

HOUSE No. 3012

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 authorizing project labor agreements.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/20/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>3/13/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>3/13/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>3/13/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/13/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/13/2023</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>3/13/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/13/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>3/13/2023</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>3/13/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>3/13/2023</i>
<i>Ryan M. Hamilton</i>	<i>15th Essex</i>	<i>3/13/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>3/13/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>3/13/2023</i>
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>3/13/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>3/13/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/13/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>3/13/2023</i>

<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>3/13/2023</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>3/13/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/13/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>3/13/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>3/16/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>5/31/2023</i>
<i>Dawne Shand</i>	<i>1st Essex</i>	<i>5/31/2023</i>
<i>Kate Donaghue</i>	<i>19th Worcester</i>	<i>5/31/2023</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>5/31/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>5/31/2023</i>
<i>Aaron L. Saunders</i>	<i>7th Hampden</i>	<i>6/1/2023</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>6/28/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>6/28/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>6/28/2023</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Plymouth and Bristol</i>	<i>6/28/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>10/2/2023</i>

HOUSE No. 3012

By Representative Decker of Cambridge, a petition (accompanied by bill, House, No. 3012) of Marjorie C. Decker relative to infrastructure projects and public building construction contractors and subcontractors. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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

An Act authorizing project labor agreements.

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. Preamble.

2 The public works and buildings of the Commonwealth and its political subdivisions
3 require rapid and substantial investment to strengthen and secure Massachusetts’s long term
4 economic development. The construction of any major infrastructure project and/or public
5 building is not without risk; any significant delay in starting and completing construction may
6 result in substantially increased project costs and a disruption of critical public services.

7 Because construction is a highly skilled, labor-intensive industry, the craft labor supplied
8 to a project can undermine or even cripple the construction process if supply is inadequate or
9 workers lack required skills and training. For nearly a century, project labor agreements, have
10 had a long, successful track record in both the public and private sectors for promoting
11 successful project delivery, protecting capital investments and offsetting project risks by
12 providing a unique access to a reliable supply of qualified craft labor. These advantages have

13 become paramount in recent years due to acute, persistent craft labor shortages, which are
14 challenging construction programs across the country.

15 Project labor agreements are a project delivery tool and may only be used only in the
16 construction industry. They are beneficial because they: (a) include legally enforceable
17 provisions to prevent disputes that can delay projects; (b) establish uniform terms and conditions
18 of employment, which foster project stability; and (c) permit the efficient integration of work
19 schedules among multiple contractors, subcontractors and building trade unions. As a result,
20 these agreements promote the interests of project owners, contracting firms and labor
21 organizations, enhancing labor peace and ensuring project delivery.

22 The benefits project labor agreements provide have been cited in numerous decisions
23 upholding their use on public projects, including those issued by United States Supreme Court
24 and Massachusetts Supreme Judicial Court, and documented in research reports by government
25 entities and universities. See, Bldg. & Constr. Trades Council of the Metro. Dist. v. Associated
26 Builders & Contractors of Mass./R.I. Inc., 507 U.S. 218 (1993) ("Boston Harbor"); John T.
27 Callahan & Sons, Inc., et al v. City of Malden, 430 Mass. 124 (SJC, 1999); Massachusetts
28 Special Commission, Report on the Use of Project Labor Agreements in Road, Bridge and Rail
29 Projects: Analysis and Key Findings (2014), Fred Kotler, Cornell Univ. Sch. Of Indus. & Lab.
30 Rels., Project Labor Agreements In New York State: In the Public Interest and Of Proven Value
31 (2011).

32 Due to their effectiveness as a project delivery tool, project labor agreements have been
33 used for decades by the federal government, many states, including Massachusetts, Rhode Island,
34 Connecticut and New York, and major private corporations in various economic sectors.

