



Delivering on the Climate Investment Promise: Ensuring Equitable Procurement and Apprenticeship Capacity

Senate Labor, Public Employment and Retirement Committee Oversight Hearing

May 10, 2023, at 9:30 a.m.
O Street Building, Room 2200

BACKGROUND

“This is a case where conscience and convenience cross paths, where dealing with this existential threat to the planet and increasing our economic growth and prosperity are one and the same. When I think of climate change ... I think of jobs.”

President Joe Biden before Signing Executive Actions on Tackling Climate Change, Creating Jobs, and Restoring Scientific Integrity (Jan. 27, 2021)

Introduction

During the Committee’s March 22, 2023, joint oversight hearing held with Senate Budget Subcommittee #5, the discussion centered around multi-billion dollar climate-energy investments to combat climate change with a specific focus on how the state can implement more equitable procurement processes, incorporate labor standards, promote high quality jobs, and maximize our opportunities with available and future funding.

Next, we turn our attention to the workers themselves. Do we have the workers needed and available to enroll in apprenticeship programs to deliver on the climate goals we have set? If not, how do we expand our apprenticeship program pipeline to increase enrollment and ensure equity? This hearing will explore these questions and examine our apprenticeship system and its ability to train for these new opportunities. In exploring these issues, the committee is attempting to be proactive and focus on finding a balanced approach to help California reach both our climate and high quality workforce development goals.

Federal Investments

At the federal level, the United States (U.S.) is aiming to reduce U.S. greenhouse gas emissions 50-52% below 2005 levels in 2030, reaching 100% carbon pollution-free electricity by 2035, achieving a net-zero emissions economy by 2050, and delivering 40% of the benefits from federal investments in climate and clean energy to disadvantaged communities. Two landmark bills, passed in 2021 and 2022, the Infrastructure Investment and Jobs Act (IIJA, also referred to as the Bipartisan Infrastructure Law (BIL)) and the Inflation Reduction Act (IRA), will invest nearly \$700 billion in infrastructure, research activities, and related programs. The IIJA alone is making historic investments in our nation's public transportation infrastructure that will shape our future for decades to come.

Inflation Reduction Act

The federal Inflation Reduction Act (IRA) was signed into law on August 22, 2022, with the intent of revitalizing manufacturing in the United States, expanding clean energy, and creating and supporting high quality jobs. The IRAs \$370 billion investment is aimed at lowering energy costs, accelerating private investments in clean energy in every sector of the economy, strengthening supply chains, and creating high-quality jobs and new economic opportunities for workers. The IRA also advances President Biden's commitment to delivering 40 percent of the overall benefits of climate, clean energy, and related federal investments to communities that are marginalized, overburdened by pollution, and underserved by infrastructure and other basic services.

Last fall, the Treasury and Internal Revenue Service released guidance on the IRAs prevailing wage and apprenticeship requirements. In exchange for offering enhanced tax benefits for clean energy projects, Davis-Bacon Act **prevailing wage is required to be paid to workers and registered apprentices must be utilized**. Davis-Bacon "prevailing wages" are a combination of the basic hourly rate and any fringe benefits paid to workers in a specific classification of laborer or mechanic in the area where construction, alteration, or repair is performed, as determined by the Secretary of Labor. Prevailing wages ensure that all bidders on those projects are competing on a level playing field while providing higher wages and better workplace conditions for workers. Requiring apprentices to be hired ensures that the next generation of workers gets the hand on experience they need to enter these career fields.

These prevailing wage and apprenticeship provisions apply to the: Alternative Fuel Refueling Property Credit; Production Tax Credit; Credit for Carbon Oxide Sequestration; Credit for Production of Clean Hydrogen; Clean Fuel Production Credit; Investment Tax Credit; Advanced Energy Project Credit, and; Energy Efficient Commercial Buildings Credit. The IRAs prevailing wage provisions additionally apply to the New Energy Efficient Home Credit and Zero-Emission Nuclear Power Production Credit.¹ Those who wish to avail themselves of the tax incentives must ensure laborers and mechanics are paid the applicable prevailing wages and benefits.

¹ [Prevailing Wage and the Inflation Reduction Act | U.S. Department of Labor \(dol.gov\)](#)

Infrastructure Investment and Jobs Act

According to April 2023 estimates, California is expected to receive a guaranteed \$41.9 billion from the (IIJA) formula funding, with \$7.53 billion already distributed.² The IIJA funding is intended to rebuild roads, bridges, and rail, expand access to clean drinking water, ensure access to high-speed internet, confront climate change, advance environmental justice, and invest in communities that have too often been left behind. Similar to the IRA, most IIJA projects must utilize prevailing wages and benefits for workers.

