SYNOPSIS
Revises certain solar renewable energy programs and requirements; provides for aggregated net metering of electricity consumption related to properties owned by certain governmental bodies and school districts.

CURRENT VERSION OF TEXT
As amended by the General Assembly on June 21, 2012,

(Sponsorship Updated As Of: 6/26/2012)
A2966 [2R] CHIVUKULA, MCKEON

AN ACT concerning certain electric customer metering and solar renewable portfolio standards requirements and amending P.L.1999, c.23.

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

1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read as follows:

   3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

   "Assignee" means a person to which an electric public utility or another assignee assigns, sells or transfers, other than as security, all or a portion of its right to or interest in bondable transition property. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

   "Base load electric power generation facility" means an electric power generation facility intended to be operated at a greater than 50 percent capacity factor including, but not limited to, a combined cycle power facility and a combined heat and power facility;

   "Base residual auction" means the auction conducted by PJM, as part of PJM's reliability pricing model, three years prior to the start of the delivery year to secure electrical capacity as necessary to satisfy the capacity requirements for that delivery year;

   "Basic gas supply service" means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the board;

   "Basic generation service" or "BGS" means electric generation service that is provided to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers for competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the board;

   "Basic generation service provider" or "provider" means a provider of basic generation service;

   "Basic generation service transition costs" means the amount by which the payments by an electric public utility for the procurement

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:

1Assembly ATU committee amendments adopted June 7, 2012.
of power for basic generation service and related ancillary and
administrative costs exceeds the net revenues from the basic
generation service charge established by the board pursuant to
section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
 together with interest on the balance at the board-approved rate, that
is reflected in a deferred balance account approved by the board in
an order addressing the electric public utility's unbundled rates,
stranded costs, and restructuring filings pursuant to P.L.1999, c.23
(C.48:3-49 et al.). Basic generation service transition costs shall
include, but are not limited to, costs of purchases from the spot
market, bilateral contracts, contracts with non-utility generators,
parting contracts with the purchaser of the electric public utility's
divested generation assets, short-term advance purchases, and
financial instruments such as hedging, forward contracts, and
options. Basic generation service transition costs shall also include
the payments by an electric public utility pursuant to a competitive
procurement process for basic generation service supply during the
transition period, and costs of any such process used to procure the
basic generation service supply;

"Board" means the New Jersey Board of Public Utilities or any
successor agency;

"Bondable stranded costs” means any stranded costs or basic
generation service transition costs of an electric public utility
approved by the board for recovery pursuant to the provisions of
P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
board: (1) the cost of retiring existing debt or equity capital of the
electric public utility, including accrued interest, premium and other
fees, costs and charges relating thereto, with the proceeds of the
financing of bondable transition property; (2) if requested by an
electric public utility in its application for a bondable stranded costs
rate order, federal, State and local tax liabilities associated with
stranded costs recovery or basic generation service transition cost
recovery or the transfer or financing of such property or both,
including taxes, whose recovery period is modified by the effect of
a stranded costs recovery order, a bondable stranded costs rate order
or both; and (3) the costs incurred to issue, service or refinance
transition bonds, including interest, acquisition or redemption
premium, and other financing costs, whether paid upon issuance or
over the life of the transition bonds, including, but not limited to,
credit enhancements, service charges, overcollateralization, interest
rate cap, swap or collar, yield maintenance, maturity guarantee or
other hedging agreements, equity investments, operating costs and
other related fees, costs and charges, or to assign, sell or otherwise
transfer bondable transition property;

"Bondable stranded costs rate order” means one or more
irrevocable written orders issued by the board pursuant to P.L.1999,
c.23 (C.48:3-49 et al.) which determines the amount of bondable
stranded costs and the initial amount of transition bond charges
authorized to be imposed to recover such bondable stranded costs, 
including the costs to be financed from the proceeds of the 
transition bonds, as well as on-going costs associated with servicing 
and credit enhancing the transition bonds, and provides the electric 
public utility specific authority to issue or cause to be issued, 
directly or indirectly, transition bonds through a financing entity 
and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.), 
which order shall become effective immediately upon the written 
consent of the related electric public utility to such order as 
provided in P.L.1999, c.23 (C.48:3-49 et al.);

"Bondable transition property" means the property consisting of 
the irrevocable right to charge, collect and receive, and be paid 
from collections of, transition bond charges in the amount necessary 
to provide for the full recovery of bondable stranded costs which 
are determined to be recoverable in a bondable stranded costs rate 
order, all rights of the related electric public utility under such 
bondable stranded costs rate order including, without limitation, all 
rights to obtain periodic adjustments of the related transition bond 
charges pursuant to subsection b. of section 15 of P.L.1999, c.23 
(C.48:3-64), and all revenues, collections, payments, money and 
proceeds arising under, or with respect to, all of the foregoing;

"British thermal unit" or "Btu" means the amount of heat 
required to increase the temperature of one pound of water by one 
degree Fahrenheit;

"Broker" means a duly licensed electric power supplier that 
assumes the contractual and legal responsibility for the sale of 
electric generation service, transmission or other services to end-use 
retail customers, but does not take title to any of the power sold, or 
a duly licensed gas supplier that assumes the contractual and legal 
obligation to provide gas supply service to end-use retail customers, 
but does not take title to the gas;

“Brownfield” means any former or current commercial or 
industrial site that is currently vacant or underutilized and on which 
there has been, or there is suspected to have been, a discharge of \( ^2 \) a contaminant, \( ^2 \) as included in the “Brownfields Redevelopment 
Task Force” inventory, developed pursuant to section 5 of 
P.L.1997, c.278 (C.58:10B-23) \( ^2 \);

"Buydown" means an arrangement or arrangements involving the 
buyer and seller in a given power purchase contract and, in some 
cases third parties, for consideration to be given by the buyer in 
order to effectuate a reduction in the pricing, or the restructuring of 
other terms to reduce the overall cost of the power contract, for the 
remaining succeeding period of the purchased power arrangement 
or arrangements;

"Buyout” means an arrangement or arrangements involving the 
buyer and seller in a given power purchase contract and, in some 
cases third parties, for consideration to be given by the buyer in 
order to effectuate a termination of such power purchase contract;
"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner;

"Class II renewable energy" means electric energy produced at a [resource recovery facility or] hydropower facility with a capacity of greater than three megawatts or a resource recovery facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities;

