

ASSEMBLY, No. 2528

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 16, 2010

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Provides for allocation of societal benefits charge among residential, small commercial and large commercial and industrial utility customers; establishes a credit against societal benefits charge.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2010)

A2528 CHIVUKULA, QUIJANO

2

1 AN ACT concerning societal benefits charge revenues, providing for
2 a credit against the societal benefits charge, and amending and
3 supplementing P.L.1999, c.23 (C.48:3-49 et al.).
4

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

8 1. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read
9 as follows:

10 12. a. Simultaneously with the starting date for the
11 implementation of retail choice as determined by the board pursuant
12 to subsection a. of section 5 of **[this act] P.L.1999, c.23 (C.48:3-**
13 **53)** and consistent with the provisions of P.L. _____,
14 c. (C. _____)(pending before the Legislature as this bill), the board
15 shall permit each electric public utility and gas public utility to
16 recover some or all of the following costs through a societal
17 benefits charge that shall be collected as a non-bypassable charge
18 imposed on all electric public utility customers and gas public
19 utility customers, as appropriate:

20 (1) The costs for the social programs for which rate recovery
21 was approved by the board prior to April 30, 1997. For the purpose
22 of establishing initial unbundled rates pursuant to section 4 of **[this**
23 **act] P.L.1999, c.23 (C.48:3-52)**, the societal benefits charge shall
24 be set to recover the same level of social program costs as is being
25 collected in the bundled rates of the electric public utility on the
26 effective date of **[this act] P.L.1999, c.23 (C.48:3-49 et al.)**. The
27 board may subsequently order, pursuant to its rules and regulations,
28 an increase or decrease in the societal benefits charge to reflect
29 changes in the costs to the utility of administering existing social
30 programs. Nothing in **[this act] P.L.1999, c.23** shall be construed
31 to abolish or change any social program required by statute or board
32 order or rule or regulation to be provided by an electric public
33 utility. Any such social program shall continue to be provided by
34 the utility until otherwise provided by law, unless the board
35 determines that it is no longer appropriate for the electric public
36 utility to provide the program, or the board chooses to modify the
37 program;

38 (2) Nuclear plant decommissioning costs;

39 (3) The costs of demand side management programs that were
40 approved by the board pursuant to its demand side management
41 regulations prior to April 30, 1997. For the purpose of establishing
42 initial unbundled rates pursuant to section 4 of **[this act] P.L.1999,**
43 **c.23 (C.48:3-52)**, the societal benefits charge shall be set to recover
44 the same level of demand side management program costs as is

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

Matter underlined thus is new matter.

1 being collected in the bundled rates of the electric public utility on
2 the effective date of **[this act]** P.L.1999, c.23 (C.48:3-49 et al.).
3 Within four months of the effective date of **[this act]** P.L.1999,
4 c.23, and every four years thereafter, the board shall initiate a
5 proceeding and cause to be undertaken a comprehensive resource
6 analysis of energy programs, and within eight months of initiating
7 such proceeding and after notice, provision of the opportunity for
8 public comment, and public hearing, the board, in consultation with
9 the Department of Environmental Protection, shall determine the
10 appropriate level of funding for energy efficiency and Class I
11 renewable energy programs that provide environmental benefits
12 above and beyond those provided by standard offer or similar
13 programs in effect as of the effective date of **[this act]** P.L.1999,
14 c.23; provided that the funding for such programs be no less than
15 50% of the total Statewide amount being collected in public electric
16 and gas utility rates for demand side management programs on the
17 effective date of **[this act]** P.L.1999, c.23 for an initial period of
18 four years from the issuance of the first comprehensive resource
19 analysis following the effective date of **[this act]** P.L.1999, c.23,
20 and provided that 25% of this amount shall be used to provide
21 funding for Class I renewable energy projects in the State. In each
22 of the following fifth through eighth years, the Statewide funding
23 for such programs shall be no less than 50 percent of the total
24 Statewide amount being collected in public electric and gas utility
25 rates for demand side management programs on the effective date
26 of **[this act]** P.L.1999, c.23, except that as additional funds are
27 made available as a result of the expiration of past standard offer or
28 similar commitments, the minimum amount of funding for such
29 programs shall increase by an additional amount equal to 50 percent
30 of the additional funds made available, until the minimum amount
31 of funding dedicated to such programs reaches \$140,000,000 total.
32 After the eighth year the board shall make a determination as to the
33 appropriate level of funding for these programs. Such programs
34 shall include a program to provide financial incentives for the
35 installation of Class I renewable energy projects in the State, and
36 the board, in consultation with the Department of Environmental
37 Protection, shall determine the level and total amount of such
38 incentives as well as the renewable technologies eligible for such
39 incentives which shall include, at a minimum, photovoltaic, wind,
40 and fuel cells. The board shall simultaneously determine, as a result
41 of the comprehensive resource analysis, the programs to be funded
42 by the societal benefits charge, the level of cost recovery and
43 performance incentives for old and new programs and whether the
44 recovery of demand side management programs' costs currently
45 approved by the board may be reduced or extended over a longer
46 period of time. The board shall make these determinations taking
47 into consideration existing market barriers and environmental

