

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1925**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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ADOPTED MAY 17, 2012

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

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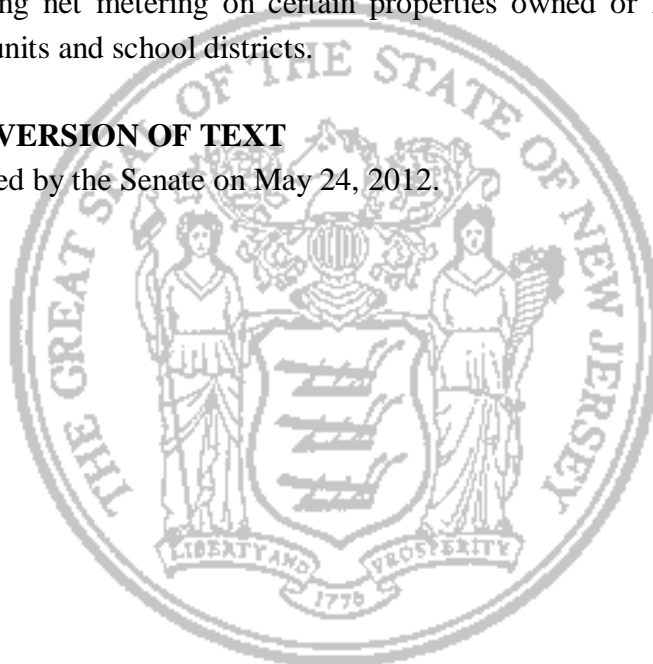
**Senator Buono**

**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)**

1 **AN ACT** concerning net metering and solar renewable portfolio  
2 standards requirements and amending P.L.1999, c.23.

3

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

6

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

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

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

17 "Base load electric power generation facility" means an electric  
18 power generation facility intended to be operated at a greater than  
19 50 percent capacity factor including, but not limited to, a combined  
20 cycle power facility and a combined heat and power facility;

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

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

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

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

42 "Basic generation service transition costs" means the amount by  
43 which the payments by an electric public utility for the procurement  
44 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:

<sup>1</sup> Senate floor amendments adopted May 24, 2012.

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

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

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

44 "Bondable stranded costs rate order" means one or more  
45 irrevocable written orders issued by the board pursuant to P.L.1999,  
46 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
47 stranded costs and the initial amount of transition bond charges

1 authorized to be imposed to recover such bondable stranded costs,  
2 including the costs to be financed from the proceeds of the  
3 transition bonds, as well as on-going costs associated with servicing  
4 and credit enhancing the transition bonds, and provides the electric  
5 public utility specific authority to issue or cause to be issued,  
6 directly or indirectly, transition bonds through a financing entity  
7 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),  
8 which order shall become effective immediately upon the written  
9 consent of the related electric public utility to such order as  
10 provided in P.L.1999, c.23 (C.48:3-49 et al.);

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

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

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

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

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

45 "Buyout" means an arrangement or arrangements involving the  
46 buyer and seller in a given power purchase contract and, in some

1 cases third parties, for consideration to be given by the buyer in  
2 order to effectuate a termination of such power purchase contract;

3 "Class I renewable energy" means electric energy produced from  
4 solar technologies, photovoltaic technologies, wind energy, fuel  
5 cells, geothermal technologies, wave or tidal action, small scale  
6 hydropower facilities with a capacity of three megawatts or less and  
7 put into service after the effective date of P.L. , c. (C. )  
8 (pending before the Legislature as this bill), and methane gas from  
9 landfills or a biomass facility, provided that the biomass is  
10 cultivated and harvested in a sustainable manner;

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

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

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

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

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

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

46 "Comprehensive resource analysis" means an analysis including,  
47 but not limited to, an assessment of existing market barriers to the

1 implementation of energy efficiency and renewable technologies  
2 that are not or cannot be delivered to customers through a  
3 competitive marketplace;

4 "Connected to the distribution system" means, for a solar electric  
5 power generation facility, the facility is: (1) connected to a net  
6 metering customer's side of a meter, regardless of the voltage at  
7 which that customer connects to the electric grid; (2) an on-site  
8 generation facility; (3) qualified for virtual net metering  
9 aggregation as provided pursuant to paragraph (4) of subsection e.  
10 of section 38 of P.L.1999, c.23 (C.48:3-87); or (4) directly  
11 connected to the electric grid at 69 kilovolts or less, regardless of  
12 how an electric public utility classifies that portion of its electric  
13 grid, and is designated as connected to the distribution system by  
14 the board pursuant to subsections q. through s. of section 38 of  
15 P.L.1999, c.23 (C.48:3-87), or is certified by the board as being  
16 located on a brownfield or a properly closed sanitary landfill  
17 facility. Any solar electric power generation facility, other than that  
18 of a net metering customer on the customer's side of the meter,  
19 connected above 69 kilovolts, shall not be considered connected to  
20 the distribution system;

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

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

28 "Delivery year" or "DY" means the 12-month period from June  
29 1st through May 31st, numbered according to the calendar year in  
30 which it ends;

