

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3301

STATE OF NEW JERSEY
212th LEGISLATURE

ADOPTED JUNE 14, 2007

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SYNOPSIS

The "Global Warming Response Act."

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 18, 2007, with amendments.

(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning the reduction of greenhouse gases,
2 supplementing Title 26 of the Revised Statutes, and amending
3 P.L.1999, c.23.
4

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

8 1. (New section) This act shall be known and may be cited as
9 the “Global Warming Response Act.”
10

11 2. (New section) The Legislature finds and declares that
12 internationally the issue of global warming has caused alarm,
13 awareness, and action concerning climate changes occurring around
14 the globe attributed to the high level of certain gases called
15 “greenhouse gases” – gases that increase temperatures in the
16 atmosphere and the risk of catastrophic changes to the Earth’s
17 ecosystems and environment; that, while this global warming may
18 be a theory to some, the effects of increasing levels of greenhouse
19 gases in the atmosphere are accepted by many respected scientists
20 and members of the international community as seriously
21 detrimental to the ecosystems and environment of the world; that,
22 ultimately, if steps are not taken to reverse these trends, the effects
23 on human, animal and plant life on Earth may be catastrophic; that
24 solutions exist to halt the increasing of greenhouse gases in the
25 atmosphere and reduce these emissions; that, as a global issue, each
26 country and region within a country must do its part to reduce these
27 greenhouse gases that threaten the globe; and that, as a State, there
28 are specific actions that can be taken to attack the problem of global
29 warming, through reductions of greenhouse gas emissions in the
30 State and participation in regional and interstate initiatives to reduce
31 these emissions regionally, nationally, and internationally.

32 The Legislature therefore finds and declares that it is in the
33 public interest to establish a greenhouse gas emissions reduction
34 program to limit the level of Statewide greenhouse gas emissions,
35 and greenhouse gas emissions from electricity generated outside the
36 State but consumed in the State, to the 1990 level or below, of those
37 emissions by the year 2020, and to reduce those emissions to 80%
38 below the 2006 level by the year 2050.
39

40 3. (New section) For the purposes of this act:

41 “Department” means the Department of Environmental
42 Protection.

43 “Greenhouse gas” means carbon dioxide, methane, nitrous oxide,
44 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any

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:

¹ Assembly ABU committee amendments adopted June 18, 2007.

1 other gas or substance determined by the Department of
2 Environmental Protection to be a significant contributor to the
3 problem of global warming.

4 ¹["Leakage" means an increase in greenhouse gas emissions
5 related to generation sources located outside of the State that are not
6 subject to a state, interstate or regional greenhouse gas emissions
7 cap that applies to generation sources located within the State.]¹

8 "Statewide greenhouse gas emissions" means the sum of calendar
9 year emissions of greenhouse gases from all sources within the
10 State, and from electricity generated outside the State but consumed
11 in the State, as determined by the department pursuant to subsection
12 c. of section 5 of this act.

13 "2020 limit" means the level of greenhouse gas emissions equal
14 to the 1990 level of Statewide greenhouse gas emissions.

15 "2050 limit" means the level of greenhouse gas emissions equal
16 to 80 percent less than the 2006 level of Statewide greenhouse gas
17 emissions.

18

19 4. (New section) a. No later than January 1, 2020, the level of
20 Statewide greenhouse gas emissions shall be reduced to, or below,
21 the 2020 limit. No later than January 1, 2050, the greenhouse gas
22 emissions in the State shall be stabilized at or below the 2050 limit
23 and shall not exceed that level thereafter. The department shall
24 consider the economic impact upon the State and upon the emitters
25 of a greenhouse gas for any measure imposed to meet the 2020 limit
26 and the 2050 limit.

27 b. No later than one year after the date of enactment of this act,
28 the department shall establish:

29 (1) an inventory of the current and 2006 Statewide greenhouse
30 gas emissions; and

31 (2) an inventory of the 1990 level of Statewide greenhouse gas
32 emissions.

