Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator STEPHEN M. SWEENEY
District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:
Senator Buono

SYNOPSIS
Revises certain solar renewable energy programs and requirements; provides for aggregating net metering on certain properties owned or leased by local government units and school districts.

CURRENT VERSION OF TEXT
As amended by the Senate on May 24, 2012.

(Sponsorship Updated As Of: 6/1/2012)
AN ACT concerning net 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 of power for basic generation service and related ancillary and

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:
Senate floor amendments adopted May 24, 2012.
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 contaminant, as included in the “Brownfields Redevelopment Task Force” inventory, developed pursuant to section 5 of P.L.1997, c.278 (C.58:10B-23);

"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, 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 virtual net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87); or (4) 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, and is designated as connected to the distribution system by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-87), or is certified by the board as being located on a brownfield 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 efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers;
"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;
"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 for the specific purpose of supplying
generation to the end use customer’s property. The total output of
the on-site generation facility shall be used to serve the load of the
on-site end use customer [unless the customer is eligible for and
engaged in virtual net metering aggregation]1. An on-site
generation facility shall not be considered a public utility. The
property of the end use customer 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 as 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.12 (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

"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;

"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 buyouts 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

"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; and

“Virtual net metering aggregation” means a procedure for
calculating the combination of the annual energy usage for all
facilities owned or leased by a single customer and that customer is
a school district, county, county agency, county authority,
municipality, municipal agency, or municipal authority, as provided
pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999,
c.23 (C.48:3-87).
(cf: P.L.2011, c.9, s.2)

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 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:
EY 2011  306 Gigawatthours (Gwhrs)
EY 2012  442 Gwhrs
EY 2013  596 Gwhrs
EY 2014  [772 Gwhrs] 2.184%
EY 2015  [965 Gwhrs] 2.543%
EY 2016  [1,150 Gwhrs] 2.549%
EY 2017  [1,357 Gwhrs] 2.788%
EY 2018  [1,591 Gwhrs] 3.023%
EY 2019  [1,858 Gwhrs] 3.255%
EY 2020  [2,164 Gwhrs] 3.486%
EY 2021  [2,518 Gwhrs] 3.722%
EY 2022  [2,928 Gwhrs] 3.865%
EY 2023  [3,433 Gwhrs] 4.002%
EY 2024  [3,989 Gwhrs] 4.078%
EY 2025  [4,610 Gwhrs] 4.147%
EY 2026  [5,316 Gwhrs] 4.180%
EY 2027  4.204%
EY 2028, 4.227%, and for every energy year thereafter, at least
[5,316 Gwhrs] 4.227% 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]
3.722% in the energy year 2021 and [5,316 Gwhrs] 4.227% in the
energy year 2026, 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
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. (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 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 providers and suppliers, such that non-exempt providers are assigned the requirements that would have otherwise been assigned to the exempt providers.

[The solar renewable portfolio standards requirements in 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) the number of SRECs generated meets or exceeds the requirement for three consecutive reporting years, starting with energy year 2013; and (b) the average SREC price for all SRECs purchased by entities with renewable energy portfolio standards obligations has decreased in the same three consecutive reporting years; and]

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. 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 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 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.]

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 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;

(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
and;

(4) virtual net metering aggregation standards to require electric
public utilities to provide virtual net metering aggregation to single
electric public utility customers that operate a solar electric power
generation facility, provided that any such customer is a school
district, county, county agency, county authority, municipality,
municipal agency, or municipal authority. The standards shall
provide that, in order to qualify for virtual net metering
aggregation, the customer must operate a solar electric power
generation facility that is directly connected to the electric grid, is
not an on-site generation facility, that all of the facilities of the
single customer combined for the purpose of virtual net metering
aggregation are facilities owned or operated by the single customer,
are located within its territorial jurisdiction, are within the
service territory of a single electric public utility, and are all
served by basic generation service or by the same electric power
supplier. The standards shall provide that in order to qualify for
virtual net metering aggregation, the customer's solar electric
power generation facility shall be sized so that its annual generation
does not exceed the combined annual energy usage of the qualified
customer facilities, and the qualified customer facilities shall all be
in the same customer class under the applicable electric public
utility transmission and distribution tariff. All electricity used
by a customer engaged in virtual net metering aggregation shall
be delivered to the customer's qualified facilities, with the exception
of the solar electric power generation facility, 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. The electric public utility

[A] The electric public utility
shall provide the customer that is a school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, may purchase such electricity through virtual net metering aggregation to meet its electricity requirements an annual payment for the difference between the total energy generated by the customer’s solar electric power generation facility and the energy used by the customer’s qualified facilities consistent with the standards established in paragraph (1) of this subsection.

Any incremental cost to an electric public utility for virtual net metering aggregation shall be fully and timely recovered in a manner to be determined by the board. The board shall adopt virtual net metering aggregation standards within 270 days after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill). Should the board fail to adopt such standards, electric public utilities shall provide for virtual net metering aggregation consistent with the provisions of this paragraph.

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.

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.

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
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] permit 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>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY 2014</td>
<td>$325</td>
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<tr>
<td>EY 2015</td>
<td>$317</td>
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<tr>
<td>EY 2016</td>
<td>$309</td>
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<tr>
<td>EY 2017</td>
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<td>EY 2018</td>
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<td>EY 2019</td>
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<td>EY 2020</td>
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<tr>
<td>EY 2021</td>
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<td>EY 2022</td>
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<td>EY 2027</td>
<td>$234</td>
</tr>
<tr>
<td>EY 2028</td>
<td>$228</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.

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 energy 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 that is not: (a) net
metered; (b) an on-site generation facility; (c) qualified for virtual
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, 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 a 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 the facility entering commercial operation, or shall be forfeited to the State if the facility is designated pursuant to this subsection, but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar electric 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 shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

r. (1) For solar electric power 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 power 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 project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other 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) 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; and

(d) there will be no impact 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.
(3) The board shall act within 90 days of its receipt of a completed application for designation of a solar power electric generation facility as "connected to the distribution system." Either approve, conditionally approve, or disapprove the application. If the proposed solar electric 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."

s. Notwithstanding any other provisions of this section, a solar electric power generation facility located on farmland, or 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. (pending before the Legislature as this bill), shall only be considered "connected to the distribution system" if (1) the board approves a facility's designation pursuant to subsection q. of this section, or (2) (a) a PJM issued System Impact Study for the facility prior to March 31, 2011; and (b) the facility files a notice with the board within 60 days of the effective date of P.L., c. (pending before the Legislature as this bill), indicating its intent to qualify under this paragraph.

t. No more than 180 days after the date of enactment of P.L., 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 certified by the board 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). Projects certified under this subsection shall (1) 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. 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. The issuance of SRECs for all solar electric power 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).

u. No more than 180 days after the date of enactment of P.L. __, 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 power 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 power 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).

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

3. This act shall take effect immediately.