



General Assembly

**Amendment**

*January Session, 2021*

LCO No. **8860**



Offered by:

SEN. KUSHNER, 24<sup>th</sup> Dist.

REP. PORTER, 94<sup>th</sup> Dist.

To: Subst. Senate Bill No. **999**

File No. 404

Cal. No. 248

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

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

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

5 (1) "Covered project" means a renewable energy project that is  
6 situated on land in this state, commences construction on or after July 1,  
7 2021, and has a total nameplate capacity of two megawatts or more.  
8 "Covered project" does not include any renewable energy project (A)  
9 selected in a competitive solicitation conducted by (i) the Department of

10 Energy and Environmental Protection, or (ii) an electric distribution  
11 company, as defined in section 16-1 of the general statutes, and (B)  
12 approved by the Public Utilities Regulatory Authority prior to January  
13 1, 2022;

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

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

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

35 (5) "Workforce development program" means a program pursuant to  
36 which newly hired employees and existing employees are given the  
37 opportunity to develop skills that will enable such employees to qualify  
38 for higher paying jobs on a covered project. A workforce development  
39 program includes: (A) Apprenticeship training through an  
40 apprenticeship program registered with the Labor Department or a  
41 federally recognized state apprenticeship agency that complies with the

42 requirements under 29 CFR 29 and 29 CFR 30, as each may be amended  
43 from time to time, and (B) preapprenticeship training that will enable  
44 students to qualify for registered apprenticeship training.

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

52 (c) The developer of a covered project shall take all necessary actions  
53 to ensure that each contractor and subcontractor involved in the  
54 construction of the project completes a sworn certification that the  
55 contractor or subcontractor: (1) Has the necessary resources to perform  
56 the portion of the covered project to which the contractor or  
57 subcontractor are assigned, including the necessary technical, financial  
58 and personnel resources; (2) has all required contractor, specialty  
59 contractor or trade licenses, certifications or certificates required of any  
60 business entity or individual by applicable state or local law; (3)  
61 participates in apprenticeship training through an apprenticeship  
62 program registered with the Labor Department or a federally  
63 recognized state apprenticeship agency that complies with the  
64 requirements under 29 CFR 29 and 29 CFR 30, as each may be amended  
65 from time to time; (4) during the previous three years (A) has not been  
66 debarred by any government agency; (B) has not defaulted on any  
67 project; (C) has not had any license, certification or other credential  
68 relating to the business revoked or suspended; and (D) has not been  
69 found in violation of any law applicable to the contractor's or  
70 subcontractor's business that resulted in the payment of a fine, back pay  
71 damages or any other type of penalty in the amount of ten thousand  
72 dollars or more; (5) will pay personnel employed on the project not less  
73 than the applicable wage and fringe benefit rates for the classification in  
74 which such personnel is employed and required for the project; and (6)  
75 has not misclassified and will not misclassify labor employees as

76 independent contractors.

77 (d) The developer of a covered project shall submit to the Labor  
78 Commissioner the sworn certification of compliance specified in  
79 subsection (c) of this section not later than thirty days prior to  
80 commencement of construction of the project. Such sworn certification  
81 shall be considered a public document that shall be made available  
82 without redaction on the Labor Department's Internet web site not later  
83 than seven days after being submitted to the Labor Commissioner. If a  
84 sworn certification contains false, misleading or materially inaccurate  
85 information, the contractor or subcontractor that executed such sworn  
86 certification shall, after notice and opportunity to be heard, (1) be subject  
87 to debarment pursuant to section 31-53a of the general statutes, as  
88 amended by this act, and (2) be subject to the penalty described in  
89 section 53a-157a of the general statutes, as amended by this act.

