



HOUSE BILL 517

The *Maryland Constitutional Amendment for Environmental Health & Justice (HB 517)* would guarantee the right to clean air, pure water, a stable climate, a healthy and healthful environment for all Marylanders.

- ❖ **The Need for a Fundamental Constitutional Right** - The Strongest Protection Provided by a State
 - In a state with siloed laws and lagging enforcement, a constitutional right would act as a true guardrail to prevent the most egregious forms of harmful state action now and for future generations.
 - A constitutional right, as opposed to a regular law, would ensure that environmental protection is the highest obligation of the government, and not just an aspirational goal that could be amended at any point in time.

- ❖ **A Healthier Place to Live** - Less Pollution Means Better Health
 - As a constitutional guardian of our natural resources, Maryland state officials would be: (a) constitutionally obligated to protect the environment and its impact on the health of Marylanders, and (b) legally prevented from permitting egregious harm to public natural resources that would violate the constitutional right.
 - Every person deserves the fundamental right to a healthy and healthful environment.

- ❖ **Greater Protections & Remedies for Communities** - Addressing Public Health Disparities
 - When making decisions on new projects, the state would be obligated to address heavily degraded, overburdened, or polluted areas across the state.
 - A Healthy Green Amendment would empower all Marylanders, local communities and the state to enforce these fundamental rights.

"[C]limate change caused by increased greenhouse gas emissions poses severe threats to our environment and requires urgent governmental action... There is no such right [to a stable climate] in our State Constitution... These are solutions that must be effected through political branches of government, and not the judicial branch."

- Honorable Michael R. Scott, *King County Superior Court Judge*, Superior Court for the State of Washington For King County (Piper v. State of Washington)

- ❖ **A Backstop for Better Decision Making** - A Smarter Way Forward
 - This right would require state decision-makers to (a) consider the full extent of harm resulting from any given proposal and (b) consider whether a proposed project increases existing degradation - considering both individual and cumulative impacts of harm.



- A Healthy Green Amendment would provide backing for new laws that better protect the environment or the health of Marylanders.

Frequently Asked Questions

How is a constitutional amendment better than legislation?

Constitutional rights cannot be waived or displaced by acts of the legislature. Constitutions provide the overarching legal structure, principles and obligations to which all branches of government must conform. Therefore a constitutional amendment will ensure environmental protection is considered throughout the decisionmaking process when harm can best be addressed and prevented. It will ensure environmental rights are given the same protection as other rights. House Bill 517, as written and if placed in the Declaration of Rights, is a limitation on government authority, not a grant or expansion of authority. It provides the foundation for communities to seek environmental protections when their rights have been infringed upon by government action, inaction, or activities.

How will a constitutional environmental rights amendment help communities meet standing requirements when seeking environmental redress?

Currently, Maryland has a patchwork of environmental standing laws that only provide standing in limited situations. Standing is often difficult, if not outright prohibited, for those that don't live adjacent to the impacted area or operation even if there is going to be a profound and meaningful impact on their water, air or environment. For instance, the Maryland Court of Appeals has found that the Maryland Environmental Standing Act does not "expressly include judicial review of an administrative proceeding," so the public has no judicial recourse for a state or local permitting decision that could have significant impacts on their water, air, or environment. Creating a constitutional right to healthy environments will support standing when there is a claim that the government has acted in a way that will infringe on constitutional environmental rights – e.g. have contaminated the water or air in dangerous ways that harm human health for surrounding communities -- even if there is no specific regulation or law that would otherwise allow impacted individuals or communities to bring a legal challenge to the specific government action taken. And notably, standing rights enumerated through legislation or regulation, unlike fundamental constitutional rights, can be altered or taken away by the legislature at any time.

Maryland has a robust system of environmental laws, why do we need something more?

Despite Maryland's existing environmental protection laws, we face significant environmental problems, including, but not limited to, contaminated drinking water, communities living next to highly contaminated sites that are harming human health and reducing property values, and air pollution causing asthma attacks in children and harming the health of Maryland communities. Not only do our state laws allow significant harms on a case by case basis, but they are allowing cumulative impacts to go unconsidered and unaddressed. Communities of color and low income communities continue to be unfairly targeted for heavy polluting industry. Most Maryland environmental laws adopt the review, permitting and management approach rather than a focus on prevention first. And gaps in the law are allowing harmful pollution and environmental degradation to advance unaddressed. As we see in other areas of law, such as civil rights, these deficiencies can best be addressed by the overarching protections provided by the state constitution's Declaration of Rights.

What states have environmental rights amendments, or Green Amendments, currently?

Only Pennsylvania and Montana have constitutional language and court rulings that fulfill the definition of a Green Amendment. In addition to Maryland, Green Amendments are being advanced in New York, New Jersey and West Virginia with proposals anticipated in other states.