The following projects that are subject to these labor standards: roads, bridges, and public transit; airports, ports, and waterways; water infrastructure, power, and grid; enhanced disaster resiliency; low-carbon and zero-emission buses and ferries; electric vehicle charging; addressing legacy pollution, and; passenger and freight rail. Federal agencies and funding recipients must ensure applicable labor standards are included in contracts.³ Additionally, all contractors must also maintain accurate records of hours, workers, wages paid to workers, and submit certified payroll records on a weekly basis to the funding agency or funding recipient.

Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS)

The Creating Helpful Incentives to Produce Semiconductors and Science Act, commonly referred to as the CHIPS and Science Act consists of \$52.7 billion broken down into \$39 billion for manufacturing incentives, \$13.2 billion for research and development and workforce development, and \$500 million to provide for international information communications technology security and semiconductor supply chain activities. Awards under the program will take the form of direct funding, federal loans, and/or federal guarantees of third-party loans.

The program includes six program priorities, one of which is the need for applicants to have a workforce development plan. This key component requires applicants to commit to developing and maintaining a highly skilled, diverse workforce including by outlining their plans to hire economically disadvantaged individuals. The CHIPS and Science Act also requires the payment of prevailing wages in program funded construction projects. In addition to prevailing wage, there are other opportunities in the CHIPS Act to create labor standards that help deliver on good-paying jobs that build strong communities. Specifically, the program will prioritize workforce solutions that enable employers, training providers, workforce development organizations, labor unions, and other key stakeholders to work together. The goal is to create more paid training and experiential apprenticeship programs, provide wrap around services, prioritize creative recruitment strategies and hire workers based on their acquired skills.

State Investments

Last year, California enacted some of the nation's most aggressive climate measures in history aimed at cutting pollution and accelerating the state's transition to clean energy. Highlights of the climate package include legislation that directs the state to achieve carbon neutrality no later

² <http://rebuildingca.ca.gov/iija-by-the-numbers/#:~:text=IIJA%20includes%20funding%20for%20multiple,to%20Department%20of%20Transportation%20projects.>

³ [Protections for Workers in Construction under the Bipartisan Infrastructure Law | U.S. Department of Labor \(dol.gov\)](#)

than 2045 and 90% clean energy by 2035, establishing new setback measures protecting communities from oil drilling, capturing carbon pollution, and advancing nature-based solutions, among others. Not only is the state setting ambitious goals, it is also empowering regulators and industries with the authority to meet them.

These efforts are an essential piece of the California Climate Commitment, a record \$54 billion investment in climate action that, according to the Governor, will create four million new jobs. The initiative targets various efforts from reducing fossil fuel consumption to accelerating clean energy projects. The funding for all these efforts impacts many different departments and agencies, making it difficult to track. Our goal is to identify the various entities responsible for utilizing and implementing these funds while evaluating the need for certain labor standards that can ensure high-quality jobs.

Some projects in existing law may already require certain labor standards like the payment of prevailing wage, especially when it fits under the definition of a public works project or when it has legislatively been required for certain funding. In transportation, the state has already established the practice of providing prevailing wages for construction jobs. However, in other areas of transportation, the state lacks experience in ensuring labor standards. For instance, there are limited workforce and jobs-related requirements in the Transit and Intercity Rail Capital Program, a large component of the recent Transportation Infrastructure Package, which provides funding for transit capital projects. Other opportunities exist to ensure state funds are awarded to clean energy, transportation, and other climate projects that provide high-quality jobs in the emerging “green economy”.

Findings from March 22, 2023, Oversight Hearing

Our first hearing helped provide an overview of the different federal and state investments in this space as well as an overview of the labor standards that are already required and the gaps where more work is needed. Below are some of the key takeaways from that hearing:

- While workforce and labor standards are being used to a greater extent in California, many billions of dollars in annual state investments are not currently covered by standards, particularly in manufacturing, operations, and services.
- More research and development is needed to support employers in upskilling workers, delivering on the “high-road” promise while ensuring that companies receiving this support stay in California.
- More wraparound incentives are needed to help workers, especially women and minorities, enter pre-apprenticeship and apprenticeship programs that can lead to high quality jobs.
- Protection of investments that the state has already made is critical, including ongoing funding for the Women in Construction Unit at DIR which is used to fund the Equal Representation in Construction Apprenticeship Grant (ERiCA).
- State agencies with the ability to attach workforce standards to programs and spending are not the same agencies that are experts in workforce standards and embedding these standards in procurements. As a result, the administering agencies lack the tools and strategies necessary to leverage their practices so that quality jobs with robust access are

created. The Labor and Workforce Development Agency provides assistance to various departments on how to incorporate labor standards through the procurement process, but there is and will be more demand than there is capacity to continue this coordination.