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

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

42 "Electric power generator" means an entity that proposes to  
43 construct, own, lease or operate, or currently owns, leases or  
44 operates, an electric power production facility that will sell or does  
45 sell at least 90 percent of its output, either directly or through a  
46 marketer, to a customer or customers located at sites that are not on  
47 or contiguous to the site on which the facility will be located or is

1 located. The designation of an entity as an electric power generator  
2 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
3 and of itself, affect the entity's status as an exempt wholesale  
4 generator under the Public Utility Holding Company Act of 1935,  
5 15 U.S.C. s.79 et seq., or its successor;

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

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

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

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

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

34 "Energy agent" means a person that is duly registered pursuant to  
35 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the  
36 sale of retail electricity or electric related services or retail gas  
37 supply or gas related services between government aggregators or  
38 private aggregators and electric power suppliers or gas suppliers,  
39 but does not take title to the electric or gas sold;

40 "Energy consumer" means a business or residential consumer of  
41 electric generation service or gas supply service located within the  
42 territorial jurisdiction of a government aggregator;

43 "Energy efficiency portfolio standard" means a requirement to  
44 procure a specified amount of energy efficiency or demand side  
45 management resources as a means of managing and reducing energy  
46 usage and demand by customers;

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

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

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

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

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

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

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

43 "Gas supply service" means the provision to customers of the  
44 retail commodity of gas, but does not include any regulated  
45 distribution service;

46 "Government aggregator" means any government entity subject  
47 to the requirements of the "Local Public Contracts Law," P.L.1971,



1 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
2 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
3 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
4 contract with a licensed electric power supplier or a licensed gas  
5 supplier for: (1) the provision of electric generation service, electric  
6 related service, gas supply service, or gas related service for its own  
7 use or the use of other government aggregators; or (2) if a  
8 municipal or county government, the provision of electric  
9 generation service or gas supply service on behalf of business or  
10 residential customers within its territorial jurisdiction;

11 "Government energy aggregation program" means a program and  
12 procedure pursuant to which a government aggregator enters into a  
13 written contract for the provision of electric generation service or  
14 gas supply service on behalf of business or residential customers  
15 within its territorial jurisdiction;

16 "Governmental entity" means any federal, state, municipal, local  
17 or other governmental department, commission, board, agency,  
18 court, authority or instrumentality having competent jurisdiction;

19 "Greenhouse gas emissions portfolio standard" means a  
20 requirement that addresses or limits the amount of carbon dioxide  
21 emissions indirectly resulting from the use of electricity as applied  
22 to any electric power suppliers and basic generation service  
23 providers of electricity;

24 "Incremental auction" means an auction conducted by PJM, as  
25 part of PJM's reliability pricing model, prior to the start of the  
26 delivery year to secure electric capacity as necessary to satisfy the  
27 capacity requirements for that delivery year, that is not otherwise  
28 provided for in the base residual auction;

29 "Leakage" means an increase in greenhouse gas emissions  
30 related to generation sources located outside of the State that are not  
31 subject to a state, interstate or regional greenhouse gas emissions  
32 cap or standard that applies to generation sources located within the  
33 State;

34 "Locational deliverability area" or "LDA" means one or more of  
35 the zones within the PJM region which are used to evaluate area  
36 transmission constraints and reliability issues including electric  
37 public utility company zones, sub-zones, and combinations of  
38 zones;

39 "Long-term capacity agreement pilot program" or "LCAPP"  
40 means a pilot program established by the board that includes  
41 participation by eligible generators, to seek offers for financially-  
42 settled standard offer capacity agreements with eligible generators  
43 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.);

44 "Market transition charge" means a charge imposed pursuant to  
45 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public  
46 utility, at a level determined by the board, on the electric public  
47 utility customers for a limited duration transition period to recover

1 stranded costs created as a result of the introduction of electric  
2 power supply competition pursuant to the provisions of P.L.1999,  
3 c.23 (C.48:3-49 et al.);

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

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

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

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

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

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

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

34 "On-site generation facility" means a generation facility,  
35 including, but not limited to, a generation facility that produces  
36 Class I or Class II renewable energy, and equipment and services  
37 appurtenant to electric sales by such facility to the end use customer  
38 located on the property or on property contiguous to the property on  
39 which the end user is located for the specific purpose of supplying  
40 generation to the end use customer's property. The total output of  
41 the on-site generation facility shall be used to serve the load of the  
42 on-site end use customer <sup>1</sup> [unless the customer is eligible for and  
43 engaged in virtual net metering aggregation]<sup>1</sup>. An on-site  
44 generation facility shall not be considered a public utility. The  
45 property of the end use customer and the property on which the on-  
46 site generation facility is located shall be considered contiguous if  
47 they are geographically located next to each other, but may be

1 otherwise separated by an easement, public thoroughfare,  
2 transportation or utility-owned right-of-way, or if the end use  
3 customer is purchasing thermal energy services produced by the on-  
4 site generation facility, for use for heating or cooling, or both,  
5 regardless of whether the customer is located on property that is  
6 separated from the property on which the on-site generation facility  
7 is located by more than one easement, public thoroughfare, or  
8 transportation or utility-owned right-of-way;

