

# SENATE BILL 170

C5, K3, M5  
SB 418/22 – FIN

3lr0706

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By: **Senator Feldman**

Introduced and read first time: January 20, 2023

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Energy Generation Projects – Required Labor Standards**

3 FOR the purpose of requiring the developer of a covered project, on the approval of a  
4 certificate of public convenience and necessity for the construction of a certain  
5 generating station or qualified generator lead line or an exemption from a certain  
6 requirement for a certificate of public convenience and necessity, to meet certain  
7 labor standards and reporting requirements; establishing certain labor standards  
8 and certain certification, reporting, and record-keeping requirements related to the  
9 construction of a covered project; subjecting a developer, contractor, or subcontractor  
10 to debarment for knowingly submitting a certification with false, misleading, or  
11 materially inaccurate information; requiring the Maryland Department of Labor to  
12 enforce certain provisions of this Act; and generally relating to energy generation  
13 projects.

14 BY adding to

15 Article – Labor and Employment

16 Section 3–718

17 Annotated Code of Maryland

18 (2016 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article – Public Utilities

21 Section 7–207(a)(1), (3), and (5) and (b)(1)(i) and (ii) and 7–207.1(a) and (b)(1)

22 Annotated Code of Maryland

23 (2020 Replacement Volume and 2022 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
2 Article – Public Utilities  
3 Section 7–207(h) and 7–207.1(g)  
4 Annotated Code of Maryland  
5 (2020 Replacement Volume and 2022 Supplement)

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

8 **Article – Labor and Employment**

9 **3–718.**

10 (A) (1) IN THIS SECTION, “COVERED PROJECT” MEANS A GENERATION  
11 STATION WITH A CUMULATIVE NAMEPLATE CAPACITY OF 2 MEGAWATTS OR MORE  
12 FOR WHICH THE PUBLIC SERVICE COMMISSION HAS APPROVED:

13 (I) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
14 UNDER § 7–207 OF THE PUBLIC UTILITIES ARTICLE; OR

15 (II) AN EXEMPTION FROM THE REQUIREMENT TO OBTAIN A  
16 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER § 7–207.1 OF THE  
17 PUBLIC UTILITIES ARTICLE.

18 (2) “COVERED PROJECT” DOES NOT INCLUDE AN OFF–SHORE WIND  
19 PROJECT UNDER § 7–704.1 OF THE PUBLIC UTILITIES ARTICLE.

20 (B) THIS SECTION APPLIES ONLY TO THE CONSTRUCTION OF A COVERED  
21 PROJECT.

22 (C) THE DEVELOPER OF A COVERED PROJECT SHALL ENSURE THAT  
23 WORKERS ARE PAID NOT LESS THAN THE PREVAILING WAGE RATE DETERMINED  
24 UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT  
25 ARTICLE UNLESS THE COVERED PROJECT IS SUBJECT TO A PROJECT LABOR  
26 AGREEMENT THAT:

27 (1) BINDS ALL CONTRACTORS AND SUBCONTRACTORS ON THE  
28 COVERED PROJECT THROUGH THE INCLUSION OF SPECIFICATIONS IN ALL  
29 RELEVANT SOLICITATION PROVISIONS AND CONTRACT DOCUMENTS;

30 (2) ALLOWS ALL CONTRACTORS AND SUBCONTRACTORS TO COMPETE  
31 FOR CONTRACTS AND SUBCONTRACTS ON THE PROJECT WITHOUT REGARD TO  
32 WHETHER THEY ARE OTHERWISE PARTIES TO COLLECTIVE BARGAINING  
33 AGREEMENTS;

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

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

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

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

9           **(D) (1) THE DEVELOPER OF A COVERED PROJECT SHALL ENSURE THAT**  
10 **EACH CONTRACTOR AND SUBCONTRACTOR INVOLVED IN THE CONSTRUCTION OF**  
11 **THE PROJECT COMPLETES A CERTIFICATION THAT THE CONTRACTOR OR**  
12 **SUBCONTRACTOR:**

13                   **(I) HAS THE NECESSARY RESOURCES TO PERFORM THE**  
14 **PORTION OF THE COVERED PROJECT TO WHICH THE CONTRACTOR OR**  
15 **SUBCONTRACTOR IS ASSIGNED, INCLUDING THE NECESSARY TECHNICAL,**  
16 **FINANCIAL, AND PERSONNEL RESOURCES;**

