

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

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H.P. 902

House of Representatives, March 24, 2021

An Act Concerning Climate and Community Investment Projects

Received by the Clerk of the House on March 22, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CUDDY of Winterport.
Cosponsored by Representatives: Speaker FECTION of Biddeford, SYLVESTER of Portland,
WARREN of Scarborough, Senator: VITELLI of Sagadahoc.

1 **Be it enacted by the People of the State of Maine as follows:**

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

3 **CHAPTER 47**

4 **CLIMATE AND COMMUNITY INVESTMENT PROJECTS**

5 **§3701. Climate and community investment projects**

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

8 A. "Assisted project" means a construction project that involves a renewable energy
9 project that will receive or is receiving economic assistance from the State with a total
10 present financial value as of the start of the assistance of at least \$50,000, including but
11 not limited to renewable energy credits, grants, loans, commitments of funds or tax
12 abatements and tax exemptions.

13 B. "Disadvantaged community" means a zip code area of the State determined by the
14 Department of Labor by rule to have a high rate of poverty, unemployment and chronic
15 unemployment as well as a high number of individuals with barriers to employment,
16 including individuals who have been incarcerated and people who have been
17 traditionally underrepresented in a relevant employment area under this chapter.

18 C. "Labor organization" means an organization that is not a company union and that
19 is constituted for the purpose, in whole or in part, of engaging in collective bargaining,
20 dealing with employers concerning employee grievances or terms or conditions of
21 employment or providing other employee aid or protection. "Labor organization"
22 includes, but is not limited to, a bona fide labor organization that is certified or
23 recognized as the organization of jurisdiction representing the relevant workers or a
24 bona fide building and construction trades council or district council or state or local
25 labor federation comprised of local unions certified or recognized as the representative
26 of the relevant workers.

27 D. "Registered apprenticeship program" means an apprenticeship training program
28 that:

29 (1) Is provided for each trade for which the employer employs craft workers;

30 (2) Is registered with and approved by the United States Department of Labor or
31 the Maine Apprenticeship Program under section 3202; and

32 (3) Actively trains employees, has functioning training facilities and is regularly
33 graduating apprentices to journeyman status who are then placed in employment
34 on an assisted project.

35 E. "Renewable energy project" means a project to construct a source of electrical
36 generation of 5 megawatts or more that relies on one or more of the following:

37 (1) Fuel cells;

38 (2) Tidal power;

- 1 (3) Solar arrays and installations;
- 2 (4) Wind power installations;
- 3 (5) Geothermal installations;
- 4 (6) Hydroelectric generators;
- 5 (7) Biomass generators that are fueled by wood or wood waste, landfill gas or
6 anaerobic digestion of agricultural products, by-products or wastes; or
- 7 (8) Generators fueled by municipal solid waste in conjunction with recycling.

8 F. "Workforce development program" means a program provided by an employer that:

- 9 (1) Provides any employee from a disadvantaged community, including a newly
10 hired employee, opportunities for skill development that will enable the employee
11 to qualify for a higher-paying job; and
- 12 (2) Provides apprenticeship training through a registered apprenticeship program
13 for each trade in which the employer employs craft workers.

14 **2. 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 establish and administer a workforce development
18 program.

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

24 C. A contractor or subcontractor working on an assisted project shall pay craft workers
25 on the assisted project no less than the applicable prevailing wage and benefits for the
26 appropriate classification in which the worker is employed, as established by the
27 Bureau of Labor Standards under section 1308. The contractor or subcontractor shall
28 provide all information to the bureau required under chapter 15.

29 (1) The entity responsible for the assisted project that is receiving state assistance
30 for that project shall take reasonable steps to ensure that all contractors and
31 subcontractors meet the requirements of this paragraph.

32 (2) The requirements of this paragraph do not apply if the entity responsible for the
33 assisted project has entered into or has ensured that the entity directly responsible
34 for the construction of the assisted project has entered into a project labor
35 agreement consistent with the requirements of subsection 3.

36 D. If the assisted project involves a renewable energy project with a generation
37 capacity of 50 megawatts or more, the entity responsible for the assisted project shall
38 also ensure that a project labor agreement under subsection 3 is executed between the
39 entity directly responsible for construction of the assisted project and a labor
40 organization to supply skilled craft workers in all crafts needed for the project in the
41 area where the project is located.

