

[First Reprint]
SENATE, No. 1707

STATE OF NEW JERSEY
217th LEGISLATURE

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SYNOPSIS

Establishes requirements for provision of energy from Class I renewable energy sources.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on February 29, 2016, with amendments.



1 AN ACT concerning renewable energy and amending P.L.1999,
2 c.23.

3

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

6

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

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

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

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

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

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

30 (1) A methodology for disclosure of emissions based on output
31 pounds per megawatt hour;

32 (2) Benchmarks for all suppliers and basic generation service
33 providers to use in disclosing emissions that will enable consumers
34 to perform a meaningful comparison with a supplier's or basic
35 generation service provider's emission levels; and

36 (3) A uniform emissions disclosure format that is graphic in
37 nature and easily understandable by consumers. The board shall
38 periodically review the disclosure requirements to determine if
39 revisions to the environmental disclosure system as implemented
40 are necessary.

41 Such standards shall be effective as regulations immediately
42 upon filing with the Office of Administrative Law and shall be
43 effective for a period not to exceed 18 months, and may, thereafter,
44 be amended, adopted or readopted by the board in accordance with

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:

¹Senate SEN committee amendments adopted February 29, 2016.

1 the provisions of the "Administrative Procedure **Act.**" Act.
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

3 c. (1) The board may adopt, in consultation with the
4 Department of Environmental Protection, after notice and
5 opportunity for public comment, an emissions portfolio standard
6 applicable to all electric power suppliers and basic generation
7 service providers, upon a finding that:

8 (a) The standard is necessary as part of a plan to enable the
9 State to meet federal Clean Air Act or State ambient air quality
10 standards; and

11 (b) Actions at the regional or federal level cannot reasonably be
12 expected to achieve the compliance with the federal standards.

13 (2) By July 1, 2009, the board shall adopt, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), a greenhouse gas emissions portfolio standard to mitigate
16 leakage or another regulatory mechanism to mitigate leakage
17 applicable to all electric power suppliers and basic generation
18 service providers that provide electricity to customers within the
19 State. The greenhouse gas emissions portfolio standard or any other
20 regulatory mechanism to mitigate leakage shall:

21 (a) Allow a transition period, either before or after the effective
22 date of the regulation to mitigate leakage, for a basic generation
23 service provider or electric power supplier to either meet the
24 emissions portfolio standard or other regulatory mechanism to
25 mitigate leakage, or to transfer any customer to a basic generation
26 service provider or electric power supplier that meets the emissions
27 portfolio standard or other regulatory mechanism to mitigate
28 leakage. If the transition period allowed pursuant to this
29 subparagraph occurs after the implementation of an emissions
30 portfolio standard or other regulatory mechanism to mitigate
31 leakage, the transition period shall be no longer than three years;
32 and

33 (b) Exempt the provision of basic generation service pursuant to
34 a basic generation service purchase and sale agreement effective
35 prior to the date of the regulation.

36 Unless the Attorney General or the Attorney General's designee
37 determines that a greenhouse gas emissions portfolio standard
38 would unconstitutionally burden interstate commerce or would be
39 preempted by federal law, the adoption by the board of an electric
40 energy efficiency portfolio standard pursuant to subsection g. of this
41 section, a gas energy efficiency portfolio standard pursuant to
42 subsection h. of this section, or any other enhanced energy
43 efficiency policies to mitigate leakage shall not be considered
44 sufficient to fulfill the requirement of this subsection for the
45 adoption of a greenhouse gas emissions portfolio standard or any
46 other regulatory mechanism to mitigate leakage.

47 d. Notwithstanding any provisions of the "Administrative
48 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the

1 contrary, the board shall initiate a proceeding and shall adopt, after
 2 notice, provision of the opportunity for comment, and public
 3 hearing, renewable energy portfolio standards that shall require:

