

ASSEMBLY, No. 5434

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 8, 2021

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

SYNOPSIS

Increases amount of solar energy generation on lands eligible for farmland assessment under certain conditions; revises law concerning solar energy generation on preserved farmland; directs BPU to provide certain incentives to “dual-use” solar projects on unreserved farmland.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/5/2021)

1 AN ACT concerning the use of agricultural lands for certain energy
2 generation, supplementing P.L.1983, c.31 (C.4:1C-1 et al.) and
3 P.L.1964, c.48 (C.54:4-23.1 et seq.), and amending P.L.2009,
4 c.213, P.L.1999, c.23 and P.L.2018, c.17.

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

8
9 1. (New section) a. Notwithstanding the provisions of any
10 law, rule, or regulation to the contrary, a person who owns
11 unpreserved farmland that is valued, assessed, and taxed pursuant to
12 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
13 23.1 et seq.), may construct, install, and operate a dual-use solar
14 energy project on the farmland, provided that:

15 (1) the owner of the unpreserved farmland obtains the approval
16 of the Department of Agriculture, in addition to any other approvals
17 that may be required pursuant to State or local law, rule, regulation,
18 or ordinance, prior to the construction of the dual-use solar energy
19 project;

20 (2) the capacity of the dual-use solar energy project is less than
21 10 megawatts of power;

22 (3) the dual-use solar energy project is not located:

23 (a) on preserved farmland;

24 (b) within the preservation area of the pinelands area, as
25 designated in subsection b. of section 10 of P.L.1979, c.111
26 (C.13:18A-11);

27 (c) with an area designated as forest area in the pinelands
28 comprehensive management plan adopted pursuant to P.L.1979,
29 c.111 (C.13:18A-1 et seq.);

30 (d) in a freshwater wetland as defined pursuant to P.L.1987,
31 c.156 (C.13:9B-1 et seq.), or a coastal wetland as defined pursuant
32 to P.L.1970, c.272 (C.13:9A-1 et seq.); or

33 (e) within the Highlands preservation area as designated in
34 subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

35 (4) the owner of the land has filed a conservation plan with the
36 soil conservation district to account for the aesthetic, impervious
37 coverage, and environmental impacts of the dual-use solar energy
38 project, including, but not limited to, water recapture and filtration,
39 and the conservation plan has been approved by the district;

40 (5) the project complies with the agricultural management
41 practices adopted by the State Agriculture Development Committee
42 pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2) and the rules
43 and regulations adopted pursuant to subsection d. of this section;
44 and

45 (6) the owner of the land, or the person undertaking the dual-use

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 solar energy project, as applicable, obtains all necessary permits
2 and other approvals as may be required pursuant to federal, State, or
3 local law, rule, regulation, or ordinance.

4 b. A landowner shall submit an application for approval by the
5 Department of Agriculture before constructing, installing, and
6 operating a dual-use solar energy facility as allowed pursuant to
7 subsection a. of this section. The Department of Agriculture, in
8 consultation with the Board of Public Utilities, shall, within 90 days
9 after receipt, approve, disapprove, or approve with conditions an
10 application submitted for the purposes of subsection a. of this
11 section.

12 c. The Department of Agriculture may suspend or revoke an
13 approval issued pursuant to this section for a violation of any term
14 or condition of the approval or any provision of this section.

15 d. The Department of Agriculture, in consultation with the
16 State Agriculture Development Committee, the Board of Public
17 Utilities, and the Department of Environmental Protection, shall
18 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
19 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the
20 implementation of this section, including but not limited to (1) the
21 process by which a landowner may apply for the approval required
22 pursuant to this section, and the establishment of reasonable
23 application fees to pay for the cost of review of the application, and
24 (2) provisions prescribing standards concerning impervious cover
25 which may be permitted in connection with dual-use solar energy
26 projects authorized to be constructed, installed, and operated on
27 unpreserved farmland pursuant to this section.

28 e. The Board of Public Utilities shall provide technical
29 assistance and support to the Department of Agriculture concerning
30 the department’s responsibilities pursuant to this section.

31 f. As used in this section:

32 “Dual-use solar energy project” means the energy generation
33 facilities, structures, and equipment for the production of less than
34 10 megawatts of electric power from solar photovoltaic panels
35 located on land in agricultural or horticultural production that allow
36 the continued use of the land below the panels to simultaneously be
37 used for agricultural or horticultural production.

38 “Preserved farmland” means the same as the term is defined in
39 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

40 “Unpreserved farmland” means any land that is valued, assessed
41 and taxed pursuant to the “Farmland Assessment Act of 1964,”
42 P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.

43
44 2. (New section) a. No land used for a dual-use solar energy
45 project constructed, installed, and operated pursuant to section 1 of
46 P.L. , c. (C.) (pending before the Legislature as this bill)
47 shall be considered land in agricultural or horticultural use or
48 actively devoted to agricultural or horticultural use for the purposes

1 of the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-
2 23.1 et seq.), except as provided in this section.

3 b. Land used for a dual-use solar energy project constructed,
4 installed, and operated pursuant to section 1 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) may be eligible for
6 valuation, assessment, and taxation pursuant to P.L.1964, c.48
7 (C.54:4-23.1 et seq.), provided that:

8 (1) the dual-use solar energy project is located on unpreserved
9 farmland that is continuing to be in operation as a farm in the tax
10 year for which the valuation, assessment and taxation pursuant to
11 P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

12 (2) in the tax year preceding the construction, installation, and
13 operation of the dual-use solar energy project, the acreage used for
14 the dual-use solar energy project was valued, assessed, and taxed as
15 land in agricultural or horticultural use;

16 (3) the land on which the dual-use solar energy project is located
17 continues to be actively devoted to agricultural and horticultural
18 use, and meets the income requirements set forth in section 5 of
19 P.L.1964, c.48 (C.54:4-23.5);

20 (4) the approval issued for the dual-use solar energy project by
21 the Department of Agriculture pursuant to section 1 of P.L. ,
22 c. (C.) (before the Legislature as this bill) has not been
23 suspended or revoked; and

24 (5) all other requirements of P.L.1964, c.48 (C.54:4-23.1 et seq.)
25 are met.

26 c. No generated energy from a dual-use solar energy project
27 shall be considered an agricultural or horticultural product, and no
28 income from any power sold from the dual-use solar energy project
29 may be considered income for eligibility for valuation, assessment,
30 and taxation of land pursuant to P.L.1964, c.48 (C.54:4-23.1 et
31 seq.).

32 d. Within one year after the date of enactment of P.L. ,
33 c. (C.) (pending before the Legislature as this bill), the Division
34 of Taxation, in consultation with the Department of Agriculture and
35 the Board of Public Utilities, shall:

36 (1) adopt, pursuant to the “Administrative Procedure Act,”
37 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as
38 may be necessary for the implementation and administration of this
39 section; and

40 (2) incorporate information concerning dual-use solar energy
41 projects into the guidelines provided, and the continuing education
42 course offered, to municipal tax assessors, county assessors, county
43 tax administrators, and other appropriate local government officials
44 pursuant to section 1 of P.L.2013, c.43 (C.54:4-23.3d).

45 e. As used in this section:

46 “Dual-use solar energy project” means the same as the term is
47 defined in section 1 of P.L. , c. (C.) (pending before the
48 Legislature as this bill).

1 “Preserved farmland” means the same as the term is defined in
2 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

3 “Unpreserved farmland” means the same as the term is defined
4 in section 1 of P.L. , c. (C.) (pending before the Legislature
5 as this bill).

