

STATE OF NEW YORK

8270--A

2017-2018 Regular Sessions

IN ASSEMBLY

June 5, 2017

Introduced by M. of A. ENGLEBRIGHT, LIFTON, FAHY, ORTIZ, CAHILL, WALKER, SEPULVEDA, CARROLL, ROSENTHAL, THIELE, JAFFEE, SIMON, OTIS, DINOWITZ, WILLIAMS, ROZIC, ABINANTI, MOSLEY, BARRETT, SKOUFIS -- Multi-Sponsored by -- M. of A. LENTOL -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, the public service law, the public authorities law, the labor law and the community risk and resiliency act, in relation to establishing the New York state climate and community protection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and declaration. The legislature here-
2 by enacts the "New York state climate and community protection act" and
3 finds and declares that:
4 1. Climate change is adversely affecting economic well-being, public
5 health, natural resources, and the environment of New York. The adverse
6 impacts of climate change include:
7 a. an increase in the severity and frequency of extreme weather
8 events, such as storms, flooding, and heat waves, which can cause direct
9 injury or death, property damage, and ecological damage (e.g., through
10 the release of hazardous substances into the environment);
11 b. rising sea levels, which exacerbate damage from storm surges and
12 flooding, contribute to coastal erosion and saltwater intrusion, and
13 inundate low-lying areas, leading to the displacement of or damage to
14 coastal habitat, property, and infrastructure;
15 c. a decline in freshwater and saltwater fish populations;
16 d. increased average temperatures, which increase the demand for air
17 conditioning and refrigeration among residents and businesses;
18 e. exacerbation of air pollution; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13069-02-7

1 f. an increase in the incidences of infectious diseases, asthma
2 attacks, heart attacks, and other negative health outcomes. These
3 impacts are having a detrimental effect on some of New York's largest
4 industries, including agriculture, commercial shipping, forestry, tour-
5 ism, and recreational and commercial fishing. These impacts also place
6 additional strain on the physical infrastructure that delivers critical
7 services to the citizens of New York, including the state's energy,
8 transportation, stormwater, and wastewater infrastructure.

9 2. a. The severity of current climate change and the threat of addi-
10 tional and more severe change will be affected by the actions undertaken
11 by New York and other jurisdictions to reduce greenhouse gas emissions.
12 According to the U.S. Global Change Research Program (USGCRP) and the
13 Intergovernmental Panel on Climate Change (IPCC), substantial reductions
14 in greenhouse gas emissions will be required by mid-century in order to
15 limit global warming to no more than 2°C and ideally 1.5°C, and thus
16 minimize the risk of severe impacts from climate change. Specifically,
17 industrialized countries must reduce their greenhouse gas emissions by
18 at least 80% below 1990 levels by 2050 in order to stabilize carbon
19 dioxide equivalent concentrations at 450 parts per million--the level
20 required to stay within the 2°C target.

21 b. On December 12, 2015, one hundred ninety-five countries at the 21st
22 Conference of the parties of the United Nations Framework Convention on
23 Climate Change adopted an agreement addressing greenhouse gas emissions
24 mitigation, adaptation, and finance starting in the year 2020, known as
25 the Paris Agreement. The Paris Agreement was adopted on November 4,
26 2016, and is the largest concerted global effort to combat climate
27 change to date.

28 3. Action undertaken by New York to reduce greenhouse emissions will
29 have an impact on global greenhouse gas emissions and the rate of
30 climate change. In addition, such action will encourage other jurisdic-
31 tions to implement complementary greenhouse gas reduction strategies and
32 provide an example of how such strategies can be implemented. It will
33 also advance the development of green technologies and sustainable prac-
34 tices within the private sector, which can have far-reaching impacts
35 such as a reduction in the cost of renewable energy components, and the
36 creation of jobs and tax revenues in New York.

37 4. It shall therefore be a goal of the state of New York to reduce
38 greenhouse gas emissions from all anthropogenic sources 100% over 1990
39 levels by the year 2050, with an incremental target of at least a 50
40 percent reduction in climate pollution by the year 2030, in line with
41 USGCRP and IPCC projections of what is necessary to avoid the most
42 severe impacts of climate change.

43 5. Although substantial emissions reductions are necessary to avoid
44 the most severe impacts of climate change, complementary adaptation
45 measures will also be needed to address those risks that cannot be
46 avoided. Some of the impacts of climate change are already observable in
47 New York state and the northeastern United States. Annual average
48 temperatures are on the rise, winter snow cover is decreasing, heat
49 waves and precipitation are intensifying, and sea levels along New
50 York's coastline are approximately one foot higher than they were in
51 1900. New York has also experienced an increasing number of extreme and
52 unusual weather events, like Hurricanes Irene and Lee and the
53 unprecedented Superstorm Sandy in 2012, which caused at least 53 deaths
54 and \$32 billion in damage in New York state.

55 6. New York should therefore minimize the risks associated with
56 climate change through a combination of measures to reduce statewide

1 greenhouse gas emissions and improve the resiliency of the state with
2 respect to the impacts and risks of climate change that cannot be
3 avoided.

4 7. Climate change especially heightens the vulnerability of disadvan-
5 taged communities, which bear environmental and socioeconomic burdens as
6 well as legacies of racial and ethnic discrimination. Actions undertaken
7 by New York state to mitigate greenhouse gas emissions should prioritize
8 the safety and health of disadvantaged communities, control potential
9 regressive impacts of future climate change mitigation and adaptation
10 policies on these communities, and prioritize the allocation of public
11 investments in these areas.

12 8. Creating good jobs and a thriving economy is a core concern of New
13 York state. Shaping the ongoing transition in our energy sector to
14 ensure that it creates good jobs and protects workers and communities
15 that may lose employment in the current transition must be key concerns
16 of our climate policy. Setting clear standards for job quality and
17 training standards encourages not only high-quality work but positive
18 economic impacts.

19 9. Workers are at the front lines of climate change. Construction
20 workers and building service workers were some of the first workers
21 dedicated to cleaning up damage inflicted by recent storms. These work-
22 ers were often operating in unsafe and toxic environments, cleaning up
23 mold, and working in unstable buildings. In order to protect the health
24 and welfare of these workers, it is in the interest of the state of New
25 York to establish safe and healthy working conditions and proper train-
26 ing for workers involved in climate change related activities. In addi-
27 tion, much of the infrastructure work preparing our state for additional
28 climate change events must happen quickly and efficiently. It is in the
29 interest of the state to ensure labor harmony and promote efficient
30 performance of work on climate change related work sites by requiring
31 workers to be well-trained and adequately compensated.

