

SENATE BILL 418

C5, M5

2lr0808
CF 2lr2448

By: **Senator Feldman**

Introduced and read first time: January 26, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Energy Generation, Transmission, and Storage Projects – Required Community**
3 **Benefit Agreement and Labor Standards**

4 FOR the purpose of requiring the Public Service Commission to condition the approval of a
5 certificate of public convenience and necessity for the construction of a certain
6 generating station or qualified generator lead line and an exemption from the
7 requirement for a certificate of public convenience and necessity on the requirement
8 that the developer of the project take all reasonable actions to enter into a community
9 benefits agreement and adhere to certain labor standards and reporting
10 requirements; establishing certain labor standards and certain community benefit,
11 certification, reporting, and record-keeping requirements related to the construction
12 of a covered project; subjecting a developer, contractor, or subcontractor to
13 debarment or other penalties for knowingly submitting a certification with false,
14 misleading, or materially inaccurate information; and generally relating to energy
15 generation, transmission, and storage projects.

16 BY repealing and reenacting, without amendments,
17 Article – Public Utilities
18 Section 7–207(a)(1), (3), and (5) and (b)(1)(i) and (ii) and 7–207.1(a) and (b)(1)
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2021 Supplement)

21 BY adding to
22 Article – Public Utilities
23 Section 7–207(h), 7–207.1(g), and 7–207.3
24 Annotated Code of Maryland
25 (2020 Replacement Volume and 2021 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
27 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Public Utilities**

2 7–207.

3 (a) (1) In this section the following words have the meanings indicated.

4 (3) (i) “Construction” means:

5 1. any physical change at a site, including fabrication,
6 erection, installation, or demolition; or7 2. the entry into a binding agreement or contractual
8 obligation to purchase equipment exclusively for use in construction in the State or to
9 undertake a program of actual construction in the State which cannot be canceled or
10 modified without substantial loss to the owner or operator of the proposed generating
11 station.12 (ii) “Construction” does not include a change that is needed for the
13 temporary use of a site or route for nonutility purposes or for use in securing geological
14 data, including any boring that is necessary to ascertain foundation conditions.15 (5) “Qualified generator lead line” means an overhead transmission line
16 that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state
17 Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in
18 Maryland that is owned by an electric company.19 (b) (1) (i) Unless a certificate of public convenience and necessity for the
20 construction is first obtained from the Commission, a person may not begin construction in
21 the State of:

22 1. a generating station; or

23 2. a qualified generator lead line.

24 (ii) If a person obtains Commission approval for construction under
25 § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to
26 obtain a certificate of public convenience and necessity under this section.27 **(H) THE COMMISSION SHALL CONDITION APPROVAL OF A CERTIFICATE OF**
28 **PUBLIC CONVENIENCE AND NECESSITY ON THE REQUIREMENT THAT THE PERSON**
29 **CONSTRUCTING A PROPOSED GENERATING STATION COMPLY WITH THE**
30 **REQUIREMENTS OF § 7–207.3 OF THIS SUBTITLE, AS APPLICABLE.**

31 7–207.1.

32 (a) This section applies to a person who:

1 (1) constructs a generating station:

2 (i) designed to provide on-site generated electricity if:

3 1. the capacity of the generating station does not exceed 70
4 megawatts; and

5 2. the electricity that may be exported for sale from the
6 generating station to the electric system is sold only on the wholesale market pursuant to
7 an interconnection, operation, and maintenance agreement with the local electric company;
8 or

9 (ii) that produces electricity from wind if:

10 1. the generating station is land-based;

11 2. the capacity of the generating station does not exceed 70
12 megawatts;

13 3. the electricity that may be exported for sale from the
14 generating station to the electric system is sold only on the wholesale market pursuant to
15 an interconnection, operation, and maintenance agreement with the local electric company;

16 4. the Commission provides an opportunity for public
17 comment at a public hearing as provided in subsection (f) of this section; and

