# STATE OF NEW YORK

732

2023-2024 Regular Sessions

# IN SENATE

January 6, 2023

Introduced by Sens. PARKER, COMRIE, GOUNARDES, SEPULVEDA, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the tax law, in relation to establishing a carbon dioxide emissions price for electric generation from carbon-based fuel and creating a carbon dioxide emissions fund

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

Section 1. Legislative findings and declaration. The legislature hereby finds and declares that:

1. As part of the 2020 state budget, the legislature passed the accelerated renewable energy growth and community benefit act to advance renewable energy siting and establish tools for achieving the nation-leading climate change goals of the climate leadership and community protection act (CLCPA).

2. a. The CLCPA passed by the legislature and signed by Governor Cuomo in 2019 codified into law the following requirements:

i. 70% of electricity delivered in New York state must be derived from renewable resources by 2030;

ii. 100% of the electricity consumed in New York state must be derived from zero-emissions resources by 2040;

iii. 9,000 megawatts (MW) of offshore wind installed by 2035;

iv. 6,000 MW of distributed solar energy resources installed by 2025;

v. 3,000 MW of energy storage installed by 2030; and

vi. Reducing building end-use energy consumption by 185 trillion British thermal units by 2025.

b. The CLCPA created a 22-member climate action council to establish an implementation plan for how the state will achieve these goals.

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

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3. The CLCPA amended the environmental conservation law by adding a new section 75-0113 to establish a social cost of carbon for use by state agencies.

4. Entities other than state agencies have been considering how to account for the value of carbon dioxide emissions in their business plans and operations in light of the CLCPA and the accelerated renewable energy growth and community benefit act. For example, the federally-designated electric bulk system operator in New York state has developed a proposal to introduce a carbon pricing mechanism into the competitive wholesale electricity markets. Encouraging the incorporation of the social cost of carbon established under the CLCPA into a carbon price by entities beyond state agencies would facilitate programs to incorporate the social cost of carbon in energy and other sectors of New York's economy that emit greenhouse gases.

§ 2. Subdivision 1 of section 75-0113 of the environmental conservation law, as added by chapter 106 of the laws of 2019, is amended to read as follows:

1. No later than one year after the effective date of this article, the department, in consultation with the New York state energy research and development authority, shall establish a social cost of carbon for use by state agencies, **and shall be taken into account in carbon pricing mechanism programs in New York state,** expressed in terms of dollars per ton of carbon dioxide equivalent.

§ 3. The tax law is amended by adding a new article 12-B to read as follows:

**ARTICLE 12-B**

**CARBON DIOXIDE EMISSIONS PRICE FOR ELECTRIC GENERATION FROM CARBON-BASED FUEL**

**Section 289-g. Definitions.**

**289-h. Determination and establishment of carbon dioxide emissions price.**

**289-i. Carbon dioxide emissions fund.**

**289-j. Regulations.**

**§ 289-g. Definitions. For the purposes of this article, the following terms shall have the following meanings:**

**1. "Carbon-based fuel" means coal, natural gas, renewable biomass, petroleum products, and any other product that emits carbon dioxide, methane, nitrous oxide, or other greenhouse gases when combusted, and that is used for fuel for the purposes of producing electric energy.**

**2. "Carbon-generated electricity" means electric energy produced using a carbon-based fuel.**

**3. "Carbon dioxide equivalent" means a unit of measure denoting the amount of emissions from a greenhouse gas, expressed as the amount of carbon dioxide by weight that produces the same global warming impact.**

**4. "Carbon dioxide emissions price" means a price that incorporates the social cost of carbon established by the department of environmental conservation pursuant to subdivision one of section 75-0113 of the environmental conservation law on each ton of carbon dioxide equivalency emitted in the production of electric energy.**

**§ 289-h. Determination and establishment of carbon dioxide emissions price. 1. The department of environmental conservation shall determine and establish a carbon dioxide emissions price. The department of environmental conservation may also obtain information necessary for the determination of the price from other state or federal agencies or the federally designated electric bulk system operator.**

2. Upon determining and establishing the carbon dioxide emissions price, the department of environmental conservation shall transmit such price to the federally designated electric bulk system operator in New York state for use in its proposal to introduce a carbon pricing mechanism into competitive wholesale electricity markets, thereby conveying support by the state of New York for the bulk system operator to finalize the carbon pricing mechanism and submit it to the federal energy regulatory commission for approval. The amount of charges paid for allowances auctioned under the regional greenhouse gas initiative shall be deducted from the price determined pursuant to this section.

3. The department of environmental conservation shall be authorized to develop any rule or regulation necessary to determine and establish the carbon dioxide emissions price authorized under this article.

4. Notwithstanding any general or special law to the contrary, the price authorized under this section shall not be paid by any generator of carbon-based electricity if such requirement is superseded by federal law or regulation.

§ 289-i. Carbon dioxide emissions fund. 1. The department, in coordination with the department of environmental conservation, shall establish the carbon dioxide emissions fund, and the department of environmental conservation's office of climate change shall serve as the fund's administrator. The department of environmental conservation shall deposit into such fund all revenues transferred to it by load serving entities, to the extent that such revenues are provided to such entities by the federally designated electric bulk system operator in New York state in accordance with the implementation of section two hundred eighty-nine-h of this article. No such revenues shall fund government operations of New York state, other than to pay for reasonable administrative costs as provided under subdivision two of this section.

2. The office of climate change shall distribute sixty percent of all carbon dioxide emissions price revenues as follows: (a) forty percent shall be returned to very low to moderate income residents of the state in the form of tax credits in order to offset the cost of the carbon dioxide emissions price. The amount of such credit shall be based on estimates and averages of expense and consumption trends for very low to moderate income residents determined by the office of climate change in conjunction with the department of public service in accordance with regulations pursuant to section two hundred eighty-nine-j of this article. Such credit shall be progressively issued to very low to moderate income residents. Such income categories shall mean those with income below fifty percent for very low income residents, income between fifty and eighty percent for low income residents, and income between eighty-one and one hundred fifteen percent for moderate income residents, of the area median income as determined by the department of housing and urban development; and (b) twenty percent shall be used to support the transition to renewable energy and improve climate change adaptation in disadvantaged communities as defined in subdivision five of section 75-0101 of the environmental conservation law, including but not limited to payments and subsidies for renewable energy, energy conservation and efficiency measures, improvements in infrastructure, protection of low-lying areas including coastlines, and emergency responses to extreme weather events.

3. The office of climate change shall distribute the remaining forty percent of revenues of such fund to support mass transit to reduce carbon emissions.

**§ 289-j. Regulations. The department, in coordination with the department of environmental conservation and the department of public service, shall promulgate such rules and regulations as shall be necessary to implement the provisions of this article.**

§ 4. This act shall take effect immediately.