Equity Provisions in Illinois' Climate and Equitable Jobs Act

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ABSTRACT

Illinois' Climate and Equitable Jobs Act (CEJA), passed in September 2021, sets a very high bar for equity in the clean energy industries and puts Illinois on a path to 100% clean energy by 2045. CEJA's provisions will help Illinois build a diverse clean energy workforce; build wealth, capacity and employment opportunities in minority and women-owned businesses; improve community input into clean energy policies; and ensure that the benefits of energy efficiency and clean energy programs reach environmental justice communities and communities that have experienced historic disinvestment.

The clean energy industries in Illinois are poised to grow fast because of CEJA's climate provisions. But even as recently as Illinois' Future Energy Jobs Act of 2016, policies that grew the clean energy industries in Illinois did not lead to equitable opportunity for contractors or customers in historically disinvested communities. While that law expanded job training, experience with implementation illuminated further barriers and lessons learned related to employment and the distribution of work and projects.

This paper shares insights into the process that put equity at the center of legislative negotiations over CEJA and the provisions that resulted. It will outline the structures CEJA puts in place, including Workforce Training Hubs that break down barriers to employment, a Returning Residents Training Program to link people returning from incarceration with employment, a Contractor Incubator for small businesses, a Contractor Accelerator to grow medium-sized businesses to prime-contractor scale, and ubiquitous planning, reporting and performance metric requirements to hold business, government, and labor accountable.

Climate and Equitable Jobs Act's Development

Illinois' Climate Equity and Jobs Act (CEJA) is a comprehensive climate and energy bill, touching every aspect of these industries from generation to transmission and workforce development to building codes. It was signed into law in September 2021 after four years of work by the Illinois Clean Jobs Coalition (ICJC), trade union representatives, a variety of energy industry players, legislators, and Governor J.B. Pritzker's office. The final bill melded aspects of at least seven pieces of legislation, each supported by different parties, with new ideas developed during almost a year of intense negotiations between parties, legislators, and the Governor's office. The bill is very comprehensive; however, this paper will focus on its equity provisions, which are intended to bring the benefits of expanded clean energy industries to communities and individuals facing structural barriers to access to jobs, clean air, and clean energy in Illinois.

Wherever possible, this paper has cited legislative language or other written sources. However, because there are no definitive written accounts of the policy development or negotiation process, the authors are recounting the process from their perspective as elected leaders of the ICJC's negotiating team and steering committee and as participants and leaders in the ICJC's substantive working groups related to policy, energy efficiency, and workforce development.

Some of the final bill's hard-won equity provisions were initially proposed by other parties, but most can be traced to a legislative proposal of the Illinois Clean Jobs Coalition (ICJC or Coalition), named the Clean Energy Jobs Act (not entirely coincidentally, CEJA). These proposals would not have survived into the final bill without the leadership of Governor Pritzker and legislators. While many, many parties came together to craft the final bill, this paper will focus on the role of the ICJC in bringing its equity concepts and proposals to the negotiating table and advocating for them there.

The ICJC is a coalition of "hundreds of environmental groups, healthcare professionals, environmental justice champions, businesses, community leaders, trade unions, consumer advocates, and faith-based organizations from across [Illinois]," (ICJC 2022). The ICJC was formed during a previous effort to pass the Future Energy Jobs Act of 2016 but expanded dramatically in the ensuing five years. It first worked with legislative sponsors to introduce the Clean Energy Jobs Act in 2019 and built momentum for a comprehensive climate and equity bill over the ensuing three legislative sessions (ICJC 2021).

Coalition proposal development process

The process of developing CEJA's proposals was critical to its eventual success, allowing the ICJC to grow, learn to trust each other, stick together under pressure, and present a united front to significant opposition. Soon after the passage of 2016's Future Energy Jobs Act (FEJA), which was Illinois' most comprehensive energy legislation in almost 20 years, the ICJC began to attract new member organizations and work on ensuring FEJA was implemented optimally. As FEJA's clean energy and workforce programs were solidified, ICJC member organizations began to think of the future, identify gaps in Illinois' clean energy policies, and learn from the successes – and limitations – of FEJA's provisions. Early discussions of the Next Big Thing began as early as fall of 2016.

At the same time, the Coalition put its own processes under a microscope, recognizing that the environmental community had learned much during the FEJA development and negotiating process and probing our own values for areas where we were not living up to our potential. The Coalition committed itself to ongoing evolution and members committed themselves to personal transformation, guided by group study of the Jemez Principles (SNEEJ 1996), a set of guidelines for coming to "common understandings between participants of different cultures, politics, and organizations. (SNEEJ 1996)" Coalition meetings included discussions of ways these principles could be put into practice in our dealings with each other.

