

# STATE OF NEW YORK

5360--B

2023-2024 Regular Sessions

## IN SENATE

March 2, 2023

Introduced by Sens. HARCKHAM, BAILEY, BROUK, CLEARE, COMRIE, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, MAY, MYRIE, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO, WEBB -- 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 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the state finance law and the labor law, in relation to establishing the office of equity for energy and climate

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

1 Section 1. The public authorities law is amended by adding a new  
2 section 1885 to read as follows:

3 § 1885. Office of equity for energy and climate. 1. Definitions. As  
4 used in this section, the following terms shall have the following mean-  
5 ings:

6 (a) "Community solutions fund" shall mean the community directed  
7 climate solutions fund established pursuant to subdivision three of this  
8 section.

9 (b) "Office" shall mean the office of equity for energy and climate  
10 established pursuant to subdivision two of this section.

11 (c) "Solutions grants program" shall mean the community directed  
12 climate solutions grants program established pursuant to subdivision  
13 four of this section.

14 2. Office of equity for energy and climate. (a) There is established  
15 within the authority an office of equity for energy and climate.

16 (b) The purpose of the office of equity for energy and climate is to  
17 support local and communally developed climate projects to support

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

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1 disadvantaged communities, including by establishing and administering  
2 the community solutions fund and the solutions grants program pursuant  
3 to subdivisions three and four of this section.

4 (c) The office of equity for energy and climate shall be managed by a  
5 director who shall report to the member of the commissioner's executive  
6 leadership team whose role is to institutionalize and operationalize  
7 climate and environmental equity and justice within the authority. The  
8 office shall also report to and be supported by the member of the gover-  
9 nor's executive leadership team whose role and responsibility is to  
10 institutionalize and operationalize equity and justice across state  
11 government operations.

12 3. The community directed climate solutions fund. There is estab-  
13 lished within the office the community solutions fund, out of which the  
14 office shall make grants pursuant to the solutions grants program.

15 4. Community directed climate solutions grants program. (a) The office  
16 shall establish the community directed climate solutions grants program  
17 to provide assistance to community-based organizations, projects, and  
18 initiatives that may not meet application criteria for other assistance  
19 programs, or for which other assistance programs are inadequate.

20 (b) The office shall design the solutions grants program, to the  
21 extent practicable and permissible, to maximize the ability of grant  
22 recipients to use such grants as matching funds in other assistance  
23 program applications and/or to leverage the funding to receive addi-  
24 tional grants from other assistance programs.

25 (c) The office shall identify the needs of disadvantaged communities  
26 to prioritize grant allocation. Such identification process shall  
27 include significant consultation with community stakeholders in a varie-  
28 ty of disadvantaged communities throughout the state, at least three  
29 public hearings, and other opportunities for public input. The office  
30 shall also consult with the climate justice working group established  
31 pursuant to section 75-0111 of the environmental conservation law.

32 (d) Applicants eligible for the solutions grants program:

33 (i) Lead applicants eligible for grants shall be constituency-based  
34 organizations, tribal nations, or, in communities where neither consti-  
35 tency-based organizations or tribal nations exist, a municipality.

36 (ii) Sub-applicants may include other non-profit organizations,  
37 academic institutions, business entities, municipalities and other  
38 stakeholders.

39 (e) The following restrictions shall apply to the community directed  
40 climate solutions grants program:

41 (i) Grants shall only be made for projects that reduce greenhouse gas  
42 emissions, energy costs, enhance climate change resiliency including but  
43 not limited to flooding protections and reduction of urban heat island  
44 effects, reduce local pollution, or that support community ownership and  
45 governance of energy infrastructure.

46 (ii) At least seventy-five percent of funding must support projects  
47 located within disadvantaged communities.

48 (iii) Up to twenty-five percent of funding may support projects  
49 located outside disadvantaged communities, provided that such funding  
50 provides a benefit to disadvantaged communities, including those bene-  
51 fits identified in subparagraph (i) of this paragraph.

