

**SENATE . . . . . No. 1198**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul R. Feeney***

*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:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/10/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/30/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/1/2021</i>

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By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1198) of Paul R. Feeney, Jack Patrick Lewis, David Henry Argosky LeBoeuf, Walter F. Timilty and others for legislation relative to clean energy workforce standards and accountability. Labor and Workforce Development.

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

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:

2 For the purpose of this statute, the following definitions apply:

3 (a) As used in this legislation, the term “Applicant” is interchangeable with the term  
4 bidder and refers to any natural person or business, whether or not incorporated or  
5 unincorporated, who seeks a contract to provide labor or services, grant funding, or tax  
6 incentives for a project under this Chapter, and employs another to work in the Commonwealth,  
7 or contracts with another natural person or business to do so (herein after “contractor”) to  
8 perform labor, services or otherwise assist in the completion of a project. This definition  
9 excludes:

10 1. The United States or a corporation wholly owned by the government of the United  
11 States;

12           2. A public utility, but only when employing workers directly to perform construction  
13 and maintenance and other operational duties on its utility infrastructure and buildings.

14           (b) For the purposes of this legislation, the term “Project” refers to climate change  
15 remediation or clean energy initiatives of the Commonwealth and/or its departments, offices,  
16 agencies, subdivisions, and quasi-public agencies, including, but not limited to public authorities,  
17 subject to said chapter 150A by chapter 760 of the acts of 1962.

18           (c) For the purposes of this legislation, “Commonwealth” refers to Commonwealth and/or  
19 its departments, offices, agencies, political sub-divisions, and quasi-public agencies, including  
20 but not limited to quasi-public agencies subject to said chapter 150A by chapter 760 of the acts  
21 of 1962 and any quasi-public independent entity and any authority or body politic and corporate  
22 established by the general court to serve a public purpose.

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

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

32           Section 2:

33 (a) Every Request for Proposals (RFP), Grant Application, or project solicitation offering  
34 funding from the Commonwealth for projects to address climate change, including but not  
35 limited to expanding clean energy capacity and/or infrastructure in any manner, shall be  
36 performed and procured under sections 26 through 27F of chapter 149 inclusive and section 39M  
37 of chapter 30, and shall include the certification and disclosure requirements included in this  
38 Section.

39 All successful Applicants for contracts, grants, and tax incentives shall provide complete  
40 and accurate responses to the same.

41 These certification and disclosure requirements shall include:

42 1. A requirement for documentation reflecting the Applicant's demonstrated commitment  
43 to workforce development within the Commonwealth;

44 2. A requirement that the Applicant will provide a statement of intent concerning efforts  
45 that it and its contractors and sub-contractors will take to promote workforce development on the  
46 project if successful;

47 3. A requirement for documentation reflecting the Applicant's demonstrated commitment  
48 to economic development within the Commonwealth;

49 4. A requirement that the Applicant provide a statement of intent concerning efforts that  
50 it and its contractors and sub-contractors on this project will take to promote economic  
51 development on the project if successful;

52           5. A requirement for documentation reflecting the Applicant’s demonstrated commitment  
53 to expand workforce diversity, equity, and inclusion in its past projects within the  
54 Commonwealth;

55           6. A requirement that the Applicant provide a statement of intent concerning efforts that  
56 it and its contractors and sub-contractors on this project, will undertake to expand workforce  
57 diversity, equity, and inclusion on the project if successful;

58           7. A requirement that that the Applicant disclose whether it and each of its contractors  
59 and subcontractors on this project, have previously contracted with a labor organization, as  
60 defined by Massachusetts General Laws, c. 150A and/or the National Labor Relations Act,  
61 Section 2, in the Commonwealth or elsewhere.

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

66           9. A requirement that the Applicant provide a statement of intent concerning the extent to  
67 which the Applicant, its contractors and sub-contractors on this project, intend to utilize  
68 apprentices on the project if successful.

69           10. Certification that the Applicant and its contractors and sub-contractors on this project,  
70 have complied with Massachusetts General Laws Chapters 149, 151, 151A, 151B, and 152  
71 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws for the last three (3)  
72 calendar years.

73           11. Certification that the Applicant and its contractors and sub-contractors on this project  
74 are currently, and will remain, in compliance with Massachusetts General Laws Chapters 149,  
75 151, 151A, 151B, and 152 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws  
76 for the duration of the project.

77           12. To the extent the Applicant, or one of its contractors or sub-contractors on the project  
78 cannot meet the certification requirements provided for in Paragraphs 10 and 11, the Applicant  
79 must submit proof of a wage bond or other comparable form of insurance in an amount equal to  
80 the aggregate of one year's gross wages for all workers projected to be employed by the  
81 Applicant, contractor, or sub-contractor for which certification is unavailable, to be maintained  
82 for the life of the project.

83           13. Whether the Applicant has included detailed plans for assuring labor harmony during  
84 all phases of the construction, reconstruction, renovation, development and operation of the  
85 project.

