SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2021 - 2022 Regular

Bill No:	AB 680		
Author:	Burke		
Version:	6/30/2021	**Hearing Date:**	7/12/2021
Urgency:	No	**Fiscal:**	Yes
Consultant:	Eric Walters		

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

DIGEST: Requires the Labor and Workforce Development Agency (LWDA) to work with the California Air Resources Board (ARB) to update funding guidelines for Greenhouse Gas Reduction Fund (GGRF) applicants to include specified fair and responsible labor standards, inclusive procurement policies, and prevailing wage for any construction projects. Also requires any applicant seeking over $1 million to have a community workforce agreement, as defined, and directs administering agencies to apply specified preferences based on labor standards.

ANALYSIS:

Existing law:

1) Designates ARB as the state agency charged with monitoring and regulating statewide greenhouse gas (GHG) emissions. (Health and Safety Code (HSC) §38500 et seq.)

2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by December 31, 2030 (i.e., SB 32); and allows ARB, until December 31, 2030, to adopt regulations that utilize market-based compliance mechanisms (i.e., the cap-and-trade program) to reduce GHG emissions. (HSC §§ 38566, 38562)

3) Establishes the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury, requires all monies, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund. (Government Code (GOV) §16428.8)

4) Establishes the Labor and Workforce Development Agency (LWDA) to, among other duties, simplify, strengthen, and improve the operation and management of programs that protect and provide services to California's workers and employers and to ensure there is a cabinet-level voice for workforce-related issues raised for the Governor's consideration and decision.

(SB 1236, Alarcon, Chapter 859, Statutes of 2002)

5) Establishes the California Workforce Development Board (CWDB) within the LWDA, to be responsible for the oversight and continuous improvement of the workforce system in California. (GOV § 12813)

6) Creates the Affordable Housing and Sustainable Communities (AHSC) program, under administration by the Strategic Growth Council (SGC), to, among other things, reduce GHG emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development, and that support related and coordinated public policy objectives, as specified. (Public Resources Code § 75200 et seq.)

7) Continuously appropriates 20% of the entire annual GGRF proceeds to SGC for the AHSC program. (HSC § 39719)

8) Tasks the Department of Community Services and Development with developing and administering the Energy Efficiency Low-Income Weatherization Program (LIWP). (GOV § 12087.9)

This bill:

1) Makes findings and declarations regarding California's leadership on climate policy, the importance of high-quality jobs, the relationship between the two, and the Legislature's request that resulted in the *Putting California on the High Road: A Jobs and Climate Action Plan for 2030* report.

2) Defines the following terms: access; administering agencies; applicant; community workforce agreement; contractor; disadvantaged, tribal, and low-income communities; employee; employer; greenhouse gas reduction fund; high-quality job; job; labor agency; prevailing wage; procurement; project labor agreement; retirement benefits; and targeted hire plan.

3) Requires LWDA to, by July 1, 2023, work with ARB to update the funding guidelines for all GGRF-funded programs:

   a) Meet fair and responsible employer standards, as specified;

   b) Have inclusive procurement policies, as specified; and

c) For construction projects that are at least partly funded by GGRF, require prevailing wage.

4) Once the above guidelines are updated, requires:

a) Any applicant seeking over $1 million in funding for construction projects to have a community workforce agreement (CWA);

b) Administering agencies to give preference to applicants that will partner with an educational institution or training program targeting residents of disadvantaged, tribal, and low-income communities in their region;

c) Administering agencies to give preference to applicants that create high-quality jobs; and

d) Administering agencies to work with LWDA to provide guidance to applicants who do not meet the above standards to be able to meet them in future applications.

5) Exempts the following applicants from the standards specified above:

a) Those whose projects involve federal funding, technical assistance, or research; and

b) Those who are not employers.

6) States that applicants shall be responsible for ensuring any contractors employed in their service meet the above standards.

7) Directs LWDA to work with administering agencies to leverage existing programs and funding to help applicants meet these standards.

Background

1) *California Climate Investments*. CCI is the umbrella initiative for all programs funded by cap-and-trade dollars, which flow into the GGRF. The Legislature and Governor annually appropriate funds from the GGRF to state agencies such as the ARB and the California Department of Transportation (Caltrans). These agencies use the money to fund programs in areas like community air quality improvement, public transit expansion, and more. CCI has grown to include more than 20 state agencies that work collaboratively to further the

purposes of AB & SB 32 and contribute to statewide GHG emission reductions. The administering agencies send data and updates to ARB throughout the process. Those data are used to inform a report to the Legislature each year from the Department of Finance.