33

34 5. (New section) a. No later than January 1, 2009, the
35 department shall adopt, pursuant to the "Administrative Procedure
36 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
37 establishing a greenhouse gas emissions monitoring and reporting
38 program to monitor and report Statewide greenhouse gas emissions.

39 b. The rules and regulations adopted pursuant to subsection a. of
40 this section shall identify all significant sources of Statewide
41 greenhouse gas emissions and shall provide for, but need not be
42 limited to, the following:

43 (1) monitoring and reporting of existing emissions and changes
44 in emissions over time from the sources identified by the
45 department;

46 (2) reporting the levels of those emissions and changes in those
47 emissions levels annually, commencing on January 1, 2009; and

48 (3) monitoring progress toward the 2020 limit and the 2050 limit.

1 c. Pursuant to the rules and regulations adopted pursuant to
2 subsection a. of this section, the department shall require reporting
3 of the greenhouse gas emissions:

4 (1) associated with fossil fuels used in the State, as reported by
5 entities that are manufacturers and distributors of fossil fuels, which
6 may include, but need not be limited to, oil refineries, oil storage
7 facilities, natural gas pipelines, and fuel wholesale and retail
8 distributors;

9 (2) from any entity generating electricity in the State and from
10 any entity that generates electricity outside the State that is
11 delivered for end use in the State. With respect to electricity
12 generated outside the State and imported into the State, the
13 department shall determine the emissions from that generation by
14 subtracting the kilowatt-hours of electricity generated in the State
15 from the kilowatt-hours of electricity consumed in the State, and
16 multiplying the difference by a default emissions rate determined by
17 the department;

18 (3) from any gas public utility as defined in section 3 of
19 P.L.1999, c.23 (C.48:3-51); and

20 (4) from any additional entities that are significant emitters of
21 greenhouse gases, as determined by the department, and as
22 appropriate to enable the department to monitor compliance with
23 progress toward the 2020 limit and the 2050 limit.

24 ¹[d. There is created in the department, a special, nonlapsing
25 fund to be known as the "Greenhouse Gas Emissions Control
26 Fund." The department may adopt, by rule or regulation, a schedule
27 of reasonable fees to be paid by those entities required to report
28 greenhouse gas emissions pursuant to this section, in an amount
29 sufficient to cover the department's costs to administer the
30 requirements of this act. The fees collected pursuant to this
31 subsection shall be deposited in the Greenhouse Gas Emissions
32 Control Fund and shall be made available to implement the
33 provisions of this act.

34 e. Subsection d. of this section shall be without effect and the
35 department shall have no authority to impose a fee pursuant to this
36 section on and after the 10th day following a certification by the
37 Director of the Division of Budget and Accounting in the
38 Department of the Treasury pursuant to subsection b. of section 8 of
39 this act.]¹

40

41 6. (New section) a. The department, in consultation with the
42 Board of Public Utilities, the Department of Agriculture, the
43 Department of Transportation, and the Department of Community
44 Affairs, shall evaluate policies and measures that will enable the
45 State to achieve the 2020 limit, shall make specific
46 recommendations on how to achieve the emission reduction targets,
47 including measures that reduce emissions in all sectors of the
48 economy including transportation, housing, and consumer products,

1 and shall evaluate the economic benefits and costs of implementing
2 these recommendations. The department shall coordinate its
3 evaluation of greenhouse gas emission reduction policies and
4 measures with the work of the Energy Master Plan Committee
5 established pursuant to section 12 of P.L.1977, c.146 (C.52:27F-
6 14).

7 b. No later than June 30, 2008, the department, and any other
8 State agencies, as appropriate, shall prepare a report recommending
9 the measures necessary to reduce greenhouse gas emissions to
10 achieve the 2020 limit. The report shall include specific
11 recommendations for legislative and regulatory action that will be
12 necessary to achieve the 2020 limit. The report shall be transmitted
13 to the Governor, to the State Treasurer, to the Legislature pursuant
14 to section 2 of P.L.1991, c.164 (C.52:14-19.1) and to the members
15 of the Senate Environment Committee and the Assembly
16 Environment and Solid Waste Committee.

