



To: House Committee on State Government & Elections
Re: House Resolution 5732 – Rhode Island Green Amendment
Date: Written Testimony submitted 4.1.2025 – Expert analysis

Dear Members of the House Committee on State Government & Elections,

My name is Maya van Rossum, I am an attorney, leader of the organization Green Amendments For The Generations, author of the book titled *The Green Amendment, Securing Our Right to a Healthy Environment* (now in its 2d edition) focused on the importance of Constitutional protection for environmental rights at the state and federal level. I am frequently called to testify as an expert, and have written and published many articles on the values of constitutionally recognizing and protecting environmental rights within a state constitution's bill of rights, including books, book chapters, opinion pieces, training materials, and peer reviewed journal materials. In addition to working with communities in Rhode Island, I am working with communities in over 20 other states seeking to secure a meaningful and enforceable constitutional environmental rights provision that meets the definition of a "Green Amendment" – a special kind of environmental rights amendment that ensures meaningful and enforceable protection for environmental rights.

Currently, there are three states – Pennsylvania, Montana, New York – already benefitting from environmental rights in their state constitution Declaration of Rights/Bill of Rights, recognizing these rights in the same meaningful way Rhode Island is currently considering. Rhode Island's proposed amendment tracks closely to the language and legal precedent secured in these states, but with the greatest likeness to that located in Article 1 Section 27 of the Pennsylvania constitution.

In Pennsylvania and Montana, the two states that have had enshrined environmental rights in their state constitution bill of rights for a number of years now, legislators, regulators, the state attorney general, the governor, local government and the courts have successfully used the constitutional language to protect the environment while balancing multiple community interests including property rights and economic development. New York's amendment is just a few years old but is already helping to guide and strengthen government environmental protection, while also providing a mechanism for impacted communities to seek relief when they believe government action is resulting in unconstitutional levels of harm. In all three states, the amendments are being used to address serious issues of public concern – protecting drinking water, supporting government action to secure responsible party clean-up of toxic contamination, protecting local authority regarding environmental issues and zoning, protecting public natural open space, and helping to advance good quality climate change policy, programs actions and decisions.

Adding environmental rights to the Rhode Island Declaration of Rights in the way proposed will provide important and valuable protections for the people and natural resources of Rhode Island. The proposed Rhode Island Green Amendment will provide procedural and substantive mandates that will meaningfully advance environmental protection and environmental justice protection in Rhode Island by ensuring the environmental rights of Rhode Island's people are given the

same highest constitutional recognition as other fundamental rights, such as speech, religion and property rights. The Declaration of Rights placement will raise up environmental rights so they become part of the guiding obligations and principles for all government action and legislation – at the state and local level – ensuring that everytime government acts, it will ensure environmental rights and natural resources are being fully, fairly, equitably, appropriately, and generationally protected.

As happens with other fundamental rights, placement of this language in Article I will ensure that government prioritizes environmental protection and works to avoid environmental pollution and degradation as part of the decision-making process; when there is the best opportunity for preventing harm including (but not limited to) when crafting and implementing legislation and regulations, when issuing permits, approving development, and considering how to address ongoing environmental concerns.

Including an obligation for the state to serve as trustee of Rhode Island's natural resources with the public as the recognized beneficiaries will offer legal obligations and clarity that has proven helpful in other states. Including a trustee obligation will instill fiduciary duties of prudence, loyalty and impartiality on government. Fulfilling these duties will: (a) ensure government officials engage in informed decision-making and understand the impacts of what is being proposed before allowing a proposal to move forward, including consideration of relevant science, existing local conditions, potential impacts and cumulative impacts; (b) mandate that environmental rights are protected equitably across the state and across communities, regardless of race, ethnicity, geography, wealth or generation; and (c) will ensure natural resources are protected for the benefit of the public, as the beneficiaries, versus serving the private interests of industry or others.

Notably, in existing Green Amendment states, we are seeing local and state government embrace and rely upon the constitutional language as a tool for informing and supporting government action that benefits their communities and constituents.

Overall, the proposed language will strengthen existing environmental protections in the state, will provide a strong foundation for new and needed protections, will provide legal protections to address unregulated issues while essential legislative protections are developed, and will ensure a mechanism for government and communities to address issues of environmental concern when existing laws as written, interpreted, applied and/or enforced fail to do so.

The language in the proposed amendment is appropriate and characteristic of protected Article I rights in Rhode Island. As with other Declaration of Rights provisions, the process for definition of key terms found in the amendment will begin with the legislative and executive branches, including implementing agencies and local government, and will at times require the courts to assist. When the courts do become involved, it will not be to displace the legislative or executive branches of government, but instead to exercise the appropriate role of the judicial branch of government to ensure constitutional rights and protections have been complied with.

The Rhode Island Green Amendment will not result in legal actions between private parties. The constitutional obligations, and therefore the focus of any advocacy or legal action based on the constitutional language, will be focused on government actors, entities and actions.

Constitutional environmental rights protection will enhance economic development by encouraging sustainable, environmentally protective, and innovative development, industry, and businesses that support jobs and economic growth while at the same time ensuring the beneficial

values of a clean, safe and healthy environment and avoiding the economic, health and safety harms that result from environmental pollution and degradation.

Amendments comparable to the proposed Rhode Island Green Amendment in Pennsylvania, Montana and New York have not harmed nor slowed economic development in the state—neither job growth nor GDP. There is no reason to believe that Rhode Island's experience would be any different. In fact, it is well demonstrated through history and recent experience that development projects using environmentally-protective construction, siting, and stormwater practices are more marketable, sell more quickly, and sell for a higher price than more traditional development; businesses that demonstrate a strong environmental ethic are attractive to workers and their families; and that environmental protection within a state supports strong economic growth, as opposed to harming it.

Notably, protecting the environment is of tremendous value for benefitting and protecting government budgets, by avoiding costs associated with environmental degradation and securing the economic businesses and job growth that healthy ecosystems provide.

Ensuring constitutional protection of environmental rights will not support frivolous litigation nor encourage an onslaught of inappropriate legal action. While the the Rhode Island Green Amendment proposed may support important legal claims essential to address environmental pollution and degradation harmful to the lives of the people of Rhode Island, it will not support frivolous litigation, nor is it expected to support a sudden rush of litigation in general. In other Green Amendment states we have seen 0 cases dismissed as frivolous, nor have we seen a rush of litigation.

The proposed Rhode Island Green Amendment will provide important and valuable additional protections for the natural resources and people of Rhode Island by ensuring the environmental rights of Rhode Island's people are given the same highest constitutional recognition as other fundamental rights. Protecting the environmental rights of the people of Rhode Island is an important compliment to the current right of the people to enjoy and freely exercise their rights to the state's fishery and shores already found in the state constitution at Article 1, sections 16 and 17. But rather than instruct government officials in the state to regulate and control the use of the state's natural resources as a means of advancing natural resource protection – a pathway that is already part of the state's exercise of its police powers -- the proposed Rhode Island Green Amendment will create a right of the people to a clean, safe and healthy environment and ensure the people of the state, as well as local and state officials, can advance and secure needed protections when existing laws fail to do so.

Thank you for the opportunity to comment.

I will be happy to answer any questions any legislators may have in the follow up to this hearing. Feel free to reach out to me at maya@forthegenerations.org or via phone at 215 801 3043.

With respect and appreciation,



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