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

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

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

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

132 Sec. 2. Subsection (a) of section 31-53a of the general statutes is  
133 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
134 *2021*):

135 (a) The State Comptroller or the contracting authority acting  
136 pursuant to section 31-53, as amended by this act, is hereby authorized  
137 and directed to pay to mechanics, laborers and workers from any  
138 accrued payments withheld under the terms of a contract terminated  
139 pursuant to subsection (b) of [said] section 31-53 any wages found to be  
140 due such mechanics, laborers and workers pursuant to [said] section 31-  
141 53, as amended by this act. The Labor Commissioner is further

142 authorized and directed to distribute a list to all departments of the state  
143 and political subdivisions of the state giving the names of persons or  
144 firms whom the Labor Commissioner has found to have (1) disregarded  
145 their obligations under [said] section 31-53, as amended by this act, and  
146 section 31-76c to employees and subcontractors on public works  
147 projects, [or to have] (2) been barred from federal government contracts  
148 in accordance with the provisions of the Davis-Bacon Act, 49 Stat. 1011  
149 (1931), 40 USC 276a-2, or (3) submitted false, misleading or materially  
150 inaccurate information under subsection (d) of section 1 of this act.

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

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

176 laborer or worker and the amount of payment or contributions paid or  
177 payable on behalf of each such person to any employee welfare fund, as  
178 defined in subsection (i) of this section, are not less than the prevailing  
179 rate of wages and the amount of payment or contributions paid or  
180 payable on behalf of each such person to any employee welfare fund, as  
181 determined by the Labor Commissioner pursuant to subsection (d) of  
182 this section, and not less than those required by the contract to be paid;  
183 (C) the employer has complied with the applicable provisions of this  
184 section, section 31-53c, [and] section 31-54 and subsection (f) of section  
185 1 of this act; (D) each such person is covered by a workers' compensation  
186 insurance policy for the duration of such person's employment, which  
187 shall be demonstrated by submitting to the contracting agency the name  
188 of the workers' compensation insurance carrier covering each such  
189 person, the effective and expiration dates of each policy and each policy  
190 number; (E) the employer does not receive kickbacks, as defined in 41  
191 USC 52, from any employee or employee welfare fund; and (F) pursuant  
192 to the provisions of section 53a-157a, as amended by this act, the  
193 employer is aware that filing a certified payroll which the employer  
194 knows to be false is a class D felony for which the employer may be fined  
195 up to five thousand dollars, imprisoned for up to five years, or both.  
196 This subsection shall not be construed to prohibit a general contractor  
197 from relying on the certification of a lower tier subcontractor, provided  
198 the general contractor shall not be exempted from the provisions of  
199 section 53a-157a, as amended by this act, if the general contractor  
200 knowingly relies upon a subcontractor's false certification.  
201 Notwithstanding the provisions of section 1-210, the certified payroll  
202 shall be considered a public record and every person shall have the right  
203 to inspect and copy such records in accordance with the provisions of  
204 section 1-212. The provisions of subsections (a) and (b) of section 31-59  
205 and sections 31-66 and 31-69 that are not inconsistent with the  
206 provisions of this section, section 31-53c or 31-54 apply to this section.  
207 Failing to file a certified payroll pursuant to subdivision (2) of this  
208 subsection is a class D felony for which the employer may be fined up  
209 to five thousand dollars, imprisoned for up to five years, or both.

210 Sec. 4. Section 53a-157a of the general statutes is repealed and the  
211 following is substituted in lieu thereof (*Effective July 1, 2021*):

212 (a) A person is guilty of false statement on a certified payroll when  
213 such person intentionally makes a false written statement on a certified  
214 payroll submitted pursuant to section 31-53, as amended by this act,  
215 which such person does not believe to be true and which statement is  
216 intended to mislead a contracting authority or the Labor Commissioner  
217 in the exercise of [his] the commissioner's authority or the fulfillment of  
218 [his] the commissioner's duties under chapter 557.

219 (b) A person is guilty of false statement on a sworn certification when  
220 such person intentionally makes a false written statement on a sworn  
221 certification submitted pursuant to section 1 of this act which such  
222 person does not believe to be true and which statement is intended to  
223 mislead a developer of a covered project, as defined in section 1 of this  
224 act, or the Labor Commissioner in the exercise of the commissioner's  
225 authority or the fulfillment of the commissioner's duties under section 1  
226 of this act.

227 ~~[(b)]~~ (c) False statement on a certified payroll or a sworn certification  
228 is a class D felony."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	New section
Sec. 2	<i>July 1, 2021</i>	31-53a(a)
Sec. 3	<i>July 1, 2021</i>	31-53(f)
Sec. 4	<i>July 1, 2021</i>	53a-157a