

# STATE OF NEW YORK

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2023-2024 Regular Sessions

## IN ASSEMBLY

February 24, 2023

Introduced by M. of A. KELLES, ZINERMAN, STECK, ARDILA, DINOWITZ, SIMON, SIMONE, ALVAREZ, MAMDANI, GONZALEZ-ROJAS, COLTON, EPSTEIN, LEVENBERG, SHRESTHA, STIRPE, SOLAGES, BURGOS, L. ROSENTHAL, REYES, CUNNINGHAM, DICKENS, THIELE, RAGA, DE LOS SANTOS, STERN, JACOBSON, OTIS, ROZIC, RAJKUMAR, KIM, ANDERSON, GLICK, SHIMSKY, LUNSFORD, BARRETT, SEAWRIGHT, BICHOTTE HERMELYN, SANTABARBARA, TAYLOR, CLARK, PAULIN, LAVINE, CARROLL, FORREST, SLATER, EACHUS, SAYEGH, MAGNARELLI, WOERNER, SILLITTI, WEPRIN, K. BROWN, HUNTER, CRUZ, BENEDETTO, JACKSON, ZACCARO, PRETLOW, RIVERA, FAHY, TAPIA, MEEKS, BORES, LEE, HEVESI, BRONSON, WALLACE, BURKE, DAVILA, SEPTIMO, DILAN, AUBRY, WILLIAMS, BENDETT, GALLAGHER, BURDICK, DARLING, GIBBS, SEPTIMO, CONRAD, MCGOWAN, FLOOD -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Energy in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT enacting the "just energy transition act"

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

- 1 Section 1. Short title. This act shall be known and may be cited as
- 2 the "just energy transition act".
- 3 § 2. Legislative findings and statement of purpose. The legislature
- 4 hereby finds, determines and declares:
- 5 (a) New York state, especially New York city, is reliant on fossil
- 6 fuels for energy production, making the transition to renewable sources
- 7 for the downstate electricity system key to achieving the requirements

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

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1 of section 4 of the New York state climate leadership and community  
2 protection act, including that seventy percent of the state's electric-  
3 ity be from renewable energy sources by the year 2030 and that one  
4 hundred percent of the state's electricity be from zero-emission sources  
5 by the year 2040.

6 (b) New York state is committed to the responsible replacement and  
7 redevelopment of its fossil-fueled power generation facilities that  
8 currently ensure resource adequacy in the state, especially in locations  
9 where the health benefits to historically disadvantaged communities can  
10 be maximized, and where the cost effective phasing-out of such facili-  
11 ties can be done while helping to ensure a just transition for the  
12 existing workforce.

13 (c) A public policy purpose would be served and the interests of the  
14 people of the state would be advanced by directing the New York state  
15 energy research and development authority, in consultation with the  
16 department of public service and the department of environmental conser-  
17 vation, to continue the development of the study commenced in 2022, as  
18 referenced in the climate action council scoping plan of strategies to  
19 facilitate the replacement and redevelopment of New York's oldest and  
20 most-polluting fossil-fueled power generation facilities and their sites  
21 by 2030, while ensuring resource adequacy, with renewable energy systems  
22 as defined in paragraph (b) of subdivision 1 of section 66-p of the  
23 public service law, energy storage systems, distributed energy resources  
24 and electric bulk transmission systems and equipment.

25 (d) It is the intent of the legislature in enacting this act to  
26 empower the New York state energy research and development authority,  
27 department of public service, and department of environmental conserva-  
28 tion, to develop a study as described in the climate action council  
29 scoping plan and paragraph (c) of section three of this act in the  
30 manner authorized and directed herein, and for those entities and the  
31 public service commission, and any other agencies or authorities of the  
32 state as may be required, to commence any proceedings or other initi-  
33 atives necessary to carry out the strategies described therein.

34 § 3. Just energy transition task force. 1. There is hereby established  
35 the just energy transition task force for the purpose of carrying out  
36 the intent of this section.

37 2. Membership. The just energy transition task force, herein referred  
38 to as the task force, shall consist of:

- 39 (a) the governor or their designee;  
40 (b) the CEO of the department of public service or their designee;  
41 (c) the president of the NYS energy research and development authority  
42 or their designee;  
43 (d) the commissioner of environmental conservation or their designee;  
44 (e) the commissioner of labor or their designee;  
45 (f) the secretary of state or their designee;  
46 (g) the commissioner of economic development or their designee;  
47 (h) the CEO of the NY Power Authority or their designee;  
48 (i) the commissioner of the division of homeland security and emergen-  
49 cy services;

50 (j) four appointees of the assembly or their designees consisting of  
51 three appointees from the majority and one from the minority; and

52 (k) four appointees of the state senate or their designees consisting  
53 of three appointees from the majority and one from the minority.