35 Reliance on these agreements is expected to further expand due to a 2021 Presidential Executive
36 Order requiring these agreements on federal public works projects, as well as related policies
37 promoting their use for publicly assisted construction programs. Given the necessity of rapidly
38 improving Massachusetts's public works and buildings to its development, and the proven
39 benefits of the project labor agreement model and consistency with the goals of G.L. c. 149,
40 149A, and 30, the legislature herein amends the General Laws:

41 SECTION 2. Chapter 30 of the General Laws is hereby amended by adding the following
42 section:-

43 Section 39U. (a) Notwithstanding the provisions of this section or any other general or
44 special state law or local law to the contrary, a public agency planning a contract for construction
45 may require a project labor agreement and be incorporated into the contract specifications in
46 accordance with the requirements of this section.

47 A public agency may require a project labor agreement for any public works or building
48 project when such public agency has determined, on a project-by-project basis and acting within
49 its discretion, that it is in the public's interest to require such an agreement. In making such a
50 determination, the agency may consider the effects a project labor agreement may have on:

51 (i) the efficiency, cost and direct and indirect economic benefits to the public agency;

52 (ii) the availability of a sufficient supply of skilled, qualified workers to complete the
53 project;

54 (iii) the timing, prevention of delays or disruptions to the construction process;

55 (iv) the safety and quality of the public construction project;

56 (v) the ability of public agencies to ensure that all contractors and subcontractors are
57 responsible, eligible construction firms under Section 44A(1) of chapter 149;

58 (vi) the ability of public agencies to facilitate cooperation between contractors,
59 subcontractors and labor organization in construction planning and execution;

60 (vii) the expansion of apprenticeship programs and workforce development in the
61 construction industry to ensure sufficient skilled and qualified staffing for future public
62 projects and the creation of employment opportunities in local communities;

63 (viii) the advancement of minority and women-owned contracting businesses; and

64 (ix) the promotion of employment and training opportunities for women, minority
65 workers, and veterans.

66 (b) Nothing in this section shall prevent a public agency from utilizing a determination
67 for a project labor agreement for multiple buildings or public works under an integrated
68 construction program.

69 (c) A public agency that determines a project labor agreement will be used on a project
70 shall require the lead construction firm for the project, and all subcontractors, regardless of tier,
71 to negotiate or become a party to a project labor agreement with one or more appropriate labor
72 organizations.

73 (d) Any project labor agreement required by a public agency pursuant to this section shall
74 include provisions that:

75 (i) require all contractors and subcontractors, regardless of tier, to be bound to the project
76 labor agreement for a specific project through the inclusion of appropriate specifications in all
77 relevant solicitation provisions and contract documents and by requiring execution of the project
78 labor agreement prior as a contractual requirement;

79 (ii) allow all contractors and subcontractors on the project to compete for contracts and
80 subcontracts without regard to whether they are parties to collective bargaining agreements prior
81 to bid selection;

82 (iii) establish uniform, mutually agreeable terms and conditions of employment for the
83 construction workforce, including uniform work rules and schedules for the project;

84 (iv) set forth effective, prompt, binding procedures for resolving labor disputes arising
85 during the term of the project labor agreement;

86 (v) contain guarantees against strikes, lockouts, and similar job disruptions;

87 (vi) incorporate goals for the percentage of apprentice hours to be employed on the
88 project;

89 (vii) incorporate goals for the percentage of work to be performed by minorities, women
90 and veterans in accordance with applicable Massachusetts law and local ordinances, whichever is
91 higher;

92 (viii) authorize the parties to the project labor agreement to develop other mechanisms for
93 labor-management cooperation on matters of mutual interest and concern, including scheduling,
94 quality of work and safety, and permit the public agency to participate in such mechanisms if it
95 elects to do so; and

96 (ix) establish other terms and conditions required for the project labor agreement and
97 mutually agreeable to parties and otherwise consistent with Federal and Massachusetts law.

98 SECTION 3. Section 1 of chapter 149 of the General Laws, as appearing in the 2020
99 Official Edition, is hereby amended by inserting after the word “standards.”, in line 9, the
100 following words:-

101 “Awarding authority”, the commonwealth, or any political subdivision, department,
102 agency, board, commission, authority, or other instrumentality thereof, or any county, city, town,
103 or district. To the extent not otherwise prohibited, this definition includes public authorities,
104 subject to said chapter 150A by chapter 760 of the acts of 1962.

