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H.P. 1464

House of Representatives, February 10, 2022

An Act Concerning Equity in Renewable Energy Projects and Workforce Development

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CUDDY of Winterport.
Cosponsored by Representative: Speaker FECTION of Biddeford.

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

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

3 **8-A. Disadvantaged community.** "Disadvantaged community" means a block group,
4 as defined in Title 21-A, section 1202, subsection 2, or geographic area of the State
5 determined by rule by the department using best available existing data to have a high rate
6 of poverty, unemployment and chronic unemployment, as well as a high number of
7 individuals with barriers to employment, including individuals who have been incarcerated
8 and individuals who have been traditionally underrepresented in a relevant employment
9 area under this chapter.

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

11 **15-A. Preapprentice.** "Preapprentice" means an individual enrolled in a
12 preapprenticeship training program approved by the Maine Apprenticeship Program.

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

14 **15-B. Preapprenticeship graduate.** "Preapprenticeship graduate" means an
15 individual who completed a preapprenticeship training program and has been accepted into
16 or is in the first year of a registered apprenticeship program.

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

18 **15-C. Preapprenticeship training program.** "Preapprenticeship training program"
19 means an educational program that includes skills-based education and that:

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

22 B. Has a documented partnership with at least one registered apprenticeship program;
23 and

24 C. Has a demonstrated commitment to inclusion of individuals from a disadvantaged
25 community.

26 **Sec. 5. 26 MRSA §3209, sub-§4, ¶A,** as enacted by PL 2011, c. 491, §13, is
27 amended to read:

28 A. Developing, approving and registering new apprenticeship programs and
29 preapprenticeship training programs;

30 **Sec. 6. 26 MRSA §3213** is enacted to read:

31 **§3213. Preapprenticeship training program**

32 A preapprenticeship training program must conform to the following standards to be
33 eligible for approval by the Maine Apprenticeship Program.

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

1 **2. Review; approval.** The Maine Apprenticeship Program shall review an application
2 for approval of a preapprenticeship training program. A preapprenticeship training program
3 that meets the standards for approval must be given provisional approval for a period of
4 one year. The Maine Apprenticeship Program shall review a preapprenticeship training
5 program for quality and conformity with the requirements of this section at the end of the
6 first year after approval. A program that conforms to the requirements may have its
7 approval made permanent or may continue to be provisionally approved through the first
8 full training cycle.

9 **3. Evaluation.** The Maine Apprenticeship Program shall evaluate the performance of
10 an approved preapprenticeship training program. The tools and factors to be used must
11 include, but are not limited to:

12 A. Quality assurance assessments;

13 B. Equal employment opportunity compliance reviews;

14 C. Efforts to achieve equity goals for recruitment and training of workers from
15 disadvantaged communities;

16 D. Completion rates; and

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

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

23 **5. Curriculum.** An approved preapprenticeship training program must have
24 organized, written standards containing:

25 A. A description of the instruction and training of preapprentices that align with
26 industry skills and workplace expectations to prepare preapprentices with the
27 education, training, competencies and awareness they need to enter registered
28 apprenticeship programs, including:

29 (1) Listening and communication skills;

30 (2) Workplace safety training;

31 (3) Job preparedness training; and

32 (4) Physical, technical and workplace skills;

33 B. A description of how success in the preapprenticeship training program will be
34 measured; and

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

36 **6. Equity, inclusion and accessibility.** An approved preapprenticeship training
37 program must provide services whenever possible to ensure participation by individuals
38 from disadvantaged communities, such as transportation assistance, stipends, child care
39 vouchers, probation officer advocacy, English as a new language services and financial
40 support for materials and supplies. An approved preapprenticeship training program must

1 maintain an affirmative action program in compliance with 29 Code of Federal
2 Regulations, Section 30.1 et seq.

3 **7. Stipend.** An approved preapprenticeship training program must pay a preapprentice
4 a stipend at least equivalent to the state minimum wage for all hours of instruction and
5 training.

6 **8. Funding.** The Maine Apprenticeship Program, through the department, shall seek
7 available workforce development funds to support programs under this section. The Maine
8 Apprenticeship Program shall provide preapprenticeship training grants to those programs
9 that provide meaningful financial assistance to their participants in the form of daily
10 stipends, supplies and materials, transportation assistance and child care vouchers. The
11 Maine Apprenticeship Program shall determine awards to sponsors based on participant
12 need, the provision of services under subsection 6 and the program's efforts to recruit and
13 enroll participants from disadvantaged communities. Priority must be given to those
14 sponsors demonstrating that a significant number of their participants have successfully
15 completed the preapprenticeship training program and are subsequently enrolled in
16 registered apprenticeship programs.

17 **9. Rulemaking.** The department shall adopt routine technical rules as defined in Title
18 5, chapter 375, subchapter 2-A to implement the provisions of this section.

