

SENATE, No. 3173

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Senator CHRIS A. BROWN

District 2 (Atlantic)

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District 1 (Atlantic, Cape May and Cumberland)

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Senator Addiego

SYNOPSIS

Permits DEP to enter into solar energy redevelopment agreements with owners or operators of sanitary landfill facilities under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning solar electric power development at sanitary
2 landfill facilities and supplementing P.L.1981, c.306 (C.13:1E-
3 100 et seq.).

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

7
8 1. a. The provisions of any other law, or rule or regulation
9 adopted pursuant thereto, to the contrary notwithstanding, the State
10 may enter into a solar energy redevelopment agreement with a
11 developer, for the purpose of constructing a solar electric power
12 generating facility on a properly closed sanitary landfill facility
13 pursuant to the provisions of this section.

14 b. The Commissioner of Environmental Protection, in
15 consultation with the Board of Public Utilities, may negotiate the
16 terms and conditions of a solar energy redevelopment agreement
17 when the total expenses projected for the proper closure of a
18 sanitary landfill facility exceed the amount of funds available for
19 closure in the account established pursuant to section 10 of the
20 “Sanitary Landfill Closure and Contingency Fund Act,” P.L.1981,
21 c.306 (C.13:1E-109), or the account established pursuant to section
22 6 of P.L.2013, c.69 (13:1E-125.6). When evaluating a solar energy
23 redevelopment agreement, the commissioner shall consider the
24 following factors:

25 (1) the economic feasibility of the solar electric power
26 generating facility;

27 (2) the degree to which the solar electric power generating
28 facility will advance State greenhouse gas emissions goals;

29 (3) the likelihood that sufficient revenue from the solar electric
30 power generating facility will, upon completion, offset the cost of
31 post-closure monitoring activities at the sanitary landfill facility;
32 and

33 (4) whether to require the owner or operator of the sanitary
34 landfill facility to establish any additional financial assurance to
35 finance the proper closure of the sanitary landfill facility.

36 c. The commissioner shall evaluate the environmental and
37 public health viability and safety of the solar electric power
38 generating facility proposed on the site in addition to environmental
39 review of the closure plan. The commissioner may require the
40 submission of any environmental and engineering reports that the
41 commissioner deems relevant or necessary to the evaluation of the
42 project. It is solely within the discretion of the commissioner to
43 enter into a solar energy redevelopment agreement based upon the
44 environmental and public health and safety of the proposed project.

45 d. The commissioner shall negotiate the terms and conditions
46 of the solar energy redevelopment agreement on behalf of the State.
47 The agreement shall specify:

- 1 (1) the amount of revenue from the solar electric power
2 generating facility to be dedicated to costs of closure of the sanitary
3 landfill facility and the financial mechanism to be used for that
4 purpose;
- 5 (2) the amount of financial assurance the owner or operator of
6 the sanitary landfill facility shall provide;
- 7 (3) the timetable for proper closure of the sanitary landfill
8 facility and the subsequent installation of a solar electric power
9 generating facility;
- 10 (4) that the owner or operator of the sanitary landfill facility
11 shall agree to perform and complete any closure activity or
12 remediation as may be required by the Department of
13 Environmental Protection, pursuant to law, to ensure the
14 environmentally sound and proper closure and remediation of the
15 sanitary landfill facility. Any activity necessary to remediate
16 ground or surface water contamination caused by a sanitary landfill
17 facility shall be undertaken in compliance with the remediation
18 standards adopted by the department pursuant to P.L.1993, c.139
19 (C.58:10B-1 et al.); and
- 20 (5) that if the owner or operator of a sanitary landfill facility has
21 not established an account pursuant to section 10 of the "Sanitary
22 Landfill Closure and Contingency Fund Act," P.L.1981, c.306
23 (C.13:1E-109), that such a fund shall be established, with the
24 amount of money to be deposited into the fund determined by the
25 commissioner.
- 26 e. The State may not enter into any solar energy redevelopment
27 agreement unless the owner or operator has secured a license
28 pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), related to the
29 closure of the sanitary landfill facility.
- 30 f. After the owner or operator has entered into a solar energy
31 redevelopment agreement with the State, the commissioner shall
32 submit a copy thereof to the clerk of the municipality in which the
33 sanitary landfill facility is located and the Board of Public Utilities.
- 34 g. The owner or operator of the sanitary landfill facility shall
35 revise and re-certify closure costs with a New Jersey licensed
36 professional engineer and submit to the department actual and
37 projected revenues from the solar electric power generating facility
38 every two years after commencement of approved activities at the
39 sanitary landfill facility. In the event of an increase in costs or a
40 decrease in revenue, the owner or operator of the sanitary landfill
41 facility shall increase the amount of financial assurance to an
42 amount at least equal to the new estimate. If the closure cost
43 estimate decreases or the actual revenue from the solar electric
44 power generating facility increases after a periodic review, the
45 owner or operator of the sanitary landfill facility may file a written
46 request with the department to decrease the amount of the financial
47 assurance, supported by a certification by a New Jersey licensed
48 professional engineer of the details of the decrease in the cost