6
7 3. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as
8 follows:

9 6. Notwithstanding the provisions of any municipal or county
10 ordinance, resolution, or regulation to the contrary, the owner or
11 operator of a commercial farm, located in an area in which, as of
12 December 31, 1997 or thereafter, agriculture is a permitted use
13 under the municipal zoning ordinance and is consistent with the
14 municipal master plan, or which commercial farm is in operation as
15 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the
16 operation of which conforms to agricultural management practices
17 recommended by the committee and adopted pursuant to the
18 provisions of the “Administrative Procedure Act,” P.L.1968, c.410
19 (C.52:14B-1 et seq.), or whose specific operation or practice has
20 been determined by the appropriate county board, or in a county
21 where no county board exists, the committee, to constitute a
22 generally accepted agricultural operation or practice, and all
23 relevant federal or State statutes or rules and regulations adopted
24 pursuant thereto, and which does not pose a direct threat to public
25 health and safety may:

26 a. Produce agricultural and horticultural crops, trees and forest
27 products, livestock, and poultry and other commodities as described
28 in the Standard Industrial Classification for agriculture, forestry,
29 fishing and trapping or, after the operative date of the regulations
30 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),
31 included under the corresponding classification under the North
32 American Industry Classification System;

33 b. Process and package the agricultural output of the
34 commercial farm;

35 c. Provide for the operation of a farm market, including the
36 construction of building and parking areas in conformance with
37 municipal standards;

38 d. Replenish soil nutrients and improve soil tilth;

39 e. Control pests, predators and diseases of plants and animals;

40 f. Clear woodlands using open burning and other techniques,
41 install and maintain vegetative and terrain alterations and other
42 physical facilities for water and soil conservation and surface water
43 control in wetland areas;

44 g. Conduct on-site disposal of organic agricultural wastes;

45 h. Conduct agriculture-related educational and farm-based
46 recreational activities provided that the activities are related to
47 marketing the agricultural or horticultural output of the commercial
48 farm;

1 i. (1) Engage in the generation of power or heat from biomass,
2 solar, or wind energy, provided that the energy generation is
3 consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et
4 al.), as applicable, and the rules and regulations adopted therefor
5 and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2) ;

6 (2) Engage in a dual-use solar energy project pursuant to section
7 1 of P.L. , c. (C.) (pending before the Legislature as this
8 bill), provided that the dual-use solar energy project complies with
9 all applicable provisions of law and rules and regulations adopted
10 pursuant thereto ; and

11 j. Engage in any other agricultural activity as determined by
12 the State Agriculture Development Committee and adopted by rule
13 or regulation pursuant to the provisions of the “Administrative
14 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).
15 (cf: P.L.2009, c.213, s.2)

16
17 4. Section 3 of P.L.2009, c.213 (C.4:1C-9.2) is amended to
18 read as follows:

19 3. a. The committee shall adopt, pursuant to the
20 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
21 seq.):

22 (1) such rules and regulations as may be necessary for the
23 implementation of subsection i. of section 6 of P.L.1983, c.31
24 (C.4:1C-9); **[and]**

25 (2) agricultural management practices for biomass energy
26 generation on commercial farms, including, but not necessarily
27 limited to, standards for the management of odor, dust, and noise ;
28 and

29 (3) agricultural management practices for dual-use solar energy
30 projects approved, constructed, installed, and operated pursuant to
31 section 1 of P.L. , c. (C.) (pending before the Legislature as
32 this bill) .

33 b. The Board of Public Utilities shall provide technical
34 assistance and support to the State Agriculture Development
35 Committee with regard to the committee's responsibilities in
36 connection with this section and subsection i. of section 6 of
37 P.L.1983, c.31 (C.4:1C-9).

38 c. Notwithstanding any provision of this section or subsection
39 i. of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the
40 construction, installation, or operation of any biomass, solar, or
41 wind energy generation facility, structure, or equipment in the
42 pinelands area, as defined and regulated by the “Pinelands
43 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply
44 with the standards of P.L.1979, c.111 and the comprehensive
45 management plan for the pinelands area adopted pursuant to
46 P.L.1979, c.111.

47 d. For the purposes of this section and subsection i. of section 6
48 of P.L.1983, c.31 (C.4:1C-9), “biomass” means an agricultural crop,

1 crop residue, or agricultural byproduct that is cultivated, harvested,
2 or produced on the commercial farm and which can be used to
3 generate energy in a sustainable manner , and “dual-use solar
4 energy project” means the same as the term is defined in section 1
5 of P.L. , c. (C.) (pending before the Legislature as this
6 bill) .
7 (cf: P.L.2009, c.213, s.3)
8

9 5. Section 1 of P.L.2009, c.213 (C.4:1C-32.4) is amended to
10 read as follows:

11 1. a. Notwithstanding any law, rule or regulation to the
12 contrary, a person who owns preserved farmland may construct,
13 install, and operate biomass, solar, or wind energy generation
14 facilities, structures, and equipment on the farm, whether on the
15 preserved portion of the farm or on any portion excluded from
16 preservation, for the purpose of generating power or heat, and may
17 make improvements to any agricultural, horticultural, residential, or
18 other building or structure on the land for that purpose, provided
19 that **【the biomass, solar, or wind energy generation facilities,**
20 **structures, and equipment】** :

21 (1) the biomass, solar, or wind energy generation facilities,
22 structures, and equipment do not interfere significantly with the use
23 of the land for agricultural or horticultural production, as
24 determined by the committee;

25 (2) any biomass or wind energy generation facilities, structures,
26 and equipment are owned by the landowner, or will be owned by
27 the landowner upon the conclusion of the term of an agreement with
28 the installer of the biomass **【, solar,】** or wind energy generation
29 facilities, structures, or equipment by which the landowner uses the
30 income or credits realized from the biomass **【, solar,】** or wind
31 energy generation to purchase the facilities, structures, or
32 equipment;

33 (3) the biomass, solar, or wind energy generation facilities,
34 structures, and equipment are used to provide power or heat to the
35 farm, either directly or indirectly, or to reduce, through net metering
36 or similar programs and systems, energy costs on the farm; and

37 (4) the biomass, solar, or wind energy generation facilities,
38 structures, and equipment are limited (a) in annual energy
39 generation capacity to the previous calendar year's energy demand
40 plus 10 percent, in addition to what is allowed under subsection b.
41 of this section, or alternatively at the option of the landowner (b) to
42 occupying no more than one percent of the area of the entire farm
43 including both the preserved portion and any portion excluded from
44 preservation.

45 **【The person who owns the farm and the energy generation**
46 **facilities, structures, and equipment may only sell energy through**
47 **net metering or as otherwise permitted under an agreement allowed**
48 **pursuant to paragraph (2) of this subsection.】**

- 1 b. The limit on the annual energy generation capacity
2 established pursuant to subparagraph (a) of paragraph (4) of
3 subsection a. of this section shall not include energy generated from
4 facilities, structures, or equipment existing on the roofs of buildings
5 or other structures on the farm as of the date of enactment of
6 P.L.2009, c.213 (C.4:1C-32.4 et al.).
- 7 c. A landowner shall seek and obtain the approval of the
8 committee before constructing, installing, and operating biomass,
9 solar, or wind energy generation facilities, structures, and
10 equipment on the farm as allowed pursuant to subsection a. of this
11 section. The committee shall provide the holder of any
12 development easement on the farm with a copy of the application
13 submitted for the purposes of subsection a. of this section, and the
14 holder of the development easement shall have 30 days within
15 which to provide comments to the committee on the application.
16 The committee shall, within 90 days of receipt, approve,
17 disapprove, or approve with conditions an application submitted for
18 the purposes of subsection a. of this section. The decision of the
19 committee on the application shall be based solely upon the criteria
20 listed in subsection a. of this section and comments received from
21 the holder of the development easement.
- 22 d. No fee shall be charged of the landowner for review of an
23 application submitted to, or issuance of a decision by, the
24 committee pursuant to this section.
- 25 e. The committee may suspend or revoke an approval issued
26 pursuant to this section for a violation of any term or condition of
27 the approval or any provision of this section.
- 28 f. The committee, in consultation with the Department of
29 Environmental Protection and the Department of Agriculture, shall
30 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
31 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the
32 implementation of this section, including provisions prescribing
33 standards concerning impervious cover which may be permitted in
34 connection with biomass, solar, or wind energy generation
35 facilities, structures, and equipment authorized to be constructed,
36 installed, and operated on lands pursuant to this section.
- 37 g. In the case of biomass energy generation facilities,
38 structures, or equipment, the landowner shall also seek and obtain
39 the approval of the Department of Agriculture as required pursuant
40 to section 5 of P.L.2009, c.213 (C.4:1C-32.5) if the land is valued,
41 assessed, and taxed pursuant to the “Farmland Assessment Act of
42 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).
- 43 h. Notwithstanding any provision of this section to the
44 contrary, the construction, installation, or operation of any biomass,
45 solar, or wind energy generation facility, structure, or equipment in
46 the pinelands area, as defined and regulated by the “Pinelands
47 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply
48 with the standards of P.L.1979, c.111 and the comprehensive

1 management plan for the pinelands area adopted pursuant to
2 P.L.1979, c.111.

