

SENATE, No. 4275

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED DECEMBER 5, 2019

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Allows BPU to increase cost to customers of Class I renewable energy requirement for energy years 2022 through 2024, under certain conditions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning the cost to customers of Class I renewable
2 energy and amending 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-
13 1 et 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 II renewable energy sources;

6 (2) beginning on January 1, 2020, that 21 percent of the
7 kilowatt hours sold in this State by each electric power supplier and
8 each basic generation service provider be from Class I renewable
9 energy sources. The board shall increase the required percentage
10 for Class I renewable energy sources so that by January 1, 2025, 35
11 percent of the kilowatt hours sold in this State by each electric
12 power supplier and each basic generation service provider shall be
13 from Class I renewable energy sources, and by January 1, 2030, 50
14 percent of the kilowatt hours sold in this State by each electric
15 power supplier and each basic generation service provider shall be
16 from Class I renewable energy sources. Notwithstanding the
17 requirements of this subsection, the board shall ensure that the cost
18 to customers of the Class I renewable energy requirement imposed
19 pursuant to this subsection shall not exceed nine percent of the total
20 paid for electricity by all customers in the State for energy year
21 2019, energy year 2020, and energy year 2021, respectively, and
22 shall not exceed seven percent of the total paid for electricity by all
23 customers in the State in any energy year thereafter ; provided that,
24 if in energy years 2019 through 2021 the cost to customers of the
25 Class I renewable energy requirement is less than nine percent of
26 the total paid for electricity by all customers in the State, the board
27 may increase the cost to customers of the Class I renewable energy
28 requirement in energy years 2022 through 2024 to a rate greater
29 than seven percent, as long as the total costs to customers for
30 energy years 2019 through 2024 does not exceed the sum of nine
31 percent of the total paid for electricity by all customers in the State
32 in energy years 2019 through 2021 and seven percent of the total
33 paid for electricity by all customers in the State in energy years
34 2022 through 2024 . In calculating the cost to customers of the
35 Class I renewable energy requirement imposed pursuant to this
36 subsection, the board shall not include the costs of the offshore
37 wind energy certificate program established pursuant to paragraph
38 (4) of this subsection. The board shall take any steps necessary to
39 prevent the exceedance of the cap on the cost to customers
40 including, but not limited to, adjusting the Class I renewable energy
41 requirement.

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

46 (3) that the board establish a multi-year schedule, applicable to
47 each electric power supplier or basic generation service provider in

1 this State, beginning with the one-year period commencing on June
2 1, 2010, and continuing for each subsequent one-year period up to
3 and including, the one-year period commencing on June 1, 2033,
4 that requires the following number or percentage, as the case may
5 be, of kilowatt-hours sold in this State by each electric power
6 supplier and each basic generation service provider to be from solar
7 electric power generators connected to the distribution system in
8 this State:

9	EY 2011	306 Gigawatthours (Gwhrs)
10	EY 2012	442 Gwhrs
11	EY 2013	596 Gwhrs
12	EY 2014	2.050%
13	EY 2015	2.450%
14	EY 2016	2.750%
15	EY 2017	3.000%
16	EY 2018	3.200%
17	EY 2019	4.300%
18	EY 2020	4.900%
19	EY 2021	5.100%
20	EY 2022	5.100%
21	EY 2023	5.100%
22	EY 2024	4.900%
23	EY 2025	4.800%
24	EY 2026	4.500%
25	EY 2027	4.350%
26	EY 2028	3.740%
27	EY 2029	3.070%
28	EY 2030	2.210%
29	EY 2031	1.580%
30	EY 2032	1.400%
31	EY 2033	1.100%

32 No later than 180 days after the date of enactment of P.L.2018,
33 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations
34 to close the SREC program to new applications upon the attainment
35 of 5.1 percent of the kilowatt-hours sold in the State by each
36 electric power supplier and each basic generation provider from
37 solar electric power generators connected to the distribution system.
38 The board shall continue to consider any application filed before the
39 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board
40 shall provide for an orderly and transparent mechanism that will
41 result in the closing of the existing SREC program on a date certain
42 but no later than June 1, 2021.

