Sponsored by:
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)

SYNOPSIS
The “Renewable Energy District Financing Act.”

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel
AN ACT authorizing municipalities to establish renewable energy financing districts.

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

1. This act may be known and shall be cited as the “Renewable Energy District Financing Act”.

2. The Legislature finds and declares:
   a. The development of renewable energy resources advances the security, economic well-being, and public and environmental health of the State, as well as contribute to the energy independence of the nation.
   b. It is in the best interests of the State and its municipalities to encourage the development of distributed generation renewable energy sources and the installation by property owners of such energy sources.
   c. It is fitting for New Jersey to join 15 other states in enacting “Property Assessed Clean Energy” legislation” that empowers municipalities to support the State’s efforts to have 20% of its electricity generated by renewable energy resources, by 2020, thereby relieving the State of the full burden of achieving this goal.
   d. The high costs of renewable energy installations to real property prevents many property owners from making these improvements, and therefore it is desirable and necessary to authorize alternative financing procedures to promote the installation of these improvements.
   e. The creation and administration of renewable energy financing districts to facilitate the development of renewable energy improvements on property in the district shall constitute a valid public purpose and is expressly declared to be in the public interest.

3. As used in this act:
   “Debt service” means the principal of, interest on, and premium, if any, on the bonds, when due, whether at maturity or prior redemption and fees and costs of agents necessary to handle the bonds and the costs of credit enhancement or liquidity support.
   “District” means a renewable energy finance district established by a municipality pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill).
   “District board” means the board of directors of the district, which shall be comprised of members of the governing body of the municipality in which the district is located.
   "Governing body" means the board, commission, council or other body having the control of the finances of a municipality; and in those municipality in which a chief executive officer is
authorized by law to participate in such control through powers of
recommendation, approval or veto, the term includes such executive
officer to the extent of such participation.
“Municipality” means any borough, city, town, township, or
village situated within the boundaries of this State.
“Owner” means the person listed as the owner of real property in
the district on the current property tax assessment roll.
"Renewable energy” means: (1) electric energy produced from
solar technologies, photovoltaic technologies, wind energy, fuel
cells, geothermal technologies, wave or tidal action, methane gas
from landfills, a resource recovery facility, a hydropower facility or
a biomass facility, provided that the biomass is cultivated and
harvested in a sustainable manner, and provided further that the
Commissioner of Environmental Protection has determined that the
resource recovery facility, hydropower facility or biomass facility,
as appropriate, meets the highest environmental standards and
minimizes any impacts to the environment and local communities;
and (2) energy produced from solar thermal or geothermal
technologies.
“Special assessment” means a levy imposed against real property
within a district pursuant to section 7 of P.L. , c. (C. ) (pending
before the Legislature as this bill).

4. a. The governing body of a municipality may establish a
district, pursuant to sections 5 and 6 of P.L. , c. (C. ) (pending
before the Legislature as this bill) for the purpose of encouraging,
accommodating, and financing renewable energy improvements on
real property within that area of the municipality. A district shall
include only property for which an owner executes an agreement
consenting to the inclusion of the property within the district and
the imposition of a special assessment on the property for the
purpose of financing renewable energy improvements on that
property.
   b. A district established by a municipality shall be wholly
within the boundaries of the municipality and may include
contiguous and noncontiguous property.

5. a. The governing body of a municipality may adopt a
resolution declaring its intention to establish a district. The
resolution shall state the following:
   (1) the purposes for which the district is to be formed;
   (2) that the district shall include only property for which the
owner has agreed to the inclusion of the property within the district,
and that the inclusion of property may occur subsequent to the
adoption of the ordinance or resolution establishing the district;
   (3) the process by which a property owner can execute an
agreement to include property in the district;
(4) a description of the specific types of renewable energy improvements that will be eligible for financing pursuant to P.L. ,
c. (C. ) (pending before the Legislature as this bill);
(5) that inclusion of the property in the district will result in the imposition of special assessments on the property to pay the costs of the approved renewable energy improvements, financing, and administrative fees;
(6) the method of calculating the special assessment and the manner of collection of the special assessment;
(7) that the district shall be governed by a district board composed of the members of the governing body of the municipality; and 
(8) that standards and requirements will be set by the district board for renewable energy improvements to be installed on property in the district.
b. The resolution shall direct that a public hearing on the establishment of the district be scheduled and notice be published as required for public hearings of the governing body.

