



The people have a right
to clean air and water and
a healthy environment.

Last week, New Jersey lawmakers and a variety of stakeholders crammed into a statehouse committee room for a relatively rare legislative hearing. This 2-hour [hearing](#) centered on New Jersey's proposed green amendment, which committee chair Senator Bob Smith described as "a very controversial topic" as he gaveled in the meeting. This green amendment would add a constitutional guarantee to a healthy, clean environment. Advocates have been pushing for such a hearing [for years](#). Dozens of supporters spoke up for the legislation while a handful of corporate lobbyists and executives read statements against the bill.

In 2024, these kinds of hearings may take place more and more in statehouses around the country as legislatures warm to the idea of so-called green amendments. At least 10 states so far this year have proposed legislation that would let voters decide in November whether they want the right to a clean, safe environment spelled out in their state constitutions, [Bloomberg recently reported](#). Those states where legislators are backing new constitutional

environmental protections this session include California, New Jersey, Washington, New Mexico, Vermont, Hawai'i, West Virginia, Kentucky, Iowa, and Texas.

Some are farther along than others and the number could shift. [Hawaii's version, SB 2933](#), had a hearing in early February and passed out of committee. Washington state's bill had a hearing in early February and failed to pass out of committee.

These green amendments, or environmental rights amendments as they're sometimes called, are added to a state's constitution and can be used to require government officials and agencies to prioritize environmental protections when advancing energy policy for example. Only three states currently have these in their constitution: Pennsylvania (passed in 1971), Montana (1972), and New York (2021).

These efforts are nascent and uncertain. Since constitutional amendments typically must go before voters, it could take multiple years to pass these pending green amendments and they continue to face significant headwinds this year as they have in the past. However, something is different this time around: This is the first legislative session after the landmark climate youth trial in Montana.

The state court decision in *Held v. Montana* held that Montanans have a "fundamental constitutional right to a clean and healthful environment, *which includes climate as part of the environmental life-support system.*" The trial in Montana was the [first of many to come](#) and the proceedings [tell us a lot](#) about how future trials might go, including the upcoming trial in [Navahine F. v. Hawai'i Department of Transportation](#). A [petition from more than 40 groups](#) filed in late February asks the Montana Public Service Commission (PSC) to open a rulemaking to integrate climate impacts in its regulatory decisions. (The Montana Attorney General's office is appealing the *Held* decision.)

Back in the packed committee room of the New Jersey State Senate, lawmakers wanted to know all about how green amendments have worked in other states. Two of the speakers giving expert testimony were former state lawmakers from New York and Pennsylvania who sponsored their states' green amendments.

"In my years in the Legislature, nothing has given me more satisfaction than this amendment," said former Pennsylvania State Senator [Franklin Kury](#). He told the committee that the environmental rights amendment was ratified by voters 4 to 1—a huge showing of support. As a result, the Pennsylvania constitution reads: "The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all

the people, including generations yet to come.”

By far, the most pressing concern expressed by New Jersey lawmakers during the hearing was whether adding a constitutional guarantee to a clean and healthy environment could open the state up to more lawsuits. What if, one lawmaker asked, a group sues the state to block much-needed offshore wind projects claiming they’re killing passing whales? But green amendments have *not* led to an avalanche of lawsuits, Kury and others testified. Maya K. van Rossum, the founder of the nonprofit Green Amendments for the Generations, told the committee that Pennsylvania, Montana, and New York have seen anywhere from 3 to 10 related lawsuits a year and that “none of the cases have been dismissed as frivolous.” In other words, this is litigation that would have been filed anyway, she said. Green amendments can actually help *defend* against this litigation because the decision-making process required of state officials is more robust, van Rossum said.

Now, these amendments can take slightly different forms. New Jersey could be the fourth state in the nation to put this to voters, the second in the modern era after New York—but the very first state to include language that speaks directly to ensuring a safe climate for future generations. The New Jersey bill ([SCR43](#)) proposes that: “Every person has a right to a clean and healthy environment, including pure water, clean air, and ecologically healthy habitats, and to the preservation of the natural, scenic, historic, and esthetic qualities of the environment. The State shall not infringe upon these rights, by action or inaction.” It goes on to say that “The State’s public natural resources, among them its waters, air, flora, fauna, climate, and public lands, are the common property of all the people, including both present and future generations. The State shall serve as trustee of these resources and shall conserve and maintain them for the benefit of all people.”

Beyond the Garden State, another one to watch is California, which is just getting in on the action. In late January, Assemblymember Isaac Bryan (Los Angeles) introduced [ACA 16](#), which simply proposes to “amend the California Constitution to declare that the people have a right to clean air and water and a healthy environment.” If the fight in states like New Jersey or Hawai‘i are any indication, the California bill may need longer than one legislative session to get a hearing let alone pass and go before voters. But then again, maybe not.

The Montana trial last year (not to mention the coming trial in Hawai‘i) changed the playing field and it could very well help accelerate the timeline. One thing’s for sure: the voter enthusiasm that would likely be generated by green amendments on the ballot in multiple states could lure young voters in a year when their participation is in doubt.