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

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

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

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

40 "Public utility holding company" means: (1) any company that,  
41 directly or indirectly, owns, controls, or holds with power to vote,  
42 ten percent or more of the outstanding voting securities of an  
43 electric public utility or a gas public utility or of a company which  
44 is a public utility holding company by virtue of this definition,  
45 unless the Securities and Exchange Commission, or its successor,  
46 by order declares such company not to be a public utility holding  
47 company under the Public Utility Holding Company Act of 1935,

1 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
2 Securities and Exchange Commission, or its successor, determines,  
3 after notice and opportunity for hearing, directly or indirectly, to  
4 exercise, either alone or pursuant to an arrangement or  
5 understanding with one or more other persons, such a controlling  
6 influence over the management or policies of an electric public  
7 utility or a gas public utility or public utility holding company as to  
8 make it necessary or appropriate in the public interest or for the  
9 protection of investors or consumers that such person be subject to  
10 the obligations, duties, and liabilities imposed in the Public Utility  
11 Holding Company Act of 1935 or its successor;

12 "Qualified offshore wind project" means a wind turbine  
13 electricity generation facility in the Atlantic Ocean and connected  
14 to the electric transmission system in this State, and includes the  
15 associated transmission-related interconnection facilities and  
16 equipment, and approved by the board pursuant to section 3 of  
17 P.L.2010, c.57 (C.48:3-87.1);

18 "Registration program" means an administrative process  
19 developed by the board pursuant to subsection u. of section 38 of  
20 P.L.1999, c.12 (C.48:3-87) that requires all owners of solar electric  
21 power generation facilities connected to the distribution system that  
22 intend to generate SRECs, to file with the board documents  
23 detailing the size, location, interconnection plan, land use, and other  
24 project information as required by the board;

25 "Regulatory asset" means an asset recorded on the books of an  
26 electric public utility or gas public utility pursuant to the Statement  
27 of Financial Accounting Standards, No. 71, entitled "Accounting for  
28 the Effects of Certain Types of Regulation," or any successor  
29 standard and as deemed recoverable by the board;

30 "Related competitive business segment of an electric public  
31 utility or gas public utility" means any business venture of an  
32 electric public utility or gas public utility including, but not limited  
33 to, functionally separate business units, joint ventures, and  
34 partnerships, that offers to provide or provides competitive services;

35 "Related competitive business segment of a public utility holding  
36 company" means any business venture of a public utility holding  
37 company, including, but not limited to, functionally separate  
38 business units, joint ventures, and partnerships and subsidiaries, that  
39 offers to provide or provides competitive services, but does not  
40 include any related competitive business segments of an electric  
41 public utility or gas public utility;

42 "Reliability pricing model" or "RPM" means PJM's capacity-  
43 market model, and its successors, that secures capacity on behalf of  
44 electric load serving entities to satisfy load obligations not satisfied  
45 through the output of electric generation facilities owned by those  
46 entities, or otherwise secured by those entities through bilateral  
47 contracts;

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

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

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

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

36 "Retail choice" means the ability of retail customers to shop for  
37 electric generation or gas supply service from electric power or gas  
38 suppliers, or opt to receive basic generation service or basic gas  
39 service, and the ability of an electric power or gas supplier to offer  
40 electric generation service or gas supply service to retail customers,  
41 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

42 "Retail margin" means an amount, reflecting differences in  
43 prices that electric power suppliers and electric public utilities may  
44 charge in providing electric generation service and basic generation  
45 service, respectively, to retail customers, excluding residential  
46 customers, which the board may authorize to be charged to  
47 categories of basic generation service customers of electric public

1 utilities in this State, other than residential customers, under the  
2 board's continuing regulation of basic generation service pursuant to  
3 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the  
4 purpose of promoting a competitive retail market for the supply of  
5 electricity;

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

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

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

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

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

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

41 "Solar alternative compliance payment" or "SACP" means a  
42 payment of a certain dollar amount per megawatt hour (MWh)  
43 which an electric power supplier or provider may submit to the  
44 board in order to comply with the solar electric generation  
45 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

46 "Solar renewable energy certificate" or "SREC" means a  
47 certificate issued by the board or its designee, representing one

1 megawatt hour (MWh) of solar energy that is generated by a facility  
2 connected to the distribution system in this State and has value  
3 based upon, and driven by, the energy market;

4 "Standard offer capacity agreement" or "SOCA" means a  
5 financially-settled transaction agreement, approved by board order,  
6 that provides for eligible generators to receive payments from the  
7 electric public utilities for a defined amount of electric capacity for  
8 a term to be determined by the board but not to exceed 15 years,  
9 and for such payments to be a fully non-bypassable charge, with  
10 such an order, once issued, being irrevocable;

11 "Standard offer capacity price" or "SOCP" means the capacity  
12 price that is fixed for the term of the SOCA and which is the price  
13 to be received by eligible generators under a board-approved  
14 SOCA;

15 "Stranded cost" means the amount by which the net cost of an  
16 electric public utility's electric generating assets or electric power  
17 purchase commitments, as determined by the board consistent with  
18 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the  
19 market value of those assets or contractual commitments in a  
20 competitive supply marketplace and the costs of buydowns or  
21 buyouts of power purchase contracts;