As the ICJC grew and evolved, it developed a structure that ultimately built capacity and expertise across the coalition, provided a mechanism for deep deliberation of policy options, offered leadership and professional growth opportunities for coalition members, and ensured that decisions could be made with both appropriate speed and widespread input. Specifically, the ICJC operates with an elected steering committee and substantive and functional committees that deliberate and decide among policy options and drive communications, lobbying, and grassroots organizing efforts. During negotiations, a separate committee formed to ensure our negotiators were supported with the positions, options, materials, muffins, and moral support that they needed to be effective.

The ICJC's evolution into a member-led deliberative body that could make quick decisions on substantively difficult issues was not at all smooth. Members build trust in each other through thousands of hours of discussions, disagreements, discomfort, learning, and emotional vulnerability. One of the most widespread sources of distrust was a long history of relegating racial equity issues to “nice-to-have” status in negotiations over environmental and energy legislation, instead of making them crucial to reaching agreement. While coalition members learned from each other, grew, and came to acknowledge that this history was deeply harmful, the distrust lessened, but never completely disappeared. After the murder of George Floyd and widespread member engagement with the Black Lives Matter movement, coalition members became increasingly close and supportive of strong equity provisions. But lifetimes of neglect for the issues left lingering doubts that will, ultimately, be overcome only thru lifetimes of consistent, repeated support for and action to create equitable policies with measurable, equitable results and outcomes. Indeed, when negotiations became difficult, coalition members had to repeatedly recommit to our equity principles and prove, to ourselves and the opposition, that we would not jettison them to reach a deal. After one particularly difficult setback, the coalition’s rallying cry, heard in public meetings, protests, and on social media around the state, became “No Climate, No Equity, No Deal.” If we were going to stay together as a Coalition at all, we had to live up to that.

Legislative negotiation process

The process of developing and advocating for early iterations of a bill helped the ICJC work out the kinks in our organization, define roles, and get to know each other’s strengths, weaknesses, interests, and values. It also helped us refine our tactics. The process of developing CEJA grew the coalition’s and member organization’s capacity well beyond what we had when the coalition came together. While early equity provisions were insufficient and imperfect, the emphasis on equity brought BIPOC leaders to the Coalition and their encouragement and leadership helped the whole coalition revisit and dramatically improve those provisions. Nonetheless, the ICJC, and particularly its steering committee and working group leaders, is still not as diverse as the state of Illinois. While there are many BIPOC Coalition members on equity and jobs-focused committees, more work is needed to ensure the diversity of the Coalition’s committee leads, legal and legislative drafting experts, and subject matter experts in decarbonization, renewable energy, ratemaking, electric vehicles, and energy efficiency. The Coalition continues to try to improve on this as it works on CEJA’s implementation. However, the lack of diversity among all of the negotiating parties’ representatives was noticeable and remarked upon by lawmakers during the negotiation process.

By the time the coalition went into negotiations with trade union representatives in 2020, and later that year with legislators and the Governor’s office, we had identified leaders with organizational and subject matter expertise for most subject areas in the proposal and there was significant trust within the coalition in those leaders. We had practiced and learned from our grassroots and lobbying in previous sessions and because of the election calendar, pandemic, and other factors, realized that we had a window of opportunity, and it was now or never.

Along the way, however, the bill’s progress was also impacted by events outside the Coalition’s control. Major scandals involving our state’s largest electric utility, the owner of our nuclear plants, and the powerful Speaker of the House (who was also head of the state’s Democratic party) and his staff were being actively investigated and prosecuted by federal authorities during negotiations and the proposal’s early years. The Speaker of the House changed during this period, for the first time in over 30 years. The COVID pandemic dramatically impacted the amount, location, and quality of time that legislators and parties could spend together, and negotiations had to work around vaccination schedules and the legislature’s frequent testing requirements. At one point, the Senate President realized that he had contracted

COVID just after meeting with all the negotiators. (Happily, everyone recovered well). As previously mentioned, George Floyd's murder and the Black Lives Matter protests also occurred during this time. Each of these outside events impacted the negotiations in some way, by strengthening or weakening the hand of various parties and by tying energy issues to corruption in the public's mind, making legislators loathe to discuss these issues at all at times.

When legislators began to lead negotiation sessions in early 2021, they limited the number of coalition representatives to keep meetings manageable. The ICJC's steering committee voted to send a three-person negotiating team who were responsible for all in-room discussions but accountable to the larger coalition, through the elected steering committee, for final decisions. One of this paper's coauthors, Delmar Gillus, was chosen to lead the ICJC's discussions of equity and workforce issues. Mr. Gillus was chosen for his deep substantive knowledge and personal credibility with coalition members and other parties. Unfortunately, at times Mr. Gillus was the only person of color in the negotiating room, which highlights how far all parties and the legislature have yet to come in diversifying their leadership ranks. In addition, there were few women in negotiations, with most being legislators and a very limited number of women serving as subject matter experts. As mentioned above, the Coalition's 3-person team was supported by a wider negotiating team who were not physically (or virtually) in the negotiating room. This paper's other coauthor, Anne McKibbin, served on that team.