"Co-generation" means the sequential production of electricity and steam or other forms of useful energy used for industrial or commercial heating and cooling purposes;

"Combined cycle power facility" means a generation facility that combines two or more thermodynamic cycles, by producing electric power via the combustion of fuel and then routing the resulting waste heat by-product to a conventional boiler or to a heat recovery steam generator for use by a steam turbine to produce electric power, thereby increasing the overall efficiency of the generating facility;

"Combined heat and power facility" or "co-generation facility" means a generation facility which produces electric energy and steam or other forms of useful energy such as heat, which are used for industrial or commercial heating or cooling purposes. A combined heat and power facility or co-generation facility shall not be considered a public utility;

"Competitive service" means any service offered by an electric public utility or a gas public utility that the board determines to be competitive pursuant to section 8 or section 10 of P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

"Commercial and industrial energy pricing class customer" or "CIEP class customer" means that group of non-residential customers with high peak demand, as determined by periodic board order, which either is eligible or which would be eligible, as determined by periodic board order, to receive funds from the Retail Margin Fund established pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) and for which basic generation service is hourly-priced;

"Comprehensive resource analysis" means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace;
"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is (1) connected to a net metering customer’s side of a meter, regardless of the voltage at which that customer connects to the electric grid; (2) an on-site generation facility; (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23; (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340; (5) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid; except that notwithstanding that it meets the criterion set forth in paragraph (1) or (2) hereof, a solar electric power generation facility that is neither net metered nor an on-site generation facility shall not be considered and is designated as “connected to the distribution system” unless it shall have been designated as such by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23; or (6) is certified by the board as being located on a brownfield, an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved, or is an impervious surface, or a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer’s side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system;

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State;

"Customer account service" means metering, billing, or such other administrative activity associated with maintaining a customer account;

"Delivery year" or "DY" means the 12-month period from June 1st through May 31st, numbered according to the calendar year in which it ends;

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures on and in the residential, commercial, industrial, institutional and governmental premises and facilities in this State;

"Electric generation service" means the provision of retail electric energy and capacity which is generated off-site from the
location at which the consumption of such electric energy and
capacity is metered for retail billing purposes, including agreements
and arrangements related thereto;

"Electric power generator" means an entity that proposes to
construct, own, lease or operate, or currently owns, leases or
operates, an electric power production facility that will sell or does
sell at least 90 percent of its output, either directly or through a
marketer, to a customer or customers located at sites that are not on
or contiguous to the site on which the facility will be located or is
located. The designation of an entity as an electric power generator
for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
and of itself, affect the entity's status as an exempt wholesale
generator under the Public Utility Holding Company Act of 1935,
15 U.S.C. s.79 et seq., or its successor;

"Electric power supplier" means a person or entity that is duly
licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
al.) to offer and to assume the contractual and legal responsibility to
provide electric generation service to retail customers, and includes
load serving entities, marketers and brokers that offer or provide
electric generation service to retail customers. The term excludes an
electric public utility that provides electric generation service only
as a basic generation service pursuant to section 9 of P.L.1999, c.23
(C.48:3-57);

"Electric public utility" means a public utility, as that term is
defined in R.S.48:2-13, that transmits and distributes electricity to
end users within this State;

"Electric related service" means a service that is directly related
to the consumption of electricity by an end user, including, but not
limited to, the installation of demand side management measures at
the end user's premises, the maintenance, repair or replacement of
appliances, lighting, motors or other energy-consuming devices at
the end user's premises, and the provision of energy consumption
measurement and billing services;

"Electronic signature" means an electronic sound, symbol or
process, attached to, or logically associated with, a contract or other
record, and executed or adopted by a person with the intent to sign
the record;

"Eligible generator" means a developer of a base load or mid-
merit electric power generation facility including, but not limited to,
an on-site generation facility that qualifies as a capacity resource
under PJM criteria and that commences construction after the
effective date of P.L.2011, c.9 (C.48:3-98.2 et al.);

"Energy agent" means a person that is duly registered pursuant to
the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
sale of retail electricity or electric related services or retail gas
supply or gas related services between government aggregators or
private aggregators and electric power suppliers or gas suppliers,
but does not take title to the electric or gas sold;
"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator;

"Energy year" or "EY" means the 12-month period from June 1st through May 31st, numbered according to the calendar year in which it ends;

“Farmland” means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.);

"Federal Energy Regulatory Commission" or "FERC" means the federal agency established pursuant to 42 U.S.C. s.7171 et seq. to regulate the interstate transmission of electricity, natural gas, and oil;

"Financing entity" means an electric public utility, a special purpose entity, or any other assignee of bondable transition property, which issues transition bonds. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity which is not itself an electric public utility shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State;

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service;
"Government aggregator" means any government entity subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier or a licensed gas supplier for: (1) the provision of electric generation service, electric related service, gas supply service, or gas related service for its own use or the use of other government aggregators; or (2) if a municipal or county government, the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction; "Government energy aggregation program" means a program and procedure pursuant to which a government aggregator enters into a written contract for the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction; "Governmental entity" means any federal, state, municipal, local or other governmental department, commission, board, agency, court, authority or instrumentality having competent jurisdiction; "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; "Incremental auction" means an auction conducted by PJM, as part of PJM's reliability pricing model, prior to the start of the delivery year to secure electric capacity as necessary to satisfy the capacity requirements for that delivery year, that is not otherwise provided for in the base residual auction; "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 or standard that applies to generation sources located within the State; "Locational deliverability area" or "LDA" means one or more of the zones within the PJM region which are used to evaluate area transmission constraints and reliability issues including electric public utility company zones, sub-zones, and combinations of zones; "Long-term capacity agreement pilot program" or "LCAPP" means a pilot program established by the board that includes participation by eligible generators, to seek offers for financially-settled standard offer capacity agreements with eligible generators pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.); "Market transition charge" means a charge imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public utility, at a level determined by the board, on the electric public
utility customers for a limited duration transition period to recover stranded costs created as a result of the introduction of electric power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes the contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers;

"Mid-merit electric power generation facility" means a generation facility that operates at a capacity factor between baseload generation facilities and peaker generation facilities;

"Net proceeds" means proceeds less transaction and other related costs as determined by the board;