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

8 (2) beginning on January 1, 2001, that one-half of one percent
 9 of the kilowatt hours sold in this State by each electric power
 10 supplier and each basic generation service provider be from Class I
 11 renewable energy sources. The board shall increase the required
 12 percentage for Class I renewable energy sources so that by January
 13 1, 2006, one percent of the kilowatt hours sold in this State by each
 14 electric power supplier and each basic generation service provider
 15 shall be from Class I renewable energy sources and shall
 16 additionally increase the required percentage for Class I renewable
 17 energy sources by one-half of one percent each year until January 1,
 18 2012, when four percent of the kilowatt hours sold in this State by
 19 each electric power supplier and each basic generation service
 20 provider shall be from Class I renewable energy sources.
 21 Consistent with federal law, the following percentage of kilowatt-
 22 hours sold in this State by each electric power supplier and each
 23 basic generation service provider shall be from Class I renewable
 24 energy sources:

25	<u>EY</u> ¹ 【2015】 <u>2017</u> ¹	<u>11%</u>
26	<u>EY</u> ¹ 【2020】 <u>2022</u> ¹	<u>20%</u>
27	<u>EY</u> ¹ 【2025】 <u>2027</u> ¹	<u>30%</u>
28	<u>EY</u> ¹ 【2030】 <u>2032</u> ¹	<u>40%</u>
29	<u>EY</u> ¹ 【2035】 <u>2037</u> ¹	<u>50%</u>
30	<u>EY</u> ¹ 【2040】 <u>2042</u> ¹	<u>60%</u>
31	<u>EY</u> ¹ 【2045】 <u>2047</u> ¹	<u>70%</u>
32	<u>EY</u> ¹ 【2050】 <u>2052</u> ¹	<u>80%.</u>

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

37 (3) that the board establish a multi-year schedule, applicable to
 38 each electric power supplier or basic generation service provider in
 39 this State, beginning with the one-year period commencing on June
 40 1, 2010, and continuing for each subsequent one-year period up to
 41 and including, the one-year period commencing on June 1, 2028,
 42 that requires the following number or percentage, as the case may
 43 be, of kilowatt-hours sold in this State by each electric power
 44 supplier and each basic generation service provider to be from solar
 45 electric power generators connected to the distribution system in
 46 this State:

47	EY 2011	306 Gigawatthours (Gwhrs)
48	EY 2012	442 Gwhrs

1	EY 2013	596 Gwhrs
2	EY 2014	2.050%
3	EY 2015	2.450%
4	EY 2016	2.750%
5	EY 2017	3.000%
6	EY 2018	3.200%
7	EY 2019	3.290%
8	EY 2020	3.380%
9	EY 2021	3.470%
10	EY 2022	3.560%
11	EY 2023	3.650%
12	EY 2024	3.740%
13	EY 2025	3.830%
14	EY 2026	3.920%
15	EY 2027	4.010%

16 EY 2028 4.100%, and for every energy year thereafter, at
17 least 4.100% per energy year to reflect an increasing number of
18 kilowatt-hours to be purchased by suppliers or providers from solar
19 electric power generators connected to the distribution system in
20 this State, and to establish a framework within which, of the
21 electricity that the generators sell in this State, suppliers and
22 providers shall each obtain at least 3.470% in the energy year 2021
23 and 4.100% in the energy year 2028 from solar electric power
24 generators connected to the distribution system in this State,
25 provided, however, that:

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

30 (b) No more than 24 months following the date of enactment of
31 P.L.2012, c.24, the board shall complete a proceeding to investigate
32 approaches to mitigate solar development volatility and prepare and
33 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
34 report to the Legislature, detailing its findings and
35 recommendations. As part of the proceeding, the board shall
36 evaluate other techniques used nationally and internationally;

37 (c) The solar renewable portfolio standards requirements in this
38 paragraph shall exempt those existing supply contracts which are
39 effective prior to the date of enactment of P.L.2012, c.24 from any
40 increase beyond the number of SRECs mandated by the solar
41 renewable portfolio standards requirements that were in effect on
42 the date that the providers executed their existing supply contracts.
43 This limited exemption for providers' existing supply contracts shall
44 not be construed to lower the Statewide solar sourcing requirements
45 set forth in this paragraph. Such incremental requirements that
46 would have otherwise been imposed on exempt providers shall be
47 distributed over the providers not subject to the existing supply
48 contract exemption until such time as existing supply contracts

1 expire and all providers are subject to the new requirement in a
2 manner that is competitively neutral among all providers and
3 suppliers. The board shall implement the provisions of this
4 subsection in a manner so as to prevent any subsidies between
5 suppliers and providers and to promote competition in the
6 electricity supply industry.