6. a. At the public hearing on the establishment of a district, the governing body shall accept written and oral testimony and evidence presented in support of or in opposition to establishment of the district. After hearing and considering the oral and written testimony, the governing body shall determine whether the district shall be established.
b. If the governing body adopts an ordinance establishing the district, it shall cause a copy of the ordinance to be delivered to the municipal assessor, municipal chief financial officer, county board of taxation, the Director of the Division of Taxation in the Department of the Treasury, and the Director of Local Government Services in the Department of Community Affairs.
c. Subsequent to the establishment of the district, the inclusion of other property in the district shall be accomplished by the execution of an agreement by the owner of the property and the district board agreeing to the inclusion of the property and the imposition of the special assessment on the property, and shall commence upon the district board adopting a resolution to that effect. The district shall transmit a copy of the resolution to the municipal assessor and the municipal clerk not later than 10 days after its adoption.
d. Property may be removed from the district only upon request of the property owner and adoption of a resolution to do so by the district board. Property within the district that is subject to the lien for special assessments or other charges imposed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) shall not be removed from the district while there are bonds outstanding that are payable by such special assessments or charges.
7. a. The district board may impose a special assessment on each property within the district to facilitate the financing of renewable energy improvements to that property. The special assessment shall be sufficient in the case of each property to pay the costs of the financing of the renewable energy improvements, including the costs of bond issuance, debt service, and administrative costs of the district and the municipality in which the district is located.

b. The special assessment shall be levied and collected at the same time and in the same manner as property taxes are levied and collected, except to the extent that the district board has provided for other imposition and collection procedures. Money derived from the imposition of the special assessment shall be kept separately from other funds of the municipality.

c. A special assessment shall constitute a lien by the district board on the property, which shall be effective during the period in which the assessment is imposed and shall have priority over all other liens except liens for ad valorem property taxes.

d. (1) The obligation to pay the special assessment may be prepaid and permanently satisfied, and the district board shall specify the conditions under which this may be achieved.

(2) With respect to solar renewable energy improvements, the obligation to pay the special assessment may be wholly or partially offset by the assignment of the owner’s solar renewable energy certificates to the district board.

8. a. The district board may issue one or more series of bonds to provide money for renewable energy improvements to property in the district, and the bonds may be payable from the special assessments levied pursuant to one or more assessment resolutions.

b. For any bonds issued pursuant to subsection a. of this section, the district board shall prescribe the denominations of the bonds, the principal amount of each issue, and the form of the bonds, and shall establish the maturities, which shall not exceed 20 years, and be based on the useful life of the renewable energy improvement as determined by regulation of the Board of Public Utilities, except that with regard to solar renewable energy improvements, the maturities shall not exceed 15 years interest payment dates and interest rates, whether fixed or variable.

c. The bonds may be sold by competitive bid or negotiated sale for public or private offering at, below, or above par. The proceeds of the bonds shall be deposited with the chief financial officer, or with a trustee or agent designated by the district board, to the credit of the district to be withdrawn for the purposes provided by P.L. , pending that use, the proceeds may be invested by the district board in
accordance with the provisions of section 8 of P.L.1977, c.396 (C.40A:5-15.1).

d. The bonds shall be made payable as to both principal and interest solely from the revenues from the district, and shall specify the revenues pledged for such purposes, and shall contain such other terms, conditions, covenants, and agreements as the district board deems proper. No holder of special assessment bonds issued pursuant to this section may compel any exercise of the taxing power of the district or municipality to pay the bonds or the interest on the bonds. Special assessment bonds issued pursuant to this section are not a debt or general obligation of the municipality in which the district is located, or is the payment of special assessment bonds enforceable out of any money other than the revenue pledged to the payment of the bonds.

e. The district may issue and sell refunding bonds to refund any special assessment bonds of the district authorized by this section. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded.

f. The district board may securitize solar renewable energy certificates received through assignment from various owners with solar renewable energy improvements.

