

SENATE, No. 3484

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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 unpreserved farmland.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2021)

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

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 (6) the owner of the land, or the person undertaking the dual-use
2 solar energy project, as applicable, obtains all necessary permits
3 and other approvals as may be required pursuant to federal, State, or
4 local law, rule, regulation, or ordinance.

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

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

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

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

32 f. As used in this section:

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

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

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

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

1 actively devoted to agricultural or horticultural use for the purposes
2 of the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-
3 23.1 et seq.), except as provided in this section.

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

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

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

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

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

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

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

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

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

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

46 e. As used in this section:

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

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

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

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

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

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

36 b. Process and package the agricultural output of the
37 commercial farm;

38 c. Provide for the operation of a farm market, including the
39 construction of building and parking areas in conformance with
40 municipal standards;

41 d. Replenish soil nutrients and improve soil tilth;

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

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

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

1 h. Conduct agriculture-related educational and farm-based
2 recreational activities provided that the activities are related to
3 marketing the agricultural or horticultural output of the commercial
4 farm;

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

10 (2) Engage in a dual-use solar energy project pursuant to section
11 1 of P.L. , c. (C.) (pending before the Legislature as this
12 bill), provided that the dual-use solar energy project complies with
13 all applicable provisions of law and rules and regulations adopted
14 pursuant thereto ; and

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

19 (cf: P.L.2009, c.213, s.2)

20
21 4. Section 3 of P.L.2009, c.213 (C.4:1C-9.2) is amended to
22 read as follows:

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

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

29 (2) agricultural management practices for biomass energy
30 generation on commercial farms, including, but not necessarily
31 limited to, standards for the management of odor, dust, and noise ;
32 and

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

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

42 c. Notwithstanding any provision of this section or subsection
43 i. of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the
44 construction, installation, or operation of any biomass, solar, or
45 wind energy generation facility, structure, or equipment in the
46 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 d. For the purposes of this section and subsection i. of section 6
4 of P.L.1983, c.31 (C.4:1C-9), “biomass” means an agricultural crop,
5 crop residue, or agricultural byproduct that is cultivated, harvested,
6 or produced on the commercial farm and which can be used to
7 generate energy in a sustainable manner, and “dual-use solar
8 energy project” means the same as the term is defined in section 1
9 of P.L. , c. (C.) (pending before the Legislature as this
10 bill) .

11 (cf: P.L.2009, c.213, s.3)

12

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

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

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

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

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

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

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

5 b. The limit on the annual energy generation capacity
6 established pursuant to subparagraph (a) of paragraph (4) of
7 subsection a. of this section shall not include energy generated from
8 facilities, structures, or equipment existing on the roofs of buildings
9 or other structures on the farm as of the date of enactment of
10 P.L.2009, c.213 (C.4:1C-32.4 et al.).

11 c. A landowner shall seek and obtain the approval of the
12 committee before constructing, installing, and operating biomass,
13 solar, or wind energy generation facilities, structures, and
14 equipment on the farm as allowed pursuant to subsection a. of this
15 section. The committee shall provide the holder of any
16 development easement on the farm with a copy of the application
17 submitted for the purposes of subsection a. of this section, and the
18 holder of the development easement shall have 30 days within
19 which to provide comments to the committee on the application.
20 The committee shall, within 90 days of receipt, approve,
21 disapprove, or approve with conditions an application submitted for
22 the purposes of subsection a. of this section. The decision of the
23 committee on the application shall be based solely upon the criteria
24 listed in subsection a. of this section and comments received from
25 the holder of the development easement.

26 d. No fee shall be charged of the landowner for review of an
27 application submitted to, or issuance of a decision by, the
28 committee pursuant to this section.

29 e. The committee may suspend or revoke an approval issued
30 pursuant to this section for a violation of any term or condition of
31 the approval or any provision of this section.