7 An electric power supplier or basic generation service provider
8 may satisfy the requirements of this subsection by participating in a
9 renewable energy trading program approved by the board in
10 consultation with the Department of Environmental Protection, or
11 compliance with the requirements of this subsection may be
12 demonstrated to the board by suppliers or providers through the
13 purchase of SRECs.

14 The renewable energy portfolio standards adopted by the board
15 pursuant to paragraphs (1) and (2) of this subsection shall be
16 effective as regulations immediately upon filing with the Office of
17 Administrative Law and shall be effective for a period not to exceed
18 18 months, and may, thereafter, be amended, adopted or readopted
19 by the board in accordance with the provisions of the
20 "Administrative Procedure **【Act.】** Act," P.L.1968, c.410
21 (C.52:14B-1 et seq.).

22 The renewable energy portfolio standards adopted by the board
23 pursuant to this paragraph shall be effective as regulations
24 immediately upon filing with the Office of Administrative Law and
25 shall be effective for a period not to exceed 30 months after such
26 filing, and shall, thereafter, be amended, adopted or readopted by
27 the board in accordance with the "Administrative Procedure **【Act.】**
28 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

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

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

41 The percentage established by the board pursuant to this
42 paragraph shall reflect the projected OREC production of each
43 qualified offshore wind project, approved by the board pursuant to
44 section 3 of P.L.2010, c.57 (C.48:3-87.1), for **【twenty】** 20 years
45 from the commercial operation start date of the qualified offshore
46 wind project which production projection and OREC purchase
47 requirement, once approved by the board, shall not be subject to
48 reduction.

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

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

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

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

1 sale and purchase of the customer-generator's excess generation.
2 The customer-generator may be credited on a real-time basis, so
3 long as the customer-generator follows applicable rules prescribed
4 by the PJM electric power pool for its capacity requirements for the
5 net amount of electricity supplied by the electric power supplier or
6 basic generation service provider. The board may authorize an
7 electric power supplier or basic generation service provider to cease
8 offering net metering to customers that are not already net metered
9 whenever the total rated generating capacity owned and operated by
10 net metering customer-generators Statewide equals 2.9 percent of
11 the total annual kilowatt-hours sold in this State by each electric
12 power supplier and each basic generation service provider during
13 the prior one-year period;

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

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

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

29 (4) net metering aggregation standards to require electric public
30 utilities to provide net metering aggregation to single electric public
31 utility customers that operate a solar electric power generation
32 system installed at one of the customer's facilities or on property
33 owned by the customer, provided that any such customer is a State
34 entity, school district, county, county agency, county authority,
35 municipality, municipal agency, or municipal authority. The
36 standards shall provide that, in order to qualify for net metering
37 aggregation, the customer must operate a solar electric power
38 generation system using a net metering billing account, which
39 system is located on property owned by the customer, provided that:
40 (a) the property is not land that has been actively devoted to
41 agricultural or horticultural use and that is valued, assessed, and
42 taxed pursuant to the "Farmland Assessment Act of 1964,"
43 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
44 period prior to the effective date of P.L.2012, c.24, provided,
45 however, that the municipal planning board of a municipality in
46 which a solar electric power generation system is located may
47 waive the requirement of this subparagraph (a), (b) the system is not
48 an on-site generation facility, (c) all of the facilities of the single