105 SECTION 4. Said section 1 of said chapter 149, as so appearing, is hereby further
106 amended by inserting after the word “standards.”, in line 20, the following words:-

107 “Construction”, the construction, reconstruction, installation, demolition, maintenance or
108 repair of public works or a building project.

109 SECTION 5. Said section 1 of said chapter 149, as so appearing, is hereby further
110 amended by inserting after the word “steel.”, in line 77, the following words:-

111 “Labor organization”, a labor organization as defined in 29 U.S.C. 152(5) of the National
112 Labor Relations Act of which building and construction employees are members.

113 “Lead construction firm” means the entity that executes a construction contract with the
114 public agency, whether a general contractor, contractor principal, trade contractor, construction
115 manager, design builder or other entity.

116 SECTION 6. Said section 1 of said chapter 149, as so appearing, is hereby further
117 amended by inserting after the word “employment.”, in line 92, the following words:-

118 “Project labor agreement” means a pre-hire collective bargaining agreement with one or
119 more labor organizations that establishes the terms and conditions of employment for a specific
120 construction project and is an agreement described in 29 U.S.C. 158(f) of the National Labor
121 Relations Act.

122 SECTION 7. Chapter 149 of the General Laws is hereby amended by adding the
123 following section:-

124 Section 44N. (a) Notwithstanding the provisions of this section or any other general or
125 special state law or local law to the contrary, a public agency planning a contract for construction
126 may require a project labor agreement and be incorporated into the contract specifications in
127 accordance with the requirements of this section.

128 A public agency may require a project labor agreement for any public works or building
129 project when such public agency has determined, on a project-by-project basis and acting within
130 its discretion, that it is in the public's interest to require such an agreement. In making such a
131 determination, the agency may consider the effects a project labor agreement may have on:

132 (i) the efficiency, cost and direct and indirect economic benefits to the public agency;

133 (ii) the availability of a sufficient supply of skilled, qualified workers to complete the
134 project;

135 (iii) the timing, prevention of delays or disruptions to the construction process;

136 (iv) the safety and quality of the public construction project;

137 (v) the ability of public agencies to ensure that all contractors and subcontractors are
138 responsible, eligible construction firms under Section 44A(1) of this chapter;

139 (vi) the ability of public agencies to facilitate cooperation between contractors,
140 subcontractors and labor organization in construction planning and execution;

141 (vii) the expansion of apprenticeship programs and workforce development in the
142 construction industry to ensure sufficient skilled and qualified staffing for future public
143 projects and the creation of employment opportunities in local communities;

144 (viii) the advancement of minority and women-owned contracting businesses; and

145 (ix) the promotion of employment and training opportunities for women, minority
146 workers, and veterans.

147 (b) Nothing in this section shall prevent a public agency from utilizing a determination
148 for a project labor agreement for multiple buildings or public works under an integrated
149 construction program.

150 (c) A public agency that determines a project labor agreement will be used on a project
151 shall require the lead construction firm for the project, and all subcontractors, regardless of tier,
152 to negotiate or become a party to a project labor agreement with one or more appropriate labor
153 organizations.

154 (d) Any project labor agreement required by a public agency pursuant to this section shall
155 include provisions that:

156 (i) require all contractors and subcontractors, regardless of tier, to be bound to the project
157 labor agreement for a specific project through the inclusion of appropriate specifications in all
158 relevant solicitation provisions and contract documents and by requiring execution of the project
159 labor agreement prior as a contractual requirement;

160 (ii) allow all contractors and subcontractors on the project to compete for contracts and
161 subcontracts without regard to whether they are parties to collective bargaining agreements prior
162 to bid selection;

163 (iii) establish uniform, mutually agreeable terms and conditions of employment for the
164 construction workforce, including uniform work rules and schedules for the project;

165 (iv) set forth effective, prompt, binding procedures for resolving labor disputes arising
166 during the term of the project labor agreement;

167 (v) contain guarantees against strikes, lockouts, and similar job disruptions;

168 (vi) incorporate goals for the percentage of apprentice hours to be employed on the
169 project;

170 (vii) incorporate goals for the percentage of work to be performed by minorities, women
171 and veterans in accordance with applicable Massachusetts law and local ordinances, whichever is
172 higher;

173 (viii) authorize the parties to the project labor agreement to develop other mechanisms for
174 labor-management cooperation on matters of mutual interest and concern, including scheduling,
175 quality of work and safety, and permit the public agency to participate in such mechanisms if it
176 elects to do so; and

177 (ix) establish other terms and conditions required for the project labor agreement and
178 mutually agreeable to parties and otherwise consistent with Federal and Massachusetts law.