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

19                   **(III) FOR EACH CONSTRUCTION TRADE EMPLOYED ON THE**  
20 **COVERED PROJECT, PARTICIPATES IN APPRENTICESHIP TRAINING THROUGH AN**  
21 **APPRENTICESHIP PROGRAM REGISTERED WITH THE MARYLAND DEPARTMENT OF**  
22 **LABOR OR A FEDERALLY RECOGNIZED STATE APPRENTICESHIP AGENCY;**

23                   **(IV) DURING THE IMMEDIATELY PRECEDING 3 YEARS:**

24                           **1. HAS NOT BEEN DEBARRED BY ANY GOVERNMENT**  
25 **AGENCY;**

26                           **2. HAS NOT DEFAULTED ON ANY PROJECT;**

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

29                           **4. HAS NOT BEEN FOUND IN VIOLATION OF ANY LAW**  
30 **APPLICABLE TO THE BUSINESS OF THE CONTRACTOR OR SUBCONTRACTOR THAT**

1 RESULTED IN THE PAYMENT OF A FINE, BACK PAY DAMAGES, OR ANY OTHER  
2 PENALTY IN THE AMOUNT OF \$10,000 OR MORE;

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

6 (VI) HAS NOT MISCLASSIFIED AND WILL NOT MISCLASSIFY  
7 EMPLOYEES AS INDEPENDENT CONTRACTORS.

8 (2) (I) THE DEVELOPER OF A COVERED PROJECT SHALL SUBMIT  
9 TO THE MARYLAND DEPARTMENT OF LABOR A CERTIFICATION OF COMPLIANCE  
10 WITH THE REQUIREMENTS OF THIS SUBSECTION NOT LATER THAN 30 DAYS BEFORE  
11 COMMENCEMENT OF CONSTRUCTION OF THE PROJECT.

12 (II) IF A COVERED PROJECT IS SUBJECT TO A PROJECT LABOR  
13 AGREEMENT DESCRIBED IN SUBSECTION (C) OF THIS SECTION, THE DEVELOPER OF  
14 THE COVERED PROJECT SHALL SUBMIT A COPY OF THE PROJECT LABOR  
15 AGREEMENT WITH THE CERTIFICATION OF COMPLIANCE.

16 (3) IF A CERTIFICATION CONTAINS FALSE, MISLEADING, OR  
17 MATERIALLY INACCURATE INFORMATION, THE DEVELOPER, CONTRACTOR, OR  
18 SUBCONTRACTOR THAT EXECUTED THE CERTIFICATION SHALL, AFTER NOTICE AND  
19 OPPORTUNITY TO BE HEARD, BE SUBJECT TO DEBARMENT FROM ENTERING INTO A  
20 CONTRACT WITH A PUBLIC BODY.

21 (4) EACH CONTRACTOR AND SUBCONTRACTOR ON A COVERED  
22 PROJECT SHALL BE SUBJECT TO ALL REPORTING AND COMPLIANCE REQUIREMENTS  
23 OF THIS SECTION AND OTHER STATE LAW.

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

27 (E) (1) THIS SUBSECTION DOES NOT APPLY TO A COVERED PROJECT FOR  
28 WHICH THERE IS A PROJECT LABOR AGREEMENT DESCRIBED IN SUBSECTION (C) OF  
29 THIS SECTION.

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

33 (I) A SCHEDULE OF THE OCCUPATION OR WORK  
34 CLASSIFICATION OF EACH INDIVIDUAL WORKING ON THE PROJECT; AND



1 7-207.

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

3 (3) (i) "Construction" means:

4 1. any physical change at a site, including fabrication,  
5 erection, installation, or demolition; or

6 2. the entry into a binding agreement or contractual  
7 obligation to purchase equipment exclusively for use in construction in the State or to  
8 undertake a program of actual construction in the State which cannot be canceled or  
9 modified without substantial loss to the owner or operator of the proposed generating  
10 station.

