part of their decisions, and to demonstrate they have taken action to ensure the constitutional rights of the people are, in fact, protected. The Green Amendment will provide a backstop that communities, government officials (including at both the local and the state level), and business interests can use to provide a check on government authority that overreaches or fails to protect rights to a clean and healthy environment as required by the constitution. Since it is self-executing, a Green Amendment can help address harms that have not yet been addressed by existing legislation, regulation, policies, or programs.

**5. *Will the Washington Green Amendment require an increase in government budgets at the state or local level?***

Once passed through the legislature, the only direct cost of the Green Amendment will be putting it on the ballot for a general election. The remedies for a violation of the Green Amendment will not be money payouts for environmental damages, rather it will be a modification of government behavior in order to prevent unconstitutional levels of environmental damage from occurring in the first place. For example, an unconstitutional law or permit would not be upheld.

By helping to avoid the harms of environmental pollution and degradation, the Washington Green Amendment will be economically beneficial. For example, responding to flood damage, drought, toxic contamination, and associated harms to human health, businesses and homes, creates significant economic costs for state and local governments. By helping avoid pollution and degradation that requires a costly government response, the Washington Green Amendment will actually help save the government money, and protect individuals, families, communities and businesses from the economic ramifications they could otherwise experience..

**6. *What impact will the Washington Green Amendment have on those entities that are dependent on revenues from trust lands?***

The Washington State Supreme Court has unanimously voted to reaffirm the Department of Natural Resource's right to regulate timber sales for the public good while providing lawmakers more discretion on how state forests are managed. The ruling widens the opportunity for the DNR to prioritize conservation and mitigate climate change, wildfires, and erosion while still raising revenue. The Green Amendment will not displace these rights and obligations, but it will ensure the environmental rights and duties provided for in the Green Amendment become part of the decisionmaking process and obligation. Notably, there are ways to use trust lands to generate revenue that do compromise the air, water, and soil.

**7. *How will the Washington Green Amendment impact Tribal rights?***

The Green Amendment can be used by Tribal governments and people to address state-sanctioned, perpetuated or created pollution, and degradation activities that would violate the protected environmental rights of Indigenous people and fail to protect, conserve, and maintain the state's natural resources in accord with the constitutional obligation. Indigenous populations have been disproportionately impacted by pollution and environmental degradation. The Washington Green Amendment will provide a constitutional tool to help ensure Tribal rights are fully and equitably protected in a way that can support indigenous stewardship and culture.

**8. *What are externalities?***

Externalities include the side effects of an industrial or commercial activity that affects other parties. These effects are not reflected in the cost of the goods or services produced. Examples of negative externalities are air and water pollution.

**9. What does “self-executing” mean?**

Taking effect immediately without the need for implementing legislation or further judicial action. This kind of self-executing protection applies to many of our already existing fundamental rights, such as free speech and religion.

**10. What are inherent, inalienable, and inalienable rights?**

These are rights that belong to all people by virtue of our existence. They are not granted by the government, nor can they be taken by the government, and they are not transferable; these rights belong to each and every one of us.

**11. How are Green Amendments protecting clean air, water, soil and climate in Pennsylvania, Montana, and New York?**

Some examples of how Green Amendments have been used by residents, township officials, administrative agencies, elected officials, and organizations include:

- Prevented permitting for dangerous industrial gold mining operations in Montana that would destroy critical natural resources and contaminate recreationally and economically important river systems, including resources important to Yellowstone National Park.
- Ensured agency action to require responsible industries to clean up a highly contaminated site with a spreading toxic plume in Pennsylvania.
- Prevented legislative overreach that usurped town zoning authority, infringed on homeowner rights and placed automatic waivers of environmental standards while jeopardizing people’s health in the context of fossil fuel fracking operations.
- Supported town council decision-making to protect old growth forest and greenspace from unwanted development in Pennsylvania
- Supported the Attorney General of Pennsylvania to enforce actions to protect clean air and pure water.
- Supported legal action by youth plaintiffs challenging a Montana state law that prohibited state agencies from considering the climate changing impacts of their decisions, and as a result supported and fostered an ongoing and growing acceptance and advancement by state government of fossil fuel extraction, transportation and consumption.

You can find more information on how Green Amendments are protecting communities and natural resources in Pennsylvania, Montana and New York, the three states that already benefit from Green Amendment protections here:

<https://forthe generations.org/resources/legal-resources/>