

HOUSE No. 1864

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

Margaret R. Scarsdale
Adrienne Pusateri Ramos

1st Middlesex
14th Essex

3/13/2023
3/1/2023

HOUSE No. 1864

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

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

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

37 (e) For the purposes of this act, a “municipality at high risk from the effects of climate
38 change” shall mean a municipality that can demonstrate to the department current or future
39 significant changes to its population, land use or local economy resulting from changes in
40 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
84 commitment to expand workforce diversity, equity, and inclusion in its past projects within the
85 Commonwealth;
- 86 (vi) A requirement that the Applicant provide a statement of intent concerning efforts that
87 it and its contractors and sub-contractors on this project, will undertake to expand workforce
88 diversity, equity, and inclusion on the project if successful;
- 89 (vii) A requirement that that the Applicant disclose whether it and each of its contractors
90 and subcontractors on this project, have previously contracted with a labor organization, as
91 defined by Massachusetts General Laws, c. 150A and/or the National Labor Relations Act,
92 Section 2, in the Commonwealth or elsewhere.

93 (viii) A requirement that the Applicant specify whether it and each of its contractors and
94 subcontractors on this project participates in a state or Federally certified apprenticeship program
95 and the number of apprentices the apprenticeship program has trained to completion for each of
96 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.

103 (xi) Certification that the Applicant and its contractors and sub-contractors on this project
104 are currently, and will remain, in compliance with Massachusetts General Laws Chapters 149,
105 151, 151A, 151B, and 152 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws
106 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.

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

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

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

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

130 (g) The Attorney General shall enforce the provisions contained herein and may enact
131 regulations 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

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

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

139 Section 27I. All construction, reconstruction, installation, alteration or repair on natural
140 gas utility infrastructure, including, but not limited to, pipelines, mains, services and other
141 infrastructure: (1) requiring the excavation, construction, reconstruction of public lands, rights of
142 way, public works, or buildings and (2) not performed by workers directly employed by Public
143 Utilities, as defined by M.G.L. c. 164, shall be performed and procured under this section of
144 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.

151 Any such approval which does not contain said stipulation shall be invalid, and no
152 construction may commence thereunder. Said rates of wages shall be requested of said
153 commissioner by said public official or public body together with the gas local distribution
154 company on whose service territory the public infrastructure lies, and shall be furnished by the
155 commissioner in a schedule containing the classifications of jobs, and the rate of wages to be
156 paid for each job. Said rates of wages shall include payments to health and welfare plans, or, if

157 no such plan is in effect between employers and employees, the amount of such payments shall
158 be paid directly to said employees. Such requests for rates shall be made every 6 months.

159 Whoever pays less than said rates of wages, including payments to health and welfare
160 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
161 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
162 wages or health and welfare funds, shall have violated this section and shall be punished or shall
163 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.

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

177 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
178 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.

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

196 An employee claiming to be aggrieved by a violation of this section may, 90 days after
197 the filing of a complaint with the attorney general, or sooner if the attorney general assents in
198 writing, and within 3 years after the violation, institute and prosecute in his own name and on his
199 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for
200 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150.

201 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
202 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
203 the litigation and reasonable attorneys' fees.

204 Section 27K. All construction, reconstruction, installation, alteration or repair on
205 renewable energy generation, distribution, transmission infrastructure: (1) requiring the
206 excavation, construction, reconstruction of public lands, rights of way, public works, or buildings
207 and (2) not performed by workers directly employed by Public Utilities, as defined by M.G.L. c.
208 164, shall be performed and procured under this section of chapter 149.

209 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
210 county, or a municipality, shall agree to construction, reconstruction, installation, alteration or
211 repair work by a renewable energy company requiring the excavation, alternation,
212 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
213 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.

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

222 payments shall be paid directly to said employees. Such requests for rates shall be made every
223 six (6) months.

224 Whoever pays less than said rates of wages, including payments to health and welfare
225 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
226 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
227 wages or health and welfare funds, shall have violated this section and shall be punished or shall
228 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.

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

240 1 of whom shall be a representative of employees in the gas utility sector appointed by
241 the President of the Massachusetts AFL-CIO; 1 of whom shall be a representative of employees
242 in the electric power generation sector appointed by the President of the Massachusetts AFL-
243 CIO; 1 of whom shall be the President of the Massachusetts AFL-CIO, or his/her designee, and

244 1 of whom shall be the President of the Massachusetts Building Trades Council or his/her
245 designee

246 And by striking out, in line 59, the words “and 1 of whom shall be a union
247 representative”

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

251 including, but not limited to, collaboration with state and federally licensed
252 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:-

256 The Center shall be deemed to be a public agency for purposes of, and shall be subject to,
257 section 39M of chapter 30, chapter 149A, et seq., and sections 44A to 44H, inclusive, of chapter
258 149 and shall comply with requirements applicable to an independent public authority for
259 publication of contract information in the central register established pursuant to section 20A of
260 chapter 9.

261 With regard to all clean energy and other climate change remediation construction
262 projects funded, owned or leased by the Commonwealth, including but not limited to the Center,
263 the Commonwealth shall require that successful Applicants, in collaboration with their
264 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

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

288 The Center’s workforce development plans shall include:

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

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

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

299 (d) Recommendations, programs and technical assistance for the Clean Energy Industry
300 to ensure that the industry develops and maintains excellent working terms and conditions for all
301 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.

305 The Center will engage all stakeholders in the planning process, including but not limited
306 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.