3 i. For the purposes of this section:

4 “Biomass” means an agricultural crop, crop residue, or
5 agricultural byproduct that is cultivated, harvested, or produced on
6 the farm and which can be used to generate energy in a sustainable
7 manner.

8 “Net metering” means the same as that term is used for purposes
9 of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

10 “Preserved farmland” means land on which a development
11 easement was conveyed to, or retained by, the committee, a board,
12 or a qualifying tax exempt nonprofit organization pursuant to the
13 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
14 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
15 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
16 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
17 other State law enacted for farmland preservation purposes.

18 (cf: P.L.2009, c.213, s.1)

19

20 6. Section 4 of P.L.2009, c.213 (C.54:4-23.3c) is amended to
21 read as follows:

22 4. a. (1) No land used for biomass, solar, or wind energy
23 generation shall be considered land in agricultural or horticultural
24 use or actively devoted to agricultural or horticultural use for the
25 purposes of the “Farmland Assessment Act of 1964,” P.L.1964,
26 c.48 (C.54:4-23.1 et seq.), except as provided in this section or, in
27 the case of unpreserved farmland used for a dual-use solar energy
28 project, as provided in section 2 of P.L. , c. (C.) (pending
29 before the Legislature as this bill) .

30 (2) No generated energy from any source shall be considered an
31 agricultural or horticultural product.

32 b. Land used for biomass, solar, or wind energy generation
33 may be eligible for valuation, assessment and taxation pursuant to
34 P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

35 (1) the biomass, solar, or wind energy generation facilities,
36 structures, and equipment were constructed, installed, and operated
37 on property that is part of an operating farm continuing to be in
38 operation as a farm in the tax year for which the valuation,
39 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et
40 seq.) is applied for;

41 (2) in the tax year preceding the construction, installation, and
42 operation of the biomass, solar, or wind energy generation facilities,
43 structures, and equipment on an operating farm, the acreage used
44 for the biomass, solar, or wind energy generation facilities,
45 structures, and equipment was valued, assessed and taxed as land in
46 agricultural or horticultural use;

47 (3) the power or heat generated by the biomass, solar, or wind
48 energy generation facilities, structures, and equipment is used to

1 provide, either directly or indirectly but not necessarily exclusively,
2 power or heat to the farm or agricultural or horticultural operations
3 supporting the viability of the farm;

4 (4) the owner of the property has filed a conservation plan with
5 the soil conservation district, with provisions for compliance with
6 paragraph (5) of this subsection where applicable, to account for the
7 aesthetic, impervious coverage, and environmental impacts of the
8 construction, installation, and operation of the biomass, solar, or
9 wind energy generation facilities, structures, and equipment,
10 including, but not necessarily limited to, water recapture and
11 filtration, and the conservation plan has been approved by the
12 district;

13 (5) where solar energy generation facilities, structures, and
14 equipment are installed, the property under the solar panels is used
15 to the greatest extent practicable for the farming of shade crops or
16 other plants capable of being grown under such conditions, or for
17 pasture for grazing;

18 (6) the amount of acreage devoted to the biomass, solar, or wind
19 energy generation facilities, structures, and equipment does not
20 exceed a ratio of one to five acres, or portion thereof, of land
21 devoted to energy generation facilities, structures, and equipment
22 and land devoted to agricultural or horticultural operations;

23 (7) biomass, solar, or wind energy generation facilities,
24 structures, and equipment are constructed or installed on no more
25 than 10 acres of the farmland for which the owner of the property is
26 applying for valuation, assessment and taxation pursuant to
27 P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being
28 generated, no more than two megawatts of power are generated on
29 the 10 acres or less; and

30 (8) for biomass energy generation, the owner of the property has
31 obtained the approval of the Department of Agriculture pursuant to
32 section 5 of P.L.2009, c.213 (C.4:1C-32.5).

33 c. No income from any power or heat sold from the biomass,
34 solar, or wind energy generation may be considered income for
35 eligibility for valuation, assessment and taxation of land pursuant to
36 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
37 23.1 et seq.), and, notwithstanding the provisions of that act, or any
38 rule or regulation adopted pursuant thereto, to the contrary, there
39 shall be no income requirement for property valued, assessed and
40 taxed pursuant to subsection b. of this section.

41 d. Notwithstanding any provision of this section, section 3 of
42 P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48
43 (C.54:4-23.4) to the contrary, the construction, installation, or
44 operation of any biomass, solar, or wind energy generation facility,
45 structure, or equipment in the pinelands area, as defined and
46 regulated by the "Pinelands Protection Act," P.L.1979, c.111
47 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979,

1 c.111 and the comprehensive management plan for the pinelands
2 area adopted pursuant to P.L.1979, c.111.

3 e. The Division of Taxation, in consultation with the
4 Department of Agriculture, shall adopt, pursuant to the
5 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
6 seq.), such rules and regulations as may be necessary for the
7 implementation and administration of this section.

8 f. For the purposes of this section:

9 “Biomass” means an agricultural crop, crop residue, or
10 agricultural byproduct that is cultivated, harvested, or produced on
11 the farm, or directly obtained from a farm where it was cultivated,
12 harvested, or produced, and which can be used to generate energy in
13 a sustainable manner, except with respect to preserved farmland,
14 “biomass” means the same as that term is defined in section 1 of
15 P.L.2009, c.213 (C.4:1C-32.4).

16 “Dual-use solar energy project” means the same as the term is
17 defined in section 1 of P.L. , c. (C.) (pending before the
18 Legislature as this bill).

19 “Land used for biomass, solar, or wind energy generation” means
20 the land upon which the biomass, solar, or wind energy generation
21 facilities, structures, and equipment are constructed, installed, and
22 operated. In the case of biomass energy generation, “land used for
23 biomass, solar, or wind energy generation” shall not mean the land
24 upon which agricultural or horticultural products used as fuel in the
25 biomass energy generation facility, structure, or equipment are
26 grown. “Land used for biomass, solar, or wind energy generation”
27 shall not include land used for a dual-use solar energy project.

28 “Preserved farmland” means land on which a development
29 easement was conveyed to, or retained by, the State Agriculture
30 Development Committee, a county agriculture development board,
31 or a qualifying tax exempt nonprofit organization pursuant to the
32 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
33 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
34 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
35 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
36 other State law enacted for farmland preservation purposes.

37 “Unpreserved farmland” means the same as the term is defined
38 in section 1 of P.L. , c. (C.) (pending before the Legislature
39 as this bill).

40 (cf: P.L.2009, c.213, s.4)

41
42 7. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
43 as follows:

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

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

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

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

10 b. Notwithstanding any provisions of the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
12 contrary, the board shall initiate a proceeding and shall adopt, in
13 consultation with the Department of Environmental Protection, after
14 notice and opportunity for public comment and public hearing,
15 interim standards to implement this disclosure requirement,
16 including, but not limited to:

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

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

23 (3) A uniform emissions disclosure format that is graphic in
24 nature and easily understandable by consumers. The board shall
25 periodically review the disclosure requirements to determine if
26 revisions to the environmental disclosure system as implemented
27 are necessary.

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

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

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

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

43 (2) By July 1, 2009, the board shall adopt, pursuant to the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.), a greenhouse gas emissions portfolio standard to mitigate
46 leakage or another regulatory mechanism to mitigate leakage
47 applicable to all electric power suppliers and basic generation
48 service providers that provide electricity to customers within the

1 State. The greenhouse gas emissions portfolio standard or any other
2 regulatory mechanism to mitigate leakage shall:

3 (a) Allow a transition period, either before or after the effective
4 date of the regulation to mitigate leakage, for a basic generation
5 service provider or electric power supplier to either meet the
6 emissions portfolio standard or other regulatory mechanism to
7 mitigate leakage, or to transfer any customer to a basic generation
8 service provider or electric power supplier that meets the emissions
9 portfolio standard or other regulatory mechanism to mitigate
10 leakage. If the transition period allowed pursuant to this
11 subparagraph occurs after the implementation of an emissions
12 portfolio standard or other regulatory mechanism to mitigate
13 leakage, the transition period shall be no longer than three years;
14 and

15 (b) Exempt the provision of basic generation service pursuant to
16 a basic generation service purchase and sale agreement effective
17 prior to the date of the regulation.

