

[Second Reprint]

**SENATE, No. 2180**

---

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

---

INTRODUCED MAY 16, 2016

**Sponsored by:**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

“New Jersey Rural Electric Cooperative Act.”

**CURRENT VERSION OF TEXT**

As reported by the Assembly Telecommunications and Utilities Committee on December 20, 2017, with amendments.



1 AN ACT concerning rural electric cooperatives, supplementing Title  
2 15A of the New Jersey Statutes, and amending P.L.1945, c.162.

3

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

6

7 1. (New section) Sections 1 through 19 of this act shall be  
8 known and may be cited as the “New Jersey Rural Electric  
9 Cooperative Act.”

10

11 2. (New section) As used in P.L. , c. (C. )(pending before  
12 the Legislature as this bill):

13 "Acquire" means to construct or by purchase, lease, devise, gift,  
14 or other mode of acquisition.

15 "Board" means the board of directors of a rural electric  
16 cooperative.

17 "Federal agency" means any department, administration,  
18 commission, board, bureau, office, establishment, agency, authority,  
19 or instrumentality of the United States of America.

20 "Member" means the incorporators of a rural electric cooperative  
21 and each person thereafter lawfully admitted to membership therein.

22 "Obligations" means bonds, notes, debentures, interim  
23 certificates, or receipts, and all other evidence of indebtedness,  
24 whether secured or unsecured, issued by a rural electric cooperative.

25 "Person" means any individual or entity but shall not include any  
26 Federal agency, state, or any political subdivision thereof.

27 "Rural area" means any area included within the boundaries of  
28 any municipality that, as of <sup>2</sup>**[January 1, 1995, had]** the date of the  
29 rural electric cooperative’s articles of incorporation, has<sup>2</sup>  
30 population of 30,000 inhabitants or less and a population density  
31 less than 4,000 persons per square mile, according to the latest  
32 federal decennial census, including both the farm and nonfarm  
33 population thereof.

34 "Rural electric cooperative" or "cooperative" means a nonprofit  
35 corporation entitled to the rights, benefits, and protections  
36 established under P.L. , c. (C. ) (pending before the  
37 Legislature as this bill).

38

39 3. (New section) A rural electric cooperative which <sup>2</sup>**[has**  
40 continuously operated since January 1, 1995 and thereafter and]<sup>2</sup>  
41 organized as a rural electric cooperative under the general  
42 corporation laws of this State, is hereby recognized and affirmed as  
43 a rural electric cooperative entitled to the rights, benefits, and  
44 protections established under P.L. , c. (C. ) (pending

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>**Senate SBA committee amendments adopted June 1, 2017.**

<sup>2</sup>**Assembly ATU committee amendments adopted December 20, 2017.**

1 before the Legislature as this bill), if formed for any of the  
2 following purposes:

3 a. Furnishing of electric energy to persons who shall be  
4 members of the cooperative in rural areas who are not receiving  
5 service from an electric public utility;

6 b. Assisting in the wiring of the premises of persons in rural  
7 areas who are members of the cooperative or the acquisition,  
8 supply, or installation of electrical or plumbing equipment therein;  
9 and

10 c. Furnishing of electric energy, wiring facilities, electrical  
11 equipment, or services in rural areas to the members thereof.

12

13 4. (New section) The articles of incorporation of a rural  
14 electric cooperative existing under P.L. , c. (C. )  
15 (pending before the Legislature as this bill) shall state:

16 a. The name of the cooperative, which shall include the words  
17 "Rural Electric Cooperative" and shall not be confusingly similar to  
18 the name of any other corporation in this State;

19 b. The purposes for which the cooperative is formed;

20 c. The names and addresses of the incorporators who shall  
21 serve as directors, and manage the affairs, of the cooperative until  
22 its first annual meeting of members or until their successors are  
23 elected and qualified;

24 d. The number of directors, not less than three, to be elected at  
25 the annual meetings of members;

26 e. The address, including street and number, if any, of the  
27 cooperative's registered office;

28 f. The period of duration of the cooperative, which may be  
29 perpetual;

30 g. The terms and conditions upon which persons will be  
31 admitted to, and retain, membership in the cooperative, provided  
32 that, if expressly so stated, the determination of these matters may  
33 be reserved to the directors by the bylaws; and

34 h. Other provisions, not inconsistent with law, which the  
35 incorporators or directors choose to insert for the regulation of the  
36 business and affairs of the cooperative.