22 "Stranded costs recovery order" means each order issued by the  
23 board in accordance with subsection c. of section 13 of P.L.1999,  
24 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if  
25 any, the board has determined an electric public utility is eligible to  
26 recover and collect in accordance with the standards set forth in  
27 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery  
28 mechanisms therefor;

29 "Thermal efficiency" means the useful electric energy output of a  
30 facility, plus the useful thermal energy output of the facility,  
31 expressed as a percentage of the total energy input to the facility;

32 "Transition bond charge" means a charge, expressed as an  
33 amount per kilowatt hour, that is authorized by and imposed on  
34 electric public utility ratepayers pursuant to a bondable stranded  
35 costs rate order, as modified at any time pursuant to the provisions  
36 of P.L.1999, c.23 (C.48:3-49 et al.);

37 "Transition bonds" means bonds, notes, certificates of  
38 participation or beneficial interest or other evidences of  
39 indebtedness or ownership issued pursuant to an indenture, contract  
40 or other agreement of an electric public utility or a financing entity,  
41 the proceeds of which are used, directly or indirectly, to recover,  
42 finance or refinance bondable stranded costs and which are, directly  
43 or indirectly, secured by or payable from bondable transition  
44 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
45 principal, interest, and acquisition or redemption premium with  
46 respect to transition bonds which are issued in the form of  
47 certificates of participation or beneficial interest or other evidences

1 of ownership shall refer to the comparable payments on such  
2 securities;

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

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

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

15 "Virtual net metering aggregation" means a procedure for  
16 calculating the combination of the annual energy usage for all  
17 facilities owned or leased by a single customer and that customer is  
18 a school district, county, county agency, county authority,  
19 municipality, municipal agency, or municipal authority, as provided  
20 pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999,  
21 c.23 (C.48:3-87).

22 (cf: P.L.2011, c.9, s.2)

23

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

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

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

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

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

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



- 1 (1) A methodology for disclosure of emissions based on output  
2 pounds per megawatt hour;
- 3 (2) Benchmarks for all suppliers and basic generation service  
4 providers to use in disclosing emissions that will enable consumers  
5 to perform a meaningful comparison with a supplier's or basic  
6 generation service provider's emission levels; and
- 7 (3) A uniform emissions disclosure format that is graphic in  
8 nature and easily understandable by consumers. The board shall  
9 periodically review the disclosure requirements to determine if  
10 revisions to the environmental disclosure system as implemented  
11 are necessary.
- 12 Such standards shall be effective as regulations immediately  
13 upon filing with the Office of Administrative Law and shall be  
14 effective for a period not to exceed 18 months, and may, thereafter,  
15 be amended, adopted or readopted by the board in accordance with  
16 the provisions of the "Administrative Procedure Act."
- 17 c. (1) The board may adopt, in consultation with the Department  
18 of Environmental Protection, after notice and opportunity for public  
19 comment, an emissions portfolio standard applicable to all electric  
20 power suppliers and basic generation service providers, upon a  
21 finding that:
- 22 (a) The standard is necessary as part of a plan to enable the  
23 State to meet federal Clean Air Act or State ambient air quality  
24 standards; and
- 25 (b) Actions at the regional or federal level cannot reasonably be  
26 expected to achieve the compliance with the federal standards.
- 27 (2) By July 1, 2009, the board shall adopt, pursuant to the  
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
29 seq.), a greenhouse gas emissions portfolio standard to mitigate  
30 leakage or another regulatory mechanism to mitigate leakage  
31 applicable to all electric power suppliers and basic generation  
32 service providers that provide electricity to customers within the  
33 State. The greenhouse gas emissions portfolio standard or any other  
34 regulatory mechanism to mitigate leakage shall:
- 35 (a) Allow a transition period, either before or after the effective  
36 date of the regulation to mitigate leakage, for a basic generation  
37 service provider or electric power supplier to either meet the  
38 emissions portfolio standard or other regulatory mechanism to  
39 mitigate leakage, or to transfer any customer to a basic generation  
40 service provider or electric power supplier that meets the emissions  
41 portfolio standard or other regulatory mechanism to mitigate  
42 leakage. If the transition period allowed pursuant to this  
43 subparagraph occurs after the implementation of an emissions  
44 portfolio standard or other regulatory mechanism to mitigate  
45 leakage, the transition period shall be no longer than three years;  
46 and

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

4 Unless the Attorney General or the Attorney General's designee  
5 determines that a greenhouse gas emissions portfolio standard  
6 would unconstitutionally burden interstate commerce or would be  
7 preempted by federal law, the adoption by the board of an electric  
8 energy efficiency portfolio standard pursuant to subsection g. of this  
9 section, a gas energy efficiency portfolio standard pursuant to  
10 subsection h. of this section, or any other enhanced energy  
11 efficiency policies to mitigate leakage shall not be considered  
12 sufficient to fulfill the requirement of this subsection for the  
13 adoption of a greenhouse gas emissions portfolio standard or any  
14 other regulatory mechanism to mitigate leakage.

