

STATE OF NEW YORK

S. 2992--A

A. 3876--A

2019-2020 Regular Sessions

SENATE - ASSEMBLY

January 31, 2019

IN SENATE -- Introduced by Sens. KAMINSKY, HOYLMAN, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, JACKSON, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MARTINEZ, MAY, MAYER, METZGER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ENGLEBRIGHT, LIFTON, FAHY, ORTIZ, CAHILL, WALKER, CARROLL, L. ROSENTHAL, THIELE, JAFFEE, SIMON, OTIS, DINOWITZ, WILLIAMS, ROZIC, ABINANTI, MOSLEY, BARRETT, STECK, GALEF, GOTTFRIED, LUPARDO, PHEFFER AMATO, DE LA ROSA, JEAN-PIERRE, COLTON, CUSICK, PEOPLES-STOKES, SEAWRIGHT, PICHARDO, WEPRIN, SIMOTAS, GLICK, FERNANDEZ, D'URSO, O'DONNELL, GRIFFIN, REYES, BURKE, SOLAGES, ROMEO, STIRPE, MAGNARELLI, EPSTEIN, TAYLOR, FALL, CRUZ, STERN, SANTABARBARA, BRONSON, BARNWELL, DAVILA, HEVESI, NIOU, HUNTER, M. G. MILLER, BENEDETTO, RODRIGUEZ, QUART, WRIGHT, HYNDMAN, CRESPO, FRONTUS, RYAN, SAYEGH, BARRON, PRETLOW, GUNTHER, RICHARDSON, RAYNOR, KIM, McMAHON, DICKENS, JACOBSON -- Multi-Sponsored by -- M. of A. DenDEKKER, LENTOL, NOLAN, PAULIN, RAMOS -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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:

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

LBD05372-07-9

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

19 f. an increase in the incidences of infectious diseases, asthma
20 attacks, heart attacks, and other negative health outcomes. These
21 impacts are having a detrimental effect on some of New York's largest
22 industries, including agriculture, commercial shipping, forestry, tour-
23 ism, and recreational and commercial fishing. These impacts also place
24 additional strain on the physical infrastructure that delivers critical
25 services to the citizens of New York, including the state's energy,
26 transportation, stormwater, and wastewater infrastructure.

27 2. a. The severity of current climate change and the threat of addi-
28 tional and more severe change will be affected by the actions undertaken
29 by New York and other jurisdictions to reduce greenhouse gas emissions.
30 According to the U.S. Global Change Research Program (USGCRP) and the
31 Intergovernmental Panel on Climate Change (IPCC), substantial reductions
32 in greenhouse gas emissions will be required by mid-century in order to
33 limit global warming to no more than 2°C and ideally 1.5°C, and thus
34 minimize the risk of severe impacts from climate change. Specifically,
35 industrialized countries must reduce their greenhouse gas emissions by
36 at least 80% below 1990 levels by 2050 in order to stabilize carbon
37 dioxide equivalent concentrations at 450 parts per million--the level
38 required to stay within the 2°C target.

39 b. On December 12, 2015, one hundred ninety-five countries at the 21st
40 Conference of the parties of the United Nations Framework Convention on
41 Climate Change adopted an agreement addressing greenhouse gas emissions
42 mitigation, adaptation, and finance starting in the year 2020, known as
43 the Paris Agreement. The Paris Agreement was adopted on November 4,
44 2016, and is the largest concerted global effort to combat climate
45 change to date.

46 3. Action undertaken by New York to reduce greenhouse emissions will
47 have an impact on global greenhouse gas emissions and the rate of
48 climate change. In addition, such action will encourage other jurisdic-
49 tions to implement complementary greenhouse gas reduction strategies and
50 provide an example of how such strategies can be implemented. It will
51 also advance the development of green technologies and sustainable prac-
52 tices within the private sector, which can have far-reaching impacts
53 such as a reduction in the cost of renewable energy components, and the
54 creation of jobs and tax revenues in New York.

55 4. It shall therefore be a goal of the state of New York to reduce
56 greenhouse gas emissions from all anthropogenic sources 100% over 1990

1 levels by the year 2050, with an incremental target of at least a 40
2 percent reduction in climate pollution by the year 2030, in line with
3 USGCRP and IPCC projections of what is necessary to avoid the most
4 severe impacts of climate change.

5 5. Although substantial emissions reductions are necessary to avoid
6 the most severe impacts of climate change, complementary adaptation
7 measures will also be needed to address those risks that cannot be
8 avoided. Some of the impacts of climate change are already observable in
9 New York state and the northeastern United States. Annual average
10 temperatures are on the rise, winter snow cover is decreasing, heat
11 waves and precipitation are intensifying, and sea levels along New
12 York's coastline are approximately one foot higher than they were in
13 1900. New York has also experienced an increasing number of extreme and
14 unusual weather events, like Hurricanes Irene and Lee and the
15 unprecedented Superstorm Sandy in 2012, which caused at least 53 deaths
16 and \$32 billion in damage in New York state.

17 6. New York should therefore minimize the risks associated with
18 climate change through a combination of measures to reduce statewide
19 greenhouse gas emissions and improve the resiliency of the state with
20 respect to the impacts and risks of climate change that cannot be
21 avoided.

22 7. Climate change especially heightens the vulnerability of disadvan-
23 tagged communities, which bear environmental and socioeconomic burdens as
24 well as legacies of racial and ethnic discrimination. Actions undertaken
25 by New York state to mitigate greenhouse gas emissions should prioritize
26 the safety and health of disadvantaged communities, control potential
27 regressive impacts of future climate change mitigation and adaptation
28 policies on these communities, and prioritize the allocation of public
29 investments in these areas.

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

37 9. Workers are at the front lines of climate change. Construction
38 workers and building service workers were some of the first workers
39 dedicated to cleaning up damage inflicted by recent storms. These work-
40 ers were often operating in unsafe and toxic environments, cleaning up
41 mold, and working in unstable buildings. In order to protect the health
42 and welfare of these workers, it is in the interest of the state of New
43 York to establish safe and healthy working conditions and proper train-
44 ing for workers involved in climate change related activities. In addi-
45 tion, much of the infrastructure work preparing our state for additional
46 climate change events must happen quickly and efficiently. It is in the
47 interest of the state to ensure labor harmony and promote efficient
48 performance of work on climate change related work sites by requiring
49 workers to be well-trained and adequately compensated.