32 10. Ensuring career opportunities are created and shared geograph-
33 ically and demographically is necessary to ensure increased access to
34 good jobs for marginalized communities while making the same neighbor-
35 hoods more resilient. Climate change has a disproportionate impact on
36 low-income people, women, and workers. It is in the interest of the
37 state of New York to protect and promote the interests of these groups
38 against the impacts of climate change and severe weather events and to
39 advance our equity goals by ensuring quality employment opportunities in
40 safe working environments.

41 11. The complexity of the ongoing energy transition, the uneven
42 distribution of economic opportunity, and the disproportionate cumula-
43 tive economic and environmental burdens on communities mean that there
44 is a strong state interest in setting a floor statewide for labor stand-
45 ards, but allowing and encouraging individual agencies and local govern-
46 ments to raise standards.

47 12. By exercising a global leadership role on greenhouse gas miti-
48 gation and climate change adaptation, New York will position its econo-
49 my, technology centers, financial institutions, and businesses to bene-
50 fit from national and international efforts to address climate change.
51 New York state has already demonstrated leadership in this area by
52 undertaking efforts such as:

53 a. executive order no. 24 (2009), establishing a goal to reduce green-
54 house gas emissions 80% by the year 2050, creating a climate action
55 council, and calling for preparation of a climate action plan;

1 b. chapter 433 of the laws of 2009, establishing a state energy plan-
2 ning board and requiring the board to adopt a state energy plan;

3 c. chapter 388 of the laws of 2011, directing the department of envi-
4 ronmental conservation to promulgate rules and regulations limiting
5 emissions of carbon dioxide by newly constructed major generating facil-
6 ities;

7 d. the adoption of a state energy plan establishing clean energy goals
8 for the year 2030 aimed at reducing greenhouse gas emission levels by
9 40% from 1990 levels, producing 50% of electricity from renewable sourc-
10 es, and increasing energy efficiency from 2012 levels by 23%;

11 e. collaboration with other states on the Regional Greenhouse Gas
12 Initiative, and the development of a regional low carbon fuel standard;

13 f. creation of new offices and task forces to address climate change,
14 including the New York state office of climate change, the renewable
15 energy task force, and the sea level rise task force; and

16 g. the enactment of the Community Risk and Resiliency Act (CRRRA),
17 which requires agencies to consider sea level rise and other climate-re-
18 lated events when implementing certain state programs.

19 This legislation will build upon these past developments by creating a
20 comprehensive regulatory program to reduce greenhouse gas emissions that
21 corresponds with the targets established in executive order no. 24, the
22 state energy plan, and USGCRP and IPCC projections.

23 § 2. The environmental conservation law is amended by adding a new
24 article 75 to read as follows:

25 ARTICLE 75
26 CLIMATE CHANGE

27 Section 75-0101. Definitions.

28 75-0103. New York state climate action council.

29 75-0105. Statewide greenhouse gas emissions report.

30 75-0107. Statewide greenhouse gas emissions limits.

31 75-0109. Scoping plan for statewide greenhouse gas emissions
32 reductions.

33 75-0111. Promulgation of regulations to achieve statewide green-
34 house gas emissions reductions.

35 75-0113. Climate justice working group.

36 75-0115. Implementation reporting.

37 § 75-0101. Definitions.

38 For the purposes of this article the following terms shall have the
39 following meanings:

40 1. "Allowance" means an authorization to emit, during a specified
41 year, up to one ton of carbon dioxide equivalent.

42 2. "Carbon dioxide equivalent" means the amount of carbon dioxide by
43 mass that would produce the same global warming impact as a given mass
44 of another greenhouse gas over an integrated twenty-year time frame
45 after emission, based on the best available science.

46 3. "Co-pollutants" means hazardous air pollutants produced by green-
47 house gas emissions sources.

48 4. "Council" means the New York state climate action council estab-
49 lished pursuant to section 75-0103 of this article.

50 5. "Disadvantaged communities" means communities that bear burdens of
51 negative public health effects, environmental pollution, impacts of
52 climate change, and possess certain socioeconomic criteria, as identi-
53 fied pursuant to section 75-0113 of this article.

54 6. "Emissions reduction measures" means programs, measures and stand-
55 ards, authorized pursuant to this chapter, applicable to sources or

1 categories of sources, that are designed to reduce emissions of green-
2 house gases.

3 7. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
4 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
5 substance emitted into the air that may be reasonably anticipated to
6 cause or contribute to anthropogenic climate change.

7 8. "Greenhouse gas emission limit" means an authorization, during a
8 specified year, to emit up to a level of greenhouse gases specified by
9 the department, expressed in tons of carbon dioxide equivalent.

10 9. "Greenhouse gas emission source" or "source" means any anthropogen-
11 ic source or category of anthropogenic sources of greenhouse gas emis-
12 sions, with the exception of agricultural emissions from livestock,
13 determined by the department:

14 a. that its participation in the program will enable the department to
15 effectively reduce greenhouse gas emissions; and,

16 b. to be capable of being monitored for compliance.

17 10. "Leakage" means a reduction in emissions of greenhouse gases with-
18 in the state that is offset by an increase in emissions of greenhouse
19 gases outside of the state.

20 11. "Market-based compliance mechanism" means any of the following:

21 a. A price on greenhouse gas emissions from regulated sources,
22 expressed as a fee per ton of carbon dioxide equivalent released in a
23 given year.

24 b. A system of market-based declining annual aggregate emissions limi-
25 tations for sources or categories of sources that emit greenhouse gases.

26 12. "Statewide greenhouse gas emissions" means the total annual emis-
27 sions of greenhouse gases produced within the state from anthropogenic
28 sources and greenhouse gases produced outside of the state that are
29 associated with the generation of electricity imported into the state
30 and the extraction and transmission of fossil fuels imported into the
31 state. Statewide emissions shall be expressed in tons of carbon dioxide
32 equivalents.