54 3. Advisory committee. The task force shall appoint an advisory  
55 committee consisting of scientific and technical experts, local offi-

1 cials, labor union representatives, environmental groups, and other  
2 interested stakeholders including but not limited to:

3 (a) a representative of a labor union whose members are employed in  
4 fossil-fueled generation facilities;

5 (b) a technical expert with knowledge in transitioning fossil-fueled  
6 generation facilities to renewable energy;

7 (c) a representative of the environmental community;

8 (d) a representative of local municipalities where fossil-fueled  
9 generation facilities exist; and

10 (e) a representative of disadvantaged communities.

11 4. Meetings. (a) Meetings of the task force shall be called by the  
12 governor or their designee.

13 (b) The task force shall convene at least quarterly during the devel-  
14 opment of the study to provide input and to also provide oversight  
15 during the implementation of the strategies, programs, and standards,  
16 developed pursuant to this section.

17 (c) Whenever possible, the governor or their designee shall provide  
18 the members of the task force with written notice of at least ten calen-  
19 dar days prior to each meeting of the time, place, and purpose of such  
20 meeting. Such notice shall be accompanied, if practicable, by such back-  
21 ground information as the governor or their designee determines may be  
22 necessary to facilitate discussion at the meeting.

23 (d) The governor or their designee shall furnish public notice of all  
24 meetings. Meetings of the task force shall be open to the public.

25 (e) A majority of the task force shall constitute a quorum. No action  
26 may be taken by the task force without a quorum present.

27 (f) The governor or their designee shall provide for keeping of  
28 minutes of the proceedings of the task force and for the preservation of  
29 documentary records pertaining to the actions and proceedings of the  
30 task force, which may be performed by a secretary to the governor or  
31 their designee.

32 (g) All decisions or actions by the task force shall require an affir-  
33 mative vote of at least a two-thirds majority of a quorum of the task  
34 force present for a vote.

35 (h) To the extent practicable, the governor or their designee shall  
36 arrange for the videotaping and livestream of meetings of the task force  
37 for the preservation of video recordings and remote participation of the  
38 public.

39 § 4. The New York state energy research and development authority is  
40 authorized and directed to:

41 (a) develop, through robust public input, a study of options to facil-  
42 itate the phase-out, replacement and redevelopment of New York state's  
43 oldest and most-polluting fossil-fueled power generation facilities and  
44 their sites by the year 2030, with renewable energy systems as defined  
45 in paragraph (b) of subdivision 1 of section 66-p of the public service  
46 law, energy storage systems, distributed energy resources and electric  
47 bulk transmission systems and equipment, while ensuring resource adequa-  
48 cy and other reliability services are maintained, and to do so in  
49 consultation with the department of public service, the department of  
50 environmental conservation, the Long Island power authority, the just  
51 energy transition task force, and other relevant state agencies and  
52 authorities with subject matter expertise, the federally designated  
53 electric bulk system operator, the New York State Reliability Council,  
54 and the local electric utility providers. The study should prioritize  
55 the replacement and redevelopment of such fossil-fueled power generation  
56 facilities with facilities that will directly assist in achieving the

1 energy, disadvantaged communities, and emissions reductions requirements  
2 of section 66-p of the public service law. The study shall address the  
3 phase-out of at least four gigawatts of fossil-fueled power generation  
4 statewide capacity in total without compromising reliability and prior-  
5 itize analysis of: projects deployed to replace fossil-fueled power  
6 generation facilities that operate when electricity usage is highest and  
7 are located in or near disadvantaged communities; projects deployed to  
8 replace facilities that have not been in operation for one year or more;  
9 or projects that meet one of the prior two criteria and are shovel-  
10 ready. The study shall include recommendations of standards and  
11 requirements that:

12 (i) significantly reduce the state's electricity system reliance on  
13 fossil fuels related to electric bulk transmission, taking into account  
14 the requirements and timing of the state's emission reduction programs;

15 (ii) establish a program to promote investment in eligible technolo-  
16 gies that the public service commission has determined, after notice  
17 and provision for the opportunity to comment, ensure resource adequacy,  
18 while achieving the requirements of section 66-p of the public service  
19 law;