37

38 5. (New section) The words "Rural Electric Cooperative" shall  
39 not be used in the corporate name of any corporation organized for  
40 profit or not-for-profit in this State other than a cooperative existing  
41 under P.L. , c. (C. ) (pending before the Legislature as  
42 this bill).

43

44 6. (New section) All of the provisions of law applicable to  
45 rural electric cooperatives shall be construed liberally. The  
46 enumeration of any object, purpose, power, manner, method, or  
47 thing shall not be deemed to exclude like or similar objects,  
48 purposes, powers, manners, methods, or things.

1       7. (New section) A rural electric cooperative existing under  
2 P.L.       , c.       (C.       ) (pending before the Legislature as this  
3 bill) shall have the power:

4       a. To generate, manufacture, purchase, acquire, and accumulate  
5 electric energy and to transmit, distribute, sell, furnish, and dispose  
6 of that electric energy to its members; and to construct, erect,  
7 purchase, lease as lessee and, in any manner, acquire, own, hold,  
8 maintain, operate, sell, dispose of, lease as lessor, exchange, and  
9 mortgage plants, buildings, works, machinery, supplies, equipment,  
10 apparatus, and transmission and distribution lines or systems  
11 necessary, convenient, or useful;

12       b. To assist its members to wire their premises and install  
13 therein electrical and plumbing fixtures, machinery, supplies,  
14 apparatus, and equipment of all kinds and character and, in  
15 connection therewith and for those purposes, to purchase, acquire,  
16 lease, sell, distribute, install, and repair electrical and plumbing  
17 fixtures, machinery, supplies, apparatus, and equipment of all kinds  
18 and character;

19       c. To receive, acquire, endorse, pledge, hypothecate, and  
20 dispose of notes, bonds, and other evidences of indebtedness;

21       d. To use any highway or any right-of-way, easement, or other  
22 similar property right owned or held by the State or any political  
23 subdivision thereof, in connection with the acquisition,  
24 construction, improvement, operation, or maintenance of its lines;

25       e. To have and exercise the power of eminent domain for the  
26 same purposes and in the same manner as electric public utilities  
27 within the State;

28       f. To fix, regulate, and collect rates, fees, rents, or other  
29 charges for electric energy and any other facilities, supplies,  
30 equipment, or services furnished by the cooperative;

31       g. To accept gifts or grants of money, services, or property,  
32 real, or personal; and

33       h. To do and perform, either for itself or its members or for any  
34 other cooperative, or for the members thereof, all acts necessary and  
35 to have and exercise any and all powers as may be necessary,  
36 convenient, or appropriate to effectuate the purpose for which the  
37 cooperative is incorporated.

38

39       8. (New section) The power to make, alter, or repeal the  
40 bylaws of a rural electric cooperative established pursuant to  
41 P.L.       , c.       (C.       ) (pending before the Legislature as this  
42 bill) shall be vested in the board of directors of the cooperative.  
43 The bylaws may contain any provisions for the regulation and  
44 management of the affairs of the cooperative not inconsistent with  
45 law or the articles of incorporation.

46

47       9. (New section) All persons in rural areas served, or proposed  
48 to be served, by a rural electric cooperative shall be eligible for

1 membership in the cooperative upon terms as the cooperative's  
2 bylaws may specify. The bylaws shall constitute a contract between  
3 the cooperative and each of its members.

4

5 10. (New section) A member shall not be liable for the debts of  
6 a rural electric cooperative, but nothing in P.L. , c. (C. )  
7 (pending before the Legislature as this bill) shall be construed to  
8 relieve any member from the payment of any debt due by the  
9 member to the cooperative.

10

11 11. (New section) When a member of a rural electric  
12 cooperative has paid a membership fee, submitted a membership  
13 application, and complied with all remaining requirements for  
14 membership as determined by the cooperative, a certificate of  
15 membership shall be issued to the member. Memberships in the  
16 cooperative and the certificates thereof shall be nontransferable.  
17 The certificate of membership shall be surrendered to the  
18 cooperative upon the resignation, expulsion, or death of the  
19 member.