43 No later than 24 months after the date of enactment of P.L.2018,
44 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
45 evaluates how to modify or replace the SREC program to encourage
46 the continued efficient and orderly development of solar renewable
47 energy generating sources throughout the State. The board shall

1 submit the written report thereon to the Governor and, pursuant to
2 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
3 board shall consult with public utilities, industry experts, regional
4 grid operators, solar power providers and financiers, and other State
5 agencies to determine whether the board can modify the SREC
6 program such that the program will:

- 7 - continually reduce, where feasible, the cost of achieving the
8 solar energy goals set forth in this subsection;
- 9 - provide an orderly transition from the SREC program to a
10 new or modified program;
- 11 - develop megawatt targets for grid connected and distribution
12 systems, including residential and small commercial rooftop
13 systems, community solar systems, and large scale behind the meter
14 systems, as a share of the overall solar energy requirement, which
15 targets the board may modify periodically based on the cost,
16 feasibility, or social impacts of different types of projects;
- 17 - establish and update market-based maximum incentive
18 payment caps periodically for each of the above categories of solar
19 electric power generation facilities;
- 20 - encourage and facilitate market-based cost recovery through
21 long-term contracts and energy market sales; and
- 22 - where cost recovery is needed for any portion of an efficient
23 solar electric power generation facility when costs are not
24 recoverable through wholesale market sales and direct payments
25 from customers, utilize competitive processes such as competitive
26 procurement and long-term contracts where possible to ensure such
27 recovery, without exceeding the maximum incentive payment cap
28 for that category of facility.

29 The board shall approve, conditionally approve, or disapprove
30 any application for designation as connected to the distribution
31 system of a solar electric power generation facility filed with the
32 board after the date of enactment of P.L.2018, c.17 (C.48:3-
33 87.8 et al.), no more than 90 days after receipt by the board of a
34 completed application. For any such application for a project
35 greater than 25 kilowatts, the board shall require the applicant to
36 post a notice escrow with the board in an amount of \$40 per
37 kilowatt of DC nameplate capacity of the facility, not to exceed
38 \$40,000. The notice escrow amount shall be reimbursed to the
39 applicant in full upon either denial of the application by the board
40 or upon commencement of commercial operation of the solar
41 electric power generation facility. The escrow amount shall be
42 forfeited to the State if the facility is designated as connected to the
43 distribution system pursuant to this subsection but does not
44 commence commercial operation within two years following the
45 date of the designation by the board.

46 For all applications for designation as connected to the
47 distribution system of a solar electric power generation facility filed

1 with the board after the date of enactment of P.L.2018, c.17
2 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

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

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

14 (c) The solar renewable portfolio standards requirements in this
15 paragraph shall exempt those existing supply contracts which are
16 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
17 87.8 et al.) from any increase beyond the number of SRECs
18 mandated by the solar renewable energy portfolio standards
19 requirements that were in effect on the date that the providers
20 executed their existing supply contracts. This limited exemption for
21 providers' existing supply contracts shall not be construed to lower
22 the Statewide solar sourcing requirements set forth in this
23 paragraph. Such incremental requirements that would have
24 otherwise been imposed on exempt providers shall be distributed
25 over the providers not subject to the existing supply contract
26 exemption until such time as existing supply contracts expire and
27 all providers are subject to the new requirement in a manner that is
28 competitively neutral among all providers and suppliers.
29 Notwithstanding any rule or regulation to the contrary, the board
30 shall recognize these new solar purchase obligations as a change
31 required by operation of law and implement the provisions of this
32 subsection in a manner so as to prevent any subsidies between
33 suppliers and providers and to promote competition in the
34 electricity supply industry.

35 An electric power supplier or basic generation service provider
36 may satisfy the requirements of this subsection by participating in a
37 renewable energy trading program approved by the board in
38 consultation with the Department of Environmental Protection, or
39 compliance with the requirements of this subsection may be
40 demonstrated to the board by suppliers or providers through the
41 purchase of SRECs.

42 The renewable energy portfolio standards adopted by the board
43 pursuant to paragraphs (1) and (2) of this subsection shall be
44 effective as regulations immediately upon filing with the Office of
45 Administrative Law and shall be effective for a period not to exceed
46 18 months, and may, thereafter, be amended, adopted or readopted

1 by the board in accordance with the provisions of the
2 "Administrative Procedure Act."

3 The renewable energy portfolio standards adopted by the board
4 pursuant to this paragraph shall be effective as regulations
5 immediately upon filing with the Office of Administrative Law and
6 shall be effective for a period not to exceed 30 months after such
7 filing, and shall, thereafter, be amended, adopted or readopted by
8 the board in accordance with the "Administrative Procedure Act";
9 and

10 (4) within 180 days after the date of enactment of P.L.2010,
11 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
12 renewable energy certificate program to require that a percentage of
13 the kilowatt hours sold in this State by each electric power supplier
14 and each basic generation service provider be from offshore wind
15 energy in order to support at least 3,500 megawatts of generation
16 from qualified offshore wind projects.

