# **SENATE, No. 2976**

# STATE OF NEW JERSEY

## 213th LEGISLATURE

INTRODUCED JUNE 22, 2009

Sponsored by: Senator CHRISTOPHER J. CONNORS District 9 (Atlantic, Burlington and Ocean)

## **SYNOPSIS**

Requires BPU to provide funding for purchase and installation of photovoltaic technologies for age-restricted community clubhouse facilities from societal benefits charge.

### **CURRENT VERSION OF TEXT**

As introduced.



**AN ACT** providing for certain energy assistance grants and loans 2 and amending P.L.1999, c.23.

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

- 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read as follows:
  - 3. As used in this act:

"Age-restricted community" means a community that complies with the "housing for older persons" exception from the federal "Fair Housing Amendments Act of 1988," Pub.L.100-430 (42 U.S.C. ss.3601 et seq.) for that community as set forth in section 100.301 of Title 24, Code of Federal Regulations;

"Assignee" means a person to which an electric public utility or another assignee assigns, sells or transfers, other than as security, all or a portion of its right to or interest in bondable transition property. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Basic gas supply service" means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the board;

"Basic generation service" means electric generation service that is provided, pursuant to section 9 of P.L.1999, c.23 (C.48:3-57), to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the board;

"Basic generation service transition costs" means the amount by which the payments by an electric public utility for the procurement of power for basic generation service and related ancillary and administrative costs exceeds the net revenues from the basic generation service charge established by the board pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period, together with interest on the balance at the board-approved rate, that is reflected in a deferred balance account approved by the board in

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

1 an order addressing the electric public utility's unbundled rates, 2 stranded costs, and restructuring filings pursuant to P.L.1999, c.23 3 (C.48:3-49 et al.). Basic generation service transition costs shall 4 include, but are not limited to, costs of purchases from the spot 5 market, bilateral contracts, contracts with non-utility generators, 6 parting contracts with the purchaser of the electric public utility's 7 divested generation assets, short-term advance purchases, and 8 financial instruments such as hedging, forward contracts, and 9 options. Basic generation service transition costs shall also include 10 the payments by an electric public utility pursuant to a competitive 11 procurement process for basic generation service supply during the 12 transition period, and costs of any such process used to procure the 13 basic generation service supply;

"Board" means the New Jersey Board of Public Utilities or any successor agency;

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"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State and local tax liabilities associated with stranded costs recovery or basic generation service transition cost recovery or the transfer or financing of such property or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order or both; and (3) the costs incurred to issue, service or refinance transition bonds, including interest, acquisition or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

"Bondable stranded costs rate order" means one or more irrevocable written orders issued by the board pursuant to P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of bondable stranded costs and the initial amount of transition bond charges authorized to be imposed to recover such bondable stranded costs, including the costs to be financed from the proceeds of the transition bonds, as well as on-going costs associated with servicing and credit enhancing the transition bonds, and provides the electric public utility specific authority to issue or cause to be issued, directly or indirectly, transition bonds through a financing entity

and related matters as provided in P.L.1999, c.23, which order shall become effective immediately upon the written consent of the related electric public utility to such order as provided in P.L.1999, c.23;

"Bondable transition property" means the property consisting of the irrevocable right to charge, collect and receive, and be paid from collections of, transition bond charges in the amount necessary to provide for the full recovery of bondable stranded costs which are determined to be recoverable in a bondable stranded costs rate order, all rights of the related electric public utility under such bondable stranded costs rate order including, without limitation, all rights to obtain periodic adjustments of the related transition bond charges pursuant to subsection b. of section 15 of P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments, money and proceeds arising under, or with respect to, all of the foregoing;

"British thermal unit" or "Btu" means the amount of heat required to increase the temperature of one pound of water by one degree Fahrenheit;

"Broker" means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation service, transmission or other services to end-use retail customers, but does not take title to any of the power sold, or a duly licensed gas supplier that assumes the contractual and legal obligation to provide gas supply service to end-use retail customers, but does not take title to the gas;

"Buydown" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a reduction in the pricing, or the restructuring of other terms to reduce the overall cost of the power contract, for the remaining succeeding period of the purchased power arrangement or arrangements;

"Buyout" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a termination of such power purchase contract;

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner;

"Class II renewable energy" means electric energy produced at a resource recovery facility or hydropower facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities;

