

COMMENTARY



ETHAN ALLEN INSTITUTE

"Ideas for Vermont's Future"

Independent - Nonprofit - Nonpartisan

4836 Kirby Mountain Road Concord, VT 05824 802 695 1448

www.ethanallen.org eai@ethanallen.org

For release Tuesday, June 16, 2020

The Final Push for GWSA

John McClaughry

It's crunch time for the Climate Action Network's most urgently sought legislation: the Global Warming Solutions Act (GWSA). The House passed this bill (H.688) – that I earlier described as the “worst democracy-shredding bill of the past 50 years” – back in January. The Senate Natural Resources and Energy Committee has been considering it remotely for a month. If it doesn't get a Senate vote this month, the bill is dead until next year, when the climate change juggernaut will bring it in again and pull all the stops to get it passed.

Here's what the GWSA would do. First, it recites a lot of grim United Nations pronouncements about our mounting climate emergency, if we don't take drastic measures to rein in the alleged culprit, human-caused carbon dioxide emissions. Then it declares how much state government must force Vermonters to reduce such emissions by 2025, 2030, and 2050.

To prevent any foot-dragging by the governor that would slow Vermont's rush to enforced climate virtue, the GWSA bill sets up what amounts to an alternative government called the Climate Action Council and directs it to create an all-inclusive Climate Action Plan. The Council will have eight members from the Executive Branch, and 14 picked by the legislative leadership to make sure that the Governor's eight can't sidetrack any proposal urged by the climate action coalition that has been working hard to get the bill passed.

The grand Climate Action Plan will instruct the Governor's appointees, mainly the Secretary of Natural Resources, to write and enforce countless rules to control or prohibit anything and everything that contributes to CO2 emissions. Unlike legislation, where you can find out how your legislator voted and hold them accountable, the GWSA-mandated rules will never be voted on by your elected representatives. The rules will just be proclaimed, complete

with fines and penalties if you don't obey.

What if the elected head of our government, the governor, does not wish his appointees to gin up some particularly expensive, invasive, useless, or noxious rule, that would operate against the goal of affordability, especially in light of the urgent need to somehow pay down the estimated \$430 million all-funds deficit projected for the approaching fiscal year? He would have to tell his appointee to forget about it. The Council's climate warrior majority would howl that the Governor was obstructing the law. How that comes out no one knows, because in the past 243 years no legislature has every tried such a stunt.

What if the emissions reduction rules emerging from the bureaucracy appear to be too feeble to force Vermonters to give up the required amount of CO2 emissions to save the planet? The backers of the GWSA have provided for that. A key section of the bill invites "any person" – meaning the Conservation Law Foundation – to sue the State of Vermont to get a judge to order the bureaucracy to speed up the regulating and prohibiting.

That's just what CLF did in Massachusetts in 2015. They used that State's GWSA to persuade the state supreme court to instruct the Department of Environmental Protection to get cracking with sufficiently oppressive emissions regulations. And oh yes, if CLF or whoever brings the lawsuit "substantially prevails", it gets to send to the taxpayers its bill for the legal costs for doing this service.

No self-respecting Governor would stand for an alternative climate government accountable to his political opponents telling his or her appointees that they must move faster and harder, or face a judge's order to wreck the state's economy more quickly.

If this misbegotten bill makes it to the Senate floor, responsible Senators should offer amendments to require that the Climate Council make recommendations to the governor, not instruct the bureaucracy. They should move to strike out the "anybody can sue the state" provision, that includes the "make the taxpayers pay the plaintiff's legal expenses (along with the State's)" clause.

They should also move to add language to specifically bar rules to regulate methane from cattle, force homeowners to switch to electric heat, further subsidize electric cars, reduce fossil fuel used in manufacturing, hospitals, schools, and municipal governments, prohibit snow machines, motor boats and ATVs, and regulate trucks that bring vital food, fuel and supplies into Vermont and haul Vermont products out to markets.

Above all, they should require that no rule originating with this counterfeit climate government can take effect without an affirmative vote of the General Assembly.

It's hard to see how, four months before an election, even the most ardent climate warriors of the Senate would welcome casting roll call votes on a long list of such amendments. A far simpler and better solution: consign the democracy-shredding GWSA to a place of eternal rest, and focus on rescuing Vermont's precarious economy from the depredations of COVID-19.

303030

John McClaughry is vice president of the Ethan Allen Institute. He served four years on

the Senate Natural Resources and Energy Committee.