

# STATE OF NEW YORK

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2023-2024 Regular Sessions

## IN SENATE

January 25, 2023

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Introduced by Sens. PARKER, BRESLIN, BRISPORT, CLEARE, COMRIE, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, LIU, MARTINEZ, MAY, MYRIE, RAMOS, SALAZAR, SEPULVEDA, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- 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  
8 of section 4 of the New York state climate leadership and community  
9 protection act, including that seventy percent of the state's electric-  
10 ity be from renewable energy sources by the year 2030 and that one  
11 hundred percent of the state's electricity be from zero-emission sources  
12 by the year 2040.

13 (b) New York state is committed to the responsible replacement and  
14 redevelopment of its fossil fueled generation facilities that currently

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

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1 ensure resource adequacy in the state, especially in locations where the  
2 health benefits to historically disadvantaged communities can be maxi-  
3 mized, and where the cost effective phasing-out of such facilities can  
4 be done while helping to ensure a just transition for the existing work-  
5 force.

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

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

27 § 3. The New York state energy research and development authority is  
28 authorized and directed to:

29 (a) develop a study of competitive options to facilitate the phase-  
30 out, replacement and redevelopment of New York state's oldest and most-  
31 polluting fossil fueled generation facilities and their sites by the  
32 year 2030, with renewable generation options that include those  
33 described in the scoping plan issued by the climate action council under  
34 section 75-0103 of the environmental conservation law, renewable energy  
35 systems as defined in paragraph (b) of subdivision 1 of section 66-p of  
36 the public service law, energy storage systems, and electricity trans-  
37 mission and distribution systems and equipment, while ensuring resource  
38 adequacy and other reliability services are maintained, and to do so in  
39 consultation with the department of public service, the department of  
40 environmental conservation, Long Island power authority, and other rele-  
41 vant state agencies and authorities with subject matter expertise, the  
42 federally designated electric bulk system operator, the New York State  
43 Reliability Council, and the owners of such facilities. The study should  
44 prioritize the replacement and redevelopment of such fossil fueled  
45 generation facilities with facilities that will directly assist in  
46 achieving the energy, environmental justice and emissions reductions  
47 requirements of section 66-p of the public service law. The study shall  
48 address the phase-out of at least four gigawatts of fossil fueled gener-  
49 ation statewide capacity in total and prioritize those facilities that  
50 only operate when electricity usage is highest. The study shall include  
51 recommendations of standards and requirements that:

52 (i) significantly reduce the state's electricity system reliance on  
53 fossil fuels, taking into account the requirements and timing of the  
54 state's emission reduction programs;

55 (ii) establish a competitive program to promote private sector invest-  
56 ment in eligible technologies that the public service commission has

determined, after notice and provision for the opportunity to comment, ensure resource adequacy, while achieving the requirements of section 66-p of the public service law;

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

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

(v) ensure the availability of assistance under the electric generation facility cessation mitigation fund established in section 1 of part BB of chapter 58 of the laws of 2016 to any local government entity impacted by the replacement and redevelopment of fossil fueled generation facilities under this section;

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

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

(d) deliver the study to the governor, temporary president of the senate and speaker of the assembly within 180 days of the effective date of this section.

§ 4. The department of public service, the department of environmental conservation, and Long Island power authority shall commence proceedings and stakeholder processes to establish programs and other initiatives necessary to carry out the strategies, programs, standards, and requirements described in the study referred to in section three of this act within 60 days of delivery of the study to the governor, temporary president of the senate and speaker of the assembly.

§ 5. The public service commission shall:

(a) commence a proceeding to implement the strategies, programs, standards, and requirements described in the study referred to in section three of this act within 90 days of delivery of the study to the governor, temporary president of the senate and speaker of the assembly; and

(b) issue an order regarding implementation of the strategies, programs, standards, and requirements described in the study referred to in section three of this act no later than July 30, 2026. Such order shall at a minimum:

(i) direct the New York state energy research and development authority to implement a competitive award process to facilitate the replacement and redevelopment of at least four gigawatts of fossil fueled generation facilities statewide while maintaining reliability consistent with the recommendations of the study pursuant to section three of this act, and that as part of such competitive award process, consideration shall be given to security of offtake with respect to generation and transmission; and

(ii) direct that with respect to the competitive award process required, the only eligible electricity generation from hydroelectric

1 facilities shall be electricity that is generated from non-state-owned  
2 low impact run-of-river facilities located in the state that provide a  
3 year-round electricity capacity resource.

4 (c)(i) Any projects pursuant to this section, or the study provided  
5 herein, shall be deemed public work and shall be subject to and  
6 performed in accordance with articles 8 and 9 of the labor law. Each  
7 contract for such project shall contain a provision that such project  
8 shall only be undertaken pursuant to a project labor agreement. For  
9 purposes of this section, "project labor agreement" shall mean a pre-  
10 hire collective bargaining agreement between the New York state energy  
11 research and development authority, a third party on behalf of the  
12 authority, or a recipient of support under this section, and a bona fide  
13 building and construction trade labor organization establishing the  
14 labor organization as the collective bargaining representative for all  
15 persons who will perform work on a public work project, and which  
16 provides that only contractors and subcontractors who sign a pre-negoti-  
17 ated agreement with the labor organization can perform project work. All  
18 contractors and subcontractors associated with this work shall be  
19 required to utilize apprenticeship agreements as defined by article 23  
20 of the labor law.

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

48 (d)(i) The commissioner of labor, in consultation with labor organiza-  
49 tions, shall develop a comprehensive plan to transition, train, or  
50 retrain employees that are impacted by projects undertaken pursuant to  
51 this act, or the study provided in section three of this act. This plan  
52 shall include a method of allowing displaced and transitioning workers,  
53 including affected labor organizations, to notify the commissioner of  
54 the loss of employment, their previous title, and previous wage rates  
55 including whether they previously received medical and/or retirement

1 benefits. The plan shall require employers to notify the commissioner of  
2 workers laid off or discharged due to this act.

3 (ii) The commissioner of labor shall create a program pursuant to  
4 which, where applicable and feasible, newly created job opportunities  
5 shall be offered to a pool of transitioning workers who have lost their  
6 employment or will be losing their employment in the energy sector  
7 through projects undertaken pursuant to this act, or the study provided  
8 in section three of this act. Such program shall include a method for  
9 the commissioner of labor to communicate names and contact information  
10 for displaced or transitioning workers to public entities that may have  
11 job opportunities for such workers every 90 days.

12 (e) Notwithstanding any provision of law to the contrary, all rights  
13 or benefits, including terms and conditions of employment, and  
14 protection of civil service and collective bargaining status of all  
15 existing public employees and the work jurisdiction, covered job titles,  
16 and work assignments, set forth in the civil service law and collective  
17 bargaining agreements with labor organizations representing public  
18 employees shall be preserved and protected. Nothing in this section  
19 shall result in the: (i) displacement of any currently employed worker  
20 or loss of position (including partial displacement as such a reduction  
21 in the hours of non-overtime work, wages, or employment benefits) or  
22 result in the impairment of existing collective bargaining agreements;  
23 (ii) transfer of existing duties and functions related to maintenance  
24 and operations currently performed by existing employees of authorized  
25 entities to a contracting entity; or (iii) transfer of future duties and  
26 functions ordinarily performed by employees of authorized entities to a  
27 contracting entity.

28 § 6. The Long Island power authority shall establish a program or  
29 programs in its service territory consistent with the recommendation of  
30 the study conducted pursuant to section three of this act, the  
31 provisions of section five of this act, and the objectives of this act.

32 § 7. This act shall take effect immediately.