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

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

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

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

41 (3) that the board establish a multi-year schedule, applicable to  
42 each electric power supplier or basic generation service provider in  
43 this State, beginning with the one-year period commencing on June  
44 1, 2010, and continuing for each subsequent one-year period up to  
45 and including, the one-year period commencing on **[June 1, 2025]**  
46 **June 1, 2028**, that requires **[suppliers or providers to purchase at**  
47 **least]** the following number or percentage, as the case may be, of

1 kilowatt-hours sold in this State by each electric power supplier and  
2 each basic generation service provider to be from solar electric  
3 power generators connected to the distribution system in this State:

4 EY 2011	306 Gigawatthours (Gwhrs)
5 EY 2012	442 Gwhrs
6 EY 2013	596 Gwhrs
7 EY 2014	<b>[772 Gwhrs]</b> <u>2.184%</u>
8 EY 2015	<b>[965 Gwhrs]</b> <u>2.543%</u>
9 EY 2016	<b>[1,150 Gwhrs]</b> <u>2.549%</u>
10 EY 2017	<b>[1,357 Gwhrs]</b> <u>2.788%</u>
11 EY 2018	<b>[1,591 Gwhrs]</b> <u>3.023%</u>
12 EY 2019	<b>[1,858 Gwhrs]</b> <u>3.255%</u>
13 EY 2020	<b>[2,164 Gwhrs]</b> <u>3.486%</u>
14 EY 2021	<b>[2,518 Gwhrs]</b> <u>3.722%</u>
15 EY 2022	<b>[2,928 Gwhrs]</b> <u>3.865%</u>
16 EY 2023	<b>[3,433 Gwhrs]</b> <u>4.002%</u>
17 EY 2024	<b>[3,989 Gwhrs]</b> <u>4.078%</u>
18 EY 2025	<b>[4,610 Gwhrs]</b> <u>4.147%</u>
19 EY 2026	<b>[5,316 Gwhrs]</b> <u>4.180%</u>
20 EY 2027	<u>4.204%</u>

21 EY 2028, 4.227%, and for every energy year thereafter, at least  
22 **[5,316 Gwhrs]** 4.227% per energy year to reflect an increasing  
23 number of kilowatt-hours to be purchased by suppliers or providers  
24 from solar electric power generators connected to the distribution  
25 system in this State, and to establish a framework within which, of  
26 the electricity that the generators sell in this State, suppliers and  
27 providers shall **[purchase]** each obtain at least **[2,518 Gwhrs]**  
28 3.722% in the energy year 2021 and **[5,316 Gwhrs]** 4.227% in the  
29 energy year **[2026]** 2028 from solar electric power generators  
30 connected to the distribution system in this State, provided,  
31 however, that

32 **[the number of solar kilowatt-hours required to be purchased by**  
33 **each supplier or provider, when expressed as a percentage of the**  
34 **total number of solar kilowatt-hours purchased in this State, shall be**  
35 **equivalent to each supplier's or provider's proportionate share of the**  
36 **total number of kilowatt-hours sold in this State by all suppliers and**  
37 **providers.]** ;

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

42 (b) No more than 24 months following the date of enactment of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill),  
44 the board shall complete a proceeding to investigate approaches to  
45 mitigate solar development volatility and prepare and submit,  
46 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to

1 the Legislature, detailing its findings and recommendations. As  
2 part of the proceeding, the board shall evaluate other techniques  
3 used nationally and internationally;

4 (c) The solar renewable portfolio standards requirements in this  
5 paragraph shall exempt those existing supply contracts which are  
6 effective prior to the date of enactment of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
7 (pending before the Legislature as this bill) from any increase  
8 beyond the number of SRECs that exceeds the number mandated by  
9 the solar renewable portfolio standards requirements that were in  
10 effect on the date that the providers executed their existing supply  
11 contracts. This limited exemption for providers' existing supply  
12 contracts shall not be construed to lower the Statewide solar  
13 sourcing requirements set forth in this paragraph. Such incremental  
14 new requirements shall be distributed over the electric power  
15 suppliers and providers not subject to the existing supply contract  
16 exemption until such time as existing supply contracts expire and  
17 all suppliers are subject to the new requirement in a manner that is  
18 competitively neutral among all providers and suppliers, such that  
19 non-exempt providers are assigned the requirements that would  
20 have otherwise been assigned to the exempt providers.

21 **【The solar renewable portfolio standards requirements in**  
22 **paragraph (3) of this subsection shall automatically increase by 20%**  
23 **for the remainder of the schedule in the event that the following two**  
24 **conditions are met: (a) the number of SRECs generated meets or**  
25 **exceeds the requirement for three consecutive reporting years,**  
26 **starting with energy year 2013; and (b) the average SREC price for**  
27 **all SRECs purchased by entities with renewable energy portfolio**  
28 **standards obligations has decreased in the same three consecutive**  
29 **reporting years; and**

30 **The board shall exempt providers' existing supply contracts that**  
31 **are: (a) effective prior to the date of P.L.2009, c.289; or (b)**  
32 **effective prior to any future increase in the solar renewable**  
33 **portfolio standard beyond the multi-year schedule established in**  
34 **paragraph (3) of this subsection. This exemption shall apply to the**  
35 **number of SRECs that exceeds the number mandated by the solar**  
36 **renewable portfolio standards requirements that were in effect on**  
37 **the date that the providers executed their existing supply contracts.**  
38 **This limited exemption for providers' existing supply contracts shall**  
39 **not be construed to lower the Statewide solar purchase requirements**  
40 **set forth in paragraph (3) of this subsection. Such incremental new**  
41 **requirements shall be distributed over the electric power suppliers**  
42 **and providers not subject to the existing supply contract exemption**  
43 **until such time as existing supply contracts expire and all suppliers**  
44 **are subject to the new requirement.】**