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

3 **3. Terms of project labor agreement.** In order to meet the requirements of this
4 section, an assisted project must have in place a project labor agreement that conforms to
5 this subsection. The project labor agreement must:

6 A. Bind all contractors and subcontractors on the assisted project to the project labor
7 agreement through the inclusion of appropriate specifications in all relevant solicitation
8 provisions and contract documents;

9 B. Allow all contractors and subcontractors to compete for contracts and subcontracts
10 on the assisted project without regard to whether they are otherwise parties to collective
11 bargaining agreements;

12 C. Establish uniform terms and conditions of employment for all craft workers
13 employed on the assisted project;

14 D. Contain guarantees against strikes, lockouts and similar job disruptions;

15 E. Set forth effective, prompt and mutually binding procedures for resolving labor
16 disputes arising during the project labor agreement; and

17 F. Include other provisions negotiated by the parties as needed to promote successful
18 delivery of the assisted project.

19 **4. Penalties and sanctions.** Failure of an entity that receives state assistance for an
20 assisted project to comply with this section constitutes a material breach of the agreement,
21 grant, loan, commitment of funds or other instrument pursuant to which state assistance is
22 provided, and the relevant state agency may impose any available and appropriate penalties
23 for that breach, including, but not limited to, ending the assistance and recouping all or part
24 of any assistance already provided for the assisted project or directing that, in order for the
25 entity to receive continued assistance, the entity must meet the requirements of this section
26 and pay remedial compensation to any employees who were not paid prevailing wage and
27 benefits.

28 **5. Rules; underrepresented populations.** The Department of Labor shall adopt rules
29 to implement this section. The rules must require or incentivize employers working on
30 eligible projects to adopt and maintain hiring policies that will attract and retain a diverse
31 workforce that includes individuals who are traditionally underrepresented in that
32 workforce, including Native Americans, persons of color, women and veterans. Rules
33 adopted under this subsection are routine technical rules as defined in Title 5, chapter 375,
34 subchapter 2-A.

35 **Sec. 2. 32 MRSA §1101, sub-§2,** as amended by PL 2017, c. 198, §2, is further
36 amended to read:

37 **2. Electrical installations.** "Electrical installations" means the installation, repair,
38 alteration and maintenance of electrical conductors, fittings, devices and fixtures for
39 heating, lighting, power purposes or heat activated fire alarms, intrusion alarms, energy
40 management, telephone, cable and closed-circuit television, sound systems, data
41 transmission, conduit and raceway systems and electrically supervised manual fire alarms
42 and sprinkler systems. "Electrical installations" includes ~~complete~~ but is not limited to
43 installations related to photovoltaic, fuel cell and wind power generation systems.

1 Installation of photovoltaic systems includes but is not limited to the installation of
2 supporting structures, such as frames, racks, rails, purlins and any part of the supporting
3 structure that has an Underwriters Laboratories LLC listing as a raceway, and footings.
4 "Electrical installations" does not include the installation or repair of portable appliances
5 and other portable electrical equipment, installation of which involves only the insertion of
6 an attachment plug into a fixed receptacle outlet. It is the meaning and intent of this
7 subsection that the word "portable" does not include or apply to any type of fixed
8 electrically operated or driven equipment.

9 SUMMARY

10 This bill does the following.

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

14 A. The entity responsible for the assisted project must establish a workforce
15 development program that provides employees from disadvantaged communities
16 opportunities for skill development and that also provides apprenticeship training
17 through a registered apprenticeship program for each trade in which the employer
18 employs craft workers.

19 B. A contractor working on the assisted project must provide or participate in a
20 registered apprenticeship training program for each trade in which it employs craft
21 workers.

22 C. A contractor or subcontractor working on the assisted project must pay craft
23 workers on the project no less than the applicable prevailing wage and benefits, and
24 the entity responsible for the assisted project that is receiving state assistance for that
25 project must take reasonable steps to ensure that all contractors and subcontractors
26 meet this requirement. This requirement does not apply, however, if the entity
27 responsible for the assisted project has ensured that the entity directly responsible for
28 the construction of the project has entered into a project labor agreement that meets
29 certain requirements.

30 D. If the assisted project involves a renewable energy project with a generation
31 capacity of 50 megawatts or more, the entity responsible for the project is required to
32 ensure that a project labor agreement is executed between the entity directly
33 responsible for construction of the project and a labor organization to supply skilled
34 craft workers in all crafts needed for the project in the area where the project is located.

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

40 2. It amends the definition of "electrical installation" in the law governing the licensing
41 of electricians. Under the law, undertaking an electrical installation generally requires a
42 license. The bill defines an electrical installation of a photovoltaic system to include the
43 installation of supporting structures, such as frames, racks, rails, purlins and any part of the

1 supporting structure that has an Underwriters Laboratories LLC listing as a raceway, and
2 footings.