18 Unless the Attorney General or the Attorney General's designee
19 determines that a greenhouse gas emissions portfolio standard
20 would unconstitutionally burden interstate commerce or would be
21 preempted by federal law, the adoption by the board of an electric
22 energy efficiency portfolio standard pursuant to subsection g. of this
23 section, a gas energy efficiency portfolio standard pursuant to
24 subsection h. of this section, or any other enhanced energy
25 efficiency policies to mitigate leakage shall not be considered
26 sufficient to fulfill the requirement of this subsection for the
27 adoption of a greenhouse gas emissions portfolio standard or any
28 other regulatory mechanism to mitigate leakage.

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

34 (1) that two and one-half percent of the kilowatt hours sold in
35 this State by each electric power supplier and each basic generation
36 service provider be from Class II renewable energy sources;

37 (2) beginning on January 1, 2020, that 21 percent of the kilowatt
38 hours sold in this State by each electric power supplier and each
39 basic generation service provider be from Class I renewable energy
40 sources. The board shall increase the required percentage for Class
41 I renewable energy sources so that by January 1, 2025, 35 percent
42 of the kilowatt hours sold in this State by each electric power
43 supplier and each basic generation service provider shall be from
44 Class I renewable energy sources, and by January 1, 2030, 50
45 percent of the kilowatt hours sold in this State by each electric
46 power supplier and each basic generation service provider shall be
47 from Class I renewable energy sources. Notwithstanding the
48 requirements of this subsection, the board shall ensure that the cost

1 to customers of the Class I renewable energy requirement imposed
2 pursuant to this subsection shall not exceed nine percent of the total
3 paid for electricity by all customers in the State for energy year
4 2019, energy year 2020, and energy year 2021, respectively, and
5 shall not exceed seven percent of the total paid for electricity by all
6 customers in the State in any energy year thereafter ; provided that,
7 if in energy years 2019 through 2021 the cost to customers of the
8 Class I renewable energy requirement is less than nine percent of
9 the total paid for electricity by all customers in the State, the board
10 may increase the cost to customers of the Class I renewable energy
11 requirement in energy years 2022 through 2024 to a rate greater
12 than seven percent, as long as the total costs to customers for
13 energy years 2019 through 2024 does not exceed the sum of nine
14 percent of the total paid for electricity by all customers in the State
15 in energy years 2019 through 2021 and seven percent of the total
16 paid for electricity by all customers in the State in energy years
17 2022 through 2024. In calculating the cost to customers of the
18 Class I renewable energy requirement imposed pursuant to this
19 subsection, the board shall not include the costs of the offshore
20 wind energy certificate program established pursuant to paragraph
21 (4) of this subsection. The board shall take any steps necessary to
22 prevent the exceedance of the cap on the cost to customers
23 including, but not limited to, adjusting the Class I renewable energy
24 requirement.

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

29 (3) that the board establish a multi-year schedule, applicable to
30 each electric power supplier or basic generation service provider in
31 this State, beginning with the one-year period commencing on June
32 1, 2010, and continuing for each subsequent one-year period up to
33 and including, the one-year period commencing on June 1, 2033,
34 that requires the following number or percentage, as the case may
35 be, of kilowatt-hours sold in this State by each electric power
36 supplier and each basic generation service provider to be from solar
37 electric power generators connected to the distribution system in
38 this State:

39 EY 2011	306 Gigawatthours (Gwhrs)
40 EY 2012	442 Gwhrs
41 EY 2013	596 Gwhrs
42 EY 2014	2.050%
43 EY 2015	2.450%
44 EY 2016	2.750%
45 EY 2017	3.000%
46 EY 2018	3.200%
47 EY 2019	4.300%
48 EY 2020	4.900%

1	EY 2021	5.100%
2	EY 2022	5.100%
3	EY 2023	5.100%
4	EY 2024	4.900%
5	EY 2025	4.800%
6	EY 2026	4.500%
7	EY 2027	4.350%
8	EY 2028	3.740%
9	EY 2029	3.070%
10	EY 2030	2.210%
11	EY 2031	1.580%
12	EY 2032	1.400%
13	EY 2033	1.100%

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

25 No later than 24 months after the date of enactment of P.L.2018,
26 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
27 evaluates how to modify or replace the SREC program to encourage
28 the continued efficient and orderly development of solar renewable
29 energy generating sources throughout the State. The board shall
30 submit the written report thereon to the Governor and, pursuant to
31 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
32 board shall consult with public utilities, industry experts, regional
33 grid operators, solar power providers and financiers, and other State
34 agencies to determine whether the board can modify the SREC
35 program such that the program will:

- 36 - continually reduce, where feasible, the cost of achieving the
37 solar energy goals set forth in this subsection;
- 38 - provide an orderly transition from the SREC program to a
39 new or modified program;
- 40 - develop megawatt targets for grid connected and distribution
41 systems, including residential and small commercial rooftop
42 systems, community solar systems, and large scale behind the meter
43 systems, as a share of the overall solar energy requirement, which
44 targets the board may modify periodically based on the cost,
45 feasibility, or social impacts of different types of projects;
- 46 - establish and update market-based maximum incentive payment
47 caps periodically for each of the above categories of solar electric
48 power generation facilities;

1 -encourage and facilitate market-based cost recovery through
2 long-term contracts and energy market sales; and

3 -where cost recovery is needed for any portion of an efficient
4 solar electric power generation facility when costs are not
5 recoverable through wholesale market sales and direct payments
6 from customers, utilize competitive processes such as competitive
7 procurement and long-term contracts where possible to ensure such
8 recovery, without exceeding the maximum incentive payment cap
9 for that category of facility.

10 The board shall approve, conditionally approve, or disapprove
11 any application for designation as connected to the distribution
12 system of a solar electric power generation facility filed with the
13 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et
14 al.), no more than 90 days after receipt by the board of a completed
15 application. For any such application for a project greater than 25
16 kilowatts, the board shall require the applicant to post a notice
17 escrow with the board in an amount of \$40 per kilowatt of DC
18 nameplate capacity of the facility, not to exceed \$40,000. The
19 notice escrow amount shall be reimbursed to the applicant in full
20 upon either denial of the application by the board or upon
21 commencement of commercial operation of the solar electric power
22 generation facility. The escrow amount shall be forfeited to the
23 State if the facility is designated as connected to the distribution
24 system pursuant to this subsection but does not commence
25 commercial operation within two years following the date of the
26 designation by the board.

27 For all applications for designation as connected to the
28 distribution system of a solar electric power generation facility filed
29 with the board after the date of enactment of P.L.2018, c.17
30 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

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

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

42 (c) The solar renewable portfolio standards requirements in this
43 paragraph shall exempt those existing supply contracts which are
44 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
45 87.8 et al.) from any increase beyond the number of SRECs
46 mandated by the solar renewable energy portfolio standards
47 requirements that were in effect on the date that the providers
48 executed their existing supply contracts. This limited exemption for

1 providers' existing supply contracts shall not be construed to lower
2 the Statewide solar sourcing requirements set forth in this
3 paragraph. Such incremental requirements that would have
4 otherwise been imposed on exempt providers shall be distributed
5 over the providers not subject to the existing supply contract
6 exemption until such time as existing supply contracts expire and
7 all providers are subject to the new requirement in a manner that is
8 competitively neutral among all providers and suppliers.
9 Notwithstanding any rule or regulation to the contrary, the board
10 shall recognize these new solar purchase obligations as a change
11 required by operation of law and implement the provisions of this
12 subsection in a manner so as to prevent any subsidies between
13 suppliers and providers and to promote competition in the
14 electricity supply industry.

15 An electric power supplier or basic generation service provider
16 may satisfy the requirements of this subsection by participating in a
17 renewable energy trading program approved by the board in
18 consultation with the Department of Environmental Protection, or
19 compliance with the requirements of this subsection may be
20 demonstrated to the board by suppliers or providers through the
21 purchase of SRECs.

22 The renewable energy portfolio standards adopted by the board
23 pursuant to paragraphs (1) and (2) of this subsection shall be
24 effective as regulations immediately upon filing with the Office of
25 Administrative Law and shall be effective for a period not to exceed
26 18 months, and may, thereafter, be amended, adopted or readopted
27 by the board in accordance with the provisions of the
28 "Administrative Procedure Act."

29 The renewable energy portfolio standards adopted by the board
30 pursuant to this paragraph shall be effective as regulations
31 immediately upon filing with the Office of Administrative Law and
32 shall be effective for a period not to exceed 30 months after such
33 filing, and shall, thereafter, be amended, adopted or readopted by
34 the board in accordance with the "Administrative Procedure Act";
35 and

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

43 The percentage established by the board pursuant to this
44 paragraph shall serve as an offset to the renewable energy portfolio
45 standard established pursuant to paragraph (2) of this subsection
46 and shall reduce the corresponding Class I renewable energy
47 requirement.