20 (iii) provide significant environmental, health and other benefits to  
21 disadvantaged communities as such communities will be defined under  
22 section 75-0111 of the environmental conservation law;

23 (iv) have significant potential for job creation and retention,  
24 economic development, and just transition opportunities benefiting New  
25 Yorkers and the state's workforce, as described in the scoping plan  
26 issued by the climate action council under section 75-0103 of the envi-  
27 ronmental conservation law;

28 (v) identify funding sources including but not limited to assistance  
29 under the electric generation facility cessation mitigation fund estab-  
30 lished in section 1 of part BB of chapter 58 of the laws of 2016 avail-  
31 able to any local government entity impacted by the replacement and  
32 redevelopment of fossil-fueled power generation facilities under this  
33 section; and

34 (vi) consider the projected incremental net statewide levelized elec-  
35 tricity rate increase, taking into account any reductions in electricity  
36 or commodity prices, reduced program compliance costs including costs to  
37 meet the requirements of public service law section 66-p and other bene-  
38 fits to ratepayers;

39 (b) provide public notice of the study, and ensure the results of  
40 the study are made easily accessible to members of disadvantaged commu-  
41 nities, as defined in section 75-0101 of the environmental conservation  
42 law, and provide an opportunity for public comment on the study of not  
43 less than 60 days and conduct at least two public hearings on the  
44 study, of which at least one shall be held in disadvantaged communities,  
45 as defined in section 75-0101 of the environmental conservation law with  
46 such public hearings offering video participation and accessibility;

47 (c) address public comments and update the study, as appropriate,  
48 especially to ensure resource adequacy and reliability services are  
49 maintained;

50 (d) deliver the study to the governor, the temporary president of the  
51 senate, the speaker of the assembly, and the just energy transition task  
52 force within 120 days of the effective date of this section;

53 (e) the governor, assembly, senate, and task force shall provide feed-  
54 back within 60 days of the delivery of the study; and

55 (f) the public service commission shall incorporate feedback from the  
56 governor, assembly, senate, and the just energy transition task force

1 and submit the revised study to the task force for their consideration  
2 and approval. Should such task force reject the revised study, they  
3 shall provide additional feedback and the public service commission  
4 shall update the study within 30 days and resubmit for approval. During  
5 this review process, such task force shall meet as often as necessary to  
6 complete their duty. Should the task force reject the study and require  
7 another 30 days, all due dates pursuant to this section shall be  
8 adjusted accordingly.

9 § 5. The authority, in collaboration with the department of public  
10 service, the department of environmental conservation, the Long Island  
11 power authority, and the just energy transition task force, shall  
12 commence proceedings and stakeholder processes to establish programs and  
13 other initiatives necessary to reliably advance the strategies,  
14 programs, standards, and requirements described in the study referred to  
15 in section three of this act within 240 days of the effective date of  
16 this section.

17 § 6. The public service commission shall:

18 (a) commence a proceeding to consider and advance the strategies,  
19 programs, standards, and requirements described in the study referred to  
20 in section three of this act within 270 days of the effective date of  
21 this section; and

22 (b) issue an order or orders to implement the strategies, programs,  
23 standards, and requirements described in the study referred to in  
24 section three of this act within 360 days of the effective date of this  
25 section. The public service commission shall not issue such order or  
26 orders, make any commitment, enter into any agreement, nor incur any  
27 indebtedness unless pursuant to such order or orders unless prior  
28 approval has been received from the just energy transition task force.  
29 Such order or orders shall at a minimum:

30 (i) direct the New York state energy research and development authori-  
31 ty to implement an award process to facilitate the replacement and rede-  
32 velopment of at least four gigawatts of fossil-fueled power generation  
33 facilities statewide while maintaining reliability consistent with the  
34 recommendations of the study pursuant to section three of this act, and  
35 as part of such award process, giving consideration to security of  
36 offtake with respect to generation and transmission, and reduction of  
37 emissions from such replaced facilities; and

38 (ii) direct that with respect to the award process required, the only  
39 eligible electricity generation from hydroelectric facilities shall be  
40 electricity that is generated from non-state-owned low impact run-of-  
41 river facilities located in the state that provide a year-round elec-  
42 tricity capacity resource.

43 (iii) direct that with respect to such award process, the projected  
44 incremental net statewide levelized electricity rate increase directly  
45 attributable to awarded projects shall not exceed five percent over the  
46 twenty-five year period following the commencement of payment of such  
47 award.