The intensity of deliberations varied based on the level of opposition to various topics included in the legislation. Where there was little opposition among the main parties, provisions made their way into legislation with little discussion. Where legislators felt that an issue brought in parties who would make it too difficult to reach a deal, or that there was insufficient political will to address the issue, those provisions were cut – again with little discussion. Unfortunately, this kept gas efficiency provisions out of the bill. The gas companies had their own proposals, which legislators felt created too many issues to take on at once. And without the efficiency provisions, the gas companies were moved into an (almost) neutral position on the bill. Controversial issues of critical importance to the main parties and legislators received a much closer look. Throughout the process, however, it should be noted that these negotiations sought consensus among political actors and were not consensus-seeking sessions among policy experts. Consequently, the ICJC's members, who were accustomed to the deliberative policy development process described above, were forced to identify and drop some of their most venerated policy ideas and remain flexible and creative in achieving their goals. This caused great anxiety within the coalition, understandably. Its workforce development and equitable access and accountability provisions were both some of the most popular provisions on the table and also some of the most controversial, as various negotiating parties tried to ensure they were as strong as possible, protect the status quo, or protect their own member's interests. Thankfully, after months of fraught discussions, negotiators eventually reached a consensus that, while imperfect, was acceptable to the ICJC's negotiators, negotiating committee and steering committee, including BIPOC members and environmental justice caucus representatives.

CEJA's Equity Provisions - Process Equity

Over time, as the ICJC adjusted its structure and practices to better incorporate the Jemez Principles in our dealings with each other, members became increasingly aware of the inadequacies of existing procedures for community input into government decisions. Illinois' state agencies use a variety of mechanisms for gathering public input, such as public hearings and written comments. Unfortunately, these mechanisms are often difficult for community members to access for a variety of reasons, including inconvenient timing, in-person requirements, and lack of proactive outreach to let the community know that a decision is being considered. Consequently, as the Coalition developed its proposals, increasing the volume and diversity of input became a priority and the final bill included many provisions addressing this aspect of process equity.

Throughout CEJA's workforce development provisions, the Illinois Department of Commerce and Economic Opportunity (DCEO) is required to contract with community-based organizations to administer programs and deliver services. Using local organizations was a priority for the ICJC intended to help ensure that communities have a strong voice in program development and implementation. In addition, workforce development programs created by the bill must report to an Energy Workforce Advisory Council (CEJA, 57), which is composed of relevant industry and government representatives and at least one former workforce program participant, at least two residents of environmental justice communities, three members of community-based organizations working in environmental justice and serving people with low incomes, small business experts, and workforce development experts who focus on underserved communities. The Advisory Council will provide recommendations to DCEO on many, though not all, of the programs described below (CEJA, 59). Elsewhere in CEJA, an Energy Transition Workforce Commission was created to advise programs specifically targeted at communities hosting fossil fuel facilities that have or will shut down and working directly with former fossil industry workers (CEJA, 114).

CEJA also creates an intervenor compensation scheme at the Illinois Commerce Commission (ICC), Illinois' electric and gas utility regulator. Certain types of organizations and individuals who represent consumer interests may now receive market-rate compensation for legal and expert witness expenses necessary to participate in ICC proceedings. Funding is available for work in ICC dockets that effect rates, rate design, or utility investments where the organization shows a financial hardship. Funding for the program comes from utilities, who will recover costs from ratepayers (CEJA, 687). This provision, proposed by Governor J.B. Pritzker's office, differs considerably from the original ICJC intervenor compensation proposal, but is perhaps simpler and easier to implement while meeting the same interests.

Another example of improved engagement is in provisions to create a stretch energy building code. Illinois' Capital Development Board develops the statewide energy code and was tasked with developing a new stretch energy code. In doing so, it consults an advisory board. CEJA added 5 seats to the advisory board for environmental and environmental justice advocates and energy efficiency advocates with technical expertise in single family, multifamily and commercial buildings. This will diversify the existing board, whose membership are building, real estate, and construction experts but previously may not have included expertise in energy efficiency, equity, or community needs (CEJA, 251).

CEJA also creates public comment opportunities through a variety of public stakeholder processes, pre-docket workshop processes, and public comment periods at regulatory and other agencies, including the ICC, Illinois Power Agency (IPA), DCEO, and Illinois Environmental Protection Agency**.** In addition, CEJA includes many data reporting provisions to shed light on industry workforce diversity and other equity issues. Data reporting is discussed in more detail below.

And finally, at the end of the legislative negotiation process, we successfully fought to remove standard language, applied as a matter of course to budget-related items in Illinois legislation, that would have caused the bill's equity provisions to expire after 10 years.

