

New York Cap-and-Invest: Labor Roundtable

September 15, 2023

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Roundtable Procedures

- Attendees will not be able to unmute or turn on video.
- Attendees will be able to submit questions via the Q&A feature. Select questions will be posed to panelists at the end of the presentation.
- If you can't hear the presentation, you can configure your audio settings by clicking the arrow in the "audio" box.
- You can turn on closed captioning for the presentation and change the language of the captions.
- This webinar will be recorded.

Agenda

Welcome by Doreen Harris and Roberta Reardon

Update on the Office of Just Energy Transition

Cap-and-Invest Regulations Development

Labor Provisions in the FY2023-2024 Enacted Budget

Comments Received from Labor Groups

Panel Discussion

- Joe Canovas, Special Counsel, New York State AFL-CIO
- Gary LaBarbera, President, New York State Building and Construction Trades Council
- Constance Bradley, President, Transport Workers Union Local 101
- David Wasiura, Director, District 4, United Steelworkers
- James Shillito, President, Utility Workers Union of America Local 1-2
- Patrick Guidice, Business Manager, International Brotherhood of Electrical Workers Local 1049
- Jenn Duck, International Representative, International Brotherhood of Electrical Workers

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Office of Just Energy Transition

Office of Just Energy Transition Overview

Established in April 2023

Overseen by Director of Apprenticeship and Infrastructure

Office of Just Energy Transition Overview



Office of Just Energy Transition (OJET)



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SECTIONS

[Office of Just Energy Transition \(OJET\) Mission](#)

[Resources](#)

[Looking for work in clean energy?](#)

Office of Just Energy Transition (OJET) Mission

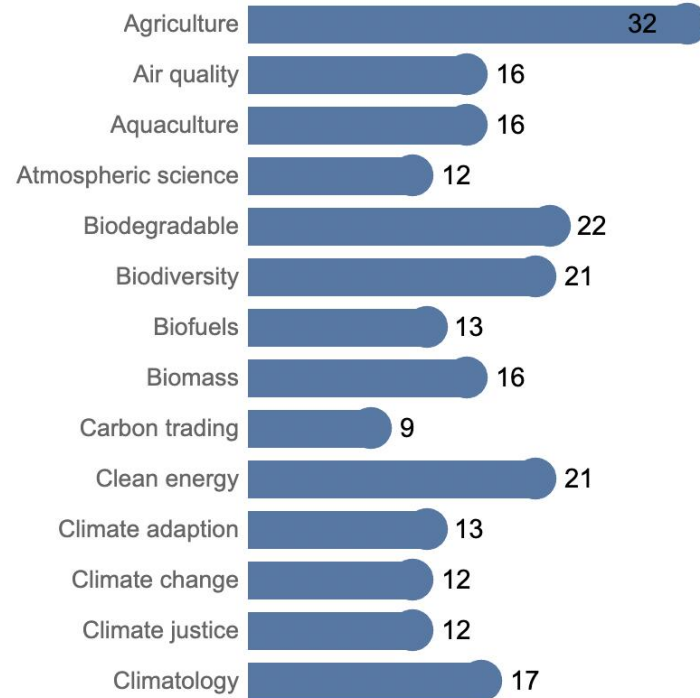
As New York State transitions to a clean energy economy, the Office of Just Energy Transition (OJET) will connect workers to opportunities for quality jobs, upskilling, and training with a focus on serving those who are traditionally underrepresented, especially within disadvantaged communities. OJET will also assist businesses by upskilling their workers and connecting them to a trained workforce while helping navigate eligible hiring incentives and available funding.

Join the Office of Just Energy Transition's email list to be the first to know about jobs and opportunities for workers and businesses in clean energy.

