

SENATE No. 1180

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>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>2/8/2023</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Plymouth and Bristol</i>	<i>2/8/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/8/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/9/2023</i>
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>2/10/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/13/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/16/2023</i>

SENATE No. 1180

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1180) of Paul R. Feeney, Paul W. Mark, Walter F. Timilty, Michael D. Brady and other members of the General Court for legislation relative to clean energy workforce standards and accountability. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1198 OF 2021-2022.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Third General Court
(2023-2024)**
—————

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. Chapter 25A of the General Laws, as appearing in the 2020 Official
2 Edition, is hereby amended by adding the following section:

3 Section 18(A). Clean Energy Workforce Standards and Accountability Act

4 (a) For the purposes of this section, the following words shall, unless the context
5 clearly requires otherwise, have the following meanings:

6 “Applicant”, (1) any natural person or business, whether or not incorporated or
7 unincorporated, who seeks a contract to provide labor or services under this Chapter, and
8 employs another to work in the Commonwealth, or contracts with another natural person or

9 business to do so (herein after “contractor”) to perform labor, services or otherwise assist in the
10 completion of a Project, under a contract, grant, subsidy, or any other arrangement funded in part
11 or in the whole by the Commonwealth, and/or its departments, offices, agencies, subdivisions,
12 and quasi-public agencies, including, but not limited to public authorities, subject to said chapter
13 150A by chapter 760 of the acts of 1962; and (2) any Public Utilities that are regulated under
14 M.G.L. c. 164. This definition excludes: (1) the United States or a corporation wholly owned by
15 the government of -the United States; and (2) a public utility, but only when employing workers
16 directly to perform construction and maintenance and other operational duties on its utility
17 infrastructure and buildings.

18 “Project”, initiatives of the Commonwealth and/or its departments, offices, agencies,
19 subdivisions, and quasi-public agencies, including, but not limited to public authorities, subject
20 to said chapter 150A by chapter 760 of the acts of 1962, modernizing and expanding the capacity
21 of its existing energy infrastructure, providing climate change remediation, and/or developing
22 renewable energy generation, transmission and distribution, in furtherance of meeting the
23 Commonwealth’s net zero emissions goals.

24 “Commonwealth”, the Commonwealth and/or its departments, offices, agencies, political
25 sub-divisions, and quasi-public agencies, including but not limited to quasi-public agencies
26 subject to said chapter 150A by chapter 760 of the acts of 1962 and any quasi-public independent
27 entity and any authority or body politic and corporate established by the general court to serve a
28 public purpose.

29 “environmental justice population”, a population with an annual median household
30 income of not more than 65 per cent of the statewide median income or with a segment of the

31 population that consists of residents that is not less than 25 per cent minority, foreign born or
32 lacking in English language proficiency based on the most recent United States census.

33 “municipality at high risk from the effects of climate change”, a municipality that can
34 demonstrate to the department current or future significant changes to its population, land use or
35 local economy resulting from changes in climate.

36 “labor peace agreement”, an agreement between an entity and any labor organization
37 recognized under the National Labor Relations Act, referred to in this Act as a bona fide labor
38 organization, that prohibits labor organizations and members from engaging in picketing, work
39 stoppages, boycotts, and any other economic interference in exchange for that entity agreeing not
40 to disrupt efforts by the bona fide labor organization to communicate with, and attempt to
41 organize and represent, the entity’s employees. The agreement shall provide a bona fide labor
42 organization access at reasonable times to areas in which the entity’s employees work, for the
43 purpose of meeting with employees to discuss their right to representation, employment rights
44 under State law, and terms and conditions of employment. This type of agreement shall not
45 mandate a particular method of election or certification of the bona fide labor organization.

46 “energy infrastructure”, refers to but is not limited to Massachusetts existing energy
47 industry infrastructure generating, transmitting, and/or distributing energy from fossil fuel
48 sources, building energy efficiency improvements, and renewable energy infrastructure—i.e.,
49 sun, wind, nuclear, geothermal and other energy sources not derived from the combustion of fossil
50 fuels.