32 f. The committee, in consultation with the Department of
33 Environmental Protection and the Department of Agriculture, shall
34 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
35 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the
36 implementation of this section, including provisions prescribing
37 standards concerning impervious cover which may be permitted in
38 connection with biomass, solar, or wind energy generation
39 facilities, structures, and equipment authorized to be constructed,
40 installed, and operated on lands pursuant to this section.

41 g. In the case of biomass energy generation facilities,
42 structures, or equipment, the landowner shall also seek and obtain
43 the approval of the Department of Agriculture as required pursuant
44 to section 5 of P.L.2009, c.213 (C.4:1C-32.5) if the land is valued,
45 assessed, and taxed pursuant to the “Farmland Assessment Act of
46 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

47 h. Notwithstanding any provision of this section to the
48 contrary, the construction, installation, or operation of any biomass,

1 solar, or wind energy generation facility, structure, or equipment in
2 the pinelands area, as defined and regulated by the “Pinelands
3 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply
4 with the standards of P.L.1979, c.111 and the comprehensive
5 management plan for the pinelands area adopted pursuant to
6 P.L.1979, c.111.

7 i. For the purposes of this section:

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

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

14 “Preserved farmland” means land on which a development
15 easement was conveyed to, or retained by, the committee, a board,
16 or a qualifying tax exempt nonprofit organization pursuant to the
17 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
18 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
19 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
20 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
21 other State law enacted for farmland preservation purposes.

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

23

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

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

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

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

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

45 (2) in the tax year preceding the construction, installation, and
46 operation of the biomass, solar, or wind energy generation facilities,
47 structures, and equipment on an operating farm, the acreage used
48 for the biomass, solar, or wind energy generation facilities,

1 structures, and equipment was valued, assessed and taxed as land in
2 agricultural or horticultural use;

3 (3) the power or heat generated by the biomass, solar, or wind
4 energy generation facilities, structures, and equipment is used to
5 provide, either directly or indirectly but not necessarily exclusively,
6 power or heat to the farm or agricultural or horticultural operations
7 supporting the viability of the farm;

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

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

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

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

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

37 c. No income from any power or heat sold from the biomass,
38 solar, or wind energy generation may be considered income for
39 eligibility for valuation, assessment and taxation of land pursuant to
40 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
41 23.1 et seq.), and, notwithstanding the provisions of that act, or any
42 rule or regulation adopted pursuant thereto, to the contrary, there
43 shall be no income requirement for property valued, assessed and
44 taxed pursuant to subsection b. of this section.

45 d. Notwithstanding any provision of this section, section 3 of
46 P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48
47 (C.54:4-23.4) to the contrary, the construction, installation, or
48 operation of any biomass, solar, or wind energy generation facility,

1 structure, or equipment in the pinelands area, as defined and
2 regulated by the “Pinelands Protection Act,” P.L.1979, c.111
3 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979,
4 c.111 and the comprehensive management plan for the pinelands
5 area adopted pursuant to P.L.1979, c.111.

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

11 f. For the purposes of this section:

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

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

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

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

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

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

44

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

47 38. a. The board shall require an electric power supplier or
48 basic generation service provider to disclose on a customer's bill or

1 on customer contracts or marketing materials, a uniform, common
2 set of information about the environmental characteristics of the
3 energy purchased by the customer, including, but not limited to:

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

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

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

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

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

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

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

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

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

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

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

46 (2) By July 1, 2009, the board shall adopt, pursuant to the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), a greenhouse gas emissions portfolio standard to mitigate

1 leakage or another regulatory mechanism to mitigate leakage
2 applicable to all electric power suppliers and basic generation
3 service providers that provide electricity to customers within the
4 State. The greenhouse gas emissions portfolio standard or any other
5 regulatory mechanism to mitigate leakage shall:

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

18 (b) Exempt the provision of basic generation service pursuant to
19 a basic generation service purchase and sale agreement effective
20 prior to the date of the regulation.

