S.4264-A (Parker) / A.6967 (Cahill)

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BILL
S.4264-A (Parker) / A.6967 (Cahill)
SUBJECT
Climate and Community Investment Act (CCIA)
DATE
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OPPOSE

With the CLCPA still in early phases of implementation, it is premature for the legislature would act on another major climate bill, particularly one this wide-reaching and expensive. This legislation would create several redundant programs addressing responsibilities that are currently assigned to other State agencies, regulate emissions already subject to state and federal oversight, establish an expansive new state bureaucracy, and impose billions in fees on a wide range of businesses and residents alike (by our rough estimation, the new assessments on gasoline and natural gas alone would raise more than $6 billion annually).

The bill also replicates, or perhaps replaces, the work being done by the state's Climate Action Council and its various work groups and advisory panels, which are addressing topics including just transition and climate justice policies; emission reductions in the transportation and power generation sectors; impacts on energy intensive businesses and others – major issue areas also addressed by the provisions of the proposed CCIA. While the proposed CCIA includes several provisions that deserve in-depth review, we strongly oppose its adoption in the 2021 legislative session.

The significant impact this legislation would have on specific New York business sectors and individual businesses, small to large, cannot be overstated.

The proponents of the CCIA describe this legislation as a means to "make corporate polluters pay," which is a catchy slogan, but that's hardly what this bill does (nor do we think that slogan represents a sensible or workable public policy in the area of climate change.) One component of this legislation would, in fact, impose significantly higher fees on entities holding permits under Title V of the federal Clean Air Act. And while many permit holders are power generators and manufacturers, the Title V program includes other categories of facilities, from wastewater treatment facilities, to hospitals, as

well as universities and multi-family housing buildings.

Frankly, regardless of the makeup of the Title V facility community in New York State, we strongly oppose this bill's additional emission fee on Title V permits. Title V sources include emissions covered under multiple, often overlapping federal and state emission regulations, many driven by evaluations of best available control technologies. As such, imposing additional state-level emission fees on these facilities will do little to promote increased emission controls - they will mostly just make their operation in New York that much more expensive, perhaps prohibitively so.

Moreover, under Title V, permit holders already have existing reporting obligations to demonstrate compliance with federal law and current EPA emissions regulations. Permit holders must keep daily or weekly records for monitoring hazardous air pollutants (HAPs) and volatile organic compounds (VOCs), and depending on the terms and condition of a specific permit more stringent monitoring may be required – down to the hour or even every minute. It is unclear to us why the additional emissions inventory and reporting obligations of the CCIA are needed.

The bill does not set a fixed rate for this assessment, or even a methodology, but instead authorizes the Department of Environmental Conservation to set the rate annually, by regulation, after the legislature's adoption of "budget bills making appropriations," suggesting that the annual fee will be set at a level based on the legislature's annual spending largess. This raises serious concerns about both the total cost of this new mechanism, and the unpredictability of the fee from year to year.

The CCIA would also levy a "climate pollution fee" on all carbon-based fuels, including natural gas, petroleum, municipal solid waste and biofuels, as well as on related fugitive methane emissions.

This proposal deserves serious consideration and evaluation. If New York State is to adopt any form of carbon assessment, it should be broadly-based, capturing all categories of fuel use and emissions, and not just applied to currently permitted stationary sources which actually represent a relatively small share of the state's total carbon emissions. According to the USEIA's "2018 State energy-related carbon dioxide emissions by sector" report, fully two-thirds of New York's CO_2 emissions are from the transportation and residential sectors, with industrials sources just 5.1 percent and power generation just 14.4 percent and falling.

Even so, any such assessment needs to carefully evaluated as to its potential

adverse economic impacts, existing state taxes and assessments on energy and fuels, and in context of the state's existing assessment and funding programs related to climate change and renewable energy.

It also needs to consider what constitutes a reasonable level of annual assessments and state spending. The sponsor's bill memo says that the financial impact is undetermined, but our calculations using fuel use data generated by the U.S. Energy Information Administration suggests that this provision of the bill could generate more than $6 billion in annual revenues just from assessments on gasoline and natural gas. At its initial levels, the fee structure in this bill would be 55 cents per gallon for gasoline, and a 26% increase in the cost of residential natural gas – and these fees are subject to automatic increases under the provision of the CCIA.

The bill implicitly recognizes that its provisions, and other state carbon reduction measures, will have adverse economic impacts, leading to facility closures and lost jobs, and resultant community impacts including the loss of local tax revenues.

While this legislation would create new business incentive programs and new job training and transition programs, there is nothing in this bill that suggest how or why these newly created programs will be more successful than those already in place in New York State.

For example, we have decades-long experience showing the gradual decline of the state's manufacturing sector due to a range of factors, including state-level labor, tax and regulatory policies, as well as national and international trends beyond our control. The state's economic development policies should focus more on assuring a competitive economic climate that will retain our existing employers and jobs and promoting broad based investment and economic growth.

Finally, it is important to note that there is a process already underway to implement the State's climate goals, which incorporates a strong emphasis on environmental justice and a just transition of the state's impacted workforce. Over the next 18 months, the Climate Action Council will take into consideration the recommendations of its advisory panels, which will have analyzed the ramifications of a carbon tax to the economy and the State's ability to be remain competitive. The final scoping plan should reflect the overall impacts of implementation, including costs to business and risk of leakage, and will recommend how the State will strive to meet its climate mandates under the CLCPA - which includes many of the goals identified in the

CCIA. The CLCPA/CAC process is far from complete, and we strongly recommend that sufficient time be afforded for the Climate Action Council to perform its statutory duties before another sweeping, expensive climate bill is advanced through the state legislature.

In the final analysis, imposing taxes alone will not help the State achieve its goals and advancing a sweeping carbon tax without due consideration to potential adverse impacts will likely render New York an even more challenging environment for the kind of job creation, economic development and private investment envisioned by the CCIA. And, given the ongoing efforts of the state Climate Action Council to address most of the major policy issues also addressed in the CCIA, we believe this legislation is very premature, and we strongly recommend against its advancement in either the Senate or Assembly.