1 customer combined for the purpose of net metering aggregation are
2 facilities owned or operated by the single customer and are located
3 within its territorial jurisdiction except that all of the facilities of a
4 State entity engaged in net metering aggregation shall be located
5 within five miles of one another, and (d) all of those facilities are
6 within the service territory of a single electric public utility and are
7 all served by the same basic generation service provider or by the
8 same electric power supplier. The standards shall provide that in
9 order to qualify for net metering aggregation, the customer's solar
10 electric power generation system shall be sized so that its annual
11 generation does not exceed the combined metered annual energy
12 usage of the qualified customer facilities, and the qualified
13 customer facilities shall all be in the same customer rate class under
14 the applicable electric public utility tariff. For the customer's
15 facility or property on which the solar electric generation system is
16 installed, the electricity generated from the customer's solar electric
17 generation system shall be accounted for pursuant to the provisions
18 of paragraph (1) of this subsection to provide that the electricity
19 generated in excess of the electricity supplied by the electric power
20 supplier or the basic generation service provider, as the case may
21 be, for the customer's facility on which the solar electric generation
22 system is installed, over the annualized period, is credited at the
23 electric power supplier's or the basic generation service provider's
24 avoided cost of wholesale power or the PJM electric power pool
25 real-time locational marginal pricing rate. All electricity used by
26 the customer's qualified facilities, with the exception of the facility
27 or property on which the solar electric power generation system is
28 installed, shall be billed at the full retail rate pursuant to the electric
29 public utility tariff applicable to the customer class of the customer
30 using the electricity. A customer may contract with a third party to
31 operate a solar electric power generation system, for the purpose of
32 net metering aggregation. Any contractual relationship entered into
33 for operation of a solar electric power generation system related to
34 net metering aggregation shall include contractual protections that
35 provide for adequate performance and provision for construction
36 and operation for the term of the contract, including any appropriate
37 bonding or escrow requirements. Any incremental cost to an
38 electric public utility for net metering aggregation shall be fully and
39 timely recovered in a manner to be determined by the board. The
40 board shall adopt net metering aggregation standards within 270
41 days after the effective date of P.L.2012, c.24.

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

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

7 f. The board may assess, by written order and after notice and
8 opportunity for comment, a separate fee to cover the cost of
9 implementing and overseeing an emission disclosure system or
10 emission portfolio standard, which fee shall be assessed based on an
11 electric power supplier's or basic generation service provider's share
12 of the retail electricity supply market. The board shall not impose a
13 fee for the cost of implementing and overseeing a greenhouse gas
14 emissions portfolio standard adopted pursuant to paragraph (2) of
15 subsection c. of this section, the electric energy efficiency portfolio
16 standard adopted pursuant to subsection g. of this section, or the gas
17 energy efficiency portfolio standard adopted pursuant to subsection
18 h. of this section.

19 g. The board may adopt, pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
21 energy efficiency portfolio standard that may require each electric
22 public utility to implement energy efficiency measures that reduce
23 electricity usage in the State by 2020 to a level that is 20 percent
24 below the usage projected by the board in the absence of such a
25 standard. Nothing in this section shall be construed to prevent an
26 electric public utility from meeting the requirements of this section
27 by contracting with another entity for the performance of the
28 requirements.

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

39 i. After the board establishes a schedule of solar kilowatt-hour
40 sale or purchase requirements pursuant to paragraph (3) of
41 subsection d. of this section, the board may initiate subsequent
42 proceedings and adopt, after appropriate notice and opportunity for
43 public comment and public hearing, increased minimum solar
44 kilowatt-hour sale or purchase requirements, provided that the
45 board shall not reduce previously established minimum solar
46 kilowatt-hour sale or purchase requirements, or otherwise impose
47 constraints that reduce the requirements by any means.

1 j. The board shall determine an appropriate level of solar
2 alternative compliance payment, and permit each supplier or
3 provider to submit an SACP to comply with the solar electric
4 generation requirements of paragraph (3) of subsection d. of this
5 section. The value of the SACP for each Energy Year, for Energy
6 Years 2014 through 2028 per megawatt hour from solar electric
7 generation required pursuant to this section, shall be:

8 EY 2014	\$339
9 EY 2015	\$331
10 EY 2016	\$323
11 EY 2017	\$315
12 EY 2018	\$308
13 EY 2019	\$300
14 EY 2020	\$293
15 EY 2021	\$286
16 EY 2022	\$279
17 EY 2023	\$272
18 EY 2024	\$266
19 EY 2025	\$260
20 EY 2026	\$253
21 EY 2027	\$250
22 EY 2028	\$239.

