STATE OF NEW YORK

1787

2023-2024 Regular Sessions

IN ASSEMBLY

January 20, 2023

- Introduced by M. of A. COLTON, L. ROSENTHAL, STECK, PEOPLES-STOKES, RIVERA, SEAWRIGHT, CARROLL, WILLIAMS, DINOWITZ, THIELE, GLICK, HUNTER, WEPRIN, REYES, EPSTEIN, HYNDMAN, McDONOUGH, DICKENS, DESTEFANO --Multi-Sponsored by -- M. of A. DAVILA, HEVESI, SIMON -- read once and referred to the Committee on Energy
- AN ACT to amend the energy law, in relation to establishing a one hundred percent clean energy system by two thousand thirty-two; to amend the environmental conservation law, in relation to the adoption of a climate action plan; to amend the state finance law, in relation to establishing the renewable energy revolving fund; and to provide for legal standing to sue for enforcement of the state's clean energy plan

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

1 Section 1. Legislative intent. New York state's continued use of 2 fossil fuels, including coal, oil, and natural gas, is having devastat-3 ing impacts on our climate and communities. Our state's ongoing use of 4 nuclear fuels continues to create immensely radioactive wastes that will 5 be dangerous to future generations for millennia. It is in the best б interest of the people of New York to move the state into a clean energy 7 revolution, meeting 100 percent of our energy needs from clean, renewa-8 ble sources by 2032. Transitioning to clean energy is fundamental to protecting our communities, particularly communities of color and lower 9 income communities that are disproportionately affected by the worsening 10 air and water quality that results from the incineration of fossil 11 12 fuels. A transition to a 100 percent clean energy system will be 13 achieved in a way that protects displaced fossil fuel workers, impacted 14 communities, builds a stronger economy for everyone in the state, and 15 creates hundreds of thousands of new jobs, while at the same time elimi-16 nating New York's contribution to the biggest environmental threat 17 facing our planet, climate change.

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

LBD05205-01-3

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1	§ 2. Subdivision 1 of section 6-104 of the energy law, as added by
2	chapter 433 of the laws of 2009, is amended to read as follows:
3	1. The board shall adopt a state energy plan in accordance with the
4	provisions of this article.
5	(a) The plan shall establish a goal of achieving a one hundred percent
б	clean energy system by two thousand thirty-two, with zero net greenhouse
7	gas emissions. As used in this section, "clean renewable energy" shall
8	include energy derived from solar, wind, geothermal, and tidal sources,
9	but does not include nuclear power, natural gas, biomass, or fossil
10	fuels.
11	(b) The plan shall not include any provisions for the continued use
12	past two thousand thirty-two of nuclear power. The state shall develop a
13	plan for the phase out of all nuclear plants by two thousand twenty-nine
14	and replace such plants with sources of renewable energy.
15	(c) The plan shall not include provisions for the continued use of
16	biomass, including biogas from landfills, agricultural operations and
17	other sources of biogas, including methane. Instead, the state shall
18	develop a plan to phase out landfills and convert to a zero waste
19	disposal system and reduce greenhouse gas emissions in the animal agri-
20	cultural sector by promoting pasture-based, sustainable animal agricul-
21	tural systems and eliminating industrial style concentrated animal feed-
22	ing operations from operating in the state.
23	(d) The plan shall provide for the discontinuance of state investment
24	in, and the development of, infrastructure related to the distribution,
25	processing, storage, or extraction of fossil fuels. No state agency or
26	authority shall issue new permits for the construction or operation of
27	such facilities.
28	(e) The plan shall include, in two-year increments, detailed bench-
29	marks and steps needed to achieve the goal of a one hundred percent
30	clean renewable energy system by two thousand thirty-two. Interim goals
31	for one hundred percent clean energy shall be as follows:
32	(i) forty percent by two thousand twenty-six; and
33	(ii) seventy percent by two thousand thirty-one.
34	(f) Any provisions of this chapter relating to fossil fuels, natural
35	gas, oil, coal, and petroleum products shall be controlling only for the
36	sole purpose of providing guidance on how to discontinue the use of such
37	fuels by two thousand thirty-two.
38	(g) The plan shall incorporate measures related to reduction in energy
39	use, increased energy conservation, and improvements in energy efficien-
40	cy; it shall also promote regenerative agriculture to help return carbon
41	to the soil.
42	(h) The plan shall require any new vehicles sold in the state to be
43	all-electric or otherwise no carbon emissions by two thousand twenty-
44	nine.
45	(i) By two thousand twenty-six, any new structures constructed in the
46	state shall be net zero emission structures. The plan will include a
47	rapid transition to renewable heating and cooling provided by heat pumps
48	powered by renewable electricity.
49	(j) The provisions of this subdivision shall supersede any inconsist-
50	ent provisions of this section.
51	§ 3. The environmental conservation law is amended by adding a new
52	section 54-1526 to read as follows:
53	§ 54-1526. Climate action plan.
54	1. a. The department shall adopt a state climate action plan to imple-
55	ment the goals established in section 6-104 of the energy law. The plan
FC	shall adduces all assarts of slimate shanes insluding mitigation adapt

