

Committee: LBHS  
LA: SL  
File Name  
LR (item): 2473  
New Title?: N  
Add Emergency?:  
Date: February 23, 2022

**LD 1969**  
**PROPOSED AMENDMENT**  
**Offered by Rep. Cuddy**

**Sponsor amendment “ “ To LD 1969, “An Act Concerning Equity in Renewable Energy Projects and Workforce Development”**

Amend the bill by striking everything after the enacting clause and inserting the following:

**Sec. 1. 26 MRSA §3201, sub-§8-A** is enacted to read:

**8-A. Historically marginalized community.** "Historically marginalized community" means a block group, as defined in Title 21-A, section 1202, subsection 2, or geographic area of the State determined by rule by the department using best available existing data to have a high rate of poverty, unemployment or chronic unemployment, as well as a high number of individuals with barriers to employment, including individuals who have been incarcerated or traditionally underrepresented, such as women, Black, Indigenous, and people of color, in a relevant employment area under this chapter.

**Sec. 2. 26 MRSA §3201, sub-§15-A** is enacted to read:

**15-A. Apprenticeship training program.** “Apprenticeship training program” has the same meaning as Title 26, chapter 47, section 3701, subsection F.

**Sec. 3. 26 MRSA §3201, sub-§15-B** is enacted to read:

**15-B. Pre-apprentice.** "Pre-apprentice" means an individual enrolled in a pre-apprenticeship training program certified by the Maine Apprenticeship Program. Pre-apprentices must be at least 16 years of age, except when a higher minimum age standard is otherwise fixed by law or apprenticeship sponsor.

**Sec. 4. 26 MRSA §3201, sub-§15-C** is enacted to read:

**15-C. Pre-apprenticeship graduate.** "Pre-apprenticeship graduate" means an individual who successfully completed a certified pre-apprenticeship training program.

**Sec. 5. 26 MRSA §3201, sub-§15-D** is enacted to read:

**15-D. Pre-apprenticeship training program.** "Pre-apprenticeship training program" means an educational program that includes both industry-based and job-related classroom instruction that:

A. Is designed to prepare individuals to enter into and succeed in a registered apprenticeship program;

B. Has a demonstrated commitment to inclusion of individuals from a historically marginalized community; and

C. Has a documented partnership with at least one registered apprenticeship program sponsor. The documented partnership with a sponsor of a registered apprenticeship program shall include, at a minimum, two of the following:

1. Mentored and paid work experience
2. Guaranteed apprenticeship employment interview for individuals who have successfully completed the certified pre-apprenticeship program
3. Advanced placement in an apprenticeship program if hired, either in classroom training or on-the-job learning
4. Job shadow experience for pre-apprentices

**Sec. 6. 26 MRSA §3209, sub-§4, ¶A,** as enacted by PL 2011, c. 491, §13, is amended to read:

A. Developing, approving, and registering new apprenticeship programs and certifying pre-apprenticeship training programs;

**Sec. 7. 26 MRSA §3213** is enacted to read:

**§3213. Pre-apprenticeship training program**

A pre-apprenticeship training program must conform to the following standards to be eligible for certification by the Maine Apprenticeship Program.

**1. Application; eligibility.** A sponsor may apply with the Maine Apprenticeship Program for review and certification of a pre-apprenticeship training program. To be eligible for certification, the pre-apprenticeship training program must meet the requirements of this section, must involve instruction and training in preparation for an apprenticeable occupation and must comply with state and federal law regarding equal employment opportunity in apprenticeship and training.

**2. Review; certification.** The Maine Apprenticeship Program shall review an application for certification of a pre-apprenticeship training program. A pre-apprenticeship training program that meets the standards for certification must be given provisional certification for a period of one year. The Maine Apprenticeship Program shall review a pre-apprenticeship training program for quality and conformity with the requirements of this section at the end of the first year after certification. A program that conforms to the requirements may have its certification made permanent or may continue to be provisionally certified through the first full training cycle.