50 10. Ensuring career opportunities are created and shared geograph-
51 ically and demographically is necessary to ensure increased access to
52 good jobs for marginalized communities while making the same neighbor-
53 hoods more resilient. Climate change has a disproportionate impact on
54 low-income people, women, and workers. It is in the interest of the
55 state of New York to protect and promote the interests of these groups
56 against the impacts of climate change and severe weather events and to

1 advance our equity goals by ensuring quality employment opportunities in
2 safe working environments.

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

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

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

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

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

24 d. the adoption of a state energy plan establishing clean energy goals
25 for the year 2030 aimed at reducing greenhouse gas emission levels by
26 40% from 1990 levels, producing 70% of electricity from renewable sourc-
27 es, increasing energy efficiency from 2012 levels by 23% and the addi-
28 tional expressed goal of reducing 100% of the electricity sector's
29 greenhouse gas emissions by 2040;

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

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

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

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

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

44 ARTICLE 75

45 CLIMATE CHANGE

46 Section 75-0101. Definitions.

47 75-0103. New York state climate action council.

48 75-0105. Statewide greenhouse gas emissions report.

49 75-0107. Statewide greenhouse gas emissions limits.

50 75-0109. Promulgation of regulations to achieve statewide green-
51 house gas emissions reductions.

52 75-0111. Climate justice working group.

53 75-0113. Value of carbon.

54 75-0115. Community air monitoring program.

55 75-0117. Investment of funds.

56 75-0119. Implementation reporting.

1 § 75-0101. Definitions.

2 For the purposes of this article the following terms shall have the
3 following meanings:

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

6 2. "Carbon dioxide equivalent" means the amount of carbon dioxide by
7 mass that would produce the same global warming impact as a given mass
8 of another greenhouse gas over an integrated twenty-year time frame
9 after emission.

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

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

14 5. "Disadvantaged communities" means communities that bear burdens of
15 negative public health effects, environmental pollution, impacts of
16 climate change, and possess certain socioeconomic criteria, or comprise
17 high-concentrations of low- and moderate- income households, as identi-
18 fied pursuant to section 75-0111 of this article.

19 6. "Emissions reduction measures" means programs, measures and stand-
20 ards, authorized pursuant to this chapter, applicable to sources or
21 categories of sources, that are designed to reduce emissions of green-
22 house gases.

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

27 8. "Greenhouse gas emission limit" means the maximum allowable level
28 of statewide greenhouse gas emissions, in a specified year, expressed in
29 tons of carbon dioxide equivalent, as determined by the department
30 pursuant to this article.

31 9. "Greenhouse gas emission offset" means a deduction representing one
32 metric ton of carbon dioxide equivalent emissions, reduced, avoided, or
33 sequestered by a greenhouse gas emission offset project from a measured
34 baseline of emissions pursuant to the statewide greenhouse gas emissions
35 report.

36 10. "Greenhouse gas emission offset projects" means one or more
37 projects, including:

38 a. Natural carbon sinks including but not limited to afforestation,
39 reforestation, or wetlands restoration;

40 b. Greening infrastructure;

41 c. Restoration and sustainable management of natural and urban forests
42 or working lands, grasslands, coastal wetlands and sub-tidal habitats;

43 d. Efforts to reduce hydrofluorocarbon refrigerant, sulfur hexafluor-
44 ide, and other ozone depleting substance releases;

45 e. Anaerobic digesters, where energy produced is directed toward
46 localized use;

47 f. Carbon capture and sequestration;

48 g. Ecosystem restoration; and

49 h. Other types of projects recommended by the council in consultation
50 with the climate justice working group that provide public health and
51 environmental benefits, and do not create burdens in disadvantaged
52 communities.

53 11. "Greenhouse gas emission source" or "source" means any anthropo-
54 genic source or category of anthropogenic sources of greenhouse gas
55 emissions, determined by the department:

1 a. whose participation in the program will enable the department to
2 effectively reduce greenhouse gas emissions; and,
3 b. that are capable of being monitored for compliance.

4 12. "Leakage" means a reduction in emissions of greenhouse gases with-
5 in the state that is offset by an increase in emissions of greenhouse
6 gases outside of the state.

7 13. "Statewide greenhouse gas emissions" means the total annual emis-
8 sions of greenhouse gases produced within the state from anthropogenic
9 sources and greenhouse gases produced outside of the state that are
10 associated with the generation of electricity imported into the state
11 and the extraction and transmission of fossil fuels imported into the
12 state. Statewide emissions shall be expressed in tons of carbon dioxide
13 equivalents.

14 14. "Statewide greenhouse gas emissions limit" or "statewide emissions
15 limit" means the maximum allowable level of statewide greenhouse gas
16 emissions in a specified year, as determined by the department pursuant
17 to this article.

18 15. "Environmental justice advisory group" shall mean the permanent
19 environmental justice advisory group established by a chapter of the
20 laws of two thousand nineteen amending the environmental conservation
21 law relating to establishing a permanent environmental justice advisory
22 group and an environmental justice interagency coordinating council, as
23 proposed in legislative bills numbers S. 2385 and A. 1564.

24 § 75-0103. New York state climate action council.

25 1. There is hereby established the New York state climate action coun-
26 cil ("council") which shall consist of the following twenty-two members:

27 a. the commissioners of transportation, health, economic development,
28 agriculture and markets, housing and community renewal, environmental
29 conservation, labor, the chairperson of the public service commission,
30 the presidents of the New York state energy research and development
31 authority; New York power authority; Long Island power authority; the
32 secretary of state, or their designees.

33 b. two non-agency expert members appointed by the governor;

34 c. three members to be appointed by the temporary president of the
35 senate;

36 d. three members to be appointed by the speaker of the assembly;

37 e. one member to be appointed by the minority leader of the senate;
38 and

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

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

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

47 4. The co-chairpersons of the council shall be the commissioner of
48 environmental conservation and the president of the New York state ener-
49 gy research and development authority or their designee.