45 **An electric power supplier or basic generation service provider**  
46 **may satisfy the requirements of this subsection by participating in a**  
47 **renewable energy trading program approved by the board in**

1 consultation with the Department of Environmental Protection, or  
2 compliance with the requirements of this subsection may be  
3 demonstrated to the board by suppliers or providers through the  
4 purchase of SRECs.

5 The renewable energy portfolio standards adopted by the board  
6 pursuant to paragraphs (1) and (2) of this subsection shall be  
7 effective as regulations immediately upon filing with the Office of  
8 Administrative Law and shall be effective for a period not to exceed  
9 18 months, and may, thereafter, be amended, adopted or readopted  
10 by the board in accordance with the provisions of the  
11 "Administrative Procedure Act."

12 The renewable energy portfolio standards adopted by the board  
13 pursuant to this paragraph [(3) of this subsection] shall be effective  
14 as regulations immediately upon filing with the Office of  
15 Administrative Law and shall be effective for a period not to exceed  
16 30 months after such filing, and shall, thereafter, be amended,  
17 adopted or readopted by the board in accordance with the  
18 "Administrative Procedure Act"; and

19 (4) within 180 days after the date of enactment of P.L.2010,  
20 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind  
21 renewable energy certificate program to require that a percentage of  
22 the kilowatt hours sold in this State by each electric power supplier  
23 and each basic generation service provider be from offshore wind  
24 energy in order to support at least 1,100 megawatts of generation  
25 from qualified offshore wind projects.

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

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

39 An electric power supplier or basic generation service provider  
40 shall comply with the OREC program established pursuant to this  
41 paragraph through the purchase of offshore wind renewable energy  
42 certificates at a price and for the time period required by the board.  
43 In the event there are insufficient offshore wind renewable energy  
44 certificates available, the electric power supplier or basic generation  
45 service provider shall pay an offshore wind alternative compliance  
46 payment established by the board. Any offshore wind alternative

1 compliance payments collected shall be refunded directly to the  
2 ratepayers by the electric public utilities.

3 The rules established by the board pursuant to this paragraph  
4 shall be effective as regulations immediately upon filing with the  
5 Office of Administrative Law and shall be effective for a period not  
6 to exceed 18 months, and may, thereafter, be amended, adopted or  
7 readopted by the board in accordance with the provisions of the  
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.).

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

15 (1) net metering standards for electric power suppliers and basic  
16 generation service providers. The standards shall require electric  
17 power suppliers and basic generation service providers to offer net  
18 metering at non-discriminatory rates to industrial, large  
19 commercial, residential and small commercial customers, as those  
20 customers are classified or defined by the board, that generate  
21 electricity, on the customer's side of the meter, using a Class I  
22 renewable energy source, for the net amount of electricity supplied  
23 by the electric power supplier or basic generation service provider  
24 over an annualized period. Systems of any sized capacity, as  
25 measured in watts, are eligible for net metering . If the amount of  
26 electricity generated by the customer-generator, plus any kilowatt  
27 hour credits held over from the previous billing periods, exceeds the  
28 electricity supplied by the electric power supplier or basic  
29 generation service provider, then the electric power supplier or  
30 basic generation service provider, as the case may be, shall credit  
31 the customer-generator for the excess kilowatt hours until the end of  
32 the annualized period at which point the customer-generator will be  
33 compensated for any remaining credits or, if the customer-generator  
34 chooses, credit the customer-generator on a real-time basis, at the  
35 electric power supplier's or basic generation service provider's  
36 avoided cost of wholesale power or the PJM electric power pool's  
37 real-time locational marginal pricing rate, adjusted for losses, for  
38 the respective zone in the PJM electric power pool. Alternatively,  
39 the customer-generator may execute a bilateral agreement with an  
40 electric power supplier or basic generation service provider for the  
41 sale and purchase of the customer-generator's excess generation.  
42 The customer-generator may be credited on a real-time basis, so  
43 long as the customer-generator follows applicable rules prescribed  
44 by the PJM electric power pool for its capacity requirements for the  
45 net amount of electricity supplied by the electric power supplier or  
46 basic generation service provider. The board may authorize an  
47 electric power supplier or basic generation service provider to cease

1 offering net metering whenever the total rated generating capacity  
2 owned and operated by net metering customer-generators Statewide  
3 equals 2.5 percent of the State's peak electricity demand;

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

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

15 (3) credit or other incentive rules for generators using Class I  
16 renewable energy generation systems that connect to New Jersey's  
17 electric public utilities' distribution system but who do not net meter  
18 and;