1 benefits, with the objective of transforming markets, capturing lost
2 opportunities, making energy services more affordable for low
3 income customers and eliminating subsidies for programs that can
4 be delivered in the marketplace without electric public utility and
5 gas public utility customer funding;

6 (4) Manufactured gas plant remediation costs, which shall be
7 determined initially in a manner consistent with mechanisms in the
8 remediation adjustment clauses for the electric public utility and gas
9 public utility adopted by the board; and

10 (5) The cost, of consumer education, as determined by the
11 board, which shall be in an amount that, together with the consumer
12 education surcharge imposed on electric power supplier license fees
13 pursuant to subsection h. of section 29 of **[this act]** P.L.1999, c.23
14 (C.48:3-78) and the consumer education surcharge imposed on gas
15 supplier license fees pursuant to subsection g. of section 30 of **[this**
16 **act]** P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the
17 consumer education program established pursuant to section 36 of
18 **[this act]** P.L.1999, c.23 (C.48:3-85).

19 b. There is established in the Board of Public Utilities a
20 nonlapsing fund to be known as the "Universal Service Fund." The
21 board shall determine: the level of funding and the appropriate
22 administration of the fund; the purposes and programs to be funded
23 with monies from the fund; which social programs shall be provided
24 by an electric public utility as part of the provision of its regulated
25 services which provide a public benefit; whether the funds
26 appropriated to fund the "Lifeline Credit Program" established
27 pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants'
28 Lifeline Assistance Program" established pursuant to P.L.1981,
29 c.210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low
30 Income Home Energy Assistance Program established pursuant to
31 42 U.S.C. s. 8621 et seq., and funds collected by electric and natural
32 gas utilities, as authorized by the board, to offset uncollectible
33 electricity and natural gas bills should be deposited in the fund; and
34 whether new charges should be imposed to fund new or expanded
35 social programs.

36 c. (1) The board shall establish an "Energy Efficiency, Clean
37 Energy and Renewable Energy Programs Fund," which fund shall
38 consist of an "Energy Assistance Account – Residential"; an
39 "Energy Efficiency, Clean Energy and Renewable Energy Programs
40 Account – Residential"; an "Energy Efficiency, Clean Energy and
41 Renewable Energy Programs Account – Small Commercial"; and an
42 "Energy Efficiency, Clean Energy and Renewable Energy Programs
43 Account - Large Commercial and Industrial." In establishing the
44 fund and the accounts, the board shall follow any guidelines for the
45 establishment of such fund and accounts as the State Treasurer, in
46 consultation with the Director of the Division of Budget and
47 Accounting in the Department of the Treasury, may recommend to
48 the board. After June 30, 2010, all expenditures by the board to pay

1 any of the costs or to support any of the programs described in
2 paragraph (3) of subsection a. of this section, whether those costs
3 are incurred or those programs are administered directly by the
4 board or by others reimbursed by the board, shall be made solely
5 from the fund. Expenditures funding the costs or programs under
6 paragraph (3) of that subsection a. that benefit residential customers
7 of electric public utilities and gas public utilities shall be made from
8 the “Energy Efficiency, Clean Energy and Renewable Energy
9 Programs Account – Residential”; expenditures funding the costs or
10 programs under paragraph (3) of that subsection a. that benefit
11 small commercial customers of electric public utilities and gas
12 public utilities shall be made from the “Energy Efficiency, Clean
13 Energy and Renewable Energy Programs Account – Small
14 Commercial”; and expenditures funding the costs or programs
15 under paragraph (3) of that subsection a. that benefit large
16 commercial or industrial customers of electric public utilities and
17 gas public utilities shall be made from the “Energy Efficiency,
18 Clean Energy and Renewable Energy Programs Account - Large
19 Commercial and Industrial.”

