



BACKGROUND PAPER

Implementing SB 150 (Statutes of 2023): Evaluating Labor and Equity Standards in Public Investments

Senate Labor, Public Employment and Retirement Committee & Senate Budget Subcommittee
#5 on Corrections, Public Safety, Judiciary, Labor and Transportation

Introduction

California is developing a green economy that focuses on sustainability and designing innovative solutions to the challenges posed by climate change. The transition from a fossil fuel economy to a green one is a multi-decade effort that calls on stakeholders both inside and out of the government to collaborate. In just ten years, California has surpassed \$9.3 billion dollars in climate investments¹. As this green economy continues to emerge, so will new opportunities for California to retrain and expand its workforce, while simultaneously investing in its most underserved communities.

Linking our climate, workforce, and equity goals guarantees that the green economy is inclusive and representative of all Californians. Focusing on disadvantaged communities is essential, as they are often the first to experience the consequences of climate change. In September of 2022², Governor Newsom signed an executive order directing state agencies and departments to take actions to embed equity analysis and considerations in their missions, policies, and practices. Additionally, the executive order required agencies and departments applying for funds under the

¹ <https://ww2.arb.ca.gov/news/california-climate-investments-reports-nearly-1b-funding-2022-support-communities-facing-worst>

² <https://www.gov.ca.gov/2022/09/13/governor-newsom-strengthens-states-commitment-to-a-california-for-all/>

Infrastructure Investment and Jobs Act (IIJA) to meaningfully engage with tribal governments, nonprofits, and community organizations, as well as devise ways to increase small and disadvantaged business enterprise participation. Historic federal and state investments present a unique opportunity to leverage the power of public funds to create quality jobs that support workers and uplift communities.

The efforts mentioned above are a starting point and it is our goal to build upon that work. Historic federal and state investments present a unique opportunity to leverage the power of public funds to create quality jobs that support workers and uplift communities. In the Legislature, efforts to develop a framework of labor standards for all publicly-funded projects culminated in SB 150 (Statutes of 2023 - discussed below). Some of the labor standards could include:

- Requiring project labor agreements or other pre-hire agreements.
- Requiring community benefit agreements that incorporate details on job quality, equity benchmarks, and timelines for recruitment and hiring.
- Ensuring inclusion of local community partners in these agreements.
- Prioritizing employers that commit to providing living wages and other benefits that will help uplift all communities.
- Requiring targeted recruitment and hiring plans for workers facing barriers to employment.
- Requiring data submission, transparency, and built-in enforcement mechanisms to ensure equity.
- Ensuring labor standards are emphasized in scoring for procurement or subsidy awards.

Last year the Senate held two oversight hearings to discuss climate investments and the state's ability to integrate labor standards and equitable procurement processes into future public funds. Today, the Legislature seeks to combine previous findings from those oversight hearings with SB 150's implementation.

Previous Hearing Recaps

The first hearing held on March 22, 2023 by the Senate Committee on Labor, Public Employment and Retirement and the Senate Budget Subcommittee #5 offered a summary of federal and state climate investments and an overview of existing labor standards. It also focused heavily on areas where more work is needed. This oversight hearing yielded the following findings:

- Although California largely applies workforce and labor standards, many billions of dollars in annual state investments are not currently covered by such standards, particularly in the manufacturing, operations, and service industries.
- Employers need more support in upskilling workers and delivering on the high road promise.
- Wraparound incentives help workers, especially women and minorities, enter pre-apprenticeship programs that lead to high quality jobs.

- Protecting pre-existing funding, like money for the Women in Construction Unit at the Department of Industrial Relations (DIR), which funds the Equal Representation in Construction Apprenticeship Grant (ERiCA), is critical.
- State agencies with the ability to attach standards to programs and spending are not necessarily experts in workforce standards and in how to embed them. As a result, the administering agencies lack the tools necessary to leverage their practices to create quality jobs. The Labor and Workforce Development Agency (LWDA) assists various departments with incorporating 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 workforce standards, it is necessary to ensure each state agency administering taxpayer-funded contracts, procurements, and subsidies, and receiving federal funding has clear direction on how to use these investments to create quality jobs. The state's plan needs to include strategies and initiatives that promote job creation in new energy technologies.