19 (4) virtual net metering aggregation standards to require electric  
20 public utilities to provide virtual net metering aggregation to single  
21 electric public utility customers that operate a solar electric power  
22 generation facility, provided that any such customer is a school  
23 district, county, county agency, county authority, municipality,  
24 municipal agency, or municipal authority. The standards shall  
25 provide that, in order to qualify for virtual net metering  
26 aggregation, the customer must operate a solar electric power  
27 generation facility that is directly connected to the electric grid, is  
28 not an on-site generation facility, that all of the facilities of the  
29 single customer combined for the purpose of virtual net metering  
30 aggregation are facilities owned or operated by the single customer,  
31 are located within its territorial jurisdiction <sup>1</sup>**[and]** <sup>1</sup> are within the  
32 service territory of a single electric public utility <sup>1</sup>, and are all  
33 served by basic generation service or by the same electric power  
34 supplier <sup>1</sup>. The standards shall provide that in order to qualify for  
35 virtual net metering aggregation, the customer's solar electric  
36 power generation facility shall be sized so that its annual generation  
37 does not exceed the combined annual energy usage of the qualified  
38 customer facilities, and the qualified customer facilities shall all be  
39 in the same customer class under the applicable electric public  
40 utility <sup>1</sup>**[transmission and distribution]** <sup>1</sup> tariff. All electricity used  
41 by <sup>1</sup>**[a customer engaged in virtual net metering aggregation shall**  
42 **be delivered]** the customer's qualified facilities, with the exception  
43 of the solar electric power generation facility, shall be billed at the  
44 full retail rate <sup>1</sup> pursuant to the electric public utility transmission  
45 and distribution <sup>1</sup>**[tariffs]** tariff <sup>1</sup> applicable to the customer class of  
46 the customer using the electricity. <sup>1</sup>**[A]** The electric public utility

1 shall provide the<sup>1</sup> customer<sup>1</sup> [that is a school district, county,  
2 county agency, county authority, municipality, municipal agency, or  
3 municipal authority, may purchase such electricity through virtual  
4 net metering aggregation to meet its electricity requirements] an  
5 annual payment for the difference between the total energy  
6 generated by the customer's solar electric power generation facility  
7 and the energy used by the customer's qualified facilities consistent  
8 with the standards established in paragraph (1) of this subsection<sup>1</sup> .  
9 Any incremental cost to an electric public utility for virtual net  
10 metering aggregation shall be fully and timely recovered in a  
11 manner to be determined by the board. <sup>1</sup>The board shall adopt  
12 virtual net metering aggregation standards within 270 days after the  
13 effective date of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill). Should the board fail to adopt such standards, electric  
15 public utilities shall provide for virtual net metering aggregation  
16 consistent with the provisions of this paragraph.<sup>1</sup>

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

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

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

42 g. The board may adopt, pursuant to the "Administrative  
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric  
44 energy efficiency portfolio standard that may require each electric  
45 public utility to implement energy efficiency measures that reduce  
46 electricity usage in the State by 2020 to a level that is 20 percent  
47 below the usage projected by the board in the absence of such a



1 standard. Nothing in this section shall be construed to prevent an  
2 electric public utility from meeting the requirements of this section  
3 by contracting with another entity for the performance of the  
4 requirements.

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

15 i. After the board establishes a schedule of solar kilowatt-hour  
16 sale or purchase requirements pursuant to paragraph (3) of  
17 subsection d. of this section, the board may initiate subsequent  
18 proceedings and adopt, after appropriate notice and opportunity for  
19 public comment and public hearing, increased minimum solar  
20 kilowatt-hour sale or purchase requirements, provided that the  
21 board shall not reduce previously established minimum solar  
22 kilowatt-hour sale or purchase requirements, or otherwise impose  
23 constraints that reduce the requirements by any means.

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

32	<u>EY 2014</u>	<u>\$325</u>
33	<u>EY 2015</u>	<u>\$317</u>
34	<u>EY 2016</u>	<u>\$309</u>
35	<u>EY 2017</u>	<u>\$301</u>
36	<u>EY 2018</u>	<u>\$294</u>
37	<u>EY 2019</u>	<u>\$286</u>
38	<u>EY 2020</u>	<u>\$279</u>
39	<u>EY 2021</u>	<u>\$272</u>
40	<u>EY 2022</u>	<u>\$265</u>
41	<u>EY 2023</u>	<u>\$259</u>
42	<u>EY 2024</u>	<u>\$252</u>
43	<u>EY 2025</u>	<u>\$246</u>
44	<u>EY 2026</u>	<u>\$240</u>
45	<u>EY 2027</u>	<u>\$234</u>
46	<u>EY 2028</u>	<u>\$228</u>

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

10 k. The board may allow electric public utilities to offer long-  
11 term contracts through a competitive process, direct electric public  
12 utility investment and other means of financing, including but not  
13 limited to loans, for the purchase of SRECs and the resale of SRECs  
14 to suppliers or providers or others, provided that after such  
15 contracts have been approved by the board, the board's approvals  
16 shall not be modified by subsequent board orders.

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

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

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

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

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

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

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

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

36 (8) promote the lowest cost to ratepayers; and

37 (9) allow all market segments to participate.

