

# SENATE, No. 596

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Co-Sponsored by:**

**Senator Greenstein**

**SYNOPSIS**

Increases electric power net metering capacity threshold to 5.8 percent of total annual kilowatt-hours sold in State.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning electric power net metering and amending  
2 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 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  
45 the provisions of the "Administrative Procedure Act."

**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.

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

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

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

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

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

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

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

45 d. Notwithstanding any provisions of the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
47 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public  
2 hearing, renewable energy portfolio standards that shall require:

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

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

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

24 (3) that the board establish a multi-year schedule, applicable to  
25 each electric power supplier or basic generation service provider in  
26 this State, beginning with the one-year period commencing on June  
27 1, 2010, and continuing for each subsequent one-year period up to  
28 and including, the one-year period commencing on June 1, 2028,  
29 that requires the following number or percentage, as the case may  
30 be, of kilowatt-hours sold in this State by each electric power  
31 supplier and each basic generation service provider to be from solar  
32 electric power generators connected to the distribution system in  
33 this State:

34

35	EY 2011	306 Gigawatthours (Gwhrs)
36	EY 2012	442 Gwhrs
37	EY 2013	596 Gwhrs
38	EY 2014	2.050%
39	EY 2015	2.450%
40	EY 2016	2.750%
41	EY 2017	3.000%
42	EY 2018	3.200%
43	EY 2019	3.290%
44	EY 2020	3.380%
45	EY 2021	3.470%
46	EY 2022	3.560%
47	EY 2023	3.650%
48	EY 2024	3.740%

1	EY 2025	3.830%
2	EY 2026	3.920%
3	EY 2027	4.010%

4  
5 EY 2028 4.100%, and for every energy year thereafter, at least  
6 4.100% per energy year to reflect an increasing number of kilowatt-  
7 hours to be purchased by suppliers or providers from solar electric  
8 power generators connected to the distribution system in this State,  
9 and to establish a framework within which, of the electricity that the  
10 generators sell in this State, suppliers and providers shall each  
11 obtain at least 3.470% in the energy year 2021 and 4.100% in the  
12 energy year 2028 from solar electric power generators connected to  
13 the distribution system in this State, provided, however, that:

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

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

25 (c) The solar renewable portfolio standards requirements in this  
26 paragraph shall exempt those existing supply contracts which are  
27 effective prior to the date of enactment of P.L.2012, c.24 from any  
28 increase beyond the number of SRECs mandated by the solar  
29 renewable portfolio standards requirements that were in effect on  
30 the date that the providers executed their existing supply contracts.  
31 This limited exemption for providers' existing supply contracts shall  
32 not be construed to lower the Statewide solar sourcing requirements  
33 set forth in this paragraph. Such incremental requirements that  
34 would have otherwise been imposed on exempt providers shall be  
35 distributed over the providers not subject to the existing supply  
36 contract exemption until such time as existing supply contracts  
37 expire and all providers are subject to the new requirement in a  
38 manner that is competitively neutral among all providers and  
39 suppliers. The board shall implement the provisions of this  
40 subsection in a manner so as to prevent any subsidies between  
41 suppliers and providers and to promote competition in the  
42 electricity supply industry.

43 An electric power supplier or basic generation service provider  
44 may satisfy the requirements of this subsection by participating in a  
45 renewable energy trading program approved by the board in  
46 consultation with the Department of Environmental Protection, or  
47 compliance with the requirements of this subsection may be

1 demonstrated to the board by suppliers or providers through the  
2 purchase of SRECs.

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

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

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

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

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

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

47 The rules established by the board pursuant to this paragraph  
48 shall be effective as regulations immediately upon filing with the