50 5. Each member of the council shall be entitled to one vote. The coun-
51 cil's approval and adoption of the final scoping plan pursuant to this
52 section, and any subsequent interim updates thereto, shall require a
53 supermajority of the council. No action may be taken by the council
54 unless there is a quorum, which shall at all times be a majority of the
55 members of the council.

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

3 7. The council shall convene advisory panels requiring special exper-
4 tise and, at a minimum, shall establish advisory panels on transporta-
5 tion, energy intensive and trade-exposed industries, land-use and local
6 government, energy efficiency and housing, power generation, and agri-
7 culture and forestry. The purpose of the advisory panels shall be to
8 provide recommendations to the council on specific topics, in its prepa-
9 ration of the scoping plan, and interim updates to the scoping plan, and
10 in fulfilling the council's ongoing duties.

11 a. Each advisory panel shall be chaired by the relevant agency head or
12 his or her designee. The council may convene and dissolve additional
13 advisory panels, in its sole discretion, and pursuant to the require-
14 ments herein.

15 b. Advisory panels shall be comprised of no fewer than five voting
16 members. The council shall elect advisory panel members, and such
17 membership shall at all times represent individuals with direct involve-
18 ment or expertise in matters to be addressed by the advisory panels
19 pursuant to this section.

20 c. Advisory panels shall work directly with the council on the prepa-
21 ration of the scoping plan pursuant to this section. Each advisory panel
22 shall coordinate with the environmental justice advisory group and
23 climate justice working group.

24 d. All agencies of the state or subdivisions thereof may, at the
25 request of any such advisory panel or the council, provide the advisory
26 panel with such facilities, assistance, and data as will enable advisory
27 panels to carry out their powers and duties.

28 8. The council shall convene a just transition working group. The
29 working group shall be chaired by the commissioner of labor and the
30 president of the New York state energy research and development authori-
31 ty and shall consist of no less than thirteen, but no more than seven-
32 teen members and shall include the commissioners of housing and communi-
33 ty renewal, the chair of the department of public service,
34 representatives of environmental justice communities and representatives
35 of labor organizations, clean energy developers and at least five repre-
36 sentatives of distinct energy-intensive industries. The just transition
37 working group shall:

38 a. advise the council on issues and opportunities for workforce devel-
39 opment and training related to energy efficiency measures, renewable
40 energy and other clean energy technologies, with specific focus on
41 training and workforce opportunities for disadvantaged communities, and
42 segments of the population that may be underrepresented in the clean
43 energy workforce such as veterans, women and formerly incarcerated
44 persons;

45 b. identify energy-intensive industries and related trades and identi-
46 fy sector specific impacts of the state's current workforce and avenues
47 to maximize the skills and expertise of New York state workers in the
48 new energy economy;

49 c. identify sites of electric generating facilities that may be closed
50 as a result of a transition to a clean energy sector and the issues and
51 opportunities presented by reuse of those sites;

52 d. with respect to potential for greenhouse gas emission limits devel-
53 oped by the department of environmental conservation pursuant to this
54 article, advise the council on the potential impacts of carbon leakage
55 risk on New York state industries and local host communities, including

1 the impact of any potential carbon reduction measures on the competi-
2 tiveness of New York state business and industry;

3 e. advise the council and conduct stakeholder outreach on any other
4 workforce matters directed by the council; and

5 f. at a time frame determined by the council, prepare and publish
6 recommendations to the council on how to address: issues and opportu-
7 nities related to the energy-intensive and trade-exposed entities; work-
8 force development for trade-exposed entities, disadvantaged communities
9 and underrepresented segments of the population; measures to minimize
10 the carbon leakage risk and minimize anti-competitiveness impacts of any
11 potential carbon policies and energy sector mandates.

12 g. The just transitions working group is hereby authorized and
13 directed to conduct a study of and report on:

14 i. The number of jobs created to counter climate change, which shall
15 include but not be limited to the energy sector, building sector, trans-
16 portation sector, and working lands sector;

17 ii. The projection of the inventory of jobs needed and the skills and
18 training required to meet the demand of jobs to counter climate change;
19 and

20 iii. Workforce disruption due to community transitions from a low
21 carbon economy.

22 9. The department and NYSERDA New York State energy research and
23 development authority shall provide the council with such facilities,
24 assistance and data as will enable the council to carry out its powers
25 and duties. Additionally, all other agencies of the state or subdivi-
26 sions thereof may, at the request of the co-chairpersons, provide the
27 council with such facilities, assistance, and data as will enable the
28 council to carry out its powers and duties.

29 10. The council shall consult with the climate justice working group
30 established in section 75-0111 of this article, the department of state
31 utility intervention unit, and the federally designated electric bulk
32 system operator.

33 11. The council shall on or before two years of the effective date of
34 this article, prepare and approve a scoping plan outlining the recommen-
35 dations for attaining the statewide greenhouse gas emissions limits in
36 accordance with the schedule established in section 75-0107 of this
37 article which shall inform the state energy planning board's adoption of
38 a state energy plan in accordance with section 6-104 of the energy law.
39 The first state energy plan issued subsequent to completion of the scop-
40 ing plan required by this section shall incorporate the recommendations
41 of the council.

42 12. The draft scoping plan shall be developed in consultation with the
43 environmental justice advisory group, and the climate justice working
44 group established pursuant to section 75-0111 of this article and other
45 stakeholders.

46 a. The council shall hold at least six regional public comment hear-
47 ings on the draft scoping plan, including three meetings in the upstate
48 region and three meetings in the downstate region, and shall allow at
49 least one hundred twenty days for the submission of public comment.

50 b. The council shall provide meaningful opportunities for public
51 comment from all segments of the population who will be impacted by the
52 plan, including persons living in disadvantaged communities as identi-
53 fied pursuant to section 75-0111 of this article.

54 c. On or before thirty months of the effective date of this article,
55 the council shall submit the final scoping plan to the governor, the

1 speaker of the assembly and the temporary president of the senate and
2 post such plan on its website.