20 (2) On and after July 1, 2010, each electric public utility and
21 each gas public utility shall include, with its remittance to the board
22 of any payment of monies collected as a societal benefits charge
23 under subsection a. of this section, a statement identifying the
24 portion of the payment so remitted that is derived from charges
25 imposed upon residential customers of the utility, the portion of the
26 payment derived from charges imposed upon small commercial
27 customers of the utility, and the portion of the payment derived
28 from charges imposed upon large commercial and industrial
29 customers of the utility. The board shall adopt regulations, pursuant
30 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
31 1 et seq.), delineating for each type of utility the class of residential
32 customers, the class of small commercial customers, and the class
33 of large commercial and industrial customers, and prescribing
34 uniform rules under which the utilities shall compute the amount of
35 societal benefits charge paid by each class of customers for
36 purposes of preparing the statement.

37 (3) The board shall, prior to the commencement of each State
38 fiscal year, determine the amount of revenue from the societal
39 benefits charge anticipated to be required during that State fiscal
40 year to pay the costs and to support the programs described in
41 paragraph (3) of subsection a. of this section. The total amount of
42 such revenue deposited during that State fiscal year into the Energy
43 Efficiency, Clean Energy and Renewable Energy Programs Fund
44 shall not be less than the amount so determined. After such amount
45 has been deposited into the “Energy Assistance Account –
46 Residential”, the balance remaining from the total amount deposited
47 into the Energy Efficiency, Clean Energy and Renewable Energy
48 Programs Fund pursuant to this paragraph shall be deposited during

1 the State fiscal year in the following accounts: (a) there shall be
2 deposited into the "Energy Efficiency, Clean Energy and
3 Renewable Energy Programs Account – Residential" an amount
4 bearing the same proportion to that balance as the proportion
5 between the amount of revenue from the societal benefits charge,
6 remitted to the board in the preceding State fiscal year, that was
7 identified to the board as having been collected from residential
8 customers and the total amount of such revenue so remitted in that
9 preceding State fiscal year; (b) there shall be deposited into the
10 "Energy Efficiency, Clean Energy and Renewable Energy Programs
11 Account – Small Commercial" an amount bearing the same
12 proportion to that balance as the proportion between the amount of
13 revenue from the societal benefits charge, remitted to the board in
14 the preceding State fiscal year, that was identified to the board as
15 having been collected from small commercial customers and the
16 total amount of such revenue so remitted in that preceding State
17 fiscal year; and (c) there shall be deposited into the "Energy
18 Efficiency, Clean Energy and Renewable Energy Programs Account
19 – Large Commercial and Industrial" an amount bearing the same
20 proportion to that balance as the proportion between the amount of
21 revenue from the societal benefits charge, remitted to the board in
22 the preceding State fiscal year, that was identified to the board as
23 having been collected from large commercial and industrial
24 customers and the total amount of such revenue so remitted in that
25 preceding State fiscal year.

26 (cf: P.L.1999, c.23, s.12)

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28 2. (New section) a. For the purpose of determining, under
29 paragraph (3) of subsection c. of section 12 of P.L.1999, c.23
30 (C.48:3-60), for the State fiscal year commencing July 1, 2010, the
31 amount of revenue from the societal benefits charge that is to be
32 deposited during that fiscal year into the "Energy Efficiency, Clean
33 Energy and Renewable Energy Programs Account – Residential";
34 the "Energy Efficiency, Clean Energy and Renewable Energy
35 Programs Account – Small Commercial"; and the "Energy
36 Efficiency, Clean Energy and Renewable Energy Programs Account
37 – Large Commercial and Industrial," the board shall estimate the
38 proportion of the total revenue from that charge, remitted to the
39 board in the fiscal year commencing July 1, 2009, that was
40 collected from residential, from small commercial and from large
41 commercial and industrial customers, respectively.