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

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

11 (1) net metering standards for electric power suppliers and basic  
12 generation service providers. The standards shall require electric  
13 power suppliers and basic generation service providers to offer net  
14 metering at non-discriminatory rates to industrial, large  
15 commercial, residential and small commercial customers, as those  
16 customers are classified or defined by the board, that generate  
17 electricity, on the customer's side of the meter, using a Class I  
18 renewable energy source, for the net amount of electricity supplied  
19 by the electric power supplier or basic generation service provider  
20 over an annualized period. Systems of any sized capacity, as  
21 measured in watts, are eligible for net metering. If the amount of  
22 electricity generated by the customer-generator, plus any kilowatt  
23 hour credits held over from the previous billing periods, exceeds the  
24 electricity supplied by the electric power supplier or basic  
25 generation service provider, then the electric power supplier or  
26 basic generation service provider, as the case may be, shall credit  
27 the customer-generator for the excess kilowatt hours until the end of  
28 the annualized period at which point the customer-generator will be  
29 compensated for any remaining credits or, if the customer-generator  
30 chooses, credit the customer-generator on a real-time basis, at the  
31 electric power supplier's or basic generation service provider's  
32 avoided cost of wholesale power or the PJM electric power pool's  
33 real-time locational marginal pricing rate, adjusted for losses, for  
34 the respective zone in the PJM electric power pool. Alternatively,  
35 the customer-generator may execute a bilateral agreement with an  
36 electric power supplier or basic generation service provider for the  
37 sale and purchase of the customer-generator's excess generation.  
38 The customer-generator may be credited on a real-time basis, so  
39 long as the customer-generator follows applicable rules prescribed  
40 by the PJM electric power pool for its capacity requirements for the  
41 net amount of electricity supplied by the electric power supplier or  
42 basic generation service provider. The board may authorize an  
43 electric power supplier or basic generation service provider to cease  
44 offering net metering to customers that are not already net metered  
45 whenever the total rated generating capacity owned and operated by  
46 net metering customer-generators Statewide equals **[2.9]** 5.8  
47 percent of the total annual kilowatt-hours sold in this State by each

1 electric power supplier and each basic generation service provider  
2 during the prior one-year period;

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

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

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

18 (4) net metering aggregation standards to require electric public  
19 utilities to provide net metering aggregation to single electric public  
20 utility customers that operate a solar electric power generation  
21 system installed at one of the customer's facilities or on property  
22 owned by the customer, provided that any such customer is a State  
23 entity, school district, county, county agency, county authority,  
24 municipality, municipal agency, or municipal authority. The  
25 standards shall provide that, in order to qualify for net metering  
26 aggregation, the customer must operate a solar electric power  
27 generation system using a net metering billing account, which  
28 system is located on property owned by the customer, provided that:  
29 (a) the property is not land that has been actively devoted to  
30 agricultural or horticultural use and that is valued, assessed, and  
31 taxed pursuant to the "Farmland Assessment Act of 1964,"  
32 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year  
33 period prior to the effective date of P.L.2012, c.24, provided,  
34 however, that the municipal planning board of a municipality in  
35 which a solar electric power generation system is located may  
36 waive the requirement of this subparagraph (a), (b) the system is not  
37 an on-site generation facility, (c) all of the facilities of the single  
38 customer combined for the purpose of net metering aggregation are  
39 facilities owned or operated by the single customer and are located  
40 within its territorial jurisdiction except that all of the facilities of a  
41 State entity engaged in net metering aggregation shall be located  
42 within five miles of one another, and (d) all of those facilities are  
43 within the service territory of a single electric public utility and are  
44 all served by the same basic generation service provider or by the  
45 same electric power supplier. The standards shall provide that in  
46 order to qualify for net metering aggregation, the customer's solar  
47 electric power generation system shall be sized so that its annual  
48 generation does not exceed the combined metered annual energy



