

General Assembly

Amendment

January Session, 2021

LCO No. **9659**



Offered by:

REP. RITTER M., 1st Dist.
REP. CANDELORA, 86th Dist.
REP. PORTER, 94th Dist.
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To: Subst. Senate Bill No. **999**

File No. 404

Cal. No. 538

(As Amended by Senate Amendment Schedule "A")

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

5 (1) "Covered project" means a renewable energy project that is
6 situated on land in this state, commences construction on or after July 1,
7 2021, and has a total nameplate capacity of two megawatts or more.
8 "Covered project" does not include any renewable energy project (A)
9 selected in a competitive solicitation conducted by (i) the Department of
10 Energy and Environmental Protection, or (ii) an electric distribution
11 company, as defined in section 16-1 of the general statutes, and (B)
12 approved by the Public Utilities Regulatory Authority prior to January
13 1, 2022;

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

18 (3) "Community benefits agreement" means an agreement between
19 (A) the developer of a covered project, and (B) community-based
20 organizations or a coalition of such organizations, that details the
21 project's contributions to the community in which it is or will be sited
22 and the aspects of the project that will mitigate adverse conditions of
23 such community and create opportunities for local businesses,
24 communities and workers;

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

35 (5) "Workforce development program" means a program pursuant to
36 which newly hired employees and existing employees are given the

37 opportunity to develop skills that will enable such employees to qualify
38 for higher paying jobs on a covered project. A workforce development
39 program includes: (A) Apprenticeship training through an
40 apprenticeship program registered with the Labor Department or a
41 federally recognized state apprenticeship agency that complies with the
42 requirements under 29 CFR 29 and 29 CFR 30, as each may be amended
43 from time to time, and (B) preapprenticeship training that will enable
44 students to qualify for registered apprenticeship training.

45 (b) The developer of a covered project shall (1) take all reasonable
46 actions to ensure that a community benefits agreement is entered into
47 with appropriate community organizations representing residents of
48 the community in which the project is or will be located if the nameplate
49 capacity of the project is five megawatts or more, and (2) take
50 appropriate actions to ensure a workforce development program is
51 established.

52 (c) The developer of a covered project shall take all necessary actions
53 to ensure that each contractor and subcontractor involved in the
54 construction of the project completes a sworn certification that the
55 contractor or subcontractor: (1) Has the necessary resources to perform
56 the portion of the covered project to which the contractor or
57 subcontractor are assigned, including the necessary technical, financial
58 and personnel resources; (2) has all required contractor, specialty
59 contractor or trade licenses, certifications or certificates required of any
60 business entity or individual by applicable state or local law; (3)
61 participates in apprenticeship training through an apprenticeship
62 program registered with the Labor Department or a federally
63 recognized state apprenticeship agency that complies with the
64 requirements under 29 CFR 29 and 29 CFR 30, as each may be amended
65 from time to time; (4) during the previous three years (A) has not been
66 debarred by any government agency; (B) has not defaulted on any
67 project; (C) has not had any license, certification or other credential
68 relating to the business revoked or suspended; and (D) has not been
69 found in violation of any law applicable to the contractor's or
70 subcontractor's business that resulted in the payment of a fine, back pay

71 damages or any other type of penalty in the amount of ten thousand
72 dollars or more; (5) will pay personnel employed on the project not less
73 than the applicable wage and fringe benefit rates for the classification in
74 which such personnel is employed and required for the project; and (6)
75 has not misclassified and will not misclassify labor employees as
76 independent contractors.

77 (d) The developer of a covered project shall submit to the Labor
78 Commissioner the sworn certification of compliance specified in
79 subsection (c) of this section not later than thirty days prior to
80 commencement of construction of the project. Such sworn certification
81 shall be considered a public document that shall be made available
82 without redaction on the Labor Department's Internet web site not later
83 than seven days after being submitted to the Labor Commissioner. If a
84 sworn certification contains false, misleading or materially inaccurate
85 information, the contractor or subcontractor that executed such sworn
86 certification shall, after notice and opportunity to be heard, be subject to
87 debarment pursuant to section 31-53a of the general statutes, as
88 amended by this act.

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

98 (f) (1) Each contractor and subcontractor on a covered project shall
99 (A) pay each construction employee on the project wages and benefits
100 that are not less than the prevailing wage and fringe benefit rates
101 prescribed in section 31-53 of the general statutes, as amended by this
102 act, for the corresponding classification in which the employee is
103 employed, and (B) be subject to all reporting and compliance

104 requirements of section 31-53 of the general statutes, as amended by this
105 act. Contractors and subcontractors that violate this subsection shall be
106 subject to penalties and sanctions in accordance with section 31-53 of the
107 general statutes, as amended by this act.

108 (2) Each operations, maintenance and security employee employed
109 in a building or facility that is constructed in a covered project shall be
110 paid wages and benefits that are not less than the prevailing wage and
111 fringe benefit rates prescribed in section 31-53 of the general statutes, as
112 amended by this act, or, if applicable, the standard wage specified in
113 section 31-57f of the general statutes for the corresponding classification
114 in which the employee is employed.

