

SENATE, No. 2444

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED OCTOBER 9, 2014

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Establishes renewable energy portfolio standards.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning renewable energy and amending P.L.1999,
2 c.23.

3

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

6

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

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

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

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

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

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

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

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

36 (3) A uniform emissions disclosure format that is graphic in
37 nature and easily understandable by consumers. The board shall
38 periodically review the disclosure requirements to determine if
39 revisions to the environmental disclosure system as implemented
40 are necessary.

41 Such standards shall be effective as regulations immediately
42 upon filing with the Office of Administrative Law and shall be
43 effective for a period not to exceed 18 months, and may, thereafter,
44 be amended, adopted or readopted by the board in accordance with
45 the provisions of the **["Administrative Procedure Act."]**
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

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 seq.)

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

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

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

12 (2) By July 1, 2009, the board shall adopt, pursuant to the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), a greenhouse gas emissions portfolio standard to mitigate
15 leakage or another regulatory mechanism to mitigate leakage
16 applicable to all electric power suppliers and basic generation
17 service providers that provide electricity to customers within the
18 State. The greenhouse gas emissions portfolio standard or any other
19 regulatory mechanism to mitigate leakage shall:

20 (a) Allow a transition period, either before or after the effective
21 date of the regulation to mitigate leakage, for a basic generation
22 service provider or electric power supplier to either meet the
23 emissions portfolio standard or other regulatory mechanism to
24 mitigate leakage, or to transfer any customer to a basic generation
25 service provider or electric power supplier that meets the emissions
26 portfolio standard or other regulatory mechanism to mitigate
27 leakage. If the transition period allowed pursuant to this
28 subparagraph occurs after the implementation of an emissions
29 portfolio standard or other regulatory mechanism to mitigate
30 leakage, the transition period shall be no longer than three years;
31 and

32 (b) Exempt the provision of basic generation service pursuant to
33 a basic generation service purchase and sale agreement effective
34 prior to the date of the regulation.

35 Unless the Attorney General or the Attorney General's designee
36 determines that a greenhouse gas emissions portfolio standard
37 would unconstitutionally burden interstate commerce or would be
38 preempted by federal law, the adoption by the board of an electric
39 energy efficiency portfolio standard pursuant to subsection g. of this
40 section, a gas energy efficiency portfolio standard pursuant to
41 subsection h. of this section, or any other enhanced energy
42 efficiency policies to mitigate leakage shall not be considered
43 sufficient to fulfill the requirement of this subsection for the
44 adoption of a greenhouse gas emissions portfolio standard or any
45 other regulatory mechanism to mitigate leakage.

46 d. Notwithstanding any provisions of the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
48 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public
2 hearing, renewable energy portfolio standards that shall require:

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

7 (2) beginning on January 1, 2001, that one-half of one percent
8 of the kilowatt hours sold in this State by each electric power
9 supplier and each basic generation service provider be from Class I
10 renewable energy sources. The board shall increase the required
11 percentage for Class I renewable energy sources so that by January
12 1, 2006, one percent of the kilowatt hours sold in this State by each
13 electric power supplier and each basic generation service provider
14 shall be from Class I renewable energy sources and shall
15 additionally increase the required percentage for Class I renewable
16 energy sources by one-half of one percent each year until January 1,
17 2012, when four percent of the kilowatt hours sold in this State by
18 each electric power supplier and each basic generation service
19 provider shall be from Class I renewable energy sources. Consistent
20 with federal law, the following percentage of kilowatt-hours sold in
21 this State by each electric power supplier and each basic generation
22 service provider shall be from in-State, Class I renewable energy
23 sources:

24	<u>EY 2015</u>	<u>11%</u>
25	<u>EY 2020</u>	<u>20%</u>
26	<u>EY 2025</u>	<u>30%</u>
27	<u>EY 2030</u>	<u>40%</u>
28	<u>EY 2035</u>	<u>50%</u>
29	<u>EY 2040</u>	<u>60%</u>
30	<u>EY 2045</u>	<u>70%</u>
31	<u>EY 2050</u>	<u>80%.</u>

