

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2114**

**STATE OF NEW JERSEY
212th LEGISLATURE**

ADOPTED MAY 24, 2007

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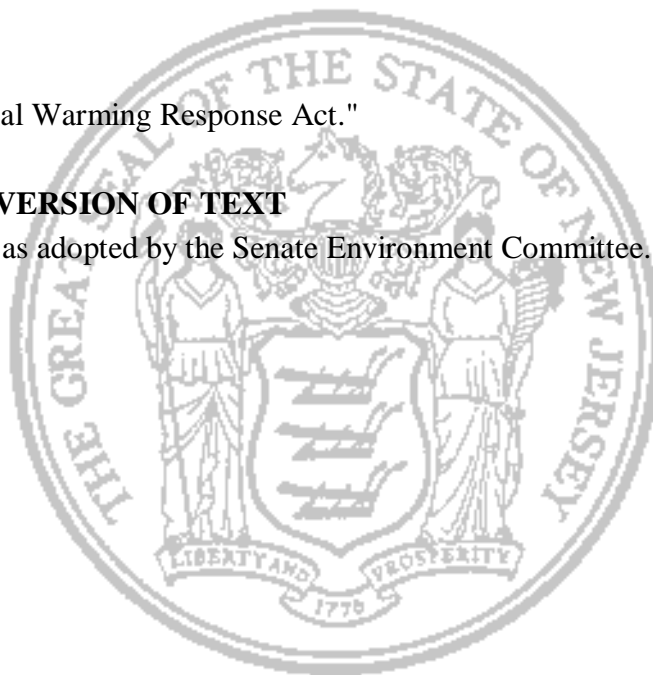
**Senators Coniglio, Weinberg, Karcher, Ciesla, Sweeney, Vitale, Turner,
Inverso, Singer, Adler, Connors, Kenny, Madden, Rice, Asselta, Gill,
Martin, Palaia, Scutari and Kyrillos**

SYNOPSIS

The "Global Warming Response Act."

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment Committee.



(Sponsorship Updated As Of: 6/19/2007)

1 AN ACT concerning the reduction of greenhouse gases,
2 supplementing chapter 2C of Title 26 of the Revised Statutes,
3 and amending P.L.1999, c.23.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Global Warming Response Act.”

10

11 2. (New section) The Legislature finds and declares that
12 internationally the issue of global warming has caused alarm,
13 awareness, and action concerning climate changes occurring around
14 the globe attributed to the high level of certain gases called
15 “greenhouse gases” – gases that increase temperatures in the
16 atmosphere and the risk of catastrophic changes to the Earth’s
17 ecosystems and environment; that, while this global warming may
18 be a theory to some, the effects of increasing levels of greenhouse
19 gases in the atmosphere are accepted by many respected scientists
20 and members of the international community as seriously
21 detrimental to the ecosystems and environment of the world; that,
22 ultimately, if steps are not taken to reverse these trends, the effects
23 on human, animal and plant life on Earth may be catastrophic; that
24 solutions exist to halt the increasing of greenhouse gases in the
25 atmosphere and reduce these emissions; that, as a global issue, each
26 country and region within a country must do its part to reduce these
27 greenhouse gases that threaten the globe; and that, as a State, there
28 are specific actions that can be taken to attack the problem of global
29 warming, through reductions of greenhouse gas emissions in the
30 State and participation in regional and interstate initiatives to reduce
31 these emissions regionally, nationally, and internationally.

32 The Legislature therefore finds and declares that it is in the
33 public interest to establish a greenhouse gas emissions reduction
34 program to limit the level of greenhouse gas emissions in the State,
35 and greenhouse gas emissions from electricity generated outside the
36 State but consumed in the State, to the 1990 level or below, of those
37 emissions by the year 2020, and to reduce those emissions to 80%
38 below the 2006 level by the year 2050.

39

40 3. (New section) For the purposes of this act:

41 “Department” means the Department of Environmental
42 Protection.