18 5. the generating station's wind turbines are not located
19 within a distance from the Patuxent River Naval Air Station that is determined by
20 regulations adopted by the Commission in coordination with the Commander, Naval Air
21 Warfare Center Aircraft Division, provided that the distance requirement under the
22 regulation is:

23 A. not greater than is necessary to encompass an area in
24 which utility scale wind turbines could create Doppler radar interference for missions at
25 the Patuxent River Naval Air Station;

26 B. not greater than 46 miles, measured from location
27 38.29667N, 76.37668W; and

28 C. subject to modification if necessary to reflect changes in
29 missions or technology at the Patuxent River Naval Air Station or changes in wind energy
30 technology; or

31 (2) constructs a generating station if:

32 (i) the capacity of the generating station does not exceed 25
33 megawatts;

1 (ii) the electricity that may be exported for sale from the generating
2 station to the electric system is sold only on the wholesale market pursuant to an
3 interconnection, operation, and maintenance agreement with the local electric company;
4 and

5 (iii) at least 10% of the electricity generated at the generating station
6 each year is consumed on-site.

7 (b) (1) The Commission shall require a person that is exempted from the
8 requirement to obtain a certificate of public convenience and necessity to obtain approval
9 from the Commission under this section before the person may construct a generating
10 station described in subsection (a) of this section.

11 **(G) THE COMMISSION SHALL CONDITION APPROVAL OF AN EXEMPTION**
12 **FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND**
13 **NECESSITY ON THE REQUIREMENT THAT THE PERSON CONSTRUCTING THE**
14 **PROPOSED GENERATING STATION COMPLY WITH THE REQUIREMENTS OF § 7-207.3**
15 **OF THIS SUBTITLE, AS APPLICABLE.**

16 **7-207.3.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 **(2) (I) "COVERED PROJECT" MEANS:**

20 **1. A GENERATION STATION WITH A CUMULATIVE**
21 **NAMEPLATE CAPACITY OF 2 MEGAWATTS OR MORE THAT PRODUCES ENERGY FROM**
22 **A TIER 1 RENEWABLE SOURCE, A TIER 2 RENEWABLE SOURCE, OR NUCLEAR**
23 **ENERGY; OR**

24 **2. AN ENERGY STORAGE DEVICE WITH A CUMULATIVE**
25 **NAMEPLATE CAPACITY OF 2 MEGAWATTS OR MORE.**

26 **(II) "COVERED PROJECT" DOES NOT INCLUDE:**

27 **1. AN OFF-SHORE WIND PROJECT UNDER § 7-704.1 OF**
28 **THIS TITLE; OR**

29 **2. AN ENERGY STORAGE PROJECT UNDER § 7-216 OF**
30 **THIS SUBTITLE.**

1 **(3) (I) “ENERGY STORAGE DEVICE” MEANS A RESOURCE CAPABLE**
2 **OF ABSORBING ELECTRICAL ENERGY, STORING IT FOR A PERIOD OF TIME, AND**
3 **DELIVERING THE ENERGY FOR USE AT A LATER TIME AS NEEDED, REGARDLESS OF**
4 **WHERE THE RESOURCE IS LOCATED ON THE ELECTRIC DISTRIBUTION SYSTEM.**

5 **(II) “ENERGY STORAGE DEVICE” INCLUDES ALL TYPES OF**
6 **ELECTRIC STORAGE TECHNOLOGIES, REGARDLESS OF THEIR SIZE, STORAGE**
7 **MEDIUM, OR OPERATIONAL PURPOSE.**

8 **(B) THIS SECTION APPLIES ONLY TO THE CONSTRUCTION OF A COVERED**
9 **PROJECT.**

10 **(C) THE DEVELOPER OF A COVERED PROJECT SHALL TAKE ALL**
11 **REASONABLE ACTIONS TO ENTER INTO A COMMUNITY BENEFITS AGREEMENT WITH**
12 **A COMMUNITY-BASED ORGANIZATION OR COLLECTION OF COMMUNITY-BASED**
13 **ORGANIZATIONS REPRESENTING THE COMMUNITY AFFECTED BY THE PROJECT**
14 **THAT:**

