STATE OF NEW YORK

2835

2021-2022 Regular Sessions

IN SENATE

January 25, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to declaring a climate emergency and placing a ban on new fossil fuel infrastructure

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

Section 1. The environmental conservation law is amended by adding a new section 1-0103 to read as follows:

§ 1-0103. Climate emergency declaration and policy.

1. The legislature finds and declares the following:

(a) A climate emergency exists that threatens the state of New York, the nation, and the world;

(b) Irrevocable damage to the environment has been caused by global warming of approximately one degree celsius demonstrating that the earth is already too hot for safety and justice, as attested by increased and intensifying wildfires, floods, rising seas, diseases, droughts, and extreme weather;

(c) On April twenty-second, two thousand sixteen, world leaders from one hundred seventy-four countries and the European Union recognized the threat of climate change and the urgent need to combat it by signing the Paris Agreement, agreeing to keep warming well below two degrees celsius above pre-industrial levels and to pursue efforts to limit the temperature increase to one and one-half degrees fahrenheit;

(d) On October eighth, two thousand eighteen, the United Nations International Panel on Climate Change ("IPCC") released a special report, which projected that limiting warming to the one and one-half degrees celsius target this century will require an unprecedented transformation of every sector of the global economy over the next twelve years;

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

LBD05256-01-1

(e) On November twenty-third, two thousand eighteen, the United States Fourth National Climate Assessment ("NCA4") was released and details the massive threat that climate change poses to the American economy, our environment and climate stability, and underscores the need for immediate climate emergency action at all levels of government;

(f) According to the National Aeronautics and Space Administration's (NASA) Goddard Institute for Space Studies (GISS), global temperatures in two thousand eighteen were eighty-three one-hundredths degrees celsius (one and one-half degrees fahrenheit) warmer than the nineteen hundred fifty-one to nineteen hundred eighty mean, and the past five years are collectively the warmest in modern history;

(g) World Wildlife Fund's 2018 Living Planet report finds that there has been a sixty per centum decline in global wildlife populations between nineteen hundred seventy and two thousand fourteen, with causes including overfishing, pollution and climate change;

(h) According to the intergovernmental science-policy platform on biodiversity and ecosystem services, human activity has already severely altered forty per centum of the marine environment, fifty per centum of inland waterways, and seventy-five per centum of the planet's land, and it is projected that five hundred thousand to one million species are threatened with extinction, many within the next few decades;

(i) Globally, eighteen of the nineteen hottest years on record have occurred since two thousand one;

(j) The state of New York is particularly vulnerable to the effects of climate change and has already been subjected to devastating disasters caused by global warming, including increasing superstorms and severe flooding;

(k) Marginalized populations in the state of New York and worldwide, including people of color, immigrants, indigenous communities, low-income individuals, people with disabilities, and the unhoused are already disproportionately affected by climate change, and will continue to bear an excess burden as temperatures increase, oceans rise, and disasters worsen;

(l) Restoring a safe and stable climate and reversing biodiversity loss requires an emergency mobilization on a scale not seen since World War II to attain zero greenhouse gas emissions across all sectors at wartime speed, to rapidly and safely draw down or remove all excess carbon from the atmosphere, and to implement measures to protect all people and species from the consequences of abrupt climate change and ecological destruction;

(m) Building a society that is resilient to the current, expected, and potential effects of climate change will protect health, lives, environments, and economies. Resilience is best achieved by preparing for the most dramatic potential consequences of climate change; and

(n) Justice demands climate policy that addresses the specific experiences, vulnerabilities, and needs of the marginalized communities most affected by the effects of climate change, and includes those communities in climate and ecological resilience planning, policy and actions.

2. It is hereby declared to be the policy of the state of New York to restore an optimal safe climate and to provide maximum protection from climate change to all people and species, globally, including the most vulnerable.

3. It is the intent of the legislature that the state do all of the following in furtherance of such policy:

(a) Convert the economy to net zero greenhouse gas emissions as quickly as possible.

(b) Immediately initiate a multigenerational effort to draw down greenhouse gases already in the atmosphere in as short a time as possible, and develop research in support of this goal.

(c) Immediately initiate a massive effort to restore ecosystems.