1 usage of the qualified customer facilities, and the qualified  
2 customer facilities shall all be in the same customer rate class under  
3 the applicable electric public utility tariff. For the customer's  
4 facility or property on which the solar electric generation system is  
5 installed, the electricity generated from the customer's solar electric  
6 generation system shall be accounted for pursuant to the provisions  
7 of paragraph (1) of this subsection to provide that the electricity  
8 generated in excess of the electricity supplied by the electric power  
9 supplier or the basic generation service provider, as the case may  
10 be, for the customer's facility on which the solar electric generation  
11 system is installed, over the annualized period, is credited at the  
12 electric power supplier's or the basic generation service provider's  
13 avoided cost of wholesale power or the PJM electric power pool  
14 real-time locational marginal pricing rate. All electricity used by  
15 the customer's qualified facilities, with the exception of the facility  
16 or property on which the solar electric power generation system is  
17 installed, shall be billed at the full retail rate pursuant to the electric  
18 public utility tariff applicable to the customer class of the customer  
19 using the electricity. A customer may contract with a third party to  
20 operate a solar electric power generation system, for the purpose of  
21 net metering aggregation. Any contractual relationship entered into  
22 for operation of a solar electric power generation system related to  
23 net metering aggregation shall include contractual protections that  
24 provide for adequate performance and provision for construction  
25 and operation for the term of the contract, including any appropriate  
26 bonding or escrow requirements. Any incremental cost to an  
27 electric public utility for net metering aggregation shall be fully and  
28 timely recovered in a manner to be determined by the board. The  
29 board shall adopt net metering aggregation standards within 270  
30 days after the effective date of P.L.2012, c.24.

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

38 Such standards or rules shall be effective as regulations  
39 immediately upon filing with the Office of Administrative Law and  
40 shall be effective for a period not to exceed 18 months, and may,  
41 thereafter, be amended, adopted or readopted by the board in  
42 accordance with the provisions of the "Administrative Procedure  
43 Act."

44 f. The board may assess, by written order and after notice and  
45 opportunity for comment, a separate fee to cover the cost of  
46 implementing and overseeing an emission disclosure system or  
47 emission portfolio standard, which fee shall be assessed based on an  
48 electric power supplier's or basic generation service provider's share

1 of the retail electricity supply market. The board shall not impose a  
2 fee for the cost of implementing and overseeing a greenhouse gas  
3 emissions portfolio standard adopted pursuant to paragraph (2) of  
4 subsection c. of this section, the electric energy efficiency portfolio  
5 standard adopted pursuant to subsection g. of this section, or the gas  
6 energy efficiency portfolio standard adopted pursuant to subsection  
7 h. of this section.

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

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

28 i. After the board establishes a schedule of solar kilowatt-hour  
29 sale or purchase requirements pursuant to paragraph (3) of  
30 subsection d. of this section, the board may initiate subsequent  
31 proceedings and adopt, after appropriate notice and opportunity for  
32 public comment and public hearing, increased minimum solar  
33 kilowatt-hour sale or purchase requirements, provided that the  
34 board shall not reduce previously established minimum solar  
35 kilowatt-hour sale or purchase requirements, or otherwise impose  
36 constraints that reduce the requirements by any means.

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

44

45	EY 2014	\$339
46	EY 2015	\$331
47	EY 2016	\$323
48	EY 2017	\$315

1	EY 2018	\$308
2	EY 2019	\$300
3	EY 2020	\$293
4	EY 2021	\$286
5	EY 2022	\$279
6	EY 2023	\$272
7	EY 2024	\$266
8	EY 2025	\$260
9	EY 2026	\$253
10	EY 2027	\$250
11	EY 2028	\$239.

