

MAINE STATE LEGISLATURE

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L.D. 1231

Date: 6-15-21

(Filing No. H-664)

MAJORITY
LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 902, L.D. 1231, "An Act Concerning Climate and Community Investment Projects"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA c. 47 is enacted to read:

CHAPTER 47

CLIMATE AND COMMUNITY INVESTMENT PROJECTS

§3701. Climate and community investment projects

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agency of the State" includes, but is not limited to, the Efficiency Maine Trust as established in Title 35-A, chapter 97 and the Public Utilities Commission as established in Title 35-A, Part 1.

B. "Assisted project" means a construction project to construct a source of electrical generation of 2 megawatts or more that involves a renewable energy project, an energy efficiency project or a project for the production of energy for which the generator is entitled to participate in the net energy billing program in Title 35-A, chapter 32 or is a related construction project for which the State or an agency of the State provides economic assistance, including but not limited to payments pursuant to power purchase agreements, certifications that entitle the generator to renewable energy credits, rebates, grants, loans, commitments of funds or tax abatements or tax exemptions or other assistance, if the financial value of the economic assistance is at least \$50,000.

- 1 C. "Census block group" has the same meaning as "block group" as defined in Title
- 2 21-A, section 1202, subsection 2.
- 3 D. "Craft worker" means a person who possesses experience and proficiency in a trade
- 4 involved in construction.
- 5 E. "Disadvantaged community" means a census block group or geographic area of the
- 6 State determined by rule by the Department of Labor using best available existing data
- 7 to have a high rate of poverty, unemployment and chronic unemployment, as well as a
- 8 high number of individuals with barriers to employment, including individuals who
- 9 have been incarcerated and people who have been traditionally underrepresented in a
- 10 relevant employment area under this chapter.
- 11 F. "Labor organization" means an organization that is not a company union and that is
- 12 constituted for the purpose, in whole or in part, of engaging in collective bargaining,
- 13 dealing with employers concerning employee grievances or terms or conditions of
- 14 employment or providing other employee aid or protection. "Labor organization"
- 15 includes, but is not limited to, a bona fide labor organization that is certified or
- 16 recognized as the organization of jurisdiction representing the relevant workers or a
- 17 bona fide building and construction trades council or district council or state or local
- 18 labor federation comprised of local unions certified or recognized as the representative
- 19 of the relevant workers.
- 20 G. "Registered apprenticeship program" means an apprenticeship training program
- 21 that:
 - 22 (1) Is provided for each trade for which the employer employs craft workers;
 - 23 (2) Is registered with and approved by the United States Department of Labor or
 - 24 the Maine Apprenticeship Program under section 3202; and
 - 25 (3) Actively trains employees, has functioning training facilities and is regularly
 - 26 graduating apprentices to journeyman status who are then placed in employment
 - 27 on an assisted project.
- 28 H. "Renewable energy project" means a project to construct a source of electrical
- 29 generation of 2 megawatts or more that relies on one or more of the following:
 - 30 (1) Fuel cells;
 - 31 (2) Tidal power;
 - 32 (3) Solar arrays and installations;
 - 33 (4) Wind power installations;
 - 34 (5) Geothermal installations;
 - 35 (6) Hydroelectric generators;
 - 36 (7) Biomass generators that are fueled by wood or wood waste, landfill gas or
 - 37 anaerobic digestion of agricultural products, by-products or wastes; or
 - 38 (8) Generators fueled by municipal solid waste in conjunction with recycling.
- 39 I. "Renewable energy workforce training program" means a program provided by an
- 40 employer that:

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1 (1) Provides any employee from a disadvantaged community, including a newly
2 hired employee, opportunities for skill development that will enable the employee
3 to qualify for a higher-paying job; and

4 (2) Provides apprenticeship training through a registered apprenticeship program
5 for each trade in which the employer employs craft workers.

6 **2. Certification to include valuation of renewable energy credits.** When the State
7 or an agency of the State provides a certification pursuant to Title 35-A, section 3210 that
8 entitles a generator to renewable energy credits for an assisted project, the certification
9 must include a valuation of the renewable energy credits estimated to be derived from that
10 certification based on the market price for renewable energy credits at the time of the
11 certification multiplied by the projected duration of the recipient's generation of power
12 eligible for such certification. The duration must be projected to be no less than 20 years.
13 These calculations must be disclosed to the public at the time the certification is issued.

14 **3. Labor and project performance standards.** The following requirements apply to
15 an assisted project.

16 A. An entity responsible for an assisted project shall, in accordance with applicable
17 law, take all necessary actions to participate in a renewable energy workforce training
18 program. For purposes of this subsection, "the entity responsible" includes any
19 recipient of assistance for the project and any corporations, joint ventures, partnerships
20 or other persons and their successors or assigns that hire contractors or construction
21 managers to perform work on the assisted project.