CEJA's Equity Provisions – Workforce Development

CEJA's workforce development provisions are intended to "ensure that Illinois residents from communities disproportionately impacted by climate change, communities facing coal plant or coal mine closures, and economically disadvantaged communities and individuals experiencing barriers to employment have access to State programs and good jobs and career opportunities in growing sectors of the State economy," (CEJA, 5-6). To do this, the bill aims to ensure that trainees are recruited from communities where jobs are needed most, provided with the resources they need to succeed in training and in a new career, and are hired into jobs as soon as they graduate. Coalition member organizations learned many lessons from observing and participating in the implementation of previous legislation's rudimentary clean energy workforce development provisions and brought those lessons to the policy development process.

Throughout the bill, programs encourage participation by Equity Eligible Persons, Equity Eligible Contractors, and Equity Eligible Communities, defined in the bill as a combination of environmental justice communities and "R3 areas," defined by Illinois' Cannabis Regulation and Tax Act to include communities that have been harmed by violence, excessive incarceration, and economic disinvestment (ICJC 2021, 6; R3 2022). Illinois' definition of an environmental justice community is derived from "a calculation utilizing the US EPA tool EJ Screen and a demonstrated higher risk of exposure to pollution based on environmental and socioeconomic factors." Communities may also apply to be designated as an environmental justice community (ISFA 2022). Equity Eligible Persons and Contractors live within these communities (CEJA, 2-3, 262-263).

When developing CEJA's equity provisions, there was significant discussion of how best to identify communities that had not previously received equitable opportunities to participate in the clean energy economy. Chicago Lawyers Committee for Civil Rights produced GIS maps of various community definitions and walked concerned coalition members through them, gathering input and adjusting the maps as needed to show the effects of alternative definitions on the maps. In addition, other legal experts including the NAACP were brought in to help ensure CEJA was defensible. This intensive review was time consuming and difficult for all involved but was crucial to the coalition being able to decide on definitions, feel confident in its proposals, and evaluate others' proposals. It also alleviated a potential source of distrust among coalition members, who needed to know that the law's definitions would result in equitable access for communities that had not received those opportunities in the past.

CEJA contains several workforce training and development programs which are described below. They are intended to work together as an ecosystem of resources, and program provisions include numerous requirements for coordination and cross-referrals between programs. In addition to the program described below, there are additional programs, not discussed in this paper, that are targeted at communities that have hosted fossil fuel generation plants or mines that have or will close. Residents of those communities and workers leaving the fossil fuel industries will be encouraged to take advantage of these programs, as well, but the programs below are not necessarily tailored specifically to their unique needs.

Clean Jobs Workforce Network Program

CEJA directs DCEO to work with community-based organizations to develop and administer programs in 13 specified communities across the state that provide workforce training and connections to a career in clean energy (ICJC 2021, 7; CEJA, 7). Access to these workforce training programs is targeted toward applicants residing in geographic areas experiencing economic and environmental challenges, including environmental justice communities. Additional preference can be given to applicants who face barriers to employment such as “low educational attainment, prior involvement with the criminal legal system, and language barriers,” applicants currently in or who were previously in the foster care system, and displaced energy workers (CEJA, 8-9). DCEO will contract with community-based organizations to provide “education, outreach, and recruitment services to equity focused populations, …to make sure they are aware of and engaged in the statewide and local workforce development systems,” (CEJA, 10, 17).

The workforce training hubs provisions were designed to address programmatic gaps that hampered the effectiveness of clean energy workforce training programs created by previous legislation. Several ICJC member organizations implemented the previous programs, and their experience helped the coalition develop its policy proposals which were incorporated into the legislation during the negotiation process. Specifically, the training hubs provisions emphasize supporting trainees so that they can be successful, not only in completing the training itself, but in obtaining employment and keeping the job, and succeeding in it over time.

Consequently, the hubs will provide job matchmaking services such as job fairs and formal partnerships with industry. Training programs will implement a curriculum that includes job readiness skills, certification test preparation, and development of soft skills, math skills, and technical skills for trainees who would benefit. The curriculum will be designed to support trainees seeking jobs in the energy efficiency, solar and wind energy, energy storage, and electric vehicle-related industries. In addition, programs will provide training on transferrable construction and other skills “enabling any trainee to receive a standard set of skills common to multiple training areas that would provide a foundation for pursuing a career composed of multiple clean energy job types,” (CEJA, 14). The program will collect extensive quarterly data on trainee and applicant demographics and trainee job acquisition, retention, and job quality and will be evaluated by an independent third party after three years.

