

ASSEMBLY, No. 5655

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Assemblywoman Swain

SYNOPSIS

Directs BPU to establish program concerning renewable natural gas; provides gas public utilities with customer rate recovery mechanism for costs associated with program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2021)

1 AN ACT concerning renewable natural gas and supplementing Title
2 48 of the Revised Statutes.

3

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

6

7 1. a. The Legislature finds and declares that:

8 (1) renewable natural gas can provide benefits to gas public
9 utility customers and to the public;

10 (2) the development of renewable natural gas resources should
11 be encouraged to support a smooth transition to a low carbon
12 energy economy in New Jersey;

13 (3) the societal benefits that may be achieved through the
14 development and use of renewable natural gas warrant the State's
15 support for investment in renewable natural gas; and

16 (4) gas public utilities can reduce greenhouse gas emissions
17 from the direct use of natural gas by procuring renewable natural
18 gas and investing in renewable natural gas infrastructure.

19 b. The Legislature therefore determines that:

20 (1) regulatory guidelines should be established for the
21 procurement of renewable natural gas and investments in renewable
22 natural gas infrastructure in order to enable that procurement and
23 investment while also protecting New Jersey ratepayers; and

24 (2) renewable natural gas should be included in the broader set
25 of low carbon resources that may leverage the natural gas system to
26 reduce greenhouse gas emissions.

27

28 2. As used in P.L. , c. (C.) (pending before the
29 Legislature as this bill):

30 "Biogas" means a mixture of carbon dioxide and hydrocarbons,
31 primarily methane gas, released from the biological decomposition
32 of organic materials.

33 "Board" means the Board of Public Utilities or any successor
34 agency.

35 "Class I renewable energy" shall have the same meaning as
36 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

37 "Class II renewable energy" shall have the same meaning as
38 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

39 "Gas public utility" means a public utility, as that term is defined
40 in R.S.48:2-13, that distributes gas to end users within this State.

41 "Qualified investment" means any capital investment in
42 renewable natural gas infrastructure incurred by a gas public utility
43 for the purpose of providing natural gas service under a renewable
44 natural gas program pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill).

46 "Renewable natural gas" means any of the following products
47 processed to meet pipeline quality standards or transportation fuel
48 grade requirements: (1) biogas that is upgraded to meet natural gas

1 pipeline quality standards such that it may blend with, or substitute
2 for, geologic natural gas; (2) hydrogen gas derived from Class I
3 renewable energy or Class II renewable energy; or (3) methane gas
4 derived from any combination of biogas, hydrogen gas or carbon
5 oxides derived from renewable energy sources, or waste carbon
6 dioxide.

7 “Renewable natural gas infrastructure” means the equipment and
8 facilities for the production, processing, pipeline interconnection,
9 and distribution of renewable natural gas to natural gas customers in
10 the State.

11

12 3. a. Notwithstanding any provisions of the “Administrative
13 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
14 contrary, the board shall initiate a proceeding upon the filing of a
15 petition by a gas public utility with the board for approval of a
16 program for the procurement of renewable natural gas and
17 investment in renewable natural gas infrastructure and an associated
18 cost recovery mechanism, and the board shall adopt, after notice
19 and opportunity for public comment and public hearing, a program
20 for the procurement of renewable natural gas and investment in
21 renewable natural gas infrastructure by a gas public utility.

22 b. A gas public utility that participates in the renewable natural
23 gas program adopted by the board, pursuant to subsection a. of this
24 section, may make qualified investments and procure renewable
25 natural gas from third parties, including affiliates of the gas public
26 utility, to pursue the following portfolio targets for the percentage
27 of gas purchased or transported by the gas public utility for
28 distribution to retail natural gas customers in the State:

29 (1) in each of the energy years 2022 through 2024, up to five
30 percent may be renewable natural gas;

31 (2) in each of the energy years 2025 through 2029, up to 10
32 percent may be renewable natural gas;

33 (3) in each of the energy years 2030 through 2034, up to 15
34 percent may be renewable natural gas;

35 (4) in each of the energy years 2035 through 2039, up to 20
36 percent may be renewable natural gas;

37 (5) in each of the energy years 2040 through 2044, up to 25
38 percent may be renewable natural gas; and

39 (6) in each of the energy years 2045 through 2050, up to 30
40 percent may be renewable natural gas.

41 c. The board shall adopt a ratemaking mechanism that ensures
42 the recovery of and on all prudently incurred costs that contribute to
43 the gas public utility’s meeting the portfolio targets established
44 pursuant to subsection b. of this section. Under a ratemaking
45 mechanism adopted by the board pursuant to this subsection:

46 (1) any qualified investment and operating cost approved by the
47 board that is associated with a qualified investment that contributes
48 to a gas public utility’s meeting the portfolio targets established

1 pursuant to subsection b. of this section may be recovered from
2 ratepayers by means of a periodic recovery mechanism established
3 by the board; and

4 (2) any cost of procurement of renewable natural gas from a
5 third party, including from an affiliate of the gas public utility,
6 approved by the board that contributes to the gas public utility
7 meeting the portfolio targets established pursuant to subsection b. of
8 this section may be recovered from ratepayers by means of a
9 periodic recovery mechanism established by the board.

10 d. When a gas public utility makes a qualified investment
11 pursuant to subsection b. of this section, the costs associated with
12 the qualified investment shall include the cost of capital established
13 by the board in the gas public utility's most recent rate case as well
14 as other incremental costs associated with those qualified
15 investments.

