

SENATE No. 1198

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/10/2021</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>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>5/12/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>1/7/2022</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/14/2022</i>

SENATE No. 1198

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1198) of Paul R. Feeney, Jack Patrick Lewis, David Henry Argosky LeBoeuf, Walter F. Timilty and others for legislation 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:

2 For the purpose of this statute, the following definitions apply:

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

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

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

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

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

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

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

32 Section 2:

33 (a) Every Request for Proposals (RFP), Grant Application, or project solicitation offering
34 funding from the Commonwealth for projects to address climate change, including but not
35 limited to expanding clean energy capacity and/or infrastructure in any manner, shall be
36 performed and procured under sections 26 through 27F of chapter 149 inclusive and section 39M
37 of chapter 30, and shall include the certification and disclosure requirements included in this
38 Section.

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

41 These certification and disclosure requirements shall include:

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

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

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

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

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

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

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

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

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

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

73 11. Certification that the Applicant and its contractors and sub-contractors on this project
74 are currently, and will remain, in compliance with Massachusetts General Laws Chapters 149,
75 151, 151A, 151B, and 152 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws
76 for the duration of the project.

77 12. To the extent the Applicant, or one of its contractors or sub-contractors on the project
78 cannot meet the certification requirements provided for in Paragraphs 10 and 11, the Applicant
79 must submit proof of a wage bond or other comparable form of insurance in an amount equal to
80 the aggregate of one year's gross wages for all workers projected to be employed by the
81 Applicant, contractor, or sub-contractor for which certification is unavailable, to be maintained
82 for the life of the project.

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

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

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

92 (d) A successful applicant's good faith failure to provide complete, accurate certifications
93 and documentation under Subsection A of this Section shall result in suspension from the project
94 for a period of 30 days, to provide an opportunity for the Applicant to address application

95 deficiencies to the satisfaction of the Commonwealth. Failure to cure deficiencies, thereafter,
96 shall result in termination. A successful Applicant's willful failure to provide accurate
97 certifications and documentation shall result in permanent termination from the project and the
98 return of all funds awarded therefor within 30 days.

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

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

104 Section 3:

105 (a) Chapter 23J of the Massachusetts General Laws shall be amended in Section 2(b)
106 after the word "Alliance" by inserting the following text:

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

113 And by deleting the following text:

114 "and 1 of whom shall be a union representative"

115 (b) Chapter 23J of the Massachusetts General Laws is hereby amended in Section 3(a) in
116 paragraph (27) by adding the following text after the phrase “clean energy industry:”

117 “including, but not limited to, collaboration with state and federally licensed
118 apprenticeship and pre-apprenticeship programs providing training in the Commonwealth;”

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

121 “The Center shall be deemed to be a public agency for purposes of, and shall be subject
122 to, section 39M of chapter 30 and sections 44A to 44H, inclusive, of chapter 149 and shall
123 comply with requirements applicable to an independent public authority for publication of
124 contract information in the central register established pursuant to section 20A of chapter 9.

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

129 1. Propose and abide by an affirmative action program of equal opportunity whereby the
130 Applicant establishes specific goals for the utilization of BIPOC, women and veterans. Provided,
131 however, that such goals shall be equal to or greater than the goals contained in the executive
132 office for administration and finance Administration Bulletin Number 14, and incorporate the
133 data collection requirements contained in Administration Bulletin Number 17.

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

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

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

142 Section 13: Clean Energy Workforce Development Plan

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

148 The Center’s workforce development plans shall include:

149 1. Development of technical assistance, grants, loans, and demonstration projects,
150 facilitating the creation of construction, operations, and maintenance jobs in the Clean Energy
151 Industry.

152 2. Measures to expand training capacity for the Clean Energy industry, building upon the
153 Commonwealth’s extensive existing public and private workforce development facilities,

154 including all state and federally certified apprenticeship programs, licensure, and degree
155 programs.

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

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

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

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