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MLS Election Update: Clean Tech, Energy & Environment

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> ***"From where I come from, I don't know how you get anything done. I don't know how you get anything done unless we start talking to one another again."***
>
> **– President-Elect Joe Biden**

Throughout the Democratic presidential primaries, one of Vice President Biden's key arguments for his candidacy was that he is able to work with Republicans and can usher in a new era of bipartisanship. With Pennsylvania pushing him past the 270 Electoral College vote threshold, the former vice president has now secured the presidency in what turned out to be a very close election despite some polls suggesting a potential landslide. Although President Trump has not conceded the election, and is moving forward with various legal challenges, Biden now faces the task of demonstrating that his ability to work with Republicans will be realized, with Democratic hopes of taking the Senate majority looking precarious as not one but two races in Georgia head for a January runoff that will determine party control of the Senate.

The incoming Biden administration may be forced to look for ways to walk the tightrope between appeasing House Democrats who retained their majority, albeit with some losses, and finding ways to govern in partnership with Senate Majority Leader McConnell (R-KY) and the Republican conference should the GOP retain the majority. In his favor, Biden does, in fact, enjoy good and often long-standing relationships with Republican senators, many of whom could potentially find it difficult to outright oppose any overtures of bipartisanship from the new administration. In the end, the Biden administration will likely be forced to scale back its fairly progressive campaign agenda on many issues, instead looking for areas of consensus that can pass both the House and Senate. One such area where there is room for potential bipartisan cooperation is in policies involving clean tech, energy, and environment.

First up for compromise will be in appointments to key administration posts. The liberal wing of the Democratic Party will rightly claim a key role in delivering the White House to Biden, having set aside their disagreements with his more moderate approach toward governance in favor of party unity. They will no doubt be pushing for a seat at the table in the Biden administration, but Majority Leader McConnell is already signaling that he will use the Senate confirmation process to steer Biden toward more moderate appointees.

Time will tell which side prevails, but some high profile names being floated for Secretary of Energy include former Michigan governor Jennifer Granholm and former Washington governor Jay Inslee.

A number of Obama administration officials are reportedly under consideration for senior-level Department of Energy (DOE) posts, including, but not limited to, Arun Majumdar, who previously headed up the DOE's Advanced Research Projects Agency-Energy (ARPA-E) and is now at the Precourt Institute for Energy at Stanford University; Kerry Duggan, who served as DOE liaison for the city of Detroit; Ali Zaidi, who served at the Office of Management and Budget working on energy policy and climate issues; Elizabeth Sherwood-Randall, who served as Deputy Secretary of Energy; and Richard Kauffman, a senior advisor in the Obama DOE who more recently served as the first "energy czar" for the state of New York. Also mentioned is Dan Reicher, a Clinton administration alum who more recently co-chaired the Clean Energy for Biden group.

We are also looking for the new president to create a high-level position focused on the global climate crisis. Progressives will push hard for this as the climate crisis is one of their top policy priorities, although the names mentioned to head the effort tend toward more well-known former government officials with former senator and secretary of state John Kerry often mentioned. Biden has stated repeatedly that on "day one" of his administration he will have the United States rejoin the Paris Climate Agreement.

Governor Inslee, who made the climate crisis the key issue of his short-lived campaign for president, is also mentioned as a contender for the post.

In addition to rejoining the Paris Climate Agreement, the vice president has said that during his first 100 days in office, he will “convene a climate world summit to directly engage the leaders of the major greenhouse gas-emitting nations of the world to persuade them to join the United States in making more ambitious national pledges, above and beyond the commitments they have already made.”

At the Environmental Protection Agency (EPA), the general consensus seems to be that Mary Nichols, former head of the California Air Resources Board (CARB), is the leading candidate. She also previously served at EPA in her career as Assistant Administrator for the Office of Air and Radiation. Other names mentioned include another former Washington governor, Christine Gregoire, and former Clinton administration official, Katie McGinty.