"Net revenues" means revenues less related expenses, including applicable taxes, as determined by the board;

"Net metering aggregation" means a procedure for calculating the combination of the annual energy usage for all facilities owned by a single customer where such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, and which are served by a solar electric generating facility as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87);

"Offshore wind energy" means electric energy produced by a qualified offshore wind project;

"Offshore wind renewable energy certificate" or "OREC" means a certificate, issued by the board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project;

"Off-site end use thermal energy services customer" means an end use customer that purchases thermal energy services from an on-site generation facility, combined heat and power facility, or co-generation facility, and that is located on property that is separated from the property on which the on-site generation facility, combined heat and power facility, or co-generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way;

"On-site generation facility" means a generation facility, including, but not limited to, a generation facility that produces Class I or Class II renewable energy, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on
which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end user and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way, or if the end use customer is purchasing thermal energy services produced by the on-site generation facility, for use for heating or cooling, or both, regardless of whether the customer is located on property that is separated from the property on which the on-site generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way;

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity;

"PJM Interconnection, L.L.C." or "PJM" means the privately-held, limited liability corporation that is a FERC-approved Regional Transmission Organization, or its successor, that manages the regional, high-voltage electricity grid serving all or parts of 13 states including New Jersey and the District of Columbia, operates the regional competitive wholesale electric market, manages the regional transmission planning process, and establishes systems and rules to ensure that the regional and in-State energy markets operate fairly and efficiently;

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers;

"Properly closed sanitary landfill facility" means a sanitary landfill facility or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote,
ten percent or more of the outstanding voting securities of an
electric public utility or a gas public utility or of a company which
is a public utility holding company by virtue of this definition,
unless the Securities and Exchange Commission, or its successor,
by order declares such company not to be a public utility holding
company under the Public Utility Holding Company Act of 1935,
15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
Securities and Exchange Commission, or its successor, determines,
after notice and opportunity for hearing, directly or indirectly, to
exercise, either alone or pursuant to an arrangement or
understanding with one or more other persons, such a controlling
influence over the management or policies of an electric public
utility or a gas public utility or public utility holding company so to
make it necessary or appropriate in the public interest or for the
protection of investors or consumers that such person be subject to
the obligations, duties, and liabilities imposed in the Public Utility
Holding Company Act of 1935 or its successor;
"Qualified offshore wind project” means a wind turbine
electricity generation facility in the Atlantic Ocean and connected
to the electric transmission system in this State, and includes the
associated transmission-related interconnection facilities and
equipment, and approved by the board pursuant to section 3 of
P.L.2010, c.57 (C.48:3-87.1);
"Registration program" means an administrative process
developed by the board pursuant to subsection u. of section 38 of
P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
power generation facilities connected to the distribution system that
intend to generate SRECs, to file with the board documents
detailing the size, location, interconnection plan, land use, and other
project information as required by the board;
"Regulatory asset” means an asset recorded on the books of an
electric public utility or gas public utility pursuant to the Statement
of Financial Accounting Standards, No. 71, entitled "Accounting for
the Effects of Certain Types of Regulation,” or any successor
standard and as deemed recoverable by the board;
"Related competitive business segment of an electric public
utility or gas public utility” means any business venture of an
electric public utility or gas public utility including, but not limited
to, functionally separate business units, joint ventures, and
partnerships, that offers to provide or provides competitive services;
"Related competitive business segment of a public utility holding
company” means any business venture of a public utility holding
company, including, but not limited to, functionally separate
business units, joint ventures, and partnerships and subsidiaries, that
offers to provide or provides competitive services, but does not
include any related competitive business segments of an electric
public utility or gas public utility;
"Reliability pricing model" or "RPM" means PJM's capacity-market model, and its successors, that secures capacity on behalf of electric load serving entities to satisfy load obligations not satisfied through the output of electric generation facilities owned by those entities, or otherwise secured by those entities through bilateral contracts;

"Renewable energy certificate" or "REC" means a certificate representing the environmental benefits or attributes of one megawatt-hour of generation from a generating facility that produces Class I or Class II renewable energy, but shall not include a solar renewable energy certificate or an offshore wind renewable energy certificate;

"Resource clearing price" or "RCP" means the clearing price established for the applicable locational deliverability area by the base residual auction or incremental auction, as determined by the optimization algorithm for each auction, conducted by PJM as part of PJM's reliability pricing model;

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse, which the Department of Environmental Protection has determined to be in compliance with current environmental standards, including, but not limited to, all applicable requirements of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as such costs are determined by the board, and which are not stranded costs as defined in P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information systems, and which shall include expenses related to employees affected by restructuring which result in efficiencies and which result in benefits to ratepayers, such as training or retraining at the level equivalent to one year's training at a vocational or technical school or county community college, the provision of severance pay of two weeks of base pay for each year of full-time employment, and a maximum of 24 months' continued health care coverage. Except as to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs;

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service or basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);
"Retail margin" means an amount, reflecting differences in prices that electric power suppliers and electric public utilities may charge in providing electric generation service and basic generation service, respectively, to retail customers, excluding residential customers, which the board may authorize to be charged to categories of basic generation service customers of electric public utilities in this State, other than residential customers, under the board's continuing regulation of basic generation service pursuant to sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the purpose of promoting a competitive retail market for the supply of electricity;

“Sanitary landfill facility” shall have the same meaning as provided in section 3 of P.L.1970, c.39 (C.13:1E-3);

"School district" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.);

"Shopping credit" means an amount deducted from the bill of an electric public utility customer to reflect the fact that such customer has switched to an electric power supplier and no longer takes basic generation service from the electric public utility;

"Small scale hydropower facility" means a facility located within this State that is connected to the distribution system, and that meets the requirements of, and has been certified by, a nationally recognized low-impact hydropower organization that has established low-impact hydropower certification criteria applicable to: (1) river flows; (2) water quality; (3) fish passage and protection; (4) watershed protection; (5) threatened and endangered species protection; (6) cultural resource protection; (7) recreation; and (8) facilities recommended for removal;

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged customers, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls;

"Societal benefits charge" means a charge imposed by an electric public utility, at a level determined by the board, pursuant to, and in accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

