STATE OF NEW YORK

4120--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. McMAHON, SIMONE, MAMDANI -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the highway law, in relation to reductions in vehicle miles traveled in state highway projects; and to amend the New York state climate leadership and community protection act, in relation to clean energy goals

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

Section 1. Paragraph d of subdivision 12 of section 1 of chapter 106 of the laws of 2019, constituting the New York state climate leadership and community protection act, is amended to read as follows:

d. the adoption of a state energy plan establishing clean energy goals for the year 2030 aimed at reducing greenhouse gas emission levels by 40% from 1990 levels, **reducing the annual total of vehicle miles traveled within the state by 20% by 2050,** producing 70% of electricity from renewable sources, increasing energy efficiency from 2012 levels by 23% and the additional expressed goal of reducing 100% of the electricity sector's greenhouse gas emissions by 2040;

§ 2. Vehicle miles traveled assessment working group. 1. There is hereby established a vehicle miles traveled assessment working group. The vehicle miles traveled assessment working group shall meet regularly and shall study the options and best practices available and make recommendations for implementing vehicle miles traveled assessments in a manner which aligns with the targets set by the New York state climate leadership and community protection act and developing a plan to assess, monitor, and approve a project's impact mitigation actions. The working group shall aid the commissioner of transportation in establishing procedures to assist counties and towns seeking to comply with their

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

LBD06183-07-4

vehicle miles traveled assessment requirements, as outlined in sections one hundred two and one hundred four of the highway law.

2. The working group shall include a representative from the department of transportation, the office of the governor, the department of environmental conservation, the department of state, the department of agriculture and markets, the office of general services, the empire state development corporation, the New York energy research and development authority, the port authority of New York and New Jersey, the metropolitan transportation authority, the New York City department of transportation, the office of the mayor of New York City, and the New York metropolitan transportation council. The working group shall include representatives from relevant community organizations and other necessary parties.

3. The working group shall report its findings and recommendations to the commissioner of transportation, the governor, the temporary president of the senate and the speaker of the assembly no later than twelve months after the effective date of this section. Such report shall be made publicly available on the department of transportation's website.

§ 3. The highway law is amended by adding a new section 10-h to read as follows:

§ 10-h. Reductions to vehicle miles traveled in state highway projects. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Vehicle miles traveled" shall mean a measurement of the total miles of motor vehicle traffic in New York state over a one-year period.

(b) "Highway capacity expansion project" shall mean a project that expands highway capacity, including but not limited to the construction of new highways, highway widening projects, and projects that establish grade separation at an intersection, excluding auxiliary lanes with a length of less than two thousand five hundred feet.

(c) "Vehicle miles traveled impact assessment" shall mean an assessment conducted to determine the net change of vehicle miles traveled by a highway capacity expansion project.

2. Vehicle miles traveled assessment. Prior to the approval of any construction, reconstruction, or maintenance of state highways that would be considered a highway capacity expansion project, as defined by paragraph (b) of subdivision one of this section, the commissioner of transportation shall conduct a vehicle miles traveled impact assessment, as defined by paragraph (c) of subdivision one of this section, to evaluate whether the project aligns with the vehicle miles traveled reduction targets set by the New York state climate leadership and community protection act. This assessment shall recognize and consider that highway capacity expansion projects result in induced demand, whereas more vehicles utilize a highway after a highway capacity expansion project, and therefore, these projects do not significantly reduce pollution, congestion, or vehicle miles traveled. If a highway capacity expansion project does not result in a reduction of vehicle miles traveled which aligns with the targets set by the New York state climate leadership and community protection act, the project shall be altered to align with these targets by changing its design or sufficiently offsetting its net change to vehicle miles traveled with impact mitigation efforts, as outlined in subdivision three of this section.

3. Impact mitigation. (a) Impact mitigation shall be deemed sufficient if the cumulative net change on vehicle miles traveled from impact mitigation actions and a highway capacity expansion project over the same

period of time align with vehicle miles traveled reduction targets set by the New York state climate leadership and community protection act.

