STATE OF NEW YORK

5360--A

2023-2024 Regular Sessions

IN SENATE

March 2, 2023

Introduced by Sens. HARCKHAM, BROUK, CLEARE, GIANARIS, GONZALEZ, GOUNARDES, HOYLMAN-SIGAL, JACKSON, KRUEGER, MAY, MYRIE, RIVERA, SALAZAR, SEPULVEDA, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the state finance law and the labor law, in relation to climate and community protection

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

Section 1. The public authorities law is amended by adding a new section 1885 to read as follows:

§ 1885. Office of equity for energy and climate. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Community solutions fund" shall mean the community directed climate solutions fund established pursuant to subdivision three of this section.

(b) "Office" shall mean the office of equity for energy and climate established pursuant to subdivision two of this section.

(c) "Solutions grants program" shall mean the community directed climate solutions grants program established pursuant to subdivision four of this section.

2. Office of equity for energy and climate. (a) There is established within the authority an office of equity for energy and climate.

(b) The purpose of the office of equity for energy and climate is to support local and communally developed climate projects to support disadvantaged communities, including by establishing and administering the community solutions fund and the solutions grants program pursuant to subdivisions three and four of this section.

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

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(c) The office of equity for energy and climate shall be managed by a director who shall report to the member of the commissioner's executive leadership team whose role is to institutionalize and operationalize climate and environmental equity and justice within the authority. The office shall also report to and be supported by the member of the governor's executive leadership team whose role and responsibility is to institutionalize and operationalize equity and justice across state government operations.

3. The community directed climate solutions fund. There is established within the office the community solutions fund, out of which the office shall make grants pursuant to the solutions grants program.

4. Community directed climate solutions grants program. (a) The office shall establish the community directed climate solutions grants program to provide assistance to community-based organizations, projects, and initiatives that may not meet application criteria for other assistance programs, or for which other assistance programs are inadequate.

(b) The office shall design the solutions grants program, to the extent practicable and permissible, to maximize the ability of grant recipients to use such grants as matching funds in other assistance program applications and/or to leverage the funding to receive additional grants from other assistance programs.

(c) The office shall identify the needs of disadvantaged communities to prioritize grant allocation. Such identification process shall include significant consultation with community stakeholders in a variety of disadvantaged communities throughout the state, at least three public hearings, and other opportunities for public input. The office shall also consult with the climate justice working group established pursuant to section 75-0111 of the environmental conservation law.

(d) Applicants eligible for the solutions grants program:

(i) Lead applicants eligible for grants shall be constituency-based organizations, tribal nations, or, in communities where neither constituency-based organizations or tribal nations exist, a municipality.

(ii) Sub-applicants may include other non-profit organizations, academic institutions, business entities, municipalities and other stakeholders.

(e) The following restrictions shall apply to the community directed climate solutions grants program:

(i) Grants shall only be made for projects that reduce greenhouse gas emissions, energy costs, enhance climate change resiliency including but not limited to flooding protections and reduction of urban heat island effects, reduce local pollution, or that support community ownership and governance of energy infrastructure.

(ii) At least seventy-five percent of funding must support projects located within disadvantaged communities.

(iii) Up to twenty-five percent of funding may support projects located outside disadvantaged communities, provided that such funding provides a benefit to disadvantaged communities, including those benefits identified in subparagraph (i) of this paragraph.

(iv) To the extent practicable, grants shall be distributed equitably to disadvantaged communities throughout the state, based on population.

(v) Grants shall only be made for projects which satisfy the community decision-making and accountability standards established pursuant to subdivision five of this section.

(vi) Projects funded by grants made under the solutions grants program shall be subject to the provisions of section two hundred twenty-four-f of the labor law, section sixty-six-v of the public service law, and

section five of part TT of chapter fifty-six of the laws of two thousand twenty-three.

(vii) Preference shall be given to proposals that include significant participation by minority and women-owned business enterprises.

5. The office shall develop and establish standards for community decision-making and accountability mechanisms with respect to eligible projects and the use of grant funding pursuant to the provisions of this section.

6. Beginning one year after its establishment and annually thereafter, the office shall submit a report to the climate justice working group established pursuant to section 75-0111 of the environmental conservation law on the use of funds in the community directed climate solutions fund and recipients of the solutions grants program.

§ 2. Paragraph (c) of subdivision 3 of section 99-qq of the state finance law, as added by section 2 of part TT of chapter 56 of the laws of 2023, is amended to read as follows:

(c) The New York climate action fund climate investment account shall consist of moneys received by the state pursuant to paragraph (c) of subdivision twenty-five of section eighteen hundred fifty-four of the public authorities law, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Moneys of the account shall be made available for the purposes of assisting the state in transitioning to a less carbon intensive economy, including but not limited to: (i) purposes which are consistent with the general findings of the scoping plan prepared pursuant to section 75-0103 of the environmental conservation law; (ii) administrative and implementation costs, auction design and support costs, program design, evaluation, and other associated costs; [~~and~~] (iii) measures which prioritize disadvantaged communities by supporting actions consistent with the requirements of paragraph d of subdivision three of section 75-0109 and of section 75-0117 of the environmental conservation law, identified through community decision-making and stakeholder input, including early action to reduce greenhouse gas emissions in disadvantaged communities; and (iv) funding the community directed climate solutions grants program established pursuant to section eighteen hundred eighty-five of the public authorities law. At least twenty percent of the climate investment account shall be directed toward the community directed climate solutions grant program.

