

CONSTITUTIONAL AMENDMENT FULL TEXT

Ballot Title: Right to Clean and Healthy Waters

Ballot Summary: This amendment creates an enforceable, fundamental right to clean and healthy waters, authorizing a person to sue for equitable relief when a State executive agency, by action or inaction, allows harm or threat of harm to Florida waters. This amendment provides for strict judicial scrutiny of such action or inaction; adds to available remedies; identifies affected constitutional provisions; provides for enforcement; defines terms; and requires attorney's fees and costs to prevailing plaintiffs.

Article and Section Being Created: Article I, Created: Section 28

Full Text of the Proposed Amendment: SECTION 28. Right to Clean and Healthy Waters.—

(a) PURPOSE. Clean and healthy waters promote important public interests, including health, prosperity, and quality of life; safe drinking water; scenic beauty and recreational activities; fishing and harvesting; thriving populations and diverse communities of native fish and wildlife; aquatic ecosystem services including carbon storage, water filtration, and risk mitigation for drought, erosion, and floods; and economic interests, business opportunities, and enjoyment of property throughout the State. The purpose of this Section is to advance these public interests by creating an enforceable, fundamental right to clean and healthy waters pursuant to the people's inherent political power in Article I, Section 1 of this Constitution.

(b) DECLARATION OF RIGHT. The people hereby create this fundamental right to clean and healthy waters.

(c) HARM PROHIBITED. It shall be considered a violation of the right to clean and healthy waters for a State executive agency to allow harm or threat of harm to Florida waters by action or inaction, such as by regulation, rule, unadopted rule, plan, standard, permit, certificate, practice including management practice, activity, agreement, memorandum of understanding, order, waiver, variance, or by enforcement or other action delayed or withheld.

(d) ENFORCEMENT. A person, as defined herein, shall have standing to bring a civil action in a court of competent jurisdiction to seek equitable remedies, such as declaratory and injunctive relief, against a State executive agency due to its action or inaction that allows harm or threat of harm to Florida waters. A plaintiff shall not be required to exhaust administrative remedies or to allege special injury different in kind from the general public at large. A plaintiff shall not be subject to filing fees or court costs in excess of those imposed for general civil actions. Any claim under this Section shall be considered de novo and shall be assessed on a preponderance of the evidence. Because a claim under this Section is based on a fundamental right, strict scrutiny shall apply, wherein a State executive agency may raise an affirmative defense that its action or inaction promoted a compelling state interest and was narrowly tailored to advance that interest by the least intrusive means. That another entity contributed to the harm or threat of harm does not excuse a violation of this Section. Deference shall be given to the best available scientific evidence. A prevailing plaintiff shall be entitled to appropriate equitable relief to redress the violation and to reasonable attorney's fees and taxable costs. The remedies provided by this Section are additional and cumulative to available remedies under other laws.

(e) DEFINITIONS. The following terms shall have the following meanings for the purpose of this Section

Initiative Information

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Sponsor Name: FloridaRighttoCleanWater.org

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