51 "Public Utilities", utilities that are regulated under M.G.L. c. 164.

52 “supply chain facilities”, refers to but is not limited to businesses that perform material
53 extraction, refining, processing, fabrication, manufacturing, and assembly of components for
54 renewable energy projects.

55 (b) Every Request for Proposals (RFP), Grant Application, or Solicitation offering
56 funding from the Commonwealth or other public entity enumerated above for the purpose of
57 furthering the Commonwealth’s net zero emissions goals in any manner for all commercial
58 projects and residential projects in excess of three (3) units, shall be performed in conformance
59 with sections 26-27D of chapter 149, inclusive, and shall include the certification and disclosure
60 requirements included in this Section.

61 (c) To be awarded funding or contracts by the Commonwealth, Applicants shall provide
62 complete and accurate responses and disclosures to following certification and disclosure
63 requirements, which shall include:

64 1. A requirement for documentation reflecting the Applicant’s demonstrated commitment
65 to workforce development within the Commonwealth;

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

69 3. A requirement for documentation reflecting the Applicant’s demonstrated commitment
70 to economic development within the Commonwealth;

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

74 5. A requirement for documentation reflecting the Applicant's demonstrated commitment
75 to expand workforce diversity, equity, and inclusion in its past projects within the
76 Commonwealth;

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

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

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

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

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

95 11. Certification that the Applicant and its contractors and sub-contractors on this project
96 are currently, and will remain, in compliance with Massachusetts General Laws Chapters 149,
97 151, 151A, 151B, and 152 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws
98 for the duration of the project.

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

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

108 (d) Every RFP, solicitation and/or advertisement for funding, issued by the
109 Commonwealth under this Chapter shall notify Applicants that they will be disqualified from this
110 project if they have been debarred by the federal government or Commonwealth for the entire
111 term of the debarment.

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

115 (f) A successful Applicant's good faith failure to provide complete, accurate certifications
116 and documentation under Subsection A of this Section shall result in suspension from the project
117 for a period of 30 days, to provide an opportunity for the Applicant to address application
118 deficiencies to the satisfaction of the Commonwealth. Failure to cure deficiencies, thereafter,
119 shall result in termination. A successful Applicant's willful failure to provide accurate
120 certifications and documentation shall result in permanent termination from the project and the
121 return of all funds awarded therefor within 30 days.

122 (g) The Attorney General shall enforce the provisions contained herein and may enact
123 regulations consistent therewith.

124 (h) Owners of supply chain facilities that provide goods and services to be used in the
125 construction and maintenance of renewable energy generation, distribution, and transmission
126 infrastructure, which are developed in part or in whole with public funding, shall agree to enter
127 into fully executed labor peace agreements with a bona fide labor organization that actively
128 represents or seeks to represent employees as permitted by Federal law.

129 SECTION 2. Chapter 149 of the General Laws, as appearing in the 2020 Official Edition,
130 is hereby amended by adding the following three sections:-

131 Section 27I. All construction, reconstruction, installation, alteration or repair on natural
132 gas utility infrastructure, including, but not limited to, pipelines, mains, services and other
133 infrastructure: (1) requiring the excavation, construction, reconstruction of public lands, rights of

134 way, public works, or buildings and (2) not performed by workers directly employed by Public
135 Utilities, as defined by M.G.L. c. 164, shall be performed and procured under this section of
136 chapter 149.

137 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
138 county, or a municipality, shall agree to pipeline construction, reconstruction, installation,
139 alteration or repair work by a gas distribution company requiring the excavation, alternation,
140 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
141 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to
142 individuals performing pipeline construction who are not gas company employees.

