

ASSEMBLY, No. 2873

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 14, 2010

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblywoman Wagner

SYNOPSIS

The “Offshore Wind Economic Development Act”; establishes offshore wind renewable energy certificate program, and authorizes EDA to provide tax credits for qualified wind energy facilities in wind energy zones.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2010)

1 AN ACT concerning the development of offshore wind projects,
2 amending and supplementing P.L.1999, c.23, amending
3 P.L.2007, c.340, and supplementing P.L.2007, c.346 (C.34:1B-
4 207 et seq.).

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
10 as follows:

11 3. As used in **[this act]** P.L.1999, c.23 (C.48:3-49 et al.) :

12 "Assignee" means a person to which an electric public utility or
13 another assignee assigns, sells or transfers, other than as security,
14 all or a portion of its right to or interest in bondable transition
15 property. Except as specifically provided in P.L.1999, c.23
16 (C.48:3-49 et al.), an assignee shall not be subject to the public
17 utility requirements of Title 48 or any rules or regulations adopted
18 pursuant thereto;

19 "Basic gas supply service" means gas supply service that is
20 provided to any customer that has not chosen an alternative gas
21 supplier, whether or not the customer has received offers as to
22 competitive supply options, including, but not limited to, any
23 customer that cannot obtain such service for any reason, including
24 non-payment for services. Basic gas supply service is not a
25 competitive service and shall be fully regulated by the board;

26 "Basic generation service" or "BGS" means electric generation
27 service that is provided, to any customer that has not chosen an
28 alternative electric power supplier, whether or not the customer has
29 received offers for competitive supply options, including, but not
30 limited to, any customer that cannot obtain such service from an
31 electric power supplier for any reason, including non-payment for
32 services. Basic generation service is not a competitive service and
33 shall be fully regulated by the board;

34 "Basic generation service provider" or "provider" means a
35 provider of basic generation service;

36 "Basic generation service transition costs" means the amount by
37 which the payments by an electric public utility for the procurement
38 of power for basic generation service and related ancillary and
39 administrative costs exceeds the net revenues from the basic
40 generation service charge established by the board pursuant to
41 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
42 together with interest on the balance at the board-approved rate, that
43 is reflected in a deferred balance account approved by the board in
44 an order addressing the electric public utility's unbundled rates,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 stranded costs, and restructuring filings pursuant to P.L.1999, c.23
2 (C.48:3-49 et al.). Basic generation service transition costs shall
3 include, but are not limited to, costs of purchases from the spot
4 market, bilateral contracts, contracts with non-utility generators,
5 parting contracts with the purchaser of the electric public utility's
6 divested generation assets, short-term advance purchases, and
7 financial instruments such as hedging, forward contracts, and
8 options. Basic generation service transition costs shall also include
9 the payments by an electric public utility pursuant to a competitive
10 procurement process for basic generation service supply during the
11 transition period, and costs of any such process used to procure the
12 basic generation service supply;

13 "Board" means the New Jersey Board of Public Utilities or any
14 successor agency;

15 "Bondable stranded costs" means any stranded costs or basic
16 generation service transition costs of an electric public utility
17 approved by the board for recovery pursuant to the provisions of
18 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
19 board: (1) the cost of retiring existing debt or equity capital of the
20 electric public utility, including accrued interest, premium and other
21 fees, costs and charges relating thereto, with the proceeds of the
22 financing of bondable transition property; (2) if requested by an
23 electric public utility in its application for a bondable stranded costs
24 rate order, federal, State and local tax liabilities associated with
25 stranded costs recovery or basic generation service transition cost
26 recovery or the transfer or financing of such property or both,
27 including taxes, whose recovery period is modified by the effect of
28 a stranded costs recovery order, a bondable stranded costs rate order
29 or both; and (3) the costs incurred to issue, service or refinance
30 transition bonds, including interest, acquisition or redemption
31 premium, and other financing costs, whether paid upon issuance or
32 over the life of the transition bonds, including, but not limited to,
33 credit enhancements, service charges, overcollateralization, interest
34 rate cap, swap or collar, yield maintenance, maturity guarantee or
35 other hedging agreements, equity investments, operating costs and
36 other related fees, costs and charges, or to assign, sell or otherwise
37 transfer bondable transition property;

38 "Bondable stranded costs rate order" means one or more
39 irrevocable written orders issued by the board pursuant to P.L.1999,
40 c.23 (C.48:3-49 et al.) which determines the amount of bondable
41 stranded costs and the initial amount of transition bond charges
42 authorized to be imposed to recover such bondable stranded costs,
43 including the costs to be financed from the proceeds of the
44 transition bonds, as well as on-going costs associated with servicing
45 and credit enhancing the transition bonds, and provides the electric
46 public utility specific authority to issue or cause to be issued,
47 directly or indirectly, transition bonds through a financing entity
48 and related matters as provided in P.L.1999, c.23, which order shall

1 become effective immediately upon the written consent of the
2 related electric public utility to such order as provided in P.L.1999,
3 c.23;

4 "Bondable transition property" means the property consisting of
5 the irrevocable right to charge, collect and receive, and be paid
6 from collections of, transition bond charges in the amount necessary
7 to provide for the full recovery of bondable stranded costs which
8 are determined to be recoverable in a bondable stranded costs rate
9 order, all rights of the related electric public utility under such
10 bondable stranded costs rate order including, without limitation, all
11 rights to obtain periodic adjustments of the related transition bond
12 charges pursuant to subsection b. of section 15 of P.L.1999, c.23
13 (C.48:3-64), and all revenues, collections, payments, money and
14 proceeds arising under, or with respect to, all of the foregoing;

15 "British thermal unit" or "Btu" means the amount of heat
16 required to increase the temperature of one pound of water by one
17 degree Fahrenheit;

18 "Broker" means a duly licensed electric power supplier that
19 assumes the contractual and legal responsibility for the sale of
20 electric generation service, transmission or other services to end-use
21 retail customers, but does not take title to any of the power sold, or
22 a duly licensed gas supplier that assumes the contractual and legal
23 obligation to provide gas supply service to end-use retail customers,
24 but does not take title to the gas;

25 "Buydown" means an arrangement or arrangements involving the
26 buyer and seller in a given power purchase contract and, in some
27 cases third parties, for consideration to be given by the buyer in
28 order to effectuate a reduction in the pricing, or the restructuring of
29 other terms to reduce the overall cost of the power contract, for the
30 remaining succeeding period of the purchased power arrangement
31 or arrangements;

32 "Buyout" means an arrangement or arrangements involving the
33 buyer and seller in a given power purchase contract and, in some
34 cases third parties, for consideration to be given by the buyer in
35 order to effectuate a termination of such power purchase contract;

36 "Class I renewable energy" means electric energy produced from
37 solar technologies, photovoltaic technologies, wind energy, fuel
38 cells, geothermal technologies, wave or tidal action, and methane
39 gas from landfills or a biomass facility, provided that the biomass is
40 cultivated and harvested in a sustainable manner;

41 "Class II renewable energy" means electric energy produced at a
42 resource recovery facility or hydropower facility, provided that
43 such facility is located where retail competition is permitted and
44 provided further that the Commissioner of Environmental
45 Protection has determined that such facility meets the highest
46 environmental standards and minimizes any impacts to the
47 environment and local communities;

1 "Co-generation" means the sequential production of electricity
2 and steam or other forms of useful energy used for industrial or
3 commercial heating and cooling purposes;

4 "Combined heat and power facility" or "co-generation facility"
5 means a generation facility which produces electric energy, steam,
6 or other forms of useful energy such as heat, which are used for
7 industrial or commercial heating or cooling purposes. A combined
8 heat and power facility or co-generation facility shall not be
9 considered a public utility;

10 "Competitive service" means any service offered by an electric
11 public utility or a gas public utility that the board determines to be
12 competitive pursuant to section 8 or section 10 of P.L.1999, c.23
13 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

14 "Commercial and industrial energy pricing class customer" or
15 "CIEP class customer" means that group of non-residential
16 customers with high peak demand, as determined by periodic board
17 order, which either is eligible or which would be eligible, as
18 determined by periodic board order, to receive funds from the Retail
19 Margin Fund established pursuant to section 9 of P.L.1999, c.23
20 (C.48:3-57) and for which basic generation service is hourly-priced;

21 "Comprehensive resource analysis" means an analysis including,
22 but not limited to, an assessment of existing market barriers to the
23 implementation of energy efficiency and renewable technologies
24 that are not or cannot be delivered to customers through a
25 competitive marketplace;

