



Substitute Senate Bill No. 999

Public Act No. 21-43

AN ACT CONCERNING A JUST TRANSITION TO CLIMATE-PROTECTIVE ENERGY PRODUCTION AND COMMUNITY INVESTMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2021*) (a) As used in this section, unless the context otherwise requires:

(1) "Covered project" means a renewable energy project that is situated on land in this state, commences construction on or after July 1, 2021, and has a total nameplate capacity of two megawatts or more. "Covered project" does not include any renewable energy project (A) selected in a competitive solicitation conducted by (i) the Department of Energy and Environmental Protection, or (ii) an electric distribution company, as defined in section 16-1 of the general statutes, and (B) approved by the Public Utilities Regulatory Authority prior to January 1, 2022;

(2) "Renewable energy project" means a Class I renewable energy source, as defined in section 16-1 of the general statutes. "Renewable energy project" does not include any offshore wind facility procured pursuant to section 16a-3h, 16a-3m or 16a-3n of the general statutes;

(3) "Community benefits agreement" means an agreement between

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(A) the developer of a covered project, and (B) community-based organizations or a coalition of such organizations, that details the project's contributions to the community in which it is or will be sited and the aspects of the project that will mitigate adverse conditions of such community and create opportunities for local businesses, communities and workers;

(4) "Labor organization" means any organization, other than a company union, that exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection, including, but not limited to, (A) bona fide labor organizations that are certified or recognized as the organization of jurisdiction representing the workers involved, (B) bona fide building and construction trades councils or district councils, and (C) state and local labor federations comprised of local unions certified or recognized as the representative of the workers; and

(5) "Workforce development program" means a program pursuant to which newly hired employees and existing employees are given the opportunity to develop skills that will enable such employees to qualify for higher paying jobs on a covered project. A workforce development program includes: (A) Apprenticeship training through an apprenticeship program registered with the Labor Department or a federally recognized state apprenticeship agency that complies with the requirements under 29 CFR 29 and 29 CFR 30, as each may be amended from time to time, and (B) preapprenticeship training that will enable students to qualify for registered apprenticeship training.

(b) The developer of a covered project shall (1) take all reasonable actions to ensure that a community benefits agreement is entered into with appropriate community organizations representing residents of the community in which the project is or will be located if the nameplate capacity of the project is five megawatts or more, and (2) take

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appropriate actions to ensure a workforce development program is established.

(c) The developer of a covered project shall take all necessary actions to ensure that each contractor and subcontractor involved in the construction of the project completes a sworn certification that the contractor or subcontractor: (1) Has the necessary resources to perform the portion of the covered project to which the contractor or subcontractor are assigned, including the necessary technical, financial and personnel resources; (2) has all required contractor, specialty contractor or trade licenses, certifications or certificates required of any business entity or individual by applicable state or local law; (3) participates in apprenticeship training through an apprenticeship program registered with the Labor Department or a federally recognized state apprenticeship agency that complies with the requirements under 29 CFR 29 and 29 CFR 30, as each may be amended from time to time; (4) during the previous three years (A) has not been debarred by any government agency; (B) has not defaulted on any project; (C) has not had any license, certification or other credential relating to the business revoked or suspended; and (D) has not been found in violation of any law applicable to the contractor's or subcontractor's business that resulted in the payment of a fine, back pay damages or any other type of penalty in the amount of ten thousand dollars or more; (5) will pay personnel employed on the project not less than the applicable wage and fringe benefit rates for the classification in which such personnel is employed and required for the project; and (6) has not misclassified and will not misclassify labor employees as independent contractors.

(d) The developer of a covered project shall submit to the Labor Commissioner the sworn certification of compliance specified in subsection (c) of this section not later than thirty days prior to commencement of construction of the project. Such sworn certification

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shall be considered a public document that shall be made available without redaction on the Labor Department's Internet web site not later than seven days after being submitted to the Labor Commissioner. If a sworn certification contains false, misleading or materially inaccurate information, the contractor or subcontractor that executed such sworn certification shall, after notice and opportunity to be heard, be subject to debarment pursuant to section 31-53a of the general statutes, as amended by this act.

(e) The failure of the developer of a covered project to take reasonable steps to ensure that the sworn certification submitted to the Labor Commissioner pursuant to subsection (d) of this section are accurate and truthful shall constitute a violation of this section and shall be subject to penalties and sanctions for conduct constituting noncompliance. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, establishing the penalties and sanctions applicable to a violation of this subsection.

(f) (1) Each contractor and subcontractor on a covered project shall (A) pay each construction employee on the project wages and benefits that are not less than the prevailing wage and fringe benefit rates prescribed in section 31-53 of the general statutes, as amended by this act, for the corresponding classification in which the employee is employed, and (B) be subject to all reporting and compliance requirements of section 31-53 of the general statutes, as amended by this act. Contractors and subcontractors that violate this subsection shall be subject to penalties and sanctions in accordance with section 31-53 of the general statutes, as amended by this act.