22 B. A contractor working on an assisted project shall use a registered apprenticeship
23 program for each trade in which it employs craft workers and shall provide proof within
24 7 days of a request from the Department of Labor that the apprenticeship program
25 meets all the requirements of a registered apprenticeship program.

26 (1) A contractor or subcontractor working on an assisted project shall pay craft
27 workers on the assisted project no less than the prevailing wage and benefits for
28 the appropriate classification in which the worker is employed, as established by
29 the Bureau of Labor Standards under section 1308. The contractor or subcontractor
30 shall provide all information to the bureau required under chapter 15. The
31 apprenticeship program shall comply with the standards in section 3502.
32 Contractors that fail to comply with section 3502 are subject to the penalties in
33 section 3502, subsection 3. The entity responsible for the assisted project that is
34 receiving state assistance for that project shall take reasonable steps to ensure that
35 all contractors and subcontractors meet the requirements of this paragraph.

36 (2) The requirements of this paragraph do not apply if the entity responsible for
37 the assisted project has entered into or has ensured that the entity directly
38 responsible for the construction of the assisted project has entered into a project
39 labor agreement consistent with the requirements of Title 35-A, section 3210-G,
40 subsection 1, paragraph C, subparagraph 2, division (h).

41 C. Employers working on an assisted project shall adopt and follow any hiring policies
42 required by the Department of Labor by rule under subsection 5.

43 **4. Penalties and sanctions.** Failure of an entity that receives state assistance for an
44 assisted project to comply with this section constitutes a material breach of the agreement.

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1 grant, loan, commitment of funds or other instrument pursuant to which state assistance is
2 provided, and the relevant agency of the State may impose any available and appropriate
3 penalties for that breach, including, but not limited to, ending the assistance and recouping
4 all or part of any assistance already provided for the assisted project or directing that, in
5 order for the entity to receive continued assistance, the entity must meet the requirements
6 of this section and pay remedial compensation to any employees who were not paid
7 prevailing wage and benefits.

8 **5. Rules; underrepresented populations.** The Department of Labor shall adopt rules
9 to implement this section. The rules must require employers working on assisted projects
10 to adopt and maintain hiring policies that will attract and retain a diverse workforce that
11 includes individuals who are traditionally underrepresented in that workforce including
12 Native Americans, persons of color, women and veterans. Rules adopted under this
13 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

14 **Sec. 2. 35-A MRSA §3210-G, sub-§1,** as enacted by PL 2019, c. 477, §2, is
15 amended to read:

16 **1. Competitive procurement.** The commission shall conduct 2 competitive
17 solicitations in order to select Class IA resources for contracts under this section.

18 A. Through competitive solicitations under this section, the commission shall procure
19 an amount of energy or renewable energy credits from Class IA resources that is equal
20 to 14% of retail electricity sales in this State for the period from January 1, 2018 to
21 December 31, 2018, as determined by the commission.

22 (1) The commission shall initiate a first competitive solicitation and ensure that
23 solicitation results in the approval of contracts by December 31, 2020 for energy
24 or renewable energy credits equal to at least 7% of retail electricity sales for the
25 period from January 1, 2018 to December 31, 2018, as determined by the
26 commission. If the commission determines that contracts for an amount greater
27 than 7% of retail electricity sales will provide financial benefits to ratepayers, it
28 may approve contracts by December 31, 2020 for up to 10% of retail electricity
29 sales.

30 (2) No later than January 15, 2021, the commission shall initiate a 2nd competitive
31 solicitation for an amount of energy or renewable energy credits equal to the
32 difference between 14% of retail electricity sales and the amount approved in
33 contracts by December 31, 2020.

34 B. To the extent sufficient resources are available, 75% of the energy or renewable
35 energy credits contracted under this section must come from Class IA resources that
36 begin commercial operations after June 30, 2019 and 25% must come from Class IA
37 resources that began commercial operations on or prior to June 30, 2019.

38 C. In conducting a solicitation and selecting Class IA resources for contracts under
39 this section, the commission shall weigh the benefits to ratepayers and the benefits to
40 the State's economy as follows:

41 (1) A weight of 70% must be given to the benefits to ratepayers; and

42 (2) A weight of 30% must be given to benefits to the economy, which may include,
43 but are not limited to:

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- (a) Capital investments by the Class IA resource to improve long-term viability of an existing facility;
- (b) Payments by the Class IA resource for the harvest of wood fuel;
- (c) Employment resulting from the Class IA resource;
- (d) Payments by the Class IA resource to a host community, whether or not required by law or rule;
- (e) Excise, income, property and sales taxes paid by the Class IA resource;
- (f) Purchases of goods and services by the Class IA resource; and
- (g) Avoided emissions resulting from the operation of the Class IA resource;

and

(h) With respect to additional requests for bids or proposals initiated by the commission pursuant to this section for energy or renewable energy credits after January 15, 2021, including bids or proposals that supplement a process started on or before January 15, 2021, whether that resource has entered into a project labor agreement with a labor organization to supply skilled craft workers in all crafts needed for the project where the project is located. For purposes of this division, a project labor agreement must contain provisions that:

- (i) Bind all contractors and subcontractors on the assisted project to the project labor agreement through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;
- (ii) Allow all contractors and subcontractors to compete for contracts and subcontracts on the project without regard to whether they are otherwise parties to collective bargaining agreements;
- (iii) Establish uniform terms and conditions of employment for all construction craft workers employed on the projects;
- (iv) Contain guarantees against strikes, lockouts and similar job disruptions; and
- (v) Set forth effective, prompt and mutually binding procedures for resolving labor disputes arising during the project labor agreement.