17 c. No later than June 30, 2010, the department, and any other
18 State agencies, as appropriate, shall prepare a report recommending
19 the measures necessary to reduce greenhouse gas emissions to
20 achieve the 2050 limit. The report shall include specific
21 recommendations for legislative and regulatory action that will be
22 necessary to achieve the 2050 limit. The report shall also include
23 recommendations for additional policies and measures that will be
24 required if the State is otherwise expected to exceed the 2020 limit
25 and any additional measures that will be required to meet the 2050
26 limit. The report shall be transmitted to the Governor, to the State
27 Treasurer, to the Legislature pursuant to section 2 of P.L.1991,
28 c.164 (C.52:14-19.1) and to the members of the Senate
29 Environment Committee and the Assembly Environment and Solid
30 Waste Committee.

31 d. The Energy Master Plan Committee shall include in its
32 adoption of the first update of the energy master plan completed
33 after the date of enactment of this act, a list of recommended
34 policies and measures to reduce the emission of greenhouse gases
35 from the production, processing, distribution, transmission, storage,
36 or use of energy that will contribute to achieving the 2020 limit.

37 e. Nothing in this act shall impose any limit on the existing
38 authority of the department, the Board of Public Utilities, or any
39 other State department or agency to limit or regulate greenhouse gas
40 emissions pursuant to law.

41

42 7. (New section) a. No later than January 1, 2009, and
43 biennially thereafter, the department shall prepare and transmit, in
44 writing, a report to the Governor, to the State Treasurer, to the
45 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
46 and to the members of the Senate Environment Committee and the
47 Assembly Environment and Solid Waste Committee, on the status
48 of the greenhouse gas emissions monitoring and reporting program

1 established pursuant to this act, the current level of greenhouse gas
2 emissions in the State and the progress made toward compliance
3 with the 2020 limit and the 2050 limit established pursuant to this
4 act. The report shall also include updated and comparative
5 inventories of Statewide greenhouse gas emissions.

6 b. No later than January 1, 2015, the department shall evaluate
7 the ecological, economic, and environmental factors and the
8 technological capability affecting the attainment or maintenance of
9 the 2020 limit and the 2050 limit established pursuant to this act.

10

11 ¹[8. (New section) a. The annual appropriations act for each
12 State fiscal year shall, without other conditions, limitations or
13 restrictions, appropriate the amounts paid as fees imposed pursuant
14 to subsection d. of section 5 of this act, for use by the Department
15 of Environmental Protection to implement the provisions of this act.

16 b. If the requirements of subsection a. of this section are not met
17 on the effective date of an annual appropriations act for the State
18 fiscal year, or if an amendment or supplement to an annual
19 appropriations act for the State fiscal year should violate any of the
20 requirements of subsection a. of this section, the Director of the
21 Division of Budget and Accounting in the Department of the
22 Treasury shall, not later than five days after the enactment of the
23 annual appropriations act, or the amendment or supplement thereto,
24 that violates any of the requirements of subsection a. of this section,
25 certify to the Commissioner of Environmental Protection and the
26 State Treasurer that the requirements of subsection a. of this section
27 have not been met.]¹

28

29 ¹[9.] 8.¹ Section 38 of P.L. 1999, c.23 (C.48:3-87) is amended
30 to read as follows:

31 38. a. The board shall require an electric power supplier or
32 basic generation service provider to disclose on a customer's bill or
33 on customer contracts or marketing materials, a uniform, common
34 set of information about the environmental characteristics of the
35 energy purchased by the customer, including, but not limited to:

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

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

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

45 b. Notwithstanding any provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the board shall initiate a proceeding and shall adopt, in
48 consultation with the Department of Environmental Protection, after

1 notice and opportunity for public comment and public hearing,
2 interim standards to implement this disclosure requirement,
3 including, but not limited to:

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

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

10 (3) A uniform emissions disclosure format that is graphic in
11 nature and easily understandable by consumers. The board shall
12 periodically review the disclosure requirements to determine if
13 revisions to the environmental disclosure system as implemented
14 are necessary.

