

ASSEMBLY, No. 1758

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

The “Renewable Energy District Financing Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT authorizing municipalities to establish renewable energy
2 financing districts.

3

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

6

7 1. This act may be known and shall be cited as the “Renewable
8 Energy District Financing Act”.

9

10 2. The Legislature finds and declares:

11 a. The development of renewable energy resources advances
12 the security, economic well-being, and public and environmental
13 health of the State, as well as contribute to the energy independence
14 of the nation.

15 b. It is in the best interests of the State and its municipalities to
16 encourage the development of distributed generation renewable
17 energy sources and the installation by property owners of such
18 energy sources.

19 c. It is fitting for New Jersey to join 15 other states in enacting
20 “Property Assessed Clean Energy” legislation” that empowers
21 municipalities to support the State’s efforts to have 20% of its
22 electricity generated by renewable energy resources, by 2020,
23 thereby relieving the State of the full burden of achieving this goal.

24 d. The high costs of renewable energy installations to real
25 property prevents many property owners from making these
26 improvements, and therefore it is desirable and necessary to
27 authorize alternative financing procedures to promote the
28 installation of these improvements.

29 e. The creation and administration of renewable energy
30 financing districts to facilitate the development of renewable energy
31 improvements on property in the district shall constitute a valid
32 public purpose and is expressly declared to be in the public interest.

33

34 3. As used in this act:

35 “Debt service” means the principal of, interest on, and premium,
36 if any, on the bonds, when due, whether at maturity or prior
37 redemption and fees and costs of agents necessary to handle the
38 bonds and the costs of credit enhancement or liquidity support.

39 “District” means a renewable energy finance district established
40 by a municipality pursuant to section 4 of P.L. , c. (C.)
41 (pending before the Legislature as this bill).

42 “District board” means the board of directors of the district,
43 which shall be comprised of members of the governing body of the
44 municipality in which the district is located.

45 “Governing body” means the board, commission, council or
46 other body having the control of the finances of a municipality; and
47 in those municipality in which a chief executive officer is

1 authorized by law to participate in such control through powers of
2 recommendation, approval or veto, the term includes such executive
3 officer to the extent of such participation.

4 “Municipality” means any borough, city, town, township, or
5 village situated within the boundaries of this State.

6 “Owner” means the person listed as the owner of real property in
7 the district on the current property tax assessment roll.

8 “Renewable energy” means: (1) electric energy produced from
9 solar technologies, photovoltaic technologies, wind energy, fuel
10 cells, geothermal technologies, wave or tidal action, methane gas
11 from landfills, a resource recovery facility, a hydropower facility or
12 a biomass facility, provided that the biomass is cultivated and
13 harvested in a sustainable manner, and provided further that the
14 Commissioner of Environmental Protection has determined that the
15 resource recovery facility, hydropower facility or biomass facility,
16 as appropriate, meets the highest environmental standards and
17 minimizes any impacts to the environment and local communities;
18 and (2) energy produced from solar thermal or geothermal
19 technologies.

20 “Special assessment” means a levy imposed against real property
21 within a district pursuant to section 7 of P.L. , c. (C.) (pending
22 before the Legislature as this bill).

23

24 4. a. The governing body of a municipality may establish a
25 district, pursuant to sections 5 and 6 of P.L. , c. (C.) (pending
26 before the Legislature as this bill) for the purpose of encouraging,
27 accommodating, and financing renewable energy improvements on
28 real property within that area of the municipality. A district shall
29 include only property for which an owner executes an agreement
30 consenting to the inclusion of the property within the district and
31 the imposition of a special assessment on the property for the
32 purpose of financing renewable energy improvements on that
33 property.

34 b. A district established by a municipality shall be wholly
35 within the boundaries of the municipality and may include
36 contiguous and noncontiguous property.