56 shall address all aspects of climate change, including mitigation, adap-

tation, and resiliency, including impacts caused by agriculture, heating 1 and cooling, and transportation. The department shall release and publi-2 cize on its website a draft plan no later than nine months after the 3 4 effective date of this section. Following the release of the draft plan, 5 the department shall conduct regional public hearings to obtain public 6 feedback on the draft plan. The final plan will be completed no later 7 than eighteen months after the effective date of this section. The 8 department shall release and publicize on its website the final plan. 9 b. Within one year after the release of the department's final climate 10 action plan, each state agency and public authority shall adopt regu-11 lations consistent with and in furtherance of the goals of the climate 12 action plan, and shall develop an agency or authority climate action plan, as appropriate, which shall be updated annually, to achieve such 13 14 goals for the agency's or authority's own internal operations as well as 15 for regulatory purposes and other actions under the purview of the agency or authority. 16 c. Within one year after the release of the department's final climate 17 action plan, each county government and each municipality representing 18 more than fifty thousand individuals shall adopt a community climate 19 20 action plan. Such plans shall support the development of community and 21 publicly owned renewable energy. The department shall establish a state-22 wide environmental and climate justice task force to work with community groups in impacted areas to assist in the development and implementation 23 24 of the community climate action plans, focusing on low-income communi-25 ties and communities of color. d. The climate action plans referred to in paragraphs b and c of this 26 27 subdivision shall incorporate goals of environmental justice and be 28 developed with meaningful input and analysis from environmental justice 29 organizations. 30 e. The department shall ensure that climate action plans developed 31 pursuant to paragraphs b and c of this subdivision achieve the state's 32 goal of one hundred percent renewable energy by two thousand thirty-two 33 in a manner that benefits the state's most disadvantaged communities and 34 is transparent and accountable to the public and the legislature. 2. a. The state climate action plan shall include provisions for a 35 36 just transition from current energy sources to clean renewable energy as 37 described in subdivision one of section 6-104 of the energy law. Such provisions shall include providing training and ensuring comparable jobs 38 39 and wages to individuals presently working in the fossil fuel industry 40 and in the nuclear power industry. b. The department, in conjunction with the New York state energy 41 42 research and development authority and the commissioner of labor, shall 43 develop programs to transition workers in the fossil fuel industry and 44 nuclear power industries into jobs in the renewable energy sector, including job training programs, relocation assistance, higher educa-45 46 tion, and temporary financial support to extend unemployment benefits. 47 Such programs shall also be open to workers previously employed in the 48 fossil fuel industry who are out of work due to reduction in demand for jobs in that industry, or to people who live in communities that have 49 been disproportionately impacted by fossil fuels as determined by the 50 commissioner. Such programs shall be funded through the renewable energy 51 52 revolving fund, established by section eighty-three-b of the state 53 finance law. 54 c. The department, in conjunction with the New York state energy research and development authority and the commissioner of labor, shall 55 56 develop criteria for grants and low-interest loans to support the gener-

