

Memorandum in Strong Opposition A.7366

April 16, 2007

A.7366 (Gianaris) - AN ACT to amend the environmental conservation law and the state finance law, in relation to creating the climate change solutions fund

The Independent Power Producers of New York, Inc. (IPPNY) is a trade association representing companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. IPPNY represents almost 75 percent of the electric generating capacity in New York.

IPPNY strongly opposes A.7366. This bill would deposit into a fund revenues that would be derived from an auction of emission allowances under the Regional Greenhouse Gas Initiative (RGGI). This legislation is premature and makes references to a program and a process that currently does not exist in New York and may not exist in the future.

The bill would pre-empt the outcome of the RGGI, which is in a pre-proposal stage in New York prior to the start of the formal rulemaking process. In addition, it is generally agreed upon that efforts to make a substantive reduction in greenhouse gas emissions must take place at the national level, and Congress and the President may enact a national program to address climate change. It remains to be seen whether this rule or a federal program will be adopted; indeed, if the RGGI is adopted, it will not be implemented until 2009. Also, it has not yet been determined whether these programs will distribute emission allowances via auction. In fact, an auction of allowances has never been done in New York, and it remains to be seen whether it can be implemented successfully.

Furthermore, the bill would subject the disbursement of yet-to-be-collected revenues to annual appropriation, as part of the New York State budget process. IPPNY is strongly concerned about unintended consequences for renewable energy contracts, as funding for such contracts could become subject to annual appropriation. The legislation will chill investment in renewable facilities, since the requirement for annual appropriation potentially could disrupt revenue streams (to the extent that they may be authorized by the RGGI) upon which investors and developers would rely to finance and construct these capital intensive energy projects.

For the reasons stated above, IPPNY respectfully opposes the passage of **A.7366**.