37

38 5. a. The governing body of a municipality may adopt a
39 resolution declaring its intention to establish a district. The
40 resolution shall state the following:

41 (1) the purposes for which the district is to be formed;

42 (2) that the district shall include only property for which the
43 owner has agreed to the inclusion of the property within the district,
44 and that the inclusion of property may occur subsequent to the
45 adoption of the ordinance or resolution establishing the district;

46 (3) the process by which a property owner can execute an
47 agreement to include property in the district;

- 1 (4) a description of the specific types of renewable energy
2 improvements that will be eligible for financing pursuant to P.L. ,
3 c. (C.) (pending before the Legislature as this bill);
4 (5) that inclusion of the property in the district will result in the
5 imposition of special assessments on the property to pay the costs
6 of the approved renewable energy improvements, financing, and
7 administrative fees;
8 (6) the method of calculating the special assessment and the
9 manner of collection of the special assessment;
10 (7) that the district shall be governed by a district board
11 composed of the members of the governing body of the
12 municipality; and
13 (8) that standards and requirements will be set by the district
14 board for renewable energy improvements to be installed on
15 property in the district.
- 16 b. The resolution shall direct that a public hearing on the
17 establishment of the district be scheduled and notice be published as
18 required for public hearings of the governing body.
19
- 20 6. a. At the public hearing on the establishment of a district,
21 the governing body shall accept written and oral testimony and
22 evidence presented in support of or in opposition to establishment
23 of the district. After hearing and considering the oral and written
24 testimony, the governing body shall determine whether the district
25 shall be established.
- 26 b. If the governing body adopts an ordinance establishing the
27 district, it shall cause a copy of the ordinance to be delivered to the
28 municipal assessor, municipal chief financial officer, county board
29 of taxation, the Director of the Division of Taxation in the
30 Department of the Treasury, and the Director of Local Government
31 Services in the Department of Community Affairs.
- 32 c. Subsequent to the establishment of the district, the inclusion
33 of other property in the district shall be accomplished by the
34 execution of an agreement by the owner of the property and the
35 district board agreeing to the inclusion of the property and the
36 imposition of the special assessment on the property, and shall
37 commence upon the district board adopting a resolution to that
38 effect. The district shall transmit a copy of the resolution to the
39 municipal assessor and the municipal clerk not later than 10 days
40 after its adoption.
- 41 d. Property may be removed from the district only upon request
42 of the property owner and adoption of a resolution to do so by the
43 district board. Property within the district that is subject to the lien
44 for special assessments or other charges imposed pursuant to
45 P.L. , c. (C.) (pending before the Legislature as this bill) shall
46 not be removed from the district while there are bonds outstanding
47 that are payable by such special assessments or charges.

1 7. a. The district board may impose a special assessment on
2 each property within the district to facilitate the financing of
3 renewable energy improvements to that property. The special
4 assessment shall be sufficient in the case of each property to pay the
5 costs of the financing of the renewable energy improvements,
6 including the costs of bond issuance, debt service, and
7 administrative costs of the district and the municipality in which the
8 district is located.

9 b. The special assessment shall be levied and collected at the
10 same time and in the same manner as property taxes are levied and
11 collected, except to the extent that the district board has provided
12 for other imposition and collection procedures. Money derived
13 from the imposition of the special assessment shall be kept
14 separately from other funds of the municipality.

15 c. A special assessment shall constitute a lien by the district
16 board on the property, which shall be effective during the period in
17 which the assessment is imposed and shall have priority over all
18 other liens except liens for ad valorem property taxes.

19 d. (1) The obligation to pay the special assessment may be
20 prepaid and permanently satisfied, and the district board shall
21 specify the conditions under which this may be achieved.

22 (2) With respect to solar renewable energy improvements, the
23 obligation to pay the special assessment may be wholly or partially
24 offset by the assignment of the owner's solar renewable energy
25 certificates to the district board.

26

27 8. a. The district board may issue one or more series of bonds
28 to provide money for renewable energy improvements to property
29 in the district, and the bonds may be payable from the special
30 assessments levied pursuant to one or more assessment resolutions.

31 b. For any bonds issued pursuant to subsection a. of this
32 section, the district board shall prescribe the denominations of the
33 bonds, the principal amount of each issue, and the form of the
34 bonds, and shall establish the maturities, which shall not exceed 20
35 years, and be based on the useful life of the renewable energy
36 improvement as determined by regulation of the Board of Public
37 Utilities, except that with regard to solar renewable energy
38 improvements, the maturities shall not exceed 15 years interest
39 payment dates and interest rates, whether fixed or variable.

40 c. The bonds may be sold by competitive bid or negotiated sale
41 for public or private offering at, below, or above par. The proceeds
42 of the bonds shall be deposited with the chief financial officer, or
43 with a trustee or agent designated by the district board, to the credit
44 of the district to be withdrawn for the purposes provided by P.L. , ,

45 c. (C.) (pending before the Legislature as this bill). Pending
46 that use, the proceeds may be invested by the district board in

1 accordance with the provisions of section 8 of P.L.1977, c.396
2 (C.40A:5-15.1).

