

Pro Bono Lawyers Draft Deep Decarbonization Model Laws

Last year, ELI Press published *Legal Pathways to Deep Decarbonization in the United States*, a 35-chapter, 1,056-page tour de force edited by Professors Michael Gerrard of Columbia Law School and John Dernbach of Widener Law School. The book outlines more than 1,000 recommendations for federal, state, local, and private actions to reduce greenhouse gas emissions by at least 80 percent from 1990 levels by 2050. The effort builds on the work of the Deep Decarbonization Pathways Project, a consortium of scientific research teams from over a dozen countries.

The editors recognized that their oeuvre may not be user-friendly for time and resource-constrained state and local legislators, and they subsequently embarked on an effort to develop model laws to facilitate codification of the book's recommendations. According to Gerrard, "We particularly wanted the book to translate into action because it addresses such an important topic." Dernbach similarly emphasizes that the "idea is to reduce the gap between recommendations and adoption."

About a dozen model laws are currently available on the Legal Pathways to Deep Decarbonization website (www.lpdd.org). Additional models are added on a regular basis and typically are accompanied by an introductory memorandum.

Dernbach and Gerrard note that they are furthest along on model legislation related to electric vehicle charging infrastructure. Among the models are a state law that addresses condominium (and other common-interest development) covenants that impede the ability to install EV charging stations; a local ordinance that requires municipalities to establish programs

for converting to LED street light poles and using the resulting excess electric power to support EV charging stations; a municipal code requirement for EV-ready charging infrastructure in a percentage of new residential buildings' parking spaces; and a municipal ordinance that requires parking facilities to designate a minimum number of EV parking spaces and charging stations.

In addition to model laws, the website's interactive database includes enacted and proposed state and local laws, as well as other resources: cross cutting approaches to reducing emissions (such as carbon pricing); energy efficiency, conservation and fuel switching — in buildings, industry, and transportation; electricity and fuel decarbonization; carbon capture and negative emissions; and non-carbon dioxide climate pollutant reductions.

States struggling with climate emissions value well-designed model legislation

The number of laws in the database is both inspiring and daunting. The "electricity decarbonization" category alone includes over 550 resources — highlighting the value of model laws that distill the best legislative approaches and language into a single structure. To be sure, collecting and making available over 1,800 laws and other resources is a major contribution, and the website allows users to filter searches by topic, jurisdiction, location, and key words. Nevertheless, sorting through voluminous resources is a time-consuming task — and reducing the burden on legislators and advocates is the project's *raison d'être*, according to the editors. As Gerrard explains, many states and localities lack resources to develop their own laws and ordinances.

Bob Freeman, a state representative from Nashville, Tennessee, who has introduced environmental and energy-related legislation in the General Assembly, agrees with Gerrard, noting: "State



Linda K. Breggin is director of ELI's Center for State, Tribal, and Local Environmental Programs. She can be reached at breggin@eli.org.

legislators end up spending a lot of time looking at what other states have done — to that end, model legislation is extremely helpful and the easiest way to get legislation enacted." He also notes that, unlike legislators at the federal level, the likelihood he would compare notes about legislation with his counterpart in a nearby state "is pretty low."

Freeman highlights another value of model legislation: "It is extremely helpful to businesses if states in the same region use a similar basic framework, as it allows for a more cohesive business environment that lets everybody know what marks they need to meet."

In his state, Freeman says, it would be hard to pass a cap-and-trade program or put a price on carbon, but he welcomes model laws that would help achieve some of the same goals — even if incrementally. He also urges model law developers to draft not only subject matter-specific legislation but also laws that strengthen the underlying system. He cites, for example, laws that prevent state legislatures from preempting local environmental measures.

The model laws project is supported by an extensive network of pro bono lawyers. Over twenty major law firms and many individuals have volunteered to write implementing legislation for the recommendations in specific book chapters. Dernbach is quick to emphasize, however, that additional assistance is needed. Over a dozen chapters have yet to be adopted by volunteers — and the available chapters are listed under the website's CONTACT tab.