43 “Greenhouse gas” means carbon dioxide, methane, nitrous oxide,
44 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any
45 other gas or substance determined by the Department of

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 Environmental Protection to be a significant contributor to the
2 problem of global warming.

3 "Statewide greenhouse gas emissions" means the sum of calendar
4 year emissions of greenhouse gases from all sources within the
5 State, and from electricity generated outside the State but consumed
6 in the State, as determined by the department pursuant to subsection
7 c. of section 5 of this act.

8 "2020 limit" means the level of greenhouse gas emissions equal
9 to the 1990 level of greenhouse gas emissions in the State.

10 "2050 limit" means the level of greenhouse gas emissions equal
11 to 80 percent less than the 2006 level of greenhouse gas emissions
12 in the State.

13

14 4. (New section) a. No later than January 1, 2020, the level of
15 greenhouse gas emissions in the State shall be reduced to, or below,
16 the 2020 limit. No later than January 1, 2050, the greenhouse gas
17 emissions in the State shall be stabilized at or below the 2050 limit
18 and shall not exceed that level thereafter. The department shall
19 consider the economic impact upon the State and upon the emitters
20 of a greenhouse gas for any measure imposed to meet the 2020 limit
21 and the 2050 limit.

22 b. No later than one year after the date of enactment of this act,
23 the department shall establish:

24 (1) an inventory of the current and 2006 Statewide greenhouse
25 gas emissions; and

26 (2) an inventory of the 1990 level of Statewide greenhouse gas
27 emissions.

28

29 5. (New section) a. No later than January 1, 2009, the
30 department shall adopt, pursuant to the "Administrative Procedure
31 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
32 establishing a greenhouse gas emissions monitoring and reporting
33 program to monitor and report Statewide greenhouse gas emissions.

34 b. The rules and regulations adopted pursuant to subsection a. of
35 this section shall identify all significant sources of Statewide
36 greenhouse gas emissions and shall provide for, but need not be
37 limited to, the following:

38 (1) monitoring and reporting of existing emissions and changes
39 in emissions over time from the sources identified by the
40 department;

41 (2) reporting the levels of those emissions and changes in those
42 emissions levels annually, commencing on January 1, 2009; and

43 (3) monitoring progress toward the 2020 limit and the 2050 limit.

44 c. Pursuant to the rules and regulations adopted pursuant to
45 subsection a. of this section, the department shall require reporting
46 of the greenhouse gas emissions:

1 (1) associated with fossil fuels used in the State, as reported by
2 entities that are manufacturers and distributors of fossil fuels, which
3 may include, but need not be limited to, oil refineries, oil storage
4 facilities, natural gas pipelines, and fuel wholesale and retail
5 distributors;

6 (2) from any entity generating electricity in the State and from
7 any entity that generates electricity outside the State that is
8 delivered for end use in the State. With respect to electricity
9 generated outside the State and imported into the State, the
10 department shall determine the emissions from that generation by
11 subtracting the kilowatt-hours of electricity generated in the State
12 from the kilowatt-hours of electricity consumed in the State, and
13 multiplying the difference by a default emissions rate determined by
14 the department;

15 (3) from any gas public utility as defined in section 3 of
16 P.L.1999, c.23 (C.48:3-51); and

17 (4) from any additional entities that are significant emitters of
18 greenhouse gases, as determined by the department, and as
19 appropriate to enable the department to monitor compliance with
20 progress toward the 2020 limit and the 2050 limit.

21 d. There is created in the department, a special, nonlapsing
22 fund to be known as the "Greenhouse Gas Emissions Control
23 Fund." The department may adopt, by rule or regulation, a schedule
24 of reasonable fees to be paid by those entities required to report
25 greenhouse gas emissions pursuant to this section, in an amount
26 sufficient to cover the department's costs to administer the
27 requirements of this act. The fees collected pursuant to this section
28 shall be deposited in the Greenhouse Gas Emissions Control Fund
29 and shall be made available to implement the provisions of this act.