179 SECTION 8. Chapter 149A of the General Laws is hereby amended by adding the
180 following section:-

181 Section 22. (a) Notwithstanding the provisions of this section or any other general or
182 special state law or local law to the contrary, a public agency planning a contract for construction
183 may require a project labor agreement be incorporated into the contract specifications in
184 accordance with the requirements of this section.

185 A public agency may require a project labor agreement for any public works or building
186 project when such public agency has determined, on a project-by-project basis and acting within
187 its discretion, that it is in the public's interest to require such an agreement. In making such a
188 determination, the agency may consider the effects a project labor agreement may have on:

189 (i) the efficiency, cost and direct and indirect economic benefits to the public agency;

190 (ii) the availability of a sufficient supply of skilled, qualified workers to complete the
191 project;

192 (iii) the timing, prevention of delays or disruptions to the construction process;

193 (iv) the safety and quality of the public construction project;

194 (v) the ability of public agencies to ensure that a sufficient compliment contractors and
195 sub-contractors meet the prequalification standards and requirements of section 8 of this chapter;

196 (vi) the ability of public agencies to facilitate cooperation between contractors,
197 subcontractors and labor organization in construction planning and execution;

198 (vii) the expansion of apprenticeship programs and workforce development in the
199 construction industry to ensure sufficient skilled and qualified staffing for future public
200 projects and the creation of employment opportunities in local communities;

201 (viii) the advancement of minority and women-owned contracting businesses; and
202 the promotion of employment and training opportunities for women, minority workers,
203 and veterans.

204 (b) Nothing in this section shall prevent a public agency from utilizing a determination
205 for a project labor agreement for multiple buildings or public works under an integrated
206 construction program.

207 (c) A public agency that determines a project labor agreement will be used on a project
208 shall require the lead construction firm for the project, and all subcontractors, regardless of tier,
209 to negotiate or become a party to a project labor agreement with one or more appropriate labor
210 organizations.

211 (d) Any project labor agreement required by a public agency pursuant to this section shall
212 include provisions that:

213 (i) require all contractors and subcontractors, regardless of tier, to be bound to the project
214 labor agreement for a specific project through the inclusion of appropriate specifications in all
215 relevant solicitation provisions and contract documents and by requiring execution of the project
216 labor agreement prior as a contractual requirement;

217 (ii) allow all contractors and subcontractors on the project to compete for contracts and
218 subcontracts without regard to whether they are parties to collective bargaining agreements prior
219 to bid selection;

220 (iii) establish uniform, mutually agreeable terms and conditions of employment for the
221 construction workforce, including uniform work rules and schedules for the project;

222 (iv) set forth effective, prompt, binding procedures for resolving labor disputes arising
223 during the term of the project labor agreement;

224 (v) contain guarantees against strikes, lockouts, and similar job disruptions;

225 (vi) incorporate goals for the percentage of apprentice hours to be employed on the
226 project;

227 (vii) incorporate goals for the percentage of work to be performed by minorities, women
228 and veterans in accordance with applicable Massachusetts law and local ordinances, whichever is
229 higher;

230 (viii) authorize the parties to the project labor agreement to develop other mechanisms for
231 labor-management cooperation on matters of mutual interest and concern, including scheduling,
232 quality of work and safety, and permit the public agency to participate in such mechanisms if it
233 elects to do so; and

234 (ix) establish other terms and conditions required for the project labor agreement and
235 mutually agreeable to parties and otherwise consistent with Federal and Massachusetts law.

236 SECTION 9. Nothing in this act shall limit publicly assisted projects from using project
237 labor agreements.

238 SECTION 10. The provisions of this act are severable. If any provision is determined to
239 be invalid, the remainder of this act shall remain in full force and effect.