12

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

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

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

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

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

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

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

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

- 1 (6) attempt to transform the renewable energy market into one  
2 that can move forward without subsidies from the State or public  
3 utilities;
- 4 (7) achieve the goals put forth under the renewable energy  
5 portfolio standards;
- 6 (8) promote the lowest cost to ratepayers; and  
7 (9) allow all market segments to participate.
- 8 m. The board shall ensure the availability of financial incentives  
9 under its jurisdiction, including, but not limited to, long-term  
10 contracts, loans, SRECs, or other financial support, to ensure  
11 market diversity, competition, and appropriate coverage across all  
12 ratepayer segments, including, but not limited to, residential,  
13 commercial, industrial, non-profit, farms, schools, and public entity  
14 customers.
- 15 n. For projects which are owned, or directly invested in, by a  
16 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
17 98.1), the board shall determine the number of SRECs with which  
18 such projects shall be credited; and in determining such number the  
19 board shall ensure that the market for SRECs does not detrimentally  
20 affect the development of non-utility solar projects and shall  
21 consider how its determination may impact the ratepayers.
- 22 o. The board, in consultation with the Department of  
23 Environmental Protection, electric public utilities, the Division of  
24 Rate Counsel in, but not of, the Department of the Treasury,  
25 affected members of the solar energy industry, and relevant  
26 stakeholders, shall periodically consider increasing the renewable  
27 energy portfolio standards beyond the minimum amounts set forth  
28 in subsection d. of this section, taking into account the cost impacts  
29 and public benefits of such increases including, but not limited to:
- 30 (1) reductions in air pollution, water pollution, land disturbance,  
31 and greenhouse gas emissions;
- 32 (2) reductions in peak demand for electricity and natural gas,  
33 and the overall impact on the costs to customers of electricity and  
34 natural gas;
- 35 (3) increases in renewable energy development, manufacturing,  
36 investment, and job creation opportunities in this State; and
- 37 (4) reductions in State and national dependence on the use of  
38 fossil fuels.
- 39 p. Class I RECs and ORECs shall be eligible for use in  
40 renewable energy portfolio standards compliance in the energy year  
41 in which they are generated, and for the following two energy years.  
42 SRECs shall be eligible for use in renewable energy portfolio  
43 standards compliance in the energy year in which they are  
44 generated, and for the following four energy years.
- 45 q. (1) During the energy years of 2014, 2015, and 2016, a solar  
46 electric power generation facility project that is not: (a) net  
47 metered; (b) an on-site generation facility; (c) qualified for net  
48 metering aggregation; or (d) certified as being located on a

1 brownfield, on an area of historic fill or on a properly closed  
2 sanitary landfill facility, as provided pursuant to subsection t. of this  
3 section may file an application with the board for approval of a  
4 designation pursuant to this subsection that the facility is connected  
5 to the distribution system. An application filed pursuant to this  
6 subsection shall include a notice escrow of \$40,000 per megawatt of  
7 the proposed capacity of the facility. The board shall approve the  
8 designation if: the facility has filed a notice in writing with the  
9 board applying for designation pursuant to this subsection, together  
10 with the notice escrow; and the capacity of the facility, when added  
11 to the capacity of other facilities that have been previously  
12 approved for designation prior to the facility's filing under this  
13 subsection, does not exceed 80 megawatts in the aggregate for each  
14 year. The capacity of any one solar electric power supply project  
15 approved pursuant to this subsection shall not exceed 10 megawatts.  
16 No more than 90 days after its receipt of a completed application  
17 for designation pursuant to this subsection, the board shall approve,  
18 conditionally approve, or disapprove the application. The notice  
19 escrow shall be reimbursed to the facility in full upon either  
20 rejection by the board or the facility entering commercial operation,  
21 or shall be forfeited to the State if the facility is designated pursuant  
22 to this subsection but does not enter commercial operation pursuant  
23 to paragraph (2) of this subsection.

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

30 r. (1) For all proposed solar electric power generation facility  
31 projects except for those solar electric power generation facility  
32 projects approved pursuant to subsection q. of this section, and for  
33 all projects proposed in each energy year following energy year  
34 2016, a proposed solar electric power generation facility that is  
35 neither net metered nor an on-site generation facility, may be  
36 considered "connected to the distribution system" only upon  
37 designation as such by the board, after notice to the public and  
38 opportunity for public comment or hearing. A proposed solar  
39 power electric generation facility seeking board designation as  
40 "connected to the distribution system" shall submit an application to  
41 the board that includes for the proposed facility: the nameplate  
42 capacity; the estimated energy and number of SRECs to be  
43 produced and sold per year; the estimated annual rate impact on  
44 ratepayers; the estimated capacity of the generator as defined by  
45 PJM for sale in the PJM capacity market; the point of  
46 interconnection; the total project acreage and location; the current  
47 land use designation of the property; the type of solar technology to  
48 be used; and such other information as the board shall require.