33 13. "Statewide greenhouse gas emissions limit" or "statewide emissions
34 limit" means the maximum allowable level of statewide greenhouse gas
35 emissions in a specified year, as determined by the department pursuant
36 to this article.

37 14. "Environmental justice advisory group" shall mean the permanent
38 environmental justice advisory group established by a chapter of the
39 laws of two thousand seventeen amending the environmental conservation
40 law relating to establishing a permanent environmental justice advisory
41 group and an environmental justice interagency coordinating council, as
42 proposed in legislative bills numbers S.3110 and A.2234, relating to
43 establishing a permanent environmental justice advisory group and an
44 environmental justice interagency coordinating council.

45 § 75-0103. New York state climate action council.

46 1. There is hereby established, within the department, the New York
47 state climate action council ("council") which shall consist of the
48 following twenty-five members:

49 a. the commissioners of transportation, health, economic development,
50 agriculture and markets, housing and community renewal, general
51 services, labor, environmental conservation, homeland security and emer-
52 gency services, the chairperson of the public service commission, the
53 superintendent of financial services, the presidents of the New York
54 state energy research and development; New York power authority; Long
55 Island power authority; secretary of state, the chairman of the metro-

1 politan transportation authority and dormitory of the state of New York,
2 or their designee.

3 b. two members appointed by the governor;

4 c. two members to be appointed by the temporary president of the
5 senate;

6 d. two members to be appointed by the speaker of the assembly;

7 e. one member to be appointed by the minority leader of the senate;
8 and

9 f. one member to be appointed by the minority leader of the assembly.

10 2. The at large members shall include at all times individuals with
11 expertise in issues relating to climate change mitigation and/or adapta-
12 tion, such as environmental justice, labor, public health and regulated
13 industries.

14 3. Council members shall receive no compensation for their services
15 but shall be reimbursed for actual and necessary expenses incurred in
16 the performance of their duties.

17 4. The chairperson of the council shall be the commissioner of envi-
18 ronmental conservation or his or her designee.

19 5. A majority of the members of the council shall constitute a quorum.

20 6. Any vacancies on the council shall be filled in the manner provided
21 for in the initial appointment.

22 7. The council shall be authorized to convene advisory panels to
23 assist or advise it in areas requiring special expertise or knowledge.

24 8. The department shall provide the council with such facilities,
25 assistance and data as will enable the council to carry out its powers
26 and duties. Additionally, all other agencies of the state or subdivi-
27 sions thereof may, at the request of the chairperson, provide the coun-
28 cil with such facilities, assistance, and data as will enable the coun-
29 cil to carry out its powers and duties.

30 9. The council shall consult with the climate justice working group
31 established in section 75-0113 of this article, the department of state
32 utility intervention unit, and the federally designated electric bulk
33 system operator.

34 10. The council shall advise the department on:

35 a. The development of statewide greenhouse gas emissions limits rules
36 and regulations, pursuant to section 75-0107 of this article, and regu-
37 lations to achieve statewide greenhouse gas emissions reductions, pursu-
38 ant to section 75-0111 of this article.

39 b. The preparation of a scoping plan for reducing greenhouse gas emis-
40 sions, pursuant to the procedures set forth in section 75-0109 of this
41 article.

42 11. The council shall identify existing climate change mitigation and
43 adaptation efforts at the federal, state, and local levels and may make
44 recommendations regarding how such policies may improve the state's
45 efforts.

46 12. The council shall maintain a website that includes public access
47 to the scoping plan and greenhouse gas limit information.

48 § 75-0105. Statewide greenhouse gas emissions report.

49 1. No later than one year after the effective date of this article,
50 and each year thereafter, the department shall issue a report on state-
51 wide greenhouse gas emissions, expressed in tons of carbon dioxide
52 equivalents, from all greenhouse gas emission sources in the state,
53 including the relative contribution of each type of greenhouse gas and
54 each type of source to the statewide total.

1 2. The statewide greenhouse gas emissions report shall be a comprehensive
2 evaluation, informed by a variety of data, including but not limited
3 to:

4 a. information relating to the use of fossil fuels by sector, including
5 for electricity generation, transportation, heating, and other
6 combustion purposes;

7 b. information relating to fugitive and vented emissions from systems
8 associated with the production, processing, transport, distribution,
9 storage, and consumption of fossil fuels, including natural gas;

10 c. information relating to emissions from non-fossil fuel sources,
11 including, but not limited to, garbage incinerators, biomass combustion,
12 landfills and landfill gas generators, and anaerobic digesters;

13 d. information relating to emissions associated with manufacturing,
14 chemical production, cement plants, and other processes that produce
15 non-combustion emissions; and

16 e. information from sources that may be required to participate in the
17 registration and reporting system pursuant to subdivision four of this
18 section.

19 3. The statewide greenhouse gas emissions report shall also include an
20 estimate of greenhouse gas emissions associated with the generation of
21 imported electricity and with the extraction and transmission of fossil
22 fuels imported into the state which shall be counted as part of the
23 statewide total.

24 4. Within one year after the effective date of this article, the
25 department shall consider establishing a mandatory registry and report-
26 ing system from individual sources to obtain data on greenhouse gas
27 emissions exceeding a particular threshold. If established, such regis-
28 try and reporting system shall apply a consistent reporting threshold to
29 ensure the unbiased collection of data.

30 5. The statewide greenhouse gas emissions report shall also include an
31 estimate of what the statewide greenhouse gas emissions level was in
32 1990.

33 6. The statewide greenhouse gas emissions report shall utilize best
34 available science and methods of analysis, including the comparison and
35 reconciliation of emission estimates from all sources, fuel consumption,
36 field data, and peer-reviewed research.

37 7. The statewide greenhouse gas emissions report shall clearly explain
38 the methodology and analysis used in the department's determination of
39 greenhouse gas emissions and shall include a detailed explanation of any
40 changes in methodology or analysis, adjustments made to prior estimates,
41 as needed, and any other information necessary to establish a scientif-
42 ically credible account of change.

43 8. The department shall hold at least two public hearings to seek
44 public input regarding the methodology and analysis used in the determi-
45 nation of statewide greenhouse gas emissions, and periodically thereaft-
46 er.

47 § 75-0107. Statewide greenhouse gas emissions limits.