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

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

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

- 1 (1) place greater reliance on competitive markets, with the
- 2 explicit goal of encouraging and ensuring the emergence of new
- 3 entrants that can foster innovations and price competition;
- 4 (2) maintain adequate regulatory authority over non-competitive
- 5 public utility services;
- 6 (3) consider alternative forms of regulation in order to address
- 7 changes in the technology and structure of electric public utilities;
- 8 (4) promote energy efficiency and Class I renewable energy
- 9 market development, taking into consideration environmental
- 10 benefits and market barriers;
- 11 (5) make energy services more affordable for low and moderate
- 12 income customers;
- 13 (6) attempt to transform the renewable energy market into one
- 14 that can move forward without subsidies from the State or public
- 15 utilities;
- 16 (7) achieve the goals put forth under the renewable energy
- 17 portfolio standards;
- 18 (8) promote the lowest cost to ratepayers; and
- 19 (9) allow all market segments to participate.
- 20 m. The board shall ensure the availability of financial incentives
- 21 under its jurisdiction, including, but not limited to, long-term
- 22 contracts, loans, SRECs, or other financial support, to ensure
- 23 market diversity, competition, and appropriate coverage across all
- 24 ratepayer segments, including, but not limited to, residential,
- 25 commercial, industrial, non-profit, farms, schools, and public entity
- 26 customers.
- 27 n. For projects which are owned, or directly invested in, by a
- 28 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
- 29 98.1), the board shall determine the number of SRECs with which
- 30 such projects shall be credited; and in determining such number the
- 31 board shall ensure that the market for SRECs does not detrimentally
- 32 affect the development of non-utility solar projects and shall
- 33 consider how its determination may impact the ratepayers.
- 34 o. The board, in consultation with the Department of
- 35 Environmental Protection, electric public utilities, the Division of
- 36 Rate Counsel in, but not of, the Department of the Treasury,
- 37 affected members of the solar energy industry, and relevant
- 38 stakeholders, shall periodically consider increasing the renewable
- 39 energy portfolio standards beyond the minimum amounts set forth
- 40 in subsection d. of this section, taking into account the cost impacts
- 41 and public benefits of such increases including, but not limited to:
- 42 (1) reductions in air pollution, water pollution, land disturbance,
- 43 and greenhouse gas emissions;
- 44 (2) reductions in peak demand for electricity and natural gas,
- 45 and the overall impact on the costs to customers of electricity and
- 46 natural gas;
- 47 (3) increases in renewable energy development, manufacturing,
- 48 investment, and job creation opportunities in this State; and

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

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

9 q. (1) During the energy years of 2014, 2015, and 2016, a solar
10 electric power generation facility project that is not: (a) net
11 metered; (b) an on-site generation facility; (c) qualified for net
12 metering aggregation; or (d) certified as being located on a
13 brownfield, on an area of historic fill or on a properly closed
14 sanitary landfill facility, as provided pursuant to subsection t. of this
15 section may file an application with the board for approval of a
16 designation pursuant to this subsection that the facility is connected
17 to the distribution system. An application filed pursuant to this
18 subsection shall include a notice escrow of \$40,000 per megawatt of
19 the proposed capacity of the facility. The board shall approve the
20 designation if: the facility has filed a notice in writing with the
21 board applying for designation pursuant to this subsection, together
22 with the notice escrow; and the capacity of the facility, when added
23 to the capacity of other facilities that have been previously
24 approved for designation prior to the facility's filing under this
25 subsection, does not exceed 80 megawatts in the aggregate for each
26 year. The capacity of any one solar electric power supply project
27 approved pursuant to this subsection shall not exceed 10 megawatts.
28 No more than 90 days after its receipt of a completed application
29 for designation pursuant to this subsection, the board shall approve,
30 conditionally approve, or disapprove the application. The notice
31 escrow shall be reimbursed to the facility in full upon either
32 rejection by the board or the facility entering commercial operation,
33 or shall be forfeited to the State if the facility is designated pursuant
34 to this subsection but does not enter commercial operation pursuant
35 to paragraph (2) of this subsection.