19 **Sec. 7. 26 MRSA c. 47** is enacted to read:

20 **CHAPTER 47**

21 **EQUITY IN RENEWABLE ENERGY PROJECTS AND WORKFORCE**
22 **DEVELOPMENT**

23 **§3701. Equity in renewable energy projects**

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

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

29 B. "Assisted project" means a construction project:

30 (1) To construct a source of electrical generation of 2 megawatts or more that
31 involves a renewable energy project or a project for the production of energy for
32 which the generator is entitled to participate in the net energy billing program in
33 Title 35-A, chapter 32 or is a related construction project; and

34 (2) For which the State or an agency of the State provides economic assistance,
35 including, but not limited to, payments pursuant to power purchase agreements,
36 certifications that entitle the generator to renewable energy credits, rebates, grants,
37 loans, commitments of funds or other assistance, if the financial value of the
38 economic assistance is at least \$50,000.

39 C. "Commissioner" means the Commissioner of Labor.

1 D. "Facilitated entry agreement" means an agreement between a registered
2 apprenticeship program and a preapprenticeship training program that enables
3 individuals who have successfully completed the preapprenticeship training program
4 to enter directly into the registered apprenticeship program.

5 E. "Preapprenticeship training program" means a preapprenticeship training program
6 approved under section 3213.

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

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

11 (2) Actively trains employees, has functioning training facilities and is regularly
12 graduating apprentices to journeyman status who are then placed in employment
13 on an assisted project.

14 G. "Renewable energy project" means a project to construct a source of electrical
15 generation of 2 megawatts or more that relies on one or more of the following:

16 (1) Fuel cells;

17 (2) Tidal power;

18 (3) Solar arrays and installations;

19 (4) Wind power installations;

20 (5) Geothermal installations;

21 (6) Hydroelectric generators;

22 (7) Biomass generators that are fueled by wood or wood waste, landfill gas or
23 anaerobic digestion of agricultural products, by-products or wastes; or

24 (8) Generators fueled by municipal solid waste in conjunction with recycling.

25 **2. Certification to include valuation of renewable energy credits.** When the State
26 or an agency of the State provides a certification pursuant to Title 35-A, section 3210 that
27 entitles a generator to renewable energy credits for an assisted project, the certification
28 must include a valuation of the renewable energy credits estimated to be derived from that
29 certification based on the market price for renewable energy credits at the time of the
30 certification multiplied by the projected duration of the recipient's generation of power
31 eligible for the certification. The duration must be projected to be no less than 20 years.
32 These calculations must be disclosed to the public at the time the certification is issued.

33 **3. Labor and project performance standards.** The following requirements apply to
34 an assisted project.

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

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

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

3 B. An entity responsible for an assisted project shall take reasonable steps to ensure
4 that all contractors and subcontractors working on the assisted project meet the
5 requirements of this subsection. The contractor or subcontractor shall provide proof
6 within 7 days of a request from the Department of Labor that any apprenticeship
7 program used for the project meets all the requirements of a registered apprenticeship
8 program. For purposes of this subsection, "entity responsible" includes any recipient
9 of assistance for the assisted project and any corporations, joint ventures, partnerships
10 or other persons and their successors or assigns that hire contractors or construction
11 managers to perform work on the assisted project.

12 C. The requirements of this subsection do not apply if the entity responsible for the
13 assisted project has entered into or has ensured that the entity directly responsible for
14 the construction of the assisted project has entered into a project labor agreement
15 consistent with the requirements of Title 35-A, section 3210-G, subsection 1, paragraph
16 C, subparagraph (2), division (h).

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

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

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

30 B. That is participating in net energy billing and that meets the requirements of Title
31 35-A, section 3209-A, subsection 7.

32 **6. Powers of the commissioner.** The commissioner shall implement and administer
33 this chapter and may adopt rules consistent with the requirements of this chapter. Rules
34 adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter
35 375, subchapter 2-A.

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

38 **Sec. 9. 35-A MRSA §3210-G, sub-§1,** as enacted by PL 2019, c. 477, §2, is
39 amended to read:

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

42 A. Through competitive solicitations under this section, the commission shall procure
43 an amount of energy or renewable energy credits from Class IA resources that is equal

1 to 14% of retail electricity sales in this State for the period from January 1, 2018 to
2 December 31, 2018, as determined by the commission.

