

ASSEMBLY AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 5434**

**STATE OF NEW JERSEY**

DATED: JUNE 22, 2021

The Assembly Agriculture Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 5434.

This committee substitute would direct the Board of Public Utilities (BPU), in consultation with the Secretary of Agriculture, to establish a "Dual-Use Solar Energy Pilot Program" (pilot program) to permit the construction, installation, and operation of dual-use solar energy projects that are connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit and located on unpreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

The bill defines "dual-use solar energy project" to mean the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unpreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production. A dual-use solar energy project would need to be approved by the BPU prior to its construction, installation, and operation, and the bill requires the BPU to consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the pilot program.

The bill would direct the BPU to adopt rules and regulations to establish the pilot program no later than 180 days after the bill's enactment. The bill would stipulate that an individual dual-use solar energy project could not be greater than 10 megawatts in size, and that the total power produced by all dual-use solar energy projects in the pilot program could not exceed 200 megawatts (except that this limit could be increased if the BPU extends the pilot program, as described below). In addition, the bill would direct the BPU to establish financial incentives available to dual-use solar energy projects under the pilot program.

The bill would establish certain restrictions on where dual-use solar energy projects participating in the pilot program could be sited, as enumerated in subsection b. of section 1 of the bill. Projects would be restricted from being sited on certain prime farmlands. In addition,

projects would be restricted from being sited on certain ecologically sensitive areas, unless granted a waiver by the BPU, including the Pinelands preservation area, the Highlands preservation area, and certain forests and wetlands. The bill would also direct the BPU to adopt certain technical standards, requirements, and application criteria, as enumerated in subsections b. and c. of section 1 of the bill.

The pilot program would continue for 36 months, under the bill, after which time the BPU would be authorized to extend the pilot program for a maximum of two additional 12-month periods. The BPU would also be authorized to increase the overall power limit of the pilot program by 50 megawatts each time it extends the program. The bill would provide that a project approved under the pilot program would be considered a permitted use in every municipality.

After the termination of the pilot program, the bill would direct the BPU to adopt rules and regulations to establish a permanent dual-use solar energy program, which take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy projects in New Jersey. The bill would establish certain guidelines for the permanent program, as enumerated in subsection f. of section 1 of the bill.

The bill would provide that land on which a dual-use solar energy project constructed and approved pursuant to the pilot program would be eligible for farmland assessment, subject to certain conditions, which are enumerated in subsection b. of section 2 of the bill. In addition, the bill would provide that no generated energy from a dual-use solar energy project would be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment. The bill would require the Division of Taxation, in consultation with the Secretary of Agriculture and the BPU, to adopt rules and regulations to implement the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

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