9. a. The district board shall:

(1) establish guidelines and standards for renewable energy improvements to be made to property included in the district;

(2) establish guidelines and procedures for a property owner to enter into an agreement with the district board to include property in the district;

(3) establish guidelines for the documentation required from a property owner prior to the property being included in the district, of the owner’s contracts or agreements for purchase and installation of renewable energy improvements;

(4) establish the amount of and impose special assessments for the financing of the renewable energy improvements, including the costs of bond issuance, debt service, and administrative costs of the district and the municipality in which the district is located;

(5) enter into contracts, agreements, and trust indentures to obtain credit enhancement or liquidity support for its bonds and process the issuance, registration, transfer, and payment of its bonds and the disbursement and investment of proceeds of the bonds; and

(6) in the case of solar renewable energy improvements securitize solar renewable energy certificates towards the payments of its bonds.

b. The district board may enter into contracts to carry out the purposes of the district on such terms and with such persons as the board determines to be appropriate.
10. The mayor or other chief executive officer of the municipality shall create and appoint a Renewable Energy District Advisory Board, consisting of seven or more persons, at least a majority of whom shall be owners or occupants of properties included in the district, to advise the district board with the long-term planning and administration of the district and on the addition or removal of property to or from the district.

11. The district board shall cause an annual audit of its books, accounts, and financial transactions, to be made and filed with the governing body of the municipality, for that purpose the district shall employ a certified public account of New Jersey. The annual audit shall be completed and filed with the governing body within four months after the close of the fiscal year of the district, and a certified duplicate copy shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five days of the filing of the audit with the governing body of the municipality.

12. The municipality may adopt an ordinance dissolving the district upon determining that the district has no outstanding bond obligations. The district shall not be dissolved if any bonds of the district remain outstanding unless an amount of money sufficient, together with investment income thereon, to make all payments due on the bonds either at maturity or prior redemption has been deposited with a trustee or escrow agent and pledged to the repayment of the bonds.

13. This act shall take effect immediately.

STATEMENT

This legislation would permit municipalities to establish renewable energy financing districts in order to make it easier to fund renewable energy improvements. The Legislature appreciates the need for alternative financing mechanisms to support the expansion of renewable energy resources throughout the State. Current incentives available to property owners only partially offset the high capital costs associated with the installation of renewable energy systems. Furthermore, not all property owners may be able or willing to refinance an existing mortgage or obtain a bank loan because they may have already used those avenues for other high priority home or business improvements. The renewable energy special assessment offers another method to finance these improvements. Fifteen other states have passed some form of “Property Assessed Clean Energy Legislation” and the enactment of
this bill would empower municipalities to support the State’s efforts
to have 20% of its electricity generated by renewable energy
resources by 2020.

The governing body of a municipality may adopt an ordinance
creating a renewable energy financing district after a public hearing
has been held. The district board, which, under the bill, is the
governing body of the municipality, may then execute agreements
with property owners that allow for the imposition of a special
assessment on property within the district to support the financing
of renewable energy improvements to the property. The district
may use the special assessment revenues to secure bonds that would
fund the costs of the improvements, bond issuance, debt service,
and administrative costs of the district and the municipality in
which it is located. The improvements would be financed over a
period 20 years. Solar renewable energy improvements may be
financed over a period of 15 years.

If a property owner installs solar renewable energy
improvements, then the obligation to pay the special assessment
may be wholly or partially offset by the assignment of the owner’s
solar renewable energy certificates to the district board. The board
may then securitize the certificates towards the payment of the
bonds issued to finance the project.

The establishment of a renewable energy financing district will
enable some municipalities to access federal Qualified Energy
Conservation Bonds (QECBs). Through the use of QECBs, (which,
due to federal tax incentives, have an interest rate of zero percent)
these improvements could possibly pay for themselves given that an
individual could receive more in energy savings and other rebates
that they would be required to payout in annual special assessment
taxes. According to the Internal Revenue Code, Qualified Energy
Conservation Bonds are not private activity bonds and are exempt
from taxation. The State received $90 million in QCEBs through
the federal stimulus program.

The municipality board may adopt an ordinance dissolving the
district upon determining that the district has no outstanding bond
obligations. The district cannot be dissolved if any bonds of the
district remain outstanding unless an amount of money sufficient,
together with investment income thereon, to make all payments due
on the bonds either at maturity or prior redemption, has been
deposited with a trustee or escrow agent and pledged to the
repayment of the bonds.