



May 7, 2024

Speaker Robert Rivas
California State Assembly
c/o Elena.Pieri@asm.ca.gov

Chair Buffy Wicks
Assembly Committee on Appropriations
c/o Nikita.Koraddi@asm.ca.gov & Zak.castillo-krings@asm.ca.gov

Re: ACA-16: the California Green Amendment.

Dear Chair Wicks and Speaker Rivas,

As a national expert on “Green Amendments” that is working in over 20 states where Green Amendments are proposed, including the 3 states where Green Amendments currently exist and are being enforced through advocacy, good government action, and (*when needed*) legal action, I am writing to offer some additional insights and information, particularly in light of the Fiscal Effect report recently provided to the Assembly Committee on Appropriations.

I founded the national Green Amendments For the Generations movement in 2014 and both coined and defined the term “Green Amendment” in the first edition of my book published in 2017 titled *The Green Amendment, Securing Our Right to a Healthy Environment*. Since its founding, Green Amendments For The Generations has inspired and supported Green Amendment proposals nationwide, and worked towards their most effective interpretation and application.

Green Amendments are a special kind of environmental rights amendment that give environmental rights highest constitutional standing. A Green Amendment is a self-executing provision placed in the Declaration of Rights/Bill of Rights section of a constitution that recognizes and protects the inalienable rights of all people to a clean and healthy environment. Green Amendments ensure environmental rights are given recognition and protection that is on par with other fundamental rights such as speech, property and religious freedoms.

Currently three states have Green Amendments: Pennsylvania, Montana and New York. California is on track to potentially become the fourth, and in so doing, to secure essential protections that otherwise are not afforded by the current legal system and structure in the state.

Existing Green Amendments in the three states that have them are experiencing positive benefits and no economic downturn. The legal actions that have been brought are all about serious issues of significant concern, none have been dismissed as frivolous, and with less than 10 cases a year on average having been filed in the courts in any of these states we are not seeing a significant uptick in legal actions resulting from the amendment.

Cases that have been filed where the Green Amendment has been raised have been to address issues of water contamination, air pollution, toxic soil contamination, climate change, human health and environmental justice. Sometimes the plaintiffs are individuals, community organizations and/or environmental organizations, but it is not uncommon that parties relying on the Green Amendment language in their legal filings, claims and arguments are local or state governmental entities. In numerous cases, the legal outcome either informed by, or dependent upon, the Green Amendment language has helped to protect government budgets from the significant costs of environmental pollution including drinking water contamination; has helped to protect communities from the economically costly harms of pollution-induced health issues; has helped to protect property values; and are being used to protect businesses and jobs from the harms inflicted by issues of environmental pollution and degradation.

The Fiscal Effect analysis suggests that Green Amendment cases filed will result in significant costs to the courts and the Department of Justice. But these assertions are based on the false premise/assumption that the Green Amendment itself will be the source of an uptick in legal cases filed in the state; i.e. cases that would not have been filed but-for the passage of the California Green Amendment (ACA 16). Quite to the contrary, other than a very few, every case filed in Pennsylvania, Montana or New York where Green Amendment claims are made, would have been filed regardless of the existence of the Green Amendment in that state. In all, but that very few, of these cases there are numerous other claims included in the legal filing based on existing statute, regulation, permit obligations, and/or claims of nuisance, negligence or other legal principles that would have been pursued regardless of the constitutional Green Amendment rights and obligations. And notably, the Green Amendment is often raised not as an argument unto itself, but as part of the argument regarding how existing law or government enforcement obligations should be interpreted and applied in the context of the case at issue – in other words, the Green Amendment obligations are raised to help inform the court's proper interpretation and application of law, and/or assessment of the legal arguments presented.

The Fiscal Effect analysis provided the Appropriations Committee does not well reflect the actual experience with Green Amendment protections, legal actions or costs in Pennsylvania, Montana or New York. Again, we do not see an uptick in new cases that are filed because of the passage of the Green Amendment; what we see are constitutional claims added to cases that would be advanced on these other grounds and/or the constitutional language is brought forth to help inform the appropriate interpretation and application of law by the court and as such helps to inform the most appropriate and just outcome for the parties involved (including the government parties).

The right to clean water and air, and a healthy environment, is an inalienable human right that belongs to all the people of California. But to ensure that these inherent, inalienable, indefeasible human rights are given highest legal recognition and protection, it is essential they are recognized alongside the other Article 1 human, civil and political rights we recognize and protect such as the right to “freely speak”, the right to be free from “unreasonable searches and seizures”, and the right to “due process of law” and a “speedy” public trial.

Having a California Green Amendment will help protect the quality of California’s air, water and environment, while at the same time supporting the many economic values a healthy environment provides and avoiding the tremendous costs inflicted by environmental pollution and degradation.

Passage of the California Green Amendment will once again highlight California’s leadership when it comes to securing critical environmental protections for all the people of the state.

I would be pleased to speak with you via zoom or phone about the current experience of Green Amendment language – in and out of the court room – in other states if of interest and value. My email is maya@forthegenerations.org and my cell phone is 215 801 3043.

With respect and regards,

A handwritten signature in blue ink that reads "Maya K. van Rossum". The signature is fluid and cursive, with a long horizontal line extending to the right.

Maya K. van Rossum
Founder, Green Amendments For The Generations Movement & Organization

Cc: Assemblymember Isaac Bryan
c/o Michelle.persoff@asm.ca.gov