

HOUSE No. 1955

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker and Paul W. Mark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to clean energy workforce standards and accountability.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------------------|--------------------------------------|------------------|
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> | <i>2/18/2021</i> |
| <i>Paul W. Mark</i> | <i>2nd Berkshire</i> | <i>2/19/2021</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>2/18/2021</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> | <i>3/8/2021</i> |
| <i>Peter Capano</i> | <i>11th Essex</i> | <i>3/9/2021</i> |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>3/10/2021</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | <i>3/10/2021</i> |
| <i>William C. Galvin</i> | <i>6th Norfolk</i> | <i>3/17/2021</i> |
| <i>Mindy Domb</i> | <i>3rd Hampshire</i> | <i>3/18/2021</i> |
| <i>Walter F. Timilty</i> | <i>Norfolk, Bristol and Plymouth</i> | <i>3/30/2021</i> |
| <i>Maria Duaine Robinson</i> | <i>6th Middlesex</i> | <i>4/1/2021</i> |
| <i>Natalie M. Blais</i> | <i>1st Franklin</i> | <i>4/4/2021</i> |
| <i>Steven C. Owens</i> | <i>29th Middlesex</i> | <i>4/22/2021</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>6/15/2021</i> |
| <i>Tami L. Gouveia</i> | <i>14th Middlesex</i> | <i>7/20/2021</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>7/22/2021</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> | <i>7/22/2021</i> |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> | <i>7/27/2021</i> |

| | | |
|---------------------------|-----------------------|------------------|
| <i>Erika Uytterhoeven</i> | <i>27th Middlesex</i> | <i>7/29/2021</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>9/6/2021</i> |
| <i>Tommy Vitolo</i> | <i>15th Norfolk</i> | <i>12/6/2021</i> |
| <i>Nika C. Elugardo</i> | <i>15th Suffolk</i> | <i>1/6/2022</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>1/13/2022</i> |

HOUSE No. 1955

By Representatives Decker of Cambridge and Mark of Peru, a petition (accompanied by bill, House, No. 1955) of Marjorie C. Decker, Paul W. Mark and others relative to clean energy workforce standards and accountability. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to clean energy workforce standards and accountability.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. For the purpose of this statute, the following definitions apply:

2 (a) As used in this legislation, the term “Applicant” is interchangeable with the term
3 bidder and refers to any natural person or business, whether or not incorporated or
4 unincorporated, who seeks a contract to provide labor or services, grant funding, or tax
5 incentives for a project under this Chapter, and employs another to work in the Commonwealth,
6 or contracts with another natural person or business to do so (herein after “contractor”) to
7 perform labor, services or otherwise assist in the completion of a project. This definition
8 excludes:

9 1. The United States or a corporation wholly owned by the government of the United
10 States;

11 2. A public utility, but only when employing workers directly to perform construction
12 and maintenance and other operational duties on its utility infrastructure and buildings.

13 (b) For the purposes of this legislation, the term “Project” refers to climate change
14 remediation or clean energy initiatives of the Commonwealth and/or its departments, offices,
15 agencies, subdivisions, and quasi-public agencies, including, but not limited to public authorities,
16 subject to said chapter 150A by chapter 760 of the acts of 1962.

17 (c) For the purposes of this legislation, “Commonwealth” refers to Commonwealth and/or
18 its departments, offices, agencies, political sub-divisions, and quasi-public agencies, including
19 but not limited to quasi-public agencies subject to said chapter 150A by chapter 760 of the acts
20 of 1962 and any quasi-public independent entity and any authority or body politic and corporate
21 established by the general court to serve a public purpose.

22 (d) For the purposes of this legislation, “environmental justice population” shall mean a
23 population with an annual median household income of not more than 65 per cent of the
24 statewide median income or with a segment of the population that consists of residents that is not
25 less than 25 per cent minority, foreign born or lacking in English language proficiency based on
26 the most recent United States census.

27 (e) For the purposes of this legislation, a “municipality at high risk from the effects of
28 climate change” shall mean a municipality that can demonstrate to the department current or
29 future significant changes to its population, land use or local economy resulting from changes in
30 climate.

31 SECTION 2. (a) Every Request for Proposals (RFP), Grant Application, or project
32 solicitation offering funding from the Commonwealth for projects to address climate change,
33 including but not limited to expanding clean energy capacity and/or infrastructure in any manner,
34 shall be performed and procured under sections 26 through 27F of chapter 149 inclusive and

35 section 39M of chapter 30, and shall include the certification and disclosure requirements
36 included in this section.