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

36 (3) that the board establish a multi-year schedule, applicable to
37 each electric power supplier or basic generation service provider in
38 this State, beginning with the one-year period commencing on June
39 1, 2010, and continuing for each subsequent one-year period up to
40 and including, the one-year period commencing on **[June 1, 2028]**
41 June 1, 2030, the following number or percentage, as the case may
42 be, of kilowatt-hours sold in this State by each electric power
43 supplier and each basic generation service provider to be from solar
44 electric power generators connected to the distribution system in
45 this State:

46	EY 2011	306 Gigawatthours (Gwhrs)
47	EY 2012	442 Gwhrs
48	EY 2013	596 Gwhrs

1	EY 2014	2.050%
2	EY 2015	2.450%
3	EY 2016	2.750%
4	EY 2017	[3.000%] <u>3.265%</u>
5	EY 2018	[3.200%] <u>3.671%</u>
6	EY 2019	[3.290%] <u>4.077%</u>
7	EY 2020	[3.380%] <u>4.523%</u>
8	EY 2021	[3.470%] <u>5.043%</u>
9	EY 2022	[3.560%] <u>5.692%</u>
10	EY 2023	[3.650%] <u>6.423%</u>
11	EY 2024	[3.740%] <u>7.234%</u>
12	EY 2025	[3.830%] <u>8.168%</u>
13	EY 2026	[3.920%] <u>9.223%</u>
14	EY 2027	[4.010%] <u>10.319%</u>
15	<u>EY 2028</u>	<u>11.455%</u>
16	<u>EY 2029</u>	<u>12.632%</u>

17 **[EY 2028 4.100%]** EY 2030 13.849%, and for every energy year
 18 thereafter, at least **[4.100%]** 13.849% per energy year to reflect an
 19 increasing number of kilowatt-hours to be purchased by suppliers or
 20 providers from solar electric power generators connected to the
 21 distribution system in this State, and to establish a framework
 22 within which, of the electricity that the generators sell in this State,
 23 suppliers and providers shall each obtain at least **[3.470%]** 5.043%
 24 in the energy year 2021 and **[4.100%]** 13.849% in the energy year
 25 **[2028]** 2030 from solar electric power generators connected to the
 26 distribution system in this State, provided, however, that:

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

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

38 (c) The solar renewable portfolio standards requirements in this
 39 paragraph shall exempt those existing supply contracts which are
 40 effective prior to the date of enactment of **[P.L.2012, c.24]** P.L. _____,
 41 c. _____ (C. _____) (pending before the Legislature as this bill) from any
 42 increase beyond the number of SRECs mandated by the solar
 43 renewable portfolio standards requirements that were in effect on
 44 the date that the providers executed their existing supply contracts.
 45 This limited exemption for providers' existing supply contracts shall
 46 not be construed to lower the Statewide solar sourcing requirements

1 set forth in this paragraph. Such incremental requirements that
2 would have otherwise been imposed on exempt providers shall be
3 distributed over the providers not subject to the existing supply
4 contract exemption until such time as existing supply contracts
5 expire and all providers are subject to the new requirement in a
6 manner that is competitively neutral among all providers and
7 suppliers. The board shall implement the provisions of this
8 subsection in a manner so as to prevent any subsidies between
9 suppliers and providers and to promote competition in the
10 electricity supply industry.

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

18 The renewable energy portfolio standards adopted by the board
19 pursuant to paragraphs (1) and (2) of this subsection shall be
20 effective as regulations immediately upon filing with the Office of
21 Administrative Law and shall be effective for a period not to exceed
22 18 months, and may, thereafter, be amended, adopted or readopted
23 by the board in accordance with the provisions of the
24 **["Administrative Procedure Act."]** "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.).

26 The renewable energy portfolio standards adopted by the board
27 pursuant to this paragraph shall be effective as regulations
28 immediately upon filing with the Office of Administrative Law and
29 shall be effective for a period not to exceed 30 months after such
30 filing, and shall, thereafter, be amended, adopted or readopted by
31 the board in accordance with the **["Administrative Procedure Act"]**
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.); and

34 (4) within 180 days after the date of enactment of P.L.2010,
35 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
36 renewable energy certificate program to require that a percentage of
37 the kilowatt hours sold in this State by each electric power supplier
38 and each basic generation service provider be from offshore wind
39 energy in order to support at least **[1,100]** 3,000 megawatts of
40 generation from qualified offshore wind projects by 2030, and
41 4,500 megawatts of generation from qualified offshore wind
42 projects by 2050.