On Capitol Hill, Democrats will retain the House majority, so we expect Rep. Frank Pallone (D-NJ) to continue as chair of the powerful Energy and Commerce Committee. However, due to current ranking member Rep. Greg Walden’s (R-OR) retirement, there will be a new top Republican on the committee. Rep. Fred Upton (R-MI) is next in line of seniority at the committee, but he has previously served as chairman and ranking member, which likely puts him at odds with House GOP term limits for committee leadership, though it is possible to get a waiver from the rule. If Rep. Upton does not seek the chairmanship, next in line would be Rep. John Shimkus (R-IL) followed by Rep. Michael Burgess (R-TX) – who we hear is pushing hard for the leadership position.

Assuming Republicans hold on to the Senate majority, Senator Lisa Murkowski (R-AK) will be term-limited in her chairmanship of the Energy & Natural Resources Committee. Next in line to chair the committee is Senator John Barrasso (R-WY), who is expected to give up his chairmanship of the Environment & Public Works Committee (EPW) in order to take over the Energy Committee. Senator Joe Manchin (D-W) will continue as the ranking member.

With the top EPW slot opening up, we expect Senator Shelley Moore Capito (R-WY) to take over as chair with Senator Tom Carper (D-DE) continuing as ranking member.

While it was generally thought unlikely the election would result in a Biden White House and a Republican-controlled Senate, as of now, this appears to be the case. Divided government – or partially divided, with Democrats still controlling the House – will continue to have implications for the legislative and regulatory environment, although the power will have tilted toward Democrats.

In terms of the policy outlook, continued divided government certainly complicates the outlook for gains in clean tech, energy, environment, and climate change policy. However, it is notable that at least in terms of energy efficiency there have, in fact, been glimmers of bipartisanship. For instance, in the current American Energy Innovation Act, a bipartisan Senate energy bill led by Sens. Murkowski and Manchin that could advance in the upcoming lame duck session of the 116th Congress. That bill includes a number of non-controversial energy efficiency provisions. We note that Senator Manchin is probably the most conservative Democratic senator in the caucus, so there is every expectation that he will work well with Senator Barrasso should he take over as chair of the Energy Committee. This would bode well for at least some advances on energy legislation – even if it is not as progressive as we may have seen in a Democratic-controlled Senate.

With that said, a Republican-controlled Congress would make it very difficult for a new Biden administration to fully advance through legislation addressing the ambitious clean energy and climate change goals laid out by the vice president’s campaign over the past year. As President Trump has ably demonstrated, however, the presidency is afforded significant power through executive authority. Our expectation is that a President Biden would aggressively seek to find ways to work with Republicans but, should that fail, turn to the use of Executive Orders to implement some of his goals – and also overturn many of the executive actions taken by the previous president on issues like regulatory costs and National Environmental Policy Act requirements.

The vice president has said that on “day one” of his administration, he will “take actions including requiring aggressive methane pollution limits for new and existing oil and gas operations; developing rigorous new fuel economy standards aimed at ensuring 100% of new sales for light- and medium-duty vehicles will be zero emissions and annual improvements for heavy duty vehicles; protecting America’s natural treasures by permanently protecting the Arctic National Wildlife Refuge and other areas impacted by President Trump’s attack on federal lands and waters; and banning new oil and gas leasing on public lands and waters.”

In support of clean tech, Biden plans to set a target of reducing the carbon footprint of the U.S. building stock by 50% come 2035, creating incentives for deep retrofits that combine appliance electrification, efficiency, and on-site clean power generation. He has also said he will work with governors and mayors to support the deployment of more than 500,000 new public charging outlets by the end of 2030.

The vice president has also said that he would seek, in his first year in office, legislation that, by the end of his first term, puts the U.S. on an irreversible path to achieve economy-wide net-zero emissions no later than 2050. With a likely Republican-led Senate, this would be complicated by his call for such legislation to require polluters to bear the full cost of the carbon pollution they are emitting.

With a handful of states continuing to tally ballots, we don't yet know the final Electoral College vote count, but President-Elect Biden secured the necessary 270 Electoral Votes over the weekend with his native state of Pennsylvania pushing him across the threshold. The president-elect has taken steps to begin the transition to a new administration, and we will be learning more in the days and weeks ahead about political appointees and the incoming president's policy priorities for the early days of his administration.

ML Strategies is closely monitoring developments, and will update as the picture becomes clearer.

Authors



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