3 13. The scoping plan shall identify and make recommendations on regu-
4 latory measures and other state actions that will ensure the attainment
5 of the statewide greenhouse gas emissions limits established pursuant to
6 section 75-0107 of this article. The measures and actions considered in
7 such scoping plan shall at a minimum include:

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

11 b. Measures to reduce emissions from the electricity sector by
12 displacing fossil-fuel fired electricity with renewable electricity or
13 energy efficiency.

14 c. Land-use and transportation planning measures aimed at reducing
15 greenhouse gas emissions from motor vehicles.

16 d. Measures to achieve long-term carbon sequestration and/or promote
17 best management practices in land use, agriculture and forestry.

18 e. Measures to achieve six gigawatts of distributed solar energy
19 capacity installed in the state by two thousand twenty-five, nine giga-
20 watts of offshore wind capacity installed by two thousand thirty-five, a
21 statewide energy efficiency goal of one hundred eighty-five trillion
22 British thermal units energy reduction from the two thousand twenty-five
23 forecast; and three gigawatts of statewide energy storage capacity by
24 two thousand thirty.

25 f. Measures to promote the beneficial electrification of personal and
26 freight transport and other strategies to reduce greenhouse gas emis-
27 sions from the transportation sector.

28 g. Measures to achieve reductions in energy use in existing residen-
29 tial or commercial buildings, including the beneficial electrification
30 of water and space heating in buildings, establishing appliance effi-
31 ciency standards, strengthening building energy codes, requiring annual
32 building energy benchmarking, disclosing energy efficiency in home
33 sales, and expanding the ability of state facilities to utilize perform-
34 ance contracting.

35 h. Recommendations to aid in the transition of the state workforce and
36 the rapidly emerging clean energy industry.

37 i. Measures to achieve healthy forests that support clean air and
38 water, biodiversity, and sequester carbon.

39 j. Measures to limit the use of chemicals, substances or products that
40 contribute to global climate change when released to the atmosphere, but
41 are not intended for end-use combustion.

42 k. Mechanisms to limit emission leakage as defined in subdivision
43 eleven of section 75-0101 of this article.

44 l. Verifiable, enforceable and voluntary emissions reduction measures.

45 14. In developing such plan the council shall:

46 a. Consider all relevant information pertaining to greenhouse gas
47 emissions reduction programs in states in the United States Climate
48 Alliance, as well as other states, regions, localities, and nations.

49 b. Evaluate, using the best available economic models, emission esti-
50 mation techniques and other scientific methods, the total potential
51 costs and potential economic and non-economic benefits of the plan for
52 reducing greenhouse gases, and make such evaluation publicly available.
53 In conducting this evaluation, the council shall quantify:

54 i. The economic and social benefits of greenhouse gas emissions
55 reductions, taking into account the value of carbon, established by the
56 department pursuant to section 75-0113 of this article, any other tools

1 that the council deems useful and pertinent for this analysis, and any
2 environmental, economic and public health co-benefits (such as the
3 reduction of co-pollutants and the diversification of energy sources);
4 and

5 ii. The costs of implementing proposed emissions reduction measures,
6 and the emissions reductions that the council anticipates achieving
7 through these measures.

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

13 d. Identify measures to maximize reductions of both greenhouse gas
14 emissions and co-pollutants in disadvantaged communities as identified
15 pursuant to section 75-0111 of this article.

16 15. The council shall update its plan for achieving the statewide
17 greenhouse gas emissions limits at least once every five years and shall
18 make such updates available to the governor, the speaker of the assembly
19 and the temporary president of the senate and post such updates on its
20 website.

21 16. The council shall identify existing climate change mitigation and
22 adaptation efforts at the federal, state, and local levels and may make
23 recommendations regarding how such policies may improve the state's
24 efforts.

25 17. The council shall maintain a website that includes public access
26 to the scoping plan and greenhouse gas limit information.

27 § 75-0105. Statewide greenhouse gas emissions report.

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

34 2. The statewide greenhouse gas emissions report shall be a comprehen-
35 sive evaluation, informed by a variety of data, including but not limit-
36 ed to:

37 a. information relating to the use of fossil fuels by sector, includ-
38 ing for electricity generation, transportation, heating, and other
39 combustion purposes;

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

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

46 d. information relating to emissions associated with manufacturing,
47 chemical production, cement plants, and other processes that produce
48 non-combustion emissions; and

49 e. information from sources that may be required to participate in the
50 registration and reporting system pursuant to subdivision four of this
51 section.

52 3. The statewide greenhouse gas emissions report shall also include an
53 estimate of greenhouse gas emissions associated with the generation of
54 imported electricity and with the extraction and transmission of fossil
55 fuels imported into the state which shall be counted as part of the
56 statewide total.

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

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

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

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

8. The department shall hold at least two public hearings to seek public input regarding the methodology and analysis used in the determination of statewide greenhouse gas emissions, and periodically thereafter.

§ 75-0107. Statewide greenhouse gas emissions limits.

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

a. 2030: 60% of 1990 emissions.

b. 2040: 35% of 1990 emissions.

c. 2050: 15% of 1990 emissions.

2. Greenhouse gas emission limits shall be measured in units of carbon dioxide equivalents and identified for each individual type of greenhouse gas.

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

4. In order to comply with the statewide greenhouse gas emissions limits promulgated pursuant to this section, a source may utilize the alternative compliance mechanism established pursuant to subdivision four of section 75-0109 of this article. The use of such mechanism shall be in accordance with the provisions of that subdivision.

§ 75-0109. Promulgation of regulations to achieve statewide greenhouse gas emissions reductions.

1. No later than three years after the effective date of this article, the department, after public workshops and consultation with the council, the environmental justice advisory group, and the climate justice working group established pursuant to section 75-0111 of this article, representatives of regulated entities, community organizations, environmental groups, health professionals, labor unions, municipal corporations, trade associations and other stakeholders, shall, after no less than two public hearings, promulgate rules and regulations to ensure

1 compliance with the statewide emissions reduction limits and work with
2 other state agencies and authorities to promulgate regulations required
3 by section ten of the chapter of the laws of two thousand nineteen that
4 added this article.