43 The percentage established by the board pursuant to this
44 paragraph shall serve as an offset to the renewable energy portfolio
45 standard established pursuant to paragraphs (1) and (2) of this
46 subsection and shall reduce the corresponding Class I renewable
47 energy requirement.

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

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

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

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

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

1 compensated for any remaining credits or, if the customer-generator
2 chooses, credit the customer-generator on a real-time basis, at the
3 electric power supplier's or basic generation service provider's
4 avoided cost of wholesale power or the PJM electric power pool's
5 real-time locational marginal pricing rate, adjusted for losses, for
6 the respective zone in the PJM electric power pool. Alternatively,
7 the customer-generator may execute a bilateral agreement with an
8 electric power supplier or basic generation service provider for the
9 sale and purchase of the customer-generator's excess generation.
10 The customer-generator may be credited on a real-time basis, so
11 long as the customer-generator follows applicable rules prescribed
12 by the PJM electric power pool for its capacity requirements for the
13 net amount of electricity supplied by the electric power supplier or
14 basic generation service provider. The board may authorize an
15 electric power supplier or basic generation service provider to cease
16 offering net metering whenever the total rated generating capacity
17 owned and operated by net metering customer-generators Statewide
18 equals 2.5 percent of the State's peak electricity demand;

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

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

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

34 (4) net metering aggregation standards to require electric public
35 utilities to provide net metering aggregation to single electric public
36 utility customers that operate a solar electric power generation
37 system installed at one of the customer's facilities or on property
38 owned by the customer, provided that any such customer is a State
39 entity, school district, county, county agency, county authority,
40 municipality, municipal agency, or municipal authority. The
41 standards shall provide that, in order to qualify for net metering
42 aggregation, the customer must operate a solar electric power
43 generation system using a net metering billing account, which
44 system is located on property owned by the customer, provided that:
45 (a) the property is not land that has been actively devoted to
46 agricultural or horticultural use and that is valued, assessed, and
47 taxed pursuant to the "Farmland Assessment Act of 1964,"
48 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year

1 period prior to the effective date of P.L.2012, c.24, provided,
2 however, that the municipal planning board of a municipality in
3 which a solar electric power generation system is located may
4 waive the requirement of this subparagraph (a), (b) the system is not
5 an on-site generation facility, (c) all of the facilities of the single
6 customer combined for the purpose of net metering aggregation are
7 facilities owned or operated by the single customer and are located
8 within its territorial jurisdiction except that all of the facilities of a
9 State entity engaged in net metering aggregation shall be located
10 within five miles of one another, and (d) all of those facilities are
11 within the service territory of a single electric public utility and are
12 all served by the same basic generation service provider or by the
13 same electric power supplier. The standards shall provide that in
14 order to qualify for net metering aggregation, the customer's solar
15 electric power generation system shall be sized so that its annual
16 generation does not exceed the combined metered annual energy
17 usage of the qualified customer facilities, and the qualified
18 customer facilities shall all be in the same customer rate class under
19 the applicable electric public utility tariff. For the customer's
20 facility or property on which the solar electric generation system is
21 installed, the electricity generated from the customer's solar electric
22 generation system shall be accounted for pursuant to the provisions
23 of paragraph (1) of this subsection to provide that the electricity
24 generated in excess of the electricity supplied by the electric power
25 supplier or the basic generation service provider, as the case may
26 be, for the customer's facility on which the solar electric generation
27 system is installed, over the annualized period, is credited at the
28 electric power supplier's or the basic generation service provider's
29 avoided cost of wholesale power or the PJM electric power pool
30 real-time locational marginal pricing rate. All electricity used by
31 the customer's qualified facilities, with the exception of the facility
32 or property on which the solar electric power generation system is
33 installed, shall be billed at the full retail rate pursuant to the electric
34 public utility tariff applicable to the customer class of the customer
35 using the electricity. A customer may contract with a third party to
36 operate a solar electric power generation system, for the purpose of
37 net metering aggregation. Any contractual relationship entered into
38 for operation of a solar electric power generation system related to
39 net metering aggregation shall include contractual protections that
40 provide for adequate performance and provision for construction
41 and operation for the term of the contract, including any appropriate
42 bonding or escrow requirements. Any incremental cost to an
43 electric public utility for net metering aggregation shall be fully and
44 timely recovered in a manner to be determined by the board. The
45 board shall adopt net metering aggregation standards within 270
46 days after the effective date of P.L.2012, c.24.