2) *"Putting California on the High Road"*. As required by AB 398 (E. Garcia, Chapter 135, Statutes of 2017), CWDB, in consultation with ARB, commissioned the Center for Labor Research and Education at the University of California, Berkeley to prepare a report on jobs and climate action. The report, "Putting California on the High Road: A Jobs and Climate Action Plan for 2030," (2030 Action Plan) was published in June of 2020, and has numerous recommendations. The three key messages of the report were that 1) labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California's workforce could positively affect returns on climate mitigation efforts; 2) California can achieve greater social equity in labor market outcomes for disadvantaged workers and communities when policymakers pay attention to job quality; and 3) deliberate policy interventions are necessary to advance job quality and social equity during the transition to a carbon neutral economy.

   The report had several recommendations on demand-side strategies for agencies implementing climate measures. Most relevant to AB 680 was the 2030 Action Plan's recommendation that the state government should expand the use of Community Workforce Agreements (CWAs) on climate investments involving large-scale construction projects. The report stated that new construction in many forms will be needed to mitigate and adapt to climate change. Given this, it stated that CWAs, which help ensure job quality and job access, and securing robust training pathways through the use of state-certified apprenticeship programs in the construction trades, would be beneficial policy changes. The 2030 Action Plan suggested that CWAs should be expanded from their current practice (in the construction of utility-scale renewable energy, public transit, and high-speed rail infrastructure) into other large construction projects using public funds.

   As defined in AB 680, a CWA is a collective bargaining agreement between the applicant and one or more labor organizations that establishes the terms and conditions of employment for a specific project, and that also includes a strategy from the applicant to demonstrate how they will create jobs for disadvantaged, tribal, and low-income communities, and how the applicant will ensure access to those jobs.

3) *Affordable Housing and Sustainable Communities Program.* Administered by the Strategic Growth Council and implemented by the Department of Housing and Community Development (HCD), AHSC provides funding for affordable housing developments (new construction or renovation) and transportation infrastructure. This may include sustainable transportation infrastructure, such as new transit vehicles, sidewalks, and bike lanes; transportation-related amenities, such as bus shelters, benches, or shade trees; and other programs that encourage residents to walk, bike, and use public transit.

   Because AHSC is a greenhouse gas reduction program, applicants who receive awards are responsible for monitoring and reporting their projects' emissions reductions using a quantification methodology certified by ARB. Award recipients are also responsible for monitoring and reporting co-benefit indicators based on the health, environmental and economic goals they identified at the grant's onset. As of the fourth round of funding in 2019, the program had awarded $1.1 billion to 101 integrated housing and transportation developments across California, reducing an estimated 2.2 million metric tons of CO_2 and building more than 8,900 affordable homes.

4) *Low-Income Weatherization Program*. Established 2016, California's Low-Income Weatherization Program (LIWP) provides low-income households with solar photovoltaic systems and energy efficiency upgrades at no cost to residents. LIWP is the only program of its kind in California that focuses exclusively on serving low-income households with solar PV and energy efficiency upgrades at no cost. The program reduces GHG emissions and household energy costs by saving energy and generating clean renewable power. LIWP also helps cushion the impact of climate change on vulnerable communities, making it more affordable for low-income households to keep their homes cool and comfortable at a lower cost – whether through energy efficient air conditioning or improved insulation – and protect children and seniors from the health impacts of higher temperatures.

   According to the LIWP 2021 Impact Report, LIWP has served more than 8,400 households to date. On average, recipients of LIWP retrofits report an average savings of 30% on their energy bills, and 89% of program funds have been invested in disadvantaged communities (DACs).

5) *Unionized construction workers and affordable housing*. According to the Bureau of Labor Statistics, in 2020 only 13.4% of construction workers were represented by a union nationwide. At a time when construction costs are stiflingly high, and estimates from the State Building and Construction Trades Council predict it will be necessary to double or triple the construction

workforce to meet housing construction goals, potentially raising the cost of a project by employing a more skilled and trained workforce raises worries for developers and some housing advocates. The increased wages are not a greater cost without any benefit however, 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.

From a climate change mitigation perspective, this contentious issue becomes even more uncertain. On one hand, building more affordable housing close to jobs and transit decreases vehicle miles traveled, and by extension GHG emissions. On the other hand, providing more of the state's workforce with higher wages from high-quality jobs may affect the need for workers to commute great distances, often using older and more-polluting vehicles.

For a more complete discussion of construction workers unionization and the dearth of affordable housing in California, see the Senate Committee on Labor, Public Employment, and Retirement analysis of this bill.

Comments

1) *Purpose of Bill.* According to the author, "California has been a global leader in combating climate change. Our state has led the way in aggressive emissions reductions while expanding our economy to be the 5th largest in the world. Although this has been great progress, there is more and more evidence showing that our investments to fight climate change are not going to the communities where funding is most needed.

   "A June 2020 report authored by staff from the UCLA Center for Sustainable Communities found the structure of our climate investments is skewed to benefit the more affluent communities in our state. This has come at the expense of disadvantaged communities, as they have significantly less ability and resources to access existing programs and incentives.