48 1. No later than one year after the effective date of this article,
49 the department shall, pursuant to rules and regulations promulgated
50 after at least one public hearing, establish a statewide greenhouse gas
51 emissions limit as a percentage of 1990 emissions, as estimated pursuant
52 to section 75-0105 of this article, as follows:

53 a. 2020: 85% of 1990 emissions.

54 b. 2025: 65% of 1990 emissions.

55 c. 2030: 50% of 1990 emissions.

56 d. 2035: 35% of 1990 emissions.

1 e. 2040: 20% of 1990 emissions.

2 f. 2045: 10% of 1990 emissions.

3 g. 2050: 0% of 1990 emissions.

4 2. Greenhouse gas emission limits shall be measured in units of carbon
5 dioxide equivalents and identified for each individual type of green-
6 house gas.

7 3. In order to ensure the most accurate determination feasible, the
8 department shall utilize the best available scientific, technological,
9 and economic information on greenhouse gas emissions and consult with
10 the council, stakeholders, and the public in order to ensure that all
11 emissions are accurately reflected in its determination of 1990 emis-
12 sions levels.

13 § 75-0109. Scoping plan for statewide greenhouse gas emissions
14 reductions.

15 1. On or before two years of the effective date of this article, the
16 department shall prepare and approve a scoping plan outlining the
17 department's recommendations for attaining the statewide greenhouse gas
18 emissions limits in accordance with the schedule established in section
19 75-0107 of this article.

20 2. The draft scoping plan shall be developed in consultation with the
21 council, environmental justice advisory group, and the climate justice
22 working group established pursuant to section 75-0113 of this article
23 and other stakeholders.

24 a. The department and the council shall hold at least six regional
25 public comment hearings on the draft scoping plan, including three meet-
26 ings in the upstate region and three meetings in the downstate region,
27 and shall allow at least one hundred twenty days for the submission of
28 public comment.

29 b. The department shall provide meaningful opportunities for public
30 comment from all persons who will be impacted by the plan, including
31 persons living in disadvantaged communities as identified pursuant to
32 section 75-0113 of this article.

33 c. On or before thirty months of the effective date of this article,
34 the department shall submit the final scoping plan to the governor, the
35 speaker of the assembly and the temporary president of the senate and
36 post such plan on its website.

37 3. The scoping plan shall identify and make recommendations on regula-
38 tory measures and other state actions that will ensure the attainment of
39 the statewide greenhouse gas emissions limits established pursuant to
40 section 75-0107 of this article. The measures and actions considered in
41 such scoping plan shall at a minimum include:

42 a. Performance-based standards for sources of greenhouse gas emis-
43 sions, including but not limited to sources in the transportation,
44 building, industrial, commercial, and agricultural sectors.

45 b. Market-based mechanisms to reduce statewide greenhouse gas emis-
46 sions or emissions from a particular source category, including an exam-
47 ination of: the imposition of fees per unit of carbon dioxide equivalent
48 emitted and the imposition of emissions caps accompanied by a system of
49 tradable emission allowances.

50 c. Measures to reduce emissions from the electricity sector by
51 displacing fossil-fuel fired electricity with renewable electricity or
52 energy efficiency.

53 d. Land-use and transportation planning measures aimed at reducing
54 greenhouse gas emissions from motor vehicles.

55 e. Measures to achieve long-term carbon sequestration and/or promote
56 best management practices in land use, agriculture and forestry.

1 f. Verifiable, enforceable and voluntary emissions reduction measures.

2 4. In developing such plan the department shall:

3 a. Consider all relevant information pertaining to greenhouse gas
4 emissions reduction programs in other states, regions, localities, and
5 nations.

6 b. Evaluate, using the best available economic models, emission esti-
7 mation techniques and other scientific methods, the total potential
8 costs and potential economic and non-economic benefits of the plan for
9 reducing greenhouse gases, and make such evaluation publicly available.
10 In conducting this evaluation, the department shall quantify:

11 i. The economic and social benefits of greenhouse gas emissions
12 reductions, taking into account the federal social cost of carbon, any
13 other tools that the department deems useful and pertinent for this
14 analysis, and any environmental, economic and public health co-benefits
15 (such as the reduction of co-pollutants and the diversification of ener-
16 gy sources); and

17 ii. The costs of implementing proposed emissions reduction measures,
18 and the emissions reductions that the department anticipates achieving
19 through these measures.

20 c. Take into account the relative contribution of each source or
21 source category to statewide greenhouse gas emissions, and the potential
22 for adverse effects on small businesses, and recommend a de minimis
23 threshold of greenhouse gas emissions below which emission reduction
24 requirements will not apply.

25 d. Identify measures to maximize reductions of both greenhouse gas
26 emissions and co-pollutants in disadvantaged communities as identified
27 pursuant to section 75-0113 of this article.

28 5. The department shall update its plan for achieving the statewide
29 greenhouse gas emissions limits at least once every five years and shall
30 make such updates available to the governor, the speaker of the assembly
31 and the temporary president of the senate and post such updates on its
32 website.

33 § 75-0111. Promulgation of regulations to achieve statewide greenhouse
34 gas emissions reductions.

35 1. No later than three years after the effective date of this article,
36 the department, after public workshops and consultation with the coun-
37 cil, the environmental justice advisory group, and the climate justice
38 working group established pursuant to section 75-0113 of this article,
39 representatives of regulated entities, community organizations, environ-
40 mental groups, health professionals, labor unions, municipal corpo-
41 rations, trade associations and other stakeholders, shall, after no less
42 than two public hearings, promulgate rules and regulations to ensure
43 compliance with the statewide emissions reduction limits.

44 2. The regulations promulgated by the department pursuant to this
45 section shall:

46 a. Ensure that the aggregate emissions of greenhouse gases from green-
47 house gas emission sources will not exceed the statewide greenhouse gas
48 emissions limits established in section 75-0107 of this article.

49 b. Include legally enforceable emissions limits, performance stand-
50 ards, or measures or other requirements to control emissions from green-
51 house gas emission sources.

52 c. Include measures to reduce emissions from greenhouse gas emission
53 sources that have a cumulatively significant impact on statewide green-
54 house gas emissions, such as internal combustion vehicles that burn
55 gasoline or diesel fuel and boilers or furnaces that burn oil or natural
56 gas.