The second hearing held on May 10, 2023 by the Senate Committee on Labor, Public Employment and Retirement focused on ensuring workers' best interests are at the forefront of green investments and that these opportunities are available to all communities. This hearing produced the following findings:

- As funding continues to flow into the state, there are new opportunities to attach high road labor standards, use equity tools (EX: wraparound services) and monitor and collect data to evaluate the effectiveness of programs across regions and worker classifications.
- California and labor stakeholders have invested heavily in creating apprenticeship and pre-apprenticeship programs throughout the state. However, the inability to train workers on-site is inhibiting the growth of these programs. As future climate projects take shape, more work is necessary to provide on-site training.
- It is vital to invest in more pre-apprenticeship programs in all regions to strengthen pathways into high road jobs that allow workers to remain in their communities and earn family sustaining wages.
- Project labor agreements that include community benefit agreements specific to each area of the state are successful and should be encouraged.

Federal Investments

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

Inflation Reduction Act (IRA)

The IRA, signed into law on August 22, 2022, intends to revitalize manufacturing in the United States, expand clean energy, and create and support high quality jobs. The IRA's \$370 billion investment seeks to lower energy costs, accelerate private investments in clean energy in every sector of the economy, strengthen supply chains, and create new economic opportunities for workers. The IRA also advances President Biden's commitment to deliver 40 percent of the overall benefits of climate, clean energy, and related federal investments to marginalized communities overburdened by pollution, and underserved by infrastructure and other basic services.

Last fall, the Treasury and Internal Revenue Service released proposed regulations on the IRA's prevailing wage and apprenticeship requirements. In exchange for offering enhanced tax benefits for clean energy projects, states must use registered apprentices and pay Davis-Bacon Act prevailing wages to all workers. Requiring registered apprentices will secure necessary hands-on experience for the next generation of workers eager to enter these career fields. 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 these projects are competing on a level playing field, while providing workers with higher wages and better workplace conditions.

These prevailing wage and apprenticeship provisions are tied to many tax incentives, including the Alternative Fuel Refueling Property Credit; the Production Tax Credit; the Credit for Carbon Oxide Sequestration; the Credit for Production of Clean Hydrogen; the Clean Fuel Production Credit; the Investment Tax Credit; the Advanced Energy Project Credit, and the Energy Efficient Commercial Buildings Credit. The IRA's prevailing wage provisions additionally apply to the New Energy Efficient Home Credit and Zero-Emission Nuclear Power Production Credit³.

Those who wish to take advantage of the above incentives should ensure laborers are paid the applicable prevailing wages and benefits.

Infrastructure Investment and Jobs Act (IIJA)

California can expect to receive a guaranteed \$41.9 billion from the (IIJA) formula funding, with \$7.53 billion already distributed⁴. The IIJA funding intends 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 are subject to the above-mentioned 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

³ "Prevailing Wage and the Inflation Reduction Act" <https://www.dol.gov/agencies/whd/IRA>

⁴ "IIJA By The Numbers: federal funds improving transportation in California," Rebuilding California, February 2, 2024, <https://rebuildingca.ca.gov/iija-by-the-numbers/#:~:text=IIJA%20includes%20funding%20for%20multiple>

recipients must certify applicable labor standards are included in these contracts⁵. Additionally, all contractors must maintain accurate records of hours, workers, and wages, and submit certified payroll records every week to the funding agency or funding recipient.

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

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 this program take the form of direct funding, federal loans, and/or federal guarantees of third-party loans.

The program includes six priorities, one of which is requiring applicants to have a workforce development plan. This key component requires applicants to commit to developing and maintaining a highly skilled, diverse workforce. 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. Specifically, the program prioritizes workforce solutions that enable employers, training providers, workforce development organizations, labor unions, and other key stakeholders to work together. The goal is to increase paid training and experiential apprenticeship programs, provide wraparound services, prioritize creative recruitment strategies, and hire workers based on their acquired skills.

State Investments

In 2022, California enacted some of the nation's most aggressive climate measures in history to decrease pollution and accelerate the state's transition to clean energy. Highlights of the climate package include legislation that directs the state to achieve carbon neutrality no later than 2045 and 90 percent clean energy by 2035. This establishes new setback measures to protect communities from oil drilling, capturing carbon pollution, and advancing nature-based solutions, among others. The state has not only set ambitious goals, but has empowered 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 affects many different departments and agencies, making it difficult to track.

Some existing projects, like the construction of transportation, already dictate labor standards such as the payment of prevailing wage, especially for public works projects or in cases when it is otherwise required by the Legislature. However, outside of construction, the state lacks experience in ensuring labor standards. For instance, there are limited workforce and labor

⁵ "Protections for Workers in Construction under the Bipartisan Infrastructure Law"
<https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>

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.

