

B. Propose Self-Executing Constitutional Provisions With Defined Remedies

The legal way to achieve changes to state constitutions is to make constitutional proposals with which citizens agree.¹²⁹ Because an increasing number of state officials have tried to circumvent or ignore constitutional provisions,¹³⁰ the decisions by state high courts demonstrate the importance of drafting ballot proposals that articulate a right and the intent of citizens who support the proposal.¹³¹ The ballot language gives guidance to officials in implementing their duties and to courts when they are called upon to adjudicate whether state officials are complying with their obligations.¹³²

Equally important is drafting constitutional amendments that address what James May, perhaps the nation's foremost expert in state constitutional environmental law, calls the "constellation of issues" that surround the right to adequate environmental protections, including "the nature of the right, the meaning of 'environment,' whether the right is self-executing, who may vindicate the right, who may be held accountable for constitutional breach and for what, and the standard of review for identifying an infringement of a right to a quality environment."¹³³ For example, New York's Forever Wild clause is not only self-executing, but also clearly defines who may bring action and for what.¹³⁴ The two Florida Forever provisions define the processes for implementation

129. *Amending State Constitutions*, *supra* note 109.

130. *Id.*

131. *See supra* Parts II(d) and III. *See, e.g., Caribbean Conservation Corp., Inc.*, 838 So. 2d at 500-01; *Gray*, 125 So. 2d at 852; *Ass'n for Prot. of Adirondacks*, 170 N.E. at 903-04.

132. *Id.*

133. *May & Romanowicz*, *supra* note 1, at 307.

134. N.Y. CONST. art. XIV, § 5 ("A violation of any of the provisions of this article may be restrained at the suit of the people or, with the consent of the supreme court in appellate division, on notice to the attorney-general at the suit of any citizen.").

sufficiently for self-execution, but they do not specify what remedies are available.¹³⁵

The deficiency in these provisions, however, is the lack of personal accountability for deliberate and egregious violations of constitutional provisions by public officials. These officials use public funds to pay for legal expenses for clear violations, often appealing decisions with adverse decisions. Until there is a way to hold these officials accountable, too many public officials will continue to ignore their obligations to uphold both the United States Constitution and state constitutions.

V. CONCLUSION

An overwhelming majority of voters throughout the United States continue to support the protection of natural resources, as demonstrated by the citizens of New York and Florida through votes to enact constitutional amendments that protect and conserve land and forests. Public officials at all levels of government must respect decisions of their constituents and not waste taxpayer money on governmental actions that violate federal and state constitutions. The way to address constitutional change is through proposing amendments that are approved by the voters.