

# STATE OF NEW YORK

2935--C

Cal. No. 237

2023-2024 Regular Sessions

## IN SENATE

January 25, 2023

Introduced by Sens. PARKER, GIANARIS, GONZALEZ, HARCKHAM, HOYLMAN-SIGAL, JACKSON, MARTINEZ, MYRIE, RAMOS, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT enacting the "just energy transition act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "just energy transition act".  
3 § 2. Legislative findings and statement of purpose. The legislature  
4 hereby finds, determines and declares:  
5 (a) New York state, especially New York city, is reliant on fossil  
6 fuels for energy production, making the transition to renewable sources  
7 for the downstate electricity system key to achieving the requirements  
8 of section 4 of the New York state climate leadership and community  
9 protection act, including that seventy percent of the state's electric-  
10 ity be from renewable energy sources by the year 2030 and that one  
11 hundred percent of the state's electricity be from zero-emission sources  
12 by the year 2040.  
13 (b) New York state is committed to the responsible replacement and  
14 redevelopment of its fossil fueled generation facilities that currently  
15 ensure resource adequacy in the state, especially in locations where the  
16 health benefits to historically disadvantaged communities can be maxi-  
17 mized, and where the cost effective phasing-out of such facilities can  
18 be done while helping to ensure a just transition for the existing work-  
19 force.

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

LBD06171-08-3

1 (c) A public policy purpose would be served and the interests of the  
2 people of the state would be advanced by directing the New York state  
3 energy research and development authority, in consultation with the  
4 department of public service and the department of environmental conser-  
5 vation, to continue the development of the study commenced in 2022, as  
6 referenced in the climate action council scoping plan of strategies to  
7 facilitate the replacement and redevelopment of New York's oldest and  
8 most-polluting fossil fueled generation facilities and their sites by  
9 2030, while ensuring resource adequacy, with renewable energy systems as  
10 defined in paragraph (b) of subdivision 1 of section 66-p of the public  
11 service law, energy storage systems, and electricity transmission and  
12 distribution systems and equipment.

13 (d) It is the intent of the legislature in enacting this act to  
14 empower the New York state energy research and development authority,  
15 department of public service, and department of environmental conserva-  
16 tion, to develop a study as described in the climate action council  
17 scoping plan and paragraph (c) of section three of this act in the  
18 manner authorized and directed herein, and for those entities and the  
19 public service commission, and any other agencies or authorities of the  
20 state as may be required, to commence any proceedings or other initi-  
21 atives necessary to carry out the strategies described therein.

22 § 3. The New York state energy research and development authority is  
23 authorized and directed to:

24 (a) develop a study of competitive options to facilitate the phase-  
25 out, replacement and redevelopment of New York state's oldest and most-  
26 polluting fossil fueled generation facilities and their sites by the  
27 year 2030, with renewable generation options that include those  
28 described in the scoping plan issued by the climate action council under  
29 section 75-0103 of the environmental conservation law, renewable energy  
30 systems as defined in paragraph (b) of subdivision 1 of section 66-p of  
31 the public service law, energy storage systems, and electricity trans-  
32 mission and distribution systems and equipment, while ensuring resource  
33 adequacy and other reliability services are maintained, and to do so in  
34 consultation with the department of public service, the department of  
35 environmental conservation, Long Island power authority, and other rele-  
36 vant state agencies and authorities with subject matter expertise, the  
37 federally designated electric bulk system operator, the New York State  
38 Reliability Council, and the owners of such facilities. The study should  
39 prioritize the replacement and redevelopment of such fossil fueled  
40 generation facilities with facilities that will directly assist in  
41 achieving the energy, environmental justice and emissions reductions  
42 requirements of section 66-p of the public service law. The study shall  
43 address the phase-out of at least four gigawatts of fossil fueled gener-  
44 ation statewide capacity in total and prioritize those facilities that  
45 only operate when electricity usage is highest. The study shall include  
46 recommendations of standards and requirements that:

47 (i) significantly reduce the state's electricity system reliance on  
48 fossil fuels, taking into account the requirements and timing of the  
49 state's emission reduction programs;

50 (ii) establish a competitive program to promote private sector invest-  
51 ment in eligible technologies that the public service commission has  
52 determined, after notice and provision for the opportunity to comment,  
53 ensure resource adequacy, while achieving the requirements of section  
54 66-p of the public service law;

1 (iii) provide significant environmental, health and other benefits to  
2 disadvantaged communities as such communities will be defined under  
3 section 75-0111 of the environmental conservation law; and

4 (iv) have significant potential for job creation and retention,  
5 economic development, and just transition opportunities benefiting New  
6 Yorkers and the state's workforce, as described in the scoping plan  
7 issued by the climate action council under section 75-0103 of the envi-  
8 ronmental conservation law; and

9 (v) ensure the availability of assistance under the electric gener-  
10 ation facility cessation mitigation fund established in section 1 of  
11 part BB of chapter 58 of the laws of 2016 to any local government entity  
12 impacted by the replacement and redevelopment of fossil fueled gener-  
13 ation facilities under this section;

14 (b) provide public notice of the study, and ensure the results of  
15 the study are made easily accessible to members of disadvantaged commu-  
16 nities, as defined in section 75-0101 of the environmental conservation  
17 law, and provide an opportunity for public comment on the study of not  
18 less than sixty days and conduct at least two public hearings on the  
19 study, of which at least one shall be held in disadvantage communities,  
20 as defined in section 75-0101 of the environmental conservation law with  
21 such public hearings offering video participation and accessibility;

22 (c) address public comments and update the study, as appropriate,  
23 especially to ensure resource adequacy and reliability services are  
24 maintained; and

25 (d) deliver the study to the governor, temporary president of the  
26 senate and speaker of the assembly within 180 days of the effective date  
27 of this section.

28 § 4. The department of public service, the department of environmental  
29 conservation, and Long Island power authority shall commence proceedings  
30 and stakeholder processes to establish programs and other initiatives  
31 necessary to carry out the strategies, programs, standards, and require-  
32 ments described in the study referred to in section three of this act  
33 within 60 days of delivery of the study to the governor, temporary pres-  
34 ident of the senate and speaker of the assembly.

35 § 5. The public service commission shall:

36 (a) commence a proceeding to implement the strategies, programs, stan-  
37 dards, and requirements described in the study referred to in section  
38 three of this act within 90 days of delivery of the study to the gover-  
39 nor, temporary president of the senate and speaker of the assembly; and

40 (b) issue an order regarding implementation of the strategies,  
41 programs, standards, and requirements described in the study referred to  
42 in section three of this act no later than July 30, 2024. Such order  
43 shall at a minimum:

44 (i) direct the New York state energy research and development authori-  
45 ty to implement a competitive award process to facilitate the replace-  
46 ment and redevelopment of at least four gigawatts of fossil fueled  
47 generation facilities statewide while maintaining reliability consistent  
48 with the recommendations of the study pursuant to section three of this  
49 act, and that as part of such competitive award process, consideration  
50 shall be given to security of offtake with respect to generation and  
51 transmission; and

52 (ii) direct that with respect to the competitive award process  
53 required, the only eligible electricity generation from hydroelectric  
54 facilities shall be electricity that is generated from non-state-owned  
55 low impact run-of-river facilities located in the state that provide a  
56 year-round electricity capacity resource.

1 (c)(i) Any projects pursuant to this section, or the study provided  
2 herein, shall be deemed public work and shall be subject to and  
3 performed in accordance with articles 8 and 9 of the labor law. Each  
4 contract for such project shall contain a provision that such project  
5 shall only be undertaken pursuant to a project labor agreement. For  
6 purposes of this section, "project labor agreement" shall mean a pre-  
7 hire collective bargaining agreement between the New York state energy  
8 research and development authority, a third party on behalf of the  
9 authority, or a recipient of support under this section, and a bona fide  
10 building and construction trade labor organization establishing the  
11 labor organization as the collective bargaining representative for all  
12 persons who will perform work on a public work project, and which  
13 provides that only contractors and subcontractors who sign a pre-negoti-  
14 ated agreement with the labor organization can perform project work. All  
15 contractors and subcontractors associated with this work shall be  
16 required to utilize apprenticeship agreements as defined by article 23  
17 of the labor law.