48 (c)(i) Any projects pursuant to this section, or the study provided  
49 herein, shall be deemed public work and shall be subject to and  
50 performed in accordance with articles 8 and 9 of the labor law. Each  
51 contract for such project shall contain a provision that such project  
52 shall only be undertaken pursuant to a project labor agreement. For  
53 purposes of this section, "project labor agreement" shall mean a pre-  
54 hire collective bargaining agreement between the New York state energy  
55 research and development authority, a third party on behalf of the  
56 authority, or a recipient of support under this section, and a bona fide

1 building and construction trade labor organization establishing the  
2 labor organization as the collective bargaining representative for all  
3 persons who will perform work on a public work project, and which  
4 provides that only contractors and subcontractors who sign a pre-negoti-  
5 ated agreement with the labor organization can perform project work. All  
6 contractors and subcontractors associated with this work shall be  
7 required to utilize apprenticeship agreements as defined by article 23  
8 of the labor law.

9 (ii) The New York state energy research and development authority, or  
10 public service commission, where appropriate, shall include requirements  
11 in any procurement or development of a renewable energy generating  
12 project, as defined in this subdivision, that the components and parts  
13 shall be produced or made in whole or substantial part in the United  
14 States, its territories or possessions. The New York state energy  
15 research and development authority's president and chief executive offi-  
16 cer, or their designee may waive the procurement and development  
17 requirements set forth in this paragraph if such official determines  
18 that: the requirements would not be in the public interest; the require-  
19 ments would result in unreasonable costs; obtaining such infrastructure  
20 components and parts in the United States would increase the cost of a  
21 renewable energy generating project by an unreasonable amount; or such  
22 components or parts cannot be produced, made, or assembled in the United  
23 States in sufficient and reasonably available quantities or of satisfac-  
24 tory quality. Such determination shall be made on an annual basis no  
25 later than December thirty-first, after providing notice and an opportu-  
26 nity for public comment, and such determination shall be made publicly  
27 available, in writing, on the New York state energy research and devel-  
28 opment authority's website with a detailed explanation of the findings  
29 leading to such determination. If the New York state energy research and  
30 development authority's president and chief executive officer, or their  
31 designee, has issued determinations for three consecutive years finding  
32 that no such waiver is warranted pursuant to this paragraph, then the  
33 New York state energy research and development authority shall no longer  
34 be required to provide the annual determination required by this para-  
35 graph.

36 (d)(i) The commissioner of labor, in consultation with labor organiza-  
37 tions, shall develop a comprehensive plan to transition, train, or  
38 retrain employees that are impacted by projects undertaken pursuant to  
39 this act, or the study provided in section three of this act. This plan  
40 shall include a method of allowing displaced and transitioning workers,  
41 including affected labor organizations, to notify the commissioner of  
42 the loss of employment, their previous title, and previous wage rates  
43 including whether they previously received medical and/or retirement  
44 benefits. The plan shall require employers to notify the commissioner of  
45 workers laid off or discharged due to this act.

46 (ii) The commissioner of labor shall create a program pursuant to  
47 which, where applicable and feasible, newly created job opportunities  
48 shall be offered to a pool of transitioning workers who have lost their  
49 employment or will be losing their employment in the energy sector  
50 through projects undertaken pursuant to this act, or the study provided  
51 in section three of this act. Such program shall include a method for  
52 the commissioner of labor to communicate names and contact information  
53 for displaced or transitioning workers to public entities that may have  
54 job opportunities for such workers every 90 days.

55 (e) Notwithstanding any provision of law to the contrary, all rights  
56 or benefits, including terms and conditions of employment, and

1 protection of civil service and collective bargaining status of all  
2 existing public employees and the work jurisdiction, covered job titles,  
3 and work assignments, set forth in the civil service law and collective  
4 bargaining agreements with labor organizations representing public  
5 employees shall be preserved and protected. Nothing in this section  
6 shall result in the: (i) displacement of any currently employed worker  
7 or loss of position (including partial displacement as such a reduction  
8 in the hours of non-overtime work, wages, or employment benefits) or  
9 result in the impairment of existing collective bargaining agreements;  
10 (ii) transfer of existing duties and functions related to maintenance  
11 and operations currently performed by existing employees of authorized  
12 entities to a contracting entity; or (iii) transfer of future duties and  
13 functions ordinarily performed by employees of authorized entities to a  
14 contracting entity.

15 § 7. The Long Island power authority shall establish a program or  
16 programs in its service territory consistent with the recommendation of  
17 the study conducted pursuant to section three of this act, the  
18 provisions of section five of this act, and the purposes of this act.

19 § 8. This act shall take effect immediately.