**3. Evaluation.** The Maine Apprenticeship Program shall evaluate the performance of a certified pre-apprenticeship training program. The tools and factors to be used must include, but are not limited to:

A. Quality assurance assessments;

B. Equal employment opportunity compliance reviews;

C. Efforts to achieve equity goals for recruitment and training of pre-apprentices from historically marginalized communities;

D. Completion rates; and

E. Rates of enrollment in and successful completion of registered apprenticeship programs.

**4. Investment system.** The Maine Apprenticeship Program shall partner with the Maine Workforce Investment System under chapter 33 to use pre-apprenticeship graduates as a key talent development approach that serves both workforce investment system participants and industry in the State.

**5. Curriculum.** A certified pre-apprenticeship training program must have organized, written standards containing:

A. A description of the instruction and training of pre-apprentices that align with industry skills and workplace expectations to prepare pre-apprentices with the education, training, competencies and awareness they need to enter registered apprenticeship programs, including, but not limited to:

(1) Listening and communication skills;

(2) Workplace safety training;

(3) Job preparedness training, including workplace soft skills training;

(4) Physical, technical and workplace skills; and

(5) Resume and job interview preparation.

B. A description of how success in the pre-apprenticeship training program will be measured; and

C. Provision for at least 120 hours of instruction and training.

D. A description of what advanced placement and/or facilitated entry into registered apprenticeship will be provided pre-apprentice graduates when applying for and/or accepted into a registered apprenticeship program, including the number of classroom hours and/or on-the-job learning hours credited to pre-apprentice graduates upon registration as apprentices.

**6. Equity, inclusion and accessibility.** A certified pre-apprenticeship training program must provide services whenever possible to enable participation by individuals from historically marginalized communities, such as assistance with transportation, child care, probation officer advocacy, English as a new language and the cost of materials and supplies. A certified pre-apprenticeship training program must maintain an affirmative action program in compliance with 29 Code of Federal Regulations, Section 30.1 et seq.

**7. Stipend.** A certified pre-apprenticeship training program must provide a meaningful pre-apprentice stipend for each day of instruction that enables individuals from historically marginalized groups to participate in the program. This subsection does not apply to individuals enrolled in a pre-apprenticeship training program that is part of a secondary education program, or to others for whom the law does not allow payment. A certified program shall ensure that where training includes on-the-job work experience, pre-apprentices are paid at least the minimum wage rate under Title 26, ch. 7, subchapter 3.

**8. Funding.** The Maine Apprenticeship Program, through the department, shall seek available workforce development funds to support programs under this section. As funding permits, the Maine Apprenticeship Program shall provide pre-apprenticeship training grants to those certified pre-apprenticeship programs that provide meaningful financial assistance to their participants to support the cost of participation including, for example supplies and materials, industry-based certifications, lost wages, transportation, and/or child care. The Maine Apprenticeship Program shall determine awards to certified pre-apprenticeship programs based on documented participant need, the provision of services under subsection 6 and the program's efforts to recruit and enroll participants from historically marginalized communities. Priority must be given to those certified pre-apprenticeship programs demonstrating that a significant number of their participants have successfully completed the certified pre-apprenticeship training program and are subsequently enrolled in registered apprenticeship programs. The department, through the Maine Apprenticeship Program, shall implement, monitor and enforce these requirements using existing resources.

**9. Rulemaking.** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the provisions of this section.

**Sec. 8. 26 MRS c. 47** is enacted to read:

## **CHAPTER 47**

### **EQUITY IN RENEWABLE ENERGY PROJECTS AND WORKFORCE DEVELOPMENT**

#### **§3701. Equity in renewable energy projects**

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

A. "Agency of the State" includes, but is not limited to, the Efficiency Maine Trust as established in Title 35-A, chapter 97 and the Public Utilities Commission as established in Title 35-A, Part 1.

B. "Assisted project" means a construction project:

(1) With a nameplate capacity of 2 megawatts or more that involves a renewable energy project or a project for the production of energy, including all phases of site preparation, construction, retrofitting, and demolition work; and

(2) For which the State or an agency of the State provides certifications that entitle the generator to renewable energy credits, or provides other economic assistance, including, but not limited to, payments pursuant to power purchase agreements rebates, grants, loans, commitments of funds or other assistance.

C. "Commissioner" means the Commissioner of Labor.

D. "Facilitated entry agreement" means an agreement between a registered apprenticeship program and a certified pre-apprenticeship training program that enables individuals who have successfully completed the certified pre-apprenticeship training program to enter directly into the registered apprenticeship program.