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<pre>2 energy sector, with priority given to projects in low-inco 3 ties, communities of color, immigrant communities and of 4 disproportionately impacted by fossil fuel development. 3. a. A state climate action council shall be established department for the purpose of providing recommendations to t 7 ment and relevant state agencies and public authorities re- 8 development, adoption, and implementation of the state clim 9 plan and the agency and authority climate action plans. b. The climate action council shall: (i) prepare annual budget requests for climate action meal 10 included in the proposed state hudget: (ii) propose needed state legislation and agency and public 11 regulations. If such regulations or laws are rejected, a wri 12 nation justifying such rejection shall be provided by th 13 acting body along with possible alternative approaches; and 14 (iii) recommend the overturning of any state regulations ad 15 the state climate action plan and the agency and public auth 16 that are inconsistent with the state climate action plan. c. The climate action council shall consist of the followin 16 (i) the commissioner of acticulture and markets; 17 (ii) the commissioner of conomic development; 18 (iv) the commissioner of conomic development; 19 (v) the commissioner of the subic service commission; 10 (vii) the chair of the public service commission; 10 (vii) the chair of the public service commission; 11 (vii) the chair of the public service commission; 12 (vii) the chair of the public service commission; 13 york; 14 (xii) the president of the New York state energy research ; 14 (xii) the president of the New York state energy research ; 15 opment authority; 16 (xii) the director of the budget; 17 (xii) the director of the budget; 18 (xii) the secretary of state; 19 (xii) the director of the budget; 19 (xii) the director of the porentions; and 19 (xv) the director of state opr</pre>	-	
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54 opportunity for public input.		hold a joint public hearing to review the report and to provide an
55 <u>4. a. The department shall establish a state renewable en</u>	55	4. a. The department shall establish a state renewable energy board

56 and regional renewable energy boards under the climate action council

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1	and shall appoint members thereto based upon recommendations by the
2	climate action council. The state and regional boards shall be comprised
3	of membership from organizations that represent environmental justice
4	communities, labor unions, environmental organizations, academics know-
5	ledgeable about energy systems, consumer organizations, utilities, and
6	businesses. The boards will be responsible for approving utilities'
7	clean energy compliance plans and approving and allocating funds from
8	the state renewable energy revolving fund established by section eight-
9	y-three-b of the state finance law.
10	b. Within one year of the effective date of this section, each utility
11	subject to the provisions of the public service law shall submit plans
12	detailing the utility's plans to comply with the goals established in
13	section 6-104 of the energy law for approval to the state renewable
14	energy board. Each utility shall submit annual reports documenting its
15	progress towards meeting the goals, and any proposed amendments to its
16	plan. If a utility fails to meet the clean energy benchmarks established
17	in section 6-104 of the energy law, it shall submit an updated plan that
18	documents how the utility will come into compliance with the benchmarks
19	the following year.
20	c. Any utility failing to comply with the provisions of paragraph b of
21	this subdivision shall be fined an amount that is two times the marginal
22	cost difference between the highest priced fossil fuel they are burning
23	and the lowest cost renewable energy per kilowatt hour. Fines collected
24	from violations shall be deposited into the state renewable energy
25	revolving fund established by section eighty-three-b of the state
26	finance law and used to develop renewable energy generation, energy
27	efficiency, and job training programs in the communities where fossil
28	
28 29	fuels continue to be utilized for energy. No fines collected for these violations shall be passed through to ratepayers.
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29	fuels continue to be utilized for energy. No fines collected for these violations shall be passed through to ratepayers.
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$\begin{array}{c} 2 9 \\ 3 0 \\ 3 1 \\ 3 2 \\ 3 3 \\ 3 5 \\ 3 3 \\ 3 5 \\ 3 7 \\ 3 8 \\ 3 9 \\ 4 1 \\ 4 2 \\ 4 4 \\ 4 5 \\ 4 4 \\ 5 0 \\ 5 1 \end{array}$	<pre>fuels continue to be utilized for energy. No fines collected for these violations shall be passed through to ratepayers. d. Onsite and community renewable energy shall be credited at the retail rate of electricity for energy generated up to one hundred twenty percent of energy consumption at the time of installation, taken as an average of annual usage for the past five years. Energy generated beyond one hundred twenty percent shall be reimbursed at the wholesale rate. In months where energy generation exceeds usage, the difference shall be credited to the electric bill, and at the end of the year, excess owed to the electric customer shall be paid to the customer. Any utility that captures energy generated in excess of one hundred twenty percent shall deposit an amount equal to the retail price of electricity for the amount generated into the state renewable energy revolving fund estab- lished by section eighty-three-b of the state finance law. 5. a. The commissioner shall appoint a statewide climate justice work- ing group for the following purposes: (i) to evaluate the climate action plans developed by each state agen- cy and public authority and to advise the department on an on-going basis as to progress made by respective agencies and public authorities; (ii) to consult with the department of public service and the public service commission to assess the progress made by utilities subject to the provisions of the public service law in coming into compliance with the state energy plan mandated by subdivision one of section 6-104 of the energy law and to advise the department on an on-going basis as to</pre>