(d) Respond to the climate emergency based on a just transition framework that focuses on equity, self-determination, culture, tradition, democracy, and the fundamental human right of all people to clean, healthy, and adequate air, water, land, food, education, and shelter.

(e) Engage the public in climate-emergency-related deliberations so that citizens can see their influence on the policy and resource decisions that impact their daily lives and their future.

(f) Encourage nongovernment actors to contribute to the development and implementation of solutions.

(g) A sweeping overhaul of the economy that centers on equity and justice in its solutions is vital to our future and must include the following goals: dramatically expand existing renewable power sources and deploy new production capacity with the goal of meeting one hundred per centum of national power demand through renewable sources; build a national, energy-efficient, "smart" grid; upgrade every residential and industrial building for state-of-the-art energy efficiency, comfort and safety; eliminate greenhouse gas emissions from manufacturing, agricultural and other industries, including by investing in local-scale agriculture in communities across the country; repair and improve transportation and other infrastructure, and upgrade water infrastructure to ensure universal access to clean water; fund massive investment in the drawdown of greenhouse gases; and make "green" technology, industry, expertise, products and services a major export of the United States, with the aim of becoming the international leader in helping other countries become greenhouse gas neutral economies and bringing about a global transition.

(h) Support efforts for an emergency mobilization to restore a safe climate in other states and at the federal and global level.

§ 2. Article 23 of the environmental conservation law is amended by adding a new title 29 to read as follows:

TITLE 29
BAN ON NEW FOSSIL FUEL INFRASTRUCTURE

Section 23-2901. Ban on new fossil fuel infrastructure.

§ 23-2901. Ban on new fossil fuel infrastructure.

1. Legislative intent. New York state faces an existential climate, ecological, economic, and security emergency which threatens our municipalities, state, nation, and the world; a World War II-scale mobilization is needed to eliminate greenhouse gas emissions. Human-caused climate change and air pollution are due to using fossil fuels. Climate change disproportionately impacts communities of color, children, elderly, Native Americans, indigenous peoples, the ill, the poor, farmers, and future generations. The state shall promote a controlled reduction of fossil fuel utilization and a transition to clean, renewable energy for the purpose of improving safety, public health, environmental protection, economic growth, and energy reliability as well as providing cost savings, creating jobs, and preventing climate catastrophe.

2. For the purposes of this section, "fossil fuel" shall mean coal, petroleum products and fuel gases.

3. For the purposes of this section, "fossil fuel infrastructure" shall mean a structure, such as a natural gas plant, coal power plant, natural gas compressor station, or ancillary facilities used to move fossil fuel from one location to another, such as a natural gas or oil

pipeline. The phrase does not include: motor vehicles; gas stations; underground tanks or pipes located on the site of a motor vehicle service station; retail, manufacturing or other facilities not primarily used to produce or store fossil fuels; retail products; or pipes leading to a residential or commercial building from a fuel tank to which fuel is delivered by motor vehicle. Furthermore it includes:

a. large-scale uses and facilities engaged in the wholesale distribution, extraction, refinement or processing of fossil fuels;

b. terminals engaged in the bulk movement of fossil fuels, excluding rail yards, fuel storage for airports and marine servicing facilities;

c. bulk storage of fossil fuels in excess of two million gallons and fossil fuel facilities that do not provide direct sale or distribution to consumers; and

d. any additional meaning of fossil fuel infrastructure for the purposes of this section shall be determined by the commissioner in accordance with the primary intent of this section.

e. This ban shall not apply to uses and facilities necessary to address a bona fide imminent threat to public health, safety and welfare. This ban shall also not apply to uses and facilities necessary for public safety, including, but not limited to, police, fire and rescue agencies.

4. A ban shall be established on any and all new fossil fuel infrastructure projects including as it relates to the distribution, processing, storage, or extraction of fossil fuels. No new permits, licenses, or any form of permission shall be granted for any new fossil fuel infrastructure project nor shall any funding, investment, or any other financial assistance be granted to any new fossil fuel infrastructure project as long as there are economically and technologically feasible alternatives to ensure energy reliability. This section shall not apply to the repair or maintenance of existing infrastructure as of the effective date of this section. Such ban shall apply to the entirety of the state including all departments, agencies, offices, municipalities, and any other governmental body.

5. The ban shall be lifted upon an act of the legislature.

§ 3. This act shall take effect immediately.