"Solar alternative compliance payment" or "SACP" means a payment of a certain dollar amount per megawatt hour (MWh)
which an electric power supplier or provider may submit to the
board in order to comply with the solar electric generation
requirements under section 38 of P.L.1999, c.23 (C.48:3-87);
"Solar renewable energy certificate" or "SREC" means a
certificate issued by the board or its designee, representing one
megawatt hour (MWh) of solar energy that is generated by a facility
connected to the distribution system in this State and has value
based upon, and driven by, the energy market;
"Standard offer capacity agreement" or "SOCA" means a
financially-settled transaction agreement, approved by board order,
that provides for eligible generators to receive payments from the
electric public utilities for a defined amount of electric capacity for
a term to be determined by the board but not to exceed 15 years,
and for such payments to be a fully non-bypassable charge, with
such an order, once issued, being irrevocable;
"Standard offer capacity price" or "SOCP" means the capacity
price that is fixed for the term of the SOCA and which is the price
to be received by eligible generators under a board-approved
SOCA;
"State entity" means a department, agency, or office of State
government, a State university or college, or an authority created by
the State;
"Stranded cost" means the amount by which the net cost of an
electric public utility's electric generating assets or electric power
purchase commitments, as determined by the board consistent with
the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
market value of those assets or contractual commitments in a
competitive supply marketplace and the costs of buydowns or
buylouts of power purchase contracts;
"Stranded costs recovery order" means each order issued by the
board in accordance with subsection c. of section 13 of P.L.1999,
c.23 (C.48:3-61) which sets forth the amount of stranded costs, if
any, the board has determined an electric public utility is eligible to
recover and collect in accordance with the standards set forth in
section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
mechanisms therefor;
"Thermal efficiency" means the useful electric energy output of a
facility, plus the useful thermal energy output of the facility,
expressed as a percentage of the total energy input to the facility;
"Transition bond charge" means a charge, expressed as an
amount per kilowatt hour, that is authorized by and imposed on
electric public utility ratepayers pursuant to a bondable stranded
costs rate order, as modified at any time pursuant to the provisions
of P.L.1999, c.23 (C.48:3-49 et al.);
"Transition bonds" means bonds, notes, certificates of
participation or beneficial interest or other evidences of
indebtedness or ownership issued pursuant to an indenture, contract
or other agreement of an electric public utility or a financing entity,
the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which are, directly or indirectly, secured by or payable from bondable transition property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities;

"Transition period” means the period from August 1, 1999 through July 31, 2003;

"Transmission and distribution system” means, with respect to an electric public utility, any facility or equipment that is used for the transmission, distribution or delivery of electricity to the customers of the electric public utility including, but not limited to, the land, structures, meters, lines, switches and all other appurtenances thereof and thereto, owned or controlled by the electric public utility within this State; and

"Universal service" means any service approved by the board with the purpose of assisting low-income residential customers in obtaining or retaining electric generation or delivery service.

"Virtual metering aggregation” means the combination of readings from instruments for determining the amount of, and billing for, all the electric power consumption of a single customer which is a school district, a county or any agency, authority, or other entity thereof, or a municipality, or any agency, authority, or other entity thereof, which owns or leases properties and which operates a solar electric power generation facility that is not an on-site generation facility, by means of the electric public utility’s billing process, rather than through physical rewiring of the customer’s property to provide a single point of contact, provided that each such property, including the solar electric generation facility, is located no more than three miles from each of the others and within the service territory of a single electric public utility. A customer engaged in virtual metering aggregation shall not be considered a public utility. Any incremental cost to electric public utilities for virtual metering aggregation shall be fully and timely recovered in a manner determined by the board.[1]

2. 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) By July 1, 2009, the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a 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
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State. The greenhouse gas emissions portfolio standard or any other
regulatory mechanism 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. If the transition period allowed pursuant to this
 subparagraph occurs after the implementation of an emissions
portfolio standard or other regulatory mechanism to mitigate
leakage, the transition period shall be no longer than three years;
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.
Unless the Attorney General or the Attorney General's designee
determines that a greenhouse gas emissions portfolio standard
would unconstitutionally burden interstate commerce or would be
preempted by federal law, the adoption by the board of an electric
energy efficiency portfolio standard pursuant to subsection g. of this
section, a gas energy efficiency portfolio standard pursuant to
subsection h. of this section, or any other enhanced energy
efficiency policies to mitigate leakage shall not be considered
sufficient to fulfill the requirement of this subsection for the
adoption of a greenhouse gas emissions portfolio standard or any
other regulatory mechanism to mitigate leakage.
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, 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;
(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;

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2028, that requires [suppliers or providers to purchase at least] the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

<table>
<thead>
<tr>
<th>Year</th>
<th>Kilowatthours (Gwhrs)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2011</td>
<td>306 Gwhrs</td>
<td>0.752%</td>
</tr>
<tr>
<td>EY 2012</td>
<td>442 Gwhrs</td>
<td>1.000%</td>
</tr>
<tr>
<td>EY 2013</td>
<td>596 Gwhrs</td>
<td>1.250%</td>
</tr>
<tr>
<td>EY 2014</td>
<td>772 Gwhrs</td>
<td>1.500%</td>
</tr>
<tr>
<td>EY 2015</td>
<td>965 Gwhrs</td>
<td>2.000%</td>
</tr>
<tr>
<td>EY 2016</td>
<td>1,150 Gwhrs</td>
<td>2.500%</td>
</tr>
<tr>
<td>EY 2017</td>
<td>1,357 Gwhrs</td>
<td>3.000%</td>
</tr>
<tr>
<td>EY 2018</td>
<td>1,591 Gwhrs</td>
<td>3.500%</td>
</tr>
<tr>
<td>EY 2019</td>
<td>1,858 Gwhrs</td>
<td>4.000%</td>
</tr>
<tr>
<td>EY 2020</td>
<td>2,164 Gwhrs</td>
<td>4.500%</td>
</tr>
<tr>
<td>EY 2021</td>
<td>2,518 Gwhrs</td>
<td>5.000%</td>
</tr>
<tr>
<td>EY 2022</td>
<td>2,928 Gwhrs</td>
<td>5.500%</td>
</tr>
<tr>
<td>EY 2023</td>
<td>3,433 Gwhrs</td>
<td>6.000%</td>
</tr>
<tr>
<td>EY 2024</td>
<td>3,989 Gwhrs</td>
<td>6.500%</td>
</tr>
<tr>
<td>EY 2025</td>
<td>4,610 Gwhrs</td>
<td>7.000%</td>
</tr>
<tr>
<td>EY 2026</td>
<td>5,316 Gwhrs</td>
<td>7.500%</td>
</tr>
<tr>
<td>EY 2027</td>
<td>5,316 Gwhrs</td>
<td>8.000%</td>
</tr>
</tbody>
</table>