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

42 r. (1) For all proposed solar electric power generation facility
43 projects except for those solar electric power generation facility
44 projects approved pursuant to subsection q. of this section, and for
45 all projects proposed in each energy year following energy year
46 2016, a proposed solar electric power generation facility that is
47 neither net metered nor an on-site generation facility, may be
48 considered "connected to the distribution system" only upon

1 designation as such by the board, after notice to the public and
2 opportunity for public comment or hearing. A proposed solar
3 power electric generation facility seeking board designation as
4 "connected to the distribution system" shall submit an application to
5 the board that includes for the proposed facility: the nameplate
6 capacity; the estimated energy and number of SRECs to be
7 produced and sold per year; the estimated annual rate impact on
8 ratepayers; the estimated capacity of the generator as defined by
9 PJM for sale in the PJM capacity market; the point of
10 interconnection; the total project acreage and location; the current
11 land use designation of the property; the type of solar technology to
12 be used; and such other information as the board shall require.

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

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

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

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

24 (d) there will be no impingement on the ability of an electric
25 public utility to maintain its property and equipment in such a
26 condition as to enable it to provide safe, adequate, and proper
27 service to each of its customers.

28 (3) The board shall act within 90 days of its receipt of a
29 completed application for designation of a solar power electric
30 generation facility as "connected to the distribution system," to
31 either approve, conditionally approve, or disapprove the
32 application. If the proposed solar electric power generation facility
33 does not commence commercial operations within two years
34 following the date of the designation by the board pursuant to this
35 subsection, the designation of the facility as "connected to the
36 distribution system" shall be deemed to be null and void, and the
37 facility shall thereafter be considered not "connected to the
38 distribution system."

39 s. In addition to any other requirements of P.L.1999, c.23 or
40 any other law, rule, regulation or order, a solar electric power
41 generation facility that is not net metered or an on-site generation
42 facility and which is located on land that has been actively devoted
43 to agricultural or horticultural use that is valued, assessed, and
44 taxed pursuant to the "Farmland Assessment Act of 1964,"
45 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
46 period prior to the effective date of P.L.2012, c.24, shall only be
47 considered "connected to the distribution system" if (1) the board
48 approves the facility's designation pursuant to subsection q. of this

1 section; or (2) (a) PJM issued a System Impact Study for the facility
2 on or before June 30, 2011, (b) the facility files a notice with the
3 board within 60 days of the effective date of P.L.2012, c.24,
4 indicating its intent to qualify under this subsection, and (c) the
5 facility has been approved as "connected to the distribution system"
6 by the board. Nothing in this subsection shall limit the board's
7 authority concerning the review and oversight of facilities, unless
8 such facilities are exempt from such review as a result of having
9 been approved pursuant to subsection q. of this section.

10 t. (1) No more than 180 days after the date of enactment of
11 P.L.2012, c.24, the board shall, in consultation with the Department
12 of Environmental Protection and the New Jersey Economic
13 Development Authority, and, after notice and opportunity for public
14 comment and public hearing, complete a proceeding to establish a
15 program to provide SRECs to owners of solar electric power
16 generation facility projects certified by the board, in consultation
17 with the Department of Environmental Protection, as being located
18 on a brownfield, on an area of historic fill or on a properly closed
19 sanitary landfill facility, including those owned or operated by an
20 electric public utility and approved pursuant to section 13 of
21 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
22 subsection shall be considered "connected to the distribution
23 system", shall not require such designation by the board, and shall
24 not be subject to board review required pursuant to subsections q.
25 and r. of this section. Notwithstanding the provisions of section 3
26 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
27 order to the contrary, for projects certified under this subsection, the
28 board shall establish a financial incentive that is designed to
29 supplement the SRECs generated by the facility in order to cover
30 the additional cost of constructing and operating a solar electric
31 power generation facility on a brownfield, on an area of historic fill
32 or on a properly closed sanitary landfill facility. Any financial
33 benefit realized in relation to a project owned or operated by an
34 electric public utility and approved by the board pursuant to section
35 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
36 financial incentive established by the board pursuant to this
37 subsection, shall be credited to ratepayers. The issuance of SRECs
38 for all solar electric power generation facility projects pursuant to
39 this subsection shall be deemed "Board of Public Utilities financial
40 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
41 29.47).