47 Such rules shall require the board or its designee to issue a credit
48 or other incentive to those generators that do not use a net meter but

1 otherwise generate electricity derived from a Class I renewable
2 energy source and to issue an enhanced credit or other incentive,
3 including, but not limited to, a solar renewable energy credit, to
4 those generators that generate electricity derived from solar
5 technologies.

6 Such standards or rules shall be effective as regulations
7 immediately upon filing with the Office of Administrative Law and
8 shall be effective for a period not to exceed 18 months, and may,
9 thereafter, be amended, adopted or readopted by the board in
10 accordance with the provisions of the ["Administrative Procedure
11 Act."] "Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-
12 1 et seq.).

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

25 g. The board may adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
27 energy efficiency portfolio standard that may require each electric
28 public utility to implement energy efficiency measures that reduce
29 electricity usage in the State by 2020 to a level that is 20 percent
30 below the usage projected by the board in the absence of such a
31 standard. Nothing in this section shall be construed to prevent an
32 electric public utility from meeting the requirements of this section
33 by contracting with another entity for the performance of the
34 requirements.

35 h. The board may adopt, pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
37 efficiency portfolio standard that may require each gas public utility
38 to implement energy efficiency measures that reduce natural gas
39 usage for heating in the State by 2020 to a level that is 20 percent
40 below the usage projected by the board in the absence of such a
41 standard. Nothing in this section shall be construed to prevent a gas
42 public utility from meeting the requirements of this section by
43 contracting with another entity for the performance of the
44 requirements.

45 i. After the board establishes a schedule of solar kilowatt-hour
46 sale or purchase requirements pursuant to paragraph (3) of
47 subsection d. of this section, the board may initiate subsequent
48 proceedings and adopt, after appropriate notice and opportunity for

1 public comment and public hearing, increased minimum solar
2 kilowatt-hour sale or purchase requirements, provided that the
3 board shall not reduce previously established minimum solar
4 kilowatt-hour sale or purchase requirements, or otherwise impose
5 constraints that reduce the requirements by any means.

6 j. The board shall determine an appropriate level of solar
7 alternative compliance payment, and permit each supplier or
8 provider to submit an SACP to comply with the solar electric
9 generation requirements of paragraph (3) of subsection d. of this
10 section. The value of the SACP for each Energy Year, for Energy
11 Years 2014 through 2028 per megawatt hour from solar electric
12 generation required pursuant to this section, shall be:

13 EY 2014	\$339
14 EY 2015	\$331
15 EY 2016	\$323
16 EY 2017	\$315
17 EY 2018	\$308
18 EY 2019	\$300
19 EY 2020	\$293
20 EY 2021	\$286
21 EY 2022	\$279
22 EY 2023	\$272
23 EY 2024	\$266
24 EY 2025	\$260
25 EY 2026	\$253
26 EY 2027	\$250
27 EY 2028	\$239.

28 The board may initiate subsequent proceedings and adopt, after
29 appropriate notice and opportunity for public comment and public
30 hearing, an increase in solar alternative compliance payments,
31 provided that the board shall not reduce previously established
32 levels of solar alternative compliance payments, nor shall the board
33 provide relief from the obligation of payment of the SACP by the
34 electric power suppliers or basic generation service providers in any
35 form. Any SACP payments collected shall be refunded directly to
36 the ratepayers by the electric public utilities.