At the time this paper is published, new programs will not yet have been running for long enough to judge their success. However, the ICJC considers these workforce programs to be a core tool for ensuring the clean energy transition created by CEJA is an equitable one. Consequently, the Coalition has created a working group to track and advocate at DCEO for robust program design. Coalition members have, as of the time of this writing, intervened in related ICC dockets to ensure there are no gaps between the end of previous programs and the beginning of new ones. Coalition members have also advocated at the legislature for appropriations to ensure proper funding of DCEO for this purpose and reached out to DCEO directly to offer advice and assistance as it plans for program rollout.

The Clean Energy Workforce Network program will be funded at $21-$24 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 187). Funding must be appropriated annually by the General Assembly, but the funding mechanism will operate in perpetuity.

Illinois Climate Works Pre-apprenticeship Program

During negotiations, trade union representatives felt strongly that the bill should contain a separate pre-apprenticeship program to serve as a pipeline to union apprenticeships. Consequently, DCEO will “create a qualified, diverse pipeline of workers who are prepared for careers in the construction and building trades and clean energy opportunities therein.”

Candidates, who will include equity investment eligible persons, "will be connected to and prepared to successfully complete an apprenticeship program," (CEJA 21-22).

While this program is separate from the workforce training network programs, the bill establishes some connections between it and other CEJA workforce programs. Graduates of the shortened Returning Residents program, discussed below, will be referred to both the Pre-apprenticeship and the Workforce Training Network programs. The Equitable Energy Future Grant Program, described below, includes a preference for projects that employ graduates of the Pre-apprenticeship, Returning Resident, and Workforce Training Network programs.

The Illinois Climate Works Pre-Apprenticeship Program will be funded at up to $10 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 188).

Returning Residents Training Program

CEJA directs DCEO, in coordination with the Illinois Department of Corrections, to create a program to train soon-to-be-released people who are incarcerated for clean energy jobs (CEJA, 29-40). As with the other training programs, the program administrator must work with community-based organizations to deliver the program. The program must connect graduates with potential employers, lead to industry-recognized credentials for trainees, and provide job and financial coaching to support employment longevity. The program must also provide support for potential employers such as guidance on how to recruit, hire, and retain returning residents. This could include guidance on how to update company policies to support returning resident employees, information on tax credits and other incentives for hiring returning residents, and guidance on dealing with insurance, bonding and other requirements that supports hiring returning residents. Program administrators can also create a shortened version of the Returning Residents curriculum whose participants would then be placed directly into the Climate Works Pre-apprenticeship Program or the Clean Jobs Workforce Network Program upon release (CEJA, 37).

The program administrator will collect data, including demographic data on participants and graduates, to evaluate program and participant success via a set of performance metrics that includes enrollments, completions, employment at 6 and 12 months after release, recidivism at 3 and 5 years after release, details of graduates' employment including pay rates and full time, part time, or seasonal status, and continuing education and certifications attained by graduates. DCEO will then publish an annual report containing these performance metrics.

The Returning Residents Clean Jobs Training Program will be funded at up to $6 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 187).

Contractor Incubator

DCEO will also create a Clean Energy Contractor Incubator program to support small clean energy businesses and nonprofits such as small and start-up energy efficiency contractors and solar installers (CEJA, 23-29). The program's goal is to help small businesses grow to the point that they can sustainably participate in energy efficiency and solar contractor pools, support their owners, and take on more employees. The program will encourage participation by businesses and nonprofits whose owners and leaders reside in environmental justice and historically disinvested communities, are displaced fossil energy workers, are graduates of the foster care system, or face barriers to employment such as prior involvement with the legal system, language barriers, or low educational attainment.

The program's menu of support functions will include access to low-cost capital; support for obtaining financial assurances such as bonding, back-office services, insurance, and permits; training and mentoring to help business access utility and state program contractor pools and approved vendor and qualified installer networks; assistance with prevailing wage compliance; and training and mentoring on marketing, responding to requests for proposals, networking, and other skills. These services will be particularly helpful for BIPOC, woman-owned, and other businesses that historically have had difficulty obtaining the resources needed to grow large enough to participate fully in utility program contractor pools and other markets.

Like the workforce training hubs, this program will, by statute, be in 13 locations across Illinois to ensure statewide access. It will also be administered by community-based organizations and must submit detailed performance metrics, including demographic data on participants, to DCEO quarterly.

The Contractor Incubator will be funded at up to $21 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 187).

Contractor Accelerator

In addition to the Contractor Incubator, DCEO will create the Clean Energy Primes Contractor Accelerator program (CEJA, 40-51) to help more established contractors grow from being regular, but smaller, participants in the solar and energy efficiency market to leading those projects. The goal of this program is to help businesses grow from sub-contractor to prime contractor, allowing them to build wealth and organizational capacity as they do so. The program will encourage participation by businesses and nonprofits that show "a substantial and demonstrated commitment of investing in and partnering with individuals and organizations in equity investment eligible communities" and who exhibit "business models that build wealth in the larger underserved community."