1 3. In promulgating these regulations, the department shall:

2 a. Design and implement all regulations in a manner that seeks to be
3 equitable, to minimize costs and to maximize the total benefits to New
4 York, and encourages early action to reduce greenhouse gas emissions.

5 b. Ensure that greenhouse gas emissions reductions achieved are real,
6 permanent, quantifiable, verifiable, and enforceable by the department.

7 c. Ensure that activities undertaken to comply with the regulations do
8 not result in a net increase in co-pollutant emissions or otherwise
9 disproportionately burden disadvantaged communities as identified pursu-
10 ant to section 75-0113 of this article.

11 d. Prioritize measures to maximize net reductions of greenhouse gas
12 emissions and co-pollutants in disadvantaged communities as identified
13 pursuant to section 75-0113 of this article and encourage early action
14 to reduce greenhouse gas emissions and co-pollutants.

15 e. Minimize leakage.

16 4. Market-based compliance mechanisms.

17 a. The department may consider provisions for the use of market-based
18 compliance mechanisms to comply with the regulations.

19 b. Prior to the inclusion of any market-based compliance mechanism in
20 the regulations, to the extent feasible and in the furtherance of
21 achieving the statewide greenhouse gas emissions limit, the department
22 shall do all of the following:

23 i. Consider the potential for direct, indirect, and cumulative emis-
24 sion impacts from these mechanisms, including localized impacts in
25 disadvantaged communities as identified pursuant to section 75-0113 of
26 this article;

27 ii. Design any market-based compliance mechanism to prevent any
28 increase in the emissions of co-pollutants; and

29 iii. Maximize additional environmental, public health, and economic
30 benefits for the state of New York and for disadvantaged communities
31 identified pursuant to section 75-0113 of this article, as appropriate.

32 c. Such regulations shall include provisions governing how market-
33 based compliance mechanisms may be used by regulated entities subject to
34 greenhouse gas emissions limits and mandatory emission reporting
35 requirements to achieve compliance with their greenhouse gas emissions
36 limits.

37 d. The department shall ensure that, at a minimum, forty percent of
38 any funds collected pursuant to any market-based compliance regulations
39 promulgated under this section as a result of legislative authorization,
40 funds authorized by the public service commission to be collected solely
41 for and directed to the New York state energy research and development
42 authority and proceeds collected by the New York state energy research
43 and development authority from the auction or sale of carbon dioxide
44 emission allowances allocated by the department are invested in a manner
45 which will benefit disadvantaged communities, identified pursuant to
46 section 75-0113 of this article, consistent with the purposes of this
47 article, including, but not limited to, increased access to renewable
48 energy, energy efficiency, weatherization, zero- and low-emission trans-
49 portation, and adaptation opportunities. The department shall consult
50 with the climate justice working group in developing and carrying out
51 such investments.

52 § 75-0113. Climate justice working group.

53 1. There is hereby created within the department, no later than six
54 months after the effective date of this article, a "climate justice
55 working group". Such working group will be comprised of representatives
56 from: environmental justice communities, the department, the department

1 of health, the New York state energy and research development authority,
2 and the department of labor.

3 a. Environmental justice community representatives shall be members of
4 communities of color, low-income communities, and communities bearing
5 disproportionate pollution and climate change burdens, or shall be
6 representatives of community-based organizations with experience and a
7 history of advocacy on environmental justice issues, and shall include
8 at least three representatives from New York city communities, three
9 representatives from rural communities, and three representatives from
10 upstate urban communities.

11 b. The working group, in consultation with the department, the depart-
12 ments of health and labor, the New York state energy and research devel-
13 opment authority, and the environmental justice advisory group, will
14 establish criteria to identify disadvantaged communities for the
15 purposes of co-pollutant reductions, greenhouse gas emissions
16 reductions, regulatory impact statements, and the allocation of invest-
17 ments related to this article.

18 c. Disadvantaged communities shall be identified based on geographic,
19 public health, environmental hazard, and socioeconomic criteria, which
20 shall include but are not limited to:

21 (1) areas burdened by cumulative environmental pollution and other
22 hazards that can lead to negative public health effects;

23 (2) areas with concentrations of people that are of low income, high
24 unemployment, high rent burden, low levels of home ownership, low levels
25 of educational attainment, or members of groups that have historically
26 experienced discrimination on the basis of race or ethnicity; and

27 (3) areas vulnerable to the impacts of climate change such as flood-
28 ing, storm surges, and urban heat island effects.

29 2. Before finalizing the criteria for identifying disadvantaged commu-
30 nities and identifying disadvantaged communities pursuant to subdivision
31 one of this section, the department shall publish draft criteria and a
32 draft list of disadvantaged communities and make such information avail-
33 able on its website.

34 a. The department shall hold at least six regional public hearings on
35 the draft criteria and the draft list of disadvantaged communities,
36 including three meetings in the upstate region and three meetings in the
37 downstate region, and shall allow at least one hundred twenty days for
38 the submission of public comment.

39 b. The department shall also ensure that there are meaningful opportu-
40 nities for public comment for all persons who will be impacted by the
41 criteria, including persons living in areas that may be identified as
42 disadvantaged communities under the proposed criteria.

43 3. The group will meet no less than annually to review the criteria
44 and methods used to identify disadvantaged communities and may modify
45 such methods to incorporate new data and scientific findings. The
46 climate justice working group shall review identities of disadvantaged
47 communities and modify such identities as needed.

48 § 75-0115. Implementation reporting.

49 1. The department shall, not less than every four years, publish a
50 report which shall include recommendations regarding the implementation
51 of greenhouse gas reduction measures.

52 2. The report shall, at minimum, include:

53 a. Whether the state is on track to meet the statewide greenhouse gas
54 emissions limits established in section 75-0107 of this article.

1 b. An assessment of existing regulations and whether modifications are
2 needed to ensure fulfillment of the statewide greenhouse gas emissions
3 limits.

4 c. An overview of social benefits from the regulations or other meas-
5 ures, including reductions in greenhouse gas emissions and copollutants,
6 diversification of energy sources, and other benefits to the economy,
7 environment, and public health, including women's health.

8 d. An overview of compliance costs for regulated entities and for the
9 department and other state agencies.

10 e. Whether regulations or other greenhouse gas reduction measures
11 undertaken are equitable, minimize costs and maximize the total benefits
12 to the state, and encourage early action.

