STATE OF NEW YORK

7704

2023-2024 Regular Sessions

IN SENATE

October 16, 2023

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

AN ACT to amend the environmental conservation law, in relation to reporting of climate-related financial risk

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 75-0116 to read as follows:

§ 75-0116. Climate-related financial risk reporting.

1. For purposes of this section, the following definitions apply:

a. "Climate reporting organization" means a nonprofit climate reporting organization contracted by the department pursuant to paragraph c of subdivision two of this section that both:

(i) currently operates a climate reporting organization for organizations operating in the United States; and

(ii) has experience with climate-related financial risk disclosure by entities operating in New York.

b. "Climate-related financial risk" means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health.

c. "Climate-related financial risk report" means a report required by subdivision two of this section.

d. "Covered entity" means a corporation, partnership, limited liability company, or other business entity formed under the laws of the state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of five hundred million United States

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

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dollars ($500,000,000) and that does business in New York. Applicability shall be determined based on the business entity's revenue for the prior fiscal year. "Covered entity" does not include a business entity that is subject to regulation by the department of financial services, or that is in the business of insurance in any other state.

2. a. (i) On or before January first, two thousand twenty-six, and biennially thereafter, a covered entity shall prepare a climate-related financial risk report disclosing both of the following:

(A) its climate-related financial risk, in accordance with the recommended framework and disclosures contained in the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures (June 2017) published by the Task Force on Climate-related Financial Disclosures, or any successor thereto, or pursuant to an equivalent reporting requirement as described in paragraph d of this subdivision; and

(B) its measures adopted to reduce and adapt to climate-related financial risk disclosed pursuant to this subparagraph.

(ii) If a covered entity does not complete a report consistent with all required disclosures pursuant to this subdivision, the covered entity shall provide the recommended disclosures to the best of its ability, provide a detailed explanation for any reporting gaps, and describe steps the covered entity will take to prepare complete disclosures.

b. Climate-related financial risk reports may be consolidated at the parent company level. If a subsidiary of a parent company qualifies as a covered entity pursuant to paragraph d of subdivision one of this section, the subsidiary is not required to prepare a separate climate-related financial risk report.

c. The department shall contract with a climate reporting organization to prepare a biennial public report on the climate-related financial risk disclosures required by this section.

d. A covered entity satisfies the requirements of this subdivision if it prepares a publicly accessible biennial report that includes climate-related financial risk disclosure information by any of the following methods:

(i) pursuant to a law, regulation, or listing requirement issued by any regulated exchange, national government, or other governmental entity, including a law or regulation issued by the United States government, incorporating disclosure requirements consistent with clause (A) of subparagraph (i) of paragraph a of this subdivision, including the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board; and

(ii) voluntarily using a framework that meets the requirements of clause (A) of subparagraph (i) of paragraph a of this subdivision or the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board.

e. To the extent a climate-related financial risk report contains a description of a covered entity's greenhouse gases or voluntary mitigation of greenhouse gases, the department may consider a covered entity's claims if those claims are verified by a third-party independent verifier.

3. a. On or before January first, two thousand twenty-six, and biennially thereafter, a covered entity shall make available to the public, on its own internet website, a copy of the report required by this section.

b. (i) On or before January first, two thousand twenty-six, and annually thereafter, a covered entity shall pay a fee, upon filing its disclosure, to the department for the administration and implementation of this section.

(ii) (A) The department shall set the fee described in this paragraph at an amount adequate to cover the department's full costs of administrating and implementing this section. The total amount of fees collected shall not exceed the department's actual and reasonable costs to administer and implement this section.

(B) The department may adjust the fee in any year to reflect changes in the Consumer Price Index during the prior year.

(iii) The proceeds of the fees imposed pursuant to this paragraph shall be deposited in the climate-related financial risk disclosure account. Moneys in the account shall be continuously appropriated to the department and shall be expended by the department for the department's activities pursuant to this section and to reimburse any outstanding loans made from other funds used to finance the initial costs of the department's activities pursuant to this section. Moneys in the account shall not be expended for any other purpose not described in this subparagraph.

4. The climate reporting organization shall be contracted to do all of the following:

a. Biennially prepare a public report that contains all of the following elements:

(i) a review of the disclosure of climate-related financial risk contained in a subset of publicly available climate-related financial risk reports by industry;

(ii) analysis of the systemic and sector-wide climate-related financial risks facing the state based on the contents of climate-related financial risk reports, including, but not limited to, potential impacts on economically vulnerable communities; and

(iii) identification of inadequate or insufficient reports.

b. Regularly convene representatives of sectors responsible for reporting climate-related financial risks, state agencies responsible for oversight of reporting sectors, investment managers, academic experts, standard-setting organizations, climate and corporate sustainability organizations, labor union representatives whose members work in impacted sectors, and other stakeholders to offer input on current best practices regarding the disclosure of financial risks resulting from climate change, including, but not limited to, proposals to update the definition of "climate-related financial risk", and the framework or disclosure standard of "climate-related financial risk reports" that meets the requirements of clause (A) of subparagraph (i) of paragraph a of subdivision two of this section.

c. Monitor federal regulatory actions among agency members of the federal Financial Stability Oversight Council, as well as non-independent regulators overseen by the White House.

5. a. The department shall adopt regulations that authorize it to seek administrative penalties from a covered entity that fails to make the report required by this section publicly available on its internet website or publishes an inadequate or insufficient report. The administrative penalties authorized by this subdivision shall be imposed and recovered by the department in administrative proceedings. The administrative penalties imposed on a reporting entity shall not exceed fifty thousand dollars ($50,000) in a reporting year.

b. In imposing penalties for a violation of this subdivision, the department shall consider all relevant circumstances, including both of the following:

(i) the violator's past and present compliance with this section; and

(ii) whether the violator took good faith measures to comply with this section and when those measures were taken.

§ 2. This act shall take effect immediately.