ASSEMBLY COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
212th LEGISLATURE

ADOPTED JUNE 14, 2007

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Lampitt, Assemblyman S.Kean, Assemblywoman Pou, Assemblymen
Holzapfel, Johnson, Baroni, Steele, Connors, Rumpf, Biondi, Wisniewski,
Van Drew, Assemblywoman Handlin, Assemblymen Albano, Barnes,
Fisher, Egan, Assemblywoman Truitt, Assemblymen Conners and
Conaway

SYNOPSIS
The "Global Warming Response Act."

CURRENT VERSION OF TEXT
Substitute as adopted by the Assembly Telecommunications and Utilities
Committee.
AN ACT concerning the reduction of greenhouse gases, supplementing Title 26 of the Revised Statutes, and amending P.L.1999, c.23.

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

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

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

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

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

“Department” means the Department of Environmental Protection.

“Greenhouse gas” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or substance determined by the Department of

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.
Environmental Protection to be a significant contributor to the problem of global warming.

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

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

“2020 limit” means the level of greenhouse gas emissions equal to the 1990 level of Statewide greenhouse gas emissions.

“2050 limit” means the level of greenhouse gas emissions equal to 80 percent less than the 2006 level of Statewide greenhouse gas emissions.

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

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

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

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

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

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

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

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

(3) monitoring progress toward the 2020 limit and the 2050 limit.
c. Pursuant to the rules and regulations adopted pursuant to subsection a. of this section, the department shall require reporting of the greenhouse gas emissions:

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

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

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

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

d. There is created in the department, a special, nonlapsing fund to be known as the “Greenhouse Gas Emissions Control Fund.” The department may adopt, by rule or regulation, a schedule of reasonable fees to be paid by those entities required to report greenhouse gas emissions pursuant to this section, in an amount sufficient to cover the department’s costs to administer the requirements of this act. The fees collected pursuant to this subsection shall be deposited in the Greenhouse Gas Emissions Control Fund and shall be made available to implement the provisions of this act.

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

6. (New section) a. The department, in consultation with the Board of Public Utilities, the Department of Agriculture, the Department of Transportation, and the Department of Community Affairs, shall evaluate policies and measures that will enable the State to achieve the 2020 limit, shall make specific recommendations on how to achieve the emission reduction targets, including measures that reduce emissions in all sectors of the economy including transportation, housing, and consumer products,
and shall evaluate the economic benefits and costs of implementing
these recommendations. The department shall coordinate its
evaluation of greenhouse gas emission reduction policies and
measures with the work of the Energy Master Plan Committee
established pursuant to section 12 of P.L.1977, c.146 (C.52:27F-
14).

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

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

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

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

7. (New section) a. No later than January 1, 2009, and
biennially thereafter, the department shall prepare and transmit, in
writing, a report to the Governor, to the State Treasurer, to the
Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
and to the members of the Senate Environment Committee and the
Assembly Environment and Solid Waste Committee, on the status
of the greenhouse gas emissions monitoring and reporting program
established pursuant to this act, the current level of greenhouse gas emissions in the State and the progress made toward compliance with the 2020 limit and the 2050 limit established pursuant to this act. The report shall also include updated and comparative inventories of Statewide greenhouse gas emissions.

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

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

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or the amendment or supplement thereto, certify to the Commissioner of Environmental Protection and the State Treasurer that the requirements of subsection a. of this section have not been met.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) [The] If a State department or agency adopts regulations to
implement a State policy or an interstate or regional agreement to
reduce Statewide greenhouse gas emissions related to electricity
generation, then the board shall adopt , pursuant to the
seq.), an greenhouse gas emissions portfolio standard to
mitigate leakage or another regulatory mechanism to mitigate
leakage applicable to all electric power suppliers and basic
generation service providers that provide electricity to customers
within the State [ , if two other states in the PJM power pool
comprising at least 40 percent of the retail electric usage in the PJM
Interconnection, L.L.C. independent system operator or its
successor adopt such standards]. Any regulation to mitigate leakage
shall:

(a) Allow a transition period, either before or after the effective
date of the regulation to mitigate leakage, for a basic generation
service provider or electric power supplier to either meet the
emissions portfolio standard or other regulatory mechanism to
mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage; and

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

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

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

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

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

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

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

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

(2) safety and power quality interconnection standards for wind and solar photovoltaic systems that shall be eligible for net metering. Such standards shall take into consideration the standards of other states and the Institute of Electrical and Electronic Engineers and shall allow customers to use a single, non-demand, non-time differentiated meter.

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

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market.

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

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

i. As used in this section:

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

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

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

10. (New section) a. No later than June 30, 2008, the department shall designate an independent research review panel consisting of economists, business managers, and public officials, and scientists from academia, industry and the government, to review the recommendations and evaluations submitted by the department and any other State agencies, as appropriate, in the reports required pursuant to section 6 of this act.

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

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

11. This act shall take effect immediately.