1	b. The state climate justice working group shall be empowered to
2	request and receive reports and other relevant information from agen-
3	cies, public authorities, the department of public service and the
4	public service commission, utilities subject to the provisions of the
5	public service law, and other entities necessary to evaluate and advise
б	the department on plans and progress towards the transition to one
7	hundred percent renewable energy. All state agencies, authorities,
8	commissions and departments shall cooperate with the state climate
9	justice working group in fulfilling its mandate.
10	c. The state climate justice working group shall be comprised of thir-
11	teen members who are residents of low-income communities or environ-
12	mental justice communities. Members shall serve for no more than three
13	four-year terms each as follows:
14	(i) five members shall be representatives of community-based organiza-
15	tions that advise or assist minority and low-income communities on envi-
16	ronmental matters;
17	(ii) four members shall be representatives of businesses involved with
18	energy, heating and cooling, transportation and agriculture;
19	(iii) two members shall be representatives of environmental conserva-
20	tion offices of local government;
21	(iv) two members shall be representatives of state or national organ-
22	izations promoting environmental conservation, researchers, educators
23	and members of the general public; and
24	(v) three of such members shall be nominated by the governor; two of
25	such members shall be nominated by the temporary president of the
26	senate; two members shall be nominated by the speaker of the assembly;
27	two members shall be nominated by the chairs of the senate environmental
28	conservation and energy and telecommunications committees; and two
29	members shall be nominated by the chairs of the assembly environmental
30	conservation and energy committees.
31	d. The department shall include the costs of administrating and
32	resourcing the climate justice working group in its annual budget
33	requests to the legislature. In any given year that the legislature
34	fails to approve adequate funding for the climate justice working group
35	as a distinct line item, the department shall fund the operations of the
36	climate justice working group through re-allocation of its approved
37	administrative budget.
38	6. a. Each county government and each municipality representing more
39 40	than fifty thousand individuals shall create a local climate justice
40	working group to evaluate the performance of the county or municipality in expanding access to renewable energy and to advancing environmental,
41 42	climate, economic and racial justice.
42 43	b. Each local climate justice working group shall:
43 44	(i) issue recommendations on local plans to further the objectives of
44 45	the state climate action plan and implementation of these plans to
45 46	achieve one hundred percent clean renewable energy; and
47	(ii) offer endorsements or rejections of plans and reports, and offer
48	specific analysis of the plans' impacts on expanding access to renewable
49	energy and advancing environmental, climate, economic and racial
50	justice.
51	<u>c. Each local climate justice working group shall be comprised of</u>
52	residents of low-income communities and environmental justice communi-
53	ties. Members shall be appointed by local government consistent with
54	rules adopted by such local government. Members shall number at least
55	eight and no more than twelve individuals. Members shall serve for no
	ergint and no more than twerve individuals. Members shall serve for no

56 more than three four-year terms each.