SB 150 (Durazo, Cortese, Gonzalez, L. Rivas, Smallwood-Cuevas, Chapter 61, Statutes of 2023)

SB 150 is a commitment to advance equity and prioritize disadvantaged communities as the state moves towards a green economy. The bill requires the inclusion of community benefits in PLAs entered into by a state agency on projects with aggregate construction costs in excess of \$35 million dollars. It also directs the Labor and Workforce Development Agency (LWDA), Government Operations Agency (GOA), and Transportation Agency (CalSTA) to convene stakeholders to provide input on recommendations to develop procurement models for investments funded by IIA, IRA, and the CHIPS and Science Act. These models should be in alignment with initiatives to enhance the state's training and access pipeline for quality jobs. Once completed, the recommendations will be submitted to the Governor, the Legislature, and the California Workforce Development Board (CWDB).

To meet the March 30, 2024 deadline to present recommendations the above-mentioned agencies convened meetings in December of 2023 and January of 2024. Stakeholders participated in a series of five workshops, covering topics ranging from manufacturing and construction to energy and state procurement processes. Additionally, stakeholders had the opportunity to provide written comment to the agencies preparing the report.

As we wait for the final March 2024 report, this hearing provides another forum for stakeholders to present their recommendations to the Legislature.

Overview of Departments

Labor and Workforce Development Agency (LWDA)

LWDA oversees the major departments, boards, and panels that serve California workers and employers. The agency ensures safe workplaces, delivers worker benefits, and promotes quality jobs for all. SB 150 directed LWDA to partner with GovOps and CalSTA in convening the stakeholder workshops and consulting with relevant departments and research institutions for purposes of developing the required recommendations.

California State Transportation Agency (CalSTA)

CalSTA develops and coordinates the state's transportation programs and policies. The agency has four core priorities: safety, equity, climate action, and economic prosperity. The following entities are under CalSTA's jurisdiction: Department of Transportation, California Highway Patrol, High-Speed Rail Authority, Office of Traffic Safety, and the Department of Motor Vehicles. Transportation policy presents a unique opportunity to cut down on pollution, produce quality jobs, and design an equitable and accessible transportation network. For these reasons, CalSTA's partnership with the CWDB is vital.

California Workforce Development Board (CWDB)

CWDB is responsible for the oversight and improvement of California's workforce system.

The board advances pathways to quality, high road jobs and equity through workforce development strategies. These strategies include creating a statewide strategic workforce plan, collaborating with local workforce development boards, employers, workers, and stakeholders, implementing initiatives, and evaluating program quality. CWDB recognizes that a prosperous economy is one where disadvantaged Californians, who face barriers to employment, have pathways to quality jobs in key industries.

Department of General Services (DGS)

DGS provides a variety of services to state agencies, including procurement, real estate management, printing, web design, and more. The procurement division (PD) within DGS sets state procurement policies and provides purchasing services. State agencies receive purchasing authority based on their ability to meet law and policy requirements that promote high quality and responsible acquisitions. Additionally, the PD certifies small businesses (SB) and disabled veteran business enterprises (DVBE). California prioritizes the equitable inclusion and utilization of small and diverse businesses in procurement and contracting opportunities. This focus on equity not only ensures economic resiliency and sustainability, it also creates a procurement process that reflects California's diversity.

Civil Rights Department (CRD)

CRD enforces California's civil rights laws in areas of employment, housing, state-funded programs and activities, business and public accommodations, and more. CRD protects Californians from discrimination, harassment, and violence based on protected characteristics. Enforcement mechanisms include complaint investigations, mediation, litigation, and charges. CRD does not have jurisdiction over all workplace complaints and is limited to resolving those that involve discrimination or harassment based on a Fair Employment and Housing Act (FEHA) protected characteristic. Currently, CRD is not involved in procurement.

Closing

The federal funding California receives through IJIA, IRA, and the CHIPS and Science Act is finite, but the labor standards we develop in response do not have to be. As we review the past two informational hearings and experience the third, it is crucial that we consider how to apply the labor standards and practices that we implement through SB 150 to all future state and federal investments. It is up to the Legislature, the administration, and other stakeholders to work together to ensure that we do not miss the unprecedented opportunities presented by this climate crisis to lift disadvantaged communities out of poverty.