17 The percentage established by the board pursuant to this
18 paragraph shall serve as an offset to the renewable energy portfolio
19 standard established pursuant to paragraph (2) of this subsection
20 and shall reduce the corresponding Class I renewable energy
21 requirement.

22 The percentage established by the board pursuant to this
23 paragraph shall reflect the projected OREC production of each
24 qualified offshore wind project, approved by the board pursuant to
25 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
26 commercial operation start date of the qualified offshore wind
27 project which production projection and OREC purchase
28 requirement, once approved by the board, shall not be subject to
29 reduction.

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

40 The rules established by the board pursuant to this paragraph
41 shall be effective as regulations immediately upon filing with the
42 Office of Administrative Law and shall be effective for a period not
43 to exceed 18 months, and may, thereafter, be amended, adopted or
44 readopted by the board in accordance with the provisions of the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
46 1 et seq.).

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

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

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

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

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

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

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

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

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

40 f. The board may assess, by written order and after notice and
41 opportunity for comment, a separate fee to cover the cost of
42 implementing and overseeing an emission disclosure system or
43 emission portfolio standard, which fee shall be assessed based on an
44 electric power supplier's or basic generation service provider's share
45 of the retail electricity supply market. The board shall not impose a
46 fee for the cost of implementing and overseeing a greenhouse gas

1 emissions portfolio standard adopted pursuant to paragraph (2) of
2 subsection c. of this section.

3 g. The board shall adopt, pursuant to the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
5 energy efficiency program in order to ensure investment in cost-
6 effective energy efficiency measures, ensure universal access to
7 energy efficiency measures, and serve the needs of low-income
8 communities that shall require each electric public utility to
9 implement energy efficiency measures that reduce electricity usage
10 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
11 Nothing in this subsection shall be construed to prevent an electric
12 public utility from meeting the requirements of this subsection by
13 contracting with another entity for the performance of the
14 requirements.

15 h. The board shall adopt, pursuant to the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
17 efficiency program in order to ensure investment in cost-effective
18 energy efficiency measures, ensure universal access to energy
19 efficiency measures, and serve the needs of low-income
20 communities that shall require each gas public utility to implement
21 energy efficiency measures that reduce natural gas usage in the
22 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
23 Nothing in this subsection shall be construed to prevent a gas public
24 utility from meeting the requirements of this subsection by
25 contracting with another entity for the performance of the
26 requirements.

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

36 j. The board shall determine an appropriate level of solar
37 alternative compliance payment, and permit each supplier or
38 provider to submit an SACP to comply with the solar electric
39 generation requirements of paragraph (3) of subsection d. of this
40 section. The value of the SACP for each Energy Year, for Energy
41 Years 2014 through 2033 per megawatt hour from solar electric
42 generation required pursuant to this section, shall be:

43	EY 2014	\$339
44	EY 2015	\$331
45	EY 2016	\$323
46	EY 2017	\$315
47	EY 2018	\$308

1	EY 2019	\$268
2	EY 2020	\$258
3	EY 2021	\$248
4	EY 2022	\$238
5	EY 2023	\$228
6	EY 2024	\$218
7	EY 2025	\$208
8	EY 2026	\$198
9	EY 2027	\$188
10	EY 2028	\$178
11	EY 2029	\$168
12	EY 2030	\$158
13	EY 2031	\$148
14	EY 2032	\$138
15	EY 2033	\$128.

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 energy year 2019 and energy year 2020, the
46 board may approve projects for up to 50 megawatts annually in
47 auctioned capacity in two auctions per year as long as the board is

1 accepting applications. If the board approves projects for less than
2 50 megawatts in energy year 2019 or less than 50 megawatts in
3 energy year 2020, the difference in each year shall be carried over
4 into the successive energy year until 100 megawatts of auctioned
5 capacity has been approved by the board pursuant to this
6 subsection. A proposed solar electric power generation facility that
7 is neither net metered nor an on-site generation facility, may be
8 considered "connected to the distribution system" only upon
9 designation as such by the board, after notice to the public and
10 opportunity for public comment or hearing. A proposed solar
11 power electric generation facility seeking board designation as
12 "connected to the distribution system" shall submit an application to
13 the board that includes for the proposed facility: the nameplate
14 capacity; the estimated energy and number of SRECs to be
15 produced and sold per year; the estimated annual rate impact on
16 ratepayers; the estimated capacity of the generator as defined by
17 PJM for sale in the PJM capacity market; the point of
18 interconnection; the total project acreage and location; the current
19 land use designation of the property; the type of solar technology to
20 be used; and such other information as the board shall require.