13 f. Whether activities undertaken to comply with state regulations
14 disproportionately burden disadvantaged communities as identified pursu-
15 ant to section 75-0113 of this article.

16 g. An assessment of local benefits and impacts of any reductions in
17 co-pollutants related to reductions in statewide and local greenhouse
18 gas emissions.

19 h. An assessment of disadvantaged communities' access to or community
20 ownership of the services and commodities identified in section eight of
21 the chapter of the laws of two thousand seventeen which added this arti-
22 cle.

23 i. Whether entities that have voluntarily reduced their greenhouse gas
24 emissions prior to the implementation of this article receive appropri-
25 ate credit for early voluntary reductions.

26 j. Recommendations for future regulatory and policy action.

27 3. In preparing this report, the department shall, at a minimum,
28 consult with the council, and the climate justice working group estab-
29 lished in section 75-0113 of this article.

30 4. The report shall be published and posted on the department's
31 website.

32 § 3. Subdivision 1 of section 54-1523 of the environmental conserva-
33 tion law is amended by adding a new paragraph h to read as follows:

34 h. to establish and implement easily-replicated renewable energy
35 projects, including solar arrays, heat pumps and wind turbines in public
36 low-income housing in suburban, urban and rural areas.

37 § 4. The public service law is amended by adding a new section 66-o to
38 read as follows:

39 § 66-o. Establishment of a renewable energy program. 1. As used in
40 this section:

41 (a) "load serving entity" means any entity that secures energy to
42 serve the electrical energy requirements of end-use customers in New
43 York state;

44 (b) "prevailing rate of wages" shall have the same meaning as such
45 term is defined in paragraph a of subdivision five of section two
46 hundred twenty of the labor law; and

47 (c) "renewable energy systems" means systems that generate electricity
48 or thermal energy through use of the following technologies: solar ther-
49 mal, photovoltaics, wind, hydroelectric, geothermal electric, geothermal
50 ground source heat, tidal energy, wave energy, ocean thermal, offshore
51 wind and fuel cells which do not utilize a fossil fuel resource in the
52 process of generating electricity.

53 2. No later than January first, two thousand eighteen, the commission
54 shall establish a program to require that a minimum of fifty percent of
55 the statewide electric generation secured by load serving entities to
56 meet the electrical energy requirements of all end-use customers in New

1 York state in two thousand thirty shall be generated by renewable energy
2 systems.

3 The commission shall set annual minimum percentage levels of electric-
4 ity generated by renewable energy systems and delivered to end-use
5 customers in New York state for each year of the program.

6 3. No later than July first, two thousand nineteen and every two years
7 thereafter, the commission shall, after notice and provision for the
8 opportunity to comment, issue a comprehensive review of the program
9 established pursuant to this section. The commission shall determine,
10 among other matters: (a) progress in meeting the overall annual targets
11 for deployment of renewable energy systems; (b) distribution of systems
12 by size and load zone; and (c) annual funding commitments and expendi-
13 tures. The commission shall evaluate the annual targets established
14 pursuant to subdivision two of this section and determine whether the
15 annual targets should be accelerated, increased or extended, taking into
16 consideration load modifications associated with, but not limited to,
17 energy efficiency measures and the electrification of transportation,
18 heating systems and industrial processes.

19 4. The commission may temporarily suspend or modify the obligations
20 under such program provided that the commission, after conducting a
21 hearing as provided in section twenty of this chapter, makes a finding
22 that the program impedes the provision of safe and adequate electric
23 service or that there is a significant increase in arrears or service
24 disconnections that the commission determines is related to the program.

25 5. Every contractor employed pursuant to this section, not otherwise
26 required to pay laborers, workers or mechanics the prevailing rate of
27 wages pursuant to article eight of the labor law, shall pay employees
28 under contract for the development of renewable energy systems rated at
29 two hundred fifty kilowatts or more, a wage of not less than the
30 prevailing rate of wages for such work in the locality where such
31 installation occurs. This requirement shall be in effect for the dura-
32 tion of the receipt by the contractor of the incentives established
33 pursuant to this section and in no event shall such requirement extend
34 beyond the availability of such incentives. Every contractor subject to
35 the provisions of this subdivision shall maintain payroll records in
36 accordance with section two hundred twenty of the labor law.

37 § 5. Section 1005 of the public authorities law is amended by adding a
38 new subdivision 26 to read as follows:

39 26. Renewable energy program. As deemed feasible and advisable by the
40 trustees, no later than January first, two thousand eighteen, the
41 authority shall secure energy to serve the electrical energy require-
42 ments of its end-use customers in accordance with the renewable energy
43 program as set forth and defined in section sixty-six-o of the public
44 service law.

45 § 6. Sections 1020-ii, 1020-jj and 1020-kk of the public authorities
46 law, as renumbered by chapter 388 of the laws of 2011, are renumbered
47 sections 1020-jj, 1020-kk and 1020-ll and a new section 1020-ii is added
48 to read as follows:

49 § 1020-ii. Renewable energy program. The authority and all load serv-
50 ing entities that secure energy to serve the electrical energy require-
51 ments of end-use customers in its service territory shall comply with
52 the renewable energy program as set forth and defined in section sixty-
53 six-o of the public service law.

54 § 6-a. Subdivision 1 of section 1020-s of the public authorities law,
55 as amended by section 9 of part A of chapter 173 of the laws of 2013, is
56 amended to read as follows:

1 1. The rates, services and practices relating to the electricity
2 generated by facilities owned or operated by the authority shall not be
3 subject to the provisions of the public service law or to regulation by,
4 or the jurisdiction of, the public service commission, except to the
5 extent (a) article seven of the public service law applies to the siting
6 and operation of a major utility transmission facility as defined there-
7 in, (b) article ten of such law applies to the siting of a generating
8 facility as defined therein, (c) section eighteen-a of such law provides
9 for assessment for certain costs, property or operations, [~~and~~] (d) to
10 the extent that the department of public service reviews and makes
11 recommendations with respect to the operations and provision of services
12 of, and rates and budgets established by, the authority pursuant to
13 section three-b of such law and (e) that section sixty-six-o of the
14 public service law applies to the authority and load serving entities
15 that secure energy to serve the electrical energy requirements of end-
16 use customers within the authority's jurisdiction.