Three to five participants will be selected for this program every 18 months in each of three regions that collectively cover the state. Participants will have access to:

- a five-year course of coaching to develop and implement a business plan,
- operational support grants of up to $1 million per year to support growth and up-front project costs,
- a two-year mentorship provided by a qualified company in the field,
- the services provided by the contractor incubator program,
- assistance applying for MWBE and other relevant certifications and approved vendor statuses,
- assistance preparing bids and RFP responses,
- networking opportunities,
- training in how to recruit and work with employees returning from incarceration, and
- financial development assistance programs such as those that may be established by a climate bank created elsewhere in CEJA.

The administrator of the accelerator program will work with the climate bank created elsewhere in CEJA to ensure that a loan loss reserve is created to help underwrite the loans that program participants may access, keeping interest rates low. As with the other workforce development programs, the accelerator must submit detailed performance metrics, including demographic data on participants, to DCEO quarterly.

The Contractor Accelerator will be funded at up to $9 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 187).

Jobs and Environmental Justice Grant Program

DCEO will administer the Jobs and Environmental Justice Grant program (CEJA, 51-57) to "provide upfront capital to support the development of projects, businesses, community organizations, and jobs creating opportunity for historically disadvantaged populations, and to provide seed capital to support community ownership of renewable energy projects…" The grant program will provide up to $1 million per application to support the development of electric energy efficiency or renewable energy projects. The grant program will coordinate with, and supplement other programs provided to incentivize these resources, such as Illinois' renewable portfolio standard, the Illinois Solar for All program which provides incentives for greater access to solar for low-income communities, and utility energy efficiency portfolio standard programs. Grants will fall into two categories: the Equitable Energy Future Grant program and the Community Solar Energy Sovereignty Grant program.

The Equitable Energy Future Grant program (CEJA, 52) will provide seed and pre-development funding for equity eligible contractors, prioritizing funding for projects that provide community benefits such as on-the-job training and energy savings for low-income residents. Projects that involve contractors who are participating in or have graduated from the Contractor Incubator, Contractor Accelerator, or similar programs or that employ graduates of the Clean Jobs Workforce Network program, Climate Works Pre-Apprenticeship program, Returning Residents Clean Jobs Training programs will also be given additional weight in funding decisions (CEJA, 53-54).

The Community Solar Energy Sovereignty Grant Program (CEJA, 55) will fund projects that "promote community ownership and energy sovereignty." This program can also give grants to entities that "assist in the long-term governance, management, and maintenance of community solar projects, such as community solar cooperatives."

The Jobs and Environmental Justice Grant Program will be funded at up to $34 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 187).

Clean Energy Jobs and Justice Fund

The Clean Energy Jobs and Justice Fund (CEJA, 140-159) is one of two entities, along with the Climate Bank, created by CEJA to serve functions like a "green bank." The Clean Energy Jobs and Justice Fund is created specifically to "ensure the benefits of the clean energy economy are equitably distributed" by providing financing that prioritizes Minority Business Enterprises, environmental justice and BIPOC communities, and entities serving low-income, environmental justice, and BIPOC communities (CEJA, 140-141). The Fund is a 501(c)(3) intended specifically to address historic inequities in access to capital. The Fund is not a state agency or instrumentality and does not operate with the full faith and credit of the state of Illinois. It has, in fact, been incorporated by members of the Illinois Clean Jobs Coalition. The

Fund will be overseen by a geographically diverse Board of Directors, appointed by the Governor, with members who have experience serving low-income, environmental justice, or BIPOC communities, in the clean energy industries, and as BIPOC business owners.

The fund's activities will include developing finance and related support programs, provide financing to support development of clean energy projects serving and built by low-income, environmental justice, and BIPOC communities. It may take on many typical "green bank" functions such as entering partnerships, owning and transferring assets, and attracting private investment. As with many of the other equity-focused programs in CEJA, it places an emphasis on working with community-based organizations and on collecting and reporting on performance metrics that include demographic data on the participants in its programs. The legislation provides non-binding guidance suggesting an initial set of investment initiatives, which includes solar finance products designed to complement Illinois Solar for All, the state's solar incentive program for low-income communities, loans to BIPOC contractors and for projects in environmental justice communities, loan loss reserves, and "financing and administrative services for municipal utilities and rural electric cooperatives to create their own version" of a PAYS-like financing program (CEJA, 157).

The Jobs and Justice will be funded at up to $1 million per year from the Energy Transition Assistance Fund, administered by DCEO and collected as a per-kwh charge from electric utility customers (CEJA, 188).

Climate Bank Authority at Illinois Finance Authority

CEJA also grants the Illinois Finance Authority (IFA) new authority finance clean energy projects (CEJA, 60-110). IFA is a bond-issuing authority created by statute that "does not receive appropriated funding from the state and operates at no cost to the taxpayer," (IFA 2022). CEJA defines the clean energy projects that can be financed by IFA somewhat broadly, to include clean energy generation that is 90% or more free of carbon emissions, or that otherwise reduce emissions of environmentally dangerous or hazardous materials (CEJA, 86-87).