11 (ii) "Construction" does not include a change that is needed for the  
12 temporary use of a site or route for nonutility purposes or for use in securing geological  
13 data, including any boring that is necessary to ascertain foundation conditions.

14 (5) "Qualified generator lead line" means an overhead transmission line  
15 that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state  
16 Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in  
17 Maryland that is owned by an electric company.

18 (b) (1) (i) Unless a certificate of public convenience and necessity for the  
19 construction is first obtained from the Commission, a person may not begin construction in  
20 the State of:

21 1. a generating station; or

22 2. a qualified generator lead line.

23 (ii) If a person obtains Commission approval for construction under  
24 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to  
25 obtain a certificate of public convenience and necessity under this section.

26 **(H) (1) ON APPROVAL OF A CERTIFICATE OF PUBLIC CONVENIENCE AND**  
27 **NECESSITY FOR THE CONSTRUCTION OF A PROPOSED GENERATING STATION THAT**  
28 **IS A COVERED PROJECT, AS DEFINED IN § 3-718 OF THE LABOR AND EMPLOYMENT**  
29 **ARTICLE, THE DEVELOPER OF THE PROPOSED GENERATING STATION SHALL MEET**  
30 **THE REQUIREMENTS OF § 3-718 OF THE LABOR AND EMPLOYMENT ARTICLE.**

31 **(2) THE MARYLAND DEPARTMENT OF LABOR SHALL ENFORCE THIS**  
32 **SUBSECTION.**

33 7-207.1.

- 1 (a) This section applies to a person who:
- 2 (1) constructs a generating station:
- 3 (i) designed to provide on-site generated electricity if:
- 4 1. the capacity of the generating station does not exceed 70  
5 megawatts; and
- 6 2. the electricity that may be exported for sale from the  
7 generating station to the electric system is sold only on the wholesale market pursuant to  
8 an interconnection, operation, and maintenance agreement with the local electric company;  
9 or
- 10 (ii) that produces electricity from wind if:
- 11 1. the generating station is land-based;
- 12 2. the capacity of the generating station does not exceed 70  
13 megawatts;
- 14 3. the electricity that may be exported for sale from the  
15 generating station to the electric system is sold only on the wholesale market pursuant to  
16 an interconnection, operation, and maintenance agreement with the local electric company;
- 17 4. the Commission provides an opportunity for public  
18 comment at a public hearing as provided in subsection (f) of this section; and
- 19 5. the generating station's wind turbines are not located  
20 within a distance from the Patuxent River Naval Air Station that is determined by  
21 regulations adopted by the Commission in coordination with the Commander, Naval Air  
22 Warfare Center Aircraft Division, provided that the distance requirement under the  
23 regulation is:
- 24 A. not greater than is necessary to encompass an area in  
25 which utility scale wind turbines could create Doppler radar interference for missions at  
26 the Patuxent River Naval Air Station;
- 27 B. not greater than 46 miles, measured from location  
28 38.29667N, 76.37668W; and
- 29 C. subject to modification if necessary to reflect changes in  
30 missions or technology at the Patuxent River Naval Air Station or changes in wind energy  
31 technology; or
- 32 (2) constructs a generating station if:

1 (i) the capacity of the generating station does not exceed 25  
2 megawatts;

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

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

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

13 **(G) (1) ON APPROVAL OF AN EXEMPTION FROM THE REQUIREMENT TO**  
14 **OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE**  
15 **CONSTRUCTION OF A PROPOSED GENERATING STATION THAT IS A COVERED**  
16 **PROJECT, AS DEFINED IN § 3-718 OF THE LABOR AND EMPLOYMENT ARTICLE, THE**  
17 **DEVELOPER OF THE PROPOSED GENERATING STATION SHALL MEET THE**  
18 **REQUIREMENTS OF § 3-718 OF THE LABOR AND EMPLOYMENT ARTICLE.**

19 **(2) THE MARYLAND DEPARTMENT OF LABOR SHALL ENFORCE THIS**  
20 **SUBSECTION.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
22 apply only prospectively and may not be applied or interpreted to have any effect on or  
23 application to any covered projects, as defined in § 3-718 of the Labor and Employment  
24 Article, as enacted by Section 1 of this Act, that received approval of a certificate of public  
25 convenience and necessity before the effective date of this Act.

26 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2023.