30 e. Subsection d. of this section shall be without effect and the
31 department shall have no authority to impose a fee pursuant to this
32 section on and after the 10th day following a certification by the
33 Director of the Division of Budget and Accounting in the
34 Department of the Treasury pursuant to subsection b. of section 8 of
35 this act.

36
37 6. (New section) a. The department, in consultation with the
38 Board of Public Utilities, the Department of Agriculture, the
39 Department of Transportation, and the Department of Community
40 Affairs, shall evaluate policies and measures that will enable the
41 State to achieve the 2020 limit, shall make specific
42 recommendations on how to achieve the emission reduction targets,
43 including measures that reduce emissions in all sectors of the
44 economy including transportation, housing, and consumer products,
45 and shall evaluate the economic benefits and costs of implementing
46 these recommendations. The department shall coordinate its
47 evaluation of greenhouse gas emission reduction policies and

1 measures with the work of the Energy Master Plan Committee
2 established pursuant to section 12 of P.L.1977, c.146 (C.52:27F-
3 14).

4 b. No later than June 30, 2008, the department, and any other
5 State agencies, as appropriate, shall prepare a report recommending
6 the measures necessary to reduce greenhouse gas emissions to
7 achieve the 2020 limit. The report shall include specific
8 recommendations for legislative and regulatory action that will be
9 necessary to achieve the 2020 limit. The report shall be transmitted
10 to the Governor, the State Treasurer, and, pursuant to section 2 of
11 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, and to the
12 members of the Senate Environment Committee and the Assembly
13 Environment and Solid Waste Committee.

14 c. No later than June 30, 2010, the department, and any other
15 State agencies, as appropriate, shall prepare a report recommending
16 the measures necessary to reduce greenhouse gas emissions to
17 achieve the 2050 limit. The report shall include specific
18 recommendations for legislative and regulatory action that will be
19 necessary to achieve the 2050 limit. The report shall also include
20 recommendations for additional policies and measures that will be
21 required if the State is otherwise expected to exceed the 2020 limit
22 and any additional measures that will be required to meet the 2050
23 limit. The report shall be transmitted to the Governor, the State
24 Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
25 19.1), to the Legislature, and to the members of the Senate
26 Environment Committee and the Assembly Environment and Solid
27 Waste Committee.

28 d. The Energy Master Plan Committee shall include in its
29 adoption of the first update of the energy master plan completed
30 after the date of enactment of this act, a list of recommended
31 policies and measures to reduce the emission of greenhouse gases
32 from the production, processing, distribution, transmission, storage,
33 or use of energy that will contribute to achieving the 2020 limit.

34 e. Nothing in this act shall impose any limit on the existing
35 authority of the department, the Board of Public Utilities, or any
36 other State department or agency to limit or regulate greenhouse gas
37 emissions pursuant to law.

38

39 7. (New section) a. No later than January 1, 2009, and biennially
40 thereafter, the department shall prepare and transmit, in writing, a
41 report to the Governor, the State Treasurer, and, pursuant to section
42 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, and the
43 members of the Senate Environment Committee and the Assembly
44 Environment and Solid Waste Committee, on the status of the
45 greenhouse gas emissions monitoring and reporting program
46 established pursuant to this act, the current level of greenhouse gas
47 emissions in the State and the progress made toward compliance

1 with the 2020 limit and the 2050 limit established pursuant to this
2 act. The report shall also include updated and comparative
3 inventories of Statewide greenhouse gas emissions.

4 b. No later than January 1, 2015, the department shall evaluate
5 the ecological, economic, and environmental factors and the
6 technological capability affecting the attainment or maintenance of
7 the 2020 limit and the 2050 limit established pursuant to this act.

8
9 8. (New section) a. The annual appropriations act for each
10 State fiscal year shall, without other conditions, limitations or
11 restrictions, appropriate the amounts paid as fees imposed pursuant
12 to subsection d. of section 5 of this act, for use by the Department
13 of Environmental Protection to implement the provisions of this act.