(b) Impact mitigation shall include projects, programs, and operation modifications in one or more of the following areas:

(i) alternative means of transportation infrastructure, including but not limited to public transit expansion, public transit service improvements, pedestrian and cyclist transportation infrastructure expansion and improvements, and micro-mobility transportation infrastructure expansion and improvements;

(ii) transportation demand management, including but not limited to vanpool and shared vehicle programs, remote work, and broadband access expansion;

(iii) parking demand management, including but not limited to reductions in parking requirements and parking cost adjustments;

(iv) changes to land use which reduce vehicle miles traveled, including but not limited to residential density increases, mixed-use development, and public transit oriented development; and

(v) other measures which reduce vehicle miles traveled, as determined by the commissioner.

(c) Whenever feasible, impact mitigation actions shall be conducted in at least one of the municipalities where a highway capacity expansion project shall take place. The commissioner is hereby authorized to determine whether these impact mitigation actions are sufficiently localized to reduce vehicle net miles traveled in the communities where a highway capacity expansion project will result in a net change that increases vehicle miles traveled or insufficiently reduces vehicle miles traveled.

4. Technical advisory committee. The commissioner shall appoint a technical advisory committee made up of technical experts to advise the commissioner in the vehicle miles traveled assessment process. The committee members shall be appointed based on demonstrated expertise in travel demand modeling, traffic forecasting or transportation-related greenhouse gas emissions assessment and analysis and other expertise as determined necessary by the commissioner. The committee shall evaluate and recommend tools for calculating the vehicle miles traveled and induced demand of a highway capacity expansion project, evaluate and recommend additional impact mitigation actions which reduce vehicle miles traveled, and identify and recommend best practices for calculating the net change of vehicle miles traveled for a highway capacity expansion project inclusive of impact mitigation measures. The commissioner shall hereby be authorized to request the technical advisory committee assess and provide recommendations on other elements of the vehicle miles traveled assessment process, as they deem necessary.

5. Reporting. The commissioner shall submit a report every twenty-four months to the governor and the legislature which includes a list of state, county, and town highway capacity expansion projects approved in New York. The report shall include the results of the vehicle miles traveled assessment for each highway capacity expansion project including any impact mitigation actions and their status. Such report shall also be made publicly available on the department's website.

§ 4. Section 102 of the highway law is amended by adding a new subdivision 19 to read as follows:

19. Conduct a vehicle miles traveled assessment, as defined by subdivision one of section ten-h of this chapter, prior to the approval of any construction, reconstruction, or maintenance of town highways that would be considered a highway capacity expansion project, as defined in

subdivision one of section ten-h of this chapter. If a highway capacity expansion project does not result in a reduction of vehicle miles traveled which aligns with the targets set by the New York state climate leadership and community protection act, the project shall be altered to align with these targets by changing its design or sufficiently offsetting its net change to vehicle miles traveled with impact mitigation efforts, as outlined in subdivision three of section ten-h of this chapter. The county superintendent may request any resources and technical assistance necessary from the commissioner to complete the vehicle miles traveled assessment.

§ 5. Section 140 of the highway law is amended by adding a new subdivision 20 to read as follows:

20. Conduct a vehicle miles traveled assessment, as defined by subdivision one of section ten-h of this chapter, prior to the approval of any construction, reconstruction, or maintenance of town highways that would be considered a highway capacity expansion project, as defined in subdivision one of section ten-h of this chapter. If a highway capacity expansion project does not result in a reduction of vehicle miles traveled which aligns with the targets set by the New York state climate leadership and community protection act, the project shall be altered to align with these targets by changing its design or sufficiently offsetting its net change to vehicle miles traveled with impact mitigation efforts, as outlined in subdivision three of section ten-h of this chapter. The town superintendent may request any resources and technical assistance necessary from the commissioner of transportation to complete the vehicle miles traveled assessment.

§ 6. This act shall take effect immediately; provided that sections three, four and five of this act shall take effect on the first of January two years after it shall have become a law.