E. "Pre-apprenticeship training program" means a pre-apprenticeship training program certified under section 3213.

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

(1) Is registered with and approved by the United States Department of Labor or the Maine Apprenticeship Program under section 3202;

(2) Has been registered for at least one year, provides a minimum of 3,000 hours of on-the-job learning and 300 hours of related instruction; and

(3) Actively trains employees, has functioning training facilities and is regularly graduating apprentices to journeyworker status.

G. "Renewable energy project" means a project to construct a source of electrical generation 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.

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

A. Beginning January 1, 2024, a contractor or subcontractor working on an assisted project shall pay all construction workers working on the assisted project no less than the prevailing rate for wages and benefits, as determined by the Bureau of Labor Standards, except that a worker may be hired at the rate recognized for registered apprentices working in the pertinent classification if:

(1) The worker is a participant in a registered apprenticeship program; and

(2) The registered apprenticeship program from which the apprentice is hired maintains a facilitated entry agreement with a certified pre-apprenticeship training program.

B. An entity responsible for an assisted project shall take reasonable steps to ensure that all contractors and subcontractors working on the assisted project meet the requirements of this subsection. The contractor or subcontractor shall provide proof within 7 days of a request from the Department of Labor that any apprenticeship program used for the project meets all the requirements of a registered apprenticeship program. For purposes of this subsection, "entity responsible" includes any recipient of assistance for the assisted project and any corporations, joint ventures, partnerships or other persons and

their successors or assigns that hire contractors or construction managers to perform work on the assisted project.

C. The requirements of this subsection 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 Title 35-A, section 3210-G, subsection 1, paragraph C, subparagraph (2), division (h).

**3. Recordkeeping and Reporting.** The entity receiving state assistance for an assisted project shall ensure that all contractors and subcontractors keep wage records in accordance with Title 26, chapter 15, section 1301 et. seq. Reporting for entities on assisted projects shall be in accordance with Title 26, chapter 15, section 1311. The agency of the state providing the economic assistance to the assisted project shall be treated as the public authority letting the contract for the purposes of reporting under Title 26, chapter 15, section 1311.

**4. Enforcement, Penalties and Sanctions.** Enforcement and penalties for violation of this subsection shall be in accordance with Title 26, chapter 15, section 1301 et. seq. Further, 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 agency of the State 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 at least the prevailing rate for wages and benefits.

**5. Application.** This section does not apply to a project:

A. For which the Public Utilities Commission approved a term sheet or contract or otherwise provided project-specific authorization or approval pursuant to Title 35-A on or before June 29, 2021; or

B. That is participating in net energy billing and that meets the requirements of Title 35-A, section 3209-A, subsection 7 (as enacted by PL 2021, c. 390, §1).

**6. Powers of the commissioner.** The commissioner shall implement and administer this chapter and may adopt rules consistent with the requirements of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 9. 35-A MRSA §3209-A, sub-§7,** as enacted by PL 2021, c. 370, §1 and reallocated by RR 2021, c. 1, Pt. A, §37, is reallocated to 35-A MRSA §3209-A, sub-§8.

**Sec. 10. 35-A MRSA §3210-G, sub-§1,** as enacted by PL 2019, c. 477, §2, is amended to read:

**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. 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;

(h) For an assisted project, with respect to additional requests for bids or proposals initiated by the commission pursuant to this section for energy or renewable energy credits after January 1, 2022, including bids or proposals that supplement a process started on or before January 1, 2022

(i) Whether the Class IA resource has entered into a project labor agreement with a labor organization to supply construction workers in all crafts needed for the assisted project where the assisted project is located. For purposes of this division, a project labor agreement must contain provisions that:

(1) 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;

(2) Allow all contractors and subcontractors to compete for contracts and subcontracts on the assisted project without regard to whether they are otherwise parties to collective bargaining agreements;

(3) Establish uniform terms and conditions of employment for all construction craft workers employed on the assisted project;

(4) Contain guarantees against strikes, lockouts and similar job disruptions; and

(5) Set forth effective, prompt and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement; and

(ii) Whether an entity is employee-owned, including but not limited to an entity that offers employee stock ownership plans or is structured as a worker cooperative.