14 b. If the requirements of subsection a. of this section are not met
15 on the effective date of an annual appropriations act for the State
16 fiscal year, or if an amendment or supplement to an annual
17 appropriations act for the State fiscal year should violate any of the
18 requirements of subsection a. of this section, the Director of the
19 Division of Budget and Accounting in the Department of the
20 Treasury shall, not later than five days after the enactment of the
21 annual appropriations act, or an amendment or supplement thereto,
22 that violates any of the requirements of subsection a. of this section,
23 certify to the Commissioner of Environmental Protection and the
24 State Treasurer that the requirements of subsection a. of this section
25 have not been met.

26
27 9. Section 38 of P.L. 1999, c.23 (C.48:3-87) is amended to read
28 as follows:

29 38. a. The board shall require an electric power supplier or
30 basic generation service provider to disclose on a customer's bill or
31 on customer contracts or marketing materials, a uniform, common
32 set of information about the environmental characteristics of the
33 energy purchased by the customer, including, but not limited to:

34 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
35 solar, hydroelectric, wind and biomass, or a regional average
36 determined by the board;

37 (2) Its emissions, in pounds per megawatt hour, of sulfur
38 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
39 that the board may determine to pose an environmental or health
40 hazard, or an emissions default to be determined by the board; and

41 (3) Any discrete emission reduction retired pursuant to rules and
42 regulations adopted pursuant to P.L.1995, c.188.

43 b. Notwithstanding any provisions of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
45 contrary, the board shall initiate a proceeding and shall adopt, in
46 consultation with the Department of Environmental Protection, after
47 notice and opportunity for public comment and public hearing,

1 interim standards to implement this disclosure requirement,
2 including, but not limited to:

3 (1) A methodology for disclosure of emissions based on output
4 pounds per megawatt hour;

5 (2) Benchmarks for all suppliers and basic generation service
6 providers to use in disclosing emissions that will enable consumers
7 to perform a meaningful comparison with a supplier's or basic
8 generation service provider's emission levels; and

9 (3) A uniform emissions disclosure format that is graphic in
10 nature and easily understandable by consumers. The board shall
11 periodically review the disclosure requirements to determine if
12 revisions to the environmental disclosure system as implemented
13 are necessary.

14 Such standards shall be effective as regulations immediately
15 upon filing with the Office of Administrative Law and shall be
16 effective for a period not to exceed 18 months, and may, thereafter,
17 be amended, adopted or readopted by the board in accordance with
18 the provisions of the "Administrative Procedure Act."

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

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

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

29 (2) The board **[shall]** may adopt , pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), [an] a greenhouse gas emissions portfolio standard
32 applicable to all electric power suppliers and basic generation
33 service providers **],** if two other states in the PJM power pool
34 comprising at least 40 percent of the retail electric usage in the PJM
35 Interconnection, L.L.C. independent system operator or its
36 successor adopt such standards**].**

37 d. Notwithstanding any provisions of the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
39 contrary, the board shall initiate a proceeding and shall adopt, after
40 notice, provision of the opportunity for comment, and public
41 hearing, interim renewable energy portfolio standards that shall
42 require:

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

1 (2) beginning on January 1, 2001, that one-half of one percent
2 of the kilowatt hours sold in this State by each electric power
3 supplier and each basic generation service provider be from Class I
4 renewable energy sources. The board shall increase the required
5 percentage for Class I renewable energy sources so that by January
6 1, 2006, one percent of the kilowatt hours sold in this State by each
7 electric power supplier and each basic generation service provider
8 shall be from Class I renewable energy sources and shall
9 additionally increase the required percentage for Class I renewable
10 energy sources by one-half of one percent each year until January
11 1, 2012, when four percent of the kilowatt hours sold in this State
12 by each electric power supplier and each basic generation service
13 provider shall be from Class I renewable energy sources.

14 An electric power supplier or basic generation service provider
15 may satisfy the requirements of this subsection by participating in a
16 renewable energy trading program approved by the board in
17 consultation with the Department of Environmental Protection.