[JOIN EMAIL LIST](#)

Number of Green Occupations by Topic (alphabetical)

Click a topic to see list of ranked occupations



Green Occupations in Agriculture

Click an occupation for details

O*Net Code and Occupational Title

11-1011.00: Chief Executives

11-9013.00: Farmers, Ranchers, and Other Agricultural Managers

11-9121.00: Natural Sciences Managers

11-9199.09: Wind Energy Operations Managers

13-1021.00: Buyers and Purchasing Agents, Farm Products

13-1041.01: Environmental Compliance Inspectors

13-1074.00: Farm Labor Contractors

17-2021.00: Agricultural Engineers

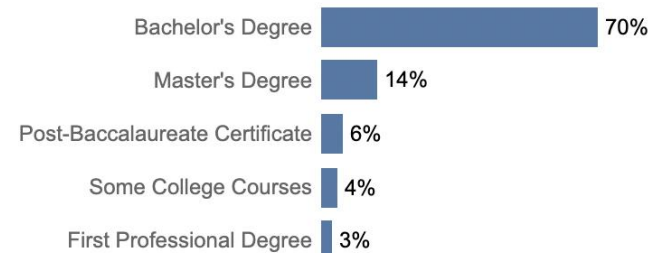
17-2199.10: Wind Energy Engineers

19-1013.00: Soil and Plant Scientists

Occupational Details for Wind Energy Engineers

Job Zone Four: Considerable Preparation Needed

Education



NYS Labor Market Information (if available)

<u>2020 Employment</u>	<u>2030 Projected Employment</u>	<u>Average Annual Openings</u>	<u>Median Wage</u>
4,640	5,130	355	\$103,564

Most Important Skills

NEXT STEPS

Launch the interactive dashboard

Clean energy business outreach

Interagency Advisory Group

Interstate Just Transition teams

Industry stakeholder meetings

Planning system for transitioning workers

Career exploration and training

QUESTIONS?

Email: OJET@labor.ny.gov

Visit: dol.ny.gov/office-just-energy-transition-ojet

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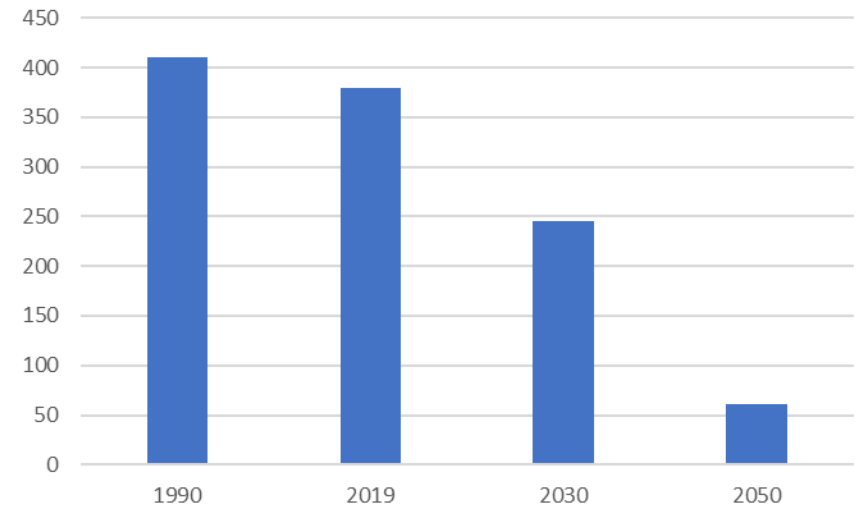
Office of Just Energy Transition

Cap-and-Invest Regulations Development

New York Cap and Invest Program

- The Cap-and-Invest Program was recommended as part of the Climate Action Council's final Scoping Plan and proposed in Governor Kathy Hochul's 2023 State of the State Address and Executive Budget.
- DEC and NYSERDA are developing the program to meet the greenhouse gas emission reduction and equity requirements under the 2019 Climate Leadership and Community Protection Act.

New York State GHG Emissions (MMtCO₂e)



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Cap-and-Invest Program

> **At Governor Hochul's direction, the program will incorporate these guiding principles:**

- *Affordability*: Craft a program to deliver money back to New Yorkers to ensure energy affordability
- *Climate Leadership*: Catalyze other states to join New York, and allows linkage to other jurisdictions
- *Creating Jobs and Preserving Competitiveness*: Protect existing jobs and support new and existing industries
- *Investing in Disadvantaged Communities*: Ensure 35%+ of investments benefit DACs
- *Funding a Sustainable Future*: Support ambitious clean energy investment

Modeling and analysis will seek to evaluate policy choices in support of these priorities.



