

After 25 Years, States Are Doing More While Facing Familiar Issues

On the 25th anniversary of this column, my ELI State Center colleague (and former author of this column) John Pendergrass and I decided it would be an opportune time to ask how the role of the states in environmental protection has changed over the last quarter century. We posed our question to current and former leaders of state environmental departments.

Leslie Carothers, former ELI president and former Connecticut Department of Environmental Protection commissioner, remembers: “I was contending with many of the same issues facing other states, including the upgrading of public and industry wastewater treatment plants and reducing air pollution from industrial plants.”

She recalls that state government produced good results and that there was strong support for environmental work. “President Bush was making a record of environmental leadership, successfully supporting potent amendments to the Clean Air Act and signing the climate treaty.”

Today, Carothers contends the issues are even more “technically complex and politically contentious,” such as the “consequences of climate change and ecological damage, including habitat and biodiversity loss.” Furthermore, “in the aftermath of a devastating economic recession and continuing income stagnation, people are understandably more concerned about paying their bills” than mitigating environmental damage.

Carothers also says politics can be a hindrance: “In the Republican party, an extreme anti-government and anti-science minority in many states is setting the agenda and seemingly driving the party’s environmental advocates from the field at both the state and national level.”

Bradley Campbell, president of the Conservation Law Foundation and

former New Jersey Department of Environmental Protection commissioner, observes that staffing also is a serious concern. He explains that “state environmental agencies came of age in the 1970s and 1980s and by the turn of the century had assumed the lion’s share of water and air permitting and enforcement.” Now, he says that states “are suffering a ‘silver tsunami’ as the first generation of their professionals hits retirement, and in the New England and Mid-Atlantic states, those positions are not being backfilled.” In particular, he notes that “enforcement positions have been the hardest hit. . . . We have gone from states’ demanding primacy in enforcement a generation ago to essentially abandoning enforcement today.”

Despite these challenges, Maryland Department of the Environment Secretary Ben Grumbles asserts that over the last 25 years states have “stepped up

to establish and run revolving loan funds for environmental infrastructure to help meet drinking water, sewer, and energy-related needs to an unprecedented degree.”

Grumbles also commended state efforts to increase “integration of environmental and energy offices and programs, connecting the dots and watts for more sustainable policies locally and regionally.” According to Grumbles, “Many states have also invested significant time and effort to lead federally driven, large-scale ecosystem restoration efforts, involving celebrated but degraded river basins, bays, gulfs, and other great waterbodies.”

Similarly, Carothers recognizes that “many states are still stepping up to address both the present and future consequences of greenhouse gas pollution.” She points to California and other states that are “testing approaches like market mechanisms and renewable portfolio standards, showing the way



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toward increased resilience and low-carbon energy systems.”

Opinions varied considerably with respect to how the state-federal interface has changed. LaJuana Wilcher, a partner with English, Lucas, Priest and Owsley, LLP, and former Kentucky environmental cabinet secretary, contends: “Forty-plus years after most major environmental statutes scripted a leading role for states, they still serve as understudies to EPA.”

Wilcher explains, “The federal government regularly writes, produces, directs, and stars in most significant environmental actions, while states are rarely seen as good enough, tough enough, or experienced enough to take center stage.” She adds, “Regrettably, more rather than less direction seems to come from EPA now than it did 25 years ago.”

In contrast, Alex Dunn, executive director of the Environmental Council of the States, maintains that “the voice of the states has emerged from background noise to that of true co-regulators” and the federal-state relationship has “evolved from parent-child to true peers,” as states have developed expertise. She predicts that cooperative federalism will be replaced with “collaborative” federalism.

Twenty-five years later more states are doing more to protect the environment, but many of the issues are familiar: capacity, relationship with the federal government, funding, and testing policies to determine which work best. •