17 § 7. The labor law is amended by adding a new article 8-B to read as
18 follows:

19 ARTICLE 8-B

20 LABOR AND JOB STANDARDS AND WORKER PROTECTION

21 Section 228. Labor and job standards and worker protection.

22 § 228. Labor and job standards and worker protection. 1. All state
23 agencies involved in implementing the New York state climate and commu-
24 nity protection act shall assess and implement strategies to increase
25 employment opportunities and improve job quality. Within one hundred
26 twenty days of the effective date of this section, all state agencies,
27 offices, authorities, and divisions shall report to the legislature on:
28 a. steps they will take to ensure compliance with this section; and
29 b. regulations necessary to ensure that they prioritize the statewide
30 goal of creating good jobs and increasing employment opportunities.

31 2. In considering and issuing permits, licenses, regulations,
32 contracts, and other administrative approvals and decisions pursuant to
33 the New York state climate and community protection act, all state agen-
34 cies, offices, authorities, and divisions shall apply the following
35 labor, training, and job quality standards to the following project
36 types: public work; projects in receipt of more than one hundred thou-
37 sand dollars in total financial assistance; or to projects with a total
38 value of more than ten million dollars; and privately-financed projects
39 on public property.

40 a. the payment of no less than prevailing wages for all employees in
41 construction and building, consistent with article eight of the this
42 chapter, and building services, consistent with article nine of this
43 chapter;

44 b. the inclusion of contract language requiring contractors to estab-
45 lish labor harmony policies; dispute resolution mechanisms; prevailing
46 wage compliance; safety policies; workers compensation insurance
47 (including review of contractor experience rating and other factors);
48 and apprenticeship program appropriate for crafts employed. Procurement
49 rules should encourage bundling of small contracts and projects to
50 improve the efficiency of compliance;

51 c. apprenticeship utilization:

52 i. that all contractors and subcontractors, including those that
53 participate in power purchase agreements, energy performance contracts,
54 or other similar programs, participate in apprenticeship programs in the
55 trades in which they are performing work;

1 ii. maximum use of apprentices as per department of labor approved
2 ratios;

3 iii. encouragement of affiliated pre-apprentice direct entry programs,
4 including but not limited to EJM Construction Skills; NYC Helmets to
5 Hardhats, and Nontraditional Employment for Women (NEW) for the recruit-
6 ment of local and/or disadvantaged workers;

7 iv. existing workforce development programs, including those at the
8 New York state energy research and development authority, should be made
9 to conform to these standards.

10 3. The commissioner, the fiscal officer and other relevant agencies
11 shall promulgate such regulations as are necessary to implement and
12 administer compliance with the provisions of this section. The depart-
13 ment and the fiscal officer shall coordinate with organized labor and
14 local and county level governments to implement a system to track
15 compliance, accept reports of non-compliance for enforcement action, and
16 report annually on the adoption of these standards to the legislature
17 starting one year from the effective date of this section.

18 a. For the purposes of this section, "fiscal officer" shall mean the
19 industrial commissioner, except for construction and building service
20 work performed by or on behalf of a city, in which case "fiscal officer"
21 shall mean the comptroller or other analogous officer of such city.

22 b. The provisions of the contract by the recipient of financial
23 assistance pertaining to prevailing wages are to be considered a
24 contract for the benefit of construction and building service workers,
25 upon which such workers shall have the right to maintain action for the
26 difference between the prevailing wage rate of pay, benefits, and paid
27 leave and the rates of pay, benefits, and paid leave actually received
28 by them, and including attorney's fees.

29 c. i. Where a recipient of financial assistance contracts building
30 service work to a building service contractor, the contractor is held to
31 the same obligations with respect to prevailing wages as the recipient.
32 The recipient must include terms establishing this obligation within any
33 contract signed with a contractor.

34 ii. Where a recipient of financial assistance contracts for
35 construction, excavation, demolition, rehabilitation, repair, reno-
36 vation, alteration or improvement to a subcontractor, the subcontractor
37 is held to the same obligations with respect to prevailing wages as the
38 recipient. The recipient must include terms establishing this obligation
39 within any contract signed with a subcontractor.

40 4. For the purposes of this section "financial assistance" means any
41 provision of public funds to any person, individual, proprietorship,
42 partnership, joint venture, corporation, limited liability company,
43 trust, association, organization, or other entity that receives finan-
44 cial assistance, or any assignee or successor in interest of real prop-
45 erty improved or developed with financial assistance, for economic
46 development within the state, including but not limited to cash payments
47 or grants, bond financing, tax abatements or exemptions, including but
48 not limited to abatements or exemptions from real property, mortgage
49 recording, sales, and use taxes, or the difference between any payments
50 in lieu of taxes and the amount of real property or other taxes that
51 would have been due if the property were not exempted from such taxes,
52 tax increment financing, filing fee waivers, energy cost reductions,
53 environmental remediation costs, write-downs in the market value of
54 buildings or land, or the cost of capital improvements related to real
55 property for which the state would not pay absent the development
56 project, and includes both discretionary and as of right assistance. The

1 provisions of this section shall only apply to projects receiving more
2 than one hundred thousand dollars in total financial assistance, or to
3 projects with a total project value of more than ten million dollars.

4 5. The commissioner shall evaluate whether there are additional stand-
5 ards that could be applied to increase wage and benefit standards or to
6 encourage a safe, well-trained, and adequately compensated workforce.

7 6. Nothing set forth in this section shall be construed to impede,
8 infringe, or diminish the rights and benefits which accrue to employees
9 through bona fide collective bargaining agreements, or otherwise dimin-
10 ish the integrity of the existing collective bargaining relationship.

11 7. Nothing set forth in this section shall preclude a local government
12 from setting additional standards that expand on these state-wide stand-
13 ards.

