

STATE OF NEW YORK

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2023-2024 Regular Sessions

IN SENATE

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Introduced by Sens. HOYLMAN-SIGAL, GOUNARDES, MAY, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to climate corporate data accountability; and to amend the state finance law, in relation to establishing the climate accountability and emissions disclosure fund

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

1 Section 1. This act shall be known and may be cited as the "climate
2 corporate data accountability act".

3 § 2. The environmental conservation law is amended by adding a new
4 section 75-0121 to read as follows:

5 § 75-0121. Climate corporate data accountability act.

6 1. Definitions. As used in this section, the following terms shall
7 have the following meanings:

8 a. "Emissions reporting organization" means a nonprofit emissions
9 reporting organization contracted by the department pursuant to para-
10 graph b of subdivision three of this section that both:

11 i. Currently operates a greenhouse gas emissions reporting organiza-
12 tion for organizations operating in the United States; and

13 ii. Has experience with greenhouse gas emissions disclosure by enti-
14 ties operating in New York.

15 b. "Reporting entity" means a partnership, corporation, limited
16 liability company, or other business entity formed under the laws of

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

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this state or any other jurisdiction that does business in this state, with total revenues in excess of one billion dollars in the preceding calendar year, including revenues received by all of the business entity's subsidiaries that do business in this state. Revenues for this purpose shall be the consolidated revenues reported in the consolidated financial statements of the entity and its subsidiaries; provided that if the entity is included as a consolidated subsidiary in the consolidated financial statements of an ultimate parent entity, then such ultimate parent entity shall be the reporting entity for purposes of this definition.

c. "Scope 1 emissions" means all direct greenhouse gas emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.

d. "Scope 2 emissions" means indirect greenhouse gas emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

e. "Scope 3 emissions" means indirect upstream and downstream greenhouse gas emissions, other than scope 2 emissions, from sources that the reporting entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products and services.

f. "Assurance provider" means a firm or entity which carries out an assurance engagement.

g. "Assurance engagement" means an engagement in which an assurance provider aims to obtain evidence in order to express a conclusion designed to enhance the degree of confidence of the department about the information disclosed by the reporting entity.

2. a. The department shall adopt regulations to require a reporting entity to annually disclose to the emissions reporting organization, and to obtain an assurance engagement performed by an independent third-party assurance provider on, all of the reporting entity's scope 1 emissions, scope 2 emissions, and scope 3 emissions. The regulations adopted pursuant to this subdivision shall require that:

i. (1) (A) Starting on or before July first, two thousand twenty-six and annually thereafter, on or by July first of each year, a reporting entity shall publicly disclose to the emissions reporting organization all of the reporting entity's scope 1 emissions and scope 2 emissions for the prior calendar year.

(B) Starting on or before July first, two thousand twenty-seven and annually thereafter, on or by July first of each year, a reporting entity shall publicly disclose its scope 3 emissions no later than one hundred eighty days after its scope 1 emissions and scope 2 emissions are publicly disclosed to the emissions reporting organization for the prior calendar year.

(2) Starting in two thousand twenty-six, a reporting entity shall measure and report its emissions of greenhouse gases in conformance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data, and other generic data in its scope 3 emissions calculations.

1 (3) (A) Starting in two thousand thirty-three and every five years
2 thereafter, the department may survey and assess currently available
3 greenhouse gas accounting and reporting standards. At the conclusion of
4 this assessment the department may adopt a globally recognized alterna-
5 tive accounting and reporting standard if it determines its use would
6 more effectively further the goals of this section. This review process
7 shall include consultation with the stakeholders identified in paragraph
8 d of this subdivision

9 (B) If the department adopts an alternative accounting and reporting
10 standard, the department shall develop and adopt new regulations, pursu-
11 ant to paragraph a of this subdivision, to ensure full conformance with
12 the new standard and reporting of scopes 1, 2, and 3 emissions and other
13 requirements of this section.

14 (4) On or before January first, two thousand thirty, the department
15 shall review, and update as necessary, the public disclosure deadlines
16 established pursuant to clause one of this subparagraph to evaluate
17 trends in scope 3 emissions reporting and consider changes to the
18 disclosure deadlines to ensure that scope 3 emissions data is disclosed
19 to the emissions reporting organization as close in time as practicable
20 to the deadline for reporting entities to disclose scope 1 emissions and
21 scope 2 emissions data.

22 (5) The reporting timelines shall take into account the timelines by
23 which reporting entities typically receive scope 1, scope 2, and scope 3
24 emissions data, as well as the capacity for an independent assurance
25 engagement to be performed by a third-party assurance provider.

26 ii. A reporting entity's public disclosure shall maximize access for
27 consumers, investors, and other stakeholders to comprehensive and
28 detailed greenhouse gas emissions data across scope 1 emissions, scope 2
29 emissions and scope 3 emissions, as defined by this section, and be made
30 in a manner that is easily understandable and accessible.