86           (b) Every RFP and Grant Application issued by the Commonwealth under this Chapter  
87 shall notify Applicants that they will be disqualified from this project if they have been debarred  
88 by the federal government or Commonwealth for the entire term of the debarment.

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

92           (d) A successful applicant's good faith failure to provide complete, accurate certifications  
93 and documentation under Subsection A of this Section shall result in suspension from the project  
94 for a period of 30 days, to provide an opportunity for the Applicant to address application

95 deficiencies to the satisfaction of the Commonwealth. Failure to cure deficiencies, thereafter,  
96 shall result in termination. A successful Applicant's willful failure to provide accurate  
97 certifications and documentation shall result in permanent termination from the project and the  
98 return of all funds awarded therefor within 30 days.

99 (e) For the term of the project, the Applicant, its contractors, and sub-contractors shall  
100 furnish their monthly certified payrolls in an electronic format for all employees on the project,  
101 as defined by c. 149 s. 148B.

102 (f) The Attorney General shall enforce the provisions contained herein and may enact  
103 regulations consistent therewith.

104 Section 3:

105 (a) Chapter 23J of the Massachusetts General Laws shall be amended in Section 2(b)  
106 after the word "Alliance" by inserting the following text:

107 "1 of whom shall be a representative of employees in the gas utility sector appointed by  
108 the President of the Massachusetts AFL-CIO; 1 of whom shall be a representative of employees  
109 in the electric power generation sector appointed by the President of the Massachusetts AFL-  
110 CIO; 1 of whom shall be the President of the Massachusetts AFL-CIO, or his/her designee, and 1  
111 of whom shall be the President of the Massachusetts Building Trades Council or his/her  
112 designee"

113 And by deleting the following text:

114 "and 1 of whom shall be a union representative"

115 (b) Chapter 23J of the Massachusetts General Laws is hereby amended in Section 3(a) in  
116 paragraph (27) by adding the following text after the phrase “clean energy industry:”

117 “including, but not limited to, collaboration with state and federally licensed  
118 apprenticeship and pre-apprenticeship programs providing training in the Commonwealth;”

119 (c) Chapter 23J of the Massachusetts General Laws is hereby amended in Section 12 by  
120 adding the following new text after the term “23A”:

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

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

129 1. Propose and abide by an affirmative action program of equal opportunity whereby the  
130 Applicant establishes specific goals for the utilization of BIPOC, women and veterans. Provided,  
131 however, that such goals shall be equal to or greater than the goals contained in the executive  
132 office for administration and finance Administration Bulletin Number 14, and incorporate the  
133 data collection requirements contained in Administration Bulletin Number 17.

134           2. Participate in state or federally accredited apprenticeship program(s) which have  
135 graduated at least one apprentice in the last five (5) years and utilize apprentices at a percentage  
136 set by the Commonwealth as part of its current workforce development plan.

137           3. All construction, reconstruction, installation, alteration work performed under this  
138 Section shall be performed consistent with Sections 26 through 27F of chapter 149 inclusive and  
139 section 39M of chapter 30.”

140           (d) Chapter 23J of the Massachusetts General Laws is hereby amended by adding after  
141 Section 12 the following new Section:

142           Section 13: Clean Energy Workforce Development Plan

143           The Massachusetts Clean Energy Technology Center (“Center”) shall develop and  
144 implement successive 5-year workforce development plans for the Commonwealth, beginning in  
145 FY2022, that includes outreach and recruitment into the Clean Energy Industry for existing  
146 workers in fossil fuel intensive industries, as well as environmental justice populations and  
147 individuals living in municipalities at high risk for climate change within the Commonwealth.

148           The Center’s workforce development plans shall include:

149           1. Development of technical assistance, grants, loans, and demonstration projects,  
150 facilitating the creation of construction, operations, and maintenance jobs in the Clean Energy  
151 Industry.

152           2. Measures to expand training capacity for the Clean Energy industry, building upon the  
153 Commonwealth’s extensive existing public and private workforce development facilities,

154 including all state and federally certified apprenticeship programs, licensure, and degree  
155 programs.

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

159 4. Recommendations, programs and technical assistance for the Clean Energy Industry to  
160 ensure that the industry develops and maintains excellent working terms and conditions for all  
161 workers employed therein.

162 5. Requirements for minimum working conditions on Clean Energy projects owned,  
163 leased, or financed by the Center through the Renewable Energy Trust Fund, or otherwise by the  
164 Commonwealth, its departments, offices, agencies, and quasi-independent agencies.

165 The Center will engage all stakeholders in the planning process, including but not limited  
166 to the union representatives of workers in fossil fuel industries and organizations serving  
167 environmental justice populations and individuals living in municipalities at high risk for climate  
168 change within the Commonwealth. The Center will coordinate their workforce development  
169 planning and research with the Executive Office of Labor and Workforce Development's Office  
170 of Just Transition.