and for every energy year thereafter, at least 5,316 Gwhrs per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators connected to the distribution system in this State, and to establish a framework within which, of the electricity that the generators sell in this State, suppliers and providers shall purchase each obtain at least 2,518 Gwhrs in the energy year 2028 from solar electric power generators connected to the distribution system in this State, provided, however, that the number of solar kilowatt-hours required to be purchased by each supplier or provider, when expressed as a percentage of the
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total number of solar kilowatt-hours purchased in this State, shall be
equivalent to each supplier's or provider's proportionate share of the
total number of kilowatt-hours sold in this State by all suppliers and
providers.  

(a) The board shall determine an appropriate period of no less
than 120 days following the end of an energy year prior to which a
provider or supplier must demonstrate compliance for that energy
year with the annual renewable portfolio standard:

(b) No more than 24 months following the date of enactment of
P.L. , c. (C. ) (pending before the Legislature as this bill),
the board shall complete a proceeding to investigate approaches to
mitigate solar development volatility and prepare and submit,
pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to
the Legislature, detailing its findings and recommendations. As
part of the proceeding, the board shall evaluate other techniques
used nationally and internationally:

(c) The solar renewable portfolio standards requirements in this
paragraph shall exempt those existing supply contracts which are
effective prior to the date of enactment of P.L. , c. (C. )
(pending before the Legislature as this bill) from any increase
beyond the number of SRECs [that exceeds the number] mandated by the solar renewable portfolio standards requirements
that were in effect on the date that the providers executed their
existing supply contracts. This limited exemption for providers'
existing supply contracts shall not be construed to lower the
Statewide solar sourcing requirements set forth in this paragraph.
Such incremental [new] requirements [that would have otherwise
been imposed on exempt providers] shall be distributed over the
[electric power suppliers and] providers not subject to the
existing supply contract exemption until such time as existing
supply contracts expire and all [suppliers] providers are subject
to the new requirement in a manner that is competitively neutral
among all providers and suppliers [such that non-exempt
providers are assigned the requirements that would have otherwise
been assigned to the exempt providers]. The board shall
implement the provisions of this subsection in a manner so as to
prevent any subsidies between suppliers and providers and to
promote competition in the electricity supply industry.  

(d) The solar renewable portfolio standards requirements in
this paragraph [(3) of this subsection] shall automatically increase
by 20% for the remainder of the schedule in the event that the
following two conditions are met: [(a)] (i) the number of SRECs
generated meets or exceeds the requirement for three consecutive
reporting years, starting with energy year [2013] 2014; and [(b)]
(ii) the average current market SREC price for [all] SRECs
purchased by entities with renewable energy portfolio standards
obligations [has decreased] in each of the same three consecutive
reporting years is less than the average current market SREC price
in the year prior to the three consecutive reporting years; and

(e) The board shall exempt providers’ [existing] supply
contracts that are [(a)] effective prior to the date of [P.L.2009,
c.289; or (b) effective prior to any future increase in the solar
renewable portfolio standard beyond the multi-year schedule
established in paragraph (3) of this subsection] any such increase.
This exemption shall apply to the number of SRECs that exceeds
the number mandated by the solar renewable portfolio standards
requirements that were in effect on the date that the suppliers or
providers executed their existing supply contracts. This limited
exemption for providers' existing supply contracts shall not be
construed to lower the Statewide solar purchase requirements set
forth in this paragraph [(3) of this subsection]. Such incremental
new requirements shall be distributed over the electric power
suppliers and providers not subject to the existing supply contract
exemption until such time as existing supply contracts expire and
all suppliers are subject to the new requirement in a manner that is
competitively neutral among all suppliers and providers, such that
non-exempt providers are assigned the requirements that would
have otherwise been assigned to the exempt providers.3

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, or
compliance with the requirements of this subsection may be
demonstrated to the board by suppliers or providers through the
purchase of SRECs.

The renewable energy portfolio standards adopted by the board
pursuant to paragraphs (1) and (2) of this subsection 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."

The renewable energy portfolio standards adopted by the board
pursuant to this paragraph [(3) of this subsection] shall be effective
as regulations immediately upon filing with the Office of
Administrative Law and shall be effective for a period not to exceed
30 months after such filing, and shall, thereafter, be amended,
adopted or readopted by the board in accordance with the
"Administrative Procedure Act"; and

(4) within 180 days after the date of enactment of P.L.2010,
c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
turbine renewable energy certificate program to require that a percentage of
the kilowatt hours sold in this State by each electric power supplier

and each basic generation service provider be from offshore wind energy in order to support at least 1,100 megawatts of generation from qualified offshore wind projects.

The percentage established by the board pursuant to this paragraph shall serve as an offset to the renewable energy portfolio standard established pursuant to paragraphs (1) and (2) of this subsection and shall reduce the corresponding Class I renewable energy requirement.

The percentage established by the board pursuant to this paragraph shall reflect the projected OREC production of each qualified offshore wind project, approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the commercial operation start date of the qualified offshore wind project which production projection and OREC purchase requirement, once approved by the board, shall not be subject to reduction.

An electric power supplier or basic generation service provider shall comply with the OREC program established pursuant to this paragraph through the purchase of offshore wind renewable energy certificates at a price and for the time period required by the board. In the event there are insufficient offshore wind renewable energy certificates available, the electric power supplier or basic generation service provider shall pay an offshore wind alternative compliance payment established by the board. Any offshore wind alternative compliance payments collected shall be refunded directly to the ratepayers by the electric public utilities.

The rules established by the board pursuant to this paragraph 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," P.L.1968, c.410 (C.52:14B-1 et seq.).