143 Any such approval which does not contain said stipulation shall be invalid, and no
144 construction may commence thereunder. Said rates of wages shall be requested of said
145 commissioner by said public official or public body together with the gas local distribution
146 company on whose service territory the public infrastructure lies, and shall be furnished by the
147 commissioner in a schedule containing the classifications of jobs, and the rate of wages to be
148 paid for each job. Said rates of wages shall include payments to health and welfare plans, or, if
149 no such plan is in effect between employers and employees, the amount of such payments shall
150 be paid directly to said employees. Such requests for rates shall be made every six (6) months.

151 Whoever pays less than said rates of wages, including payments to health and welfare
152 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
153 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
154 wages or health and welfare funds, shall have violated this section and shall be punished or shall
155 be subject to a civil citation or order as provided in section 27C.

156 An employee claiming to be aggrieved by a violation of this section may, 90 days after
157 the filing of a complaint with the attorney general, or sooner if the attorney general assents in
158 writing, and within 3 years after the violation, institute and prosecute in his own name and on his
159 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for
160 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150.
161 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
162 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
163 the litigation and reasonable attorneys' fees.

164 Section 27J. All construction, reconstruction, installation, alteration or repair on electrical
165 utility infrastructure: (1) requiring the excavation, construction, reconstruction of public lands,
166 rights of way, public works, or buildings and (2) not performed by workers directly employed by
167 Public Utilities, as defined by M.G.L. c. 164, shall be performed and procured under this section
168 of chapter 149.

169 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
170 county, or a municipality, shall agree to construction, reconstruction, installation, alteration or
171 repair work by a electric distribution company requiring the excavation, alternation,
172 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
173 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to
174 individuals performing pipeline construction who are not gas company employees.

175 Any such approval which does not contain said stipulation shall be invalid, and no
176 construction may commence thereunder. Said rates of wages shall be requested of said
177 commissioner by said public official or public body together with the electric company on whose

178 service territory the public infrastructure lies, and shall be furnished by the commissioner in a
179 schedule containing the classifications of jobs, and the rate of wages to be paid for each job. Said
180 rates of wages shall include payments to health and welfare plans, or, if no such plan is in effect
181 between employers and employees, the amount of such payments shall be paid directly to said
182 employees. Such requests for rates shall be made every six (6) months.

183 Whoever pays less than said rates of wages, including payments to health and welfare
184 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
185 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
186 wages or health and welfare funds, shall have violated this section and shall be punished or shall
187 be subject to a civil citation or order as provided in section 27C.

188 An employee claiming to be aggrieved by a violation of this section may, 90 days after
189 the filing of a complaint with the attorney general, or sooner if the attorney general assents in
190 writing, and within 3 years after the violation, institute and prosecute in his own name and on his
191 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for
192 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150.

193 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
194 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
195 the litigation and reasonable attorneys' fees.

196 Section 27K. All construction, reconstruction, installation, alteration or repair on
197 renewable energy generation, distribution, transmission infrastructure: (1) requiring the
198 excavation, construction, reconstruction of public lands, rights of way, public works, or buildings

199 and (2) not performed by workers directly employed by Public Utilities, as defined by M.G.L. c.
200 164, shall be performed and procured under this section of chapter 149.

201 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
202 county, or a municipality, shall agree to construction, reconstruction, installation, alteration or
203 repair work by a renewable energy company requiring the excavation, alternation,
204 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
205 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to
206 individuals performing pipeline construction who are not gas company employees.

207 Any such approval which does not contain said stipulation shall be invalid, and no
208 construction may commence thereunder. Said rates of wages shall be requested of said
209 commissioner by said public official or public body together with the renewable energy
210 distribution company on whose service territory the public infrastructure lies, and shall be
211 furnished by the commissioner in a schedule containing the classifications of jobs, and the rate of
212 wages to be paid for each job. Said rates of wages shall include payments to health and welfare
213 plans, or, if no such plan is in effect between employers and employees, the amount of such
214 payments shall be paid directly to said employees. Such requests for rates shall be made every
215 six (6) months.

