

PHILIP B. SCOTT
GOVERNOR



State of Vermont
OFFICE OF THE GOVERNOR

September 15, 2020

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.688, *An act relating to addressing climate change*, commonly referred to as the “Global Warming Solutions Act” (GWSA), without my signature because of my objections described herein:

As passed, this legislation simply does not propose, or create a sustainable framework for, long-term mitigation and adaptation solutions to address climate change. As noted in my August 12 letter to Speaker Johnson, Senate President Pro Tem Ashe, and Committee Chairs Briglin and Bray, I share the Legislature’s commitment to reducing greenhouse gas emissions and enhancing the resilience of Vermont’s infrastructure and landscape in the face of a changing climate. In that same letter, I outlined three specific concerns with this bill and resubmitted changes to address these concerns and create a path forward.

To reiterate what I have shared publicly, and my Administration has shared with the Committees of Jurisdiction and Legislative Leadership, the three primary areas of concern that I have with H.688 are as follows:

1. the creation of a cause of action which could lead to costly litigation and delay, instead of putting forward tangible solutions and actions we can take now;
2. the structure and charge of the Vermont Climate Council (Council) presents an unconstitutional separation of powers issue; and
3. the absence of a process ensuring the Legislature would formally vote on the Vermont Climate Action Plan (Plan) promulgated by an unelected, unaccountable Council.

This, put simply, is poorly crafted legislation that would lead to bad government and expensive delays and lawsuits that would impair – not support – our emissions reductions goals. And it is unconstitutional – with the Legislature ignoring its duty to craft policy and enact actual global warming solutions on one hand and unconstitutionally usurping the Executive Branch role to execute the laws on the other. Unlike other boards and commissions, this Council would be constructed in a way that allows them to require action without the consensus or participation of the Executive Branch. Not just a majority, but a quorum of the body is composed of Legislative

appointees and the Executive Branch rulemaking function, which “shall” be performed under the “guidance” of the Council, is relegated to a ministerial act to codify the Council’s Plan. The Council’s Plan would not need to be passed by both houses of the Legislature, nor presented to the Governor for approval.

I have also consistently, and repeatedly, noted that our recent work on a comprehensive clean water plan is a proven model. The most valuable lesson of our clean water approach is that, with careful work, tied to specific outcomes, we can develop, fund, and implement a plan that has *both* positive economic and environmental results. H.688 does not follow this model.

More specifically, our work on clean water included carefully inventorying what we were already doing, identifying where gaps existed and what needs to be done, honestly estimating costs, and putting in place a funding strategy that we can demonstrate is both affordable and sustainable for Vermonters.

We should use this model for climate change work from the start – not after costly litigation. Because, while our recent clean water work has been a success, the fact is it took nearly two decades to reach this point with early attempts delayed by expensive and unnecessary litigation and the uncertainty those suits created.

H.688 as passed puts us on the same costly path the clean water work followed from 2002 to 2016, rather than the productive work that followed. And to what end? To send the state back to the drawing board. Again, no solutions. We simply do not have time for this sort of delay, or taxpayer money or state resources, to waste on attorneys’ fees and avoidable lawsuits that divert time and money from addressing climate change.

The legal, policy, modeling and research necessary to develop the statutory, budget, management, and regulatory proposals the Plan envisions, in the timeframe set, will require significant staffing and resources – work and positions that have not been funded by the Legislature. I recognize the House has included some onetime funding in its version of the FY21 budget, but this is onetime funding and it is unlikely to be sufficient. There are also no guarantees a final budget will include those resources. Given the Senate previously removed funding for this legislation and the House concurred with those changes passage of the proper funding seems uncertain at best.

To prioritize the emission reductions necessary to address climate change, we need to learn the lessons of building a comprehensive clean water plan. H.688, as written, will lead to inefficient spending and long, costly court battles, not the tangible investments in climate-resilient infrastructure, and affordable weatherization and clean transportation options that Vermonters need.

In January, I proposed applying a portion of the revenues from the efficiency charge toward electrification of the transportation sector, our largest contributor to global warming. This month the Legislature passed S.337, *An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors*. S.337 is consistent with that direction, as well as with strategic goals in Vermont’s 2016 Comprehensive Energy Plan and the goals of the Climate Action Commission. This bill exemplifies the type of practical and concrete solutions we need and can implement without additional costs to Vermonters.

These are the types of measures that have immediate impact on fighting global warming.

While I am vetoing H.688, I hope the Legislature will revisit it before it adjourns, or at the very least in January, using my input and what we have learned from our clean water work to make it better.

In the meantime, I will ask that the Legislature send me S.337 forthwith so we can take a valuable step forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Scott", with a long horizontal flourish extending to the right.

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden H.688 2020

The Governor's Veto was overridden in the House:
Yeas: 103 Nays: 47.

The Governor's Veto was overridden in the Senate:
Yeas: 22 Nays: 8

*Note: the veto is overridden by two-third majority in both the House and Senate.

Sources: Journal of the House, September 17, 2020 [page 1667 - 1668 (online)]; Journal of the Senate, September 22, 2020 [page 1575 (online)].