5 2. The regulations promulgated by the department pursuant to this
6 section shall:

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

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

13 c. Reflect, in substantial part, the findings of the scoping plan
14 prepared pursuant to section 75-0103 of this article.

15 d. Include measures to reduce emissions from greenhouse gas emission
16 sources that have a cumulatively significant impact on statewide green-
17 house gas emissions, such as internal combustion vehicles that burn
18 gasoline or diesel fuel and boilers or furnaces that burn oil or natural
19 gas.

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

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

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

26 c. Ensure that activities undertaken to comply with the regulations do
27 not result in a net increase in co-pollutant emissions or otherwise
28 disproportionately burden disadvantaged communities as identified pursu-
29 ant to section 75-0111 of this article.

30 d. Prioritize measures to maximize net reductions of greenhouse gas
31 emissions and co-pollutants in disadvantaged communities as identified
32 pursuant to section 75-0111 of this article and encourage early action
33 to reduce greenhouse gas emissions and co-pollutants.

34 e. Minimize leakage.

35 4. a. The department may establish an alternative compliance mechanism
36 to be used by sources subject to greenhouse gas emissions limits to
37 achieve compliance with their greenhouse gas emissions limits.

38 b. The use of such mechanism shall account for not greater than
39 fifteen percent of statewide greenhouse gas emissions estimated as a
40 percentage of nineteen ninety emissions pursuant to section 75-0105 of
41 this article, provided that the use of this mechanism must offset a
42 quantity greater than or equal to the greenhouse gases emitted. The
43 offset of greenhouse gas emissions shall not result in disadvantaged
44 communities having to bear a disproportionate burden of environmental
45 impacts.

46 c. The department shall verify that greenhouse gas emission offset
47 projects authorized pursuant to this subdivision represent greenhouse
48 gas equivalent emission reductions or carbon sequestration that are
49 real, additional, verifiable, enforceable, and permanent.

50 d. Any greenhouse gas emissions offset project shall comply with all
51 of the requirements of this subdivision.

52 e. The department shall establish an application process that, at a
53 minimum, requires a source to sufficiently demonstrate that compliance
54 with the greenhouse gas emissions limits is not technologically feasi-
55 ble, and that the source has reduced emissions to the maximum extent
56 practicable. After an initial four year period, the department shall

1 review the participation of a source in this mechanism, and make a
2 determination as to the source's continued need for an alternative
3 compliance, considering the extent to which the source is utilizing the
4 best available technology standards.

5 f. Sources in the electric generation sector shall not be eligible to
6 participate in such mechanism.

7 g. The following types of projects shall be prohibited:

8 i. waste-to-energy projects, including incineration and pyrolysis; and

9 ii. biofuels used for energy or transportation purposes.

10 h. Any greenhouse gas emission offset project approved by the depart-
11 ment shall:

12 i. be designed to provide a discernable benefit to the environment
13 rather than to the source;

14 ii. be located in the same county, and within twenty-five linear
15 miles, of the source of emissions, to the extent practicable;

16 iii. enhance the conditions of the ecosystem or geographic area
17 adversely affected; and

18 iv. substantially reduce or prevent the generation or release of
19 pollutants through source reduction.

20 i. A greenhouse gas emission offset project shall not be approved by
21 the department where the project:

22 i. is required pursuant to any local, state or federal law, regu-
23 lation, or administrative or judicial order;

24 ii. contains measures which the source would have undertaken anyway
25 within the next five years;

26 iii. contributes to environmental research at a college or university;
27 or

28 iv. is a study or assessment without a commitment to implement the
29 results.

30 j. In approving greenhouse gas emission offset projects, the depart-
31 ment shall prioritize projects that maximize public health and environ-
32 mental benefits within the state and especially localized benefits in
33 disadvantaged communities, defined pursuant to section 75-0111 of this
34 article.

35 k. The department shall establish a public registry of greenhouse gas
36 emission offset projects approved pursuant to this subdivision.

37 l. Prior to the inclusion of any alternative compliance mechanism in
38 the regulations, to the extent feasible and in the furtherance of
39 achieving the statewide greenhouse gas emissions limit, the department
40 shall do all of the following:

41 i. consult with the council, the environmental justice advisory group,
42 and the climate justice working group;

43 ii. consider the potential for direct, indirect, and cumulative emis-
44 sion impacts from this mechanism, including localized impacts in disad-
45 vantaged communities as identified pursuant to section 75-0111 of this
46 article;

47 iii. design the alternative compliance mechanism to prevent any
48 increase in the emissions of co-pollutants; and

49 iv. maximize additional environmental, public health, and economic
50 benefits for the state and for disadvantaged communities identified
51 pursuant to section 75-0111 of this article, as appropriate.

52 § 75-0111. Climate justice working group.

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

1 York state energy and research development authority, and the department
2 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 i. areas burdened by cumulative environmental pollution and other
22 hazards that can lead to negative public health effects;

23 ii. 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 iii. 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 § 75-0113. Value of carbon.

49 1. No later than one year after the effective date of this article,
50 the department, in consultation with the New York state energy research
51 and development authority, shall establish a social cost of carbon for
52 use by state agencies, expressed in terms of dollars per ton of carbon
53 dioxide equivalent.

54 2. The social cost of carbon shall serve as a monetary estimate of the
55 value of not emitting a ton of greenhouse gas emissions. As determined
56 by the department, the social cost of carbon may be based on marginal

1 greenhouse gas abatement costs or on the global economic, environmental,
2 and social impacts of emitting a marginal ton of greenhouse gas emis-
3 sions into the atmosphere, utilizing a range of appropriate discount
4 rates, including a rate of zero.

5 3. In developing the social cost of carbon, the department shall
6 consider prior or existing estimates of the social cost of carbon issued
7 or adopted by the federal government, appropriate international bodies,
8 or other appropriate and reputable scientific organizations.

9 § 75-0115. Community air monitoring program.