16 e. When a gas public utility procures renewable natural gas
17 from a third party, the gas public utility shall purchase the
18 renewable natural gas supply at prices and on terms consistent with
19 market conditions in the market for renewable natural gas. A charge
20 assessed to customers for the supply of renewable natural gas shall
21 be regulated by the board and shall be based on the cost to the gas
22 public utility of providing that supply, including the cost of
23 renewable natural gas commodity and capacity, purchased at prices
24 consistent with market conditions in the market for renewable
25 natural gas, and related ancillary and administrative costs, as
26 determined by the board.

27 f. If a gas public utility's total incremental annual cost to meet
28 the portfolio targets of the renewable natural gas program
29 established pursuant to subsection b. of this section exceeds five
30 percent of the gas public utility's total revenue requirement for an
31 individual year, the gas public utility shall no longer be authorized
32 to make additional qualified investments under the renewable
33 natural gas program for that year without the approval of the board.

34 g. The total incremental annual cost to meet the portfolio
35 targets of the renewable natural gas program shall account for:

36 (1) any value received by a gas public utility upon any resale of
37 renewable natural gas, including any environmental credits that the
38 renewable natural gas producer chooses to include with the sale of
39 the renewable natural gas to the gas public utility; and

40 (2) any savings achieved through avoidance of conventional gas
41 purchases or development, such as avoided pipeline costs or carbon
42 emission reduction costs.

43 h. Notwithstanding the portfolio targets established pursuant to
44 subsection b. of this section, the board may, in its discretion, permit
45 a gas public utility to exceed those portfolio targets. In such a case,
46 the remaining provisions of this section shall continue to apply.

1 4. No later than 180 days after the enactment
2 of P.L. , c. (C.) (pending before the Legislature as this
3 bill), the board shall adopt rules and regulations, pursuant to the
4 “Administrative Procedure Act,” P.L.1968, c.410 (C.52-14B-1 et
5 seq.), necessary to implement the provisions of
6 P.L. , c. (C.) (pending before the Legislature as this bill).

7
8 5. This act shall take effect immediately.
9
10

11 STATEMENT
12

13 This bill directs the Board of Public Utilities (BPU) to establish a
14 program to encourage the procurement of renewable natural gas and
15 investment in renewable natural gas infrastructure by a gas public
16 utility (utility). The bill establishes portfolio targets for the
17 distribution of renewable natural gas to the utility’s retail natural
18 gas customers in the State, for energy years 2022 through 2050.
19 The portfolio target begins as a target of up to five percent in each
20 of the energy years 2022 through 2024, and increases up to 30
21 percent in each of the energy years 2045 through 2050. The bill
22 defines “renewable natural gas” as the following products,
23 processed to meet pipeline quality standards or transportation fuel
24 grade requirements: 1) biogas that meets natural gas pipeline
25 quality standards such that it may blend with, or substitute for,
26 geologic natural gas; 2) hydrogen gas derived from Class I
27 renewable energy or Class II renewable energy; or 3) methane gas
28 derived from any combination of biogas, hydrogen gas, or carbon
29 oxides derived from renewable energy sources, or waste carbon
30 dioxide.

31 The bill requires the BPU to adopt a ratemaking mechanism that
32 ensures the recovery of and on all prudently incurred costs that
33 contribute to a utility’s meeting the program’s renewable natural
34 gas portfolio targets established in the bill. Under a ratemaking
35 mechanism adopted by the BPU by means of a periodic rate
36 recovery mechanism: 1) any BPU-approved qualified investment
37 and operating cost associated with a qualified investment that
38 contributes to a utility’s meeting the program’s requirements may
39 be recovered from ratepayers; and 2) any BPU-approved cost of
40 procurement of renewable natural gas from a third party, including
41 from an affiliate of the utility, that contributes to the utility meeting
42 the program’s requirements may be recovered from ratepayers.
43 When a utility makes a qualified investment, the costs associated
44 with the qualified investment are to include the cost of capital
45 established in the utility’s most recent rate case as well as other
46 incremental costs associated with those qualified investments.

1 The bill requires that when a utility procures renewable natural
2 gas from a third party, the utility is to purchase the renewable
3 natural gas supply at prices and on terms consistent with market
4 conditions in the market for renewable natural gas. A charge
5 assessed to customers for the supply of renewable natural gas is to
6 be regulated by the BPU and be based on the cost to the utility of
7 providing that supply, including the cost of renewable natural gas
8 commodity and capacity, purchased at prices consistent with market
9 conditions in the market for renewable natural gas, and related
10 ancillary and administrative costs. If a utility's total incremental
11 annual cost to meet the requirements of the renewable natural gas
12 program exceeds five percent of the utility's total revenue
13 requirement for an individual year, the utility is no longer
14 authorized to make additional qualified investments under the
15 renewable natural gas program for that year without the approval of
16 the BPU.

17 The bill provides that the total incremental annual cost to meet
18 the portfolio targets of the program are to account for: 1) any value
19 received by the utility upon any resale of renewable natural gas,
20 including any environmental credits that the renewable natural gas
21 producer chooses to include with the sale of the renewable natural
22 gas to the utility; and 2) any savings achieved through avoidance of
23 conventional gas purchases or development, such as avoided
24 pipeline costs or carbon costs. The bill allows the BPU to permit a
25 utility to exceed the program's portfolio targets and, in that
26 instance, the remaining provisions of the bill are to continue to
27 apply.