

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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:
Marjorie C. Decker	25th Middlesex	1/11/2023
Peter Capano	11th Essex	1/23/2023
Vanna Howard	17th Middlesex	1/31/2023
James C. Arena-DeRosa	8th Middlesex	2/6/2023
Lindsay N. Sabadosa	1st Hampshire	2/6/2023
David Paul Linsky	5th Middlesex	2/7/2023
Christopher Hendricks	11th Bristol	2/7/2023
William C. Galvin	6th Norfolk	2/7/2023
James K. Hawkins	2nd Bristol	2/7/2023
Patricia A. Duffy	5th Hampden	2/8/2023
Jack Patrick Lewis	7th Middlesex	2/8/2023
Thomas M. Stanley	9th Middlesex	2/8/2023
Tackey Chan	2nd Norfolk	2/9/2023
James J. O'Day	14th Worcester	2/9/2023
Samantha Montaño	15th Suffolk	2/16/2023
Paul McMurtry	11th Norfolk	2/20/2023
Erika Uyterhoeven	27th Middlesex	2/22/2023
Rodney M. Elliott	16th Middlesex	2/28/2023

Margaret R. Scarsdale	1st Middlesex	3/13/2023
Adrianne Pusateri Ramos	14th Essex	3/1/2023
Natalie M. Higgins	4th Worcester	3/16/2023
Rita A. Mendes	11th Plymouth	4/3/2023
David Henry Argosky LeBoeuf	17th Worcester	4/4/2023
Marc R. Pacheco	Third Bristol and Plymouth	4/24/2023
Tram T. Nguyen	18th Essex	5/8/2023
Kate Donaghue	19th Worcester	10/18/2023
Estela A. Reyes	4th Essex	11/2/2023

By Representative Decker of Cambridge, a petition (accompanied by bill, House, No. 1864) of Marjorie C. Decker and others relative to clean energy workforce standards and accountability. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION SEE HOUSE, NO. 1955 OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court (2023-2024)

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. Chapter 25A of the Massachusetts General Laws is hereby amended by
- 2 adding the following section:-
- 3 Section 18(A): Clean Energy Workforce Standards and Accountability Act Definitions
- 4 For the purpose of this statute, the following definitions apply:
- 5 (a) As used in this legislation, the term "Applicant" refers to
- 6 1. Any natural person or business, whether or not incorporated or unincorporated, who
- 7 seeks a contract to provide labor or services under this Chapter, and employs another to work in
- 8 the Commonwealth, or contracts with another natural person or business to do so (herein after
- 9 "contractor") to perform labor, services or otherwise assist in the completion of a Project, under

10	a contract, grant, subsidy, or any other arrangement funded in part or in the whole by the
11	Commonwealth, and/or its departments, offices, agencies, subdivisions, and quasi-public
12	agencies, including, but not limited to public authorities, subject to said chapter 150A by chapter
13	760 of the acts of 1962; and
14	2. Any Public Utilities that are regulated under M.G.L. c. 164.
15	This definition excludes:
16	(i) The United States or a corporation wholly owned by the government of the United
17	States; and
18	(ii) A public utility, but only when employing workers directly to perform construction
19	and maintenance and other operational duties on its utility infrastructure and buildings.
20	(b) For the purposes of this legislation, the term "Project" refers to initiatives of the
21	Commonwealth and/or its departments, offices, agencies, subdivisions, and quasi-public
22	agencies, including, but not limited to public authorities, subject to said chapter 150A by chapter
23	760 of the acts of 1962, modernizing and expanding the capacity of its existing energy
24	infrastructure, providing climate change remediation, and/or developing renewable energy
25	generation, transmission and distribution, in furtherance of meeting the Commonwealth's net
26	zero emissions goals.
27	(c) For the purposes of this legislation, "Commonwealth" refers to Commonwealth and/or
28	its departments, offices, agencies, political sub-divisions, and quasi-public agencies, including
29	but not limited to quasi-public agencies subject to said chapter 150A by chapter 760 of the acts

of 1962 and any quasi-public independent entity and any authority or body politic and corporate
established by the general court to serve a public purpose.

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

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

41 (f) For the purposes of this act, a "labor peace agreement" refers to an agreement between 42 an entity and any labor organization recognized under the National Labor Relations Act, referred 43 to in this act as a bona fide labor organization, that prohibits labor organizations and members 44 from engaging in picketing, work stoppages, boycotts, and any other economic interference in 45 exchange for that entity agreeing not to disrupt efforts by the bona fide labor organization to 46 communicate with, and attempt to organize and represent, the entity's employees. The agreement 47 shall provide a bona fide labor organization access at reasonable times to areas in which the 48 entity's employees work, for the purpose of meeting with employees to discuss their right to 49 representation, employment rights under State law, and terms and conditions of employment. 50 This type of agreement shall not mandate a particular method of election or certification of the 51 bona fide labor organization.