20

21 12. (New section) a. The business and affairs of a rural electric  
22 cooperative shall be managed under the direction of a board of not  
23 less than three directors who shall be natural persons of full age.  
24 All directors shall be members of the cooperative.

25 b. Any vacancy occurring in the board of directors of the  
26 cooperative shall be filled by the remaining directors in accordance  
27 with the bylaws of the cooperative.

28

29 13. (New section) a. An annual meeting of the members of a  
30 rural electric cooperative shall be held at a time as may be provided  
31 in the bylaws.

32 b. Special meetings of the members may be called by:

33 (1) the president;

34 (2) the board of directors;

35 (3) the members as evidenced by a petition signed by not less  
36 than one-tenth of all of the members; or

37 (4) other officers or persons as may be provided in the bylaws.

38 c. Written notice of every meeting of members shall be given  
39 in the manner prescribed in the cooperative's bylaws, but in no  
40 event shall written notice be given more than 30 days or less than  
41 10 days before the date of the meeting. If mailed, the notice shall  
42 be deemed to be delivered when deposited in the United States mail  
43 in a sealed envelope, addressed to the member at the member's  
44 address as it appears on the records of the cooperative, with postage  
45 thereon pre-paid.

46

47 14. (New section) If the total number of members of a rural  
48 electric cooperative shall exceed 1,000, then at least 100 of the

1 members present in person shall constitute a quorum for the  
2 transaction of business at all meetings of members. In the case of a  
3 joint membership, the presence at a meeting of either joint member  
4 or both shall be regarded as the presence of one member. If less  
5 than a quorum is present at any meeting, a majority of those  
6 members present in person may adjourn the meeting from time to  
7 time without further notice.

8  
9 15. (New section) Each member of a rural electric cooperative  
10 present shall be entitled to only one vote on each matter submitted  
11 to a vote at a meeting of members. All questions shall be decided  
12 by a vote of a majority of members voting thereon in person except  
13 as otherwise provided by law, the articles of incorporation, or the  
14 bylaws.

15  
16 16. (New section) a. A rural electric cooperative shall be  
17 operated without profit to its members, but the rates, fees, rents, or  
18 other charges for electric energy, and any other facilities, supplies,  
19 equipment, or services furnished by the cooperative shall be  
20 sufficient at all times:

21 (1) to pay all operating and maintenance expenses necessary or  
22 desirable for the prudent conduct of its business and the principal of  
23 and interest on the obligations issued or assumed by the cooperative  
24 in the performance of the purpose for which it was organized; and

25 (2) for the creation of reserves.

26 b. The revenues of the cooperative shall be devoted, first, to the  
27 payment of operating and maintenance expenses and the principal  
28 and interest on outstanding obligations and, thereafter, to the  
29 reserves for improvement, new construction, depreciation, and  
30 contingencies as the board may, from time to time, prescribe.

31 c. (1) Revenues not required for the purposes set forth in sub-  
32 section b. of this section shall be returned, from time to time, to the  
33 members on a pro rata basis, according to the amount of business  
34 done with each member during the period, either in cash, in  
35 abatement of current charges for electric energy, or otherwise, as  
36 the board determines, but the return may be made by way of general  
37 rate reduction to members if the board so elects. The allocation and  
38 retirement of any capital credits shall be made by the directors in  
39 accordance with the bylaws of the cooperative.

40 (2) Any capital credits that remain unclaimed at the expiration  
41 of a period of three years from the date of member notification by  
42 the cooperative to the member at the member's last known address,  
43 as shown on the records of the cooperative, shall be retained by the  
44 cooperative for its general corporate purposes.

45  
46 17. (New section) a. Any two or more rural electric  
47 cooperatives may merge, consolidate, or divide, but only if the  
48 surviving or resulting entity is a rural electric cooperative existing

1 under P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as  
2 this bill) or under the laws of a neighboring state. Every merger,  
3 consolidation, or division of a cooperative shall be proposed by the  
4 adoption by the board of directors of a resolution approving the  
5 plan of merger, consolidation, or division and directing that the plan  
6 be submitted to a vote of the members entitled to vote thereon at a  
7 regular or special meeting of the members.