   "Vulnerable communities are being left by the wayside as our state addresses climate change.

   "AB 680 helps bridge this gap by implementing key policies recommended in the California Workforce Development Board's recent report, "Putting California on the High Road: A Jobs and Climate Action Plan for 2030". The measure would require GGRF applicants to use fair and responsible employer standards to promote high quality jobs, inclusive procurement policies to make sure applicants are contracting with other responsible entities, and prevailing wage for construction projects.

"The bill would further prioritize applicants that partner with educational institutions and training programs that target residents of disadvantaged, tribal, and low-income communities in the same region as the project.

"AB 680 will put principles of equity on the front end of the application process and ensure that California's communities are sustainable because they are built on careers, not jobs. It is a proactive measure to make sure that we start thinking now about how the state makes investments in our human infrastructure–especially in underserved communities that have, all too often, become afterthoughts when decisions about our state's environmental monies are spent."

2) *GGRF-funded housing construction projects*. Affordable housing developers and advocates raise concerns about the impacts these CWAs may have on affordable housing development. Specifically, there are different issues faced by two different GGRF-funded construction programs: AHSC and LIWP.

   With a continuous appropriation of 20% of GGRF revenues, AHSC puts a large amount of state dollars towards building affordable housing. Moreover, AHSC is statutorily required to spend half of that money in DACs. Affordable housing advocates who are concerned about AB 680 contend that there is simply not enough of a union workforce near some DACs to support the needed levels of construction. According to a 2019 study commissioned by the State Building and Construction Trades Council, many counties in the Central Valley have much greater housing construction needs than they have unionized workers to complete them. It is uncertain as to whether the promise of greater demand for a unionized workforce in those areas could increase the available labor pool, or if it would simply lead to AHSC money going unspent in needful areas. Furthermore, and from a climate change mitigation perspective, that uncertainty is further compounded by the complex impacts on GHG emissions from both affordable housing siting and high-quality job access.

   Moreover, there is a concern that adding prevailing wage requirements will drive up the price of affordable housing projects. A 2020 UC Berkeley study found that prevailing wage projects cost more than non-prevailing wage projects, though the amount varied geographically (for example 36.4% more in Sacramento, and 27.5% more in the Central Valley). However, it is not as though AHSC projects never feature prevailing wage as-is; higher labor standards make projects more eligible for AHSC funding, but it is not a strict requirement.

The considerations for adding additional labor standards to LIWP are slightly different. Under the updated GGRF funding guidelines required of LWDA and ARB, any construction project funded in part or in full by a GGRF grant will be required to provide prevailing wage to the entire construction project. As a result, LIWP grants (which average approximately $500,000) could incur considerable further costs beyond the scope of the LIWP work, depending on the project. This is another instance where implementation of AB 680 could go one of two ways: potentially resulting in GGRF dollars going unspent, or possibly using those same GGRF dollars to promote high-quality job access alongside climate mitigation.

3) *More GGRF funding guidelines*. Once GGRF funding guidelines are updated pursuant to AB 680, all applicants (barring those for projects that involve federal funding, technical assistance, and research, or those who are not employers) for GGRF monies will need to meet fair and responsible employer standards, inclusive procurement policies, and (for any construction work funded in part or in full) prevailing wage provisions. These are potentially complex and substantial requirements, which would be applied to a large number of disparate programs.

The state's ability to spend climate money on GHG emission reduction activities could be slowed in multiple ways by adding these requirements.

First, in updating the funding guidelines themselves, LWDA and ARB must devise guidelines that will apply to all GGRG applicants. There are 25 different agencies that administer GGRF funds, and (according to the 2020 *Annual Report to the Legislature on CCI Using Auction Proceeds*), over the course of the state's cap-and-trade program more than $5.3 billion dollars have been given to nearly half a million projects, 57% of which benefit priority populations. The breadth of projects and applicants could confound guideline development.

Secondly, once the guidelines are in place, enforcement and verification by each administering agency could add considerable bureaucratic delays. Administering agencies will need to evaluate the quality of jobs created by program (which may vary widely in scope and duration depending on the project), and potentially assess applicants' partnerships with schools or training programs.

When these requirements are applied across dozens of agencies, scores of programs, and thousands of applicants, applying them is likely to extend the time between GGRF funds being appropriated and projects being undertaken. Particularly for projects that are relatively small dollar-amount expenditures, a question arises as to whether the job-quality benefits outweigh the administrative costs.