52	(g) For purposes of this act, the term "energy infrastructure" refers to but is not limited to
53	Massachusetts existing energy industry infrastructure generating, transmitting, and/or
54	distributing energy from fossil fuel sources, building energy efficiency improvements, and
55	renewable energy infrastructure-i.e., sun, wind, nuclear, geothermal and other energy sources
56	not derived from the combustion of fossil fuels.
57	(h) "Public Utilities" refers to utilities that are regulated under M.G.L. c. 164.
58	(i) For purposes of this act, the term "supply chain facilities" refers to but is not limited to
59	businesses that perform material extraction, refining, processing, fabrication, manufacturing, and
60	assembly of components for renewable energy projects.
61	SECTION 2. Chapter 25A of the Massachusetts General Laws is hereby further amended
62	by adding the following section:-
63	Section 18(B): Clean Energy Workforce Standards and Accountability Act:
64	(1) (a) Every Request for Proposals (RFP), Grant Application, or Solicitation offering
65	funding from the Commonwealth or other public entity enumerated above for the purpose of
66	furthering the Commonwealth's net zero emissions goals in any manner for all commercial
67	projects and residential projects in excess of 3 units, shall be performed in conformance with
68	sections 26-27D of chapter 149, inclusive, and shall include the certification and disclosure
69	requirements included in this section.
70	(b) To be awarded funding or contracts by the Commonwealth, Applicants shall provide
71	complete and accurate responses and disclosures to following certification and disclosure
72	requirements, which shall include:

73	(i) A requirement for documentation reflecting the Applicant's demonstrated
74	commitment to workforce development within the Commonwealth;
75	(ii) A requirement that the Applicant will provide a statement of intent concerning efforts
76	that it and its contractors and sub-contractors will take to promote workforce development on the
77	project if successful;
78	(iii) A requirement for documentation reflecting the Applicant's demonstrated
79	commitment to economic development within the Commonwealth;
80	(iv) A requirement that the Applicant provide a statement of intent concerning efforts that
81	it and its contractors and sub-contractors on this project will take to promote economic
82	development on the project if successful
83	(v) A requirement for documentation reflecting the Applicant's demonstrated
83 84	(v) A requirement for documentation reflecting the Applicant's demonstrated commitment to expand workforce diversity, equity, and inclusion in its past projects within the
84	commitment to expand workforce diversity, equity, and inclusion in its past projects within the
84 85	commitment to expand workforce diversity, equity, and inclusion in its past projects within the Commonwealth;
84 85 86	commitment to expand workforce diversity, equity, and inclusion in its past projects within the Commonwealth; (vi) A requirement that the Applicant provide a statement of intent concerning efforts that
84 85 86 87	commitment to expand workforce diversity, equity, and inclusion in its past projects within the Commonwealth; (vi) A requirement that the Applicant provide a statement of intent concerning efforts that it and its contractors and sub-contractors on this project, will undertake to expand workforce
84 85 86 87 88	commitment to expand workforce diversity, equity, and inclusion in its past projects within the Commonwealth; (vi) A requirement that the Applicant provide a statement of intent concerning efforts that it and its contractors and sub-contractors on this project, will undertake to expand workforce diversity, equity, and inclusion on the project if successful;
84 85 86 87 88 89	commitment to expand workforce diversity, equity, and inclusion in its past projects within the Commonwealth; (vi) A requirement that the Applicant provide a statement of intent concerning efforts that it and its contractors and sub-contractors on this project, will undertake to expand workforce diversity, equity, and inclusion on the project if successful; (vii) A requirement that that the Applicant disclose whether it and each of its contractors

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

97 (ix) A requirement that the Applicant provide a statement of intent concerning the extent
98 to which the Applicant, its contractors and sub-contractors on this project, intend to utilize
99 apprentices on the project if successful.

100 (x) Certification that the Applicant and its contractors and sub-contractors on this project,

101 have complied with Massachusetts General Laws Chapters 149, 151, 151A, 151B, and 152

102 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws for the last 3 calendar years.

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

107 (xii) To the extent the Applicant, or one of its contractors or sub-contractors on the 108 project cannot meet the certification requirements provided for in Paragraphs 10 and 11, the 109 Applicant must submit proof of a wage bond or other comparable form of insurance in an 110 amount equal to the aggregate of one year's gross wages for all workers projected to be 111 employed by the Applicant, contractor, or sub-contractor for which certification is unavailable, 112 to be maintained for the life of the project.