18 Such standards shall be effective as regulations immediately
19 upon filing with the Office of Administrative Law and shall be
20 effective for a period not to exceed 18 months, and may, thereafter,
21 be amended, adopted or readopted by the board in accordance with
22 the provisions of the "Administrative Procedure Act."

23 e. 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, after
26 notice, provision of the opportunity for comment, and public
27 hearing:

28 (1) net metering standards for electric power suppliers and basic
29 generation service providers. The standards shall require electric
30 power suppliers and basic generation service providers to offer net
31 metering at non-discriminatory rates to residential and small
32 commercial customers that generate electricity, on the customer's
33 side of the meter, using wind or solar photovoltaic systems for the
34 net amount of electricity supplied by the electric power supplier or
35 basic generation service provider over an annualized period. Where
36 the amount of electricity generated by the customer-generator plus
37 any kilowatt hour credits held over from the previous billing
38 periods exceed the electricity supplied by the electric power
39 supplier or basic generation service provider, the electric power
40 supplier or basic generation service provider, as the case may be,
41 shall credit the customer for the excess kilowatt hours until the end
42 of the annualized period at which point the customer-generator will
43 be compensated for any remaining credits at the electric power
44 supplier's or basic generation service provider's avoided cost of
45 wholesale power. The board may authorize an electric power
46 supplier or basic generation service provider to cease offering net
47 metering whenever the total rated generating capacity owned and

1 operated by net metering customer-generators Statewide equals 0.1
2 percent of the State's peak electricity demand or the annual
3 aggregate financial impact to electric power suppliers and basic
4 generation service providers Statewide, as determined by the board,
5 exceeds \$2,000,000, whichever is less; and

6 (2) safety and power quality interconnection standards for wind
7 and solar photovoltaic systems that shall be eligible for net
8 metering.

9 Such standards shall take into consideration the standards of
10 other states and the Institute of Electrical and Electronic Engineers
11 and shall allow customers to use a single, non-demand, non-time
12 differentiated meter.

13 Such standards shall be effective as regulations immediately
14 upon filing with the Office of Administrative Law and shall be
15 effective for a period not to exceed 18 months, and may, thereafter,
16 be amended, adopted or readopted by the board in accordance with
17 the provisions of the "Administrative Procedure Act."

18 f. The board may assess, by written order and after notice and
19 opportunity for comment, a separate fee to cover the cost of
20 implementing and overseeing an emission disclosure system or
21 emission portfolio standard, which fee shall be assessed based on an
22 electric power supplier's or basic generation service provider's share
23 of the retail electricity supply market.

24 g. The board may adopt, pursuant to the "Administrative
25 Procedure Act," P.L. 1968, c.410 (C. 52:14B-1 et seq.), an electric
26 energy efficiency portfolio standard that shall require each electric
27 public utility to implement energy efficient measures that reduce
28 electricity usage in the State by 2020 to a level that is 20 percent
29 below the usage projected by the board in the absence of such a
30 standard.

31 h. The board may adopt, pursuant to the "Administrative
32 Procedure Act," a gas energy efficiency portfolio standard that shall
33 require each gas public utility to implement energy efficiency
34 measures that reduce natural gas usage for heating in the State by
35 2020 to a level that is 20 percent below the usage projected by the
36 board in the absence of such a standard.

37 i. As used in this section:

38 "Energy efficiency portfolio standard" means a requirement that
39 an electric public utility or gas public utility procure a specified
40 amount of energy efficiency or demand side management resources
41 as a means of managing and reducing energy usage and demand by
42 its customers.

43 "Greenhouse gas emissions portfolio standard" means a
44 requirement that addresses or limits the amount of carbon dioxide
45 emissions indirectly resulting from the use of electricity as applied

1 to any electric power suppliers and basic generation service
2 providers of electricity.

3 (cf: P.L.1999, c.23, s.38)

4

5 10. This act shall take effect immediately.