37 k. The board may allow electric public utilities to offer long-
38 term contracts through a competitive process, direct electric public
39 utility investment and other means of financing, including but not
40 limited to loans, for the purchase of SRECs and the resale of SRECs
41 to suppliers or providers or others, provided that after such
42 contracts have been approved by the board, the board's approvals
43 shall not be modified by subsequent board orders. If the board
44 allows the offering of contracts pursuant to this subsection, the
45 board may establish a process, after hearing, and opportunity for
46 public comment, to provide that a designated segment of the
47 contracts approved pursuant to this subsection shall be contracts

- 1 involving solar electric power generation facility projects with a
2 capacity of up to 250 kilowatts.
- 3 1. The board shall implement its responsibilities under the
4 provisions of this section in such a manner as to:
- 5 (1) place greater reliance on competitive markets, with the
6 explicit goal of encouraging and ensuring the emergence of new
7 entrants that can foster innovations and price competition;
- 8 (2) maintain adequate regulatory authority over non-competitive
9 public utility services;
- 10 (3) consider alternative forms of regulation in order to address
11 changes in the technology and structure of electric public utilities;
- 12 (4) promote energy efficiency and Class I renewable energy
13 market development, taking into consideration environmental
14 benefits and market barriers;
- 15 (5) make energy services more affordable for low and moderate
16 income customers;
- 17 (6) attempt to transform the renewable energy market into one
18 that can move forward without subsidies from the State or public
19 utilities;
- 20 (7) achieve the goals put forth under the renewable energy
21 portfolio standards;
- 22 (8) promote the lowest cost to ratepayers; and
- 23 (9) allow all market segments to participate.
- 24 m. The board shall ensure the availability of financial incentives
25 under its jurisdiction, including, but not limited to, long-term
26 contracts, loans, SRECs, or other financial support, to ensure
27 market diversity, competition, and appropriate coverage across all
28 ratepayer segments, including, but not limited to, residential,
29 commercial, industrial, non-profit, farms, schools, and public entity
30 customers.
- 31 n. For projects which are owned, or directly invested in, by a
32 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
33 98.1), the board shall determine the number of SRECs with which
34 such projects shall be credited; and in determining such number the
35 board shall ensure that the market for SRECs does not detrimentally
36 affect the development of non-utility solar projects and shall
37 consider how its determination may impact the ratepayers.
- 38 o. The board, in consultation with the Department of
39 Environmental Protection, electric public utilities, the Division of
40 Rate Counsel in, but not of, the Department of the Treasury,
41 affected members of the solar energy industry, and relevant
42 stakeholders, shall periodically consider increasing the renewable
43 energy portfolio standards beyond the minimum amounts set forth
44 in subsection d. of this section, taking into account the cost impacts
45 and public benefits of such increases including, but not limited to:
- 46 (1) reductions in air pollution, water pollution, land disturbance,
47 and greenhouse gas emissions;

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

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

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

8 p. Class I RECs and ORECs shall be eligible for use in
9 renewable energy portfolio standards compliance in the energy year
10 in which they are generated, and for the following two energy years.
11 SRECs shall be eligible for use in renewable energy portfolio
12 standards compliance in the energy year in which they are
13 generated, and for the following four energy years.

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

41 (2) If the proposed solar electric power generation facility does
42 not commence commercial operations within two years following
43 the date of the designation by the board pursuant to this subsection,
44 the designation of the facility shall be deemed to be null and void,
45 and the facility shall not be considered connected to the distribution
46 system thereafter.

47 r. (1) For all proposed solar electric power generation facility
48 projects except for those solar electric power generation facility

1 projects approved pursuant to subsection q. of this section, and for
2 all projects proposed in each energy year following energy year
3 2016, a proposed solar electric power generation facility that is
4 neither net metered nor an on-site generation facility, may be
5 considered "connected to the distribution system" only upon
6 designation as such by the board, after notice to the public and
7 opportunity for public comment or hearing. A proposed solar
8 power electric generation facility seeking board designation as
9 "connected to the distribution system" shall submit an application to
10 the board that includes for the proposed facility: the nameplate
11 capacity; the estimated energy and number of SRECs to be
12 produced and sold per year; the estimated annual rate impact on
13 ratepayers; the estimated capacity of the generator as defined by
14 PJM for sale in the PJM capacity market; the point of
15 interconnection; the total project acreage and location; the current
16 land use designation of the property; the type of solar technology to
17 be used; and such other information as the board shall require.