D. The commission shall, in accordance with this paragraph, allow energy storage systems to participate in solicitations or be awarded contracts under this section.

(1) The commission shall permit an energy storage system to bid on solicitations or to be contracted under this section only if the energy storage system is connected to the State's electricity grid, paired as a complementary resource with a Class IA resource and either:

- (a) Colocated with the Class IA resource, whether metered jointly with or separately from the Class IA resource; or
- (b) Located at a different location from the Class IA resource and the commission finds that inclusion of the energy storage system would result in a reduction in greenhouse gas emissions.

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- 1 (2) A bid under this section that includes an energy storage system must include 2
- 2 separate bid proposals, one with the energy storage system and one without. The
- 3 commission shall assess the bid proposals based on the benefits to ratepayers,
- 4 which may include, but are not limited to:
- 5 (a) Reduction in costs;
- 6 (b) Decrease in peak electricity demand;
- 7 (c) Deferral of investments in the transmission and distribution system;
- 8 (d) Deferral of capital investments in new generating capacity;
- 9 (e) Increase in the electricity grid's overall flexibility, reliability and resiliency;
- 10 and
- 11 (f) Reduction in greenhouse gas emissions.
- 12 (3) An energy storage system that is not colocated with a Class IA resource may
- 13 receive renewable energy credits only for stored energy generated from a Class IA
- 14 resource.
- 15 (4) If chosen for a contract under this section, an energy storage system must
- 16 remain stationary and under the same ownership throughout the contract term.
- 17 (5) The commission may permit an energy storage system to be paired with and
- 18 added to a Class IA resource after that resource has been awarded a contract.

19 For the purposes of this paragraph, "energy storage system" means a commercially
20 available technology that uses mechanical, chemical or thermal processes for absorbing
21 energy and storing it for a period of time for use at a later time.'

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
23 number to read consecutively.

24 **SUMMARY**

25 This amendment replaces the bill. This amendment does the following.

26 1. It requires projects involving the construction of renewable energy generating
27 systems that are receiving at least \$50,000 in state assistance to meet certain requirements,
28 including the following.

29 A. The entity responsible for the assisted project is required to establish a renewable
30 energy workforce training program that provides employees from disadvantaged
31 communities opportunities for skill development and that also provides apprenticeship
32 training through a registered apprenticeship program for each trade in which the
33 employer employs craft workers.

34 B. A contractor working on the assisted project is required to provide or participate in
35 a registered apprenticeship training program for each trade in which it employs craft
36 workers.

37 C. A contractor or subcontractor working on the assisted project is required to pay
38 craft workers on the project no less than the prevailing wage and benefits, and the entity
39 responsible for the assisted project that is receiving state assistance for that project is
40 required to take reasonable steps to ensure that all contractors and subcontractors meet

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1 this requirement. This requirement does not apply, however, if the entity responsible
2 for the assisted project has ensured that the entity directly responsible for the
3 construction of the project has entered into a project labor agreement that meets certain
4 requirements.

5 D. If the Public Utilities Commission engages in future additional procurement of
6 energy or renewable energy credits pursuant to the Maine Revised Statutes, Title 35-
7 A, section 3210-G, in determining the 30% benefits to the State's economy the
8 commission is required to consider whether the Class IA generator has secured a
9 project labor agreement that is executed between the entity directly responsible for
10 construction of the project and a labor organization to supply skilled craft workers in
11 all crafts needed for the project in the area where the project is located.

12 E. Employers working on an assisted project are required to adopt any hiring policies
13 established by the Department of Labor by rule that require employers working on
14 assisted projects to adopt and maintain hiring policies that will attract and retain a
15 diverse workforce. The department may adopt incentives for adopting such policies
16 rather than establishing requirements.

17 **FISCAL NOTE REQUIRED**

18 (See attached)



Revised: 06/14/21 *MBC*

130th MAINE LEGISLATURE

LD 1231

LR 343(02)

An Act Concerning Climate and Community Investment Projects

Fiscal Note for Bill as Amended by Committee Amendment *AC(H664)*

Committee: Labor and Housing

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds
Minor cost increase - Efficiency Maine Trust

Fiscal Detail and Notes

Any additional costs to the Department of Labor, the Public Utilities Commission or the Efficiency Maine Trust from the provisions of this bill are anticipated to be minor and can be absorbed within existing budgeted resources.