216 Whoever pays less than said rates of wages, including payments to health and welfare
217 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
218 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
219 wages or health and welfare funds, shall have violated this section and shall be punished or shall
220 be subject to a civil citation or order as provided in section 27C.

221 An employee claiming to be aggrieved by a violation of this section may, 90 days after
222 the filing of a complaint with the attorney general, or sooner if the attorney general assents in
223 writing, and within 3 years after the violation, institute and prosecute in his own name and on his
224 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for
225 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150.
226 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
227 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
228 the litigation and reasonable attorneys' fees.

229 SECTION 3. Section 2 of chapter 23J of the General Laws, as appearing in the 2020
230 Official Edition, is hereby amended by striking out the number “12” and inserting in place
231 thereof the number:- 15

232 SECTION 4. Section 2 of said chapter 23J of the General Laws, as so appearing, is
233 hereby further amended by striking out the words “1 of whom shall be a union representative ”,
234 in line 60, and inserting in place thereof, the following words:-

235 “1 of whom shall be a representative of employees in the gas utility sector appointed by
236 the President of the Massachusetts AFL-CIO; 1 of whom shall be a representative of employees
237 in the electric power generation sector appointed by the President of the Massachusetts AFL-
238 CIO; 1 of whom shall be the President of the Massachusetts AFL-CIO, or his/her designee, and
239 1 of whom shall be the President of the Massachusetts Building Trades Council or his/her
240 designee”

241 SECTION 5. Paragraph 27 of section 3 of said chapter 23J of the General Laws, as so
242 appearing, is hereby amended by inserting after the words “clean energy industry” the following
243 words:-

244 including, but not limited to, collaboration with state and federally licensed
245 apprenticeship and pre-apprenticeship programs providing training in the Commonwealth;

246 SECTION 6. Section 12 of chapter 23J of the General Laws, as so appearing, is hereby
247 amended by adding the following words:-

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

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

256 (a) Meet the workforce participation goals for the utilization of BIPOC and women as
257 required by 44A(1)(G) of Chapter 149. Provided, however, that such goals shall be equal to or
258 greater than the goals contained in the executive office for administration and finance
259 Administration Bulletin Number 14, and incorporate the data collection requirements contains in
260 Administration Bulletin Number 17.

261 (b) Participate in state or federally accredited apprenticeship program(s) that have
262 graduated at least one apprentice in the last five (5) years and utilize apprentices at a percentage
263 set by the commonwealth as part of its current workforce development plan.

264 (c) Bid all applicable construction, reconstruction, installation, alteration work performed
265 on the Project under this Section consistent with section 44A of chapter 149, section 8 of chapter
266 149A, and section 39M of chapter 30.

267 (d) Compensate all construction, reconstruction, installation, alteration work performed
268 under this Section, at a minimum, in accordance with chapter 149, sections 26-27D.

269 (e) Become signatory to a project labor agreement if such an agreement is selected as the
270 project delivery method for the construction project by the contracting authority.

271 SECTION 7. Chapter 23J of the General Laws, as so appearing, is hereby amended by
272 adding the following section:-

273 Section 13. Clean Energy Workforce Development Plan

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

279 The Center’s workforce development plans shall include:

280 1. Development of technical assistance, grants, loans, and demonstration projects,
281 facilitating the creation of construction, operations, and maintenance jobs in the Clean Energy
282 Industry.

283 2. Measures to expand training capacity for the Clean Energy industry, building upon the
284 Commonwealth’s extensive existing public and private workforce development facilities,
285 including all state and federally certified apprenticeship programs, licensure, and degree
286 programs.

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

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

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

296 The Center will engage all stakeholders in the planning process, including but not limited
297 to the union representatives of workers in fossil fuel industries and organizations serving
298 environmental justice populations and individuals living in municipalities at high risk for climate
299 change within the Commonwealth. The Center will coordinate their workforce development
300 planning and research with the Executive Office of Labor and Workforce Development’s Office
301 of Just Transition.