

STATE OF NEW YORK

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Introduced by Sens. PARKER, JACKSON, SALAZAR, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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.
- 20 (c) A public policy purpose would be served and the interests of the
21 people of the state would be advanced by directing the New York state

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

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

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

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

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

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

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

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

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

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

11 (b) provide public notice of the study, and ensure the results of
12 the study are made easily accessible to members of disadvantaged commu-
13 nities, as defined in section 75-0101 of the environmental conservation
14 law, and provide an opportunity for public comment on the study of not
15 less than 60 days and conduct at least two public hearings on the
16 study, of which at least one shall be held in disadvantaged communities,
17 as defined in section 75-0101 of the environmental conservation law with
18 such public hearings offering video participation and accessibility;

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

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

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

32 § 5. The public service commission shall:

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

37 (b) issue an order regarding implementation of the strategies,
38 programs, standards, and requirements described in the study referred to
39 in section three of this act no later than July 30, 2027. Such order
40 shall at a minimum:

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

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

54 (c)(i) Any projects pursuant to this section, or the study provided
55 herein, shall be deemed public work and shall be subject to and
56 performed in accordance with articles 8 and 9 of the labor law. Each

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

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

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

52 (ii) The commissioner of labor shall create a program pursuant to
53 which, where applicable and feasible, newly created job opportunities
54 shall be offered to a pool of transitioning workers who have lost their
55 employment or will be losing their employment in the energy sector
56 through projects undertaken pursuant to this act, or the study provided

1 in section three of this act. Such program shall include a method for
2 the commissioner of labor to communicate names and contact information
3 for displaced or transitioning workers to public entities that may have
4 job opportunities for such workers every 90 days.

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

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

25 § 7. This act shall take effect immediately.