**SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**
**Senator Dave Cortese, Chair**
**2021 - 2022 Regular**

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| **Bill No:** | AB 680 | **Hearing Date:** | June 28, 2021 |
| **Author:** | Burke | | |
| **Version:** | May 24, 2021 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Jake Ferrera | | |

**SUBJECT:** Greenhouse Gas Reduction Fund: California Jobs Plan Act of 2021

## KEY ISSUE

Should the Legislature require increased workforce standards on projects which utilize Greenhouse Gas Reduction Fund grants, including the payment of prevailing wage for construction projects?

## ANALYSIS

**Existing law**:

1) Establishes the Greenhouse Gas Reduction Fund (GGRF), funded from the auction or sale of allowances by the State Air Resources Board (CARB). Prohibits money from the General Fund or other special fund from being deposited in the GGRF. (Government Code §16428.8)

2) Requires moneys appropriated from the Greenhouse Gas Reduction Fund to be used to facilitate the achievement of reductions of greenhouse gas emissions and, where applicable and feasible:
   a) Maximize economic, environmental, and public health benefits to the state.
   b) Foster job creation by promoting in-state greenhouse gas emissions reduction projects carried out by California workers and businesses.
   c) Complement efforts to improve air quality.
   d) Direct investment toward the most disadvantaged communities and households in the state.
   e) Provide opportunities for businesses, public agencies, Native American tribes in the state, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.
   f) Lessen the impacts and effects of climate change on the state's communities, economy and environment.

3) Requires that the investment plan submitted to the Legislature by the Department of Finance every 3 years allocate at least 25% of the available funds go towards projects within disadvantaged communities. Further requires that 5% of the funds go towards projects that benefit disadvantaged individuals anywhere in the state, with a further 5% going towards projects that are located within a half mile of a disadvantaged community or that benefit disadvantaged individuals living within half a mile of a disadvantaged community. (Health and Safety Code §39713 (a-c))

4) Defines "Low-Income household" to mean a household with income at or below 80% of the statewide median income or that falls below the Department of Housing and Community Development's (DHCD) designated threshold.
   b) Defines "Low-Income community" to mean census tracts with median household incomes at or below 80% of the state median income or with a median income that falls below the DHCD designated threshold.

   (Health and Safety Code §39713 (d))

**This bill:**

1) Requires, by July 1, 2023, that the Labor and Workforce Development Agency (LWDA) work with the State Air Resources Board (CARB) to update funding guidelines to administering agencies to ensure that all applicants to Greenhouse Gas Reduction Fund meet all the following standards:

   A) Fair and responsible employer standards, meaning documented compliance with applicable labor laws and labor related commitments concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards.
   B) Inclusive procurement policies, meaning applicant procurement policies that prioritize bids from entities that demonstrate the creation of high-quality jobs or the creation of jobs in disadvantaged, tribal, and low-income communities, or both.
   **C) Prevailing wage for any construction work funded in part or in full by the grant.**

2) Requires, by July 1, 2023 and following the adoption of the updates listed above, that the following additional requirements apply:

   A) Applicants seeking over $1 million in funding for construction projects must provide evidence of a community workforce agreement.
   B) Administering agencies must give preference to applicants that demonstrate a partnership with an educational institution or training program targeting residents of a disadvantaged, tribal, or low-income communities in the same region as the proposed project.
   C) Administering agencies must give preference to applicants that demonstrate that jobs created through the proposed project will be high-quality jobs.
   D) Administering agencies must work with the LWDA to provide applicants with assistance if the applicant submits information that does not meet the standards of this section.

3) Exempts projects that involve federal funding, technical assistance and research from the requirements of this bill.

4) Exempts applicants who are not employers from the requirements of this bill.

5) Requires applicants to be responsible for ensuring that any contractors employed on a project are paid in accordance with the requirements of this bill.

6) Defines "Access" to mean that an individual who lives in a disadvantaged or low-income community could reasonably choose to utilize all services and resources needed to compete for a job, including overcoming barriers to employment or attaining a high-quality job.

7) Defines "Community Workforce Agreement" to mean a project labor agreement that includes a targeted hire plan.

8) Defines "Contractor" to mean any person who renders service for a specified recompense for a specified result, under the control of his principal as to the result of their work and not as to the means by which such result is accomplished.