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

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

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

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

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

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

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

42	EY 2011	306 Gigawatthours (Gwhrs)
43	EY 2012	442 Gwhrs
44	EY 2013	596 Gwhrs
45	EY 2014	2.050%
46	EY 2015	2.450%
47	EY 2016	2.750%
48	EY 2017	3.000%

1	EY 2018	3.200%
2	EY 2019	4.300%
3	EY 2020	4.900%
4	EY 2021	5.100%
5	EY 2022	5.100%
6	EY 2023	5.100%
7	EY 2024	4.900%
8	EY 2025	4.800%
9	EY 2026	4.500%
10	EY 2027	4.350%
11	EY 2028	3.740%
12	EY 2029	3.070%
13	EY 2030	2.210%
14	EY 2031	1.580%
15	EY 2032	1.400%
16	EY 2033	1.100%

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

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

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

- 1 - establish and update market-based maximum incentive
2 payment caps periodically for each of the above categories of solar
3 electric power generation facilities;
- 4 - encourage and facilitate market-based cost recovery through
5 long-term contracts and energy market sales; and
- 6 - where cost recovery is needed for any portion of an efficient
7 solar electric power generation facility when costs are not
8 recoverable through wholesale market sales and direct payments
9 from customers, utilize competitive processes such as competitive
10 procurement and long-term contracts where possible to ensure such
11 recovery, without exceeding the maximum incentive payment cap
12 for that category of facility.

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

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

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

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

45 (c) The solar renewable portfolio standards requirements in this
46 paragraph shall exempt those existing supply contracts which are
47 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
48 87.8 et al.) from any increase beyond the number of SRECs

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

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

25 The renewable energy portfolio standards adopted by the board
26 pursuant to paragraphs (1) and (2) of this subsection shall be
27 effective as regulations immediately upon filing with the Office of
28 Administrative Law and shall be effective for a period not to exceed
29 18 months, and may, thereafter, be amended, adopted or readopted
30 by the board in accordance with the provisions of the
31 "Administrative Procedure Act."

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

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

46 The percentage established by the board pursuant to this
47 paragraph shall serve as an offset to the renewable energy portfolio
48 standard established pursuant to paragraph (2) of this subsection

1 and shall reduce the corresponding Class I renewable energy
2 requirement.

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

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

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

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

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

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

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

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

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

39 (4) net metering aggregation standards to require electric public
40 utilities to provide net metering aggregation to single electric public
41 utility customers that operate a solar electric power generation
42 system installed at one of the customer's facilities or on property
43 owned by the customer, provided that any such customer is a State
44 entity, school district, county, county agency, county authority,
45 municipality, municipal agency, or municipal authority. The
46 standards shall provide that, in order to qualify for net metering
47 aggregation, the customer must operate a solar electric power
48 generation system using a net metering billing account, which

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

1 timely recovered in a manner to be determined by the board. The
2 board shall adopt net metering aggregation standards within 270
3 days after the effective date of P.L.2012, c.24.

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

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

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

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

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

1 contracting with another entity for the performance of the
2 requirements.

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

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

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

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

1 k. The board may allow electric public utilities to offer long-
2 term contracts through a competitive process, direct electric public
3 utility investment and other means of financing, including but not
4 limited to loans, for the purchase of SRECs and the resale of SRECs
5 to suppliers or providers or others, provided that after such
6 contracts have been approved by the board, the board's approvals
7 shall not be modified by subsequent board orders. If the board
8 allows the offering of contracts pursuant to this subsection, the
9 board may establish a process, after hearing, and opportunity for
10 public comment, to provide that a designated segment of the
11 contracts approved pursuant to this subsection shall be contracts
12 involving solar electric power generation facility projects with a
13 capacity of up to 250 kilowatts.

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

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

19 (2) maintain adequate regulatory authority over non-competitive
20 public utility services;

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

23 (4) promote energy efficiency and Class I renewable energy
24 market development, taking into consideration environmental
25 benefits and market barriers;

26 (5) make energy services more affordable for low and moderate
27 income customers;

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

31 (7) achieve the goals put forth under the renewable energy
32 portfolio standards;

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

34 (9) allow all market segments to participate.