1 (2) The board shall approve the designation of the proposed  
2 solar power electric generation facility as "connected to the  
3 distribution system" if the board determines that:  
4 (a) the SRECs forecasted to be produced by the facility do not  
5 have a detrimental impact on the SREC market or on the  
6 appropriate development of solar power in the State;  
7 (b) the approval of the designation of the proposed facility  
8 would not significantly impact the preservation of open space in  
9 this State;  
10 (c) the impact of the designation on electric rates and economic  
11 development is beneficial; and  
12 (d) there will be no impingement on the ability of an electric  
13 public utility to maintain its property and equipment in such a  
14 condition as to enable it to provide safe, adequate, and proper  
15 service to each of its customers.  
16 (3) The board shall act within 90 days of its receipt of a  
17 completed application for designation of a solar power electric  
18 generation facility as "connected to the distribution system," to  
19 either approve, conditionally approve, or disapprove the  
20 application. If the proposed solar electric power generation facility  
21 does not commence commercial operations within two years  
22 following the date of the designation by the board pursuant to this  
23 subsection, the designation of the facility as "connected to the  
24 distribution system" shall be deemed to be null and void, and the  
25 facility shall thereafter be considered not "connected to the  
26 distribution system."  
27 s. In addition to any other requirements of P.L.1999, c.23 or  
28 any other law, rule, regulation or order, a solar electric power  
29 generation facility that is not net metered or an on-site generation  
30 facility and which is located on land that has been actively devoted  
31 to agricultural or horticultural use that is valued, assessed, and  
32 taxed pursuant to the "Farmland Assessment Act of 1964,"  
33 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year  
34 period prior to the effective date of P.L.2012, c.24, shall only be  
35 considered "connected to the distribution system" if (1) the board  
36 approves the facility's designation pursuant to subsection q. of this  
37 section; or (2) (a) PJM issued a System Impact Study for the facility  
38 on or before June 30, 2011, (b) the facility files a notice with the  
39 board within 60 days of the effective date of P.L.2012, c.24,  
40 indicating its intent to qualify under this subsection, and (c) the  
41 facility has been approved as "connected to the distribution system"  
42 by the board. Nothing in this subsection shall limit the board's  
43 authority concerning the review and oversight of facilities, unless  
44 such facilities are exempt from such review as a result of having  
45 been approved pursuant to subsection q. of this section.  
46 t. (1) No more than 180 days after the date of enactment of  
47 P.L.2012, c.24, the board shall, in consultation with the Department  
48 of Environmental Protection and the New Jersey Economic

1 Development Authority, and, after notice and opportunity for public  
2 comment and public hearing, complete a proceeding to establish a  
3 program to provide SRECs to owners of solar electric power  
4 generation facility projects certified by the board, in consultation  
5 with the Department of Environmental Protection, as being located  
6 on a brownfield, on an area of historic fill or on a properly closed  
7 sanitary landfill facility, including those owned or operated by an  
8 electric public utility and approved pursuant to section 13 of  
9 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this  
10 subsection shall be considered "connected to the distribution  
11 system", shall not require such designation by the board, and shall  
12 not be subject to board review required pursuant to subsections q.  
13 and r. of this section. Notwithstanding the provisions of section 3  
14 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or  
15 order to the contrary, for projects certified under this subsection, the  
16 board shall establish a financial incentive that is designed to  
17 supplement the SRECs generated by the facility in order to cover  
18 the additional cost of constructing and operating a solar electric  
19 power generation facility on a brownfield, on an area of historic fill  
20 or on a properly closed sanitary landfill facility. Any financial  
21 benefit realized in relation to a project owned or operated by an  
22 electric public utility and approved by the board pursuant to section  
23 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a  
24 financial incentive established by the board pursuant to this  
25 subsection, shall be credited to ratepayers. The issuance of SRECs  
26 for all solar electric power generation facility projects pursuant to  
27 this subsection shall be deemed "Board of Public Utilities financial  
28 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-  
29 29.47).

30 (2) Notwithstanding the provisions of the "Spill Compensation  
31 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any  
32 other law, rule, regulation, or order to the contrary, the board, in  
33 consultation with the Department of Environmental Protection, may  
34 find that a person who operates a solar electric power generation  
35 facility project that has commenced operation on or after the  
36 effective date of P.L.2012, c.24, which project is certified by the  
37 board, in consultation with the Department of Environmental  
38 Protection pursuant to paragraph (1) of this subsection, as being  
39 located on a brownfield for which a final remediation document has  
40 been issued, on an area of historic fill or on a properly closed  
41 sanitary landfill facility, which projects shall include, but not be  
42 limited to projects located on a brownfield for which a final  
43 remediation document has been issued, on an area of historic fill or  
44 on a properly closed sanitary landfill facility owned or operated by  
45 an electric public utility and approved pursuant to section 13 of  
46 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property  
47 acquired on or after the effective date of P.L.2012, c.24 on which  
48 such a solar electric power generation facility project is constructed