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

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

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

19 C. In conducting a solicitation and selecting Class IA resources for contracts under
20 this section, the commission shall weigh the benefits to ratepayers and the benefits to
21 the State's economy as follows:

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

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

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

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

28 (c) Employment resulting from the Class IA resource;

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

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

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

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

34 (h) For an assisted project, with respect to additional requests for bids or
35 proposals initiated by the commission pursuant to this section for energy or
36 renewable energy credits after January 1, 2023, including bids or proposals
37 that supplement a process started on or before January 1, 2023, whether the
38 Class IA resource has entered into a project labor agreement with a labor
39 organization to supply construction workers in all crafts needed for the assisted
40 project where the assisted project is located. For purposes of this division, a
41 project labor agreement must contain provisions that:

- 1 (i) Bind all contractors and subcontractors on the assisted project to the
2 project labor agreement through the inclusion of appropriate specifications
3 in all relevant solicitation provisions and contract documents;
- 4 (ii) Allow all contractors and subcontractors to compete for contracts and
5 subcontracts on the assisted project without regard to whether they are
6 otherwise parties to collective bargaining agreements;
- 7 (iii) Establish uniform terms and conditions of employment for all
8 construction craft workers employed on the assisted project;
- 9 (iv) Contain guarantees against strikes, lockouts and similar job
10 disruptions; and
- 11 (v) Set forth effective, prompt and mutually binding procedures for
12 resolving labor disputes arising during the term of the project labor
13 agreement; and
- 14 (i) For an assisted project, whether a majority of the individuals working on
15 the assisted project are members of an entity that is employee-owned,
16 including but not limited to an entity that offers employee stock ownership
17 plans.

18 For the purposes of this subparagraph, "labor organization" means an organization
19 that is not a company union and that is constituted for the purpose, in whole or in
20 part, of engaging in collective bargaining, dealing with employers concerning
21 employee grievances or terms or conditions of employment or providing other
22 employee aid or protection. "Labor organization" includes, but is not limited to, a
23 bona fide labor organization that is certified or recognized as the organization of
24 jurisdiction representing the relevant workers and a bona fide building and
25 construction trades council or district council or state or local labor federation
26 composed of local unions certified or recognized as the representative of the
27 relevant workers. For the purposes of this subparagraph, "assisted project" has the
28 same meaning as in Title 26, section 3701, subsection 1, paragraph B.

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

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

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

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

40 (2) A bid under this section that includes an energy storage system must include 2
41 separate bid proposals, one with the energy storage system and one without. The
42 commission shall assess the bid proposals based on the benefits to ratepayers,
43 which may include, but are not limited to:

- 1 (a) Reduction in costs;
 - 2 (b) Decrease in peak electricity demand;
 - 3 (c) Deferral of investments in the transmission and distribution system;
 - 4 (d) Deferral of capital investments in new generating capacity;
 - 5 (e) Increase in the electricity grid's overall flexibility, reliability and resiliency;
 - 6 and
 - 7 (f) Reduction in greenhouse gas emissions.
- 8 (3) An energy storage system that is not colocated with a Class IA resource may
9 receive renewable energy credits only for stored energy generated from a Class IA
10 resource.
- 11 (4) If chosen for a contract under this section, an energy storage system must
12 remain stationary and under the same ownership throughout the contract term.
- 13 (5) The commission may permit an energy storage system to be paired with and
14 added to a Class IA resource after that resource has been awarded a contract.
- 15 For the purposes of this paragraph, "energy storage system" means a commercially
16 available technology that uses mechanical, chemical or thermal processes for absorbing
17 energy and storing it for a period of time for use at a later time.

18 **SUMMARY**

19 This bill does the following.

20 1. It requires projects involving the construction of renewable energy generating
21 systems that are at least 2 megawatts in size and that receive at least \$50,000 in state
22 assistance to meet certain workforce requirements. It defines such projects as "assisted
23 projects." Specifically, contractors and subcontractors working on an assisted project are
24 required to pay construction workers at least the prevailing rate for wages and benefits,
25 except that they may pay the apprentice rate to apprentices on the project if those
26 apprentices are participants in a registered apprenticeship program that is regularly
27 graduating apprentices to journeyman status and the apprentices on the assisted project are
28 graduates of a program that has a facilitated entry agreement with an approved
29 preapprenticeship training program. This requirement does not apply, however, if the entity
30 responsible for the project has ensured that the entity directly responsible for the
31 construction of the project has entered into a project labor agreement that meets certain
32 requirements.

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

39 3. It directs the Public Utilities Commission, in conducting a solicitation and selecting
40 Class IA resources for contracts pursuant to statutory provisions governing renewable
41 portfolio standard procurement, to consider whether a majority of the individuals working

1 on an assisted project are members of an entity that is employee-owned, including but not
2 limited to an entity that offers employee stock ownership plans.

3 4. It sets standards for approval and evaluation of preapprenticeship training programs
4 by the Maine Apprenticeship Program, as well as minimum curriculum requirements. The
5 bill defines a preapprenticeship training program as a program designed to prepare
6 individuals to enter into and succeed in a registered apprenticeship program. The bill
7 focuses on equity, inclusion and access to preapprenticeship training programs, requiring
8 them to provide certain services to ensure participation by individuals from disadvantaged
9 communities and implement affirmative action programs. It requires the payment of a
10 stipend to participants that is at least equivalent to the state minimum wage and prioritizes
11 state grants to those program sponsors that provide services that reduce barriers to entry for
12 historically underrepresented groups and that demonstrate that a significant number of their
13 participants subsequently enrolled in registered apprenticeship programs.

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