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

45 n. For projects which are owned, or directly invested in, by a  
46 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
47 98.1), the board shall determine the number of SRECs with which

1 such projects shall be credited; and in determining such number the  
2 board shall ensure that the market for SRECs does not detrimentally  
3 affect the development of non-utility solar projects and shall  
4 consider how its determination may impact the ratepayers.

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

13 (1) reductions in air pollution, water pollution, land disturbance,  
14 and greenhouse gas emissions;

15 (2) reductions in peak demand for electricity and natural gas,  
16 and the overall impact on the costs to customers of electricity and  
17 natural gas;

18 (3) increases in renewable energy development, manufacturing,  
19 investment, and job creation opportunities in this State; and

20 (4) reductions in State and national dependence on the use of  
21 fossil fuels.

22 p. Class I RECs and ORECS shall be eligible for use in  
23 renewable energy portfolio standards compliance in the energy year  
24 in which they are generated, and for the following two energy years.  
25 SRECs **[and ORECs]** shall be eligible for use in renewable energy  
26 portfolio standards compliance in the energy year in which they are  
27 generated, and for the following **[two]** four energy years.

28 q. (1) During the energy years of 2014, 2015, and 2016, a solar  
29 electric power generation facility project that is not: (a) net  
30 metered; (b) an on-site generation facility; (c) qualified for virtual  
31 net metering aggregation; or (d) certified as being located on a  
32 brownfield or a properly closed sanitary landfill facility, as  
33 provided pursuant to subsection t. of this section, may file an  
34 application with the board for approval of a designation pursuant to  
35 this subsection that the facility is connected to the distribution  
36 system. An application filed pursuant to this subsection shall  
37 include a notice escrow of \$40,000 per megawatt of the proposed  
38 capacity of the facility. The board shall approve the designation if:  
39 the facility has filed a notice in writing with the board applying for  
40 designation pursuant to this subsection, together with the notice  
41 escrow; and the capacity of the facility, when added to the capacity  
42 of other facilities that have been previously approved for  
43 designation prior to the facility's filing under this subsection, does  
44 not exceed 80 megawatts in the aggregate for each year. The  
45 capacity of any one solar electric power supply project approved  
46 pursuant to this subsection shall not exceed 10 megawatts. No more  
47 than 90 days after its receipt of a completed application for

1 designation pursuant to this subsection, the board shall approve,  
2 conditionally approve, or disapprove the application. The notice  
3 escrow shall be reimbursed to the facility in full upon the facility  
4 entering commercial operation, or shall be forfeited to the State if  
5 the facility is designated pursuant to this subsection, but does not  
6 enter commercial operation pursuant to paragraph (2) of this  
7 subsection.

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

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

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

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

39 (b) the approval of the designation of the proposed facility would  
40 not significantly impact the preservation of open space in this State;

41 (c) the impact of the designation on electric rates and economic  
42 development is beneficial; and

43 (d) there will be no impact on the ability of an electric public  
44 utility to maintain its property and equipment in such a condition as  
45 to enable it to provide safe, adequate, and proper service to each of  
46 its customers.

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

12       s. Notwithstanding any other provisions of this section, a solar  
13 electric power generation facility located on farmland, or land that  
14 has been actively devoted to agricultural or horticultural use that is  
15 valued, assessed, and taxed pursuant to the "Farmland Assessment  
16 Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time  
17 within the 10 year period prior to the effective date of P.L. \_\_\_\_\_,  
18 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), shall only be  
19 considered "connected to the distribution system" if (1) the board  
20 approves a facility's designation pursuant to subsection q. of this  
21 section, or (2) (a) a PJM issued System Impact Study for the  
22 facility prior to March 31, 2011; and (b) the facility files a notice  
23 with the board within 60 days of the effective date of P.L. \_\_\_\_\_,  
24 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
25 indicating its intent to qualify under this paragraph.

26       t. No more than 180 days after the date of enactment of  
27 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
28 the board shall, in consultation with the Department of  
29 Environmental Protection and the New Jersey Economic  
30 Development Authority, and, after notice and opportunity for public  
31 comment and public hearing, complete a proceeding to establish a  
32 program to provide SRECs to owners of solar electric power  
33 generation facility projects certified by the board as being located  
34 on a brownfield or a properly closed sanitary landfill facility, which  
35 shall include, but not be limited to projects located on a brownfield  
36 or a properly closed sanitary landfill facility and owned or operated  
37 by an electric public utility and approved pursuant to section 13 of  
38 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this  
39 subsection shall (1) be considered "connected to the distribution  
40 system" and shall not require such designation by the board and (2)  
41 shall not be subject to board review required pursuant to  
42 subsections q. and r. of this section. Notwithstanding the provisions  
43 of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule,  
44 regulation, or order to the contrary, for projects certified under this  
45 subsection, the board shall establish a financial incentive that is  
46 designed to supplement the SRECs generated by the facility in order  
47 to cover the additional cost of constructing and operating a solar

1 electric power generation facility on a brownfield or properly closed  
2 sanitary landfill. The issuance of SRECs for all solar electric power  
3 generation facility projects pursuant to this subsection shall be  
4 deemed "Board of Public Utilities financial assistance" as provided  
5 under section 1 of P.L.2009, c.89 (C.48:2-29.47).

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

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

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

23

24 3. This act shall take effect immediately.