In order to minimize administrative inefficiencies and burdens while maintaining substantial economic impacts, the committee may wish to consider:

a) ***limiting the scope of the updated funding guidelines to only those grants funded by a continuous appropriation;***
b) ***striking the provision in section 38599.11 (b)(4) requiring administering agencies to work with LWDA to provide guidance to applicants who fail to meet the labor standards; and***
c) ***placing the responsibility for updating funding guidelines and implementing this section with ARB (who must work with LWDA), instead of vice versa.***

Limiting this bill to programs funded by continuous appropriations would encompass the Transit and Intercity Rail Capital Program, the Low Carbon Transit Operations Program, AHSC, High-Speed Rail, and projects funded by the Safe and Affordable Drinking Water Fund. Altogether, these programs represent 65% of total GGRF expenditures, despite being only five of the sixty-plus programs listed on the California Climate Investments website. Focusing the bill on grants made out of continuous appropriations would omit a wide range of smaller projects that are currently included in the bill (including the abovementioned LIWP) whose funding levels are dictated year-to-year by the Cap-and-Trade Expenditure Plan. Amending the bill to affect only continuous appropriations would considerably reduce the administrative burden of AB 680 while still affecting more than half of all GGRF expenditures.

4) *A question of state priorities*. AB 680 creates a number of tensions between policy priorities of the state, which must be weighed against each other. The committee must decide whether the desire for high-quality (and, in places, union) jobs outweighs the desire for maximizing direct GHG emission reductions from GGRF dollars. The committee must decide whether the housing crisis in California creates a necessity for affordable housing that outweighs the need for a skilled and trained workforce in building those homes. The committee must decide if, for each GGRF-funded program affected by this bill, the desire for the associated labor requirements outweighs the need for those programs to deliver their stated benefits as expeditiously as possible. These questions are fundamental to the premise of this bill, and merit discussion.

However, some specific exemptions may be necessary to ensure the state can continue meeting its residents' basic needs to the greatest extent possible. Specifically, the committee may wish to consider exempting the following from the labor standards established by this bill:

a) ***Projects receiving funding from the Safe and Affordable Drinking Water (SADW) Fund, as the human right to water is a statutorily-guaranteed right under AB 685 (Chapter 524, Eng, Statutes of 2012); and***
b) ***Housing projects delivering 100% affordable units.***

Notably, this interacts with the previous recommended amendment limiting the scope of AB 680 to continuously appropriated programs. Exempting SADW projects would further narrow the 65% of continuously appropriated GGRF dollars still affected by this bill to 60%. Exempting 100% affordable unit housing projects would further narrow the scope of the bill, but not by a large amount. Most affordable housing projects in California still include a number of market-rate units to make the project pencil out overall for the developer. For example, the minimum required affordable unit ratio under the AHSC funding guidelines is 20% (though projects can and do feature higher ratios as well).

5) *Definitional fix*. AB 680 refers to tribes and tribal communities in its definitions of "disadvantaged, tribal, and low-income communities" and "targeted hire plan," as well as concerning inclusive procurement policies. As written, this could potentially apply to only a subset of Native American tribes in California.

To ensure a more complete inclusion of native peoples in the bill, the committee may wish to insert a definition of "tribe" that includes California Native American Tribes, either a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California tribal government, including those listed on the California Tribal Consultation List maintained by the California Native American Heritage Commission.

Related/Prior Legislation

AB 794 (Carrillo) attaches labor and workforce standards to eligibility for various clean vehicle incentive programs administered by ARB for fleet purchasing in port drayage and short-haul trucking service. AB 794 is currently before the Senate

Labor, Public Employment, and Retirement Committee.

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.

SOURCE: Author

SUPPORT:

California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
Elders Climate Action, Norcal and Socal Chapters
Northern California Recycling Association
State Building & Construction Trades Council of California
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
Merritt Community Capital Corporation
Midpen Housing Corporation
Non Profit Housing Association of Northern California
Rural County Representatives of California

Santa Clara County Housing Authority
Southern California Association of Nonprofit Housing
Western Electrical Contractors Association

ARGUMENTS IN SUPPORT: According to a coalition of trade unions, including the California State Pipe Trades Council, "AB 680 will incentivize the creation of high-quality, well paying, jobs in communities which would benefit the most from our state's climate investments and provide incentive to site projects in communities which often have the least resources but are most impacted by climate change. Furthermore, construction projects funded pursuant to the grants authorized in the bill are required to pay a prevailing wage and utilize a Skilled and Trained workforce."

ARGUMENTS IN OPPOSITION: According to a coalition of housing advocates, "We are committed to building desperately needed housing to struggling families, seniors, low-wage workers, and veterans—while also providing higher wages and steady jobs to construction workers across the state. This can be done by applying reasonable workforce requirements to new sources of funding that will increase the production of affordable homes. Unfortunately, by severely handicapping existing programs, AB 680 will decrease affordable housing production and divest resources from Disadvantaged Communities. As a result, we must oppose AB 680 unless amended to exempt both AHSC and LIWP."

-- END --