(2) Each operations, maintenance and security employee employed in a building or facility that is constructed in a covered project shall be paid wages and benefits that are not less than the prevailing wage and fringe benefit rates prescribed in section 31-53 of the general statutes, as

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amended by this act, or, if applicable, the standard wage specified in section 31-57f of the general statutes for the corresponding classification in which the employee is employed.

(g) Prevailing wage requirements under subsection (f) of this section shall not apply to a construction project that is covered by a project labor agreement. For the purposes of this subsection, "project labor agreement" means an agreement that: (1) Binds all contractors and subcontractors on the covered project to the project labor agreement through the inclusion of specifications in all relevant solicitation provisions and contract documents; (2) allows 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; (3) establishes uniform terms and conditions of employment for all construction labor employed on the projects; (4) guarantees against strikes, lockouts and similar job disruptions; (5) sets forth mutually binding procedures for resolving labor disputes arising during the project labor agreement; and (6) includes any other provisions as negotiated by the parties to promote successful delivery of the covered project.

Sec. 2. Subsection (a) of section 31-53a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) The State Comptroller or the contracting authority acting pursuant to section 31-53, as amended by this act, is hereby authorized and directed to pay to mechanics, laborers and workers from any accrued payments withheld under the terms of a contract terminated pursuant to subsection (b) of [said] section 31-53 any wages found to be due such mechanics, laborers and workers pursuant to [said] section 31-53, as amended by this act. The Labor Commissioner is further authorized and directed to distribute a list to all departments of the state and political subdivisions of the state giving the names of persons or

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firms whom the Labor Commissioner has found to have (1) disregarded their obligations under [said] section 31-53, as amended by this act, and section 31-76c to employees and subcontractors on public works projects, [or to have] (2) been barred from federal government contracts in accordance with the provisions of the Davis-Bacon Act, 49 Stat. 1011 (1931), 40 USC 276a-2, or (3) submitted false, misleading or materially inaccurate information under subsection (d) of section 1 of this act.

Sec. 3. Subsection (f) of section 31-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(f) Each employer subject to the provisions of this section, section 31-53c, [or] section 31-54 or subsection (f) of section 1 of this act shall (1) keep, maintain and preserve such records relating to the wages and hours worked by each person performing the work of any mechanic, laborer and worker and a schedule of the occupation or work classification at which each person performing the work of any mechanic, laborer or worker on the project is employed during each work day and week in such manner and form as the Labor Commissioner establishes to assure the proper payments due to such persons or employee welfare funds under this section, section 31-53c, [or] section 31-54 or subsection (f) of section 1 of this act, regardless of any contractual relationship alleged to exist between the contractor and such person, provided such employer shall have the option of keeping, maintaining and preserving such records in an electronic format, and (2) submit monthly to the contracting agency or the Department of Economic and Community Development pursuant to section 31-53c or to the developer of a covered project, as defined in section 1 of this act, as applicable, by mail, electronic mail or other method accepted by such agency, [or] the Department of Economic and Community Development or such developer, a certified payroll that shall consist of a complete copy of such records accompanied by a statement signed by the employer that indicates (A) such records are correct; (B) the rate of

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wages paid to each person performing the work of any mechanic, laborer or worker and the amount of payment or contributions paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of this section, are not less than the prevailing rate of wages and the amount of payment or contributions paid or payable on behalf of each such person to any employee welfare fund, as determined by the Labor Commissioner pursuant to subsection (d) of this section, and not less than those required by the contract to be paid; (C) the employer has complied with the applicable provisions of this section, section 31-53c, [and] section 31-54 and subsection (f) of section 1 of this act; (D) each such person is covered by a workers' compensation insurance policy for the duration of such person's employment, which shall be demonstrated by submitting to the contracting agency the name of the workers' compensation insurance carrier covering each such person, the effective and expiration dates of each policy and each policy number; (E) the employer does not receive kickbacks, as defined in 41 USC 52, from any employee or employee welfare fund; and (F) pursuant to the provisions of section 53a-157a, the employer is aware that filing a certified payroll which the employer knows to be false is a class D felony for which the employer may be fined up to five thousand dollars, imprisoned for up to five years, or both. This subsection shall not be construed to prohibit a general contractor from relying on the certification of a lower tier subcontractor, provided the general contractor shall not be exempted from the provisions of section 53a-157a if the general contractor knowingly relies upon a subcontractor's false certification. Notwithstanding the provisions of section 1-210, the certified payroll shall be considered a public record and every person shall have the right to inspect and copy such records in accordance with the provisions of section 1-212. The provisions of subsections (a) and (b) of section 31-59 and sections 31-66 and 31-69 that are not inconsistent with the provisions of this section, section 31-53c or 31-54 apply to this section. Failing to file a certified payroll pursuant to subdivision (2) of this subsection is a class D felony for which the employer may be fined

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up to five thousand dollars, imprisoned for up to five years, or both.

Approved June 14, 2021