26 "Customer" means any person that is an end user and is
27 connected to any part of the transmission and distribution system
28 within an electric public utility's service territory or a gas public
29 utility's service territory within this State;

30 "Customer account service" means metering, billing, or such
31 other administrative activity associated with maintaining a customer
32 account;

33 "Demand side management" means the management of customer
34 demand for energy service through the implementation of cost-
35 effective energy efficiency technologies, including, but not limited
36 to, installed conservation, load management and energy efficiency
37 measures on and in the residential, commercial, industrial,
38 institutional and governmental premises and facilities in this State;

39 "Electric generation service" means the provision of retail
40 electric energy and capacity which is generated off-site from the
41 location at which the consumption of such electric energy and
42 capacity is metered for retail billing purposes, including agreements
43 and arrangements related thereto;

44 "Electric power generator" means an entity that proposes to
45 construct, own, lease or operate, or currently owns, leases or
46 operates, an electric power production facility that will sell or does
47 sell at least 90 percent of its output, either directly or through a
48 marketer, to a customer or customers located at sites that are not on

1 or contiguous to the site on which the facility will be located or is
2 located. The designation of an entity as an electric power generator
3 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
4 and of itself, affect the entity's status as an exempt wholesale
5 generator under the Public Utility Holding Company Act of 1935,
6 15 U.S.C.s.79 et seq.;

7 "Electric power supplier" means a person or entity that is duly
8 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
9 al.) to offer and to assume the contractual and legal responsibility to
10 provide electric generation service to retail customers, and includes
11 load serving entities, marketers and brokers that offer or provide
12 electric generation service to retail customers. The term excludes an
13 electric public utility that provides electric generation service only
14 as a basic generation service pursuant to section 9 of P.L.1999, c.23
15 (C.48:3-57);

16 "Electric public utility" means a public utility, as that term is
17 defined in R.S.48:2-13, that transmits and distributes electricity to
18 end users within this State;

19 "Electric related service" means a service that is directly related
20 to the consumption of electricity by an end user, including, but not
21 limited to, the installation of demand side management measures at
22 the end user's premises, the maintenance, repair or replacement of
23 appliances, lighting, motors or other energy-consuming devices at
24 the end user's premises, and the provision of energy consumption
25 measurement and billing services;

26 "Electronic signature" means an electronic sound, symbol or
27 process, attached to, or logically associated with, a contract or other
28 record, and executed or adopted by a person with the intent to sign
29 the record;

30 "Energy agent" means a person that is duly registered pursuant to
31 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
32 sale of retail electricity or electric related services or retail gas
33 supply or gas related services between government aggregators or
34 private aggregators and electric power suppliers or gas suppliers,
35 but does not take title to the electric or gas sold;

36 "Energy consumer" means a business or residential consumer of
37 electric generation service or gas supply service located within the
38 territorial jurisdiction of a government aggregator;

39 "Energy efficiency portfolio standard" means a requirement to
40 procure a specified amount of energy efficiency or demand side
41 management resources as a means of managing and reducing energy
42 usage and demand by customers;

43 "Energy year" or "EY" means the 12-month period from June 1st
44 through May 31st and shall be numbered according to the calendar
45 year in which it ends;

46 "Financing entity" means an electric public utility, a special
47 purpose entity, or any other assignee of bondable transition
48 property, which issues transition bonds. Except as specifically

1 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
2 which is not itself an electric public utility shall not be subject to
3 the public utility requirements of Title 48 or any rules or regulations
4 adopted pursuant thereto;

5 "Gas public utility" means a public utility, as that term is defined
6 in R.S.48:2-13, that distributes gas to end users within this State;

7 "Gas related service" means a service that is directly related to
8 the consumption of gas by an end user, including, but not limited to,
9 the installation of demand side management measures at the end
10 user's premises, the maintenance, repair or replacement of
11 appliances or other energy-consuming devices at the end user's
12 premises, and the provision of energy consumption measurement
13 and billing services;

14 "Gas supplier" means a person that is duly licensed pursuant to
15 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
16 assume the contractual and legal obligation to provide gas supply
17 service to retail customers, and includes, but is not limited to,
18 marketers and brokers. A non-public utility affiliate of a public
19 utility holding company may be a gas supplier, but a gas public
20 utility or any subsidiary of a gas utility is not a gas supplier. In the
21 event that a gas public utility is not part of a holding company legal
22 structure, a related competitive business segment of that gas public
23 utility may be a gas supplier, provided that related competitive
24 business segment is structurally separated from the gas public
25 utility, and provided that the interactions between the gas public
26 utility and the related competitive business segment are subject to
27 the affiliate relations standards adopted by the board pursuant to
28 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

29 "Gas supply service" means the provision to customers of the
30 retail commodity of gas, but does not include any regulated
31 distribution service;

32 "Government aggregator" means any government entity subject
33 to the requirements of the "Local Public Contracts Law," P.L.1971,
34 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
35 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
36 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
37 contract with a licensed electric power supplier or a licensed gas
38 supplier for: (1) the provision of electric generation service,
39 electric related service, gas supply service, or gas related service for
40 its own use or the use of other government aggregators; or (2) if a
41 municipal or county government, the provision of electric
42 generation service or gas supply service on behalf of business or
43 residential customers within its territorial jurisdiction;

44 "Government energy aggregation program" means a program and
45 procedure pursuant to which a government aggregator enters into a
46 written contract for the provision of electric generation service or
47 gas supply service on behalf of business or residential customers
48 within its territorial jurisdiction;

1 "Governmental entity" means any federal, state, municipal, local
2 or other governmental department, commission, board, agency,
3 court, authority or instrumentality having competent jurisdiction;

4 "Greenhouse gas emissions portfolio standard" means a
5 requirement that addresses or limits the amount of carbon dioxide
6 emissions indirectly resulting from the use of electricity as applied
7 to any electric power suppliers and basic generation service
8 providers of electricity;

9 "Leakage" means an increase in greenhouse gas emissions
10 related to generation sources located outside of the State that are not
11 subject to a state, interstate or regional greenhouse gas emissions
12 cap or standard that applies to generation sources located within the
13 State;

14 "Market transition charge" means a charge imposed pursuant to
15 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
16 utility, at a level determined by the board, on the electric public
17 utility customers for a limited duration transition period to recover
18 stranded costs created as a result of the introduction of electric
19 power supply competition pursuant to the provisions of P.L.1999,
20 c.23 (C.48:3-49 et al.);

21 "Marketer" means a duly licensed electric power supplier that
22 takes title to electric energy and capacity, transmission and other
23 services from electric power generators and other wholesale
24 suppliers and then assumes the contractual and legal obligation to
25 provide electric generation service, and may include transmission
26 and other services, to an end-use retail customer or customers, or a
27 duly licensed gas supplier that takes title to gas and then assumes
28 the contractual and legal obligation to provide gas supply service to
29 an end-use customer or customers;

30 "Net proceeds" means proceeds less transaction and other related
31 costs as determined by the board;

32 "Net revenues" means revenues less related expenses, including
33 applicable taxes, as determined by the board;

34 "Offshore wind energy" means electric energy produced by a
35 qualified offshore wind project;

36 "Offshore wind renewable energy certificate" or "OREC" means
37 a certificate, issued by the board or its designee, representing the
38 environmental attributes of one megawatt hour of electric
39 generation from a qualified offshore wind project;

40 "Off-site end use thermal energy services customer" means an
41 end use customer that purchases thermal energy services from an
42 on-site generation facility, combined heat and power facility, or co-
43 generation facility, and that is located on property that is separated
44 from the property on which the on-site generation facility,
45 combined heat and power facility, or co-generation facility is
46 located by more than one easement, public thoroughfare, or
47 transportation or utility-owned right-of-way;

1 "On-site generation facility" means a generation facility, and
2 equipment and services appurtenant to electric sales by such facility
3 to the end use customer located on the property or on property
4 contiguous to the property on which the end user is located. An on-
5 site generation facility shall not be considered a public utility. The
6 property of the end use customer and the property on which the on-
7 site generation facility is located shall be considered contiguous if
8 they are geographically located next to each other, but may be
9 otherwise separated by an easement, public thoroughfare,
10 transportation or utility-owned right-of-way, or if the end use
11 customer is purchasing thermal energy services produced by the on-
12 site generation facility, for use for heating or cooling, or both,
13 regardless of whether the customer is located on property that is
14 separated from the property on which the on-site generation facility
15 is located by more than one easement, public thoroughfare, or
16 transportation or utility-owned right-of-way;