115 (g) Prevailing wage requirements under subsection (f) of this section
116 shall not apply to a construction project that is covered by a project labor
117 agreement. For the purposes of this subsection, "project labor
118 agreement" means an agreement that: (1) Binds all contractors and
119 subcontractors on the covered project to the project labor agreement
120 through the inclusion of specifications in all relevant solicitation
121 provisions and contract documents; (2) allows all contractors and
122 subcontractors to compete for contracts and subcontracts on the project
123 without regard to whether they are otherwise parties to collective
124 bargaining agreements; (3) establishes uniform terms and conditions of
125 employment for all construction labor employed on the projects; (4)
126 guarantees against strikes, lockouts and similar job disruptions; (5) sets
127 forth mutually binding procedures for resolving labor disputes arising
128 during the project labor agreement; and (6) includes any other
129 provisions as negotiated by the parties to promote successful delivery
130 of the covered project.

131 Sec. 2. Subsection (a) of section 31-53a of the general statutes is
132 repealed and the following is substituted in lieu thereof (*Effective July 1,*
133 *2021*):

134 (a) The State Comptroller or the contracting authority acting
135 pursuant to section 31-53, as amended by this act, is hereby authorized

136 and directed to pay to mechanics, laborers and workers from any
137 accrued payments withheld under the terms of a contract terminated
138 pursuant to subsection (b) of [said] section 31-53 any wages found to be
139 due such mechanics, laborers and workers pursuant to [said] section 31-
140 53, as amended by this act. The Labor Commissioner is further
141 authorized and directed to distribute a list to all departments of the state
142 and political subdivisions of the state giving the names of persons or
143 firms whom the Labor Commissioner has found to have (1) disregarded
144 their obligations under [said] section 31-53, as amended by this act, and
145 section 31-76c to employees and subcontractors on public works
146 projects, [or to have] (2) been barred from federal government contracts
147 in accordance with the provisions of the Davis-Bacon Act, 49 Stat. 1011
148 (1931), 40 USC 276a-2, or (3) submitted false, misleading or materially
149 inaccurate information under subsection (d) of section 1 of this act.

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

152 (f) Each employer subject to the provisions of this section, section 31-
153 53c, [or] section 31-54 or subsection (f) of section 1 of this act shall (1)
154 keep, maintain and preserve such records relating to the wages and
155 hours worked by each person performing the work of any mechanic,
156 laborer and worker and a schedule of the occupation or work
157 classification at which each person performing the work of any
158 mechanic, laborer or worker on the project is employed during each
159 work day and week in such manner and form as the Labor
160 Commissioner establishes to assure the proper payments due to such
161 persons or employee welfare funds under this section, section 31-53c,
162 [or] section 31-54 or subsection (f) of section 1 of this act, regardless of
163 any contractual relationship alleged to exist between the contractor and
164 such person, provided such employer shall have the option of keeping,
165 maintaining and preserving such records in an electronic format, and
166 (2) submit monthly to the contracting agency or the Department of
167 Economic and Community Development pursuant to section 31-53c or
168 to the developer of a covered project, as defined in section 1 of this act,
169 as applicable, by mail, electronic mail or other method accepted by such

170 agency, [or] the Department of Economic and Community
171 Development or such developer, a certified payroll that shall consist of
172 a complete copy of such records accompanied by a statement signed by
173 the employer that indicates (A) such records are correct; (B) the rate of
174 wages paid to each person performing the work of any mechanic,
175 laborer or worker and the amount of payment or contributions paid or
176 payable on behalf of each such person to any employee welfare fund, as
177 defined in subsection (i) of this section, are not less than the prevailing
178 rate of wages and the amount of payment or contributions paid or
179 payable on behalf of each such person to any employee welfare fund, as
180 determined by the Labor Commissioner pursuant to subsection (d) of
181 this section, and not less than those required by the contract to be paid;
182 (C) the employer has complied with the applicable provisions of this
183 section, section 31-53c, [and] section 31-54 and subsection (f) of section
184 1 of this act; (D) each such person is covered by a workers' compensation
185 insurance policy for the duration of such person's employment, which
186 shall be demonstrated by submitting to the contracting agency the name
187 of the workers' compensation insurance carrier covering each such
188 person, the effective and expiration dates of each policy and each policy
189 number; (E) the employer does not receive kickbacks, as defined in 41
190 USC 52, from any employee or employee welfare fund; and (F) pursuant
191 to the provisions of section 53a-157a, the employer is aware that filing a
192 certified payroll which the employer knows to be false is a class D felony
193 for which the employer may be fined up to five thousand dollars,
194 imprisoned for up to five years, or both. This subsection shall not be
195 construed to prohibit a general contractor from relying on the
196 certification of a lower tier subcontractor, provided the general
197 contractor shall not be exempted from the provisions of section 53a-157a
198 if the general contractor knowingly relies upon a subcontractor's false
199 certification. Notwithstanding the provisions of section 1-210, the
200 certified payroll shall be considered a public record and every person
201 shall have the right to inspect and copy such records in accordance with
202 the provisions of section 1-212. The provisions of subsections (a) and (b)
203 of section 31-59 and sections 31-66 and 31-69 that are not inconsistent
204 with the provisions of this section, section 31-53c or 31-54 apply to this

205 section. Failing to file a certified payroll pursuant to subdivision (2) of
206 this subsection is a class D felony for which the employer may be fined
207 up to five thousand dollars, imprisoned for up to five years, or both."

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2021</i> | New section |
| Sec. 2 | <i>July 1, 2021</i> | 31-53a(a) |
| Sec. 3 | <i>July 1, 2021</i> | 31-53(f) |