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

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

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

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

30 (2) 【The】 If a State department or agency adopts regulations to
31 implement a State policy or an interstate or regional agreement to
32 reduce Statewide greenhouse gas emissions related to electricity
33 generation, then the board shall adopt , pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), 【an】 a greenhouse gas emissions portfolio standard to
36 mitigate leakage or another regulatory mechanism to mitigate
37 leakage applicable to all electric power suppliers and basic
38 generation service providers that provide electricity to customers
39 within the State 【, if two other states in the PJM power pool
40 comprising at least 40 percent of the retail electric usage in the PJM
41 Interconnection, L.L.C. independent system operator or its
42 successor adopt such standards】. Any regulation to mitigate leakage
43 shall:

44 (a) Allow a transition period, either before or after the effective
45 date of the regulation to mitigate leakage, for a basic generation
46 service provider or electric power supplier to either meet the
47 emissions portfolio standard or other regulatory mechanism to

1 mitigate leakage, or to transfer any customer to a basic generation
2 service provider or electric power supplier that meets the emissions
3 portfolio standard or other regulatory mechanism to mitigate
4 leakage ¹. If the transition period allowed pursuant to this
5 subparagraph occurs after the implementation of a emissions
6 portfolio standard or other regulatory mechanism to mitigate
7 leakage, the transition period shall be no longer than three years¹ ;
8 and

9 (b) Exempt the provision of basic generation service pursuant to
10 a basic generation service purchase and sale agreement effective
11 prior to the date of the regulation.

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

18 (1) that two and one-half percent of the kilowatt hours sold in
19 this State by each electric power supplier and each basic generation
20 service provider be from Class I or Class II renewable energy
21 sources; and

22 (2) beginning on January 1, 2001, that one-half of one percent
23 of the kilowatt hours sold in this State by each electric power
24 supplier and each basic generation service provider be from Class I
25 renewable energy sources. The board shall increase the required
26 percentage for Class I renewable energy sources so that by January
27 1, 2006, one percent of the kilowatt hours sold in this State by each
28 electric power supplier and each basic generation service provider
29 shall be from Class I renewable energy sources and shall
30 additionally increase the required percentage for Class I renewable
31 energy sources by one-half of one percent each year until January
32 1, 2012, when four percent of the kilowatt hours sold in this State
33 by each electric power supplier and each basic generation service
34 provider shall be from Class I renewable energy sources.

35 An electric power supplier or basic generation service provider
36 may satisfy the requirements of this subsection by participating in a
37 renewable energy trading program approved by the board in
38 consultation with the Department of Environmental Protection.

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

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

1 (1) net metering standards for electric power suppliers and basic
2 generation service providers. The standards shall require electric
3 power suppliers and basic generation service providers to offer net
4 metering at non-discriminatory rates to residential and small
5 commercial customers that generate electricity, on the customer's
6 side of the meter, using wind or solar photovoltaic systems for the
7 net amount of electricity supplied by the electric power supplier or
8 basic generation service provider over an annualized period. Where
9 the amount of electricity generated by the customer-generator plus
10 any kilowatt hour credits held over from the previous billing
11 periods exceed the electricity supplied by the electric power
12 supplier or basic generation service provider, the electric power
13 supplier or basic generation service provider, as the case may be,
14 shall credit the customer for the excess kilowatt hours until the end
15 of the annualized period at which point the customer-generator will
16 be compensated for any remaining credits at the electric power
17 supplier's or basic generation service provider's avoided cost of
18 wholesale power. The board may authorize an electric power
19 supplier or basic generation service provider to cease offering net
20 metering whenever the total rated generating capacity owned and
21 operated by net metering customer-generators Statewide equals 0.1
22 percent of the State's peak electricity demand or the annual
23 aggregate financial impact to electric power suppliers and basic
24 generation service providers Statewide, as determined by the board,
25 exceeds \$2,000,000, whichever is less; and

26 (2) safety and power quality interconnection standards for wind
27 and solar photovoltaic systems that shall be eligible for net
28 metering.