(xiii) Whether the Applicant has included detailed plans for assuring labor harmony
during all phases of the construction, reconstruction, renovation, development and operation of
the project.

(c) Every RFP, solicitation and/or advertisement for funding, issued by the
Commonwealth under this Chapter shall notify Applicants that they will be disqualified from this
project if they have been debarred by the federal government or Commonwealth for the entire
term of the debarment.

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

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

(g) The Attorney General shall enforce the provisions contained herein and may enactregulations consistent therewith.

132 2. (a) Owners of supply chain facilities that provide goods and services to be used in the
133 construction and maintenance of renewable energy generation, distribution, and transmission
134 infrastructure, which are developed in part or in whole with public funding, shall agree to enter

into fully executed labor peace agreements with a bona fide labor organization that activelyrepresents or seeks to represent employees as permitted by Federal law.

137 SECTION 3. Chapter 149 of the General Laws is hereby amended by inserting after138 section 27H the following sections:

Section 27I. All construction, reconstruction, installation, alteration or repair on natural
gas utility infrastructure, including, but not limited to, pipelines, mains, services and other
infrastructure: (1) requiring the excavation, construction, reconstruction of public lands, rights of
way, public works, or buildings and (2) not performed by workers directly employed by Public
Utilities, as defined by M.G.L. c. 164, shall be performed and procured under this section of
chapter 149.

145 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a 146 county, or a municipality, shall agree to pipeline construction, reconstruction, installation, 147 alteration or repair work by a gas distribution company requiring the excavation, alternation, 148 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a 149 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to 150 individuals performing pipeline construction who are not gas company employees.

Any such approval which does not contain said stipulation shall be invalid, and no construction may commence thereunder. Said rates of wages shall be requested of said commissioner by said public official or public body together with the gas local distribution company on whose service territory the public infrastructure lies, and shall be furnished by the commissioner in a schedule containing the classifications of jobs, and the rate of wages to be paid for each job. Said rates of wages shall include payments to health and welfare plans, or, if no such plan is in effect between employers and employees, the amount of such payments shall
be paid directly to said employees. Such requests for rates shall be made every 6 months.

Whoever pays less than said rates of wages, including payments to health and welfare funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said wages or health and welfare funds, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

164 An employee claiming to be aggrieved by a violation of this section may, 90 days after 165 the filing of a complaint with the attorney general, or sooner if the attorney general assents in 166 writing, and within 3 years after the violation, institute and prosecute in his own name and on his 167 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for 168 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150. 169 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as 170 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of 171 the litigation and reasonable attorneys' fees.

Section 27J. All construction, reconstruction, installation, alteration or repair on electrical
utility infrastructure: (1) requiring the excavation, construction, reconstruction of public lands,
rights of way, public works, or buildings and (2) not performed by workers directly employed by
Public Utilities, as defined by M.G.L. c. 164, shall be performed and procured under this section
of chapter 149.

No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
county, or a municipality, shall agree to construction, reconstruction, installation, alteration or

179 repair work by a electric distribution company requiring the excavation, alternation,

180 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a

181 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to

182 individuals performing pipeline construction who are not gas company employees.

183 Any such approval which does not contain said stipulation shall be invalid, and no 184 construction may commence thereunder. Said rates of wages shall be requested of said 185 commissioner by said public official or public body together with the electric company on whose 186 service territory the public infrastructure lies, and shall be furnished by the commissioner in a 187 schedule containing the classifications of jobs, and the rate of wages to be paid for each job. Said 188 rates of wages shall include payments to health and welfare plans, or, if no such plan is in effect 189 between employers and employees, the amount of such payments shall be paid directly to said 190 employees. Such requests for rates shall be made every 6 months.

Whoever pays less than said rates of wages, including payments to health and welfare funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said wages or health and welfare funds, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

An employee claiming to be aggrieved by a violation of this section may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
the litigation and reasonable attorneys' fees.

Section 27K. All construction, reconstruction, installation, alteration or repair on
renewable energy generation, distribution, transmission infrastructure: (1) requiring the
excavation, construction, reconstruction of public lands, rights of way, public works, or buildings
and (2) not performed by workers directly employed by Public Utilities, as defined by M.G.L. c.
164, shall be performed and procured under this section of chapter 149.

No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
county, or a municipality, shall agree to construction, reconstruction, installation, alteration or
repair work by a renewable energy company requiring the excavation, alternation,
reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to

214 individuals performing pipeline construction who are not gas company employees.

Any such approval which does not contain said stipulation shall be invalid, and no construction may commence thereunder. Said rates of wages shall be requested of said commissioner by said public official or public body together with the renewable energy distribution company on whose service territory the public infrastructure lies, and shall be furnished by the commissioner in a schedule containing the classifications of jobs, and the rate of wages to be paid for each job. Said rates of wages shall include payments to health and welfare plans, or, if no such plan is in effect between employers and employees, the amount of such payments shall be paid directly to said employees. Such requests for rates shall be made everysix (6) months.