17 "Person" means an individual, partnership, corporation,
18 association, trust, limited liability company, governmental entity or
19 other legal entity;

20 "Private aggregator" means a non-government aggregator that is
21 a duly-organized business or non-profit organization authorized to
22 do business in this State that enters into a contract with a duly
23 licensed electric power supplier for the purchase of electric energy
24 and capacity, or with a duly licensed gas supplier for the purchase
25 of gas supply service, on behalf of multiple end-use customers by
26 combining the loads of those customers;

27 "Public utility holding company" means: (1) any company that,
28 directly or indirectly, owns, controls, or holds with power to vote,
29 ten percent or more of the outstanding voting securities of an
30 electric public utility or a gas public utility or of a company which
31 is a public utility holding company by virtue of this definition,
32 unless the Securities and Exchange Commission, or its successor,
33 by order declares such company not to be a public utility holding
34 company under the Public Utility Holding Company Act of 1935,
35 15 U.S.C.s.79 et seq., or its successor; or (2) any person that the
36 Securities and Exchange Commission, or its successor, determines,
37 after notice and opportunity for hearing, directly or indirectly, to
38 exercise, either alone or pursuant to an arrangement or
39 understanding with one or more other persons, such a controlling
40 influence over the management or policies of an electric public
41 utility or a gas public utility or public utility holding company as to
42 make it necessary or appropriate in the public interest or for the
43 protection of investors or consumers that such person be subject to
44 the obligations, duties, and liabilities imposed in the Public Utility
45 Holding Company Act of 1935 or its successor;

46 "Qualified offshore wind project" means a wind turbine
47 electricity generation facility in the Atlantic Ocean and connected
48 to the electric transmission system in this State, and includes the

1 associated transmission-related interconnection facilities and
2 equipment, and approved by the board pursuant to section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill);

4 "Regulatory asset" means an asset recorded on the books of an
5 electric public utility or gas public utility pursuant to the Statement
6 of Financial Accounting Standards, No. 71, entitled "Accounting for
7 the Effects of Certain Types of Regulation," or any successor
8 standard and as deemed recoverable by the board;

9 "Related competitive business segment of an electric public
10 utility or gas public utility" means any business venture of an
11 electric public utility or gas public utility including, but not limited
12 to, functionally separate business units, joint ventures, and
13 partnerships, that offers to provide or provides competitive services;

14 "Related competitive business segment of a public utility holding
15 company" means any business venture of a public utility holding
16 company, including, but not limited to, functionally separate
17 business units, joint ventures, and partnerships and subsidiaries, that
18 offers to provide or provides competitive services, but does not
19 include any related competitive business segments of an electric
20 public utility or gas public utility;

21 "Renewable energy certificate" or "REC" means a certificate
22 representing the environmental benefits or attributes of one
23 megawatt-hour of generation from a generating facility that
24 produces Class I or Class II renewable energy, but shall not include
25 a solar renewable energy certificate or an offshore wind renewable
26 energy certificate ;

27 "Resource recovery facility" means a solid waste facility
28 constructed and operated for the incineration of solid waste for
29 energy production and the recovery of metals and other materials
30 for reuse;

31 "Restructuring related costs" means reasonably incurred costs
32 directly related to the restructuring of the electric power industry,
33 including the closure, sale, functional separation and divestiture of
34 generation and other competitive utility assets by a public utility, or
35 the provision of competitive services as such costs are determined
36 by the board, and which are not stranded costs as defined in
37 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
38 to, investments in management information systems, and which
39 shall include expenses related to employees affected by
40 restructuring which result in efficiencies and which result in
41 benefits to ratepayers, such as training or retraining at the level
42 equivalent to one year's training at a vocational or technical school
43 or county community college, the provision of severance pay of two
44 weeks of base pay for each year of full-time employment, and a
45 maximum of 24 months' continued health care coverage. Except as
46 to expenses related to employees affected by restructuring,
47 "restructuring related costs" shall not include going forward costs;

1 "Retail choice" means the ability of retail customers to shop for
2 electric generation or gas supply service from electric power or gas
3 suppliers, or opt to receive basic generation service or basic gas
4 service, and the ability of an electric power or gas supplier to offer
5 electric generation service or gas supply service to retail customers,
6 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

7 "Retail margin" means an amount, reflecting differences in
8 prices that electric power suppliers and electric public utilities may
9 charge in providing electric generation service and basic generation
10 service, respectively, to retail customers, excluding residential
11 customers, which the board may authorize to be charged to
12 categories of basic generation service customers of electric public
13 utilities in this State, other than residential customers, under the
14 board's continuing regulation of basic generation service pursuant to
15 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
16 purpose of promoting a competitive retail market for the supply of
17 electricity;

18 "Shopping credit" means an amount deducted from the bill of an
19 electric public utility customer to reflect the fact that such customer
20 has switched to an electric power supplier and no longer takes basic
21 generation service from the electric public utility;

22 "Social program" means a program implemented with board
23 approval to provide assistance to a group of disadvantaged
24 customers, to provide protection to consumers, or to accomplish a
25 particular societal goal, and includes, but is not limited to, the
26 winter moratorium program, utility practices concerning "bad debt"
27 customers, low income assistance, deferred payment plans,
28 weatherization programs, and late payment and deposit policies, but
29 does not include any demand side management program or any
30 environmental requirements or controls;

31 "Societal benefits charge" means a charge imposed by an electric
32 public utility, at a level determined by the board, pursuant to, and in
33 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

34 "Solar alternative compliance payment" or "SACP" means a
35 payment of a certain dollar amount per megawatt hour (MWh)
36 which an electric power supplier or provider may submit to the
37 board in order to comply with the solar electric generation
38 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

39 "Solar renewable energy certificate" or "SREC" means a
40 certificate issued by the board or its designee, representing one
41 megawatt hour (MWh) of solar energy that is generated by a facility
42 connected to the distribution system in this State and has value
43 based upon, and driven by, the energy market;

44 "Stranded cost" means the amount by which the net cost of an
45 electric public utility's electric generating assets or electric power
46 purchase commitments, as determined by the board consistent with
47 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
48 market value of those assets or contractual commitments in a

1 competitive supply marketplace and the costs of buydowns or
2 buyouts of power purchase contracts;

3 "Stranded costs recovery order" means each order issued by the
4 board in accordance with subsection c. of section 13 of P.L.1999,
5 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if
6 any, the board has determined an electric public utility is eligible to
7 recover and collect in accordance with the standards set forth in
8 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
9 mechanisms therefor;

10 "Thermal efficiency" means the useful electric energy output of a
11 facility, plus the useful thermal energy output of the facility,
12 expressed as a percentage of the total energy input to the facility;

13 "Transition bond charge" means a charge, expressed as an
14 amount per kilowatt hour, that is authorized by and imposed on
15 electric public utility ratepayers pursuant to a bondable stranded
16 costs rate order, as modified at any time pursuant to the provisions
17 of P.L.1999, c.23 (C.48:3-49 et al.);

18 "Transition bonds" means bonds, notes, certificates of
19 participation or beneficial interest or other evidences of
20 indebtedness or ownership issued pursuant to an indenture, contract
21 or other agreement of an electric public utility or a financing entity,
22 the proceeds of which are used, directly or indirectly, to recover,
23 finance or refinance bondable stranded costs and which are, directly
24 or indirectly, secured by or payable from bondable transition
25 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
26 principal, interest, and acquisition or redemption premium with
27 respect to transition bonds which are issued in the form of
28 certificates of participation or beneficial interest or other evidences
29 of ownership shall refer to the comparable payments on such
30 securities;

31 "Transition period" means the period from August 1, 1999
32 through July 31, 2003;

33 "Transmission and distribution system" means, with respect to an
34 electric public utility, any facility or equipment that is used for the
35 transmission, distribution or delivery of electricity to the customers
36 of the electric public utility including, but not limited to, the land,
37 structures, meters, lines, switches and all other appurtenances
38 thereof and thereto, owned or controlled by the electric public
39 utility within this State; and

40 "Universal service" means any service approved by the board
41 with the purpose of assisting low-income residential customers in
42 obtaining or retaining electric generation or delivery service.
43 (cf: P.L.2009, c.289, s.1)

44

45 2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
46 as follows:

47 38. a. The board shall require an electric power supplier or
48 basic generation service provider to disclose on a customer's bill or

1 on customer contracts or marketing materials, a uniform, common
2 set of information about the environmental characteristics of the
3 energy purchased by the customer, including, but not limited to:

4 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
5 solar, hydroelectric, wind and biomass, or a regional average
6 determined by the board;

7 (2) Its emissions, in pounds per megawatt hour, of sulfur
8 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
9 that the board may determine to pose an environmental or health
10 hazard, or an emissions default to be determined by the board; and

11 (3) Any discrete emission reduction retired pursuant to rules and
12 regulations adopted pursuant to P.L.1995, c.188.

