

## INTERGOVERNMENTAL ARRANGEMENTS FOR DEALING WITH POLLUTION PROBLEMS

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The past year launched us, not only into the decade of the 70's, but also into a period of intense concern about our environment. We have been bombarded by prophesies that range from those expressing no real concern to those saying the very survival of man is questionable.

There is a general consensus that we do have problems, but that we can deal with these problems if the nation will just get serious and place a high priority on environmental programs. We can cite past records of success, once specific objectives have been accepted as national goals. World War II and the conquest of space are but two recent examples.

In both instances these great national efforts became national goals in response to threats—threats to national security in the first instance and threats to leadership in space technology in the second.

The sequence from emerging concern, to a sense of urgency, to total commitment, to plans, to execution, and finally to mission accomplished, is obvious to those who have closely observed our nation since 1940.

The real question facing us today is whether or not we can respond as effectively to an internal threat as we have to external threats. Perhaps our national response to the basically internal threat of the Great Depression can give us a basis for a certain degree of optimism.

However, today, we still witness a piecemeal and fragmented approach to environmental problems. Our legal, political, and economic institutions have thus far failed to adjust to the circumstances and requirements of a new era.

Essentially we are saying that (1) our legal system has not given due redress to those that have been injured, (2) our economic system has treated as free

that which is really scarce, especially water and air, and (3) our political system has not been responsive to the needs of our society.

Perhaps this indictment is a realistic assessment of the current situation. However, we must keep in mind that the problem of social optimization is indeed difficult. And we have not sequentially moved much beyond the stage of initial concern. The next year or 18 months will tell us whether or not we are moving into the sense of urgency that will result in meaningful direction of local, state, and federal government programs, as well as private efforts, toward the solution of our environmental problems.

This discussion is limited to intergovernmental arrangements to deal with pollution problems.

I will touch briefly on the need for intergovernmental arrangements between local, state, and federal levels of government and then discuss in detail a proposal for interstate cooperation to deal with interstate environmental problems, within the Southern Region.

A national policy, set forth in the Air Quality Act of 1967, declared that the prevention and control of air pollution at its source is a responsibility of state and local governments; that federal financial assistance and leadership is essential for the development of cooperative federal, state, regional, and local programs to prevent and control air pollution; and that a major purpose of the Act is to encourage and assist the development of regional control programs.

Similar policy has been set forth in national acts relating to water quality and solid waste disposal problems. The final session of the 91st Congress had before it numerous bills dealing with land use planning, coastal zone planning and management and many other proposals relating to environmental issues. All of these placed strong emphasis on the

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responsibility of state and local government.

Many other pieces of national legislation could be cited, such as the Intergovernmental Cooperation Act of 1965, to emphasize the current concern for coordination between all levels of government.

The current proposals regarding revenue sharing, if implemented, places a new burden on the development of a system of consistent plans for public expenditures at the local, state, and federal levels of government.

Let us look at the local government situation for a moment. Present day economic, social, and technological developments have created problems that cannot be handled effectively by the typical local unit, be it a municipality or a county.

Economies to scale in public services, such as water, sewer, schools, and health facilities, force a view beyond the individual municipality or county. We cannot afford the costs of quality public services that entail three or four separate school systems within a single county, ten or more separate water and sewer systems within a single county, or the full range of specialized health services within a single county.

Therefore, many states have designated a series of multi-county planning regions to serve as a basis for formulating an efficient system of public service delivery. In North Carolina, Governor Bob Scott designated 17 such regions on May 7, 1970. His Executive Order instructed all state agencies to utilize this uniform system of planning regions in their efforts to improve the delivery of state services to the citizens.

The regions were designated on the basis of a series of social, economic, and physical criteria so that any single region would have a group of closely interrelated counties.

Special efforts are now underway to assist these regions to evaluate their environmental needs, especially regarding the engineering and economic feasibility of regional water and sewer systems.

In all these efforts the state establishes and enforces various criteria of environmental quality that must be met by local units; therefore, it is obvious that a high degree of intergovernmental cooperation is essential.

Let us look for a moment at the state-federal relationship. To implement the policies mentioned earlier, Congress authorized the Secretary of Health, Education, and Welfare in the case of the Air Quality Act to define national atmospheric areas; designate specific air quality control regions; establish and publish air quality criteria; approve standards and plans adopted by the states; and in the event of failure of a

state to do so, to actually initiate adoption of standards and criteria.

In essence, this Act provides a framework for state action and in the event of failure of states to take positive action, the Act permits a federal agency to establish and enforce standards for air quality. So, once more we see the historical trend of the federal system moving into a void left by state inaction.

However, recognizing that problems of coordination and consistency are multiplied when more than one state is involved, the Act provides for interstate agreements or compacts. The Act is written in such a manner as to effectively require a separate set of agreements for each interstate air quality control region. Neither the standards or the plan will be approved for one state in an interstate region in the absence of consistent and compatible standards and plans from the other state or states involved.