For the purposes of this subparagraph, "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 and a bona fide building and construction trades council or district council or state or local labor federation composed of local unions certified or recognized as the representative of the relevant workers. For the purposes of this subparagraph, "assisted project" has the same meaning as in Title 26, section 3701, subsection 1, paragraph B.

D. The commission shall, in accordance with this paragraph, allow energy storage systems to participate in solicitations or be awarded contracts under this section.

(1) The commission shall permit an energy storage system to bid on solicitations or to be contracted under this section only if the energy storage system is connected to the State's electricity grid, paired as a complementary resource with a Class IA resource and either:

(a) Colocated with the Class IA resource, whether metered jointly with or separately from the Class IA resource; or

(b) Located at a different location from the Class IA resource and the commission finds that inclusion of the energy storage system would result in a reduction in greenhouse gas emissions.

(2) A bid under this section that includes an energy storage system must include 2 separate bid proposals, one with the energy storage system and one without. The

commission shall assess the bid proposals based on the benefits to ratepayers, which may include, but are not limited to:

- (a) Reduction in costs;
  - (b) Decrease in peak electricity demand;
  - (c) Deferral of investments in the transmission and distribution system;
  - (d) Deferral of capital investments in new generating capacity;
  - (e) Increase in the electricity grid's overall flexibility, reliability and resiliency; and
  - (f) Reduction in greenhouse gas emissions.
- (3) An energy storage system that is not colocated with a Class IA resource may receive renewable energy credits only for stored energy generated from a Class IA resource.
- (4) If chosen for a contract under this section, an energy storage system must remain stationary and under the same ownership throughout the contract term.
- (5) The commission may permit an energy storage system to be paired with and added to a Class IA resource after that resource has been awarded a contract.

For the purposes of this paragraph, "energy storage system" means a commercially available technology that uses mechanical, chemical or thermal processes for absorbing energy and storing it for a period of time for use at a later time.

## **SUMMARY**

This bill does the following.

1. It sets standards for certification and evaluation of pre-apprenticeship training programs by the Maine Apprenticeship Program, as well as minimum curriculum requirements. The bill defines a certified pre-apprenticeship training program as a program designed to prepare individuals to enter into and succeed in a registered apprenticeship program. The bill focuses on equity, inclusion and access to certified pre-apprenticeship training programs, requiring them to provide certain services to ensure participation by individuals from historically marginalized communities and implement affirmative action programs. It requires the payment of a meaningful stipend to participants and prioritizes state grants to those program sponsors that provide services that reduce barriers to entry for historically underrepresented groups and demonstrate that a significant number of their participants subsequently enrolled in registered apprenticeship programs.

2. It requires projects involving the construction of renewable energy generating systems that are at least 2 megawatts in size and that receive state assistance to meet certain workforce requirements. It defines such projects as "assisted projects." Specifically, contractors and subcontractors working on an assisted project are required to pay construction workers at least the prevailing rate for wages and benefits, except that they may pay the apprentice rate to apprentices on the project if those apprentices are participants in a registered apprenticeship program that is regularly graduating apprentices to journeyworker status and the apprentices on the assisted project are graduates of a program that has a facilitated entry agreement with a certified pre-apprenticeship training program. This

requirement does not apply, however, if the entity responsible for the 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.

3. It provides that if after January 1, 2023 the Public Utilities Commission engages in additional procurement of energy or renewable energy credits pursuant to the Maine Revised Statutes, Title 35-A, section 3210-G, the commission, in determining benefits to the State's economy, is required to consider whether the Class IA resource has secured a project labor agreement with a labor organization to supply construction workers in all crafts needed for the assisted project where the assisted project is located.

4. It directs the Public Utilities Commission, in conducting a solicitation and selecting Class IA resources for contracts pursuant to statutory provisions governing renewable portfolio standard procurement, to consider whether an entity is employee-owned, including but not limited to an entity that offers employee stock ownership plans.

5. The bill also corrects a conflict created by Public Law 2021, chapter 390 and Revisor's Report 2021, chapter 1, which affected the same provision of law, by reallocating the provision reallocated by Revisor's Report 2021, chapter 1.