9) Defines "Disadvantaged, tribal and low-income communities" to mean communities identified in Health and Safety Code §39713 or members of a Native American tribe.

10) Defines "High-quality job" to mean a job that facilitates economic mobility by providing retirement benefits, vacation and sick leave, training opportunities, and wages at or above the average median wage of a region.
    a) Defines "Retirement Benefits" to mean an employer-provided retirement plan that is partially or fully paid for by the employer

11) Defines "Prevailing Wage" to mean the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft or type of work in the nearest labor market area.

12) Defines "Procurement" to mean a process by which an entity solicits competitive bids for a project or service.

13) Defines "Project Labor Agreement" to mean a collective bargaining agreement between an applicant for GGRF funds and one or more labor organizations that establishes the terms and conditions of employment for a specific project.

14) Defines "Targeted Hiring Plan" to mean a strategy from an applicant for GGRF funds to demonstrate how they will create jobs for disadvantaged, tribal, and low-income communities, and how the applicant will ensure access to those jobs.

## COMMENTS

**1. Need for this bill?**

### A) The Greenhouse Gas Reduction Fund

The Greenhouse Gas Reduction Fund (GGRF) was established in 2012 by AB 1532 (Pérez), SB 535 (De León), and SB 1018 (Budget and Fiscal Review Cmte), with supporting framework established by the California Global Warming Solutions Act of 2006 (AB 32). This combination of legislation created the foundation for delivering on the state's ambitious climate goals through a cap-and-trade model. This model was the first of its kind in North America, following similar programs in the EU, South Korea and China.

Essentially, Cap-and-Trade creates a statutory cap on emissions and creates a set number of "allowances" equal to that cap. For example, an allowance in California represents 1 metric ton of greenhouse gas emissions and an entity must emit 25,000 tons of emissions before they are subject to Cap-and-Trade; therefore these entities must purchase at least 25,000 allowances to be in compliance, either from quarterly state auctions or by trading for them from other entities who have allowances. According to the Center for Climate and Energy

Solutions, the program covers high pollution entities, like large electric power plants, large industrial plants, and fuel distributors (natural gas and petroleum). In total, about 450 businesses that are responsible for approximately 85% of California's greenhouse gas emissions must comply with cap-and-trade. [1] Over time, the statutory cap is lowered and less overall allowances are sold at auction. The goal is to create market pressures that incentivize reduction of greenhouse emissions while simultaneously regulating carbon emissions through the gradual lowering of the cap and the establishment of price floors for allowances.

With Cap-and-Trade program working as the revenue generator of the state's climate plan, policymakers worked towards directing these funds to further greenhouse gas reduction investments that would realize an even greater impact than Cap-and-Trade alone. The Greenhouse Gas Reduction fund represents this investment direction. The revenue collected from the sale of allowances is placed in the GGRF, which has requirements under existing law that dictate what GGRF funds can be appropriated for. Under the law, funds are required to go toward projects which "maximize economic, environmental, and public health benefits to the state" and "foster job creation by promoting in-state greenhouse gas emissions reduction… carried out by California workers and businesses." [2] Furthermore, specific standards established under SB 535 (De León) require that 35% of available funds must go towards projects that are located in or very near disadvantaged communities or that benefit disadvantaged communities or individuals in the state.

The debate on what action should be taken on climate change continues, with the vast majority of scientific experts arguing for aggressive action while large businesses insist that averting climate disaster would be too costly. At this point, enough time has passed to have a foundation of data to indicate the overall efficacy of Cap-and-Trade and the GGRF. This data indicates that industrial sources have either increased or maintained output while reducing GHG emissions, with a roughly 100% compliance rate with associated regulations. California also managed to achieve its 2020 GHG reduction targets 4 years early, a good sign for future targets.[3]

**B) Housing Shortage and Workforce Requirements**

It is difficult to overstate the breadth, scale and overall complexity of the housing crisis facing California. An estimated 150,000 Californians are homeless, relying on sparse shelters or otherwise forced to live on the streets. Another 7.1 millions Californians live in poverty when housing costs are taken into account, with 56% spending over half of their income on housing alone. The explosion of housing prices driving even middle-class and upper middle-class families to rent rather than buy a house further exacerbates these two problems.[4]

More recently, there has been a push among unionized labor in the state to increase workforce standards across the board, with a special focus on construction projects. More and more bills have placed so-called "skilled and trained" workforce requirements for new