1 estimate, as applicable. Financial assurance may be decreased to
2 the amount of the new estimate upon written approval of the
3 department.

4 h. The department shall, pursuant to the “Administrative
5 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any
6 rules and regulations necessary for the implementation of this act.

7 i. As used in this section:

8 “Solar energy redevelopment agreement” means an agreement
9 with the State under which the owner or operator of a sanitary
10 landfill facility uses anticipated revenues from a solar electric
11 power generating facility located on the site of the sanitary landfill
12 facility to assist in financing closure of the site. Such an agreement
13 may not include the costs incurred in securing separate financing
14 for closure of the site.

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16 2. This act shall take effect immediately.

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19 STATEMENT

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21 This bill would permit the Department of Environmental
22 Protection to enter into a solar energy redevelopment agreement
23 with the owner or operator of a sanitary landfill facility when the
24 total expenses projected for the closure of a sanitary landfill facility
25 exceed the amount of funds in the account established pursuant to
26 the “Sanitary Landfill Closure and Contingency Fund Act,” and
27 other mandatory escrow accounts.

28 The bill defines a solar energy redevelopment agreement as an
29 agreement with the State where the owner or operator uses
30 anticipated revenues from a solar electric power generating facility
31 located on a sanitary landfill facility to assist in financing the
32 closure of the site. The Commissioner of Environmental Protection
33 would negotiate the agreement in consultation with the Board of
34 Public Utilities, considering (1) the economic feasibility of the solar
35 electric power generating facility; (2) the degree to which the solar
36 electric power generating facility will advance State greenhouse gas
37 emissions goals; (3) the likelihood that sufficient revenue from the
38 solar electric power generating facility will, upon completion, offset
39 the cost of post-closure monitoring activities at the sanitary landfill
40 facility; and (4) whether to require the owner or operator of the
41 sanitary landfill facility to establish any additional financial
42 assurance to finance the proper closure of the sanitary landfill
43 facility. The department would also evaluate the environmental and
44 public health viability and safety of the proposed project, and the
45 commissioner would have sole discretion in to enter, or decline to
46 enter into a solar energy agreement based upon the environmental
47 and public health safety of the proposed project.

1 The solar energy redevelopment agreement would be required to
2 specify the amount of revenue from the solar electric power
3 generating facility to be dedicated to costs of closure of the sanitary
4 landfill facility, the amount of financial assurance the owner or
5 operator shall provide, the timetable for the proper closure of the
6 sanitary landfill facility and subsequent installation of a solar
7 electric power generating facility, and that the owner or operator of
8 the sanitary landfill facility shall agree to perform any closure
9 activity or remediation as may be required by the department. If an
10 owner or operator of a sanitary landfill facility has not established
11 an account pursuant to the “Sanitary Landfill Closure and
12 Contingency Fund Act,” then the agreement shall also specify that
13 such a fund shall be established with the amount of money to be
14 deposited into the fund determined by the commissioner. The bill
15 also provides that the State may not enter into a solar energy
16 redevelopment agreement unless the owner or operator of the
17 sanitary landfill facility is licensed pursuant to P.L.1983, c.392
18 (C.13:1E-126 et seq.).

19 The bill also provides that the commissioner would provide a
20 copy of the solar energy redevelopment agreement to the
21 municipality in which the sanitary landfill facility is located, and to
22 the Board of Public Utilities. Furthermore the owner or operator
23 would be required to revise and re-certify the closure costs and
24 solar energy revenues every two years. The owner or operator is
25 responsible for providing financial assurance in the event of a cost
26 increase or revenue decrease, and the department may decrease the
27 financial assurance required if costs decrease or revenue increases.
28 The act would also require the department to adopt rules and
29 regulation to implement the bill pursuant to the “Administrative
30 Procedure Act.”