13 b. Notwithstanding any provisions of the "Administrative
14 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
15 contrary, the board shall initiate a proceeding and shall adopt, in
16 consultation with the Department of Environmental Protection, after
17 notice and opportunity for public comment and public hearing,
18 interim standards to implement this disclosure requirement,
19 including, but not limited to:

20 (1) A methodology for disclosure of emissions based on output
21 pounds per megawatt hour;

22 (2) Benchmarks for all suppliers and basic generation service
23 providers to use in disclosing emissions that will enable consumers
24 to perform a meaningful comparison with a supplier's or basic
25 generation service provider's emission levels; and

26 (3) A uniform emissions disclosure format that is graphic in
27 nature and easily understandable by consumers. The board shall
28 periodically review the disclosure requirements to determine if
29 revisions to the environmental disclosure system as implemented
30 are necessary.

31 Such standards shall be effective as regulations immediately
32 upon filing with the Office of Administrative Law and shall be
33 effective for a period not to exceed 18 months, and may, thereafter,
34 be amended, adopted or readopted by the board in accordance with
35 the provisions of the "Administrative Procedure Act."

36 c. (1) The board may adopt, in consultation with the Department
37 of Environmental Protection, after notice and opportunity for public
38 comment, an emissions portfolio standard applicable to all electric
39 power suppliers and basic generation service providers, upon a
40 finding that:

41 (a) The standard is necessary as part of a plan to enable the
42 State to meet federal Clean Air Act or State ambient air quality
43 standards; and

44 (b) Actions at the regional or federal level cannot reasonably be
45 expected to achieve the compliance with the federal standards.

46 (2) By July 1, 2009, the board shall adopt, pursuant to the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), a greenhouse gas emissions portfolio standard to mitigate

1 leakage or another regulatory mechanism to mitigate leakage
2 applicable to all electric power suppliers and basic generation
3 service providers that provide electricity to customers within the
4 State. The greenhouse gas emissions portfolio standard or any other
5 regulatory mechanism to mitigate leakage shall:

6 (a) Allow a transition period, either before or after the effective
7 date of the regulation to mitigate leakage, for a basic generation
8 service provider or electric power supplier to either meet the
9 emissions portfolio standard or other regulatory mechanism to
10 mitigate leakage, or to transfer any customer to a basic generation
11 service provider or electric power supplier that meets the emissions
12 portfolio standard or other regulatory mechanism to mitigate
13 leakage. If the transition period allowed pursuant to this
14 subparagraph occurs after the implementation of an emissions
15 portfolio standard or other regulatory mechanism to mitigate
16 leakage, the transition period shall be no longer than three years;
17 and

18 (b) Exempt the provision of basic generation service pursuant to
19 a basic generation service purchase and sale agreement effective
20 prior to the date of the regulation.

21 Unless the Attorney General or the Attorney General's designee
22 determines that a greenhouse gas emissions portfolio standard
23 would unconstitutionally burden interstate commerce or would be
24 preempted by federal law, the adoption by the board of an electric
25 energy efficiency portfolio standard pursuant to subsection g. of this
26 section, a gas energy efficiency portfolio standard pursuant to
27 subsection h. of this section, or any other enhanced energy
28 efficiency policies to mitigate leakage shall not be considered
29 sufficient to fulfill the requirement of this subsection for the
30 adoption of a greenhouse gas emissions portfolio standard or any
31 other regulatory mechanism to mitigate leakage.

32 d. Notwithstanding any provisions of the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
34 contrary, the board shall initiate a proceeding and shall adopt, after
35 notice, provision of the opportunity for comment, and public
36 hearing, renewable energy portfolio standards that shall require:

37 (1) that two and one-half percent of the kilowatt hours sold in
38 this State by each electric power supplier and each basic generation
39 service provider be from Class I or Class II renewable energy
40 sources; **[and]**

41 (2) beginning on January 1, 2001, that one-half of one percent
42 of the kilowatt hours sold in this State by each electric power
43 supplier and each basic generation service provider be from Class I
44 renewable energy sources. The board shall increase the required
45 percentage for Class I renewable energy sources so that by January
46 1, 2006, one percent of the kilowatt hours sold in this State by each
47 electric power supplier and each basic generation service provider
48 shall be from Class I renewable energy sources and shall

1 additionally increase the required percentage for Class I renewable
2 energy sources by one-half of one percent each year until January 1,
3 2012, when four percent of the kilowatt hours sold in this State by
4 each electric power supplier and each basic generation service
5 provider shall be from Class I renewable energy sources.

6 An electric power supplier or basic generation service provider
7 may satisfy the requirements of this subsection by participating in a
8 renewable energy trading program approved by the board in
9 consultation with the Department of Environmental Protection [.] ;

10 (3) that the board establish a multi-year schedule, applicable to
11 each electric power supplier or basic generation service provider in
12 this State, beginning with the one-year period commencing on June
13 1, 2010, and continuing for each subsequent one-year period up to
14 and including, the one-year period commencing on June 1, 2025,
15 that requires suppliers or providers to purchase at least the
16 following number of kilowatt-hours from solar electric power
17 generators in this State:

18 EY 2011 306 Gigawatthours (Gwhrs)

19 EY 2012 442 Gwhrs

20 EY 2013 596 Gwhrs

21 EY 2014 772 Gwhrs

22 EY 2015 965 Gwhrs

23 EY 2016 1,150 Gwhrs

24 EY 2017 1,357 Gwhrs

25 EY 2018 1,591 Gwhrs

26 EY 2019 1,858 Gwhrs

27 EY 2020 2,164 Gwhrs

28 EY 2021 2,518 Gwhrs

29 EY 2022 2,928 Gwhrs

30 EY 2023 3,433 Gwhrs

31 EY 2024 3,989 Gwhrs

32 EY 2025 4,610 Gwhrs

33 EY 2026 5,316 Gwhrs

34 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs
35 per energy year to reflect an increasing number of kilowatt-hours to
36 be purchased by suppliers or providers from solar electric power
37 generators in this State, and to establish a framework within which
38 suppliers and providers shall purchase at least 2,518 Gwhrs in the
39 energy year 2021 and 5,316 Gwhrs in the energy year 2026 from
40 solar electric power generators in this State, provided, however, that
41 the number of solar kilowatt-hours required to be purchased by each
42 supplier or provider, when expressed as a percentage of the total
43 number of solar kilowatt-hours purchased in this State, shall be
44 equivalent to each supplier's or provider's proportionate share of the
45 total number of kilowatt-hours sold in this State by all suppliers and
46 providers.

47 The solar renewable portfolio standards requirements in
48 paragraph (3) of this subsection shall automatically increase by 20%

1 for the remainder of the schedule in the event that the following two
2 conditions are met: (a) the number of SRECs generated meets or
3 exceeds the requirement for three consecutive reporting years,
4 starting with energy year 2013; and (b) the average SREC price for
5 all SRECs purchased by entities with renewable energy portfolio
6 standards obligations has decreased in the same three consecutive
7 reporting years. The board shall exempt providers' existing supply
8 contracts that are: (a) effective prior to the date of P.L.2009, c.289;
9 or (b) effective prior to any future increase in the solar renewable
10 portfolio standard beyond the multi-year schedule established in
11 paragraph (3) of this subsection. This exemption shall apply to the
12 number of SRECs that exceeds the number mandated by the solar
13 renewable portfolio standards requirements that were in effect on
14 the date that the providers executed their existing supply contracts.
15 This limited exemption for providers' existing supply contracts shall
16 not be construed to lower the Statewide solar purchase requirements
17 set forth in paragraph (3) of this subsection. Such incremental new
18 requirements shall be distributed over the electric power suppliers
19 and providers not subject to the existing supply contract exemption
20 until such time as existing supply contracts expire and all suppliers
21 are subject to the new requirement.

22 An electric power supplier or basic generation service provider
23 may satisfy the requirements of this subsection by participating in a
24 renewable energy trading program approved by the board in
25 consultation with the Department of Environmental Protection, or
26 compliance with the requirements of this subsection may be
27 demonstrated to the board by suppliers or providers through the
28 purchase of SRECs.

