

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Representatives Edwards, Bennett, Diaz, Kislak, and Shanley

Date Introduced: March 04, 2022

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.8

4 PREVAILING WAGES FOR RENEWABLE ENERGY RESOURCES PROJECTS

5 **39-26.8-1. Legislative findings.**

6 The general assembly hereby declares that the mandate of prevailing wage or project labor
7 agreements for construction work performed in connection with the installation of renewable
8 energy systems and its "buy American" preference provided for in this chapter will ensure that
9 workers are central to Rhode Island's transition to the green economy and its pandemic recovery
10 plan.

11 **39-26.8-2. Definitions.**

12 For purposes of this section:

13 (1) "Commission" means the Rhode Island public utilities commission established pursuant
14 to chapter 1 of title 39 ("public utilities commission").

15 (2) "Covered renewable energy system" means a renewable energy system involving a
16 renewable energy resource, as defined in §§ 39-2-1.2 and 39-26-5(a), with a capacity of greater
17 than five megawatts (5 MW) alternating current and which involves the procurement of renewable
18 energy credits by a public entity, or a third party acting on behalf and for the benefit of a public
19 entity. A covered renewable energy system shall exclude construction work performed under a pre-

1 hire collective bargaining agreement between an owner or contractor and a bona fide building and
2 construction trade labor organization which has established itself, and/or its affiliates, as the
3 collective bargaining representative for all persons who will perform work on such a project, and
4 which provides that only contractors and subcontractors who sign a prenegotiated agreement with
5 the labor organization can perform work on such a project, or construction work performed under
6 a labor peace agreement, project labor agreement, or any other construction work performed under
7 an enforceable agreement between an owner or contractor and a bona fide building and construction
8 trade labor organization.

9 (3) "Covered renewable energy system project" means a public works project, as defined
10 in §37-13-1, which substantially involves work on a covered renewable energy system. It also
11 includes a major facility project subject to the provisions of chapter 24 of title 37 ("the green
12 buildings act").

13 (4) "Fiscal officer" means the chief financial officer or person in a similar position for any
14 authority issuing a bid and entering into a contract pursuant to the provisions of chapter 13 of title
15 37 ("labor and payment of debts by contractors") for a covered renewable energy system project.

16 (5) "Labor peace agreement" means an agreement between an entity and labor organization
17 that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and
18 members from engaging in picketing, work stoppages, boycotts, and any other economic
19 interference with the relevant renewable energy system.

20 (6) "Permanently incorporated" means an iron or steel product that is required to remain in
21 place at the end of the project contract, in a fixed location, affixed to the public work to which it
22 was incorporated. Iron and steel products that are capable of being moved from one location to
23 another are not permanently incorporated into a public work.

24 (7) "Public entity" means and shall include, but shall not be limited to, any entity subject
25 to the provisions of § 37-13-7.

26 (8) "Renewable energy credits agreement" means any public entity contract that provides
27 production-based payments to a renewable energy project as provided for in this chapter.

28 **39-26.8-3. Prevailing wage requirements.**

29 A covered renewable energy system shall be subject to prevailing wage requirements
30 established by the public utilities commission for such work pursuant to the provisions of §§ 37-
31 13-6, 37-13-7, and 37-13-8.

32 **39-26.8-4. Use of labor organizations on covered renewable energy system projects.**

33 The commission shall require that the owner of the covered renewable energy system, or a
34 third party acting on the owner's behalf, as an ongoing condition of any renewable energy credits

1 agreement with a public entity, shall stipulate to the fiscal officer that it will enter into a labor peace
2 agreement with at least one bona fide labor organization either where such bona fide labor
3 organization is actively representing employees providing necessary operations and maintenance
4 services for the renewable energy system at the time of such agreement or upon notice by a bona
5 fide labor organization that is attempting to represent employees who will provide necessary
6 operations and maintenance services for the renewable energy system employed in the state. The
7 maintenance of such a labor peace agreement shall be an ongoing material condition of any
8 continuation of payments under a renewable energy credits agreement.

9 **39-26.8-5. Domestic structural steel.**

10 (a) Any public entity, in each contract for construction, reconstruction, alteration, repair,
11 improvement or maintenance of a covered renewable energy system which involves the
12 procurement of a renewable energy credits agreement or tax credit by a public entity, or a third
13 party acting on behalf and for the benefit of a public entity, shall ensure that such contract shall
14 contain a provision that the iron and structural steel used or supplied in the performance of the
15 contract or any subcontract thereto and that is permanently incorporated into the public work, shall
16 be produced or made in whole or substantial part in the United States, its territories or possessions.
17 In the case of a structural iron or structural steel product all manufacturing must take place in the
18 United States, from the initial melting stage through the application of coatings, except
19 metallurgical processes involving the refinement of steel additives.

20 (b) The provisions of this section shall not apply if the head of the department or agency
21 constructing the public works, in that person's sole discretion, determines that the provisions of this
22 section would not be in the public interest, would result in unreasonable costs, or that obtaining
23 such steel or iron in the United States would increase the cost of the contract by an unreasonable
24 amount, or such iron or steel, including, without limitation, structural iron and structural steel
25 cannot be produced or made in the United States in sufficient and reasonably available quantities
26 and of satisfactory quality. The head of the department or agency constructing the public works
27 shall include this determination in an advertisement or solicitation of a request for proposal,
28 invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation
29 for soliciting a response from offerors intending to result in a contract pursuant to this subsection.

30 (c) The provisions of this section shall not apply for equipment purchased by a covered
31 renewable energy system prior to the effective date of this chapter.

32 **39-26.8-6. Enforcement.**

33 The director of the department of labor and training (the "director") shall have the authority
34 to enforce the provisions of §§ 39-26.8-3, 29-26.8-4, and 39-26.8-5. Any person, including, but not

1 limited to, the public utilities commission, aggrieved by an alleged violation of §§ 39-26.8-3, 39-
2 26.8-4, and 39-26.8-5 may report the alleged violation to the director. In investigating these alleged
3 violations, the director shall have and may utilize the powers assigned to the director pursuant to
4 the provisions of chapter 13 of title 37 ("labor and payment of debts by contractors"), including,
5 but not limited to, conducting investigations, mediations, and hearings, making determinations,
6 issuing corrective orders, and imposing fines and penalties. The director may file an action in the
7 superior court for Providence County as needed to enforce the provisions of this section and
8 chapter.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS

1 This act would provide that the public utilities commission would establish a prevailing
2 wage rate for all covered renewable energy system projects involving public works and renewable
3 energy resources. This act would also provide that iron and steel being used and permanently
4 incorporated into the projects be substantially made or produced in the United States or its
5 territories. This act would also require that at least one bona fide labor organization be contracted
6 with on the project. This act would give enforcement powers over certain provisions of this act to
7 the director of the department of labor and training.

8 This act would take effect upon passage.

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