8 b. A rural electric cooperative may sell, lease, lease-sell,  
9 exchange, or otherwise dispose of all or substantially all of its  
10 assets, other than in the ordinary course of business, only when  
11 authorized by the affirmative vote of two-thirds of all the members  
12 of the cooperative.

13 (1) The plan of asset transfer presented shall set forth the terms  
14 and conditions of the sale, lease, exchange, or other disposition, or  
15 may authorize the board of directors of the cooperative to fix any  
16 terms and conditions, including the consideration to be received by  
17 the cooperative therefor.

18 (2) Prior to the submission for consideration by the members of  
19 the cooperative, the board of directors of the cooperative shall first  
20 give all other rural electric cooperatives within the State of New  
21 Jersey and a neighboring state an opportunity to submit competing  
22 proposals. That opportunity shall be presented in the form of a  
23 written notice to those cooperatives, which notice shall be attached  
24 to a copy of the proposal which the cooperative has already  
25 received. Those cooperatives shall be given not less than 30 days  
26 during which to submit competing proposals, and the actual  
27 minimum period within which proposals are to be submitted shall  
28 be stated in the written notice given to them.

29 (3) Within 30 days after the expiration of the notice period set  
30 by the board of directors of a cooperative under paragraph (2) of  
31 this subsection, written notice of the special meeting to consider  
32 and take action on the plan of asset transfer and expressing in detail  
33 each of the proposals shall be given to each member of the  
34 cooperative. The special meeting shall not be held sooner than 30  
35 days after giving that notice to the members.

36 (4) After a plan of asset transfer has been authorized by the  
37 members of a cooperative, the board of directors, in its discretion,  
38 may either pursue or abandon the sale, lease, lease-sale, exchange,  
39 or other disposition, subject to the rights of third parties under any  
40 contracts relating thereto, without further action or approval by the  
41 members.

42

43 18. (New section) A rural electric cooperative may dissolve  
44 only when authorized by the affirmative vote of two-thirds of all the  
45 members of the cooperative. Any assets remaining after all  
46 liabilities or obligations of the cooperative have been satisfied or  
47 discharged upon dissolution shall be distributed pro rata among the  
48 members of the cooperative at the time of the filing of the

1 certificate of dissolution in accordance with the cooperative's  
2 bylaws.

3  
4 19. (New section) Whenever any rural electric cooperative  
5 subject to P.L. , c. (C. ) (pending before the  
6 Legislature as this bill) has borrowed money from any federal  
7 agency, the obligations issued to secure the payment of the money  
8 shall be exempt from the provisions of the "Uniform Securities Law  
9 (1997)," P.L.1967, c.93 (C.49:3-47 et seq.) nor shall the provisions  
10 of P.L.1967, c.93 (C.49:3-47 et seq.) apply to the issuance of  
11 membership certificates by that cooperative.

12  
13 20. Section 3 of P.L.1945, c.162 (C.54:10A-3) is amended to  
14 read as follows:

15 3. The following corporations shall be exempt from the tax  
16 imposed by **[this act]** P.L.1945, c.162 (C.54:10A-1 et seq.):

17 (a) Corporations subject to a tax assessed upon the basis of  
18 gross receipts, other than the alternative minimum assessment  
19 determined pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a),  
20 and corporations subject to a tax assessed upon the basis of  
21 insurance premiums collected;

22 (b) Corporations which operate regular route autobus service  
23 within this State under operating authority conferred pursuant to  
24 R.S.48:4-3, provided, however, that **[such]** the corporations shall  
25 not be exempt from the tax on net income imposed by section 5(c)  
26 of P.L.1945, c.162 (C.54:10A-5);

27 (c) Railroad, canal corporations, production credit associations  
28 organized under the Farm Credit Act of 1933, or agricultural  
29 cooperative associations incorporated or domesticated under or  
30 subject to chapter 13 of Title 4 of the Revised Statutes and exempt  
31 under Subtitle A, Chapter 1F, Part IV, Section 521 of the federal  
32 Internal Revenue Code (26 U.S.C. s.521);

33 (d) Cemetery corporations not conducted for pecuniary profit or  
34 any private shareholder or individual;