15 **(1) DETAILS THE CONTRIBUTIONS THAT THE PROJECT WILL BRING**
16 **TO THE COMMUNITY IN WHICH THE PROJECT WILL BE LOCATED;**

17 **(2) DETAILS ACTIONS TO BE TAKEN TO MITIGATE ADVERSE**
18 **CONDITIONS CAUSED BY THE PROJECT;**

19 **(3) PROMOTES INCREASED OPPORTUNITIES FOR LOCAL BUSINESSES**
20 **AND SMALL, MINORITY, WOMEN-OWNED, AND VETERAN-OWNED BUSINESSES IN THE**
21 **ENERGY INDUSTRY;**

22 **(4) PROMOTES SAFE COMPLETION OF THE PROJECT BY ENSURING**
23 **THAT AT LEAST 80% OF THE CRAFT WORKERS ON THE PROJECT HAVE COMPLETED**
24 **AN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION 10-HOUR OR 30-HOUR**
25 **COURSE;**

26 **(5) PROMOTES CAREER TRAINING OPPORTUNITIES IN THE**
27 **CONSTRUCTION INDUSTRY FOR LOCAL RESIDENTS, VETERANS, WOMEN, AND**
28 **MINORITIES;**

29 **(6) PROVIDES FOR BEST EFFORTS AND EFFECTIVE OUTREACH TO**
30 **OBTAIN, AS A GOAL, THE USE OF A WORKFORCE INCLUDING MINORITIES, TO THE**
31 **EXTENT PRACTICABLE, AS SUPPORTED BY A DISPARITY STUDY; AND**

32 **(7) REFLECTS A 21ST-CENTURY LABOR-MANAGEMENT APPROACH**
33 **BASED ON COOPERATION, HARMONY, AND PARTNERSHIP.**

1 **(D) THE DEVELOPER OF A COVERED PROJECT SHALL ENSURE THAT**
2 **WORKERS ARE PAID NOT LESS THAN THE PREVAILING WAGE RATE DETERMINED**
3 **UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT**
4 **ARTICLE UNLESS THE COVERED PROJECT IS SUBJECT TO A PROJECT LABOR**
5 **AGREEMENT THAT:**

6 **(1) BINDS ALL CONTRACTORS AND SUBCONTRACTORS ON THE**
7 **COVERED PROJECT THROUGH THE INCLUSION OF SPECIFICATIONS IN ALL**
8 **RELEVANT SOLICITATION PROVISIONS AND CONTRACT DOCUMENTS;**

9 **(2) ALLOWS ALL CONTRACTORS AND SUBCONTRACTORS TO COMPETE**
10 **FOR CONTRACTS AND SUBCONTRACTS ON THE PROJECT WITHOUT REGARD TO**
11 **WHETHER THEY ARE OTHERWISE PARTIES TO COLLECTIVE BARGAINING**
12 **AGREEMENTS;**

13 **(3) ESTABLISHES UNIFORM TERMS AND CONDITIONS OF**
14 **EMPLOYMENT FOR ALL CONSTRUCTION LABOR EMPLOYED ON THE PROJECTS;**

15 **(4) GUARANTEES AGAINST STRIKES, LOCKOUTS, AND SIMILAR JOB**
16 **DISRUPTIONS;**

17 **(5) ESTABLISHES MUTUALLY BINDING PROCEDURES FOR RESOLVING**
18 **LABOR DISPUTES; AND**

19 **(6) INCLUDES ANY OTHER PROVISIONS NEGOTIATED BY THE PARTIES**
20 **TO PROMOTE SUCCESSFUL DELIVERY OF THE COVERED PROJECT.**

21 **(E) (1) THE DEVELOPER OF A COVERED PROJECT SHALL ENSURE THAT**
22 **EACH CONTRACTOR AND SUBCONTRACTOR INVOLVED IN THE CONSTRUCTION OF**
23 **THE PROJECT COMPLETES A CERTIFICATION THAT THE CONTRACTOR OR**
24 **SUBCONTRACTOR:**