§ 3. The labor law is amended by adding a new section 224-g to read as follows:

§ 224-g. New York jobs plan requirements for certain projects. 1. As used in this section, the "New York jobs plan" refers to the information submitted by the contractor, its supplier, and its major supplier which states the minimum number of jobs; proposed wages, benefits, investment in training; targeted hiring plans for displaced workers and individuals facing barriers to employment for jobs created or retained in New York.

2. Any public entity requesting bids or awarding contracts for renewable energy projects, energy efficiency projects, or other projects funded by the climate and community protection fund, except for construction projects, shall require any applicant, bidder, or responder to submit a New York jobs plan as part of its application, bid or response. The department of environmental conservation and the New York state energy and research development authority (NYSERDA), in consultation with the department, shall develop all forms, procedures, evaluation and scoring criteria, and guidance, necessary for the implementation of the New York jobs plan. To the extent feasible, the department of environmental

conservation and NYSERDA, in consultation with the department, shall consider the input and recommendations of relevant public entities on the development of the New York jobs plan.

3. The New York jobs plan shall require applicants, bidders, and responders to provide information on jobs that would result from being awarded the bid or contract for such projects. At a minimum, this shall include the following information for nonsupervisory positions, broken down by classification:

(a) The number of full-time non-temporary jobs retained, and the number to be created.

(b) The number of positions classified as employees, as defined in section seven hundred forty of this chapter, and positions classified as independent contractors.

(c) The number of jobs to be specifically reserved for individuals facing barriers to employment and the number to be reserved for individuals from disadvantaged communities.

(d) The minimum wages and fringe benefits amounts to be paid.

(e) The proposed amounts for worker training and information about any existing apprenticeship program registered with the department or a federally recognized state apprenticeship agency and that complies with the requirements under parts 29 and 30 of title 29 of the code of federal regulations.

(f) In the event that a federal authority specifically authorizes use of a geographic preference or when covered public contracts are funded exclusively through state or local funds, the New York jobs plan shall require information on the number of local jobs to be created.

4. Awarding public entities shall require the same New York jobs plan information to be submitted from all known subcontractors at the time of the solicitation or bid for the project is released.

5. New York jobs plan commitments shall be included in the contract awarded by the public entity or its contractors as a material term.

6. For non-competitive public contracts awarded under this section, applicants, bidders, or responders shall create a New York jobs plan as set forth in this section. For competitive public contracts, public entities shall award contracts using a competitive best-value bid procurement process. The applicants, bidders, or responders New York jobs plan shall be scored as a part of the overall application for the public contract, awarding additional consideration to applicants, bidders, or responders who do any of the following:

(a) Have the greatest beneficial economic impact on the state and local economies as a result of receiving the public contract, based on the priority criteria outlined in its New York jobs plan.

(b) Enhance the state's commitment to energy conservation, pollution and greenhouse gas emissions reduction, and transportation efficiency.

(c) Retain the greatest number of full-time, non-temporary employees compensated at a wage rate for the project jurisdiction as established in the living wage calculator published by the Massachusetts Institute of Technology, using the living wage rate for a household of two working adults with two children in the jurisdiction of the project.

(d) Make concrete commitments to creating the greatest number of full-time, non-temporary jobs compensating employees at a wage rate at or above the living wage rate for the project jurisdiction as established in the living wage calculator published by the Massachusetts Institute of Technology, using the living wage rate for a household of two working adults with two children in the jurisdiction of the project.

(e) Commit to at least ninety percent of the labor on the contract being performed by workers classified as employees.

(f) Offer targeted training and opportunities for individuals facing barriers to employment and workers from disadvantaged communities.

7. The department of environmental conservation and NYSERDA, in consultation with the department, shall develop a web-based portal to track New York jobs plan commitments and compliance.

(a) All New York jobs plan commitments and compliance reporting shall be viewable by the public, through the web-based portal.

(b) Recipients of public contracts, shall on an annual basis, be required to upload progress reports on each of the commitments included in their New York jobs plan application, for the duration of the covered public contract.

(c) The portal shall be designed in such a manner that if the information entered into the portal indicates a failure to comply with the commitments made in the New York jobs plan, an automatic notice of noncompliance would be sent to the public entity for the covered public contract.

(d) Noncompliance with New York jobs plan commitments would violate the terms of the public contract. At a minimum these commitments would be enforceable through standard breach of contract remedies, including but not limited to, termination of the public contract.

§ 4. This act shall take effect immediately.