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

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

27 (b) the approval of the designation of the proposed facility
28 would not significantly impact the preservation of open space in
29 this State;

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

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

36 (3) The board shall act within 90 days of its receipt of a
37 completed application for designation of a solar power electric
38 generation facility as "connected to the distribution system," to
39 either approve, conditionally approve, or disapprove the
40 application. If the proposed solar electric power generation facility
41 does not commence commercial operations within two years
42 following the date of the designation by the board pursuant to this
43 subsection, the designation of the facility as "connected to the
44 distribution system" shall be deemed to be null and void, and the
45 facility shall thereafter be considered not "connected to the
46 distribution system."

1 s. In addition to any other requirements of P.L.1999, c.23 or
2 any other law, rule, regulation or order, a solar electric power
3 generation facility that is not net metered or an on-site generation
4 facility and which is located on land that has been actively devoted
5 to agricultural or horticultural use that is valued, assessed, and
6 taxed pursuant to the "Farmland Assessment Act of 1964,"
7 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
8 period prior to the effective date of P.L.2012, c.24, shall only be
9 considered "connected to the distribution system" if (1) the board
10 approves the facility's designation pursuant to subsection q. of this
11 section; or (2) (a) PJM issued a System Impact Study for the facility
12 on or before June 30, 2011, (b) the facility files a notice with the
13 board within 60 days of the effective date of P.L.2012, c.24,
14 indicating its intent to qualify under this subsection, and (c) the
15 facility has been approved as "connected to the distribution system"
16 by the board. Nothing in this subsection shall limit the board's
17 authority concerning the review and oversight of facilities, unless
18 such facilities are exempt from such review as a result of having
19 been approved pursuant to subsection q. of this section.

20 t. (1) No more than 180 days after the date of enactment of
21 P.L.2012, c.24, the board shall, in consultation with the Department
22 of Environmental Protection and the New Jersey Economic
23 Development Authority, and, after notice and opportunity for public
24 comment and public hearing, complete a proceeding to establish a
25 program to provide SRECs to owners of solar electric power
26 generation facility projects certified by the board, in consultation
27 with the Department of Environmental Protection, as being located
28 on a brownfield, on an area of historic fill or on a properly closed
29 sanitary landfill facility, including those owned or operated by an
30 electric public utility and approved pursuant to section 13 of
31 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
32 subsection shall be considered "connected to the distribution
33 system", shall not require such designation by the board, and shall
34 not be subject to board review required pursuant to subsections q.
35 and r. of this section. Notwithstanding the provisions of section 3
36 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
37 order to the contrary, for projects certified under this subsection, the
38 board shall establish a financial incentive that is designed to
39 supplement the SRECs generated by the facility in order to cover
40 the additional cost of constructing and operating a solar electric
41 power generation facility on a brownfield, on an area of historic fill
42 or on a properly closed sanitary landfill facility. Any financial
43 benefit realized in relation to a project owned or operated by an
44 electric public utility and approved by the board pursuant to section
45 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
46 financial incentive established by the board pursuant to this
47 subsection, shall be credited to ratepayers. The issuance of SRECs

1 for all solar electric power generation facility projects pursuant to
2 this subsection shall be deemed "Board of Public Utilities financial
3 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
4 29.47).

5 (2) Notwithstanding the provisions of the "Spill Compensation
6 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
7 other law, rule, regulation, or order to the contrary, the board, in
8 consultation with the Department of Environmental Protection, may
9 find that a person who operates a solar electric power generation
10 facility project that has commenced operation on or after the
11 effective date of P.L.2012, c.24, which project is certified by the
12 board, in consultation with the Department of Environmental
13 Protection pursuant to paragraph (1) of this subsection, as being
14 located on a brownfield for which a final remediation document has
15 been issued, on an area of historic fill or on a properly closed
16 sanitary landfill facility, which projects shall include, but not be
17 limited to projects located on a brownfield for which a final
18 remediation document has been issued, on an area of historic fill or
19 on a properly closed sanitary landfill facility owned or operated by
20 an electric public utility and approved pursuant to section 13 of
21 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
22 acquired on or after the effective date of P.L.2012, c.24 on which
23 such a solar electric power generation facility project is constructed
24 and operated, shall not be liable for cleanup and removal costs to
25 the Department of Environmental Protection or to any other person
26 for the discharge of a hazardous substance provided that:

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

29 (b) the person did not discharge the hazardous substance, is not
30 in any way responsible for the hazardous substance, and is not a
31 successor to the discharger or to any person in any way responsible
32 for the hazardous substance or to anyone liable for cleanup and
33 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
34 23.11g);

35 (c) the person, within 30 days after acquisition of the property,
36 gave notice of the discharge to the Department of Environmental
37 Protection in a manner the Department of Environmental Protection
38 prescribes;

39 (d) the person does not disrupt or change, without prior written
40 permission from the Department of Environmental Protection, any
41 engineering or institutional control that is part of a remedial action
42 for the contaminated site or any landfill closure or post-closure
43 requirement;

44 (e) the person does not exacerbate the contamination at the
45 property;

46 (f) the person does not interfere with any necessary remediation
47 of the property;

1 (g) the person complies with any regulations and any permit the
2 Department of Environmental Protection issues pursuant to section
3 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
4 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

5 (h) with respect to an area of historic fill, the person has
6 demonstrated pursuant to a preliminary assessment and site
7 investigation, that hazardous substances have not been discharged;
8 and

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

15 Only the person who is liable to clean up and remove the
16 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
17 23.11g) and who does not have a defense to liability pursuant to
18 subsection d. of that section shall be liable for cleanup and removal
19 costs.

20 u. No more than 180 days after the date of enactment of
21 P.L.2012, c.24, the board shall complete a proceeding to establish a
22 registration program. The registration program shall require the
23 owners of solar electric power generation facility projects
24 connected to the distribution system to make periodic milestone
25 filings with the board in a manner and at such times as determined
26 by the board to provide full disclosure and transparency regarding
27 the overall level of development and construction activity of those
28 projects Statewide.

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

35 w. No more than 270 days after the date of enactment of
36 P.L.2012, c.24, the board shall, after notice and opportunity for
37 public comment and public hearing, complete a proceeding to
38 consider whether to establish a program to provide, to owners of
39 solar electric power generation facility projects certified by the
40 board as being three megawatts or greater in capacity and being net
41 metered, including facilities which are owned or operated by an
42 electric public utility and approved by the board pursuant to section
43 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
44 designed to supplement the SRECs generated by the facility to
45 further the goal of improving the economic competitiveness of
46 commercial and industrial customers taking power from such
47 projects. If the board determines to establish such a program

1 pursuant to this subsection, the board may establish a financial
2 incentive to provide that the board shall issue one SREC for no less
3 than every 750 kilowatt-hours of solar energy generated by the
4 certified projects. Any financial benefit realized in relation to a
5 project owned or operated by an electric public utility and approved
6 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
7 98.1), as a result of the provisions of a financial incentive
8 established by the board pursuant to this subsection, shall be
9 credited to ratepayers.

10 x. Solar electric power generation facility projects that are
11 located on an existing or proposed commercial, retail, industrial,
12 municipal, professional, recreational, transit, commuter,
13 entertainment complex, multi-use, or mixed-use parking lot with a
14 capacity to park 350 or more vehicles where the area to be utilized
15 for the facility is paved, or an impervious surface may be owned or
16 operated by an electric public utility and may be approved by the
17 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
18 (cf: P.L.2018, c.17, s.2)

19

20 2. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill would allow the Board of Public Utilities (BPU) to
26 increase the cost to customers of the State's Class I renewable
27 energy requirement during energy years 2022 through 2024 above
28 the current limit of seven percent of the total paid for electricity by
29 all customers in the State, under certain conditions.

30 Under the bill, the BPU could only make this increase if the cost
31 of the Class I renewable energy requirement is less than nine
32 percent of total energy costs during energy years 2019 through 2021
33 (the limit set by current law). In addition, the total amount paid by
34 customers during energy years 2019 through 2024 could not exceed
35 the sum of: (1) nine percent of total energy costs during energy
36 years 2019 through 2021; and (2) seven percent of total energy
37 costs during energy years 2022 through 2024, i.e. the maximum
38 amount allowed by current law over that six-year period.

39 "Energy year" means the 12-month period from June 1st through
40 May 31st, numbered according to the calendar year in which it
41 ends.