1 and operated, shall not be liable for cleanup and removal costs to  
2 the Department of Environmental Protection or to any other person  
3 for the discharge of a hazardous substance provided that:

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

6 (b) the person did not discharge the hazardous substance, is not  
7 in any way responsible for the hazardous substance, and is not a  
8 successor to the discharger or to any person in any way responsible  
9 for the hazardous substance or to anyone liable for cleanup and  
10 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-  
11 23.11g);

12 (c) the person, within 30 days after acquisition of the property,  
13 gave notice of the discharge to the Department of Environmental  
14 Protection in a manner the Department of Environmental Protection  
15 prescribes;

16 (d) the person does not disrupt or change, without prior written  
17 permission from the Department of Environmental Protection, any  
18 engineering or institutional control that is part of a remedial action  
19 for the contaminated site or any landfill closure or post-closure  
20 requirement;

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

23 (f) the person does not interfere with any necessary remediation  
24 of the property;

25 (g) the person complies with any regulations and any permit the  
26 Department of Environmental Protection issues pursuant to section  
27 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection  
28 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

29 (h) with respect to an area of historic fill, the person has  
30 demonstrated pursuant to a preliminary assessment and site  
31 investigation, that hazardous substances have not been discharged;  
32 and

33 (i) with respect to a properly closed sanitary landfill facility, no  
34 person who owns or controls the facility receives, has received, or  
35 will receive, with respect to such facility, any funds from any post-  
36 closure escrow account established pursuant to section 10 of  
37 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of  
38 the facility.

39 Only the person who is liable to clean up and remove the  
40 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-  
41 23.11g) and who does not have a defense to liability pursuant to  
42 subsection d. of that section shall be liable for cleanup and removal  
43 costs.

44 u. No more than 180 days after the date of enactment of  
45 P.L.2012, c.24, the board shall complete a proceeding to establish a  
46 registration program. The registration program shall require the  
47 owners of solar electric power generation facility projects  
48 connected to the distribution system to make periodic milestone



1 filings with the board in a manner and at such times as determined  
2 by the board to provide full disclosure and transparency regarding  
3 the overall level of development and construction activity of those  
4 projects Statewide.

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

11 w. No more than 270 days after the date of enactment of  
12 P.L.2012, c.24, the board shall, after notice and opportunity for  
13 public comment and public hearing, complete a proceeding to  
14 consider whether to establish a program to provide, to owners of  
15 solar electric power generation facility projects certified by the  
16 board as being three megawatts or greater in capacity and being net  
17 metered, including facilities which are owned or operated by an  
18 electric public utility and approved by the board pursuant to section  
19 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is  
20 designed to supplement the SRECs generated by the facility to  
21 further the goal of improving the economic competitiveness of  
22 commercial and industrial customers taking power from such  
23 projects. If the board determines to establish such a program  
24 pursuant to this subsection, the board may establish a financial  
25 incentive to provide that the board shall issue one SREC for no less  
26 than every 750 kilowatt-hours of solar energy generated by the  
27 certified projects. Any financial benefit realized in relation to a  
28 project owned or operated by an electric public utility and approved  
29 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
30 98.1), as a result of the provisions of a financial incentive  
31 established by the board pursuant to this subsection, shall be  
32 credited to ratepayers.

33 x. Solar electric power generation facility projects that are  
34 located on an existing or proposed commercial, retail, industrial,  
35 municipal, professional, recreational, transit, commuter,  
36 entertainment complex, multi-use, or mixed-use parking lot with a  
37 capacity to park 350 or more vehicles where the area to be utilized  
38 for the facility is paved, or an impervious surface may be owned or  
39 operated by an electric public utility and may be approved by the  
40 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).  
41 (cf: P.L.2015, c.94, s.1)

42

43 2. This act shall take effect immediately.