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

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

1 o. The board, in consultation with the Department of
2 Environmental Protection, electric public utilities, the Division of
3 Rate Counsel in, but not of, the Department of the Treasury,
4 affected members of the solar energy industry, and relevant
5 stakeholders, shall periodically consider increasing the renewable
6 energy portfolio standards beyond the minimum amounts set forth
7 in subsection d. of this section, taking into account the cost impacts
8 and public benefits of such increases including, but not limited to:

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

11 (2) reductions in peak demand for electricity and natural gas,
12 and the overall impact on the costs to customers of electricity and
13 natural gas;

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

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

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

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

1 to this subsection but does not enter commercial operation pursuant
2 to paragraph (2) of this subsection.

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

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

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

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

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

1 (b) the approval of the designation of the proposed facility
2 would not significantly impact the preservation of open space in
3 this State;

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

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

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

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

40 t. (1) No more than 180 days after the date of enactment of
41 P.L.2012, c.24, the board shall, in consultation with the Department
42 of Environmental Protection and the New Jersey Economic
43 Development Authority, and, after notice and opportunity for public
44 comment and public hearing, complete a proceeding to establish a
45 program to provide SRECs to owners of solar electric power
46 generation facility projects certified by the board, in consultation
47 with the Department of Environmental Protection, as being located
48 on a brownfield, on an area of historic fill or on a properly closed

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

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

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

1 (b) the person did not discharge the hazardous substance, is not
2 in any way responsible for the hazardous substance, and is not a
3 successor to the discharger or to any person in any way responsible
4 for the hazardous substance or to anyone liable for cleanup and
5 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
6 23.11g);

7 (c) the person, within 30 days after acquisition of the property,
8 gave notice of the discharge to the Department of Environmental
9 Protection in a manner the Department of Environmental Protection
10 prescribes;

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

16 (e) the person does not exacerbate the contamination at the
17 property;

18 (f) the person does not interfere with any necessary remediation
19 of the property;

20 (g) the person complies with any regulations and any permit the
21 Department of Environmental Protection issues pursuant to section
22 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
23 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

24 (h) with respect to an area of historic fill, the person has
25 demonstrated pursuant to a preliminary assessment and site
26 investigation, that hazardous substances have not been discharged;
27 and

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

34 Only the person who is liable to clean up and remove the
35 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
36 23.11g) and who does not have a defense to liability pursuant to
37 subsection d. of that section shall be liable for cleanup and removal
38 costs.

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

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

7 w. No more than 270 days after the date of enactment of
8 P.L.2012, c.24, the board shall, after notice and opportunity for
9 public comment and public hearing, complete a proceeding to
10 consider whether to establish a program to provide, to owners of
11 solar electric power generation facility projects certified by the
12 board as being three megawatts or greater in capacity and being net
13 metered, including facilities which are owned or operated by an
14 electric public utility and approved by the board pursuant to section
15 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
16 designed to supplement the SRECs generated by the facility to
17 further the goal of improving the economic competitiveness of
18 commercial and industrial customers taking power from such
19 projects. If the board determines to establish such a program
20 pursuant to this subsection, the board may establish a financial
21 incentive to provide that the board shall issue one SREC for no less
22 than every 750 kilowatt-hours of solar energy generated by the
23 certified projects. Any financial benefit realized in relation to a
24 project owned or operated by an electric public utility and approved
25 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
26 98.1), as a result of the provisions of a financial incentive
27 established by the board pursuant to this subsection, shall be
28 credited to ratepayers.

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

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

1 public utility and approved pursuant to section 13 of P.L.2007,
2 c.340 (C.48:3-98.1).

3 A dual-use solar energy project approved pursuant to section 1
4 of P.L. , c. (C.) (pending before the Legislature as this bill)
5 and certified pursuant to this subsection shall be considered
6 "connected to the distribution system," shall not require such
7 designation by the board, and shall not be subject to board review
8 required pursuant to subsections q. and r. of this section.