[1] "California Cap and Trade", Center for Climate and Energy Studies, 2019
[2] Government Code 39712 (b) (1-2)
[3] "FAQ Cap-and-Trade Program", California Air Resources Board, 2020
[4] "Commentary: Five Things I've Learned Covering California's Housing Crisis that You Should Know", CalMatters, Jan 2021

construction projects, especially those that receive public dollars. These skilled and trained requirements mandate a certain percentage of workers meet certain training standards, usually a program that lasts 3-5 years and involves several weeks of in-classroom learning. The state-approved apprenticeship programs are about 90% union run, meaning that there is an extremely high likelihood that a graduate will be a union member. The graduation rate for these programs is approximately 42% and the Division of Apprenticeship Standards reports that nearly 67,000 people have graduated since 2010.[5]

This push for increased training requirements comes as California is facing a labor shortage in the residential construction industry. A report by the State Building and Construction Trades Council in early 2019 predicted that meeting housing demands would require between 257,000 and 349,000, which would require doubling or tripling the 2017 residential construction workforce of 114,000.[6] Opponents of this move argue that addressing the housing crisis requires rapidly expanding the workforce, and that onerous training requirements will only lengthen the labor shortage and drive housing costs up.

Opponents may well be right; however there are a few other factors to consider when approaching this problem. While it seems logical that housing costs would increase with higher wages, it may not be this simple. Better trained workers are more productive, less likely to make mistakes and less likely to suffer from on-the-job injuries; all of these qualities are important to keeping overall costs of a project down and keeping the project on schedule. Moreover, the debate about how to increase the amount of affordable housing in the state cannot just be a cost-reduction discussion; growing the residential construction workforce will require actual incentives. CalMatters found that nearly half of the state's construction workers rely on safety net programs, at a cost to the state of approximately $3 billion a year and the Building and Construction Trades study mentioned above found that wage gap between residential and non-residential construction jobs can exceed 40%. Higher wages could provide more of an incentive for workers to join the residential construction industry and drive up participation in apprenticeship programs.

One final thing to consider is that the current union density within the residential construction industry. Currently about 7% of workers in this specific industry are unionized, with the trend of declining union membership following the nationwide decline of unions. One would think that if union wages drive housing costs up that during a period of declining union membership housing costs would go down. There are obvious conflating variables, including the favorite target CEQA, but the fact remains that even with a historic low union membership housing costs are higher than ever. It may be worth considering changing tactics to address the incentive side of the housing production equation, rather than cost-reduction.

**C) AB 680 within this Framework**

With all of this in mind, the committee now considers AB 680, which would require increased workforce standards for applicants for Greenhouse Gas Reduction Fund grants, including the payment of prevailing wage for construction projects that utilize grant funds.

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[5] "Is Union Labor Requirement In The Way of Easing California's Affordable Housing Crisis?", CalMatters, June 2021

[6] "Housing on the High Road: Rebuilding California's Housing Production Workforce", State Building and Construction Trades, Feb 2019

The GGRF was set up with the purpose of reducing greenhouse gas emissions while also funding programs that benefit communities most hurt by poor environmental quality; AB 680 seems to expand naturally on the overall stated goals of the GGRF, by prioritizing projects that would create high-quality jobs for California workers.

There are a few concerns raised by some opposition stakeholders that warrant discussion. The first involves the definition of "construction work". Some stakeholders that run non-profit or volunteer programs assisting with tree-trimming and brush clearing for fire management are concerned that they may have to pay prevailing wage for this work. It is unlikely this is the author's intent; however a clarification in the definition of construction work could be necessary. Another concern raised is the effect that increased costs will have specifically on affordable housing production. In the long-term, investing in training programs will likely yield a variety of benefits, but problems remain in the short-term as these apprenticeship programs ramp up. The committee could consider amendments to phase in the requirements of AB 680, to allow truly non-profit affordable housing builders to adjust without exacerbating the already devastating shortage of affordable housing.

**2. Proponent Arguments**

The Northern California Recycling Association writes in support:

"California has been a global leader in combating climate change. While progress is laudable, its outcomes have been inconsistent, and a great deal of evidence shows wealthy communities benefit the most from the state's climate investments. According to a report published last June by UCLA's California Center for Sustainable Communities, affluent communities have a far greater ability to access existing programs and incentives. A separate report published in the Transportation Research Record evaluating the Clean Vehicle Rebate Project concluded that 83% of rebate recipients had annual incomes of $100,000 or more.

