

STATE OF NEW YORK

9758

IN SENATE

May 29, 2024

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to establishing the "climate safe and responsible bank procurement 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 "climate safe and responsible bank procurement act".

3 § 2. Legislative findings. 1. The legislature affirms the goals of the
4 New York Climate Leadership and Community Protection Act, which commits
5 New York to achieving an 85% reduction from 1990 greenhouse gas emis-
6 sions level by 2050, and to 100% emissions free electricity by 2040.

7 2. New York's state climate impact assessment has concluded that many
8 fundamental aspects of New York State's climate have already begun to
9 change, and the changes are projected to continue--and in some cases,
10 accelerate--throughout the 21st century, that climate change is creating
11 conditions that will increase the frequency and severity of many types
12 of extreme events, and that unless the world takes serious action to
13 reduce greenhouse gas emissions and control future warming, unmitigated
14 emissions could have severe adverse consequences.

15 3. The Financial Stability Oversight Council has concluded that
16 climate change presents an emerging and increasing threat to financial
17 stability.

18 4. The Board of Governors of the Federal Reserve System, the Federal
19 Deposit Insurance Corporation, and the Office of the Comptroller of the
20 Currency have produced guidance for the financial institutions that they
21 regulate to focus on key aspects of climate-related financial risk
22 management.

23 5. The International Energy Agency has released an energy roadmap for
24 how governments around the world can achieve the goals enunciated in the
25 2015 Paris Accords, and concluded that there is no need for investment
26 in new fossil fuel supply in our net zero pathway.

27 6. The New York State Department of Financial Services has issued
28 guidance that regulated institutions start integrating both financial

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

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1 and operational risks from climate change into their governance frame-
2 works, risk management processes, and business strategies, and start
3 developing their approach to climate-related financial risk disclosure.

4 § 3. Section 2 of the state finance law is amended by adding five new
5 subdivisions 23, 24, 25, 26, and 27 to read as follows:

6 23. "Clean energy supply financing ratio" is the total financing
7 through equity and debt underwriting, and project finance in low carbon
8 energy supply relative to that in fossil fuel energy supply and includes
9 methodology for ratio, including what is classified as low carbon or
10 fossil fuel.

11 24. "Coal project" means a project designed to use coal for the
12 purpose of electric power generation or to produce thermal coal.

13 25. "Fossil fuel project" or "Fossil fuel infrastructure" means a
14 project designed to produce and transport fossil fuels. This includes
15 projects that would support exploring new oil and gas fields or other-
16 wise expanding oil and gas reserves.

17 26. "New fossil fuel project" or "New fossil fuel infrastructure"
18 means a project designed to facilitate the production and transportation
19 of fossil fuels in excess of what is in development as of the effective
20 date of this subdivision. This includes but is not limited to production
21 of new coal, oil and gas infrastructure, power plants, wells or mines.
22 It also includes projects that would support exploring new oil and gas
23 fields or otherwise expanding oil and gas reserves.

24 27. "Underwriting" means providing bond buying and selling, financial
25 advice, promotion, legal, risk management and any other relevant
26 services for a bond issue.

27 § 4. Subdivision 2 of section 161 of the state finance law is amended
28 by adding a new paragraph o to read as follows:

29 o. (i) Establish, no later than December thirty-first, two thousand
30 twenty-five, procurement guidance for the purchasing of banking services
31 through centralized state contracting and discretionary contracting that
32 shall require agencies to consider each of the following individual
33 criteria as positive components of best value for the purpose of making
34 purchasing decisions for banking services, including but not limited to
35 credit cards, credit card processing and depository services:

36 (1) whether a bank discloses scope one, two and three emissions in
37 full compliance with category fifteen of the greenhouse gas emissions
38 reporting protocol;

39 (2) whether a bank discloses its clean energy supply financing ratio;

40 (3) whether a bank has established a policy that explicitly bars
41 support for coal projects or infrastructure;

42 (4) whether a bank has established policies covering the transition
43 away from financing of new fossil fuel projects or infrastructure;

44 (5) whether a bank has established policies to transition away from
45 all existing investments in fossil fuel projects or infrastructure; and

46 (6) whether a bank has produced a plan for achieving net zero carbon
47 emissions by two thousand fifty that has been affirmed as consistent
48 with the standards pronounced by the science based targets initiative.

49 (ii) For the purposes of this paragraph, "bank" shall have the same
50 meaning as subdivision one of section two of the banking law, provided,
51 however, it shall only include such banks that have at least one hundred
52 billion in total consolidated assets.

53 § 5. The state finance law is amended by adding a new section 65-a to
54 read as follows:

55 § 65-a. Climate safe and responsible borrowing requirements. 1.
56 Neither the state nor any authorities, agencies, commissions or corpo-

1 rations of the state shall contract with or otherwise provide payment
2 for or services with a bank for underwriting in a bond issuance or refi-
3 nancing that has not disclosed scope one, two and three emissions in
4 full compliance with category fifteen of the greenhouse gas emissions
5 reporting protocol by the beginning of calendar year two thousand twen-
6 ty-six.

7 2. When making a determination as to which bank to use for underwrit-
8 ing in a bond issuance or refinancing, the state and any authorities,
9 agencies, commissions or corporations of the state shall consider:

10 (a) whether a bank discloses its clean energy supply financing ratio;

11 (b) whether a bank has established a policy that explicitly bars
12 support for coal projects;

13 (c) whether a bank has committed to withholding any support for new
14 fossil fuel infrastructure;

15 (d) whether a bank has committed to phasing out all existing invest-
16 ments in fossil fuel projects; and

17 (e) whether a bank has produced a plan for achieving net zero carbon
18 emissions by two thousand fifty that has been affirmed as consistent
19 with the standards pronounced by the science based targets initiative.

20 3. In considering the best value of underwriting in a bond issuance or
21 refinancing, the state and any authorities, agencies, commissions or
22 corporations of the state shall consider each of the criteria listed in
23 subdivision two of this section as positive components of best value to
24 be considered alongside but not necessarily with the same weight as any
25 other considerations of best value as employed by the state and any
26 authorities, agencies, commissions or corporations of the state.

27 4. For the purposes of this section, "bank" shall have the same mean-
28 ing as subdivision one of section two of the banking law, provided,
29 however, it shall only include such banks that have at least one hundred
30 billion in total consolidated assets.

31 § 6. Severability. If any clause, sentence, paragraph, subdivision,
32 section, or part of this act shall be adjudged by any court of competent
33 jurisdiction to be invalid, such judgment shall not affect, impair, or
34 invalidate the remainder thereof, but shall be confined in its operation
35 to the clause, sentence, paragraph, subdivision, section, or part there-
36 of directly involved in the controversy in which such judgment shall
37 have been rendered. It is hereby declared to be the intent of the legis-
38 lature that this act would have been enacted even if such invalid
39 provisions had not been included herein.

40 § 7. This act shall take effect immediately.