In addition, CEJA designates IFA as the "Climate Bank" for the state of Illinois (CEJA, 106), with a wide range of powers to facilitate development of clean energy and water, drinking water, and wastewater treatment. These include exercising its bonding authority, entering into joint ventures, investing in projects or businesses, raising federal and philanthropic funds, and other activities. However, any such activities must consider the projects' accessibility to environmental justice and low-income communities and businesses owned by minorities, women, and people with disabilities, the distribution of project benefits, and "accelerating the investment of private capital into clean energy projects in a manner reflective of the geographic, racial, ethnic, gender, and income-level diversity of the State," (CEJA, 110).

Equity and Prevailing Wage

Some of the most controversial provisions in the bill related to the application of prevailing wage. While the Coalition supported family-sustaining wages, consultations with the state's few BIPOC-owned clean energy contractors indicated that adding costs to projects, and particularly the kind of small projects that new and growing contractors take on, along with the administrative burden of compliance, would create a significant barrier to the creation and growth of new businesses. Since the state must rely on new businesses to grow diversity in the ownership of its clean energy industries, this created a problem. Consequently, Coalition members found themselves with a variety of nuanced viewpoints about the application of prevailing wage. In negotiations, labor representatives fought hard to apply prevailing wage to every renewable project in the state, while the Coalition fought to hold aside a (increasingly, as negotiations progressed) small portion to ensure a foothold in the industry for contractors who are just starting out. In the end, the Coalition won technical assistance for contractors complying with prevailing wage requirements and an exemption from prevailing wage for distributed solar projects on single-family homes, multifamily apartment buildings, and houses of worship with system sizes of 100 kW or less (CEJA, 391-393).

CEJA's Equity Provisions – Consequences for Business as Usual

Programs to train workers and build contracting capacity are necessary but insufficient to ensure equitable access to the clean energy economy. CEJA also contains provisions to ensure that the clean energy economy grows and to link the availability of new opportunities to the diversification of the clean energy industries.

Access and Accountability Provisions of the Renewable Energy Development Incentives

CEJA contains several provisions to align renewable energy development incentives with the diversity and equitable access goals of the programs described above. Each company who receives renewable energy credit (REC) payments or grants under CEJA's renewable energy provisions must submit a diversity, equity, and inclusion plan with numeric supplier diversity goals and a schedule for achieving them for the project receiving support (CEJA, 423-25). CEJA also creates an "equity accountability system" at the Illinois Power Agency, which administers the distribution of renewable energy credits in Illinois (CEJA, 427).

Plan goals must allocate 25% of eligible expenditures for contract awards to suppliers with owners who are minority persons, women, persons with a disability, LGBTQ, or veterans or who live in environmental justice communities. Some materials may be excluded from eligible expenditures, such as those that are in limited production in the United States. Plans must include internal initiatives to enable fair consideration of diverse businesses, proactive solicitation of diverse businesses, and a diverse workforce at the company and its subcontractors. Plans must also include financial penalties for contractor noncompliance. Companies filing plans must report to the ICC annually on their progress meeting these goals (CEJA, 423-25).

The equity accountability system requires the Illinois Power Agency to create programs to ensure that equity eligible persons and contractors have equitable access to the jobs and projects created by their REC procurements. This is a central component of CEJA related to industry accountability. Specifically, "at least 10% of the project workforce for each entity participating in a procurement program … must be done by equity eligible persons or equity eligible contractors," (CEJA, 428). And that percentage must increase each year to reach at least 30% by 2030. The Agency has discretion to create different standards for different areas of the state or types of procurement. These standards are to be created with input from industry and effected contractors and community-based organizations and revisited annually with input from those same groups (CEJA, 428-29). Each entity participating in a procurement must submit a compliance plan showing how they will contribute to reaching these targets, along with compliance reporting. The Agency must prohibit participation in procurement programs by vendors who fail to meet the minimum equity standards, although they must also offer a corrective action plan that, when completed, will allow the vendor to participate again. The

Agency may grant waivers for “lack of equity eligible persons or equity eligible contractors in a geographic area of the project,” (CEJA, 429-30).

In addition, 10% of incentives are reserved for smaller rooftop solar systems that are installed by equity eligible contractors, with this portion rising over time to 40% of incentives (CEJA, 373). This provision is intended to ensure that equity eligible contractors can access a sufficient pool of projects to support their businesses and allow them to grow over time.