While California agencies have some successful models on adherence to prevailing wage and other high quality workforce standards, it is necessary to ensure each state agency administering taxpayer-funded contracts, procurements, and subsidies, and receiving federal funding has clear and concise direction on the use of these investments to ensure high quality jobs with strict labor standards are cultivated, created, and retained. The state's economic development plan needs to include strategies and initiatives that promote job creation in new energy technologies to set the way for the training and job placement of workers.

Pre-Apprenticeship and Apprenticeship Programs

The Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations (DIR) registers and promotes apprenticeship training. Through this effort, the retiring skilled workforce is replenished with new skilled workers. This system of training eliminates expensive recruitment programs for people who are already trained, creates a pool of employees with desired skills, and reduces the costs associated with high labor turnover.

Apprenticeship itself is an effective way to provide pathways to the middle class in the building and construction trades. Providing both training and employment (earn and learn), an apprenticeship typically lasts two to four years with defined wage and benefit increases based on skill attainment. Entrance into apprenticeships, however, is competitive. Pre-apprenticeships, which are also approved and registered by DAS, increase access to high quality careers in the trades for populations that face barriers to employment and/or remain underrepresented in the industry (low-income, foster youth, women, people of color, and formerly incarcerated).

The bulk of apprenticeships today are skilled trades, but the model can be adopted to many industries and occupations. Apprenticeship programs are available to private and public employers regardless of the number of employees. More and more new industry sectors, such as information technology, education, health care, and advanced manufacturing are providing opportunities and access for people to become registered apprentices. There are over 800 apprenticeable occupations approved in California, and over 400,000 individuals participating in apprenticeship programs throughout the United States (US Department of Labor). California currently has over 90,000 registered apprentices.

In acknowledging the benefits of apprenticeships and the model of “earn while you learn,” the Governor and the Legislature have made investments and policy decisions that encourage growth of this model in various industries. In 2018, Governor Newsom identified apprenticeships as one of his administration's three key jobs strategies and noted that they, “provide the education and training necessary to prepare Californians for the jobs of today and tomorrow.” He set an ambitious goal for the state: to expand California's apprenticeship system, already the largest in the United States, to serve 500,000 apprentices by 2029.

The Legislature has adopted Skilled and Trained Workforce (STW) requirements in various types of funding and industries to also advance the apprenticeship model. STW requirements are qualifications for the building and construction workforce that California law requires on certain projects. There are over fifteen STW statutes in various state codes, each of which applies to different types of projects. Skilled & Trained Workforce is defined in the Public Contract Code (sections 2600-2603) as one that meets both of the following:

- Requirement #1: All the workers performing work in an apprenticeable occupation in the building and construction trades for which the Division of Apprenticeship Standards (DAS) approved an apprenticeship program before January 1, 2014 are either:
 - Apprentices registered in a DAS-approved apprenticeship program; or
 - “Skilled journeypersons,” meaning the worker, in the applicable occupation, either (i) graduated from an in-state, DAS-approved apprenticeship program, or an out-of-state federally-approved apprenticeship program, or (ii) has at least as many hours of on-the-job experience as would be required to graduate from the applicable DAS-approved apprenticeship program.

AND

- Requirement #2: Specified Minimum Percentage Graduation Requirements are satisfied.
 - “Minimum Percentage Graduation Requirements” means the minimum percentage of skilled journeypersons who (i) are employed to perform work on the contract or project, (ii) by every contractor and each of its subcontractors at every tier, (iii) for the applicable occupation, and (iv) are graduates of either an in-state, DAS-approved apprenticeship program or of an out-of-state federally-approved apprenticeship program.

There is no general requirement that prevailing wages must be paid on all STW covered projects, however, some STW statutes contain their own requirements that prevailing wage rates must be paid on the STW covered projects. ***As noted above, the federal climate investments passed through the IIJA, IRA and CHIPS Act contain either or both prevailing wage payment and apprenticeship requirements.*** Some of the state climate investments also contain prevailing wage payment requirements.

A Lens on Equity

As laws and regulations implementing climate policies are adopted, it is our responsibility to ensure workers’ best interests are at the forefront. Additionally, the state must ensure that these investments and innovations are available to people in all communities. The state is making equity a priority by directing state agencies to ensure that public expenditures that address climate change adaptation prioritize protecting vulnerable communities, rectifying intersectional and systemic inequities, and enhancing low-income and vulnerable communities’ abilities to weather the impacts of climate change.⁴

⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1384

In July of 2021, the U.S. Department of Labor announced that California's Department of Industrial Relations was a recipient of the State Apprenticeship Expansion, Equity and Innovation grant. The grant provided DIR and DAS the opportunity to offer \$7,296,000 in grant funds to qualified workforce investment boards and the apprenticeship program sponsors with which they work. By May 2022, DIR and DAS announced the awardees of nearly \$7.3 million in funds to expand apprenticeships in California to underserved communities, including women, people of color, justice-involved persons, people with disabilities, veterans and youth.