10 1. For purposes of this section, the following definitions and related
11 provisions shall apply:

12 a. "Community air monitoring system" means advanced sensing monitoring
13 equipment that measures and records air pollutant concentrations in the
14 ambient air at or near sensitive receptor locations in disadvantaged
15 communities.

16 b. "Disadvantaged community" means a community identified as disadvan-
17 tagged pursuant to the criteria set forth in section 75-0111 of this
18 article.

19 c. "Sensitive receptors" includes hospitals, schools and day care
20 centers, and such other locations as the department may determine.

21 2. a. On or before October first, two thousand twenty-one, the depart-
22 ment shall prepare, in consultation with the climate justice working
23 group, a program demonstrating community air monitoring systems.

24 b. The program shall identify the highest priority locations in disad-
25 vantaged communities around the state to deploy community air monitoring
26 systems, which shall be communities with potentially high exposure
27 burdens for toxic air contaminants and criteria air pollutants. The
28 program shall be undertaken in no less than four communities statewide
29 with regional consideration.

30 c. The department shall publish the air quality data produced by the
31 community air monitoring systems deployed pursuant to this section on
32 its website as it becomes available.

33 3. On or before June first, two thousand twenty-three, the department
34 shall prepare, in consultation with the climate justice working group, a
35 strategy to reduce emissions of toxic air contaminants and criteria air
36 pollutants in disadvantaged communities affected by a high cumulative
37 exposure burden. The strategy shall include criteria for the development
38 of community emission reduction programs. The criteria presented in the
39 strategy shall include, but are not limited to, the following:

40 a. an assessment and identification of communities with high cumula-
41 tive exposure burdens for toxic air contaminants and criteria air pollu-
42 tants.

43 b. a methodology for assessing and identifying the contributing sourc-
44 es or categories of sources, including, but not limited to, stationary
45 and mobile sources, and an estimate of their relative contribution to
46 elevated exposure to air pollution in impacted communities identified
47 pursuant to paragraph a of this subdivision.

48 c. an assessment of the existing and available measures for reducing
49 emissions from the contributing sources or categories of sources identi-
50 fied pursuant to paragraph b of this subdivision.

51 4. a. Based on the assessment and identification of disadvantaged
52 communities with high cumulative exposure burdens for toxic air contam-
53 inants and criteria air pollutants completed pursuant to paragraph a of
54 subdivision three of this section, the department shall select disadvan-
55 tagged communities around the state for preparation of community emis-

1 sions reduction programs. The department may select additional locations
2 annually thereafter, as appropriate.

3 b. The department shall have the authority to adopt regulations estab-
4 lishing programs to achieve emissions reductions for the locations
5 selected using the most cost-effective measures identified pursuant to
6 paragraph c of subdivision three of this section.

7 § 75-0117. Investment of funds.

8 The department, in consultation with the New York state energy
9 research and development authority, shall establish a goal of investing,
10 in a manner that will benefit disadvantaged communities identified
11 pursuant to section 75-0111 of this article, no less than forty percent
12 of any funds collected pursuant to any alternative compliance mechanism
13 authorized pursuant to this article, any funds authorized by the public
14 service commission to be collected solely for and directed to the New
15 York state research and development authority, and any funds collected
16 by the New York state energy research and development authority from the
17 auction or sale of carbon dioxide emission allowances allocated by the
18 department; provided however, such investments shall be no less than
19 thirty-five percent of any such funds. Such funds shall be invested, in
20 a manner consistent with the purposes of this article, including, but
21 not limited to increased access to renewable energy, energy efficiency,
22 weatherization, zero- and low-emission transportation, and adaptation
23 opportunities. The department and authority shall consult with the
24 climate justice working group in developing and carrying out such
25 investments.

26 § 75-0119. Implementation reporting.

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

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

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

33 b. An assessment of existing regulations and whether modifications are
34 needed to ensure fulfillment of the statewide greenhouse gas emissions
35 limits.

36 c. An overview of social benefits from the regulations or other meas-
37 ures, including reductions in greenhouse gas emissions and copollutants,
38 diversification of energy sources, and other benefits to the economy,
39 environment, and public health.

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

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

45 f. Whether activities undertaken to comply with state regulations
46 disproportionately burden disadvantaged communities as identified pursu-
47 ant to section 75-0111 of this article.

48 g. An assessment of local benefits and impacts of any reductions in
49 co-pollutants related to reductions in statewide and local greenhouse
50 gas emissions.

51 h. An assessment of disadvantaged communities' access to or community
52 ownership of the services and commodities identified in section eight of
53 the chapter of the laws of two thousand nineteen which added this arti-
54 cle.

i. Whether entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this article receive appropriate credit for early voluntary reductions.

j. Recommendations for future regulatory and policy action.

3. In preparing this report, the department shall, at a minimum, consult with the council, and the climate justice working group established in section 75-0111 of this article.

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

§ 3. Paragraphs f and g of subdivision 1 of section 54-1523 of the environmental conservation law, as added by section 5 of part U of chapter 58 of the laws of 2016, are amended and a new paragraph h is added to read as follows:

f. enabling communities to become certified under the climate smart communities program, including by developing natural resources inventories, right sizing of municipal fleets and developing climate adaptation strategies; ~~and~~

g. climate change adaptation planning and supporting studies, including but not limited to vulnerability assessment and risk analysis of municipal drinking water, wastewater, and transportation infrastructure~~[-]~~; and

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

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

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

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

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

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

2. No later than July first, two thousand twenty, the commission shall establish a program to require that a minimum of seventy percent of the statewide electric generation secured by load serving entities to meet the electrical energy requirements of all end-use customers in New York state in two thousand thirty shall be generated by renewable energy systems.

The commission shall set annual minimum percentage levels of electricity generated by renewable energy systems and delivered to end-use customers in New York state for each year of the program, provided that the program achieve the following incremental minimum percentage levels:

(a) thirty-eight percent by two thousand twenty-two;

(b) forty-six percent by two thousand twenty-four;

(c) fifty-four percent by two thousand twenty-six;

(d) sixty-two percent by two thousand twenty-eight; and

(e) seventy percent by two thousand thirty.