52 (iv) To the extent practicable, grants shall be distributed equitably  
53 to disadvantaged communities throughout the state, based on population.

54 (v) Grants shall only be made for projects which satisfy the community  
55 decision-making and accountability standards established pursuant to  
56 subdivision five of this section.

1 (vi) Projects funded by grants made under the solutions grants program  
2 shall be subject to the provisions of section two hundred twenty-four-f  
3 of the labor law, section sixty-six-v of the public service law, and  
4 section five of part TT of chapter fifty-six of the laws of two thousand  
5 twenty-three.

6 (vii) Preference shall be given to proposals that include significant  
7 participation by minority and women-owned business enterprises.

8 5. The office shall develop and establish standards for community  
9 decision-making and accountability mechanisms with respect to eligible  
10 projects and the use of grant funding pursuant to the provisions of this  
11 section.

12 6. Beginning one year after its establishment and annually thereafter,  
13 the office shall submit a report to the climate justice working group  
14 established pursuant to section 75-0111 of the environmental conserva-  
15 tion law on the use of funds in the community directed climate solutions  
16 fund and recipients of the solutions grants program.

17 § 2. Paragraph (c) of subdivision 3 of section 99-qq of the state  
18 finance law, as added by section 2 of part TT of chapter 56 of the laws  
19 of 2023, is amended to read as follows:

20 (c) The New York climate action fund climate investment account shall  
21 consist of moneys received by the state pursuant to paragraph (c) of  
22 subdivision twenty-five of section eighteen hundred fifty-four of the  
23 public authorities law, and all other moneys appropriated, credited, or  
24 transferred thereto from any other fund or source pursuant to law.  
25 Moneys of the account shall be made available for the purposes of  
26 assisting the state in transitioning to a less carbon intensive economy,  
27 including but not limited to: (i) purposes which are consistent with the  
28 general findings of the scoping plan prepared pursuant to section  
29 75-0103 of the environmental conservation law; (ii) administrative and  
30 implementation costs, auction design and support costs, program design,  
31 evaluation, and other associated costs; ~~and~~ (iii) measures which  
32 prioritize disadvantaged communities by supporting actions consistent  
33 with the requirements of paragraph d of subdivision three of section  
34 75-0109 and of section 75-0117 of the environmental conservation law,  
35 identified through community decision-making and stakeholder input,  
36 including early action to reduce greenhouse gas emissions in disadvan-  
37 tagged communities; and (iv) funding the community directed climate  
38 solutions grants program established pursuant to section eighteen  
39 hundred eighty-five of the public authorities law. At least twenty  
40 percent of the climate investment account shall be directed toward the  
41 community directed climate solutions grant program.

42 § 3. The labor law is amended by adding a new section 224-g to read as  
43 follows:

44 § 224-g. New York jobs plan requirements for certain projects. 1. As  
45 used in this section, the "New York jobs plan" refers to the information  
46 submitted by the contractor, its supplier, and its major supplier which  
47 states the minimum number of jobs; proposed wages, benefits, investment  
48 in training; targeted hiring plans for displaced workers and individuals  
49 facing barriers to employment for jobs created or retained in New York.

50 2. Any public entity requesting bids or awarding contracts for renewa-  
51 ble energy projects, energy efficiency projects, or other projects fund-  
52 ed by the New York climate action fund, except for construction  
53 projects, shall require any applicant, bidder, or responder to submit a  
54 New York jobs plan as part of its application, bid or response. The  
55 department of environmental conservation and the New York state energy  
56 and research development authority (NYSERDA), in consultation with the

1 department, shall develop all forms, procedures, evaluation and scoring  
2 criteria, and guidance, necessary for the implementation of the New York  
3 jobs plan. To the extent feasible, the department of environmental  
4 conservation and NYSERDA, in consultation with the department, shall  
5 consider the input and recommendations of relevant public entities on  
6 the development of the New York jobs plan.