37 All successful Applicants for contracts, grants, and tax incentives shall provide complete
38 and accurate responses to the same.

39 These certification and disclosure requirements shall include:

40 1. A requirement for documentation reflecting the Applicant's demonstrated commitment
41 to workforce development within the Commonwealth;

42 2. A requirement that the Applicant will provide a statement of intent concerning efforts
43 that it and its contractors and sub-contractors will take to promote workforce development on the
44 project if successful;

45 3. A requirement for documentation reflecting the Applicant's demonstrated commitment
46 to economic development within the Commonwealth;

47 4. A requirement that the Applicant provide a statement of intent concerning efforts that
48 it and its contractors and sub-contractors on this project will take to promote economic
49 development on the project if successful;

50 5. A requirement for documentation reflecting the Applicant's demonstrated commitment
51 to expand workforce diversity, equity, and inclusion in its past projects within the
52 Commonwealth;

53 6. A requirement that the Applicant provide a statement of intent concerning efforts that
54 it and its contractors and sub-contractors on this project, will undertake to expand workforce
55 diversity, equity, and inclusion on the project if successful;

56 7. A requirement that that the Applicant disclose whether it and each of its contractors
57 and subcontractors on this project, have previously contracted with a labor organization, as
58 defined by Massachusetts General Laws, c. 150A and/or the National Labor Relations Act,
59 Section 2, in the Commonwealth or elsewhere.

60 8. A requirement that the Applicant specify whether it and each of its contractors and
61 subcontractors on this project participates in a state or Federally certified apprenticeship program
62 and the number of apprentices the apprenticeship program has trained to completion for each of
63 the last five (5) years.

64 9. A requirement that the Applicant provide a statement of intent concerning the extent
65 to which the Applicant, its contractors and sub-contractors on this project, intend to utilize
66 apprentices on the project if successful.

67 10. Certification that the Applicant and its contractors and sub-contractors on this project,
68 have complied with Massachusetts General Laws Chapters 149, 151, 151A, 151B, and 152
69 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws for the last three (3)
70 calendar years.

71 11. Certification that the Applicant and its contractors and sub-contractors on this project
72 are currently, and will remain, in compliance with Massachusetts General Laws Chapters 149,
73 151, 151A, 151B, and 152 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws
74 for the duration of the project.

75 12. To the extent the Applicant, or one of its contractors or sub-contractors on the project
76 cannot meet the certification requirements provided for in Paragraphs 10 and 11, the Applicant
77 must submit proof of a wage bond or other comparable form of insurance in an amount equal to

78 the aggregate of one year's gross wages for all workers projected to be employed by the
79 Applicant, contractor, or sub-contractor for which certification is unavailable, to be maintained
80 for the life of the project.

81 13. Whether the Applicant has included detailed plans for assuring labor harmony during
82 all phases of the construction, reconstruction, renovation, development and operation of the
83 project.

84 (b) Every RFP and Grant Application issued by the Commonwealth under this Chapter
85 shall notify Applicants that they will be disqualified from this project if they have been debarred
86 by the federal government or Commonwealth for the entire term of the debarment.

87 (c) All Applicants shall timely provide the above documentation and certifications as part
88 of their initial application. Failure to provide the same shall disqualify the applicant from
89 receiving funding for the project on which funding has been requested.

90 (d) A successful applicant's good faith failure to provide complete, accurate certifications
91 and documentation under Subsection A of this Section shall result in suspension from the project
92 for a period of 30 days, to provide an opportunity for the Applicant to address application
93 deficiencies to the satisfaction of the Commonwealth. Failure to cure deficiencies, thereafter,
94 shall result in termination. A successful applicant's willful failure to provide accurate
95 certifications and documentation shall result in permanent termination from the project and the
96 return of all funds awarded therefor within 30 days.

97 (e) For the term of the project, the Applicant, its contractors, and sub-contractors shall
98 furnish their monthly certified payrolls in an electronic format for all employees on the project,
99 as defined by c. 149 s. 148B.

100 (f) The Attorney General shall enforce the provisions contained herein and may enact
101 regulations consistent therewith.

