

Staying Ahead

with Saul Ewing

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General Assembly Passes The New Jersey Regional Greenhouse Gas Initiative Act

By Steven J. Picco and Peter J. Yoon

On January 7, 2008, the New Jersey General Assembly narrowly passed a bill that will reduce the amount of greenhouse gas emissions emanating from New Jersey. The “Regional Greenhouse Gas Initiative Act” (“NJRGGI”), Bill No. 4559, establishes the first cap-and-trade program in the nation aimed at reducing the amount of carbon dioxide released into the atmosphere. This is the first bill expected to be passed since the “Global Warming Response Act” was enacted last year in the state. The “Global Warming Response Act” set the targets of emission levels emanating from New Jersey, and the NJRGGI is designed to help New Jersey meet these targets. The bill passed the Assembly on January 7, 2008, by votes of 42-31 with five abstentions. The Senate had previously passed the bill by votes of 23-16.

The legislation calls for a mandatory emissions cap to be established which will limit the total amount of emissions. Initially, the limit on the total amount of emissions will only apply to power plants, but future legislation may apply to other greenhouse gas producers and to greenhouse gases other than carbon dioxide. Electric producers will bid on how much carbon dioxide they can emit into the air using credits or allowances, which will encourage electric producers to achieve greater efficiency.

The New Jersey Department of Environmental Protection (NJ DEP) will be authorized under the NJRGGI to sell, exchange, retire, assign, allocate, or auction credits or allowances from greenhouse gas emissions. NJ DEP will also be authorized to adopt rules and regulations to implement the cap-and-trade program by January 1, 2009, and to establish a greenhouse gas emissions monitoring and reporting program. The revenue received by NJ DEP through the auction will be dedicated to the “Global Warming Solutions Fund” that will be split among various state agencies for public benefit to produce funds for carbon reduction, energy conservation, as well as other project that benefit electric users.

This bill was endorsed by Gov. Corzine and supported by power generators, but was strongly opposed by energy users and environmental groups. Opponents viewed the bill as a huge giveaway to the electric utilities. They believe the bill will increase rates of the consumers benefiting utility companies, while doing

little to reduce energy consumption. Most editorial commentators agreed. Opponents vow to attempt to amend portions of the bill in the next legislative session. Given the narrow margin of victory in both houses, they appear to have some basis for optimism.

The controversial bill will now go to Governor Corzine for signature. For more information on the bill and its impact, contact Steven Picco at 609-452-3153 (spicco@saul.com), or Peter Yoon at 215-972-8389 (pyoon@saul.com), or any member of the Saul Ewing Environmental Department.

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