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 industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as
measured in watts, are eligible for net metering. If the amount of
electricity generated by the customer-generator, plus any kilowatt
hour credits held over from the previous billing periods, exceeds the
electricity supplied by the electric power supplier or basic
generation service provider, then the electric power supplier or
basic generation service provider, as the case may be, shall credit
the customer-generator 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 or, if the customer-generator
chooses, credit the customer-generator on a real-time basis, at the
electric power supplier's or basic generation service provider's
avoided cost of wholesale power or the PJM electric power pool's
real-time locational marginal pricing rate, adjusted for losses, for
the respective zone in the PJM electric power pool. Alternatively,
the customer-generator may execute a bilateral agreement with an
electric power supplier or basic generation service provider for the
sale and purchase of the customer-generator's excess generation.
The customer-generator may be credited on a real-time basis, so
long as the customer-generator follows applicable rules prescribed
by the PJM electric power pool for its capacity requirements for the
net amount of electricity supplied by the electric power supplier or
basic generation service provider. 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 2.5 percent of the State's peak electricity demand;

(2) safety and power quality interconnection standards for Class
I renewable energy source systems used by a customer-generator
that shall be eligible for net metering.

Such standards or rules shall take into consideration the goals of
the New Jersey Energy Master Plan, applicable industry standards,
and the standards of other states and the Institute of Electrical and
Electronic Engineers. The board shall allow electric public utilities
to recover the costs of any new net meters, upgraded net meters,
system reinforcements or upgrades, and interconnection costs
through either their regulated rates or from the net metering
customer-generator; '[(and)]'

(3) credit or other incentive rules for generators using Class I
renewable energy generation systems that connect to New Jersey's
electric public utilities' distribution system but who do not net meter
in the board's discretion.

(4) net metering aggregation standards to require electric public
utilities to provide net metering aggregation to single electric public
utility customers that operate a solar electric power generation
system installed at one of the customer's facilities or on property
owned by the customer, provided that any such customer is a
 retains its rated capacity at all times.
authority, municipality, municipal agency, or municipal authority.
The standards shall provide that, in order to qualify for net metering
aggregation, the customer must operate a solar electric power
generation system using a net metering billing account, which
system is located on property owned by the customer, provided that:
(a) the property is not land that has been actively devoted to
agricultural or horticultural use and that is valued, assessed, and
taxed pursuant to the "Farmland Assessment Act of 1964,"
P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10 year
period prior to the effective date of P.L.____, c. (C.____) (pending
before the Legislature as this bill), provided, however, that the
municipal planning board of a municipality in which a solar electric
power generation system is located may waive the requirement of
this subparagraph (a). (b) the system is not an on-site generation
facility, (c) all of the facilities of the single customer combined for
the purpose of net metering aggregation are facilities owned or
operated by the single customer and are located within its territorial
jurisdiction, except that all of the facilities of a State entity engaged
in net metering aggregation shall be located within five miles of one
another, and (d) all of those facilities are within the service territory
of a single electric public utility and are all served by the same
basic generation service provider or by the same electric power
supplier. The standards shall provide that in order to qualify for net
metering aggregation, the customer’s solar electric power
generation system shall be sized so that its annual generation does
not exceed the combined metered annual energy usage of the
qualified customer facilities, and the qualified customer facilities
shall all be in the same customer rate class under the applicable
electric public utility tariff. For the customer’s facility or property
on which the solar electric generation system is installed, the
electricity generated from the customer’s solar electric
generation system shall be accounted for pursuant to the provisions
of paragraph (1) of this subsection to provide that the electricity
generated in excess of the electricity supplied by the electric power
supplier or the basic generation service provider, as the case may
be, for the customer’s facility on which the solar electric generation
system is installed, over the annualized period, is credited at
the electric power supplier’s or the basic generation service
provider’s avoided cost of wholesale power or the PJM electric
power pool real-time locational marginal pricing rate. All
electricity used by the customer’s qualified facilities, with the
exception of the facility or property on which the solar electric
power generation system is installed, shall be billed at the full retail
rate pursuant to the electric public utility transmission and
distribution tariff applicable to the customer class of the customer
using the electricity. A customer may contract with a third party to
operate a solar electric power generation system, for the purpose of
net metering aggregation. Any contractual relationship entered into
for operation of a solar electric power generation system related to
net metering aggregation shall include contractual protections that
provide for adequate performance and provision for construction
and operation for the term of the contract, including any appropriate
bonding or escrow requirements. Any incremental cost to an electric
public utility for net metering aggregation shall be fully and timely
recovered in a manner to be determined by the board. The board
shall adopt net metering aggregation standards within 270 days after
the effective date of P.L. , c. (C. ) (pending before the
Legislature as this bill).4

Such rules shall require the board or its designee to issue a credit
or other incentive to those generators that do not use a net meter but
otherwise generate electricity derived from a Class I renewable
energy source and to issue an enhanced credit or other incentive,
including, but not limited to, a solar renewable energy credit, to
those generators that generate electricity derived from solar
technologies.

Such standards or rules 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. The board shall not impose a
fee for the cost of implementing and overseeing a greenhouse gas
emissions portfolio standard adopted pursuant to paragraph (2) of
subsection c. of this section, the electric energy efficiency portfolio
standard adopted pursuant to subsection g. of this section, or the gas
energy efficiency portfolio standard adopted pursuant to subsection
h. of this section.

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," P.L.1968, c.410 (C.52:14B-1 et seq.), 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. After the board establishes a schedule of solar kilowatt-hour
sale or purchase requirements pursuant to paragraph (3) of
subsection d. of this section, the board may initiate subsequent
proceedings and adopt, after appropriate notice and opportunity for
public comment and public hearing, increased minimum solar
kilowatt-hour sale or purchase requirements, provided that the
board shall not reduce previously established minimum solar
kilowatt-hour sale or purchase requirements, or otherwise impose
constraints that reduce the requirements by any means.

j. The board shall determine an appropriate level of solar
alternative compliance payment, and establish a 15-year solar
alternative compliance payment schedule, that permits each supplier or provider to submit an SACP to comply with the solar
electric generation requirements of paragraph (3) of subsection d. of
this section. The value of the SACP for each Energy Year, for Energy Years 2014 through 2028 per megawatt hour from solar
electric generation required pursuant to this section, shall be:

<table>
<thead>
<tr>
<th>Energy Year</th>
<th>SACP Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2014</td>
<td>$400</td>
</tr>
<tr>
<td>EY 2015</td>
<td>$390</td>
</tr>
<tr>
<td>EY 2016</td>
<td>$380</td>
</tr>
<tr>
<td>EY 2017</td>
<td>$370</td>
</tr>
<tr>
<td>EY 2018</td>
<td>$360</td>
</tr>
<tr>
<td>EY 2019</td>
<td>$350</td>
</tr>
<tr>
<td>EY 2020</td>
<td>$340</td>
</tr>
<tr>
<td>EY 2021</td>
<td>$330</td>
</tr>
<tr>
<td>EY 2022</td>
<td>$320</td>
</tr>
<tr>
<td>EY 2023</td>
<td>$310</td>
</tr>
<tr>
<td>EY 2024</td>
<td>$310</td>
</tr>
<tr>
<td>EY 2025</td>
<td>$300</td>
</tr>
<tr>
<td>EY 2026</td>
<td>$290</td>
</tr>
<tr>
<td>EY 2027</td>
<td>$280</td>
</tr>
<tr>
<td>EY 2028</td>
<td>$270</td>
</tr>
</tbody>
</table>

The board may initiate subsequent proceedings and adopt, after
appropriate notice and opportunity for public comment and public
hearing, an increase in solar alternative compliance payments,
provided that the board shall not reduce previously established
levels of solar alternative compliance payments, nor shall the board
provide relief from the obligation of payment of the SACP by the
electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts through a competitive process, direct electric public utility investment and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders. If the board allows the offering of contracts pursuant to this subsection, the board shall establish a process, after hearing, and opportunity for public comment, to provide that a designated segment of the contracts approved pursuant to this subsection shall be contracts involving solar electric power generation facility projects with a capacity of up to 250 kilowatts.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

(1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;

(2) maintain adequate regulatory authority over non-competitive public utility services;

(3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;

(4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;

(5) make energy services more affordable for low and moderate income customers;

(6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;

(7) achieve the goals put forth under the renewable energy portfolio standards;

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

m. The board shall ensure the availability of financial incentives under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and appropriate coverage across all ratepayer segments, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.

n. For projects which are owned, or directly invested in, by a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), the board shall determine the number of SRECs with which such projects shall be credited; and in determining such number the
board shall ensure that the market for SRECs does not detrimentally affect the development of non-utility solar projects and shall consider how its determination may impact the ratepayers.

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:

(1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;
(2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;
(3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and
(4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs and ORECS shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two years. SRECs and ORECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.

q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project which is not:
(a) net metered, not; (b) an on-site generation facility, or not; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, or a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this section shall be considered "connected to the distribution system" if (a) the facility files a notice with the board indicating its intent to qualify under this subsection; and (b) the capacity of the facility, when added to the capacity of other facilities that have been approved for connection prior to the facility’s filing under this subsection, does not exceed 100 megawatts in the aggregate for each year. The board shall act within 180 days of its receipt of a completed application for designation of a solar power electric generation facility as "connected to the distribution system." to either approve, conditionally approve, or disapprove the application. Filings made or (e) certified as being located on an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the
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facility is paved or is an impervious surface, pursuant to subsection x. of this section] may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of $40,000 per megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility’s filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project approved pursuant to this subsection shall not exceed 10 megawatts. No more than 90 days after its receipt of a completed application for designation pursuant to this subsection, the board shall approve, conditionally approve, or disapprove the application. The notice escrow shall be reimbursed to the facility in full upon either rejection by the board or the facility entering commercial operation, or shall be forfeited to the State if the facility is determined to be “connected to the distribution system” designated pursuant to this subsection but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar power electric generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility as “connected to the distribution system” shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

r. (1) For all proposed solar electric power generation facility projects except for those solar power electric generation facility projects proposed in addition to those approved pursuant to subsection q. of this section and for all projects proposed in each energy year following energy year 2016, a proposed solar electric generation facility that is neither net metered nor an on-site generation facility, may be considered “connected to the distribution system” only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar power electric generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated
capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total \(^2\) project\(^2\) acreage and location; the current land use designation of the property; the type of solar technology to be used; and \(2\) [other]\(^2\) information as the board shall require.

(2) The board shall approve the designation of the proposed solar power electric generation facility as “connected to the distribution system” if the board determines that:

(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;

(b) \(1\) [the loss of tillable acreage that would result from the approval of the designation of the proposed facility, together with the tillable acreage of all other facilities approved pursuant to this subsection, would cumulatively constitute a loss of less than one percent of the total tillable acres of farmland in the State on the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), pursuant to information provided by the New Jersey Department of Agriculture; and] the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;

(c) the impact of the designation on electric rates and economic development is beneficial \(^1\); and

(d) there will be no \(2\) [impact] impingement\(^2\) on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers\(^1\).

(3) The board shall act within \(1\) [180] 90\(^4\) days of its receipt of a completed application for designation of a solar power electric generation facility as “connected to the distribution system.” to either approve, conditionally approve, or disapprove the application. If the proposed solar \(2\) [power]\(^2\) electric \(2\) [power] generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility as “connected to the distribution system” shall be deemed to be null and void, and the facility shall thereafter be considered not “connected to the distribution system.”

\(^1\) Notwithstanding the foregoing provisions of this section

\(^2\) In addition to any other requirements of P.L.1999, c.23 or any other law, rule, regulation or order, a solar power electric generation facility, that is not net metered or an on-site generation facility and which is located on farmland, and not heretofore approved pursuant to subsection q. of this section, shall not on land that has been actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment..."
Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10 year period prior to the effective date of P.L. ___, c. (C. ___) (pending before the Legislature as this bill), shall only¹ be considered "connected to the distribution system." [unless] if (1)¹ the facility has been approved as such by the board [and] (1) approves the facility’s designation pursuant to subsection q. of this section; or (2) (a)¹ PJM issued a System Impact Study for the facility [prior to] on or before [March 31, 2011] June 30, 2011² [and] (1) [and] (2)² (b) [the facility is not (i) net metered, or (ii) an on-site generation facility, and (c)¹ the facility files a notice with the board within 60 days of the effective date of P.L. ___, c. (C. ___) (pending before the Legislature as this bill), indicating its intent to qualify under this subsection ¹, and ²[and] (c)² the facility has been approved as "connected" to the distribution system² by the board. Nothing in this subsection shall affect the board’s authority concerning the review and oversight of facilities, unless such facilities are exempt from such review as a result of having been approved pursuant to subsection q. of this section¹.