35 (e) Nonprofit corporations, associations or organizations  
36 established, organized or chartered, without capital stock, under the  
37 provisions of Title 15, 16 or 17 of the Revised Statutes, Title 15A  
38 of the New Jersey Statutes or under a special charter or under any  
39 similar general or special law of this or any other state, and not  
40 conducted for pecuniary profit of any private shareholders or  
41 individual;

42 (f) Sewerage and water corporations subject to a tax under the  
43 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) or any statute or  
44 law imposing a similar tax or taxes;

45 (g) Nonstock corporations organized under the laws of this State  
46 or of any other state of the United States to provide mutual  
47 ownership housing under federal law by tenants, provided,  
48 however, that the exemption hereunder shall continue only so long



1 as the corporations remain subject to rules and regulations of the  
2 Federal Housing Authority and the Commissioner of the Federal  
3 Housing Authority holds membership certificates in the  
4 corporations and the corporate property is encumbered by a  
5 mortgage deed or deed of trust insured under the National Housing  
6 Act (48 Stat.1246) as amended by subsequent Acts of Congress. In  
7 order to be exempted under this subsection, corporations shall  
8 annually file a report on or before August 15 with the  
9 commissioner, in the form required by the commissioner, to claim  
10 such exemption, and shall pay a filing fee of **[\$25.00] \$25**;

11 (h) Corporations not for profit organized under any law of this  
12 State where the primary purpose thereof is to provide for its  
13 shareholders or members housing in a retirement community as the  
14 same is defined under the provisions of the "Retirement Community  
15 Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.);

16 (i) Corporations which are licensed as insurance companies  
17 under the laws of another state, including corporations which are  
18 surplus lines insurers declared eligible by the Commissioner of  
19 Banking and Insurance pursuant to section 11 of P.L.1960, c.32  
20 (C.17:22-6.45) to insure risks within this State; **[and]**

21 (j) (1) Municipal electric corporations that were in existence as  
22 of January 1, 1995 provided that all of their income is from sales,  
23 exchanges, or deliveries of electricity derived from customers using  
24 electricity within their municipal boundaries; and (2) Municipal  
25 electric utilities that were in existence as of January 1, 1995  
26 provided that all of their income is from sales, exchanges, or  
27 deliveries of electricity derived from customers using electricity  
28 within their franchise area existing as of January 1, 1995. If a  
29 municipal electric corporation derives income from sales,  
30 exchanges, or deliveries of electricity from customers using the  
31 electricity outside its municipal boundaries, **[such] the** municipal  
32 electric corporation shall be subject to the tax imposed by **[this act]**  
33 P.L.1945, c.162 (C.54:10A-1 et seq.) on all income. If a municipal  
34 electric utility derives income from sales, exchanges or deliveries of  
35 electricity from customers using electricity outside its franchise  
36 area existing as of January 1, 1995, **[such] the** municipal electric  
37 utility shall be subject to the tax imposed by **[the act]** P.L.1945,  
38 c.162 (C.54:10A-1 et seq.) on all income; and

39 (k) A rural electric cooperative which is exclusively owned and  
40 controlled by the members it serves **<sup>2</sup>[that was in existence as of**  
41 **January 1, 1995]<sup>2</sup>** and is subject to the provisions of P.L. \_\_\_\_\_,  
42 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
43 provided that all of the cooperative's income from the sale and  
44 distribution of electricity is derived from sales, exchanges, or  
45 deliveries of electricity to members using electricity within its  
46 franchise area **<sup>2</sup>[existing as of January 1, 1995]<sup>2</sup>**. If a rural electric  
47 cooperative derives income from sales, exchanges, or deliveries of  
48 electricity from customers using electricity outside its franchise

1 area <sup>2</sup>[existing as of January 1, 1995]<sup>2</sup>, that rural electric  
2 cooperative shall be subject to the tax imposed by P.L.1945, c.162  
3 (C.54:10A-1 et seq.) on income derived from those sales,  
4 exchanges, or deliveries.  
5 (cf: P.L.2002, c.40, s.2)

6  
7 21. This act shall take effect immediately <sup>1</sup>and section 20 shall  
8 first apply to accounting or privilege periods commencing after the  
9 date of enactment<sup>1</sup>.