

# SENATE, No. 1405

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Greenstein, Vitale and Bateman**

**SYNOPSIS**

Requires, by energy year 2035, all electric power sold in NJ by each electric power supplier and basic generation service provider be from Class I renewable energy sources.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/28/2018)**

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  
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 Notwithstanding any provision of this subsection, or any rule or  
21 regulation adopted pursuant thereto, to the contrary, the board shall  
22 increase the required percentage for Class I renewable energy  
23 sources so that for energy year 2035 and thereafter, 100 percent of  
24 the electric power sold in this State by each electric power supplier  
25 and each basic generation service provider shall be from Class I  
26 renewable energy sources.

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

31 (3) that the board establish a multi-year schedule, applicable to  
32 each electric power supplier or basic generation service provider in  
33 this State, beginning with the one-year period commencing on June  
34 1, 2010, and continuing for each subsequent one-year period up to  
35 and including, the one-year period commencing on June 1, 2028,  
36 that requires the following number or percentage, as the case may  
37 be, of kilowatt-hours sold in this State by each electric power  
38 supplier and each basic generation service provider to be from solar  
39 electric power generators connected to the distribution system in  
40 this State:

41	EY 2011	306 Gigawatthours (Gwhrs)
42	EY 2012	442 Gwhrs
43	EY 2013	596 Gwhrs
44	EY 2014	2.050%
45	EY 2015	2.450%
46	EY 2016	2.750%
47	EY 2017	3.000%
48	EY 2018	3.200%

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1	EY 2019	3.290%
2	EY 2020	3.380%
3	EY 2021	3.470%
4	EY 2022	3.560%
5	EY 2023	3.650%
6	EY 2024	3.740%
7	EY 2025	3.830%
8	EY 2026	3.920%
9	EY 2027	4.010%

10 EY 2028 4.100 percent, and for every energy year thereafter, at  
11 least 4.100 **【%】** percent per energy year to reflect an increasing  
12 number of kilowatt-hours to be purchased by suppliers or providers  
13 from solar electric power generators connected to the distribution  
14 system in this State, and to establish a framework within which, of  
15 the electricity that the generators sell in this State, suppliers and  
16 providers shall each obtain at least 3.470 percent in the energy year  
17 2021 and 4.100 percent in the energy year 2028 from solar electric  
18 power generators connected to the distribution system in this State,  
19 provided, however, that:

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

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

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

1 An electric power supplier or basic generation service provider  
2 may satisfy the requirements of this subsection by participating in a  
3 renewable energy trading program approved by the board in  
4 consultation with the Department of Environmental Protection, or  
5 compliance with the requirements of this subsection may be  
6 demonstrated to the board by suppliers or providers through the  
7 purchase of SRECs.

8 The renewable energy portfolio standards adopted by the board  
9 pursuant to paragraphs (1) and (2) of this subsection shall be  
10 effective as regulations immediately upon filing with the Office of  
11 Administrative Law and shall be effective for a period not to exceed  
12 18 months, and may, thereafter, be amended, adopted or readopted  
13 by the board in accordance with the provisions of the  
14 "Administrative Procedure Act."

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

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

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

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

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

1 payment established by the board. Any offshore wind alternative  
2 compliance payments collected shall be refunded directly to the  
3 ratepayers by the electric public utilities.

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

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

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

1 offering net metering to customers that are not already net metered  
2 whenever the total rated generating capacity owned and operated by  
3 net metering customer-generators Statewide equals 2.9 percent of  
4 the total annual kilowatt-hours sold in this State by each electric  
5 power supplier and each basic generation service provider during  
6 the prior one-year period;

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

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

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

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



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

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

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

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

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

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

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

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

1	EY 2014	\$339
2	EY 2015	\$331
3	EY 2016	\$323
4	EY 2017	\$315
5	EY 2018	\$308
6	EY 2019	\$300
7	EY 2020	\$293
8	EY 2021	\$286
9	EY 2022	\$279
10	EY 2023	\$272
11	EY 2024	\$266
12	EY 2025	\$260
13	EY 2026	\$253
14	EY 2027	\$250
15	EY 2028	\$239.

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

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

38       1. The board shall implement its responsibilities under the  
39 provisions of this section in such a manner as to:

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

43       (2) maintain adequate regulatory authority over non-competitive  
44 public utility services;

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

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

1 standards compliance in the energy year in which they are  
2 generated, and for the following four energy years.

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

30 (2) If the proposed solar electric power generation facility does  
31 not commence commercial operations within two years following  
32 the date of the designation by the board pursuant to this subsection,  
33 the designation of the facility shall be deemed to be null and void,  
34 and the facility shall not be considered connected to the distribution  
35 system thereafter.

36 (3) Notwithstanding the provisions of paragraph (2) of this  
37 subsection, a solar electric power generation facility project that as  
38 of May 31, 2017 was designated as "connected to the distribution  
39 system," but failed to commence commercial operations as of that  
40 date, shall maintain that designation if it commences commercial  
41 operations by May 31, 2018.

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.2017, c.139, s.1)

6

7 2. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill directs the Board of Public Utilities to increase the  
13 required percentage for Class I renewable energy sources so that for  
14 energy year 2035 and thereafter, 100 percent of the electric power  
15 sold in this State by each electric power supplier and each basic  
16 generation service provider would be from Class I renewable  
17 energy sources. "Class I renewable energy" is defined in current  
18 law as electric energy produced from solar technologies,  
19 photovoltaic technologies, wind energy, fuel cells, geothermal  
20 technologies, wave or tidal action, certain small scale hydropower  
21 facilities with a capacity of three megawatts or less, and methane  
22 gas from landfills or a biomass facility, provided that the biomass is  
23 cultivated and harvested in a sustainable manner.