²[(1)]² No more than 180 days after the date of enactment of P.L. ___, c. (C. ___) (pending before the Legislature as this bill), the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar "power" electric "power" generation facility projects certified by the board as being located on a brownfield or a properly closed sanitary landfill facility [or] [for] or an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved or is an impervious surface which shall include, but not be limited to projects located on a brownfield or a properly closed sanitary landfill facility or an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved or is an impervious surface and including those owned or operated by an electric utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1)¹. Projects certified under this subsection [(1)]¹ shall be considered “connected to the distribution system” [(and),¹ shall not require such designation by the board, and [(2)]¹ shall not be subject to board review required pursuant to subsections q. and r. of this section. [For]²[Notwithstanding the
provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other
law, rule, regulation, or order to the contrary, for projects certified
under this subsection except for those projects involving a facility
that is certified as being located on an existing or proposed
commercial, retail, industrial, municipal, professional, recreational,
transit, commuter, entertainment complex, multi-use, or mixed-use
parking lot with a capacity to park 350 or more vehicles where the
area to be utilized for the facility is paved, or is an impervious
surface, the board shall credit additional incentives to be
determined by the board for each megawatt hour (MWh) of solar
energy that is generated by the project, establish a financial
incentive that is designed to supplement the SRECs generated by
the facility in order to cover the additional cost of constructing and
operating a solar electric power generation facility on a brownfield
or properly closed sanitary landfill facility. Notwithstanding the
provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other
law, rule, regulation, or order to the contrary, for projects certified
under this subsection, the board shall establish a financial incentive
that is designed to supplement the SRECs generated by the facility
in order to cover the additional cost of constructing and operating a
solar electric power generation facility on a brownfield or properly
closed sanitary landfill facility. Any financial benefit realized in
relation to a project owned or operated by an electric public utility
and approved by the board pursuant to section 13 of P.L.2007,
c.340 (C.48:3-98.1), as a result of the provision of a financial
incentive established by the board pursuant to this subsection, shall
be credited to ratepayers. The issuance of SRECs for all solar
electric generation facility projects pursuant to this subsection shall be deemed “Board of Public Utilities financial assistance” as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

Notwithstanding the provisions of the “Spill Compensation and Control Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.) or any other law, rule, regulation, or order to the contrary, the board may find that a person who owns real property, where there is constructed a solar electric power generation facility project certified by the board, pursuant to paragraph (1) of this subsection, as being located on a brownfield or a properly closed sanitary landfill facility, which shall include, but not be limited to projects located on a brownfield or a properly closed sanitary landfill facility and owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), that is acquired on or after the effective date of P.L. , c. (C. ) (pending in the Legislature as this bill), or who operates a solar
electric power generation facility project certified by the board,
pursuant to paragraph (1) of this subsection, as being located on a
brownfield or a properly closed sanitary landfill facility, which
shall include, but not be limited to projects located on a brownfield or a properly closed sanitary landfill facility and owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C:48:3-98.1), after the effective date of P.L. , c. (C: ) (pending in the Legislature as this bill), shall not be liable for cleanup and removal costs or for any other costs or damages to the State or to any other person for the discharge of a hazardous substance provided that:

(a) the person acquired or leased the real property after the discharge of that hazardous substance at the real property;

(b) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(c) the person, within 30 days after acquisition of the property, gave notice of the discharge to the department in a manner the department prescribes;

(d) the person does not disrupt or change, without the department’s prior written permission, any engineering or institutional control that is part of a remedial action for the contaminated site;

(e) the person does not exacerbate the contamination at the property;

(f) the person cooperates with any necessary remediation of the property; and

(g) the person complies with any regulations and any permit the department issues pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19).

Only the person who is liable to clean up and remove the contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g) and who does not have a defense to liability pursuant to subsection d. of that section shall be liable for cleanup and removal costs or for any other costs or damages.

u. No more than 180 days after the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), the board shall complete a proceeding to establish a registration program. The registration program shall require the owners of solar electric generation facility projects connected to the distribution system to make periodic milestone filings with the board in a manner and at such times as determined by the board to provide full disclosure and transparency regarding the overall level of development and construction activity of those projects Statewide.

v. The issuance of SRECs for all solar electric generation facility projects pursuant to this section, for projects connected to the distribution system with a capacity of one
megawatt or greater, shall be deemed “Board of Public Utilities financial assistance” as provided pursuant to section 1 of P.L.2009, c.89 (C.48:2-29.47).

w. [Electricity used for virtual metering aggregation shall be delivered to customers pursuant to the electric public utility transmission and distribution tariffs applicable to the customer class of the customer using the energy. A customer that is a school district, a county or any agency, authority, or other entity thereof, or a municipality, or any agency, authority, or other thereof, may purchase such electricity through virtual metering aggregation to meet its electricity requirements.] No more than 270 days after the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), the board shall, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board as being three megawatts or greater in capacity and being net metered, including facilities which are owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is designed to supplement the SRECs generated by the facility to further the goal of improving the economic competitiveness of commercial and industrial customers taking power from such projects. Projects certified under this subsection (1) shall be considered "connected to the distribution system" and shall not require such designation by the board, and (2) shall not be subject to board review required pursuant to subsections q. and r. of this section. For projects approved If the board determines to establish such a program pursuant to this subsection, the board may establish a financial incentive to provide that the board shall issue one SREC for no less than every 750 kilowatt-hours of solar energy generated by the certified projects. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provisions of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers.

x. [No more than 180 days after the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects including facility projects which are owned or operated by an electric public utility and
approved by the board pursuant to section 13 of P.L.2007, c.340
(C.48:3-98.1), certified by the board as being that are located on
an existing or proposed commercial, retail, industrial, municipal,
professional, recreational, transit, commuter, entertainment
complex, multi-use, or mixed-use parking lot with a capacity to
park 350 or more vehicles where the area to be utilized for the
facility is paved, or an impervious surface may be owned or
operated by an electric public utility and may be approved by the
board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

Projects certified under this subsection (1) shall be considered
“connected to the distribution system” and shall not require such
designation by the board, and (2) shall not be subject to board
review required pursuant to subsections q. and r. of this section.

(cf: P.L.2010, c.57, s.2)

3. This act shall take effect immediately.