Access and Accountability Provisions of the Energy Efficiency Program Plans

Illinois has had a successful electric efficiency portfolio standard for many years, with utilities filing program plans on a four-year cycle. Plans require regulatory approval and have historically been developed with significant advocate input. In addition, our utilities have reported annually, in an open hearing that often attracts significant media attention, on their supplier diversity efforts (ICC 2022). Consequently, a regulatory structure was in place that will allow review of utility-run energy efficiency programs’ alignment with the equity vision of CEJA. Under CEJA, utility plans must now demonstrate how they will ensure that program implementation contractors and installation vendors promote workforce equity and quality jobs. Utilities will collect data quarterly and share it with vendors, along with any necessary training and resources and, if needed, can adjust or terminate work with vendors that do not assist with equity provisions in their plans. In addition, utilities must report this data to the ICC annually, in addition to a description of efforts to enhance the diversity of efficiency program vendors (CEJA, 647-8).

Reporting and Sunshine

Data collection and reporting is critical to ensuring that CEJA accomplishes its equity goals and providing a channel to implementing race conscious remedies to eliminate disparities in the clean energy industries. Throughout CEJA, program participants are required to submit detailed performance metric data and agencies are required to publish this data in a manner that protects individual privacy but gives clear insight into program performance. These provisions often require detailed reporting on the demographics of program applicants, participants, and graduates. CEJA also requires the Illinois Department of Labor and DCEO to compile workforce diversity information for clean energy sector construction projects, including a disaggregation by union and nonunion contractors, so that policymakers and advocates can have a clear view of the industries’ demographics (CEJA, 233). This will be important to assess the performance of CEJA’s efforts to ensure equitable access to the clean energy industries’ opportunities, to ground-truth “common knowledge” about the demographics of the workforce, and to identify areas where continuing barriers to employment and community wealth building exist.

Disparity Study

Throughout CEJA, drafters were careful to recognize equal protection jurisprudence that closely circumscribed their ability to include race-based preferences in the bill. Consequently, targeted communities are identified not by race, but by cumulative environmental harm, income, and a variety of other factors. Race-based preferences must be narrowly tailored to address a compelling government interest, such as eradicating racial inequities (Findlaw 2021). To determine if racial inequities exist, governmental bodies typically use a disparity study.

However, while anecdotal evidence would suggest that there may be racial disparities in employment and other aspects of the clean energy industries in Illinois, no disparity study has been completed to test that hypothesis. Scoping and completing a disparity study requires significant demographic data on the relevant program or industry. Consequently, data collection requirements are placed throughout CEJA to ensure that data is available for completion of relevant studies.

The Illinois Power Agency, in coordination with DCEO and the Illinois Department of Labor, other relevant agencies, and with the help of the Contractor Accelerator Program Administrator (CEJA, 50) must commission a disparity study (CEJA, 435-6) that "measures the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy." If the study finds a strong basis in evidence for discrimination, then agencies must take remedial actions, which may include race-conscious remedial actions (CEJA, 436-7).

Centering Equity Throughout CEJA

In addition to the equity focused workforce development programs, accountability systems, and process equity improvements, discussed in depth here, CEJA wove equity throughout provisions on ratemaking, decarbonization, and other provisions. CEJA will close fossil generation plants across Illinois but starts with those located in environmental justice communities (ICJC 2021, 28). It will create a performance-based rates system for our electric utilities, where affordability and equitable allocation of infrastructure investments will determine utility profits (ICJC 2021, 42-43). It creates meaningful consumer protections and requires the ICC to study low-income rate structures that do not currently exist in Illinois (ICJC 2021, 41). It prioritizes investments in energy efficiency programs that target households with low incomes (ICJC 2021, 24). It increases the size of Illinois' Solar for All program by 5 times (ICJC 2021, 13). And it targets electric transportation infrastructure investments in equity eligible communities (ICJC 2021, 32).

Conclusion

By putting equity at the center of the policy development and negotiation process, the ICJC helped assure that CEJA includes numerous provisions to help Illinois build a diverse clean energy workforce; build wealth, capacity and employment opportunities in minority and women-owned businesses; improve community input into clean energy policies; and ensure that the benefits of energy efficiency and clean energy programs reach environmental justice communities and communities that have experienced historic disinvestment. The clean energy industries in Illinois are poised to grow fast because of CEJA's climate provisions. Time will tell if its provisions are successful, but performance metrics and rigorous reporting requirements are in place to hold program administrators and industry accountable and allow policymakers to learn from the bill's results. We believe that the Climate and Equitable Jobs Act is the most equitable climate bill ever passed in the United States and cannot wait to see that honor eclipsed by other states.

As other states pursue large climate and equity programs, our experience in Illinois points to the value of an inclusive policy development process. In addition, having a more diverse group of negotiators across all the negotiating parties would likely have made it easier for legislators to trust and vote for the final package. Most importantly, though, we feel that the bill's success depended on making equity the central theme of the entire bill, with provisions throughout to improve access to governmental decisions, build community wealth, break down barriers to employment, assist small and medium-sized businesses, and hold business, government, and labor accountable.

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