Our hearing provides an opportunity for Legislative review and oversight into California's existing pathways to high quality jobs with a focus on how the state oversees these efforts to ensure equity.

AB 398 Report: Putting California on the High Road

In 2015, AB 398 (E. Garcia, Chapter 135, Statutes of 2017) required that the California Workforce Development Board (CWDB) present a report to the Legislature on strategies "to help industry, workers, and communities transition to economic and labor-market changes related to statewide greenhouse gas emissions reduction goals." To fulfill this mandate, the CWDB commissioned the Center for Labor Research and Education at the University of California Berkeley, to review the existing research in the field and prepare the report.

Released in June 2020, the report, "*Putting California on the High Road, A Jobs and Climate Action Plan for 2030*," provided a conceptual framework illustrating the alignment of climate and workforce action plans. Included in the report is a chart outlining this conceptual framework (see attached). It starts with (1) examples of climate measures that use (2) a variety of specific policy mechanisms, and have (3) impacts on the number of jobs, job quality, and who is hired in the key industries affected by each climate measure. Without specific demand-side and supply-side labor interventions, these job impacts will replicate current trends and practices in the labor market, which in some sectors will simply reproduce low wages and ethnic and gender disparities. The graphic illustrates two distinct choices: a low-road approach that does not incorporate workforce strategies (in gray), and a high-road approach that manages changes in the labor market using the strategies recommended in this document (in red).

Among other things, the report found the following regarding the impact of climate policy on job quality and job access:

- Analysis of climate policy implementation shows the outsized importance of the construction industry and the predominance of blue-collar work.
- Lowering greenhouse gas emissions involves traditional occupations that incorporate new tasks, rather than new and different jobs.
- Many activities that reduce greenhouse gas emissions are creating good jobs and broadening opportunities for disadvantaged workers.
- Some activities that lower greenhouse gas emissions can produce lower quality jobs.
- Several prominent industries that are critical targets for climate policy have some of the lowest wage jobs in the economy, and low-road practices impede efforts to reduce emissions.

- Climate policy creates the risk of future job loss in fossil fuel industries.

The report outlines several recommendations that begin to align the state’s comprehensive climate and workforce action plans and can help overcome a significant number of the problems identified above, including, among others, the following:

- Incorporate wage and benefit standards and verification of compliance with all employment and labor law, including health and safety standards, into incentive program requirements.
- Use metrics to measure the impact of climate policies on job growth, job quality, and job access.
- Provide technical assistance to agencies implementing climate policy on the application of demand-side tools.
- Redirect and align funding for industry-led incumbent worker training.
- Support high-road industry training partnerships.
- Support existing apprenticeship programs and, where conditions are favorable, create new apprenticeship programs.
- Redirect and align funding for a statewide strategy for pipeline programs to expand inclusion of disadvantaged workers into family-supporting career-track jobs in the carbon-neutral economy.
- Support a statewide initiative for pre-apprenticeship for construction careers.
- Support curriculum upgrades and teacher training for emerging technologies in occupations critical to the transition to a carbon-neutral economy.
- Track outcomes of all training programs.
- Fully explore alternatives to plant closures when there are strategies available that will achieve greenhouse gas emissions reductions and local pollution abatement.
- Convene an interagency task force to develop concrete, specific plans for short-term and long-term transition.

The report concludes that stating that, “California’s ambitious path towards a carbon-neutral economy is complex, involves and affects different industries and occupations in multiple ways, and holds both promise and challenges for the state’s working families. The analysis and recommendations here present actions that show a high road to climate policy is both valuable and feasible.”

Conclusion

As regulations implementing these climate policies are adopted, it is our responsibility to ensure workers’ best interests are at the forefront. Additionally, the state must ensure that these investments and innovations are available to all communities. The state is making equity a priority by directing state agencies to ensure that public expenditures that address climate change adaptation prioritize protecting vulnerable communities, rectifying intersectional and systemic inequities, and enhancing low-income and vulnerable communities’ abilities to weather the impacts of climate change. (AB 1384 - Gabriel, Chapter 336, Statutes of 2022) How does the state oversee these efforts to ensure equity?

Support for pre-apprenticeships is critical to improving equity and inclusion. Any climate investments that involve a significant amount of construction trades work and seek to increase disadvantaged and/or under-represented workers' access to employment in the industry should connect to, align with, or feed into the emerging statewide system of quality pre-apprenticeships that the California Workforce Development Board is building.⁵ Is our apprenticeship pipeline prepared to meet this need?

With the information gathered through this hearing, we are empowered to take action and add labor requirements, including the use of apprentices for emerging work, where appropriate, to deliver those high-quality jobs that Californians desperately need.

⁵ Zabin, Carol, et. al. "[Putting California on the High Road: A Jobs and Climate Action Plan for 2030](#)" UC Berkeley Labor Center, September 3, 2020.