29 Such standards shall take into consideration the standards of
30 other states and the Institute of Electrical and Electronic Engineers
31 and shall allow customers to use a single, non-demand, non-time
32 differentiated meter.

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

38 f. The board may assess, by written order and after notice and
39 opportunity for comment, a separate fee to cover the cost of
40 implementing and overseeing an emission disclosure system or
41 emission portfolio standard, which fee shall be assessed based on an
42 electric power supplier's or basic generation service provider's share
43 of the retail electricity supply market. 'The board shall not impose
44 a fee for the cost of implementing and overseeing a greenhouse gas
45 emissions portfolio standard adopted pursuant to paragraph (2) of
46 subsection c. of this section, the electric energy efficiency portfolio
47 standard adopted pursuant to subsection g. of this section, or the gas

1 energy efficiency portfolio standard adopted pursuant to subsection
2 h. of this section.¹

3 g. The board may adopt, pursuant to the “Administrative
4 Procedure Act,” P.L. 1968, c.410 (C. 52:14B-1 et seq.), an electric
5 energy efficiency portfolio standard that may require each electric
6 public utility to implement energy efficiency measures that reduce
7 electricity usage in the State by 2020 to a level that is 20 percent
8 below the usage projected by the board in the absence of such a
9 standard. Nothing in this section shall be construed to prevent an
10 electric public utility from meeting the requirements of this section
11 by contracting with another entity for the performance of the
12 requirements.

13 h. The board may adopt, pursuant to the “Administrative
14 Procedure Act,” a gas energy efficiency portfolio standard that may
15 require each gas public utility to implement energy efficiency
16 measures that reduce natural gas usage for heating in the State by
17 2020 to a level that is 20 percent below the usage projected by the
18 board in the absence of such a standard. Nothing in this section
19 shall be construed to prevent a gas public utility from meeting the
20 requirements of this section by contracting with another entity for
21 the performance of the requirements.

22 i. As used in this section:

23 “Energy efficiency portfolio standard” means a requirement to
24 procure a specified amount of energy efficiency or demand side
25 management resources as a means of managing and reducing energy
26 usage and demand by customers.

27 “Greenhouse gas emissions portfolio standard” means a
28 requirement that addresses or limits the amount of carbon dioxide
29 emissions indirectly resulting from the use of electricity as applied
30 to any electric power suppliers and basic generation service
31 providers of electricity.

32 ¹“Leakage” means an increase in greenhouse gas emissions
33 related to generation sources located outside of the State that are not
34 subject to a state, interstate or regional greenhouse gas emissions
35 cap or standard that applies to generation sources located within the
36 State.¹

37 (cf: P.L.1999, c.23, s.38)

38

39 ¹[10.] 9.¹ (New section) a. No later than June 30, 2008, the
40 department shall designate an independent research review panel
41 consisting of economists, business managers, ¹nonprofit
42 environmental organization representatives,¹ and public officials,
43 and scientists from academia, industry and the government, to
44 review the recommendations and evaluations submitted by the
45 department and any other State agencies, as appropriate, in the
46 reports required pursuant to section 6 of this act.

1 b. The independent research review panel shall review the
2 recommendations and evaluations of the department and any other
3 State agencies, as appropriate, and shall, within 12 months of the
4 date of transmittal of the reports required pursuant to section 6 of
5 this act, prepare and transmit a report evaluating the ecological,
6 economic and social impact of the proposed recommendations
7 submitted by the department and any other State agencies, as
8 appropriate, to the Governor, to the State Treasurer, to the
9 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
10 and to the members of the Senate Environment Committee and the
11 Assembly Environment and Solid Waste Committee.

12 c. This section shall not be construed to affect the requirements
13 of the greenhouse gas emissions monitoring and reporting program
14 or the department's administration of the program established
15 pursuant to this act.

16

17 '[11.] 10.' This act shall take effect immediately.