25 **(I) HAS THE NECESSARY RESOURCES TO PERFORM THE**
26 **PORTION OF THE COVERED PROJECT TO WHICH THE CONTRACTOR OR**
27 **SUBCONTRACTOR IS ASSIGNED, INCLUDING THE NECESSARY TECHNICAL,**
28 **FINANCIAL, AND PERSONNEL RESOURCES;**

29 **(II) HAS ALL REQUIRED LICENSES, CERTIFICATIONS, OR**
30 **CREDENTIALS REQUIRED UNDER STATE OR LOCAL LAW;**

31 **(III) FOR EACH CONSTRUCTION TRADE EMPLOYED ON THE**
32 **COVERED PROJECT, PARTICIPATES IN APPRENTICESHIP TRAINING THROUGH AN**

1 APPRENTICESHIP PROGRAM REGISTERED WITH THE MARYLAND DEPARTMENT OF
2 LABOR OR A FEDERALLY RECOGNIZED STATE APPRENTICESHIP AGENCY;

3 (IV) DURING THE IMMEDIATELY PRECEDING 3 YEARS:

4 1. HAS NOT BEEN DEBARRED BY ANY GOVERNMENT
5 AGENCY;

6 2. HAS NOT DEFAULTED ON ANY PROJECT;

7 3. HAS NOT HAD ANY LICENSE, CERTIFICATION, OR
8 OTHER CREDENTIAL RELATING TO THE BUSINESS REVOKED OR SUSPENDED; AND

9 4. HAS NOT BEEN FOUND IN VIOLATION OF ANY LAW
10 APPLICABLE TO THE BUSINESS OF THE CONTRACTOR OR SUBCONTRACTOR THAT
11 RESULTED IN THE PAYMENT OF A FINE, BACK PAY DAMAGES, OR ANY OTHER
12 PENALTY IN THE AMOUNT OF \$10,000 OR MORE;

13 (V) WILL PAY INDIVIDUALS EMPLOYED ON THE PROJECT NOT
14 LESS THAN THE APPLICABLE WAGE AND FRINGE BENEFIT RATES FOR THE
15 CLASSIFICATION IN WHICH EACH INDIVIDUAL IS EMPLOYED; AND

16 (VI) HAS NOT MISCLASSIFIED AND WILL NOT MISCLASSIFY
17 EMPLOYEES AS INDEPENDENT CONTRACTORS.

18 (2) (I) THE DEVELOPER OF A COVERED PROJECT SHALL SUBMIT
19 TO THE MARYLAND DEPARTMENT OF LABOR A CERTIFICATION OF COMPLIANCE
20 WITH THE REQUIREMENTS OF THIS SUBSECTION NOT LATER THAN 30 DAYS BEFORE
21 COMMENCEMENT OF CONSTRUCTION OF THE PROJECT.

22 (II) IF A COVERED PROJECT IS SUBJECT TO A PROJECT LABOR
23 AGREEMENT DESCRIBED IN SUBSECTION (D) OF THIS SECTION, THE DEVELOPER OF
24 THE COVERED PROJECT SHALL SUBMIT A COPY OF THE PROJECT LABOR
25 AGREEMENT WITH THE CERTIFICATION OF COMPLIANCE.

26 (3) IF A CERTIFICATION CONTAINS FALSE, MISLEADING, OR
27 MATERIALLY INACCURATE INFORMATION, THE DEVELOPER, CONTRACTOR, OR
28 SUBCONTRACTOR THAT EXECUTED THE CERTIFICATION SHALL, AFTER NOTICE AND
29 OPPORTUNITY TO BE HEARD, BE SUBJECT TO DEBARMENT FROM ENTERING INTO A
30 CONTRACT WITH A PUBLIC BODY.