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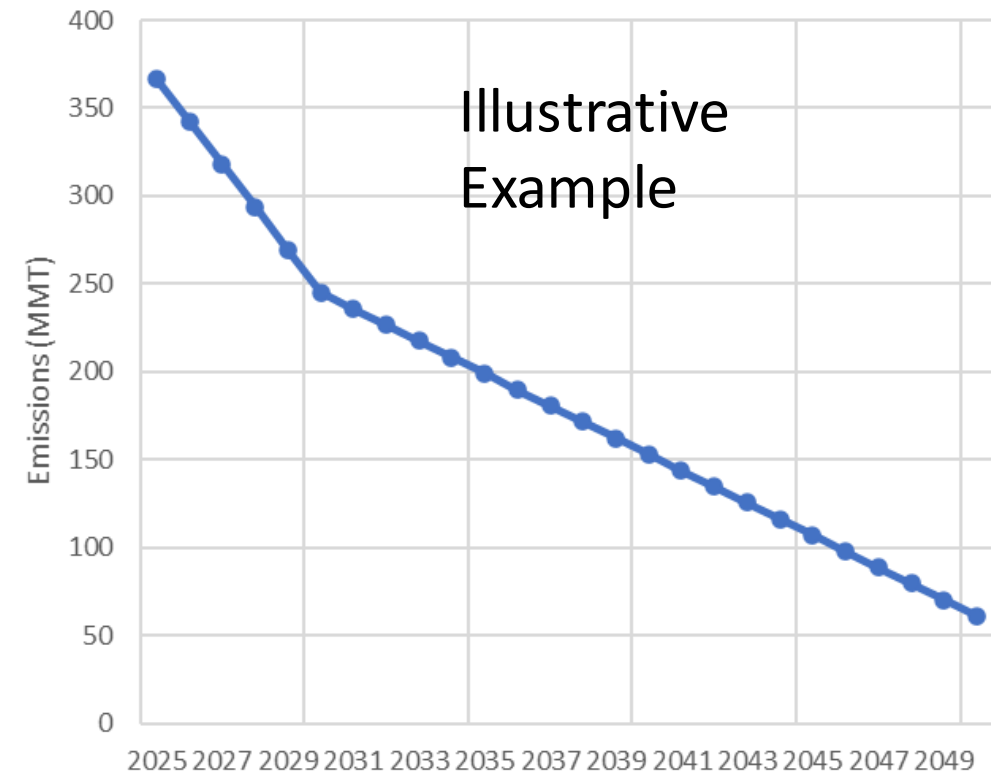
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Cap-and-Invest Program: Achieving Emission Limits

DEC and NYSERDA are designing a program that sets an annual cap on the amount of greenhouse gas pollution permitted to be emitted in New York.

The declining cap ensures annual emissions are reduced, setting the state on a trajectory to meet our GHG emissions reduction requirements of 40% by 2030, and at least 85% from 1990 levels by 2050, as mandated by the Climate Act.

Allowance Budget Trajectory – Setting a Cap



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New York's Cap-and-Invest Program – How it Works

Cap-and-Invest sets an annual limit on the amount of greenhouse gas emissions emitted in New York. Every year, the cap will be set lower to reduce greenhouse gas emissions.



Large-scale greenhouse gas emissions sources and distributors of heating and transportation fuels will be required to purchase or obtain allowances for emissions associated with their activities.



The Program will prioritize frontline disadvantaged communities that have suffered from pollution as a result of environmental injustice and will ensure emissions reductions.



Proceeds will minimize potential consumer costs while supporting critical investments in focus areas such as climate mitigation, energy efficiency, and clean transportation.

