Insights: Alerts

New York Introduces Climate Disclosure Legislation Signaling Growing Trend of State-Level Climate Regulation

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In late January 2025, the New York legislature introduced Senate Bills 3456 and 3697, signaling the state's ongoing commitment to climate-related corporate accountability. These bills build on prior legislative attempts, including Senate Bill 3897A introduced in 2023, which ultimately failed to pass. Together, Senate Bills 3456 and 3697 reflect a comprehensive approach to climate disclosure and financial risk mitigation, drawing inspiration from California's climate legislation. As the federal government scales back its role in climate change regulation, states like New York are stepping forward to fill the regulatory void.

Key Provisions of Senate Bill 3456

Senate Bill 3456 focuses on requiring corporations to measure, disclose, and reduce their greenhouse gas (GHG) emissions. The bill's key provisions include:

- **Reporting Thresholds:** An entity would be required to report if it meets three requirements: (i) its formed under U.S. law; (ii) it does business in New York and derives receipts from activity in New York within the meaning of Section 209 of the New York Tax Law; and (iii) its total revenues exceeded $1 billion in the preceding fiscal year, including but not limited to revenues received by all of its subsidiaries doing business in New York.
- **Scope of Emissions Reporting:** Companies would need to disclose Scope 1 (direct emissions) and Scope 2 (indirect emissions from purchased electricity) in 2027 and Scope 3 (value chain emissions) GHG emissions in 2028.
- **Annual Reporting:** Entities meeting the revenue or operational thresholds outlined in the bill would be required to submit annual emissions reports to an emissions reporting organization created or contracted by New York.
- **Third-Party Assurance:** Emissions disclosures would need to be verified by an independent third party to ensure accuracy and reliability. The assurance for Scope 1 and Scope 2 emissions data would initially require a limited assurance level starting in 2027, transitioning to a reasonable assurance level by 2031. By January 1, 2028, the Department of Environmental Conservation (DEC) would be tasked with reviewing and evaluating trends in third-party assurance requirements for Scope 3 emissions. Based on this evaluation, DEC could implement a Scope 3 emissions assurance requirement, which, if established,

would begin at a limited assurance level starting in 2031. This approach differs from California's legislation, which mandates limited assurance for Scope 3 emissions beginning in 2030.

- **Civil Penalties:** The New York Attorney General would have the authority to initiate civil actions against reporting entities for willful noncompliance with the Act's requirements or its implementing regulations. This includes penalties for non-filing, late filing, or other failures to meet the Act's obligations. Civil penalties could reach up to $100,000 per day of noncompliance, capped at a maximum of $500,000 per reporting year. Reporting entities would not face civil actions under the Act for misstatements regarding Scope 3 emissions disclosures if such disclosures were made in good faith and based on a reasonable foundation. Penalties related to Scope 3 reporting would be limited to non-filing violations through 2031.
- **Implementing Regulations:** DEC would be required to adopt implementing regulations by the end of 2026.

Key Provisions of Senate Bill 3697

Senate Bill 3697 complements Senate Bill 3456 by focusing on climate-related financial risks. Its key provisions include:

- **Reporting Thresholds:** An entity would be required to report if it meets three requirements: (i) its formed under U.S. law; (ii) it does business in New York; and (iii) its total revenues exceeded $500 million in the preceding fiscal year. Entities regulated by the Department of Financial Services or that are in the business of insurance in another state would be excluded.
- **Disclosure Requirements:** By January 1, 2028, and every two years after, covered entities would be required to disclose:
    - Its climate-related financial risk, in accordance with the Task Force on Climate-related Financial Disclosures framework or an equivalent reporting requirement; and
    - Its measures adopted to reduce and adapt to the disclosed climate-related financial risk.

  Reports could be consolidated at the parent company level, eliminating the need for a subsidiary classified as a covered entity to prepare a separate climate-related financial risk report.

- **Publication:** A covered entity would be required to make its report available to the public on its website.
- **Administrative Penalties:** DEC would have the authority to impose administrative penalties on covered entities that fail to publish a report or submit a report deemed inadequate or insufficient. These penalties would be capped at $50,000 per reporting year.

State-Led Climate Regulation: A Growing Patchwork of Obligations

The introduction of Senate Bills 3456 and 3697 underscores a broader trend of state-led climate regulation. As the federal government retreats from climate change legislation, states like New York and California are stepping forward to fill the gap. This patchwork of state-level regulation creates compliance challenges for companies operating across multiple jurisdictions. It also reflects an evolving standard of corporate accountability, with states setting the agenda for climate-related transparency and risk management.

Conclusion

Although it's too early to tell whether New York's Senate Bills 3456 and 3697 will pass—their predecessor bills were not adopted—and the bills significantly overlap California's existing climate legislation, the introduction of

these bills reflects a growing trend of regulation of climate change at the state level.

Kilpatrick Townsend will continue to monitor developments in climate change legislation and is available to assist clients in navigating these complex and evolving requirements.

Related People



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