1 The percentage established by the board pursuant to this
2 paragraph shall reflect the projected OREC production of each
3 qualified offshore wind project, approved by the board pursuant to
4 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
5 commercial operation start date of the qualified offshore wind
6 project which production projection and OREC purchase
7 requirement, once approved by the board, shall not be subject to
8 reduction.

9 An electric power supplier or basic generation service provider
10 shall comply with the OREC program established pursuant to this
11 paragraph through the purchase of offshore wind renewable energy
12 certificates at a price and for the time period required by the board.
13 In the event there are insufficient offshore wind renewable energy
14 certificates available, the electric power supplier or basic generation
15 service provider shall pay an offshore wind alternative compliance
16 payment established by the board. Any offshore wind alternative
17 compliance payments collected shall be refunded directly to the
18 ratepayers by the electric public utilities.

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

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

31 (1) net metering standards for electric power suppliers and basic
32 generation service providers. The standards shall require electric
33 power suppliers and basic generation service providers to offer net
34 metering at non-discriminatory rates to industrial, large
35 commercial, residential and small commercial customers, as those
36 customers are classified or defined by the board, that generate
37 electricity, on the customer's side of the meter, using a Class I
38 renewable energy source, for the net amount of electricity supplied
39 by the electric power supplier or basic generation service provider
40 over an annualized period. Systems of any sized capacity, as
41 measured in watts, are eligible for net metering. If the amount of
42 electricity generated by the customer-generator, plus any kilowatt
43 hour credits held over from the previous billing periods, exceeds the
44 electricity supplied by the electric power supplier or basic
45 generation service provider, then the electric power supplier or
46 basic generation service provider, as the case may be, shall credit
47 the customer-generator for the excess kilowatt hours until the end of
48 the annualized period at which point the customer-generator will be

1 compensated for any remaining credits or, if the customer-generator
2 chooses, credit the customer-generator on a real-time basis, at the
3 electric power supplier's or basic generation service provider's
4 avoided cost of wholesale power or the PJM electric power pool's
5 real-time locational marginal pricing rate, adjusted for losses, for
6 the respective zone in the PJM electric power pool. Alternatively,
7 the customer-generator may execute a bilateral agreement with an
8 electric power supplier or basic generation service provider for the
9 sale and purchase of the customer-generator's excess generation.
10 The customer-generator may be credited on a real-time basis, so
11 long as the customer-generator follows applicable rules prescribed
12 by the PJM electric power pool for its capacity requirements for the
13 net amount of electricity supplied by the electric power supplier or
14 basic generation service provider. The board may authorize an
15 electric power supplier or basic generation service provider to cease
16 offering net metering to customers that are not already net metered
17 whenever the total rated generating capacity owned and operated by
18 net metering customer-generators Statewide equals 5.8 percent of
19 the total annual kilowatt-hours sold in this State by each electric
20 power supplier and each basic generation service provider during
21 the prior one-year period;

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

25 Such standards or rules shall take into consideration the goals of
26 the New Jersey Energy Master Plan, applicable industry standards,
27 and the standards of other states and the Institute of Electrical and
28 Electronics Engineers. The board shall allow electric public utilities
29 to recover the costs of any new net meters, upgraded net meters,
30 system reinforcements or upgrades, and interconnection costs
31 through either their regulated rates or from the net metering
32 customer-generator;

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

37 (4) net metering aggregation standards to require electric public
38 utilities to provide net metering aggregation to single electric public
39 utility customers that operate a solar electric power generation
40 system installed at one of the customer's facilities or on property
41 owned by the customer, provided that any such customer is a State
42 entity, school district, county, county agency, county authority,
43 municipality, municipal agency, or municipal authority. The
44 standards shall provide that, in order to qualify for net metering
45 aggregation, the customer must operate a solar electric power
46 generation system using a net metering billing account, which
47 system is located on property owned by the customer, provided that:
48 (a) the property is not land that has been actively devoted to

1 agricultural or horticultural use and that is valued, assessed, and
2 taxed pursuant to the "Farmland Assessment Act of 1964,"
3 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
4 period prior to the effective date of P.L.2012, c.24, provided,
5 however, that the municipal planning board of a municipality in
6 which a solar electric power generation system is located may
7 waive the requirement of this subparagraph (a), (b) the system is not
8 an on-site generation facility, (c) all of the facilities of the single
9 customer combined for the purpose of net metering aggregation are
10 facilities owned or operated by the single customer and are located
11 within its territorial jurisdiction except that all of the facilities of a
12 State entity engaged in net metering aggregation shall be located
13 within five miles of one another, and (d) all of those facilities are
14 within the service territory of a single electric public utility and are
15 all served by the same basic generation service provider or by the
16 same electric power supplier. The standards shall provide that in
17 order to qualify for net metering aggregation, the customer's solar
18 electric power generation system shall be sized so that its annual
19 generation does not exceed the combined metered annual energy
20 usage of the qualified customer facilities, and the qualified
21 customer facilities shall all be in the same customer rate class under
22 the applicable electric public utility tariff. For the customer's
23 facility or property on which the solar electric generation system is
24 installed, the electricity generated from the customer's solar electric
25 generation system shall be accounted for pursuant to the provisions
26 of paragraph (1) of this subsection to provide that the electricity
27 generated in excess of the electricity supplied by the electric power
28 supplier or the basic generation service provider, as the case may
29 be, for the customer's facility on which the solar electric generation
30 system is installed, over the annualized period, is credited at the
31 electric power supplier's or the basic generation service provider's
32 avoided cost of wholesale power or the PJM electric power pool
33 real-time locational marginal pricing rate. All electricity used by
34 the customer's qualified facilities, with the exception of the facility
35 or property on which the solar electric power generation system is
36 installed, shall be billed at the full retail rate pursuant to the electric
37 public utility tariff applicable to the customer class of the customer
38 using the electricity. A customer may contract with a third party to
39 operate a solar electric power generation system, for the purpose of
40 net metering aggregation. Any contractual relationship entered into
41 for operation of a solar electric power generation system related to
42 net metering aggregation shall include contractual protections that
43 provide for adequate performance and provision for construction
44 and operation for the term of the contract, including any appropriate
45 bonding or escrow requirements. Any incremental cost to an
46 electric public utility for net metering aggregation shall be fully and
47 timely recovered in a manner to be determined by the board. The

1 board shall adopt net metering aggregation standards within 270
2 days after the effective date of P.L.2012, c.24.

3 Such rules shall require the board or its designee to issue a credit
4 or other incentive to those generators that do not use a net meter but
5 otherwise generate electricity derived from a Class I renewable
6 energy source and to issue an enhanced credit or other incentive,
7 including, but not limited to, a solar renewable energy credit, to
8 those generators that generate electricity derived from solar
9 technologies.

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

16 f. The board may assess, by written order and after notice and
17 opportunity for comment, a separate fee to cover the cost of
18 implementing and overseeing an emission disclosure system or
19 emission portfolio standard, which fee shall be assessed based on an
20 electric power supplier's or basic generation service provider's share
21 of the retail electricity supply market. The board shall not impose a
22 fee for the cost of implementing and overseeing a greenhouse gas
23 emissions portfolio standard adopted pursuant to paragraph (2) of
24 subsection c. of this section.

25 g. The board shall adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
27 energy efficiency program in order to ensure investment in cost-
28 effective energy efficiency measures, ensure universal access to
29 energy efficiency measures, and serve the needs of low-income
30 communities that shall require each electric public utility to
31 implement energy efficiency measures that reduce electricity usage
32 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
33 Nothing in this subsection shall be construed to prevent an electric
34 public utility from meeting the requirements of this subsection by
35 contracting with another entity for the performance of the
36 requirements.

37 h. The board shall adopt, pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
39 efficiency program in order to ensure investment in cost-effective
40 energy efficiency measures, ensure universal access to energy
41 efficiency measures, and serve the needs of low-income
42 communities that shall require each gas public utility to implement
43 energy efficiency measures that reduce natural gas usage in the
44 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
45 Nothing in this subsection shall be construed to prevent a gas public
46 utility from meeting the requirements of this subsection by
47 contracting with another entity for the performance of the
48 requirements.