29 The renewable energy portfolio standards adopted by the board
30 pursuant to paragraphs (1) and (2) of this subsection shall be
31 effective as regulations immediately upon filing with the Office of
32 Administrative Law and shall be effective for a period not to exceed
33 18 months, and may, thereafter, be amended, adopted or readopted
34 by the board in accordance with the provisions of the
35 "Administrative Procedure Act."

36 The renewable energy portfolio standards adopted by the board
37 pursuant to paragraph (3) of this subsection shall be effective as
38 regulations immediately upon filing with the Office of
39 Administrative Law and shall be effective for a period not to exceed
40 30 months after such filing, and shall, thereafter, be amended,
41 adopted or readopted by the board in accordance with the
42 "Administrative Procedure Act[.]" ; and

43 (4) within 180 days after the date of enactment of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 the board shall adopt an offshore wind renewable energy certificate
46 program to require that a percentage of the kilowatt hours sold in
47 this State by each electric power supplier and each basic generation
48 service provider be from offshore wind energy in order to support at

1 least 1,100 megawatts of generation from qualified offshore wind
2 projects.

3 The percentage established by the board pursuant to this
4 paragraph shall serve as an offset to the renewable energy portfolio
5 standard established pursuant to paragraphs (1) and (2) of this
6 subsection and shall reduce the corresponding Class I renewable
7 energy requirement.

8 The percentage established by the board pursuant to this
9 paragraph shall reflect the projected OREC production of each
10 qualified offshore wind project, approved by the board pursuant to
11 section 3 of P.L. , c. (C.) (pending before the Legislature as
12 this bill), for twenty years from the commercial operation start date
13 of the qualified offshore wind project which production projection
14 and OREC purchase requirement, once approved by the board, shall
15 not be subject to reduction.

16 An electric power supplier or basic generation service provider
17 shall comply with the OREC program established pursuant to this
18 paragraph through the purchase of offshore wind renewable energy
19 certificates at a price and for the time period required by the board.
20 In the event there are insufficient offshore wind renewable energy
21 certificates available, the electric power supplier or basic generation
22 service provider shall pay an offshore wind alternative compliance
23 payment established by the board. Any offshore wind alternative
24 compliance payments collected shall be refunded directly to the
25 ratepayers by the electric public utilities.

26 The rules established by the board pursuant to this paragraph
27 shall be effective as regulations immediately upon filing with the
28 Office of Administrative Law and shall be effective for a period not
29 to exceed 18 months, and may, thereafter, be amended, adopted or
30 readopted by the board in accordance with the provisions of the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.).

33 e. Notwithstanding any provisions of the "Administrative
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
35 contrary, the board shall initiate a proceeding and shall adopt, after
36 notice, provision of the opportunity for comment, and public
37 hearing:

38 (1) net metering standards for electric power suppliers and basic
39 generation service providers. The standards shall require electric
40 power suppliers and basic generation service providers to offer net
41 metering at non-discriminatory rates to industrial, large
42 commercial, residential and small commercial customers, as those
43 customers are classified or defined by the board, that generate
44 electricity, on the customer's side of the meter, using a Class I
45 renewable energy source, for the net amount of electricity supplied
46 by the electric power supplier or basic generation service provider
47 over an annualized period. Systems of any sized capacity, as
48 measured in watts, are eligible for net metering. If the amount of

1 electricity generated by the customer-generator, plus any kilowatt
2 hour credits held over from the previous billing periods, exceeds the
3 electricity supplied by the electric power supplier or basic
4 generation service provider, then the electric power supplier or
5 basic generation service provider, as the case may be, shall credit
6 the customer-generator for the excess kilowatt hours until the end of
7 the annualized period at which point the customer-generator will be
8 compensated for any remaining credits or, if the customer-generator
9 chooses, credit the customer-generator on a real-time basis, at the
10 electric power supplier's or basic generation service provider's
11 avoided cost of wholesale power or the PJM electric power pool's
12 real-time locational marginal pricing rate, adjusted for losses, for
13 the respective zone in the PJM electric power pool. Alternatively,
14 the customer-generator may execute a bilateral agreement with an
15 electric power supplier or basic generation service provider for the
16 sale and purchase of the customer-generator's excess generation.
17 The customer-generator may be credited on a real-time basis, so
18 long as the customer-generator follows applicable rules prescribed
19 by the PJM electric power pool for its capacity requirements for the
20 net amount of electricity supplied by the electric power supplier or
21 basic generation service provider. The board may authorize an
22 electric power supplier or basic generation service provider to cease
23 offering net metering whenever the total rated generating capacity
24 owned and operated by net metering customer-generators Statewide
25 equals 2.5 percent of the State's peak electricity demand;

26 (2) safety and power quality interconnection standards for Class
27 I renewable energy source systems used by a customer-generator
28 that shall be eligible for net metering.

29 Such standards or rules shall take into consideration the goals of
30 the New Jersey Energy Master Plan, applicable industry standards,
31 and the standards of other states and the Institute of Electrical and
32 Electronic Engineers. The board shall allow electric public utilities
33 to recover the costs of any new net meters, upgraded net meters,
34 system reinforcements or upgrades, and interconnection costs
35 through either their regulated rates or from the net metering
36 customer-generator; and

37 (3) credit or other incentive rules for generators using Class I
38 renewable energy generation systems that connect to New Jersey's
39 electric public utilities' distribution system but who do not net
40 meter.

41 Such rules shall require the board or its designee to issue a credit
42 or other incentive to those generators that do not use a net meter but
43 otherwise generate electricity derived from a Class I renewable
44 energy source and to issue an enhanced credit or other incentive,
45 including, but not limited to, a solar renewable energy credit, to
46 those generators that generate electricity derived from solar
47 technologies.

1 Such standards or rules shall be effective as regulations
2 immediately upon filing with the Office of Administrative Law and
3 shall be effective for a period not to exceed 18 months, and may,
4 thereafter, be amended, adopted or readopted by the board in
5 accordance with the provisions of the "Administrative Procedure
6 Act."

7 f. The board may assess, by written order and after notice and
8 opportunity for comment, a separate fee to cover the cost of
9 implementing and overseeing an emission disclosure system or
10 emission portfolio standard, which fee shall be assessed based on an
11 electric power supplier's or basic generation service provider's share
12 of the retail electricity supply market. The board shall not impose a
13 fee for the cost of implementing and overseeing a greenhouse gas
14 emissions portfolio standard adopted pursuant to paragraph (2) of
15 subsection c. of this section, the electric energy efficiency portfolio
16 standard adopted pursuant to subsection g. of this section, or the gas
17 energy efficiency portfolio standard adopted pursuant to subsection
18 h. of this section.

19 g. The board may adopt, pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
21 energy efficiency portfolio standard that may require each electric
22 public utility to implement energy efficiency measures that reduce
23 electricity usage in the State by 2020 to a level that is 20 percent
24 below the usage projected by the board in the absence of such a
25 standard. Nothing in this section shall be construed to prevent an
26 electric public utility from meeting the requirements of this section
27 by contracting with another entity for the performance of the
28 requirements.

29 h. The board may adopt, pursuant to the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
31 efficiency portfolio standard that may require each gas public utility
32 to implement energy efficiency measures that reduce natural gas
33 usage for heating in the State by 2020 to a level that is 20 percent
34 below the usage projected by the board in the absence of such a
35 standard. Nothing in this section shall be construed to prevent a gas
36 public utility from meeting the requirements of this section by
37 contracting with another entity for the performance of the
38 requirements.

39 i. After the board establishes a schedule of solar kilowatt-hour
40 sale or purchase requirements pursuant to paragraph (3) of
41 subsection d. of this section, the board may initiate subsequent
42 proceedings and adopt, after appropriate notice and opportunity for
43 public comment and public hearing, increased minimum solar
44 kilowatt-hour sale or purchase requirements, provided that the
45 board shall not reduce previously established minimum solar
46 kilowatt-hour sale or purchase requirements, or otherwise impose
47 constraints that reduce the requirements by any means.

1 j. The board shall determine an appropriate level of solar
2 alternative compliance payment, and establish a 15-year solar
3 alternative compliance payment schedule, that permits each supplier
4 or provider to submit an SACP to comply with the solar electric
5 generation requirements of paragraph (3) of subsection d. of this
6 section. The board may initiate subsequent proceedings and adopt,
7 after appropriate notice and opportunity for public comment and
8 public hearing, an increase in solar alternative compliance
9 payments, provided that the board shall not reduce previously
10 established levels of solar alternative compliance payments, nor
11 shall the board provide relief from the obligation of payment of the
12 SACP by the electric power suppliers or basic generation service
13 providers in any form. Any SACP payments collected shall be
14 refunded directly to the ratepayers by the electric public utilities.