Additionally, despite numerous statutory requirements to maximize the socioeconomic benefits of our climate investments, the State Auditor, just last month, released a report detailing the Air Resources Board's limited collection and analysis of data regarding job creation and benefit outcomes. The California Workforce Development Board's recently published report "Putting California on the High Road: A Jobs and Climate Action Plan for 2030" documents the potential for jobs of the carbon neutral economy to be low-wage with limited upward advancement, a finding supported by the State Building and Construction Trades Council report titled "Would Green Jobs Offset Those Lost from a Phase-Out of Oil and Gas Production."

AB 680 addresses these shortcomings by requiring grant applicants for GGRF funding to document high-quality job creation in disadvantaged and low-income communities while prioritizing applications that demonstrate partnerships with local educational institutions and training partnerships that target residents of marginalized communities."

**3. Opponent Arguments:**

The California Council for Affordable Housing writes in opposition:

"California's severe housing and homelessness crises have only been exacerbated by COVID-19: The state continues to face a shortfall of at least 1.2 million homes affordable to its lowest-income households, and more than 161,000 Californians are living on the streets.

Since its inception in 2014, the Affordable Housing and Sustainable Communities Program (AHSC) has invested $1.66 billion in 127 catalytic developments across California, primarily in Disadvantaged Communities, that integrate housing and transportation with community infrastructure and amenities to reduce greenhouse gas emissions and support sustainable, connected, vibrant neighborhoods. By applying a PLA requirement, **AB 680 will render AHSC unusable in inland areas where many of California's Disadvantaged Communities lie** and union contractors are scarce. Even in the most urbanized coastal areas where there is a greater supply of union contractors, this requirement will significantly increase the costs of affordable housing and reduce the number of affordable homes we can create. Currently, projects being built under PLAs for Proposition HHH developments in the City of Los Angeles, where unions are strong and this requirement will have the least impact, are demanding 8-18% pricing premiums.

Since 2014, the California Department of Community Services and Development (CSD) has administered Low Income Weatherization Program (LIWP) to unlock the benefits of energy and solar upgrades for both residents and owners of multifamily low-income housing, including farmworker properties, in Disadvantaged Communities. LIWP grants average $500,000, and over half of LIWP awardees incorporate the LIWP work into a much larger rehabilitation scope of work. AB 680's prevailing wage requirement will render these relatively small grants unattractive to applicants and the program therefore relatively meaningless. If any funding source triggers prevailing wage, the entire project is subject to prevailing wage, which the Terner Center at UC Berkeley has found increases total development costs by 13% statewide and even more in rural areas. In these cases, accepting a LIWP grant would add more cost than the grant is worth."

4. **Prior Legislation:**

**AB 398 (E. Garcia) Chapter 135, Statutes of 2017:** required the CWDB to publish a report outlining recommendations on workforce development and training to help communities adapt to the economic and labor-market changes resulting from California's transition to a carbon neutral economy.

**AB 2722 (Burke) Chapter 371, Statutes of 2016**: established the Transformative Climate Communities Program (TCC) administered by the Strategic Growth Council to disburse grants for projects that include multiple, coordinated GHG emissions reduction efforts that provide local economic, environmental, and health benefits to DACs.

**SB 535 (De León) Chapter 830, Statutes of 2012:** among other things, directed administering agencies to develop guidelines on maximizing benefits for disadvantaged communities (DAC) for GGRF grants and set aside 25% of those funds for DACs.

**AB 32 (Nuñez) Chapter 488, Statutes of 2006**: created the California Global Warming Solutions Act of 2006.

**5. Double Referral**

Should AB 680 be passed out of the Senate Labor, Public Employment and Retirement Committee, the bill will be sent to the Senate Environmental Quality Committee for hearing.

**SUPPORT**

California State Association of Electrical Workers
California State Pipe Trades Council
Elders Climate Action, Norcal and Socal Chapters
Northern California Recycling Association
Western States Council Sheet Metal, Air, Rail and Transportation

**OPPOSITION**

California Coalition for Rural Housing
California Council for Affordable Housing
California Housing Consortium
California Housing Partnership
Housing California
Non Profit Housing Association of Northern California
Southern California Association of Nonprofit Housing

**-- END --**