31 iii. A reporting entity's public disclosure shall include the name of
32 the reporting entity and any fictitious names, trade names, assumed
33 names, subsidiaries and logos used by the reporting entity.

34 iv. A reporting entity's emissions reporting shall be structured in a
35 way that minimizes duplication of effort and allows a reporting entity
36 to submit to the emissions reporting organization reports prepared to
37 meet other state, national, and international reporting requirements,
38 including any reports required by the federal government or other
39 states, as long as those reports satisfy all of the requirements of this
40 section.

41 v. A reporting entity's disclosure shall take into account acquisi-
42 tions, divestments, mergers, and other structural changes that can
43 affect the greenhouse gas emissions reporting, and is disclosed in a
44 manner consistent with the Greenhouse Gas Protocol standards and guid-
45 ance or an alternative standard, if one is adopted after two thousand
46 thirty-three.

47 vi. (1) A reporting entity shall obtain an assurance engagement,
48 performed by an independent third-party assurance provider, of their
49 public disclosure. The reporting entity shall ensure that a copy of the
50 complete assurance provider's report on the greenhouse gas emissions
51 inventory, including the name of the third-party assurance provider, is
52 provided to the emissions reporting organization as part of or in
53 connection with the reporting entity's public disclosure.

54 (2) The assurance engagement for scope 1 emissions and scope 2 emis-
55 sions shall be performed at a limited assurance level beginning in two

1 thousand twenty-six and at a reasonable assurance level beginning in two
2 thousand thirty.

3 (3) On or before January first, two thousand twenty-seven, the depart-
4 ment shall review and evaluate trends in third-party assurance require-
5 ments for scope 3 emissions, and on or before such date, the department
6 may establish an assurance requirement for third-party assurance engage-
7 ments of scope 3 emissions. The assurance engagement for scope 3 emis-
8 sions shall be performed at a limited assurance level beginning in two
9 thousand thirty.

10 (4) A third-party assurance provider shall have significant experience
11 in measuring, analyzing, reporting, or attesting to the emission of
12 greenhouse gases and sufficient competence and capabilities necessary to
13 perform engagements in accordance with professional standards and appli-
14 cable legal and regulatory requirements. The assurance provider shall be
15 able to issue reports that are appropriate under the circumstances and
16 independent with respect to the reporting entity, and any of the report-
17 ing entity's affiliates for which it is providing the assurance report.
18 On or before January first, two thousand thirty, the department shall
19 review, and update as necessary, the qualifications for third-party
20 assurance providers based on an evaluation of trends in education relat-
21 ing to the emission of greenhouse gases and the qualifications of third-
22 party assurance providers.

23 (5) The department shall ensure that the assurance process minimizes
24 the need for reporting entities to engage multiple assurance providers
25 and ensures sufficient assurance provider capacity, as well as timely
26 reporting implementation as required under clause one of subparagraph i
27 of this paragraph.

28 vii. (1) A reporting entity upon filing its disclosure, shall pay an
29 annual fee to the department for the administration and implementation
30 of this section.

31 (2) The department shall set the fee established pursuant to clause
32 one of this subparagraph in an amount sufficient to cover the depart-
33 ment's full costs of administering and implementing this section. The
34 total amount of fees collected shall not exceed the department's actual
35 and reasonable costs to administer and implement this section.

36 (3) The proceeds of the fees imposed pursuant to clause one of this
37 subparagraph shall be deposited in the climate accountability and emis-
38 sions disclosure fund established by section ninety-nine-rr of the state
39 finance law.

40 b. The department shall create or contract with an emissions reporting
41 organization to develop a reporting program to receive and make publicly
42 available disclosures required by this section. Emissions reporting
43 organizations shall not be authorized to provide services to a company
44 where a conflict of interest exists. A conflict of interest shall
45 include:

46 i. The emissions reporting organization and reporting entity sharing
47 any management staff or board of directors membership, or any of the
48 senior management staff of the reporting entity having been employed by
49 the emissions reporting organization or reporting entity within the
50 previous five years.

51 ii. Any employee of the emissions reporting organization, or any
52 employee of a related entity, or a subcontractor who is a member of the
53 emissions reporting organization having provided the reporting entity
54 with services related to the areas of emissions reporting organization,
55 or any services designated by the department, within the previous five
56 years.

1 iii. Any staff member of the emissions reporting organization provid-
2 ing any type of non-monetary incentive to a reporting entity to secure a
3 services contract.

4 c. The department may adopt or update any other regulations that it
5 deems necessary and appropriate to implement this subdivision.