15 k. The board may allow electric public utilities to offer long-
16 term contracts and other means of financing, including but not
17 limited to loans, for the purchase of SRECs and the resale of SRECs
18 to suppliers or providers or others, provided that after such
19 contracts have been approved by the board, the board's approvals
20 shall not be modified by subsequent board orders.

21 l. The board shall implement its responsibilities under the
22 provisions of this section in such a manner as to:

23 (1) place greater reliance on competitive markets, with the
24 explicit goal of encouraging and ensuring the emergence of new
25 entrants that can foster innovations and price competition;

26 (2) maintain adequate regulatory authority over non-competitive
27 public utility services;

28 (3) consider alternative forms of regulation in order to address
29 changes in the technology and structure of electric public utilities;

30 (4) promote energy efficiency and Class I renewable energy
31 market development, taking into consideration environmental
32 benefits and market barriers;

33 (5) make energy services more affordable for low and moderate
34 income customers;

35 (6) attempt to transform the renewable energy market into one
36 that can move forward without subsidies from the State or public
37 utilities;

38 (7) achieve the goals put forth under the renewable energy
39 portfolio standards;

40 (8) promote the lowest cost to ratepayers; and

41 (9) allow all market segments to participate.

42 m. The board shall ensure the availability of financial incentives
43 under its jurisdiction, including, but not limited to, long-term
44 contracts, loans, SRECs, or other financial support, to ensure
45 market diversity, competition, and appropriate coverage across all
46 ratepayer segments, including, but not limited to, residential,
47 commercial, industrial, non-profit, farms, schools, and public entity
48 customers.

1 n. For projects which are owned, or directly invested in, by a
2 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
3 98.1), the board shall determine the number of SRECs with which
4 such projects shall be credited; and in determining such number the
5 board shall ensure that the market for SRECs does not detrimentally
6 affect the development of non-utility solar projects and shall
7 consider how its determination may impact the ratepayers.

8 o. The board, in consultation with the Department of
9 Environmental Protection, electric public utilities, the Division of
10 Rate Counsel in the Department of the Public Advocate, affected
11 members of the solar energy industry, and relevant stakeholders,
12 shall periodically consider increasing the renewable energy
13 portfolio standards beyond the minimum amounts set forth in
14 subsection d. of this section, taking into account the cost impacts
15 and public benefits of such increases including, but not limited to:

16 (1) reductions in air pollution, water pollution, land disturbance,
17 and greenhouse gas emissions;

18 (2) reductions in peak demand for electricity and natural gas,
19 and the overall impact on the costs to customers of electricity and
20 natural gas;

21 (3) increases in renewable energy development, manufacturing,
22 investment, and job creation opportunities in this State; and

23 (4) reductions in State and national dependence on the use of
24 fossil fuels.

25 p. Class I RECs shall be eligible for use in renewable energy
26 portfolio standards compliance in the energy year in which they are
27 generated, and for the following two energy years. SRECs and
28 ORECs shall be eligible for use in renewable energy portfolio
29 standards compliance in the energy year in which they are
30 generated, and for the following two energy years.

31 (cf: P.L.2009, c.289, s.2)

32
33 3. (New section) a. An entity seeking to construct an offshore
34 wind project shall submit an application to the board for approval
35 by the board as a qualified offshore wind project, which shall
36 include, but need not be limited to, the following information:

37 (1) a detailed description of the project, including maps, surveys
38 and other visual aides. This description shall include, but need not
39 be limited to: the type, size and number of proposed turbines and
40 foundations; the history to-date of the same type, size and
41 manufacturer of installed turbines and foundations globally; and a
42 detailed implementation plan that highlights key milestone
43 activities during the permitting, financing, design, equipment
44 solicitation, manufacturing, shipping, assembly, in-field
45 installation, testing, equipment commissioning and service start-up;

46 (2) a completed financial analysis of the project including pro
47 forma income statements, balance sheets, and cash flow projections
48 for a 20-year period, including the internal rate of return, and a

- 1 description and estimate of any State or federal tax benefits that
2 may be associated with the project;
- 3 (3) the proposed method of financing the project, including
4 identification of equity investors, fixed income investors, and any
5 other sources of capital;
- 6 (4) documentation that the entity has applied for all eligible
7 federal funds and programs available to offset the cost of the project
8 or provide tax advantages;
- 9 (5) the projected electrical output and anticipated market prices
10 over the anticipated life of the project, including a forecast of
11 revenues from the sale of energy derived from the project and
12 capacity;
- 13 (6) an operations and maintenance plan for the initial 20-year
14 operation of the project that: details routine, intermittent and
15 emergency protocols; identifies the primary risks to the built
16 infrastructure and how the potential risks, including but not limited
17 to hurricanes, lightning, fog, rogue wave occurrences, and exposed
18 cabling, shall be mitigated; and identifies specific and concrete
19 elements to ensure both construction and operational cost controls.
20 This operations and maintenance plan shall be integrated into the
21 financial analysis of the project, and shall identify the projected
22 plan for the subsequent 20 years, following conclusion of the initial
23 20-year operations, assuming any necessary federal lease
24 agreements are maintained and renewed;
- 25 (7) the anticipated carbon dioxide emissions impact of the
26 project;
- 27 (8) a decommissioning plan for the project including provisions
28 for financial assurance for decommissioning as required by the
29 applicable State and federal governmental entities;
- 30 (9) a list of all State and federal regulatory agency approvals,
31 permits, or other authorizations required pursuant to State and
32 federal law for the offshore wind project, and copies of all
33 submitted permit applications and any issued approvals and permits
34 for the offshore wind project;
- 35 (10) a cost-benefit analysis for the project including at a
36 minimum:
 - 37 (a) a detailed input-output analysis of the impact of the project
38 on income, employment and output in the State with particular
39 emphasis on in-State manufacturing employment;
 - 40 (b) an explanation of the location, type and salary of employment
41 opportunities to be created by the project with job totals expressed
42 as full-time equivalent positions assuming 1,820 hours per year;
 - 43 (c) an analysis of the anticipated environmental benefits and
44 environmental impacts of the project; and
 - 45 (d) an analysis of the potential impacts on residential and
46 industrial ratepayers of electricity rates over the life of the project
47 that may be caused by incorporating any State subsidy into rates;

1 (11) a proposed OREC pricing method and schedule for the
2 board to consider;

3 (12) a timeline for the permitting, licensing and construction of
4 the proposed offshore wind project;

5 (13) a plan for interconnection, including engineering
6 specifications and costs; and

7 (14) any other information deemed necessary by the board in
8 order to conduct a thorough evaluation of the proposal. The board
9 may hire consultants or other experts if the board determines that
10 obtaining such outside expertise would be beneficial to the review
11 of the proposal.

12 b. (1) In considering an application for a qualified offshore
13 wind project, submitted pursuant to subsection a. of this section, the
14 board shall determine that the application satisfies the following
15 conditions:

16 (a) the filing is consistent with the New Jersey energy master
17 plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-
18 14), in effect at the time the board is considering the application;

19 (b) the cost-benefit analysis, submitted pursuant to paragraph
20 (10) of subsection a. of this section, demonstrates positive
21 economic and environmental net benefits to the State;

22 (c) the financing mechanism fairly balances the risks and
23 rewards of the project between ratepayers and shareholders, and
24 ensures that any costs of non-performance shall be borne by
25 shareholders; and

26 (d) the entity proposing the project demonstrates financial
27 integrity and sufficient access to capital to allow for a reasonable
28 expectation of completion of construction of the project.

29 (2) In considering an application for a qualified offshore wind
30 project, submitted pursuant to subsection a. of this section, the
31 board shall also consider:

32 (a) the total level of subsidies to be paid by ratepayers for
33 qualified offshore wind projects over the life of the project; and

34 (b) any other elements the board deems appropriate in
35 conjunction with the application.

36 c. An order issued by the board to approve an application for a
37 qualified offshore wind project pursuant to this section shall, at a
38 minimum, include conditions to ensure the following:

39 (1) no OREC or other market support shall be paid until
40 electricity is produced by the qualified offshore wind project;

41 (2) ratepayers and the State shall be held harmless for any cost
42 overruns associated with the project; and

43 (3) the applicant will reimburse the board and the State for all
44 reasonable costs incurred for regulatory review of the project,
45 including but not limited to consulting services, oversight,
46 inspections, and audits.