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

17 (2) As used in this subsection:

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

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

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

25

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

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

38 b. The rules and regulations developed by the board shall
39 establish:

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

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

44 (3) geographic limitations for solar energy projects and
45 participating customers;

46 (4) a minimum number of participating customers for each solar
47 energy project;

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

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

4 (7) the provision of access to solar energy projects for low and
5 moderate income customers;

6 (8) standards to ensure the ability of residential and commercial
7 customers to participate in solar energy projects, including
8 residential customers in multifamily housing;

9 (9) standards for connection to the distribution system of an
10 electric public utility; and

11 (10) provisions to minimize impacts to the distribution system of
12 an electric public utility.

13 c. The board shall make available on its Internet website
14 information on solar energy projects whose owners are seeking
15 participants.

16 d. The board shall establish standards and an application
17 process for owners of solar energy projects who wish to be included
18 in the Community Solar Energy Pilot Program. The standards for
19 the Community Solar Energy Pilot Program shall include, but need
20 not be limited to, a verification process to ensure that the solar
21 energy projects are producing an amount of energy that is greater
22 than or equal to the amount of energy that is being credited to its
23 participating customer's electric utility bills pursuant to subsection
24 b. of this section, and consumer protection measures. Projects
25 approved by the board shall have at least two participating
26 customers.

27 The board may restrict qualified solar energy projects to those
28 located on brownfields, landfills, areas designated in need of
29 redevelopment, in underserved communities, or on commercial
30 rooftops , except that, notwithstanding the provisions of this
31 subsection to the contrary, the board shall consider a dual-use solar
32 energy project constructed, installed, operated, and approved
33 pursuant to section 1 of P.L. , c. (C.) (pending before the
34 Legislature as this bill) as a qualified solar energy project provided
35 all other standards established pursuant to this section are met .

36 e. Subject to review by the board, an electric public utility shall
37 be entitled to full and timely cost recovery for all costs incurred in
38 implementation and compliance with this section.

39 f. No later than 36 months after adoption of the rules and
40 regulations required pursuant to subsection b. of this section, the
41 board shall adopt rules and regulations, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), to convert the Community Solar Energy Pilot Program to a
44 permanent program. The board shall adopt rules and regulations for
45 the permanent program that set forth standards for projects owned
46 by electric public utilities, special purpose entities, and nonprofit
47 entities. The rules and regulations shall also:

- 1 (1) limit the capacity of each solar energy project to a maximum
- 2 of five megawatts;
- 3 (2) establish a goal for the development of at least 50 megawatts
- 4 of solar energy projects per year, taking into account any changes to
- 5 the SREC program;
- 6 (3) set geographic limitations for solar energy projects and
- 7 participating customers;
- 8 (4) provide for a minimum number of participating customers
- 9 for each solar energy project;
- 10 (5) require the provision of access to solar energy projects for
- 11 low and moderate income customers;
- 12 (6) establish standards to ensure the ability of residential and
- 13 commercial customers to participate in solar energy projects,
- 14 including residential customers in multifamily housing;
- 15 (7) establish a method for determining the value of the credit on
- 16 each participating customer's bill;
- 17 (8) establish timeframes for the credit available to the customer;
- 18 (9) establish standards and methods to verify solar electric
- 19 energy generation on a monthly basis for a solar energy project;
- 20 (10) establish standards consistent with the land use provisions
- 21 for solar energy projects as provided in subsections r., s., and t. of
- 22 section 38 of P.L.1999, c.23 (C.48:3-87);
- 23 (11) establish standards, fees, and uniform procedures for solar
- 24 energy projects to be connected to the distribution system of an
- 25 electric public utility;
- 26 (12) minimize impacts to the distribution system of an electric
- 27 public utility;
- 28 (13) require monthly reporting requirements for the operators of
- 29 solar energy projects to the electric public utility, project customers,
- 30 and the board;
- 31 (14) require reporting by the electric public utility to the operator
- 32 of a solar energy project on the value of credits to the participating
- 33 customer's bills; and
- 34 (15) require transferability, portability, and buy-out provisions
- 35 for customers who participate in community solar energy projects.
- 36 g. As used in this section:
- 37 "Dual-use solar energy project" means the same as the term is
- 38 defined in section 1 of P.L. , c. (C.) (pending before the
- 39 Legislature as this bill).
- 40 "Solar energy project" means a system containing one or more
- 41 solar panels and associated equipment.
- 42 "Solar panel" means an elevated panel or plate, or a canopy or
- 43 array thereof, that captures and converts solar radiation to produce
- 44 electric power, and is approved by the board to be included in the
- 45 Community Solar Energy Pilot Program.
- 46 "Solar power" includes flat plate, focusing solar collectors, or