7 3. The New York jobs plan shall require applicants, bidders, and  
8 responders to provide information on jobs that would result from being  
9 awarded the bid or contract for such projects. At a minimum, this shall  
10 include the following information for nonsupervisory positions, broken  
11 down by classification:

12 (a) The number of full-time non-temporary jobs retained, and the  
13 number to be created.

14 (b) The number of positions classified as employees, as defined in  
15 section seven hundred forty of this chapter, and positions classified as  
16 independent contractors.

17 (c) The number of jobs to be specifically reserved for individuals  
18 facing barriers to employment and the number to be reserved for individ-  
19 uals from disadvantaged communities.

20 (d) The minimum wages and fringe benefits amounts to be paid.

21 (e) The proposed amounts for worker training and information about any  
22 existing apprenticeship program registered with the department or a  
23 federally recognized state apprenticeship agency and that complies with  
24 the requirements under parts 29 and 30 of title 29 of the code of feder-  
25 al regulations.

26 (f) In the event that a federal authority specifically authorizes use  
27 of a geographic preference or when covered public contracts are funded  
28 exclusively through state or local funds, the New York jobs plan shall  
29 require information on the number of local jobs to be created.

30 4. Awarding public entities shall require the same New York jobs plan  
31 information to be submitted from all known subcontractors at the time of  
32 the solicitation or bid for the project is released.

33 5. New York jobs plan commitments shall be included in the contract  
34 awarded by the public entity or its contractors as a material term.

35 6. For non-competitive public contracts awarded under this section,  
36 applicants, bidders, or responders shall create a New York jobs plan as  
37 set forth in this section. For competitive public contracts, public  
38 entities shall award contracts using a competitive best-value bid  
39 procurement process. The applicants, bidders, or responders New York  
40 jobs plan shall be scored as a part of the overall application for the  
41 public contract, awarding additional consideration to applicants,  
42 bidders, or responders who do any of the following:

43 (a) Have the greatest beneficial economic impact on the state and  
44 local economies as a result of receiving the public contract, based on  
45 the priority criteria outlined in its New York jobs plan.

46 (b) Enhance the state's commitment to energy conservation, pollution  
47 and greenhouse gas emissions reduction, and transportation efficiency.

48 (c) Retain the greatest number of full-time, non-temporary employees  
49 compensated at a wage rate for the project jurisdiction as established  
50 in the living wage calculator published by the Massachusetts Institute  
51 of Technology, using the living wage rate for a household of two working  
52 adults with two children in the jurisdiction of the project.

53 (d) Make concrete commitments to creating the greatest number of full-  
54 time, non-temporary jobs compensating employees at a wage rate at or  
55 above the living wage rate for the project jurisdiction as established  
56 in the living wage calculator published by the Massachusetts Institute

1 of Technology, using the living wage rate for a household of two working  
2 adults with two children in the jurisdiction of the project.

3 (e) Commit to at least ninety percent of the labor on the contract  
4 being performed by workers classified as employees.

5 (f) Offer targeted training and opportunities for individuals facing  
6 barriers to employment and workers from disadvantaged communities.

7 7. The department of environmental conservation and NYSERDA, in  
8 consultation with the department, shall develop a web-based portal to  
9 track New York jobs plan commitments and compliance.

10 (a) All New York jobs plan commitments and compliance reporting shall  
11 be viewable by the public, through the web-based portal.

12 (b) Recipients of public contracts, shall on an annual basis, be  
13 required to upload progress reports on each of the commitments included  
14 in their New York jobs plan application, for the duration of the covered  
15 public contract.

16 (c) The portal shall be designed in such a manner that if the informa-  
17 tion entered into the portal indicates a failure to comply with the  
18 commitments made in the New York jobs plan, an automatic notice of  
19 noncompliance would be sent to the public entity for the covered public  
20 contract.

21 (d) Noncompliance with New York jobs plan commitments would violate  
22 the terms of the public contract. At a minimum these commitments would  
23 be enforceable through standard breach of contract remedies, including  
24 but not limited to, termination of the public contract.

25 § 4. This act shall take effect immediately.