3 d. The bonds shall be made payable as to both principal and
4 interest solely from the revenues from the district, and shall specify
5 the revenues pledged for such purposes, and shall contain such
6 other terms, conditions, covenants, and agreements as the district
7 board deems proper. No holder of special assessment bonds issued
8 pursuant to this section may compel any exercise of the taxing
9 power of the district or municipality to pay the bonds or the interest
10 on the bonds. Special assessment bonds issued pursuant to this
11 section are not a debt or general obligation of the municipality in
12 which the district is located, or is the payment of special assessment
13 bonds enforceable out of any money other than the revenue pledged
14 to the payment of the bonds.

15 e. The district may issue and sell refunding bonds to refund
16 any special assessment bonds of the district authorized by this
17 section. Refunding bonds issued pursuant to this section shall have
18 a final maturity date no later than the final maturity date of the
19 bonds being refunded.

20 f. The district board may securitize solar renewable energy
21 certificates received through assignment from various owners with
22 solar renewable energy improvements.

23

24 9. a. The district board shall:

25 (1) establish guidelines and standards for renewable energy
26 improvements to be made to property included in the district;

27 (2) establish guidelines and procedures for a property owner to
28 enter into an agreement with the district board to include property
29 in the district;

30 (3) establish guidelines for the documentation required from a
31 property owner prior to the property being included in the district,
32 of the owner's contracts or agreements for purchase and installation
33 of renewable energy improvements;

34 (4) establish the amount of and impose special assessments for
35 the financing of the renewable energy improvements, including the
36 costs of bond issuance, debt service, and administrative costs of the
37 district and the municipality in which the district is located;

38 (5) enter into contracts, agreements, and trust indentures to
39 obtain credit enhancement or liquidity support for its bonds and
40 process the issuance, registration, transfer, and payment of its bonds
41 and the disbursement and investment of proceeds of the bonds; and

42 (6) in the case of solar renewable energy improvements
43 securitize solar renewable energy certificates towards the payments
44 of its bonds.

45 b. The district board may enter into contracts to carry out the
46 purposes of the district on such terms and with such persons as the
47 board determines to be appropriate.

1 this bill would empower municipalities to support the State's efforts
2 to have 20% of its electricity generated by renewable energy
3 resources by 2020.

4 The governing body of a municipality may adopt an ordinance
5 creating a renewable energy financing district after a public hearing
6 has been held. The district board, which, under the bill, is the
7 governing body of the municipality, may then execute agreements
8 with property owners that allow for the imposition of a special
9 assessment on property within the district to support the financing
10 of renewable energy improvements to the property. The district
11 may use the special assessment revenues to secure bonds that would
12 fund the costs of the improvements, bond issuance, debt service,
13 and administrative costs of the district and the municipality in
14 which it is located. The improvements would be financed over a
15 period 20 years. Solar renewable energy improvements may be
16 financed over a period of 15 years.

17 If a property owner installs solar renewable energy
18 improvements, then the obligation to pay the special assessment
19 may be wholly or partially offset by the assignment of the owner's
20 solar renewable energy certificates to the district board. The board
21 may then securitize the certificates towards the payment of the
22 bonds issued to finance the project.

23 The establishment of a renewable energy financing district will
24 enable some municipalities to access federal Qualified Energy
25 Conservation Bonds (QECBs). Through the use of QECBs, (which,
26 due to federal tax incentives, have an interest rate of zero percent)
27 these improvements could possibly pay for themselves given that an
28 individual could receive more in energy savings and other rebates
29 that they would be required to payout in annual special assessment
30 taxes. According to the Internal Revenue Code, Qualified Energy
31 Conservation Bonds are not private activity bonds and are exempt
32 from taxation. The State received \$90 million in QCEBs through
33 the federal stimulus program.

34 The municipality board may adopt an ordinance dissolving the
35 district upon determining that the district has no outstanding bond
36 obligations. The district cannot be dissolved if any bonds of the
37 district remain outstanding unless an amount of money sufficient,
38 together with investment income thereon, to make all payments due
39 on the bonds either at maturity or prior redemption, has been
40 deposited with a trustee or escrow agent and pledged to the
41 repayment of the bonds.