

Rep. Scott Cuddy SPONSOR'S AMENDMENT: LD 1231, *An Act Concerning Climate and Community Investment Projects*

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

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

CHAPTER 47

CLIMATE AND COMMUNITY INVESTMENT PROJECTS

§3701. Climate and community investment projects

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

A. "Assisted project" means a construction project sited in Maine that involves a renewable energy project, an energy efficiency project, or projects for the production of energy for which the generator will be entitled to participate in the Net Energy Billing program, or is a construction project related thereto, as to which the state or an agency thereof provides economic assistance of any kind, including but not limited to payments pursuant to power purchase agreements, certifications that entitle the generator to renewable energy credits, rebates, grants, loans, commitments of funds or tax abatements and or tax exemptions, or other assistance, provided that the financial value of the economic assistance is at least \$50,000. For purposes of this section, an "agency of the state" shall include, but not be limited to, the Efficiency Maine Trust and the Public Utility Commission. Where the state or an agency thereof provides a certification that will entitle a generator to renewable energy credits, the certification shall include a valuation of the renewable energy credits estimated to be derived from that certification, based on the market price for renewable energy credits at the time of the certification multiplied by the projected duration of the recipient's generation of power eligible for such certification, which duration shall be projected to be no less than twenty years. These calculations shall be disclosed to the public at the time the certification is issued.

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

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

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

- (1) Is provided for each trade for which the employer employs craft workers;
- (2) Is registered with and approved by the United States Department of Labor or the Maine Apprenticeship Program under section 3202; and
- (3) Actively trains employees, has functioning training facilities and is regularly graduating apprentices to journeyman status who are then placed in employment on an assisted project.

E. "Renewable energy project" means a project to construct a source of electrical generation of 2.5 megawatts or more that relies on one or more of the following:

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

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

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

2. Labor and project performance standards. The following requirements apply to an assisted project.

A. An entity responsible for an assisted project shall, in accordance with applicable law, take all necessary actions to establish and administer a workforce development program.

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

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

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

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

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

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

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

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

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

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

Sec. 3. 35-A MRSA § 3210-G is hereby amended to read as follows:

1. Competitive procurement. The commission shall conduct ~~2~~ competitive solicitations in order to select Class IA resources for contracts under this section.

A. Through competitive solicitations under this section, the commission shall procure an amount of energy or renewable energy credits from Class IA resources that is equal to 14% of retail electricity sales in this State for the period from January 1, 2018 to December 31, 2018, as determined by the commission.

(1) The commission shall initiate a first competitive solicitation and ensure that solicitation results in the approval of contracts by December 31, 2020 for energy or renewable energy credits equal to at least 7% of retail electricity sales for the period from January 1, 2018 to December 31, 2018, as determined by the commission. If the commission determines that contracts for an amount greater than 7% of retail electricity sales will provide financial benefits to ratepayers, it may approve contracts by December 31, 2020 for up to 10% of retail electricity sales.

(2) No later than January 15, 2021, the commission shall initiate a 2nd competitive solicitation for an amount of energy or renewable energy credits equal to the difference between 14% of retail electricity sales and the amount approved in contracts by December 31, 2020.

B. To the extent sufficient resources are available, 75% of the energy or renewable energy credits contracted under this section must come from Class IA resources that begin commercial operations after June 30, 2019 and 25% must come from Class IA resources that began commercial operations on or prior to June 30, 2019.

C. Following January 15, 2021, if the commission initiates additional competitive solicitations for energy or renewable energy credits, in conducting a solicitation and selecting Class IA resources for contracts under this section, the commission shall weigh the benefits to ratepayers and the benefits to the State's economy as follows:

(1) A weight of 70% must be given to the benefits to ratepayers; and

(2) A weight of 30% must be given to benefits to the economy, which may include, but are not limited to:

(a) Capital investments by the Class IA resource to improve long-term viability of an existing facility;

(b) Payments by the Class IA resource for the harvest of wood fuel;

(c) Employment resulting from the Class IA resource;

(d) Payments by the Class IA resource to a host community, whether or not required by law or rule;

(e) Excise, income, property and sales taxes paid by the Class IA resource;

(f) Purchases of goods and services by the Class IA resource; ~~and~~

(g) Avoided emissions resulting from the operation of the Class IA resource; ~~and~~

(h) With respect to solicitations initiated after January 15 2021, whether that resource has entered into a project labor agreement with a labor organization to supply skilled craft workers in all crafts needed for the project in the area where the project is located. For purposes of this paragraph, a project labor agreement must contain provisions that:

(i) bind all contractors and subcontractors on the assisted project to the project labor agreement through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

(ii) allow 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;

(iii) establish uniform terms and conditions of employment for all construction craft labor employed on the projects;

(iv) contain guarantees against strikes, lockouts, and similar job disruptions; and

(v) set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the project labor agreement.

Sec. 4. Severability. If any provision of this act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SUMMARY

This bill does the following.

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

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

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

C. A contractor or subcontractor working on the assisted project must pay craft workers on the project no less than the applicable prevailing wage and benefits, and the entity responsible for the assisted project that is receiving state assistance for that project must take reasonable steps to ensure that all contractors and subcontractors meet this requirement. This requirement does not apply, however, if the entity responsible for the

assisted project has ensured that the entity directly responsible for the construction of the project has entered into a project labor agreement that meets certain requirements.

D. If the Public Utilities Commission engages in future additional procurement of energy or renewable energy credits pursuant to 35-A MRSA Section 3210-G, in determining the 30% benefits to the Maine economy, the PUC shall consider whether the Class 1A generator has secured a project labor agreement that is executed between the entity directly responsible for construction of the project and a labor organization to supply skilled craft workers in all crafts needed for the project in the area where the project is located.

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

2. It amends the definition of "electrical installation" in the law governing the licensing of electricians. Under the law, undertaking an electrical installation generally requires a license. The bill defines an electrical installation of a photovoltaic system to include the installation of supporting structures, such as frames, racks, rails, purlins and any part of the supporting structure that has and Underwriters Laboratories LLC listing as a raceway, and footings.