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

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

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

33 6. No later than July first, two thousand twenty-four, the commission
34 shall establish programs to require the procurement by the state's load
35 serving entities of at least:

36 (a) nine gigawatts of offshore wind electric generation by two thou-
37 sand thirty-five;

38 (b) six gigawatts of distributed photovoltaic solar generation by two
39 thousand twenty-five;

40 (c) three gigawatts of statewide energy storage capacity by two thou-
41 sand thirty; and

42 (d) one hundred eighty-five trillion British thermal units of end-use
43 energy savings below the two thousand twenty-five energy-use forecast.

44 7. In the allocation of ratepayer funds for clean energy, direct the
45 energy research and development authority and investor owned utilities
46 to develop and report metrics for energy savings and clean energy market
47 penetration in the low and moderate income market and in disadvantaged
48 communities, and post such information on the website.

49 § 5. Section 1005 of the public authorities law is amended by adding a
50 new subdivision 28 to read as follows:

51 28. Renewable energy program. As deemed feasible and advisable by the
52 trustees, no later than July first, two thousand twenty, the authority
53 shall secure energy to serve the electrical energy requirements of its
54 end-use customers in accordance with the renewable energy program as set
55 forth and defined in section sixty-six-p of the public service law.

§ 6. Sections 1020-kk, 1020-ll and 1020-ll of the public authorities law, 1020-kk and 1020-ll as renumbered by chapter 520 of the laws of 2018, and 1020-ll as renumbered by chapter 415 of the laws of 2017, are renumbered sections 1020-xx, 1020-yy and 1020-zz and a new section 1020-kk is added to read as follows:

§ 1020-kk. Renewable energy program. The authority and all load serving entities that secure energy to serve the electrical energy requirements of end-use customers in its service territory shall comply with the renewable energy program as set forth and defined in section sixty-six-p of the public service law.

§ 6-a. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 415 of the laws of 2017, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article ten of such law applies to the siting of a generating facility as defined therein, (c) section eighteen-a of such law provides for assessment for certain costs, property or operations, (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law, ~~and~~ (e) that section seventy-four of the public service law applies to qualified energy storage systems within the authority's jurisdiction and (f) that section sixty-six-p of the public service law applies to the authority and load serving entities that secure energy to serve the electrical energy requirements of end-use customers within the authority's jurisdiction.

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

ARTICLE 8-B

LABOR AND JOB STANDARDS AND WORKER PROTECTION

Section 228. Labor and job standards and worker protection.

§ 228. Labor and job standards and worker protection. 1. All state agencies involved in implementing the New York state climate and community protection act shall assess and implement strategies to increase employment opportunities and improve job quality. Within one hundred twenty days of the effective date of this section, all state agencies, offices, authorities, and divisions shall report to the legislature on:

a. steps they will take to ensure compliance with this section; and
b. regulations necessary to ensure that they prioritize the statewide goal of creating good jobs and increasing employment opportunities.

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

a. the payment of no less than prevailing wages for all employees in construction and building, consistent with article eight of the this

1 chapter, and building services, consistent with article nine of this
2 chapter;

3 b. the inclusion of contract language requiring contractors to estab-
4 lish labor harmony policies; dispute resolution mechanisms; prevailing
5 wage compliance; safety policies; workers compensation insurance
6 (including review of contractor experience rating and other factors);
7 and apprenticeship program appropriate for crafts employed. Procurement
8 rules should encourage bundling of small contracts and projects to
9 improve the efficiency of compliance;

10 c. apprenticeship utilization:

11 i. that all contractors and subcontractors, including those that
12 participate in power purchase agreements, energy performance contracts,
13 or other similar programs, participate in apprenticeship programs in the
14 trades in which they are performing work;

15 ii. maximum use of apprentices as per department of labor approved
16 ratios;

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

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

24 3. The commissioner, the fiscal officer and other relevant agencies
25 shall promulgate such regulations as are necessary to implement and
26 administer compliance with the provisions of this section. The depart-
27 ment and the fiscal officer shall coordinate with organized labor and
28 local and county level governments to implement a system to track
29 compliance, accept reports of non-compliance for enforcement action, and
30 report annually on the adoption of these standards to the legislature
31 starting one year from the effective date of this section.

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

36 b. The provisions of the contract by the recipient of financial
37 assistance pertaining to prevailing wages are to be considered a
38 contract for the benefit of construction and building service workers,
39 upon which such workers shall have the right to maintain action for the
40 difference between the prevailing wage rate of pay, benefits, and paid
41 leave and the rates of pay, benefits, and paid leave actually received
42 by them, and including attorney's fees.

43 c. i. Where a recipient of financial assistance contracts building
44 service work to a building service contractor, the contractor is held to
45 the same obligations with respect to prevailing wages as the recipient.
46 The recipient must include terms establishing this obligation within any
47 contract signed with a contractor.

48 ii. Where a recipient of financial assistance contracts for
49 construction, excavation, demolition, rehabilitation, repair, reno-
50 vation, alteration or improvement to a subcontractor, the subcontractor
51 is held to the same obligations with respect to prevailing wages as the
52 recipient. The recipient must include terms establishing this obligation
53 within any contract signed with a subcontractor.

54 4. For the purposes of this section "financial assistance" means any
55 provision of public funds to any person, individual, proprietorship,
56 partnership, joint venture, corporation, limited liability company,

1 trust, association, organization, or other entity that receives finan-
2 cial assistance, or any assignee or successor in interest of real prop-
3 erty improved or developed with financial assistance, for economic
4 development within the state, including but not limited to cash payments
5 or grants, bond financing, tax abatements or exemptions, including but
6 not limited to abatements or exemptions from real property, mortgage
7 recording, sales, and use taxes, or the difference between any payments
8 in lieu of taxes and the amount of real property or other taxes that
9 would have been due if the property were not exempted from such taxes,
10 tax increment financing, filing fee waivers, energy cost reductions,
11 environmental remediation costs, write-downs in the market value of
12 buildings or land, or the cost of capital improvements related to real
13 property for which the state would not pay absent the development
14 project, and includes both discretionary and as of right assistance. The
15 provisions of this section shall only apply to projects receiving more
16 than one hundred thousand dollars in total financial assistance, or to
17 projects with a total project value of more than ten million dollars.

