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## After Supreme Court Ruling, Cities 'Left Holding the Bag' on Climate Change.

**The decision to curb federal authority on emissions puts even even more pressure on local governments, which have attempted to fill the gaps in climate policy.**

The US Supreme Court severely limited the Environmental Protection Agency's authority to regulate greenhouse gas emissions under the Clean Air Act on Thursday, ruling 6-3 that it does not have broad authority to shift power generation from fossil fuels to renewable energy sources. The decision deals a major blow to the Biden administration's climate agenda of halving carbon emissions by 2030 and creating a carbon-free electric grid by 2035.

Scientists have already warned that the US is not on track to meet its emissions target, and the decision now renders the goal nearly impossible unless Congress acts to pass new legislation. That puts even even more pressure on local governments, which have attempted to fill the gaps in climate policy, particularly during the Trump administration. But the ruling could become a double whammy, severely hampering those local efforts, too.

"Cities are going to be left holding the bag, dealing with adverse health outcomes of the dirty air and dirty water, while our federal agencies that have the expertise and resources to promote and enforce standards are having to basically play 'mother, may I' with a Congress that is already deeply gridlocked on so many issues," says Kate Wright, executive director of Climate Mayors, a bipartisan network of more than 470 US city leaders focused on climate change.

While the decision doesn't explicitly affect cities' ability to set their own energy policies, local leaders warn that federal regulations are crucial to their effectiveness. Cities can tackle the demand side of the emissions challenge within their borders — by investing in wind and solar energy, for example, or mandating sustainable buildings — but they rely on the federal government to set broader and wider-reaching regulations.

An amicus briefing filed on behalf of city leaders in January by Columbia University's Sabin Center for Climate Change Law emphasized this point: "Local governments have little ability to regulate the circumstances imposed on them by the wider world, and greenhouse gas emissions from sources beyond municipal borders will still impact people, infrastructure, and resources inside them."

To achieve the very ambitious US climate goals, "we need the support of every level of government and the private sector, and we have very limited time and a massive challenge on our hands," Wright says. "Any restriction in the support that [cities] are getting from the federal government is going to have an impact."

The Supreme Court case centers around the Obama-era Clean Power Plan, which never actually went into effect. It was repealed under the Trump administration, and President Joe Biden has not reinstated it. But its premise — to set the first-ever limits on carbon pollution from US power plants, and in effect, push the industry to shift to renewable energy sources — was enough to prompt Republican leaders and the coal industry to seek a preemptive block of such regulation.

The majority of the justices sided with plaintiffs who argued that the EPA overstepped its authority in setting rules that can reshape the country's electricity grids, and that such actions from the executive branch were not explicitly authorized by Congress under the Clean Air Act. The dissenting justices vehemently disagreed. "The limits the majority now puts on EPA's authority fly in the face of the statute Congress wrote," Justice Elena Kagan wrote.

"It's deeply disappointing to be working so hard on this issue and to have SCOTUS come in, yet again — they didn't have to take this case — with a panel of activist judges who are actively trying to change the law," says Mayor Satya Rhodes-Conway of Madison, Wisconsin. She says her city is working on decarbonizing its buildings and electrifying its fleets, but reducing citywide emissions will be more difficult without federal support.

The decision derails a core piece of Biden's climate agenda, which is to create a 100% electric grid by 2035. That complicates efforts to procure renewable energy sources, though experts say some tools are available to local leaders — depending on state law — including purchasing power agreements, community choice aggregation and community solar projects.

"But for the most part, we really need the federal government and states to help us get to a place where all of the power in our electricity grid is green," says Amy Turner, a senior fellow at the Sabin Center. "Cities really can't do that on their own because they don't have as much control or authority over the amount of renewable energy that they have in their electricity grid."

Despite these concerns, experts stopped short of saying that cities' hands were tied by the ruling. In fact, when faced with setbacks on combating climate change in the past, they've largely responded by doubling down on their commitment.

"It's been more than a decade that cities, and to some extent states, had to be the ones to lead the way on climate and develop some of the more ambitious policies in a legal environment that is unfriendly to those kinds of policies," says Turner.

When former President Donald Trump pulled the US out of the Paris Agreement in 2017, for example, city and state leaders vowed to continue honoring the climate pact and reaffirmed their commitment to reducing emissions. Membership in the Climate Mayors grew exponentially in the aftermath, according to Wright, "because so many cities recognized the need to continue having national leadership, even if it means a group of cities working together."

The US also saw a spike in clean energy purchases made by local governments in the years following Trump's withdrawal. According to the World Resource Institute, renewable transactions at the local level totaled nearly 2,300 megawatts in 2018 and more than 2,600 megawatts in 2019 — more than three times the figure in 2017.

Going forward, cities are likely to continue pursuing — or scale up — policies to curb emissions within their municipal borders, as well as collaborate with neighboring municipalities and local environmental groups, says Kate Johnson, the head of US federal affairs at C40 Cities coalition.

They will have to also strengthen efforts to leverage federal funding, including from Biden's infrastructure law. "It could become even more essential that federal investment continue to allow cities to make that down payment on the transformational change that they need to deliver on their climate action plan," she says.

Wright adds that cities will need to put more pressure on federal lawmakers. "The pivot will be that we need to up the urgency of Congress acting," she says. "It becomes very important for us to weigh

in related to [budget] reconciliation,” which would allow climate investments to pass with a simple majority of 50 votes.

“Cities are on the front line of the climate crisis, and they are also at the forefront when it comes to solutions,” Johnson adds. “This decision is not going to change that.”

## **Bloomberg CityLab**

By Linda Poon

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