Whoever pays less than said rates of wages, including payments to health and welfare funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said wages or health and welfare funds, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

229 An employee claiming to be aggrieved by a violation of this section may, 90 days after 230 the filing of a complaint with the attorney general, or sooner if the attorney general assents in 231 writing, and within 3 years after the violation, institute and prosecute in his own name and on his 232 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for 233 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150. 234 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as 235 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of 236 the litigation and reasonable attorneys' fees.

SECTION 3. Section 2 of chapter 23J of the General Laws, as appearing in the 2020
Official Edition, is hereby amended by inserting after the word "Alliance", in line 50, the
following words:

1 of whom shall be a representative of employees in the gas utility sector appointed by
the President of the Massachusetts AFL-CIO; 1 of whom shall be a representative of employees
in the electric power generation sector appointed by the President of the Massachusetts AFLCIO; 1 of whom shall be the President of the Massachusetts AFL-CIO, or his/her designee, and

1 of whom shall be the President of the Massachusetts Building Trades Council or his/herdesignee

And by striking out, in line 59, the words "and 1 of whom shall be a union representative"

SECTION 4. Section 3 of chapter 23J of the General Laws, as appearing in the 2020
Official Edition, is hereby amended in paragraph (27) by inserting after the words "clean energy
industry:", in line 141, the following words:-

251 including, but not limited to, collaboration with state and federally licensed

apprenticeship and pre-apprenticeship programs providing training in the Commonwealth;

253 SECTION 5. Section 12 of chapter 23J of the Massachusetts General Laws, as appearing 254 in the 2020 Official Edition, is hereby amended by inserting after the word "23A", in line 2, the 255 following paragraphs:-

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

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

265	(a) Meet the workforce participation goals for the utilization of BIPOC and women as
266	required by $44A(1)(G)$ of Chapter 149. Provided, however, that such goals shall be equal to or
267	greater than the goals contained in the executive office for administration and finance
268	Administration Bulletin Number 14, and incorporate the data collection requirements contains in
269	Administration Bulletin Number 17.
270	(b) Participate in state or federally accredited apprenticeship program(s) that have
271	graduated at least 1 apprentice in the last 5 years and utilize apprentices at a percentage set by the
272	commonwealth as part of its current workforce development plan.
273	(c) Bid all applicable construction, reconstruction, installation, alteration work performed
274	on the Project under this Section consistent with section 44A of chapter 149, section 8 of chapter
275	149A, and section 39M of chapter 30.
276	(d) Compensate all construction, reconstruction, installation, alteration work performed
277	under this Section, at a minimum, in accordance with chapter 149, sections 26-27D.
278	(e) Become signatory to a project labor agreement if such an agreement is selected as the
279	project delivery method for the construction project by the contracting authority.
280	SECTION 6. Chapter 23J of the General Laws is hereby amended by adding the
281	following section:
282	Section 13: Clean Energy Workforce Development Plan
283	The Massachusetts Clean Energy Technology Center ("Center") shall develop and
284	implement successive 5-year workforce development plans for the Commonwealth, beginning in
285	FY2022, that includes outreach and recruitment into the Clean Energy Industry for existing

workers in fossil fuel intensive industries, as well as environmental justice populations andindividuals living in municipalities at high risk for climate change within the Commonwealth.

288 The Center's workforce development plans shall include:

(a) Development of technical assistance, grants, loans, and demonstration projects,
facilitating the creation of construction, operations, and maintenance jobs in the Clean Energy
Industry.

(b) Measures to expand training capacity for the Clean Energy industry, building upon
the Commonwealth's extensive existing public and private workforce development facilities,
including all state and federally certified apprenticeship programs, licensure, and degree
programs.

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

(d) Recommendations, programs and technical assistance for the Clean Energy Industry
to ensure that the industry develops and maintains excellent working terms and conditions for all
workers employed therein.

302 (e) Requirements for minimum working conditions on Clean Energy projects owned,
303 leased, or financed by the Center through the Renewable Energy Trust Fund, or otherwise by the
304 Commonwealth, its departments, offices, agencies, and quasi-independent agencies.

The Center will engage all stakeholders in the planning process, including but not limited
 to the union representatives of workers in fossil fuel industries and organizations serving

- 307 environmental justice populations and individuals living in municipalities at high risk for climate
- 308 change within the Commonwealth. The Center will coordinate their workforce development
- 309 planning and research with the Executive Office of Labor and Workforce Development's Office
- 310 of Just Transition.