6 d. In developing the regulations required pursuant to this subdivi-
7 sion, the department shall consult with all of the following:

8 i. the attorney general;

9 ii. other government stakeholders, including, but not limited to,
10 experts in climate science and corporate carbon emissions accounting and
11 reporting;

12 iii. investors;

13 iv. stakeholders representing consumer and environmental justice
14 interests; and

15 v. reporting entities that have demonstrated leadership in full-scope
16 greenhouse gas emissions accounting and public disclosure and greenhouse
17 gas emissions reductions.

18 e. This section does not require additional reporting of emissions of
19 greenhouse gases beyond the reporting of scope 1 emissions, scope 2
20 emissions, and scope 3 emissions required pursuant to the Greenhouse Gas
21 Protocol standards and guidance or an alternative standard, if one is
22 adopted after two thousand thirty-three.

23 3. a. The department shall prepare a report on the public disclosures
24 made by reporting entities to the emissions reporting organization
25 pursuant to subdivision two of this section and the regulations adopted
26 by the department pursuant to such subdivision. In preparing the report,
27 consideration shall be given to, at a minimum, greenhouse gas emissions
28 from reporting entities in the context of state greenhouse gas emissions
29 reduction and climate goals. The department shall issue the report of
30 its findings to the governor, the speaker of the assembly and the tempo-
31 rary president of the senate and shall publish such report on its
32 website.

33 b. The emissions reporting organization shall make the reporting enti-
34 ties' disclosures publicly available on the digital platform required to
35 be created by the emissions reporting organization pursuant to subdivi-
36 sion four of this section.

37 4. a. i. The emissions reporting organization, on or before July
38 first, two thousand twenty-six pursuant to clause one of subparagraph i
39 of paragraph a of subdivision two of this section, shall create a
40 digital platform, which shall be accessible to the public, that will
41 feature the emissions data of reporting entities in conformance with the
42 regulations adopted by the department pursuant to subdivision two of
43 this section and the report prepared for the department pursuant to
44 subdivision three of this section. The emissions reporting organization
45 shall make the reporting entities' disclosures and the department's
46 report available on the digital platform within thirty days of receipt.

47 ii. The digital platform shall be capable of featuring individual
48 reporting entity disclosures, and shall allow consumers, investors, and
49 other stakeholders to view reported data elements aggregated in a varie-
50 ty of ways, including multiyear data, in a manner that is easily under-
51 standable and accessible to residents of the state. All data sets and
52 customized views shall be available in electronic format for access and
53 use by the public.

54 b. The emissions reporting organization shall submit, within thirty
55 days of receipt, the report prepared for the department pursuant to this

1 subdivision to the temporary president of the senate, the speaker of the
2 assembly, and the governor.

3 5. a. The attorney general may bring a civil action against a report-
4 ing entity seeking civil penalties of up to one hundred thousand dollars
5 per day for willful failure to comply with the requirements of this
6 section or regulations set forth by the department, including for
7 nonfiling, late filing, or other failure to meet the requirements of
8 this section. The civil penalties imposed on a reporting entity for
9 such violations shall not exceed five hundred thousand dollars in a
10 reporting year. In seeking civil penalties for a violation of this
11 section, the attorney general shall consider all relevant circumstances,
12 including both of the following:

13 i. the violator's past and present compliance with this section; and
14 ii. whether the violator took any good faith measures to comply with
15 this section and when those measures were taken.

16 b. A reporting entity shall not be subject to a civil action under
17 this section for any misstatements with regard to scope 3 emissions
18 disclosures made with a reasonable basis and disclosed in good faith.

19 c. Penalties assessed on scope 3 reporting, between two thousand twen-
20 ty-seven and two thousand thirty, shall only occur for nonfiling.

21 6. This section applies to the state university and city university of
22 New York only to the extent that the regents of the state university or
23 city university, by resolution, make any of these provisions applicable
24 to the university.

25 § 3. The state finance law is amended by adding a new sections 99-rr
26 to read as follows:

27 § 99-rr. Climate accountability and emissions disclosure fund. 1.
28 There is hereby established in the joint custody of the state comp-
29 troller and the department of tax and finance a special fund to be known
30 as the "climate accountability and emissions disclosure fund". Moneys in
31 this account shall be kept separate and not commingled with any other
32 moneys in the custody of the comptroller.

33 2. Such fund shall consist of all revenues received by the department
34 of taxation and finance, pursuant to the provisions of section 75-0121
35 of the environmental conservation law, the tax law and all other moneys
36 credited or transferred thereto from any other fund or source pursuant
37 to law. Nothing contained in this section shall prevent the state from
38 receiving grants, gifts or bequests for the purposes of the fund as
39 defined in this section and depositing them into the fund according to
40 law. Any interest received by the comptroller on moneys on deposit
41 shall be retained and become part of the fund, unless otherwise directed
42 by law.

43 § 4. This act shall take effect two years after it shall have become a
44 law. Effective immediately, the addition, amendment and/or repeal of any
45 rule or regulation necessary for the implementation of this act on its
46 effective date are authorized to be made and completed on or before such
47 effective date.