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:

Section 1. Short title. This act shall be known and may be cited as the "just energy transition act".

§ 2. Legislative findings and statement of purpose. The legislature hereby finds, determines and declares:

(a) New York state, especially New York city, is reliant on fossil fuels for energy production, making the transition to renewable sources for the downstate electricity system key to achieving the requirements of section 4 of the New York state climate leadership and community protection act, including that seventy percent of the state's electricity be from renewable energy sources by the year 2030 and that one hundred percent of the state's electricity be from zero-emission sources by the year 2040.

(b) New York state is committed to the responsible replacement and redevelopment of its fossil fueled generation facilities that currently ensure resource adequacy in the state, especially in locations where the health benefits to historically disadvantaged communities can be maximized, and where the cost effective phasing-out of such facilities can be done while helping to ensure a just transition for the existing workforce.

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

LBD06171-08-3

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

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

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

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

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

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

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

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

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

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

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

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

§ 4. The department of public service, the department of environmental conservation, and Long Island power authority shall commence proceedings and stakeholder processes to establish programs and other initiatives necessary to carry out the strategies, programs, standards, and requirements described in the study referred to in section three of this act within 60 days of delivery of the study to the governor, temporary president of the senate and speaker of the assembly.

§ 5. The public service commission shall:

(a) commence a proceeding to implement the strategies, programs, standards, and requirements described in the study referred to in section three of this act within 90 days of delivery of the study to the governor, temporary president of the senate and speaker of the assembly; and

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

(i) direct the New York state energy research and development authority to implement a competitive award process to facilitate the replacement and redevelopment of at least four gigawatts of fossil fueled generation facilities statewide while maintaining reliability consistent with the recommendations of the study pursuant to section three of this act, and that as part of such competitive award process, consideration shall be given to security of offtake with respect to generation and transmission; and

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

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

(ii) The New York state energy research and development authority, or public service commission, where appropriate, shall include requirements in any procurement or development of a renewable energy generating project, as defined in this subdivision, that the components and parts shall be produced or made in whole or substantial part in the United States, its territories or possessions. The New York state energy research and development authority's president and chief executive officer, or his or her designee may waive the procurement and development requirements set forth in this paragraph if such official determines that: the requirements would not be in the public interest; the requirements would result in unreasonable costs; obtaining such infrastructure components and parts in the United States would increase the cost of a renewable energy generating project by an unreasonable amount; or such components or parts cannot be produced, made, or assembled in the United States in sufficient and reasonably available quantities or of satisfactory quality. Such determination shall be made on an annual basis no later than December thirty-first, after providing notice and an opportunity for public comment, and such determination shall be made publicly available, in writing, on the New York state energy research and development authority's website with a detailed explanation of the findings leading to such determination. If the New York state energy research and development authority's president and chief executive officer, or his or her designee, has issued determinations for three consecutive years finding that no such waiver is warranted pursuant to this paragraph, then the New York state energy research and development authority shall no longer be required to provide the annual determination required by this paragraph.

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

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

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

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

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

§ 7. This act shall take effect immediately.