



The Wisconsin Green Amendment: Strengthening Environmental Justice, Environmental Protection, Climate Justice & Healthy Communities

Passage of a Wisconsin Green Amendment will help the people of Wisconsin to proactively protect the state's environment, communities and state economy. The state constitution provides the overarching legal structure, principles and obligations to which all state government action must conform. The Wisconsin Green Amendment will ensure that all government officials – including at both the local and state level -- will work to advance proactive environmental protection at every level of the decisionmaking process. The Wisconsin Green Amendment will help ensure that existing environmental laws and regulations are implemented to their full potential; will provide a basis for advancing new needed protections (e.g. through legislation, regulation or government action); and will provide a basis to secure protective government action when a gap in the law is identified. The Wisconsin Green Amendment will also recognize the duty of government officials to proactively, as trustee, protect the state's natural resources for the benefit of the people, including future generations.

The trustee obligation to protect the state's natural resources for the benefit of the people of the state, including future generations, will provide clear and understandable fiduciary obligations guiding how government officials must fulfill their constitutional duty. For example, as trustee of the state's natural resources government officials must demonstrate they have acted with prudence and undertaken informed decision-making before taking action - including assessment of cumulative impacts, existing conditions, relevant science, and environmental justice impacts. In addition, the fiduciary obligations of a trustee will ensure government is prioritizing environmental protection for the benefit of the people (the beneficiaries) rather than prioritizing the pursuit of profits, industry goals or political agendas. And, as a trustee, government officials will have to ensure that natural resources are being protected equitably for all people and across the generations.

Indigenous communities and people of color in Wisconsin continue to be disproportionately impacted by environmental pollution and degradation. Creating an overarching constitutional right to be equitably protected is an essential tool for supporting enforceable environmental justice. The Wisconsin Green Amendment will ensure all communities – regardless of race, ethnicity, geography or wealth – have the same rights to clean water and air, healthy soils, a healthful environment, safe climate, and self-sustaining ecosystems, and will create a constitutional duty on government officials to protect essential natural resources and environmental rights equitably for all people and communities.

Recognizing the right to a safe climate as being among the fundamental environmental rights to be protected, will strengthen the obligation of government officials in Wisconsin to consider and address the climate changing ramifications of their actions. This obligation is further strengthened by recognizing government within the state as a trustee of the state's natural resources with a duty to protect these resources for present and future generations.

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By recognizing the cultural values of a clean, safe and healthy environment, the Wisconsin Green Amendment can highlight and strengthen legal protections for the cultural connection between indigenous communities and their environment. The Wisconsin Green Amendment will help ensure government prioritizes the cultural values of indigenous communities to a healthy environment, including the protection of sacred lands from environmental desecration, and honoring traditional cultural connection to healthy natural resources.

The Wisconsin Green Amendment will ensure government officials take steps to protect the state's natural resources for present and future generations throughout the legislative, regulatory, permitting and decisionmaking process at all levels of government. Generational protection obligations secure a more informed, forward thinking, and holistic approach to environmental action and natural resource protection; ensuring government officials are thinking long term, including considering cumulative impacts over time and generations.

The Wisconsin Green Amendment will place the rights to a clean and healthy environment legally on par with other fundamental rights such as private property rights, free speech, and religious freedom. When two rights are implicated by government action – such as property and environment – government must work to balance and protect both sets of rights.

The Wisconsin Green Amendment will strengthen the healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, toxic tort lawsuits, drought and declining property values, by ensuring government actions avoid environmental degradation rather than responding to it after-the-fact.

The Wisconsin Green Amendment will strengthen existing laws as a tool for environmental protection as well as provide a foundation for passage and implementation of strengthened protections. By recognizing constitutional protection of environmental rights and the duty to protect the state's natural resources generationally, the Green Amendment will strengthen the interpretation, application and enforcement of existing laws while also providing a strong platform for needed, but missing, community and environmental protection legislation.

The Wisconsin Green Amendment will strengthen environmental protections beyond existing state protections by explicitly recognizing an independent enforceable right of the people to a clean and healthy environment; mandating a focus on preventing environmental pollution and degradation rather than a focus on control of harm; elevating environmental rights to the constitution's Declaration of Rights which brings additional legal strength for environmental protection and environmental justice; ensuring natural resources must be protected generationally; and ensuring informed government decisionmaking is a constitutional pre-requisite to taking action that could infringe upon environmental rights.

When there are critical issues of environmental concern not addressed by existing law, the Wisconsin Green Amendment could help to fill these gaps in protection until such time as the law catches up and addresses the areas of concern. PFAS was allowed to contaminate drinking water and environments for decades because while government was permitting pollution discharges to air, water and land, there were no laws or regulations that explicitly empowered and obligated government to provide needed protections from PFAS. A Green Amendment can help fill environmental protection gaps like this.

The Wisconsin Green Amendment, with its Declaration of Rights placement, provides for equitable remedies, ensuring the focus is on remedying government action causing an unconstitutional environmental rights violation. The Green Amendment will not seek money payouts for environmental harms but instead will focus judicial decisionmaking on remedies that secure protection for all communities potentially impacted by unconstitutional government action.

It is the right of the people of Wisconsin to determine if they want their inalienable human right to a clean and healthy environment added to the state constitution. A vote of the legislature will not in and of itself amend the constitution, it will mean the people can vote on whether to amend their constitution.

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