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1	d. Each local climate justice working group shall be empowered to
2	receive reports and other relevant information from companies, utili-
3	ties, and other entities necessary to develop recommendations on the
4	plans and their implementation.
5	e. The department shall include the costs of administrating and
6	resourcing the local climate justice working groups in its annual budget
7	requests to the legislature. In any given year that the legislature
8	fails to approve funding for the local climate justice working groups as
9	a distinct line item, the department shall fund the operations of the
10	local climate justice working groups through re-allocation of its
11	approved administrative budget.
12	§ 4. The state finance law is amended by adding a new section 83-b to
13	read as follows:
14	§ 83-b. State renewable energy revolving fund. 1. There is hereby
15	established in the joint custody of the comptroller and the commissioner
16	of taxation and finance a special fund to be known as the "state renewa-
17	ble energy revolving fund".
18	2. The fund shall consist of moneys appropriated thereto, fines
19	collected pursuant to paragraph c of subdivision four of section 54-1526
20	of the environmental conservation law, and funds transferred from any
21	other fund or source.
22	3. The comptroller shall establish the following separate and distinct
23	accounts within the renewable energy revolving fund:
24	a. the loan fund, which shall fund grants and low-interest loans to
25	support the generation of renewable energy and job training programs in
26	the renewable energy sector pursuant to paragraph c of subdivision two
27	of section 54-1526 of the environmental conservation law;
28	b. the training account, which will fund training programs and other
29	benefits for displaced workers pursuant to paragraph b of subdivision
30	two of section 54-1526 of the environmental conservation law; and
31	c. the localities assistance account, which shall reimburse localities
32	for any revenue loss occurring from the shutdown of fossil fuel or
33	nuclear power plants. Such account shall also be used to provide
34	payments in lieu of taxes related to the siting of any renewable energy
35	facilities or projects.
36	4. Priority in distribution among the accounts specified in subdivi-
37	sion three of this section shall be given to the training account.
38	Moneys allotted to such account shall be sufficient to ensure that every
39	displaced fossil fuel worker and nuclear power worker in the state
40	receives the opportunity to transition into jobs in the renewable energy
41	sector.
42	5. Revenues in the renewable energy revolving fund shall be kept sepa-
43	rate and shall not be commingled with any other moneys in the custody of
44	the comptroller. All deposits of such revenues shall, if required by the
45	comptroller, be secured by obligations of the United States or of the
46	state having a market value equal at all times to the amount of such
47	deposits and all banks and trust companies are authorized to give secu-
48	rity for such deposits. Any such revenues in such fund may, upon the
49	discretion of the comptroller, be invested in obligations in which the
50	comptroller is authorized to invest pursuant to section ninety-eight-a
51	of this article.
52	6. All payments of moneys from the loan account of the fund shall be
53	made on the audit and warrant of the comptroller. All payments from the
54	training account of the fund shall be made on the audit and warrant of

55 the commissioner of labor.

§ 5. a. The attorney general is hereby authorized to commence an 1 2 action or special proceeding in any court of competent jurisdiction in the state in the name of the people of the state to enforce the 3 provisions of this act, recover any fine or penalty due pursuant to 4 section 54-1526 of the environmental conservation law, or for injunctive 5 6 relief to compel compliance with the provisions of this act. All moneys 7 recovered in any such action or special proceeding, together with the 8 costs thereof shall be paid into the state treasury to the credit of the 9 state renewable energy revolving fund established by section 83-b of the 10 state finance law.

11 b. Notwithstanding any law, rule or regulation to the contrary, any 12 resident of the state of New York, over the age of twenty-one, shall 13 have legal standing to sue to ensure satisfaction of the provisions of 14 this act.

15 § 6. This act shall take effect on the first of January next succeed-16 ing the date upon which it shall have become a law.