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

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

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

28 § 8. Report on barriers to, and opportunities for, community ownership
29 of services and commodities in disadvantaged communities. 1. On or
30 before two years of the effective date of this act, the department of
31 environmental conservation, with input from relevant state agencies, the
32 environmental justice advisory group as defined in section 75-0101 of
33 the environmental conservation law, the climate justice working group as
34 defined in section 75-0111 of the environmental conservation law and
35 Climate Action Council established in article 75 of the environmental
36 conservation law, and following at least two public hearings, shall
37 prepare a report on barriers to, and opportunities for, access to or
38 community ownership of the following services and commodities in disad-
39 vantaged communities as identified in article 75 of the environmental
40 conservation law:

- 41 a. Distributed renewable energy generation.
- 42 b. Energy efficiency and weatherization investments.
- 43 c. Zero-emission and low-emission transportation options.
- 44 d. Adaptation measures to improve the resilience of homes and local
45 infrastructure to the impacts of climate change including but not limit-
46 ed to microgrids.
- 47 e. Other services and infrastructure that can reduce the risks associ-
48 ated with climate-related hazards, including but not limited to:
 - 49 i. Shelters and cool rooms during extreme heat events;
 - 50 ii. Shelters during flooding events; and
 - 51 iii. Medical treatment for asthma and other conditions that could be
52 exacerbated by climate-related events.

53 2. The report, which shall be submitted to the governor, the speaker
54 of the assembly and the temporary president of the senate and posted on
55 the department of environmental conservation website, shall include

1 recommendations on how to increase access to the services and commod-
2 ities.

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

6 § 9. Climate change actions by state agencies. 1. All state agencies
7 shall assess and implement strategies to reduce their greenhouse gas
8 emissions.

9 2. In considering and issuing permits, licenses, and other administra-
10 tive approvals and decisions, including but not limited to the execution
11 of grants, loans, and contracts, all state agencies, offices, authori-
12 ties, and divisions shall consider whether such decisions are inconsis-
13 tent with or will interfere with the attainment of the statewide green-
14 house gas emissions limits established in article 75 of the
15 environmental conservation law. Where such decisions are deemed to be
16 inconsistent with or will interfere with the attainment of the statewide
17 greenhouse gas emissions limits, each agency, office, authority, or
18 division shall provide a detailed statement of justification as to why
19 such limits/criteria may not be met, and identify alternatives or green-
20 house gas mitigation measures to be required where such project is
21 located.

22 3. In considering and issuing permits, licenses, and other administra-
23 tive approvals and decisions, including but not limited to the execution
24 of grants, loans, and contracts, pursuant to article 75 of the environ-
25 mental conservation law, all state agencies, offices, authorities, and
26 divisions shall not disproportionately burden disadvantaged communities
27 as identified pursuant to subdivision 5 of section 75-0101 of the envi-
28 ronmental conservation law. All state agencies, offices, authorities,
29 and divisions shall also prioritize reductions of greenhouse gas emis-
30 sions and co-pollutants in disadvantaged communities as identified
31 pursuant to such subdivision 5 of section 75-0101 of the environmental
32 conservation law.

33 § 10. Authorization for other state agencies to promulgate greenhouse
34 gas emissions regulations. 1. The public service commission, the New
35 York state energy research and development authority, the department of
36 health, the department of transportation, the department of state, the
37 department of economic development, the department of agriculture and
38 markets, the department of financial services, the office of general
39 services, the division of housing and community renewal, the public
40 utility authorities established pursuant to titles 1, 1-A, 1-B, 11,
41 11-A, 11-B, 11-C and 11-D of article 5 of the public authorities law and
42 any other state agency shall promulgate regulations to contribute to
43 achieving the statewide greenhouse gas emissions limits established in
44 article 75 of the environmental conservation law. Provided, however, any
45 such regulations shall not limit the department of environmental conser-
46 vation's authority to regulate and control greenhouse gas emissions
47 pursuant to article 75 of the environmental conservation law.

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

51 § 17-a. The department of environmental conservation shall take
52 actions to promote adaptation and resilience, including:

53 (a) actions to help state agencies and other entities assess the
54 reasonably foreseeable risks of climate change on any proposed projects,
55 taking into account issues such as: sea level rise, tropical and extra-
56 tropical cyclones, storm surges, flooding, wind, changes in average and

1 peak temperatures, changes in average and peak precipitation, public
2 health impacts, and impacts on species and other natural resources.

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

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

8 § 17-b. Major permits for the regulatory programs of subdivision three
9 of section 70-0107 of the environmental conservation law shall require
10 applicants to demonstrate that future physical climate risk has been
11 considered. In reviewing such information the department may require the
12 applicant to mitigate significant risks to public infrastructure and/or
13 services, private property not owned by the applicant, adverse impacts
14 on disadvantaged communities, and/or natural resources in the vicinity
15 of the project.

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

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

23 § 14. Review under this act may be had in a proceeding under article
24 78 of the civil practice law and rules at the instance of any person
25 aggrieved.

26 § 15. Severability. If any word, phrase, clause, sentence, paragraph,
27 section, or part of this act shall be adjudged by any court of competent
28 jurisdiction to be invalid, such judgement shall not affect, impair, or
29 invalidate the remainder thereof, but shall be confined in its operation
30 to the word, phrase, clause, sentence, paragraph, section, or part ther-
31 eof directly involved in the controversy in which such judgement shall
32 have been rendered.

33 § 16. This act shall take effect on the same date and in the same
34 manner as a chapter of the laws of 2019, amending the environmental
35 conservation law, relating to establishing a permanent environmental
36 justice advisory group and an environmental justice interagency coordi-
37 nating council, as proposed in legislative bills numbers S. 2385 and A.
38 1564, takes effect; provided further, the provisions of section seven of
39 this act shall take effect on the one hundred eightieth day after it
40 shall have become a law and shall apply to any grants, loans, and
41 contracts and financial assistance awarded or renewed on or after such
42 effective date.