47 An order issued by the board pursuant to this subsection shall
48 specify the value of the OREC and the term of the order.

1 An order issued by the board pursuant to this subsection shall not
2 be modified by subsequent board orders.

3 d. The board shall review and approve, conditionally approve,
4 or deny an application submitted pursuant to this section within 90
5 days after the date the application is submitted to the board.

6
7 4. (New section) The board may approve a qualified wind
8 energy project located in territorial waters offshore of a
9 municipality in which casino gaming is authorized, and authorize
10 offshore wind renewable energy certificates for that project. Any
11 such project shall be a nominal 20 megawatts and no more than 25
12 megawatts in nameplate capacity and comply with the requirements
13 set forth in section 3 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15
16 5. Section 7 of P.L.2007, c.340 (C.26:2C-51) is amended to
17 read as follows:

18 7. a. The agencies administering programs established
19 pursuant to this section shall maximize coordination in the
20 administration of the programs to avoid overlap between the uses of
21 the fund prescribed in this section.

22 b. Moneys in the fund, after appropriation annually for
23 payment of administrative costs authorized pursuant to subsection c.
24 of this section, shall be annually appropriated and used for the
25 following purposes:

26 (1) Sixty percent shall be allocated to the New Jersey Economic
27 Development Authority to provide grants and other forms of
28 financial assistance to commercial, institutional, and industrial
29 entities to support end-use energy efficiency projects and new,
30 efficient electric generation facilities that are state of the art, as
31 determined by the department, including but not limited to energy
32 efficiency and renewable energy applications, to develop combined
33 heat and power production and other high efficiency electric
34 generation facilities, **[and]** to stimulate or reward investment in the
35 development of innovative carbon emissions abatement
36 technologies with significant carbon emissions reduction or
37 avoidance potential, to develop qualified offshore wind projects
38 pursuant to section 3 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), and to provide financial assistance to
40 manufacturers of equipment associated with qualified offshore wind
41 projects . The authority, in consultation with the board and the
42 department, shall determine: (a) the appropriate level of grants or
43 other forms of financial assistance to be awarded to individual
44 commercial, institutional, and industrial sectors and to individual
45 projects within each of these sectors; (b) the evaluation criteria for
46 selecting projects to be awarded grants or other forms of financial
47 assistance, which criteria shall include the ability of the project to
48 result in a measurable reduction of the emission of greenhouse

1 gases or a measurable reduction in energy demand, provided,
2 however, that neither the development of a new combined heat and
3 power production facility, nor an increase in the electrical and
4 thermal output of an existing combined heat and power production
5 facility, shall be subject to the requirement to demonstrate such a
6 measurable reduction; and (c) the process by which grants or other
7 forms of financial assistance can be applied for and awarded
8 including, if applicable, the payment terms and conditions for
9 authority investments in certain projects with commercial viability;

10 (2) Twenty percent shall be allocated to the board to support
11 programs that are designed to reduce electricity demand or costs to
12 electricity customers in the low-income and moderate-income
13 residential sector with a focus on urban areas, including efforts to
14 address heat island effect and reduce impacts on ratepayers
15 attributable to the implementation of P.L.2007, c.340 (C.26:2C-45
16 et al.). For the purposes of this paragraph, the board, in
17 consultation with the authority and the department, shall determine
18 the types of programs to be supported and the mechanism by which
19 to quantify benefits to ensure that the supported programs result in a
20 measurable reduction in energy demand;

21 (3) Ten percent shall be allocated to the department to support
22 programs designed to promote local government efforts to plan,
23 develop and implement measures to reduce greenhouse gas
24 emissions, including but not limited to technical assistance to local
25 governments, and the awarding of grants and other forms of
26 assistance to local governments to conduct and implement energy
27 efficiency, renewable energy, and distributed energy programs and
28 land use planning where the grant or assistance results in a
29 measurable reduction of the emission of greenhouse gases or a
30 measurable reduction in energy demand. For the purpose of
31 conducting any program pursuant to this paragraph, the department,
32 in consultation with the authority and the board, shall determine:
33 (a) the appropriate level of grants or other forms of financial
34 assistance to be awarded to local governments; (b) the evaluation
35 criteria for selecting projects to be awarded grants or other forms of
36 financial assistance; (c) the process by which grants or other forms
37 of financial assistance can be applied for and awarded; and (d) a
38 mechanism by which to quantify benefits; and

39 (4) Ten percent shall be allocated to the department to support
40 programs that enhance the stewardship and restoration of the State's
41 forests and tidal marshes that provide important opportunities to
42 sequester or reduce greenhouse gases.

43 c. (1) The department may use up to four percent of the total
44 amount in the fund each year to pay for administrative costs
45 justifiable and approved in the annual budget process, incurred by
46 the department in administering the provisions of P.L.2007, c.340
47 (C.26:2C-45 et al.) and in administering programs to reduce the
48 emissions of greenhouse gases including any obligations that may

1 arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-
2 55).

3 (2) The board may use up to two percent of the total amount in
4 the fund each year to pay for administrative costs justifiable and
5 approved in the annual budget process, incurred by the board in
6 administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.)
7 and in administering programs to reduce the emissions of
8 greenhouse gases including any obligations that may arise under
9 subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

10 (3) The New Jersey Economic Development Authority may use
11 up to two percent of the total amount in the fund each year to pay
12 for administrative costs justifiable and approved in the annual
13 budget process, incurred by the authority in administering the
14 provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in
15 administering programs to reduce the emissions of greenhouse
16 gases.

17 d. The State Comptroller shall conduct or supervise
18 independent audit and fiscal oversight functions of the fund and its
19 uses.

20 (cf: P.L.2007, c.340, s.7)

21

22 6. (New section) a. (1) A business, upon application to and
23 approval from the authority, shall be allowed a credit of 100 percent
24 of its capital investment, made after the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) but prior to
26 its submission of documentation pursuant to subsection c. of this
27 section, in a qualified wind energy facility located within an eligible
28 wind energy zone, pursuant to the restrictions and requirements of
29 this section. To be eligible for any tax credits authorized under this
30 section, a business shall demonstrate to the authority, at the time of
31 application, that the State's financial support of the proposed capital
32 investment in a qualified wind energy facility will yield a net
33 positive benefit to the State. The value of all credits approved by
34 the authority pursuant to this section may be up to \$100,000,000,
35 except as may be increased by the authority as set forth below;
36 provided, however, that the combined value of all credits approved
37 by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.),
38 P.L.2009, c.90 (C.52:27D-489a et al.), and P.L. , c. (C.)
39 (pending before the Legislature as this bill) shall not exceed
40 \$1,500,000,000. The authority shall monitor application and
41 allocation activity under P.L.2007, c.346 after taking into account
42 the allocation under P.L.2007, c.346 and if sufficient credits are
43 available to those qualified business facilities for which
44 applications have been filed or for which applications are
45 reasonably anticipated, and if the chief executive officer judges
46 certain qualified offshore wind projects to be meritorious, the
47 aforementioned cap may, in the discretion of the chief executive
48 officer, be exceeded for allocation to qualified wind energy

1 facilities in such amounts as the chief executive officer deems
2 reasonable, justified and appropriate.

3 (2) (a) A business, other than a tenant eligible pursuant to
4 subparagraph (b) of this paragraph, shall make or acquire capital
5 investments totaling not less than \$50,000,000 in a qualified wind
6 energy facility, at which the business, including tenants at the
7 qualified wind energy facility, shall employ at least 300 new, full-
8 time employees, to be eligible for a credit under this section. A
9 business that acquires a qualified wind energy facility after the
10 effective date of P.L. , c. (C.) (pending before the Legislature
11 as this bill) shall also be deemed to have acquired the capital
12 investment made or acquired by the seller.

13 (b) A business that is a tenant in the qualified wind energy
14 facility, the owner of which has made or acquired capital
15 investments in the facility totaling more than \$50,000,000, shall
16 occupy a leased area of the qualified wind energy facility that
17 represents at least \$17,500,000 of the capital investment in the
18 qualified wind energy facility at which at least 300 new, full-time
19 employees in the aggregate are employed, to be eligible for a credit
20 under this section. The amount of capital investment in a facility
21 that a leased area represents shall be equal to that percentage of the
22 owner's total capital investment in the facility that the percentage of
23 net leasable area leased by the tenant is of the total net leasable area
24 of the qualified business facility. Capital investments made by a
25 tenant shall be deemed to be included in the calculation of the
26 capital investment made or acquired by the owner, but only to the
27 extent necessary to meet the owner's minimum capital investment
28 of \$50,000,000. Capital investments made by a tenant and not
29 allocated to meet the owner's minimum capital investment
30 threshold of \$50,000,000 shall be added to the amount of capital
31 investment represented by the tenant's leased area in the qualified
32 wind energy facility.