Cap-and-Invest Guiding Principles:

- Affordability
- Climate leadership
- Creating jobs and preserving competitiveness
- Investing in disadvantaged communities
- Funding a sustainable future



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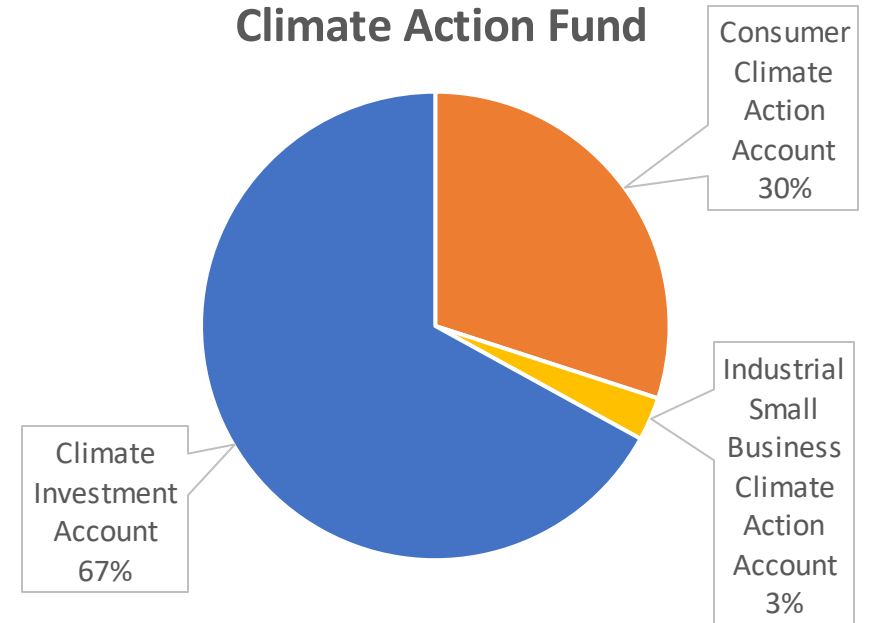
NYCI in the State Budget

Overarching framework for investment of future NYCI proceeds established in budget

- **Climate Action Fund**

- **Consumer Climate Action Account** that will deliver at least 30 percent of future NYCI proceeds to New Yorkers every year to mitigate consumer costs
- **Climate Investment Account** that will direct two-thirds of future NYCI proceeds to support the transition to a less carbon-intensive economy.
- **Industrial Small Business Climate Action Account** that will direct 3 percent of future NYCI proceeds benefits to help mitigate cost

Climate Action Fund



- **Climate Affordability Study**

- To deliver recommendations for the use of the 30% of NYCI funds in the Consumer Climate Action Account

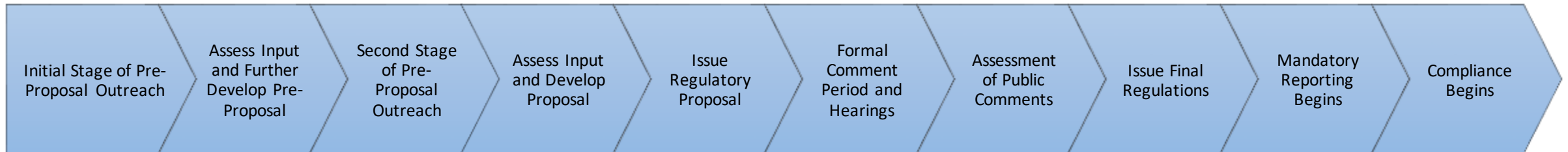


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Cap-and-Invest Regulation Development Timeline

We are here



Public comments can be submitted anytime online at: www.capandinvest.ny.gov

OR Via US Postal Service to:

Bureau of Air Quality Planning
NYS DEC, Division of Air Resources
625 Broadway, Albany, NY 12233-3251



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**Labor Provisions in the
FY 2023-2024 Enacted Budget**

Labor Provisions in Enacted Budget

Labor Law amended to include wage requirements for certain climate risk-related and energy transition projects