1 **(4) EACH CONTRACTOR AND SUBCONTRACTOR ON A COVERED**
2 **PROJECT SHALL BE SUBJECT TO ALL REPORTING AND COMPLIANCE REQUIREMENTS**
3 **OF THIS SECTION AND OTHER STATE LAW.**

4 **(5) A CONTRACTOR OR SUBCONTRACTOR THAT VIOLATES THIS**
5 **SUBSECTION SHALL BE SUBJECT TO PENALTIES ESTABLISHED BY THE MARYLAND**
6 **DEPARTMENT OF LABOR BY REGULATION.**

7 **(F) (1) THIS SUBSECTION DOES NOT APPLY TO A COVERED PROJECT FOR**
8 **WHICH THERE IS A PROJECT LABOR AGREEMENT DESCRIBED IN SUBSECTION (D) OF**
9 **THIS SECTION.**

10 **(2) EACH DEVELOPER, CONTRACTOR, AND SUBCONTRACTOR SHALL**
11 **MAINTAIN RECORDS RELATING TO THE WAGES AND HOURS WORKED BY EACH**
12 **INDIVIDUAL PERFORMING THE WORK ON A COVERED PROJECT, INCLUDING:**

13 **(I) A SCHEDULE OF THE OCCUPATION OR WORK**
14 **CLASSIFICATION OF EACH INDIVIDUAL WORKING ON THE PROJECT; AND**

15 **(II) A SCHEDULE OF THE WORK HOURS THAT EACH INDIVIDUAL**
16 **WORKING ON THE PROJECT PERFORMED WITH SUFFICIENT DETAIL THAT THE**
17 **MARYLAND DEPARTMENT OF LABOR REQUIRES TO ENSURE THE PROPER**
18 **PAYMENTS OF WAGES WERE MADE.**

19 **(3) THE RECORDS SHALL INCLUDE A STATEMENT SIGNED BY THE**
20 **DEVELOPER, CONTRACTOR, OR SUBCONTRACTOR THAT INDICATES:**

21 **(I) THE RECORDS ARE CORRECT;**

22 **(II) THE RATE OF WAGES PAID TO EACH INDIVIDUAL ARE NOT**
23 **LESS THAN THE PREVAILING WAGE FOR THAT INDIVIDUAL'S TRADE;**

24 **(III) THE AMOUNT OF WAGES PAID IS NOT LESS THAN THE**
25 **AMOUNT REQUIRED BY THE CONTRACT TO BE PAID;**

26 **(IV) THE DEVELOPER, CONTRACTOR, OR SUBCONTRACTOR HAS**
27 **COMPLIED WITH THE APPLICABLE PROVISIONS OF THIS SECTION; AND**

28 **(V) THE DEVELOPER, CONTRACTOR, OR SUBCONTRACTOR DOES**
29 **NOT RECEIVE KICKBACKS FROM AN EMPLOYEE OR EMPLOYEE WELFARE FUND.**

1 **(4) THE PAYROLL FOR A COVERED PROJECT SHALL BE CONSIDERED**
2 **A PUBLIC RECORD AND EVERY PERSON HAS THE RIGHT TO INSPECT AND COPY THE**
3 **RECORDS.**

4 **(G) THE MARYLAND DEPARTMENT OF LABOR SHALL DISTRIBUTE A LIST TO**
5 **ALL UNITS, DEPARTMENTS, AND POLITICAL SUBDIVISIONS OF THE STATE**
6 **PROVIDING THE NAMES OF INDIVIDUALS OR FIRMS THAT THE MARYLAND**
7 **DEPARTMENT OF LABOR HAS FOUND TO HAVE:**

8 **(1) FAILED TO MEET THE REQUIREMENTS OF SUBSECTIONS (C), (D),**
9 **(E), AND (F) OF THIS SECTION;**

10 **(2) BEEN DEBARRED BY FEDERAL OR STATE GOVERNMENT; OR**

11 **(3) SUBMITTED FALSE, MISLEADING, OR MATERIALLY INACCURATE**
12 **INFORMATION UNDER THIS SECTION.**

13 **(H) THE SECRETARY OF LABOR SHALL ADOPT REGULATIONS**
14 **IMPLEMENTING SUBSECTIONS (C), (D), (E), AND (F) OF THIS SECTION.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2022.