33 (c) The calculation of the number of new, full-time employees
34 required pursuant to subparagraphs (a) and (b) of this paragraph
35 may include the number of new, full-time positions resulting from
36 an equipment supply coordination agreement with equipment
37 manufacturers, suppliers, installers and operators associated with
38 the supply chain required to support the qualified wind energy
39 facility.

40 For the purposes of this paragraph, "full time employee" shall
41 not include an employee who is a resident of another state and
42 whose income is not subject to the "New Jersey Gross Income Tax
43 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
44 reciprocity agreement with the State of New Jersey, provided that
45 any employee whose work is provided pursuant to a collective
46 bargaining agreement with the port district in the wind energy zone
47 may be included.

1 (3) A business shall not be allowed a tax credit pursuant to this
2 section if the business participates in a business employment
3 incentive grant relating to the same capital and employees that
4 qualify the business for this credit, or if the business receives
5 assistance pursuant to the “Business Retention and Relocation
6 Assistance Act,” P.L.1996, c.25 (C.34:1B-112 et seq.). A business
7 that is allowed a tax credit under this section shall not be eligible
8 for incentives authorized pursuant to the “Municipal Rehabilitation
9 and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et
10 al.).

11 (4) Full-time employment for an accounting or privilege period
12 shall be determined as the average of the monthly full-time
13 employment for the period.

14 b. A business shall apply for the credit within five years after
15 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a
16 business shall submit its documentation for approval of its credit
17 amount within eight years after the effective date of P.L.2007,
18 c.346.

19 c. The credit allowed pursuant to this section shall be
20 administered in accordance with the provisions of subsection c. of
21 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
22 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
23 “qualified business facility” shall be deemed to refer to “qualified
24 wind energy facility,” as that term is defined in subsection f. of this
25 section.

26 d. The amount of the credit allowed pursuant to this section
27 shall, except as otherwise provided, be equal to the capital
28 investment made by the business, or the capital investment
29 represented by the business' leased area, and shall be taken over a
30 10-year period, at the rate of one-tenth of the total amount of the
31 business' credit for each tax accounting or privilege period of the
32 business, beginning with the tax period in which the business is first
33 approved by the authority as having met the investment capital and
34 employment qualifications, subject to any disqualification as
35 determined by annual review by the authority. In conducting its
36 annual review, the authority may require a business to submit any
37 information determined by the authority to be necessary and
38 relevant to its review. The credit amount for any tax period ending
39 after the date eight years after the effective date of P.L.2007, c.346
40 (C.34:1B-207 et seq.) during which the documentation of a
41 business' credit amount remains unapproved shall be forfeited,
42 although credit amounts for the remainder of the years of the 10-
43 year credit period shall remain available. The amount of the credit
44 allowed for a tax period to a business that is a tenant in a qualified
45 wind energy facility shall not exceed the business' total lease
46 payments for occupancy of the qualified wind energy facility for the
47 tax period.

1 e. The authority shall adopt rules in accordance with the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
3 seq.) as are necessary to implement this section, including but not
4 limited to: examples of and the determination of capital
5 investment; nature of businesses and employment positions
6 constituting and participating in an equipment supply coordination
7 agreement; determination of the types of businesses that may be
8 eligible and expenses that may constitute capital improvements;
9 promulgation of procedures and forms necessary to apply for a
10 credit; and provisions for applicants to be charged an initial
11 application fee, and ongoing service fees, to cover the
12 administrative costs related to the credit.

13 The rules established by the authority pursuant to this subsection
14 shall be effective immediately upon filing with the Office of
15 Administrative Law and shall be effective for a period not to exceed
16 12 months and may, thereafter, be amended, adopted or readopted
17 in accordance with the provisions of the “Administrative Procedure
18 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

19 f. As used in this section: the terms “authority,” “business,”
20 and “capital investment” shall have the same meanings as defined in
21 section 2 of the “Urban Transit Hub Tax Credit Act,” P.L.2007,
22 c.236 (C.34:1B-208), except that all references therein to “qualified
23 business facility” shall be deemed to refer to “qualified wind energy
24 facility” as defined in this subsection.

25 In addition, as used in this section:

26 “Equipment supply coordination agreement” means an
27 agreement between a business and equipment manufacturer,
28 supplier, installer, and operator that supports a qualified offshore
29 wind project, or other wind energy project as determined by the
30 authority, and that indicates the number of new, full-time jobs to be
31 created by the agreement participants towards the employment
32 requirement as set forth in paragraph (2) of subsection a. of this
33 section.

34 “Qualified offshore wind project” means the same as the term is
35 defined in section 3 of P.L.1999, c.23 (C.48:3-49 et al.).

36 “Qualified wind energy facility” means any building, complex of
37 buildings, or structural components of buildings, including water
38 access infrastructure, and all machinery and equipment used in the
39 manufacturing, assembly, development or administration of
40 component parts that support the development and operation of a
41 qualified offshore wind project, or other wind energy project as
42 determined by the authority, and that are located in a wind energy
43 zone.

44 “Wind energy zone” means property located in the South Jersey
45 Port District established pursuant to “The South Jersey Port
46 Corporation Act,” P.L.1968, c.60 (C.12:11A-1 et seq.).

47

48 7. This act shall take effect immediately.

STATEMENT

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The bill, to be known as the “Offshore Wind Economic Development Act,” would amend and supplement the “Electric Discount and Energy Competition Act” (“EDECA”), P.L.1999, c.23 (C.48:3-49 et al.) to direct the Board of Public Utilities (“BPU”) to develop an offshore wind renewable energy certificate (“OREC”) program to require that a percentage of electricity sold in the State be from offshore wind energy. This percentage would be developed to support at least 1,100 megawatts of generation from qualified offshore wind projects, and would serve as an offset to the renewable energy portfolio standard and reduce the corresponding Class I renewable energy requirement.

The bill adds definitions to section 3 of EDECA for the following terms: offshore wind energy; offshore wind renewable energy certificate or OREC; and qualified offshore wind project.

The bill authorizes the BPU to accept applications for qualified offshore wind projects and sets forth the criteria to be used by the BPU in reviewing the applications. As defined by the bill, “qualified offshore wind project” means a wind turbine electricity generation facility located in the Atlantic Ocean, and connected to the electric transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the board pursuant to the provisions of section 3 of the bill.

Section 3 of the bill establishes standards for applications for qualified offshore wind projects, and includes specific filing requirements to provide the BPU with the necessary foundation to make an informed decision on the value and viability of the proposed offshore wind projects. The bill designates elements that the BPU must consider in its review, including a recognition of the total subsidy to be paid by ratepayers over the life of the proposed project, and whether a cost-benefit analysis of the proposed project demonstrates a net positive benefit to the State. The bill is designed to provide the BPU with the flexibility necessary to develop procedures and set requirements to ensure the development of offshore wind energy in a cost-effective and State-beneficial manner.

Section 4 of the bill provides that the BPU may approve a qualified offshore wind project located offshore of a municipality in which casino gaming is authorized and authorize offshore wind renewable energy certificates for that project.

Section 5 of the bill amends section 7 of P.L.2007, c.340 (C.26:2C-51) (referred to as the “Regional Greenhouse Gas Initiative” or “RGGI”), concerning the uses of revenues received from the auction of greenhouse gas emissions allowances and deposited into the “Global Warming Solutions Fund,” established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), to authorize

1 the New Jersey Economic Development Authority (EDA) to
2 provide financial assistance to qualified offshore wind projects and
3 associated equipment manufacturers and assembling facilities to
4 promote economic development in the State.

5 Lastly, section 6 of the bill supplements the "Urban Transit Hub
6 Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.) and
7 authorizes the EDA to provide up to \$100 million in tax credits for
8 the development of qualified wind energy facilities in wind energy
9 zones as defined by the bill.

10 The bill recognizes that offshore wind projects may create
11 significant economic development and environmental benefits for
12 the State, but that such benefits must be balanced with the cost and
13 the overall impact upon the State, and that the development of
14 offshore wind projects must provide a net positive benefit, both
15 economically and environmentally, for the State.