STATE OF NEW YORK

9758

IN SENATE

May 29, 2024

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

AN ACT to amend the state finance law, in relation to establishing the "climate safe and responsible bank procurement act"

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

Section 1. Short title. This act shall be known and may be cited as the "climate safe and responsible bank procurement act".

§ 2. Legislative findings. 1. The legislature affirms the goals of the New York Climate Leadership and Community Protection Act, which commits New York to achieving an 85% reduction from 1990 greenhouse gas emissions level by 2050, and to 100% emissions free electricity by 2040.

2. New York's state climate impact assessment has concluded that many fundamental aspects of New York State's climate have already begun to change, and the changes are projected to continue--and in some cases, accelerate--throughout the 21st century, that climate change is creating conditions that will increase the frequency and severity of many types of extreme events, and that unless the world takes serious action to reduce greenhouse gas emissions and control future warming, unmitigated emissions could have severe adverse consequences.

3. The Financial Stability Oversight Council has concluded that climate change presents an emerging and increasing threat to financial stability.

4. The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency have produced guidance for the financial institutions that they regulate to focus on key aspects of climate-related financial risk management.

5. The International Energy Agency has released an energy roadmap for how governments around the world can achieve the goals enunciated in the 2015 Paris Accords, and concluded that there is no need for investment in new fossil fuel supply in our net zero pathway.

6. The New York State Department of Financial Services has issued guidance that regulated institutions start integrating both financial

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

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and operational risks from climate change into their governance frameworks, risk management processes, and business strategies, and start developing their approach to climate-related financial risk disclosure.

§ 3. Section 2 of the state finance law is amended by adding five new subdivisions 23, 24, 25, 26, and 27 to read as follows:

23. "Clean energy supply financing ratio" is the total financing through equity and debt underwriting, and project finance in low carbon energy supply relative to that in fossil fuel energy supply and includes methodology for ratio, including what is classified as low carbon or fossil fuel.

24. "Coal project" means a project designed to use coal for the purpose of electric power generation or to produce thermal coal.

25. "Fossil fuel project" or "Fossil fuel infrastructure" means a project designed to produce and transport fossil fuels. This includes projects that would support exploring new oil and gas fields or otherwise expanding oil and gas reserves.

26. "New fossil fuel project" or "New fossil fuel infrastructure" means a project designed to facilitate the production and transportation of fossil fuels in excess of what is in development as of the effective date of this subdivision. This includes but is not limited to production of new coal, oil and gas infrastructure, power plants, wells or mines. It also includes projects that would support exploring new oil and gas fields or otherwise expanding oil and gas reserves.

27. "Underwriting" means providing bond buying and selling, financial advice, promotion, legal, risk management and any other relevant services for a bond issue.

§ 4. Subdivision 2 of section 161 of the state finance law is amended by adding a new paragraph o to read as follows:

o. (i) Establish, no later than December thirty-first, two thousand twenty-five, procurement guidance for the purchasing of banking services through centralized state contracting and discretionary contracting that shall require agencies to consider each of the following individual criteria as positive components of best value for the purpose of making purchasing decisions for banking services, including but not limited to credit cards, credit card processing and depository services:

(1) whether a bank discloses scope one, two and three emissions in full compliance with category fifteen of the greenhouse gas emissions reporting protocol;

(2) whether a bank discloses its clean energy supply financing ratio;

(3) whether a bank has established a policy that explicitly bars support for coal projects or infrastructure;

(4) whether a bank has established policies covering the transition away from financing of new fossil fuel projects or infrastructure;

(5) whether a bank has established policies to transition away from all existing investments in fossil fuel projects or infrastructure; and

(6) whether a bank has produced a plan for achieving net zero carbon emissions by two thousand fifty that has been affirmed as consistent with the standards pronounced by the science based targets initiative.

(ii) For the purposes of this paragraph, "bank" shall have the same meaning as subdivision one of section two of the banking law, provided, however, it shall only include such banks that have at least one hundred billion in total consolidated assets.

§ 5. The state finance law is amended by adding a new section 65-a to read as follows:

§ 65-a. Climate safe and responsible borrowing requirements. 1. Neither the state nor any authorities, agencies, commissions or corpo-

rations of the state shall contract with or otherwise provide payment for or services with a bank for underwriting in a bond issuance or refinancing that has not disclosed scope one, two and three emissions in full compliance with category fifteen of the greenhouse gas emissions reporting protocol by the beginning of calendar year two thousand twenty-six.

2. When making a determination as to which bank to use for underwriting in a bond issuance or refinancing, the state and any authorities, agencies, commissions or corporations of the state shall consider:

(a) whether a bank discloses its clean energy supply financing ratio;

(b) whether a bank has established a policy that explicitly bars support for coal projects;

(c) whether a bank has committed to withholding any support for new fossil fuel infrastructure;

(d) whether a bank has committed to phasing out all existing investments in fossil fuel projects; and

(e) whether a bank has produced a plan for achieving net zero carbon emissions by two thousand fifty that has been affirmed as consistent with the standards pronounced by the science based targets initiative.

3. In considering the best value of underwriting in a bond issuance or refinancing, the state and any authorities, agencies, commissions or corporations of the state shall consider each of the criteria listed in subdivision two of this section as positive components of best value to be considered alongside but not necessarily with the same weight as any other considerations of best value as employed by the state and any authorities, agencies, commissions or corporations of the state.

4. For the purposes of this section, "bank" shall have the same meaning as subdivision one of section two of the banking law, provided, however, it shall only include such banks that have at least one hundred billion in total consolidated assets.

§ 6. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 7. This act shall take effect immediately.