1 photovoltaic solar cells and excludes the base or foundation of the
2 panel, plate, canopy, or array.

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

4

5 9. This act shall take effect immediately, except that section 2
6 of this act shall be applicable to tax years commencing after the
7 date of enactment of this act.

8

9

10 STATEMENT

11

12 This bill revises and supplements the law concerning certain
13 solar energy generation projects located on farmland.

14 This bill would allow an owner of unreserved farmland that is
15 valued, assessed, and taxed pursuant to the “Farmland Assessment
16 Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), (i.e., receives
17 farmland assessment) to construct, install, and operate a dual-use
18 solar energy project on the farmland and continue to receive
19 farmland assessment subject to certain conditions set forth in the
20 bill. The bill defines “dual-use solar energy project” as the energy
21 generation facilities, structures, and equipment for the production of
22 less than 10 megawatts of electric power from solar photovoltaic
23 panels located on land in agricultural or horticultural production
24 that allow the continued use of the land below the panels to
25 simultaneously be used for agricultural or horticultural production.

26 To be eligible under the bill, the owner of the unreserved
27 farmland would be required to obtain the approval of the
28 Department of Agriculture, in addition to any other approvals that
29 may be required pursuant to federal, State or local law, rule,
30 regulation, or ordinance, prior to the construction of the dual-use
31 solar energy project. The bill would prohibit a dual-use solar
32 energy project from being located: on preserved farmland; within
33 the preservation area of the pinelands area; with an area designated
34 as forest area in the pinelands comprehensive management; in
35 wetlands; or within the Highlands preservation area. In addition,
36 the land owner would be required to file a conservation plan with
37 the soil conservation district to account for the aesthetic,
38 impervious coverage, and environmental impacts of the dual-use
39 solar energy project, including, but not limited to, water recapture
40 and filtration, and the conservation plan would require approval by
41 the district, and to comply with agricultural management practices
42 adopted by the State Agriculture Development Committee (SADC).

43 Prior to constructing, installing, and operating a dual-use solar
44 energy facility, the landowner would be required to apply to the
45 Department of Agriculture for approval and the department, in
46 consultation with the Board of Public Utilities (BPU) would be
47 required to, within 90 days after receipt, approve, disapprove, or
48 approve with conditions the application. The bill directs the

1 Department of Agriculture, in consultation with the SADC, the
2 BPU, and the Department of Environmental Protection, to adopt
3 rules and regulations, including, but not limited to: the process by
4 which a landowner may apply for the approval required by the bill;
5 the establishment of reasonable application fees to pay for the cost
6 of review of the application; and provisions prescribing standards
7 concerning impervious cover which may be permitted in connection
8 with dual-use solar energy projects.

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

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

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

45 The bill also would amend section 1 of P.L.2009, c.213 (C.4:1C-
46 32.4), which allows an owner of preserved farmland to construct,
47 install, and operate biomass, solar, or wind energy facilities,
48 structures, and equipment on the farm, whether on the preserved or

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

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

46 Lastly, the bill amends the law establishing the Community Solar
47 Energy Pilot Program to provide that dual-use solar energy projects
48 constructed pursuant to the bill would be considered qualified solar

1 energy projects for the purposes of that program. Under current
2 law, the BPU may restrict qualified solar energy projects to those
3 located on brownfields, landfills, areas designated in need of
4 redevelopment, in underserved communities, or on commercial
5 rooftops.