1 i. After the board establishes a schedule of solar kilowatt-hour
2 sale or purchase requirements pursuant to paragraph (3) of
3 subsection d. of this section, the board may initiate subsequent
4 proceedings and adopt, after appropriate notice and opportunity for
5 public comment and public hearing, increased minimum solar
6 kilowatt-hour sale or purchase requirements, provided that the
7 board shall not reduce previously established minimum solar
8 kilowatt-hour sale or purchase requirements, or otherwise impose
9 constraints that reduce the requirements by any means.

10 j. The board shall determine an appropriate level of solar
11 alternative compliance payment, and permit each supplier or
12 provider to submit an SACP to comply with the solar electric
13 generation requirements of paragraph (3) of subsection d. of this
14 section. The value of the SACP for each Energy Year, for Energy
15 Years 2014 through 2033 per megawatt hour from solar electric
16 generation required pursuant to this section, shall be:

17	EY 2014	\$339
18	EY 2015	\$331
19	EY 2016	\$323
20	EY 2017	\$315
21	EY 2018	\$308
22	EY 2019	\$268
23	EY 2020	\$258
24	EY 2021	\$248
25	EY 2022	\$238
26	EY 2023	\$228
27	EY 2024	\$218
28	EY 2025	\$208
29	EY 2026	\$198
30	EY 2027	\$188
31	EY 2028	\$178
32	EY 2029	\$168
33	EY 2030	\$158
34	EY 2031	\$148
35	EY 2032	\$138
36	EY 2033	\$128.

37 The board may initiate subsequent proceedings and adopt, after
38 appropriate notice and opportunity for public comment and public
39 hearing, an increase in solar alternative compliance payments,
40 provided that the board shall not reduce previously established
41 levels of solar alternative compliance payments, nor shall the board
42 provide relief from the obligation of payment of the SACP by the
43 electric power suppliers or basic generation service providers in any
44 form. Any SACP payments collected shall be refunded directly to
45 the ratepayers by the electric public utilities.

46 k. The board may allow electric public utilities to offer long-
47 term contracts through a competitive process, direct electric public
48 utility investment and other means of financing, including but not

1 limited to loans, for the purchase of SRECs and the resale of SRECs
2 to suppliers or providers or others, provided that after such
3 contracts have been approved by the board, the board's approvals
4 shall not be modified by subsequent board orders. If the board
5 allows the offering of contracts pursuant to this subsection, the
6 board may establish a process, after hearing, and opportunity for
7 public comment, to provide that a designated segment of the
8 contracts approved pursuant to this subsection shall be contracts
9 involving solar electric power generation facility projects with a
10 capacity of up to 250 kilowatts.

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

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

16 (2) maintain adequate regulatory authority over non-competitive
17 public utility services;

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

20 (4) promote energy efficiency and Class I renewable energy
21 market development, taking into consideration environmental
22 benefits and market barriers;

23 (5) make energy services more affordable for low and moderate
24 income customers;

25 (6) attempt to transform the renewable energy market into one
26 that can move forward without subsidies from the State or public
27 utilities;

28 (7) achieve the goals put forth under the renewable energy
29 portfolio standards;

30 (8) promote the lowest cost to ratepayers; and

31 (9) allow all market segments to participate.

32 m. The board shall ensure the availability of financial incentives
33 under its jurisdiction, including, but not limited to, long-term
34 contracts, loans, SRECs, or other financial support, to ensure
35 market diversity, competition, and appropriate coverage across all
36 ratepayer segments, including, but not limited to, residential,
37 commercial, industrial, non-profit, farms, schools, and public entity
38 customers.

39 n. For projects which are owned, or directly invested in, by a
40 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
41 98.1), the board shall determine the number of SRECs with which
42 such projects shall be credited; and in determining such number the
43 board shall ensure that the market for SRECs does not detrimentally
44 affect the development of non-utility solar projects and shall
45 consider how its determination may impact the ratepayers.

46 o. The board, in consultation with the Department of
47 Environmental Protection, electric public utilities, the Division of
48 Rate Counsel in, but not of, the Department of the Treasury,

1 affected members of the solar energy industry, and relevant
2 stakeholders, shall periodically consider increasing the renewable
3 energy portfolio standards beyond the minimum amounts set forth
4 in subsection d. of this section, taking into account the cost impacts
5 and public benefits of such increases including, but not limited to:

6 (1) reductions in air pollution, water pollution, land disturbance,
7 and greenhouse gas emissions;

8 (2) reductions in peak demand for electricity and natural gas,
9 and the overall impact on the costs to customers of electricity and
10 natural gas;

11 (3) increases in renewable energy development, manufacturing,
12 investment, and job creation opportunities in this State; and

13 (4) reductions in State and national dependence on the use of
14 fossil fuels.

15 p. Class I RECs and ORECs shall be eligible for use in
16 renewable energy portfolio standards compliance in the energy year
17 in which they are generated, and for the following two energy years.
18 SRECs shall be eligible for use in renewable energy portfolio
19 standards compliance in the energy year in which they are
20 generated, and for the following four energy years.

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

1 (2) If the proposed solar electric power generation facility does
2 not commence commercial operations within two years following
3 the date of the designation by the board pursuant to this subsection,
4 the designation of the facility shall be deemed to be null and void,
5 and the facility shall not be considered connected to the distribution
6 system thereafter.

7 (3) Notwithstanding the provisions of paragraph (2) of this
8 subsection, a solar electric power generation facility project that as
9 of May 31, 2017 was designated as "connected to the distribution
10 system," but failed to commence commercial operations as of that
11 date, shall maintain that designation if it commences commercial
12 operations by May 31, 2018.

13 r. (1) For all proposed solar electric power generation facility
14 projects except for those solar electric power generation facility
15 projects approved pursuant to subsection q. of this section, and for
16 all projects proposed in energy year 2019 and energy year 2020, the
17 board may approve projects for up to 50 megawatts annually in
18 auctioned capacity in two auctions per year as long as the board is
19 accepting applications. If the board approves projects for less than
20 50 megawatts in energy year 2019 or less than 50 megawatts in
21 energy year 2020, the difference in each year shall be carried over
22 into the successive energy year until 100 megawatts of auctioned
23 capacity has been approved by the board pursuant to this
24 subsection. A proposed solar electric power generation facility that
25 is neither net metered nor an on-site generation facility, may be
26 considered "connected to the distribution system" only upon
27 designation as such by the board, after notice to the public and
28 opportunity for public comment or hearing. A proposed solar
29 **[power]** electric power generation facility seeking board
30 designation as "connected to the distribution system" shall submit
31 an application to the board that includes for the proposed facility:
32 the nameplate capacity; the estimated energy and number of SRECs
33 to be produced and sold per year; the estimated annual rate impact
34 on ratepayers; the estimated capacity of the generator as defined by
35 PJM for sale in the PJM capacity market; the point of
36 interconnection; the total project acreage and location; the current
37 land use designation of the property; the type of solar technology to
38 be used; and such other information as the board shall require.

39 (2) The board shall approve the designation of the proposed
40 solar **[power]** electric power generation facility as "connected to
41 the distribution system" if the board determines that:

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

45 (b) the approval of the designation of the proposed facility
46 would not significantly impact the preservation of open space in
47 this State;

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

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

7 (3) The board shall act within 90 days of its receipt of a
8 completed application for designation of a solar **[power]** electric
9 power generation facility as "connected to the distribution system,"
10 to either approve, conditionally approve, or disapprove the
11 application. If the proposed solar electric power generation facility
12 does not commence commercial operations within two years
13 following the date of the designation by the board pursuant to this
14 subsection, the designation of the facility as "connected to the
15 distribution system" shall be deemed to be null and void, and the
16 facility shall thereafter be considered not "connected to the
17 distribution system."