A quick survey of potential needs for interstate agreements within the southern states will reveal an almost hopeless situation. Looking first at potential areas of interstate concern regarding the quality of our water resources, we find that if we are to pursue the mandate of Congress and create multi-state regional river basin commissions to provide for comprehensive river basin management programs, then inside the states of the geographical south we will have to create, within the next few years, some 15 new multi-state river basin commissions which we do not now have. They can be created only by means of an interstate compact.

During the past two years, the U. S. Department of Health, Education, and Welfare has denominated some 57 interstate air quality control zones. Keep in mind that they are defined as interstate air quality control zones which means that more than one state will be involved in administering them. Thus, the basic federal legislation for environmental enhancement contains an open invitation, if not a command, to the states to form interstate compacts in order to fulfill their role in the national program. The problem with the formation of interstate compacts in the numbers required to deal with the many individual situations where two or more states must get together in order to solve a common pollution problem is the fact that the interstate compacting process requires years to obtain the approval of Congress.

It might be good to refresh our memories concerning a provision in the U. S. Constitution that prohibits any two states from entering into binding agreements without first gaining the consent of the United States Congress. The track record for Congress in this respect is not good. The shortest time between introduction of legislation seeking Congressional consent for interstate compacts and the ultimate passage

of that legislation is three and a half to four years.

In the face of the multitude of interstate environmental problems confronting the southern states and the inordinate time required to gain Congressional approval for interstate agreements, the 19 chief executives of the member states in the Southern Governors' Conference created, on May 8, 1970, the Southern Regional Environmental Conservation Council. Each Governor appointed a personal representative to the Council.

The Council was created as a study group and mandated to report to the Southern Governors' Conference at its annual meeting in September, 1970, in Biloxi, Mississippi. The specific charge from the Governors was to study the nature, the scope, and the diversity of interstate pollution problems throughout the southern region and to formulate and present policy recommendations to the Governors for their consideration at the annual meeting.

The organizational meeting of the Council was held on June 8, 1970, in Lexington, Kentucky. At that time we planned and scheduled a series of one-half day hearings in each of the southern states.

These hearings were for the purpose of gaining a thorough understanding of the varied pollution problems that each state had in common with its sister states. We were also interested in problems any state may have encountered in their relationships with the various Federal Environmental Protection Agencies. Finally, we asked each state to react to the concept of a single region-wide interstate compact which would permit any two or more states to enter into supplementary agreements to deal with a common environmental problem.

These hearings were accomplished during the second and fourth weeks of July, 1970. We heard the statements from 14 Governors and over 200 top state officials, academic, conservation and professional people, as well as industry spokesmen and private citizens.

Based on the record thus compiled, the Council spent the week of August 1-7, 1970 drafting a report to the Southern Governors' Conference. This report proposed that the governors endorse the concept of an umbrella type interstate compact agreement broad enough in character to permit the states to attack their interstate pollution problems.

This novel approach envisions an initial compact that would require congressional approval. Under the compact, participating states could enter into supplementary agreements relating to a particular water, air, solid waste or any other such pollution problem. It would not require, in each instance, the endless repe-

titions of formal compact ratification by Congress.

The Governors, by resolution, took the following action in their September meeting:

1. endorsed the umbrella compact idea;
2. communicated this policy determination directly to the President of the United States;
3. formulated a program to systematically inform congressional delegations of all southern states;
4. instructed the Southern Regional Environmental Conservation Council to prepare a draft of the Southern Regional Environmental Compact in the form of proposed state legislation and congressional legislation for introduction after January 1, 1971;
5. instructed the Council to create a skeleton technical planning staff of member states personnel to assist the Council in formulating regional interstate environmental control, data-gathering, criteria and implementation systems;
6. authorized the Council to assist the participating states in drafting and negotiations of supplementary agreements; and
7. recommended that the Southern Regional Environmental Conservation Council be continued for two years to advise the Southern Governors' Conference on policies and programs relating to environmental problems.

Since September, 1970, the Council has developed a draft of the compact and has asked that each member state have appropriate state agencies review the draft and comment. These comments are now being evaluated and we hope to have a revised copy soon which reflects the suggestions and wishes of the various member states. Then we can initiate action at both the state and national level to gain approval of this concept of intergovernmental cooperation to solve many of our pollution problems that do not lend themselves to solution by unilateral state action.

Certainly there is no easy route to the solution of our environmental problems. What I have described to you is a serious effort by state governments to meet the challenge of a situation that will require the highest level of response by all levels of government.

This action by the southern Governors represents a clear recognition that the ultimate responsibility of administering and controlling environmental problems must eventually rest with the states. The states must be daring and innovative. Individually, the states are limited, but acting in concert, the first step can be taken toward equipping themselves to respond to the growing demands of environmental problems.