18 (2) The board shall approve the designation of the proposed
19 solar power electric generation facility as "connected to the
20 distribution system" if the board determines that:

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

24 (b) the approval of the designation of the proposed facility
25 would not significantly impact the preservation of open space in
26 this State;

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

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

33 (3) The board shall act within 90 days of its receipt of a
34 completed application for designation of a solar power electric
35 generation facility as "connected to the distribution system," to
36 either approve, conditionally approve, or disapprove the
37 application. If the proposed solar electric power generation facility
38 does not commence commercial operations within two years
39 following the date of the designation by the board pursuant to this
40 subsection, the designation of the facility as "connected to the
41 distribution system" shall be deemed to be null and void, and the
42 facility shall thereafter be considered not "connected to the
43 distribution system."

44 s. In addition to any other requirements of P.L.1999, c.23 or
45 any other law, rule, regulation or order, a solar electric power
46 generation facility that is not net metered or an on-site generation
47 facility and which is located on land that has been actively devoted
48 to agricultural or horticultural use that is valued, assessed, and

1 taxed pursuant to the "Farmland Assessment Act of 1964,"
2 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
3 period prior to the effective date of P.L.2012, c.24, shall only be
4 considered "connected to the distribution system" if (1) the board
5 approves the facility's designation pursuant to subsection q. of this
6 section; or (2) (a) PJM issued a System Impact Study for the facility
7 on or before June 30, 2011, (b) the facility files a notice with the
8 board within 60 days of the effective date of P.L.2012,
9 c.24, indicating its intent to qualify under this subsection, and (c)
10 the facility has been approved as "connected to the distribution
11 system" by the board. Nothing in this subsection shall limit the
12 board's authority concerning the review and oversight of facilities,
13 unless such facilities are exempt from such review as a result of
14 having been approved pursuant to subsection q. of this section.

15 t. (1) No more than 180 days after the date of enactment of
16 P.L.2012, c.24, the board shall, in consultation with the Department
17 of Environmental Protection and the New Jersey Economic
18 Development Authority, and, after notice and opportunity for public
19 comment and public hearing, complete a proceeding to establish a
20 program to provide SRECs to owners of solar electric power
21 generation facility projects certified by the board, in consultation
22 with the Department of Environmental Protection, as being located
23 on a brownfield, on an area of historic fill or on a properly closed
24 sanitary landfill facility, including those owned or operated by an
25 electric public utility and approved pursuant to section 13 of
26 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
27 subsection shall be considered "connected to the distribution
28 system", shall not require such designation by the board, and shall
29 not be subject to board review required pursuant to subsections q.
30 and r. of this section. Notwithstanding the provisions of section 3
31 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
32 order to the contrary, for projects certified under this subsection, the
33 board shall establish a financial incentive that is designed to
34 supplement the SRECs generated by the facility in order to cover
35 the additional cost of constructing and operating a solar electric
36 power generation facility on a brownfield, on an area of historic fill
37 or on a properly closed sanitary landfill facility. Any financial
38 benefit realized in relation to a project owned or operated by an
39 electric public utility and approved by the board pursuant to section
40 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
41 financial incentive established by the board pursuant to this
42 subsection, shall be credited to ratepayers. The issuance of SRECs
43 for all solar electric power generation facility projects pursuant to
44 this subsection shall be deemed "Board of Public Utilities financial
45 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
46 29.47).

47 (2) Notwithstanding the provisions of the "Spill Compensation
48 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any

1 other law, rule, regulation, or order to the contrary, the board, in
2 consultation with the Department of Environmental Protection, may
3 find that a person who operates a solar electric power generation
4 facility project that has commenced operation on or after the
5 effective date of P.L.2012, c.24, which project is certified by the
6 board, in consultation with the Department of Environmental
7 Protection pursuant to paragraph (1) of this subsection, as being
8 located on a brownfield for which a final remediation document has
9 been issued, on an area of historic fill or on a properly closed
10 sanitary landfill facility, which projects shall include, but not be
11 limited to projects located on a brownfield for which a final
12 remediation document has been issued, on an area of historic fill or
13 on a properly closed sanitary landfill facility owned or operated by
14 an electric public utility and approved pursuant to section 13 of
15 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
16 acquired on or after the effective date of P.L.2012, c.24 on which
17 such a solar electric power generation facility project is constructed
18 and operated, shall not be liable for cleanup and removal costs to
19 the Department of Environmental Protection or to any other person
20 for the discharge of a hazardous substance provided that:

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

23 (b) the person did not discharge the hazardous substance, is not
24 in any way responsible for the hazardous substance, and is not a
25 successor to the discharger or to any person in any way responsible
26 for the hazardous substance or to anyone liable for cleanup and
27 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
28 23.11g);

29 (c) the person, within 30 days after acquisition of the property,
30 gave notice of the discharge to the Department of Environmental
31 Protection in a manner the Department of Environmental Protection
32 prescribes;

33 (d) the person does not disrupt or change, without prior written
34 permission from the Department of Environmental Protection, any
35 engineering or institutional control that is part of a remedial action
36 for the contaminated site or any landfill closure or post-closure
37 requirement;

38 (e) the person does not exacerbate the contamination at the
39 property;

40 (f) the person does not interfere with any necessary remediation
41 of the property;

42 (g) the person complies with any regulations and any permit the
43 Department of Environmental Protection issues pursuant to section
44 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
45 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

46 (h) with respect to an area of historic fill, the person has
47 demonstrated pursuant to a preliminary assessment and site

1 investigation, that hazardous substances have not been discharged;
2 and

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

9 Only the person who is liable to clean up and remove the
10 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
11 23.11g) and who does not have a defense to liability pursuant to
12 subsection d. of that section shall be liable for cleanup and removal
13 costs.

14 u. No more than 180 days after the date of enactment of
15 P.L.2012, c.24, the board shall complete a proceeding to establish a
16 registration program. The registration program shall require the
17 owners of solar electric power generation facility projects
18 connected to the distribution system to make periodic milestone
19 filings with the board in a manner and at such times as determined
20 by the board to provide full disclosure and transparency regarding
21 the overall level of development and construction activity of those
22 projects Statewide.

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

29 w. No more than 270 days after the date of enactment of
30 P.L.2012, c.24, the board shall, after notice and opportunity for
31 public comment and public hearing, complete a proceeding to
32 consider whether to establish a program to provide, to owners of
33 solar electric power generation facility projects certified by the
34 board as being three megawatts or greater in capacity and being net
35 metered, including facilities which are owned or operated by an
36 electric public utility and approved by the board pursuant to section
37 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
38 designed to supplement the SRECs generated by the facility to
39 further the goal of improving the economic competitiveness of
40 commercial and industrial customers taking power from such
41 projects. If the board determines to establish such a program
42 pursuant to this subsection, the board may establish a financial
43 incentive to provide that the board shall issue one SREC for no less
44 than every 750 kilowatt-hours of solar energy generated by the
45 certified projects. Any financial benefit realized in relation to a
46 project owned or operated by an electric public utility and approved
47 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
48 98.1), as a result of the provisions of a financial incentive

1 established by the board pursuant to this subsection, shall be
2 credited to ratepayers.

3 x. Solar electric power generation facility projects that are
4 located on an existing or proposed commercial, retail, industrial,
5 municipal, professional, recreational, transit, commuter,
6 entertainment complex, multi-use, or mixed-use parking lot with a
7 capacity to park 350 or more vehicles where the area to be utilized
8 for the facility is paved, or an impervious surface may be owned or
9 operated by an electric public utility and may be approved by the
10 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
11 (cf: P.L.2012, c.24, s.2)

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill requires a certain percentage of the electricity sold in
19 this State to be from Class I renewable energy. The percentage of
20 electricity sold in this State that is from Class I renewable energy is
21 to increase once every five energy years between energy years 2015
22 and 2050. Beginning with energy year 2015, 11 percent of the
23 electricity sold in this State is to be from Class I renewable energy.
24 By energy year 2050, 80 percent of the electricity sold in this State
25 is to be from Class I renewable energy. Further, the bill requires a
26 certain percentage of the electricity sold in this State to be from
27 solar energy. By energy year 2030, 13.849% of the electricity sold
28 in this State is to be from solar energy. Class I renewable energy
29 includes solar energy.