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

37 t. (1) No more than 180 days after the date of enactment of
38 P.L.2012, c.24, the board shall, in consultation with the Department
39 of Environmental Protection and the New Jersey Economic
40 Development Authority, and, after notice and opportunity for public
41 comment and public hearing, complete a proceeding to establish a
42 program to provide SRECs to owners of solar electric power
43 generation facility projects certified by the board, in consultation
44 with the Department of Environmental Protection, as being located
45 on a brownfield, on an area of historic fill or on a properly closed
46 sanitary landfill facility, including those owned or operated by an
47 electric public utility and approved pursuant to section 13 of
48 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this

1 subsection shall be considered "connected to the distribution system
2 **[".**"] shall not require such designation by the board, and shall not
3 be subject to board review required pursuant to subsections q. and r.
4 of this section. Notwithstanding the provisions of section 3 of
5 P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
6 order to the contrary, for projects certified under this subsection, the
7 board shall establish a financial incentive that is designed to
8 supplement the SRECs generated by the facility in order to cover
9 the additional cost of constructing and operating a solar electric
10 power generation facility on a brownfield, on an area of historic fill
11 or on a properly closed sanitary landfill facility. Any financial
12 benefit realized in relation to a project owned or operated by an
13 electric public utility and approved by the board pursuant to section
14 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
15 financial incentive established by the board pursuant to this
16 subsection, shall be credited to ratepayers. The issuance of SRECs
17 for all solar electric power generation facility projects pursuant to
18 this subsection shall be deemed "Board of Public Utilities financial
19 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
20 29.47).

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

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

45 (b) the person did not discharge the hazardous substance, is not
46 in any way responsible for the hazardous substance, and is not a
47 successor to the discharger or to any person in any way responsible
48 for the hazardous substance or to anyone liable for cleanup and

1 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
2 23.11g);

3 (c) the person, within 30 days after acquisition of the property,
4 gave notice of the discharge to the Department of Environmental
5 Protection in a manner the Department of Environmental Protection
6 prescribes;

7 (d) the person does not disrupt or change, without prior written
8 permission from the Department of Environmental Protection, any
9 engineering or institutional control that is part of a remedial action
10 for the contaminated site or any landfill closure or post-closure
11 requirement;

12 (e) the person does not exacerbate the contamination at the
13 property;

14 (f) the person does not interfere with any necessary remediation
15 of the property;

16 (g) the person complies with any regulations and any permit the
17 Department of Environmental Protection issues pursuant to section
18 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
19 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

20 (h) with respect to an area of historic fill, the person has
21 demonstrated pursuant to a preliminary assessment and site
22 investigation, that hazardous substances have not been discharged;
23 and

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

30 Only the person who is liable to clean up and remove the
31 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
32 23.11g) and who does not have a defense to liability pursuant to
33 subsection d. of that section shall be liable for cleanup and removal
34 costs.

35 u. No more than 180 days after the date of enactment of
36 P.L.2012, c.24, the board shall complete a proceeding to establish a
37 registration program. The registration program shall require the
38 owners of solar electric power generation facility projects
39 connected to the distribution system to make periodic milestone
40 filings with the board in a manner and at such times as determined
41 by the board to provide full disclosure and transparency regarding
42 the overall level of development and construction activity of those
43 projects Statewide.

44 v. The issuance of SRECs for all solar electric power
45 generation facility projects pursuant to this section, for projects
46 connected to the distribution system with a capacity of one
47 megawatt or greater, shall be deemed "Board of Public Utilities

1 financial assistance" as provided pursuant to section 1 of P.L.2009,
2 c.89 (C.48:2-29.47).

3 w. No more than 270 days after the date of enactment of
4 P.L.2012, c.24, the board shall, after notice and opportunity for
5 public comment and public hearing, complete a proceeding to
6 consider whether to establish a program to provide, to owners of
7 solar electric power generation facility projects certified by the
8 board as being three megawatts or greater in capacity and being net
9 metered, including facilities which are owned or operated by an
10 electric public utility and approved by the board pursuant to section
11 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
12 designed to supplement the SRECs generated by the facility to
13 further the goal of improving the economic competitiveness of
14 commercial and industrial customers taking power from such
15 projects. If the board determines to establish such a program
16 pursuant to this subsection, the board may establish a financial
17 incentive to provide that the board shall issue one SREC for no less
18 than every 750 kilowatt-hours of solar energy generated by the
19 certified projects. Any financial benefit realized in relation to a
20 project owned or operated by an electric public utility and approved
21 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
22 98.1), as a result of the provisions of a financial incentive
23 established by the board pursuant to this subsection, shall be
24 credited to ratepayers.

25 x. Solar electric power generation facility projects that are
26 located on an existing or proposed commercial, retail, industrial,
27 municipal, professional, recreational, transit, commuter,
28 entertainment complex, multi-use, or mixed-use parking lot with a
29 capacity to park 350 or more vehicles where the area to be utilized
30 for the facility is paved, or an impervious surface may be owned or
31 operated by an electric public utility and may be approved by the
32 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

33 y. (1) No more than 180 days after the date of enactment of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 the board shall, in consultation with the Department of Agriculture,
36 and, after notice and opportunity for public comment and public
37 hearing, complete a proceeding to create a program to (a) provide
38 credits issued under the permanent successor to the SREC program
39 established by the board pursuant to paragraph (3) of subsection d.
40 of this section to the owner of a dual-use solar energy project
41 located on unpreserved farmland and (b) establish a process for
42 projects to be certified by the board, in consultation with the
43 Department of Agriculture, as eligible for such credits pursuant to
44 this subsection, including those owned or operated by an electric
45 public utility and approved pursuant to section 13 of P.L.2007,
46 c.340 (C.48:3-98.1).

47 A dual-use solar energy project approved pursuant to section 1
48 of P.L. , c. (C.) (pending before the Legislature as this bill)

1 and certified pursuant to this subsection shall be considered
2 "connected to the distribution system," shall not require such
3 designation by the board, and shall not be subject to board review
4 required pursuant to subsections q. and r. of this section.

5 Any financial benefit realized by an electric public utility
6 pursuant to this subsection shall be credited to ratepayers. The
7 issuance of credits under the permanent successor to the SREC
8 program established by the board pursuant to paragraph (3) of
9 subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87) to a dual-
10 use solar energy project pursuant to this subsection shall be deemed
11 "Board of Public Utilities financial assistance" as provided pursuant
12 to section 1 of P.L.2009, c.89 (C.48:2-29.47).

13 (2) As used in this subsection:

14 "Dual-use solar energy project" means the same as the term is
15 defined in section 1 of P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17 "Unpreserved farmland" means the same as the term is defined
18 in section 1 of P.L. , c. (C.) (pending before the Legislature
19 as this bill).

20 (cf: P.L.2019, c.448, s.1)

21
22 8. Section 5 of P.L.2018, c.17 (C.48:3-87.11) is amended to
23 read as follows:

24 5. a. No later than 210 days after the date of enactment of
25 P.L.2018, c.17 (C.48:3-87.8 et al.), the Board of Public Utilities
26 shall adopt, pursuant to the "Administrative Procedure Act,"
27 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
28 establishing a "Community Solar Energy Pilot Program" to permit
29 customers of an electric public utility to participate in a solar energy
30 project that is remotely located from their properties but is within
31 their electric public utility service territory to allow for a credit to
32 the customer's utility bill equal to the electricity generated that is
33 attributed to the customer's participation in the solar energy project.

34 b. The rules and regulations developed by the board shall
35 establish:

36 (1) a capacity limit for individual solar energy projects to a
37 maximum of five megawatts per project;

38 (2) an annual capacity limit for all solar energy projects under
39 the pilot program;

40 (3) geographic limitations for solar energy projects and
41 participating customers;

42 (4) a minimum number of participating customers for each solar
43 energy project;

44 (5) the value of the credit on each participating customer's bill;

45 (6) standards to limit the land use impact of a solar energy
46 project as required in subsection r. of section 38 of P.L.1999, c.23
47 (C.48:3-87);

- 1 (7) the provision of access to solar energy projects for low and
2 moderate income customers;
- 3 (8) standards to ensure the ability of residential and commercial
4 customers to participate in solar energy projects, including
5 residential customers in multifamily housing;
- 6 (9) standards for connection to the distribution system of an
7 electric public utility; and
- 8 (10) provisions to minimize impacts to the distribution system
9 of an electric public utility.
- 10 c. The board shall make available on its Internet website
11 information on solar energy projects whose owners are seeking
12 participants.
- 13 d. The board shall establish standards and an application
14 process for owners of solar energy projects who wish to be included
15 in the Community Solar Energy Pilot Program. The standards for
16 the Community Solar Energy Pilot Program shall include, but need
17 not be limited to, a verification process to ensure that the solar
18 energy projects are producing an amount of energy that is greater
19 than or equal to the amount of energy that is being credited to its
20 participating customer's electric utility bills pursuant to subsection
21 b. of this section, and consumer protection measures. Projects
22 approved by the board shall have at least two participating
23 customers.
- 24 The board may restrict qualified solar energy projects to those
25 located on brownfields, landfills, areas designated in need of
26 redevelopment, in underserved communities, or on commercial
27 rooftops , except that, notwithstanding the provisions of this
28 subsection to the contrary, the board shall consider a dual-use solar
29 energy project constructed, installed, operated, and approved
30 pursuant to section 1 of P.L. , c. (C.) (pending before the
31 Legislature as this bill) as a qualified solar energy project provided
32 all other standards established pursuant to this section are met .
- 33 e. Subject to review by the board, an electric public utility shall
34 be entitled to full and timely cost recovery for all costs incurred in
35 implementation and compliance with this section.
- 36 f. No later than 36 months after adoption of the rules and
37 regulations required pursuant to subsection b. of this section, the
38 board shall adopt rules and regulations, pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), to convert the Community Solar Energy Pilot Program to a
41 permanent program. The board shall adopt rules and regulations for
42 the permanent program that set forth standards for projects owned
43 by electric public utilities, special purpose entities, and nonprofit
44 entities. The rules and regulations shall also:
- 45 (1) limit the capacity of each solar energy project to a maximum
46 of five megawatts;