42 b. For the purpose of determining, under paragraph (3) of
43 subsection c. of section 12 of P.L.1999, c.23 (C.48:3-60), for the
44 State fiscal year commencing July 1, 2011, the amount of revenue
45 from the societal benefits charge that is to be deposited during that
46 fiscal year into the "Energy Efficiency, Clean Energy and
47 Renewable Energy Programs Account – Residential"; the "Energy
48 Efficiency, Clean Energy and Renewable Energy Programs Account

1 – Small Commercial"; and the "Energy Efficiency, Clean Energy
2 and Renewable Energy Programs Account – Large Commercial and
3 Industrial," the board shall, if necessary, estimate the proportion of
4 the total revenue from that charge, remitted to the board in the fiscal
5 year commencing July 1, 2010, that was collected from residential,
6 from small commercial and from large commercial and industrial
7 customers, respectively.

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9 3. (New section) a. On and after January 1 next following the
10 enactment of P.L. , c. (C.) (pending before the Legislature
11 as this bill), a corporation shall be allowed a credit against the
12 societal benefits charge imposed pursuant to section 12 of P.L.1999,
13 c.23 (C.48:3-60), and collected as a non-bypassable charge by the
14 electric public utility or gas public utility, as appropriate, providing
15 service to the corporation.

16 b. The amount of the credit authorized pursuant to subsection
17 a. of this section shall be equal to that portion of the costs incurred
18 by the corporation during the preceding calendar year for the
19 purchase and installation of products or services that are intended
20 for energy efficiency or renewable energy purposes, that would be
21 eligible for incentives under programs that the board shall have
22 determined to fund by the societal benefits charge pursuant to
23 paragraph (3) of subsection a. of section 12 of P.L.1999, c.23
24 (C.48:3-60).

25 c. The amount of the credit to be allowed under this section in
26 any calendar year against the societal benefits charge for each
27 corporation that is subject to such charge pursuant to section 12 of
28 P.L.1999, c.23 (C.48:3-60) shall be determined by the board.

29 d. The maximum amount of the credit to be applied under this
30 section against the societal benefits charge imposed pursuant to
31 section 12 of P.L.1999, c.23 (C.48:3-60) shall not exceed 100
32 percent of the corporation's liability for such charge that would
33 otherwise be due in each calendar year.

34 e. The amount of the credit against the societal benefits charge
35 otherwise allowable under this section which cannot be applied for
36 the calendar year due to the limitations of subsection b. and
37 subsection d. of this section may be carried over, if necessary, to a
38 maximum of ten calendar years immediately following the initial
39 year in which the credit is first applied to a corporation's liability
40 for societal benefits charges.

41 f. The electric or gas public utility providing service to a
42 corporation shall disclose in a written notice to the corporation,
43 upon request from the corporation, the amount of societal benefits
44 charges collected by the utility from the corporation pursuant to
45 section 12 of P.L.1999, c.23 (C.48:3-60) for each calendar year
46 specified in the request from the corporation.

1 4. This act shall take effect immediately, and sections 1 and 2
2 shall be applicable for State fiscal years commencing on or after
3 July 1, 2010.

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STATEMENT

7

8 This bill establishes an allocation of the benefits under energy
9 efficiency, clean energy and renewable energy programs funded
10 from the societal benefits charge imposed on utility customers
11 pursuant to regulations of the Board of Public Utilities (the
12 “board”).

13 The bill provides that these benefits shall be allocated between
14 residential customers, small commercial customers, and large
15 commercial and industrial customers in the same proportion as the
16 allocation of liability for the societal benefits charge between those
17 classes of customers.

18 This bill also establishes a credit to be applied against the
19 liability of a business for payment of the societal benefits charge
20 under section 12 of P.L.1999, c.23 (C.48:3-60).

21 The credit shall be equal to the costs incurred by a business for
22 the purchase and installation of certain energy efficiency or
23 renewable energy products or services during the preceding
24 calendar year provided that the amount of such credit to be allowed
25 shall be determined by the board.

26 The credit provided for by section 3 of the bill is intended to
27 encourage businesses to purchase and install energy saving products
28 and services by allowing the businesses to claim a credit against the
29 societal benefits charge.