102 SECTION 3. (a) Chapter 23J of the Massachusetts General Laws shall be amended in
103 Section 2(b) after the word “Alliance” by inserting the following text:

104 “1 of whom shall be a representative of employees in the gas utility sector appointed by
105 the President of the Massachusetts AFL-CIO; 1 of whom shall be a representative of employees
106 in the electric power generation sector appointed by the President of the Massachusetts AFL-
107 CIO; 1 of whom shall be the President of the Massachusetts AFL-CIO, or his/her designee, and
108 1 of whom shall be the President of the Massachusetts Building Trades Council or his/her
109 designee”

110 And by deleting the following text:

111 “and 1 of whom shall be a union representative”

112 (b) Chapter 23J of the Massachusetts General Laws is hereby amended in Section 3(a) in
113 paragraph (27) by adding the following text after the phrase “clean energy industry:” “including,
114 but not limited to, collaboration with state and federally licensed apprenticeship and pre-
115 apprenticeship programs providing training in the Commonwealth;”

116 (c) Chapter 23J of the Massachusetts General Laws is hereby amended in Section 12 by
117 adding the following new text after the term “23A”:

118 “The Center shall be deemed to be a public agency for purposes of, and shall be subject
119 to, section 39M of chapter 30 and sections 44A to 44H, inclusive, of chapter 149 and shall

120 comply with requirements applicable to an independent public authority for publication of
121 contract information in the central register established pursuant to section 20A of chapter 9.

122 With regard to all clean energy and other climate change remediation construction
123 projects funded, owned or leased by the Commonwealth, including but not limited to the Center,
124 the Commonwealth shall require that successful Applicants, in collaboration with their
125 contractors and sub-contractors:

126 1. Propose and abide by an affirmative action program of equal opportunity whereby the
127 Applicant establishes specific goals for the utilization of BIPOC, women and veterans.

128 Provided, however, that such goals shall be equal to or greater than the goals contained in the
129 executive office for administration and finance Administration Bulletin Number 14, and
130 incorporate the data collection requirements contains in Administration Bulletin Number 17.

131 2. Participate in state or federally accredited apprenticeship program(s) which have
132 graduated at least one apprentice in the last five (5) years and utilize apprentices at a percentage
133 set by the Commonwealth as part of its current workforce development plan.

134 3. All construction, reconstruction, installation, alteration work performed under this
135 Section shall be performed consistent with Sections 26 through 27F of chapter 149 inclusive and
136 section 39M of chapter 30.”

137 (d) Chapter 23J of the Massachusetts General Laws is hereby amended by adding after
138 Section 12 the following new Section:

139 Section 13: Clean Energy Workforce Development Plan

140 The Massachusetts Clean Energy Technology Center (“Center”) shall develop and
141 implement successive 5-year workforce development plans for the Commonwealth, beginning in
142 FY2022, that includes outreach and recruitment into the Clean Energy Industry for existing
143 workers in fossil fuel intensive industries, as well as environmental justice populations and
144 individuals living in municipalities at high risk for climate change within the Commonwealth.

145 The Center’s workforce development plans shall include:

146 1. Development of technical assistance, grants, loans, and demonstration projects,
147 facilitating the creation of construction, operations, and maintenance jobs in the Clean Energy
148 Industry.

149 2. Measures to expand training capacity for the Clean Energy industry, building upon the
150 Commonwealth’s extensive existing public and private workforce development facilities,
151 including all state and federally certified apprenticeship programs, licensure, and degree
152 programs.

153 3. Specific goals for the utilization of the residual workforce in fossil fuel intensive
154 industries, as well as environmental justice populations and individuals living in municipalities at
155 high risk for climate change within the Commonwealth.

156 4. Recommendations, programs and technical assistance for the Clean Energy Industry to
157 ensure that the industry develops and maintains excellent working terms and conditions for all
158 workers employed therein.

159 5. Requirements for minimum working conditions on Clean Energy projects owned,
160 leased, or financed by the Center through the Renewable Energy Trust Fund, or otherwise by the
161 Commonwealth, its departments, offices, agencies, and quasi-independent agencies.

162 The Center will engage all stakeholders in the planning process, including but not limited
163 to the union representatives of workers in fossil fuel industries and organizations serving
164 environmental justice populations and individuals living in municipalities at high risk for climate
165 change within the Commonwealth. The Center will coordinate their workforce development
166 planning and research with the Executive Office of Labor and Workforce Development’s Office
167 of Just Transition.