1 (2) establish a goal for the development of at least 50 megawatts
2 of solar energy projects per year, taking into account any changes to
3 the SREC program;

4 (3) set geographic limitations for solar energy projects and
5 participating customers;

6 (4) provide for a minimum number of participating customers
7 for each solar energy project;

8 (5) require the provision of access to solar energy projects for
9 low and moderate income customers;

10 (6) establish standards to ensure the ability of residential and
11 commercial customers to participate in solar energy projects,
12 including residential customers in multifamily housing;

13 (7) establish a method for determining the value of the credit on
14 each participating customer's bill;

15 (8) establish timeframes for the credit available to the customer;

16 (9) establish standards and methods to verify solar electric
17 energy generation on a monthly basis for a solar energy project;

18 (10) establish standards consistent with the land use provisions
19 for solar energy projects as provided in subsections r., s., and t. of
20 section 38 of P.L.1999, c.23 (C.48:3-87);

21 (11) establish standards, fees, and uniform procedures for solar
22 energy projects to be connected to the distribution system of an
23 electric public utility;

24 (12) minimize impacts to the distribution system of an electric
25 public utility;

26 (13) require monthly reporting requirements for the operators of
27 solar energy projects to the electric public utility, project customers,
28 and the board;

29 (14) require reporting by the electric public utility to the
30 operator of a solar energy project on the value of credits to the
31 participating customer's bills; and

32 (15) require transferability, portability, and buy-out provisions
33 for customers who participate in community solar energy projects.

34 g. As used in this section:

35 "Dual-use solar energy project" means the same as the term is
36 defined in section 1 of P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38 "Solar energy project" means a system containing one or more
39 solar panels and associated equipment.

40 "Solar panel" means an elevated panel or plate, or a canopy or
41 array thereof, that captures and converts solar radiation to produce
42 electric power, and is approved by the board to be included in the
43 Community Solar Energy Pilot Program.

44 "Solar power" includes flat plate, focusing solar collectors, or
45 photovoltaic solar cells and excludes the base or foundation of the
46 panel, plate, canopy, or array.

47 (cf: P.L.2018, c.17, s.5)

1 the establishment of reasonable application fees to pay for the cost
2 of review of the application; and provisions prescribing standards
3 concerning impervious cover which may be permitted in connection
4 with dual-use solar energy projects.

5 Further, the bill would provide that land on which a dual-use
6 solar energy project constructed and approved pursuant to the bill
7 would be eligible for farmland assessment, subject to certain
8 conditions, including that: (1) the dual-use solar energy project is
9 located on unpreserved farmland that is continuing to be in
10 operation as a farm in the tax year for which farmland assessment is
11 applied for; (2) in the tax year preceding the construction,
12 installation, and operation of the dual-use solar energy project, the
13 acreage used for the dual-use solar energy project was valued,
14 assessed, and taxed as land in agricultural or horticultural use; (3)
15 the land on which the dual-use solar energy project is located
16 continues to be actively devoted to agricultural and horticultural
17 use, and meets the income requirements set forth in law for
18 farmland assessment; and (4) the Department of Agriculture's
19 approval issued for the dual-use solar energy project pursuant to
20 section 1 of the bill has not been suspended or revoked. In addition,
21 the bill provides that no generated energy from a dual-use solar
22 energy project would be considered an agricultural or horticultural
23 product, and no income from any power sold from the dual-use
24 solar energy project would be considered income for the purposes
25 of eligibility for farmland assessment.

26 Under current law, to be eligible for farmland assessment, the
27 amount of acreage devoted to the solar energy generation facilities,
28 structures, and equipment may does not exceed 10 acres and, if
29 power is being generated, no more than two megawatts of power
30 may be generated. This bill eliminates these restrictions for a dual-
31 use solar energy project on unpreserved farmland approved and
32 constructed pursuant to the bill.

33 The bill would require the Division of Taxation, in consultation
34 with the Department of Agriculture and the BPU, to adopt rules and
35 regulations as may be necessary for the implementation and
36 administration of the bill, and to incorporate information
37 concerning dual-use solar energy projects into the guidelines
38 provided and the continuing education course offered to municipal
39 tax assessors, county assessors, county tax administrators, and other
40 appropriate local government officials.

41 The bill also would amend section 1 of P.L.2009, c.213 (C.4:1C-
42 32.4), which allows an owner of preserved farmland to construct,
43 install, and operate biomass, solar, or wind energy facilities,
44 structures, and equipment on the farm, whether on the preserved or
45 unpreserved portion of the farm, for the purpose of generating
46 power or heat, and to make improvements to any agricultural,
47 residential, or other building or structure on the land for that
48 purpose, subject to certain conditions. Under current law, these

1 conditions include that the biomass, solar, or wind energy
2 generation facilities, structures, and equipment: (1) cannot interfere
3 significantly with the use of the land for agricultural or horticulture
4 production, as determined by the SADC; (2) are, or will be under a
5 specialized agreement, owned by the landowner; (3) are used to
6 provide power or heat to the farm, either directly or indirectly, or to
7 reduce, through net metering or similar programs and systems,
8 energy costs on the farm; and (4) are limited in annual energy
9 generation capacity to the previous calendar year's energy demand
10 plus 10 percent, in addition to certain other allowances. This bill
11 would delete, for solar energy generation facilities, structures, and
12 equipment: (1) the requirement in current law that requires energy
13 generation facilities, structures, and equipment on agricultural lands
14 either be owned by the landowner or that the landowner uses the
15 income or credits realized from the biomass, solar, or wind energy
16 generation to purchase the facilities, structures, or equipment, and
17 (2) the requirement for the owner to only sell energy via net
18 metering or as otherwise permitted under a specialized agreement
19 with an installer whereby the landowner uses the income or credits
20 realized from the solar energy generation activities to purchase the
21 solar energy generating facilities, structures, or equipment. The bill
22 does not change any other requirements set forth in law concerning
23 the amount of acreage and the energy generation capacity of
24 biomass, solar, or wind energy generation facilities, structures, and
25 equipment located on preserved farmland.

26 The bill also amends the "Electric Discount and Energy
27 Competition Act" (EDECA), P.L.1999, c.23 (C.48:3-49 et al.), to
28 direct the BPU to establish a program to provide credits issued
29 under the permanent successor to the solar renewable energy
30 certificate (SREC) program established by the BPU pursuant to law
31 to the owner of a dual-use solar energy project located on
32 unpreserved farmland that is certified by the board, in consultation
33 with the Department of Agriculture, including those owned or
34 operated by an electric public utility and approved pursuant to
35 section 13 of P.L.2007, c.340 (C.48:3-98.1). This would enable the
36 owners of dual-use solar energy projects constructed on
37 unpreserved farmland pursuant to the bill to be eligible for SRECs.
38 The bill further provides that a dual-use solar energy project
39 approved pursuant to the bill would be considered "connected to the
40 distribution system," without requiring certain other review by the
41 BPU.

42 Lastly, the bill amends the law establishing the Community Solar
43 Energy Pilot Program to provide that dual-use solar energy projects
44 constructed pursuant to the bill would be considered qualified solar
45 energy projects for the purposes of that program. Under current
46 law, the BPU may restrict qualified solar energy projects to those
47 located on brownfields, landfills, areas designated in need of

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- 1 redevelopment, in underserved communities, or on commercial
- 2 rooftops.