- Defines a "covered climate risk-related and energy transition project" as a construction project that receives at least \$100,000 of funds from the New York climate action fund climate investment account
- Subjects a covered climate risk-related and energy transition project to prevailing wage requirements
 - Exceptions: Privately-Owned Construction work completed under a pre-hire collective bargaining agreement; Construction work on owner occupied 1-2 family-homes; and work on privately owned multifamily buildings with at least 25% Affordable or 35% Supportive housing
- Requires project owner/developer to sign a labor peace agreement (prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference) with at least one bona fide labor organization
- Requires project owner/developer to use Apprenticeship Agreements (if applicable) or Workforce Training; and consider use of registered pre-apprenticeship direct entry programs for recruitment of local or disadvantaged workers
- Enforcement by the Commissioner; who may issue rules and regulations
- Building Service work is subject to Prevailing Wage
- Requires project labor agreement for public entity receiving at least \$5 million for a project involving construction, reconstruction, alteration, maintenance, moving, demolition, excavation, development or other improvement of any building, structure or land

Labor Provisions in Enacted Budget

Labor Law amended to require job transition plan for certain climate risk-related and energy transition projects

- The commissioner, in consultation with labor organizations, shall develop a comprehensive plan to transition, train, or retrain employees that are impacted by climate risk-related and energy transition projects funded from the New York climate action fund climate investment account
- 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 benefits, retirement benefits, and/or other benefits
- The plan shall require employers to notify the commissioner of workers laid off or discharged due to climate risk-related and energy transition projects funded from the New York climate action fund climate investment account
- Funding shall be made available for worker transition and retraining
- The commissioner 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 due to climate risk-related and energy transition projects funded from the New York climate action fund climate investment account

Comments Received from Labor Groups

Summaries of Labor Comments Received

Proceeds

- Workforce Development
- Support good union jobs
- In-State supply chains for energy infrastructure
- Emissions reduction technologies in EITE industries to upgrade equipment

Criteria for Proceeds

- Funding from NYCI proceeds should be tied to prevailing wage, safety requirements, apprenticeship, training and workforce skill requirements, labor peace agreements, buy American provisions and non-discrimination procedures and enforcement
- Consider union labor for all jobs, including supply chain, construction, operations, maintenance and repair, to maintain flexibility for existing industries
- Prioritize hiring in Disadvantaged Communities

Summaries of Labor Comments Received

Workforce

- Displaced workers should have access to equal or better reemployment. Displaced workers that do not pursue reemployment should have access to enhanced unemployment insurance benefits, COBRA payments, educational stipends and grants, and financial bridges to retirement eligibility.

Preventing Leakage

- Linking with other Programs
- Establish a border carbon adjustment
- Zero cost or reduced cost Allowances should consider job impacts (quantity and quality), prioritizing industries that provide good-paying middle-class jobs in State
- Slow, gradual market transition
- Consider alternative fuels that reduce emissions for alternative compliance for EITE industries, including zero cost off-sets
- Funding to EITE industries should focus on emissions reduction technologies and upgraded equipment

Summaries of Labor Comments Received

EITE Industries

- Utilize an expansive definition of EITE industries
- Free or fixed price allowances
- Consider job impacts (quantity and quality), prioritizing industries that provide good-paying middle-class jobs in State
- Transitional Assistance for EITE, especially those in Disadvantaged Communities

Panel Discussion

Welcome to our Panelists

- > Joe Canovas, Special Counsel, New York State AFL-CIO
- > Gary LaBarbera, President, New York State BCTC
- > Constance Bradley, President, TWU Local 101
- > David Wasiura, Director, District 4, USW
- > James Shillito, President, UWUA Local 1-2
- > Patrick Guidice, Business Manager, IBEW Local 1049
- > Jenn Duck, International Representative, IBEW



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Appendix

Statutory Text

The Labor Law is amended by adding a new section 224-f to read as follows:

Wage requirements for certain climate risk-related and energy transition projects.

1. For purposes of this section, a "covered climate risk-related and energy transition project" means a construction project that receives at least one hundred thousand dollars of funds from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law.
2. A covered climate risk-related and energy transition project shall be subject to prevailing wage requirements in accordance with sections two hundred twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-i, two hundred twenty-three, and two hundred twenty-four-b of this article, provided that a covered climate risk-related and energy transition project may still otherwise be considered a covered project pursuant to section two hundred twenty or two hundred twenty-four-a of this article if it meets the definition therein.