42 (2) Notwithstanding the provisions of the "Spill Compensation
43 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
44 other law, rule, regulation, or order to the contrary, the board, in
45 consultation with the Department of Environmental Protection, may
46 find that a person who operates a solar electric power generation
47 facility project that has commenced operation on or after the
48 effective date of P.L.2012, c.24, which project is certified by the

1 board, in consultation with the Department of Environmental
2 Protection pursuant to paragraph (1) of this subsection, as being
3 located on a brownfield for which a final remediation document has
4 been issued, on an area of historic fill or on a properly closed
5 sanitary landfill facility, which projects shall include, but not be
6 limited to projects located on a brownfield for which a final
7 remediation document has been issued, on an area of historic fill or
8 on a properly closed sanitary landfill facility owned or operated by
9 an electric public utility and approved pursuant to section 13 of
10 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
11 acquired on or after the effective date of P.L.2012, c.24 on which
12 such a solar electric power generation facility project is constructed
13 and operated, shall not be liable for cleanup and removal costs to
14 the Department of Environmental Protection or to any other person
15 for the discharge of a hazardous substance provided that:

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

18 (b) the person did not discharge the hazardous substance, is not
19 in any way responsible for the hazardous substance, and is not a
20 successor to the discharger or to any person in any way responsible
21 for the hazardous substance or to anyone liable for cleanup and
22 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
23 23.11g);

24 (c) the person, within 30 days after acquisition of the property,
25 gave notice of the discharge to the Department of Environmental
26 Protection in a manner the Department of Environmental Protection
27 prescribes;

28 (d) the person does not disrupt or change, without prior written
29 permission from the Department of Environmental Protection, any
30 engineering or institutional control that is part of a remedial action
31 for the contaminated site or any landfill closure or post-closure
32 requirement;

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

35 (f) the person does not interfere with any necessary remediation
36 of the property;

37 (g) the person complies with any regulations and any permit the
38 Department of Environmental Protection issues pursuant to section
39 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
40 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

41 (h) with respect to an area of historic fill, the person has
42 demonstrated pursuant to a preliminary assessment and site
43 investigation, that hazardous substances have not been discharged;
44 and

45 (i) with respect to a properly closed sanitary landfill facility, no
46 person who owns or controls the facility receives, has received, or
47 will receive, with respect to such facility, any funds from any post-
48 closure escrow account established pursuant to section 10 of

1 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
2 the facility.

3 Only the person who is liable to clean up and remove the
4 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
5 23.11g) and who does not have a defense to liability pursuant to
6 subsection d. of that section shall be liable for cleanup and removal
7 costs.

8 u. No more than 180 days after the date of enactment of
9 P.L.2012, c.24, the board shall complete a proceeding to establish a
10 registration program. The registration program shall require the
11 owners of solar electric power generation facility projects
12 connected to the distribution system to make periodic milestone
13 filings with the board in a manner and at such times as determined
14 by the board to provide full disclosure and transparency regarding
15 the overall level of development and construction activity of those
16 projects Statewide.

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

23 w. No more than 270 days after the date of enactment of
24 P.L.2012, c.24, the board shall, after notice and opportunity for
25 public comment and public hearing, complete a proceeding to
26 consider whether to establish a program to provide, to owners of
27 solar electric power generation facility projects certified by the
28 board as being three megawatts or greater in capacity and being net
29 metered, including facilities which are owned or operated by an
30 electric public utility and approved by the board pursuant to section
31 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
32 designed to supplement the SRECs generated by the facility to
33 further the goal of improving the economic competitiveness of
34 commercial and industrial customers taking power from such
35 projects. If the board determines to establish such a program
36 pursuant to this subsection, the board may establish a financial
37 incentive to provide that the board shall issue one SREC for no less
38 than every 750 kilowatt-hours of solar energy generated by the
39 certified projects. Any financial benefit realized in relation to a
40 project owned or operated by an electric public utility and approved
41 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
42 98.1), as a result of the provisions of a financial incentive
43 established by the board pursuant to this subsection, shall be
44 credited to ratepayers.

45 x. Solar electric power generation facility projects that are
46 located on an existing or proposed commercial, retail, industrial,
47 municipal, professional, recreational, transit, commuter,
48 entertainment complex, multi-use, or mixed-use parking lot with a

1 capacity to park 350 or more vehicles where the area to be utilized
2 for the facility is paved, or an impervious surface may be owned or
3 operated by an electric public utility and may be approved by the
4 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
5 (cf: P.L.2015, c.94, s.1)

6

7 2. This act shall take effect immediately.