18 (ii) The New York state energy research and development authority, or  
19 public service commission, where appropriate, shall include requirements  
20 in any procurement or development of a renewable energy generating  
21 project, as defined in this subdivision, that the components and parts  
22 shall be produced or made in whole or substantial part in the United  
23 States, its territories or possessions. The New York state energy  
24 research and development authority's president and chief executive offi-  
25 cer, or his or her designee may waive the procurement and development  
26 requirements set forth in this paragraph if such official determines  
27 that: the requirements would not be in the public interest; the require-  
28 ments would result in unreasonable costs; obtaining such infrastructure  
29 components and parts in the United States would increase the cost of a  
30 renewable energy generating project by an unreasonable amount; or such  
31 components or parts cannot be produced, made, or assembled in the United  
32 States in sufficient and reasonably available quantities or of satisfac-  
33 tory quality. Such determination shall be made on an annual basis no  
34 later than December thirty-first, after providing notice and an opportu-  
35 nity for public comment, and such determination shall be made publicly  
36 available, in writing, on the New York state energy research and devel-  
37 opment authority's website with a detailed explanation of the findings  
38 leading to such determination. If the New York state energy research and  
39 development authority's president and chief executive officer, or his or  
40 her designee, has issued determinations for three consecutive years  
41 finding that no such waiver is warranted pursuant to this paragraph,  
42 then the New York state energy research and development authority shall  
43 no longer be required to provide the annual determination required by  
44 this paragraph.

45 (d)(i) The commissioner of labor, in consultation with labor organiza-  
46 tions, shall develop a comprehensive plan to transition, train, or  
47 retrain employees that are impacted by projects undertaken pursuant to  
48 this act, or the study provided in section three of this act. This plan  
49 shall include a method of allowing displaced and transitioning workers,  
50 including affected labor organizations, to notify the commissioner of  
51 the loss of employment, their previous title, and previous wage rates  
52 including whether they previously received medical and/or retirement  
53 benefits. The plan shall require employers to notify the commissioner of  
54 workers laid off or discharged due to this act.

55 (ii) The commissioner of labor shall create a program pursuant to  
56 which, where applicable and feasible, newly created job opportunities

1 shall be offered to a pool of transitioning workers who have lost their  
2 employment or will be losing their employment in the energy sector  
3 through projects undertaken pursuant to this act, or the study provided  
4 in section three of this act. Such program shall include a method for  
5 the commissioner of labor to communicate names and contact information  
6 for displaced or transitioning workers to public entities that may have  
7 job opportunities for such workers every 90 days.

8 (e) Notwithstanding any provision of law to the contrary, all rights  
9 or benefits, including terms and conditions of employment, and  
10 protection of civil service and collective bargaining status of all  
11 existing public employees and the work jurisdiction, covered job titles,  
12 and work assignments, set forth in the civil service law and collective  
13 bargaining agreements with labor organizations representing public  
14 employees shall be preserved and protected. Nothing in this section  
15 shall result in the: (i) displacement of any currently employed worker  
16 or loss of position (including partial displacement as such a reduction  
17 in the hours of non-overtime work, wages, or employment benefits) or  
18 result in the impairment of existing collective bargaining agreements;  
19 (ii) transfer of existing duties and functions related to maintenance  
20 and operations currently performed by existing employees of authorized  
21 entities to a contracting entity; or (iii) transfer of future duties and  
22 functions ordinarily performed by employees of authorized entities to a  
23 contracting entity.

24 § 6. The Long Island power authority shall establish a program or  
25 programs in its service territory consistent with the recommendation of  
26 the study conducted pursuant to section three of this act, the  
27 provisions of section five of this act, and the objectives of this act.

28 § 7. This act shall take effect immediately.