Statutory Text

3. For purposes of this section, a covered climate risk-related and energy transition project shall exclude:

- a.** Privately owned construction work performed under a pre-hire collective bargaining agreement between an owner or developer and a bona fide building and construction trades labor organization which has established itself, and/or its affiliates, as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform work on such a project; or
- b.** Construction work on one- or two-family dwellings where the property is the owner's primary residence, or construction work performed on property where the owner of the property owns no more than four dwelling units; or
- c.** Construction work performed on a multiple residence and/or ancillary amenities or installations that is wholly privately owned in any of the following circumstances:
 - (i) where no less than twenty-five percent of the residential units are affordable and shall be retained subject to an anticipated regulatory agreement with a local, state, or federal governmental entity, or a not-for-profit entity with an anticipated formal agreement with a local, state, or federal governmental entity for purposes of providing affordable housing in a given locality or region provided that the period of affordability for a residential unit deemed affordable under the provisions of this paragraph shall be for no less than fifteen years from the date of construction; or
 - (ii) where no less than thirty-five percent of the residential units involves the provision of supportive housing services for vulnerable populations provided that such units are subject to an anticipated regulatory agreement with a local, state, or federal governmental entity.

Statutory Text

4. As a condition of receiving funds from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law for a covered climate risk-related and energy transition project, the owner or developer of such covered climate risk-related and energy transition project, or a third party acting on such owner's or developer's behalf, shall agree to enter into a labor peace agreement with at least one bona fide labor organization either:

- a. where such bona fide labor organization is actively representing non-construction employees who will be working within the covered climate risk-related and energy transition project once built; or
- b. upon notice by a bona fide labor organization that is attempting to represent such non-construction employees.

5. For purposes of this section "labor peace agreement" means an agreement between an owner and/or developer and labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stop-pages, boycotts, and any other economic interference.

6. The owner or developer using funds from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law for a covered climate risk-related and energy transition project pursuant to this section shall:

- a. require the use of apprenticeship agreements as defined by article twenty-three of this chapter; or for industries without apprenticeship programs, require the use of workforce training, preferably in conjunction with a bona fide labor organization; and
- b. consider use of registered pre-apprenticeship direct entry programs for the recruitment of local and/or disadvantaged workers.

Statutory Text

7. For purposes of this section, the "fiscal officer" shall be deemed to be the commissioner. The enforcement of any covered climate risk-related and energy transition project under this section shall be subject to the requirements of sections two hundred twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-i, two hundred twenty-three, two hundred twenty-four-b of this article, and section two hundred twenty-seven of this chapter and within the jurisdiction of the fiscal officer; provided, however, nothing contained in this section shall be deemed to construe any covered climate risk-related and energy transition project as otherwise being considered public work pursuant to this article.
8. The fiscal officer may issue rules and regulations governing the provisions of this section. Violations of this section shall be grounds for determinations and orders pursuant to section two hundred twenty-b of this article.
9. For any building service work on a covered climate risk-related and energy transition project, prevailing wage shall be paid consistent with article nine of this chapter.
10. Any public entity receiving at least five million dollars in funds from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law for a project which involves the construction, reconstruction, alteration, maintenance, moving, demolition, excavation, development or other improvement of any building, structure or land, shall be subject to section two hundred twenty-two of this article.

Statutory Text

The Labor Law is amended by adding a new section 21-f to read as follows:

Job transition plan for certain climate risk-related and energy transition projects.

1. The commissioner, in consultation with labor organizations, shall develop a comprehensive plan to transition, train, or retrain employees that are impacted by climate risk-related and energy transition projects funded from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law. 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 benefits, retirement benefits, and/or other benefits. The plan shall require employers to notify the commissioner of workers laid off or discharged due to climate risk-related and energy transition projects funded from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law.
2. Funding shall be made available for worker transition and retraining, which shall include funding as provided by subdivision twenty-seven-d of section one thousand five of the public authorities law.

Statutory Text

3. The commissioner 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 due to climate risk-related and energy transition projects funded from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law. Such program shall include a method for the commissioner to communicate names and contact information for displaced or transitioning workers to public entities that may have job opportunities for such workers every ninety days.

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.