14 § 8. Report on barriers to, and opportunities for, community ownership
15 of services and commodities in disadvantaged communities. 1. On or
16 before two years of the effective date of this act, the department of
17 environmental conservation, with input from relevant state agencies, the
18 environmental justice advisory group as defined in section 75-0101 of
19 the environmental conservation law, the climate justice working group as
20 defined in section 75-0113 of the environmental conservation law and
21 Climate Action Council established in article 75 of the environmental
22 conservation law, and following at least two public hearings, shall
23 prepare a report on barriers to, and opportunities for, access to or
24 community ownership of the following services and commodities in disad-
25 vantaged communities as identified in article 75 of the environmental
26 conservation law:

- 27 a. Distributed renewable energy generation.
- 28 b. Energy efficiency and weatherization investments.
- 29 c. Zero-emission and low-emission transportation options.
- 30 d. Adaptation measures to improve the resilience of homes and local
31 infrastructure to the impacts of climate change including but not limit-
32 ed to microgrids.
- 33 e. Other services and infrastructure that can reduce the risks associ-
34 ated with climate-related hazards, including but not limited to:
 - 35 i. Shelters and cool rooms during extreme heat events;
 - 36 ii. Shelters during flooding events; and
 - 37 iii. Medical treatment for asthma and other conditions that could be
38 exacerbated by climate-related events.

39 2. The report, which shall be submitted to the governor, the speaker
40 of the assembly and the temporary president of the senate and posted on
41 the department of environmental conservation website, shall include
42 recommendations on how to increase access to the services and commod-
43 ities.

44 3. The department of environmental conservation shall amend the scop-
45 ing plan for statewide greenhouse gas emissions reductions in accordance
46 with the recommendations included in the report.

47 § 9. Climate change actions by state agencies. 1. All state agencies
48 shall assess and implement strategies to reduce their greenhouse gas
49 emissions.

50 2. In considering and issuing permits, licenses, and other administra-
51 tive approvals and decisions, including but not limited to the execution
52 of grants, loans, and contracts, all state agencies, offices, authori-
53 ties, and divisions shall consider whether such decisions are inconsist-
54 ent with or will interfere with the attainment of the statewide green-
55 house gas emissions limits established in article 75 of the
56 environmental conservation law. Where such decisions are deemed to be

1 inconsistent with or will interfere with the attainment of the statewide
2 greenhouse gas emissions limits, each agency, office, authority, or
3 division shall provide a detailed statement of justification as to why
4 such limits/criteria may not be met, and identify alternatives or green-
5 house gas mitigation measures to be required where such project is
6 located.

7 3. In considering and issuing permits, licenses, and other administra-
8 tive approvals and decisions, including but not limited to the execution
9 of grants, loans, and contracts, pursuant to article 75 of the environ-
10 mental conservation law, all state agencies, offices, authorities, and
11 divisions shall not disproportionately burden disadvantaged communities
12 as identified pursuant to subdivision 5 of section 75-0101 of the envi-
13 ronmental conservation law. All state agencies, offices, authorities,
14 and divisions shall also prioritize reductions of greenhouse gas emis-
15 sions and co-pollutants in disadvantaged communities as identified
16 pursuant to such subdivision 5 of section 75-0101 of the environmental
17 conservation law.

18 § 10. Authorization for other state agencies to promulgate greenhouse
19 gas emissions regulations. 1. The public service commission, the New
20 York state energy research and development authority, the department of
21 health, the department of transportation, the department of state, the
22 department of economic development, the department of agriculture and
23 markets, the department of financial services, the office of general
24 services, the division of housing and community renewal, the public
25 utility authorities established pursuant to titles 1, 1-A, 1-B, 11,
26 11-A, 11-B, 11-C and 11-D of article 5 of the public authorities law and
27 any other state agency may promulgate regulations to contribute to
28 achieving the statewide greenhouse gas emissions limits established in
29 article 75 of the environmental conservation law. Provided, however, any
30 such regulations shall not limit the department of environmental conser-
31 vation's authority to regulate and control greenhouse gas emissions
32 pursuant to article 75 of the environmental conservation law.

33 § 11. Chapter 355 of the laws of 2014, constituting the "community
34 risk and resiliency act", is amended by adding two new sections 17-a and
35 17-b to read as follows:

36 § 17-a. The department of environmental conservation shall take
37 actions to promote adaptation and resilience, including:

38 (a) actions to help state agencies and other entities assess the
39 reasonably foreseeable risks of climate change on any proposed projects,
40 taking into account issues such as: sea level rise, tropical and extra-
41 tropical cyclones, storm surges, flooding, wind, changes in average and
42 peak temperatures, changes in average and peak precipitation, public
43 health impacts, and impacts on species and other natural resources.

44 (b) identifying the most significant climate-related risks, taking
45 into account the probability of occurrence, the magnitude of the poten-
46 tial harm, and the uncertainty of the risk.

47 (c) measures that could mitigate significant climate-related risks, as
48 well as a cost-benefit analysis and implementation of such measures.

49 § 17-b. Major permits for the regulatory programs of subdivision three
50 of section 70-0107 of the environmental conservation law shall require
51 applicants to demonstrate that future physical climate risk has been
52 considered. In reviewing such information the department may require the
53 applicant to mitigate significant risks to public infrastructure and/or
54 services, private property not owned by the applicant, adverse impacts
55 on disadvantaged communities, and/or natural resources in the vicinity
56 of the project.

1 § 12. Nothing in this act shall limit the existing authority of a
2 state entity to adopt and implement greenhouse gas emissions reduction
3 measures.

4 § 13. Nothing in this act shall relieve any person, entity, or public
5 agency of compliance with other applicable federal, state, or local laws
6 or regulations, including state air and water quality requirements, and
7 other requirements for protecting public health or the environment.

8 § 14. Review under this act may be had in a proceeding under article
9 78 of the civil practice law and rules at the instance of any person
10 aggrieved.

11 § 15. Severability. If any word, phrase, clause, sentence, paragraph,
12 section, or part of this act shall be adjudged by any court of competent
13 jurisdiction to be invalid, such judgement shall not affect, impair, or
14 invalidate the remainder thereof, but shall be confined in its operation
15 to the word, phrase, clause, sentence, paragraph, section, or part ther-
16 eof directly involved in the controversy in which such judgement shall
17 have been rendered.

18 § 16. This act shall take effect on the same date and in the same
19 manner as a chapter of the laws of 2017, amending the environmental
20 conservation law, in relation to establishing a permanent environmental
21 justice advisory group and an environmental justice interagency coordi-
22 nating council, as proposed in legislative bills numbers A.2234 and
23 S.3110, takes effect; provided further, the provisions of section seven
24 of this act shall take effect on the one hundred eightieth day after it
25 shall have become a law and shall apply to any grants, loans, and
26 contracts and financial assistance awarded or renewed on or after such
27 effective date.