"Combined heat and power facility" means a facility which produces electric energy, steam or other forms of useful energy such as heat, which are used for industrial, commercial, heating or cooling purposes;

"Community clubhouse" means an area devoted to facilities and equipment for recreational purposes typically including, but not limited to, swimming pools, tennis courts, resident recreational club meetings, and other similar uses maintained and operated by an agerestricted community whose membership is limited to residents within the age-restricted community;

"Competitive service" means any service offered by an electric public utility or a gas public utility that the board determines to be competitive pursuant to section 8 or section 10 of P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

"Commercial and industrial energy pricing class customer" or "CIEP class customer" means that group of non-residential customers with high peak demand, as determined by periodic board order, which either is eligible or which would be eligible, as determined by periodic board order, to receive funds from the Retail Margin Fund established pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) and for which basic generation service is hourly-priced;

"Comprehensive resource analysis" means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace;

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State;

"Customer account service" means metering, billing, or such other administrative activity associated with maintaining a customer account;

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures on and in the residential, commercial, industrial, institutional and governmental premises and facilities in this State;

"Electric generation service" means the provision of retail electric energy and capacity which is generated off-site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements related thereto;

"Electric power generator" means an entity that proposes to construct, own, lease or operate, or currently owns, leases or operates, an electric power production facility that will sell or does sell at least 90 percent of its output, either directly or through a

marketer, to a customer or customers located at sites that are not on or contiguous to the site on which the facility will be located or is located. The designation of an entity as an electric power generator for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in and of itself, affect the entity's status as an exempt wholesale generator under the Public Utility Holding Company Act of 1935, 15 U.S.C.s.79 et seq.;

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57);

"Electric public utility" means a public utility, as that term is defined in R.S.48:2-13, that transmits and distributes electricity to end users within this State;

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Electronic signature" means an electronic sound, symbol or process, attached to, or logically associated with, a contract or other record, and executed or adopted by a person with the intent to sign the record;

"Energy agent" means a person that is duly registered pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the sale of retail electricity or electric related services or retail gas supply or gas related services between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold;

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator;

"Financing entity" means an electric public utility, a special purpose entity, or any other assignee of bondable transition property, which issues transition bonds. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity which is not itself an electric public utility shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State;

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service;

"Government aggregator" means any government entity subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier or a licensed gas supplier for: (1) the provision of electric generation service, electric related service, gas supply service, or gas related service for its own use or the use of other government aggregators; or (2) if a municipal or county government, the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

"Government energy aggregation program" means a program and procedure pursuant to which a government aggregator enters into a written contract for the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

"Governmental entity" means any federal, state, municipal, local or other governmental department, commission, board, agency, court, authority or instrumentality having competent jurisdiction;

"Market transition charge" means a charge imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public utility, at a level determined by the board, on the electric public

utility customers for a limited duration transition period to recover stranded costs created as a result of the introduction of electric power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes the contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers;

"Net proceeds" means proceeds less transaction and other related costs as determined by the board;

"Net revenues" means revenues less related expenses, including applicable taxes, as determined by the board;

"On-site generation facility" means a generation facility, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An onsite generation facility shall not be considered a public utility. The property of the end use customer and the property on which the onsite generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way;

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity;

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C.s.79 et seq., or its successor; or (2) any person that the Securities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to

1 exercise, either alone or pursuant to an arrangement or 2 understanding with one or more other persons, such a controlling 3 influence over the management or policies of an electric public 4 utility or a gas public utility or public utility holding company as to 5 make it necessary or appropriate in the public interest or for the 6 protection of investors or consumers that such person be subject to 7 the obligations, duties, and liabilities imposed in the Public Utility 8 Holding Company Act of 1935 or its successor;

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"Regulatory asset" means an asset recorded on the books of an electric public utility or gas public utility pursuant to the Statement of Financial Accounting Standards, No. 71, entitled "Accounting for the Effects of Certain Types of Regulation," or any successor standard and as deemed recoverable by the board;

"Related competitive business segment of an electric public utility or gas public utility" means any business venture of an electric public utility or gas public utility including, but not limited to, functionally separate business units, joint ventures, and partnerships, that offers to provide or provides competitive services;

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility;

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse;

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as such costs are determined by the board, and which are not stranded costs as defined in P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information systems, and which shall include expenses related to employees affected by restructuring which result in efficiencies and which result in benefits to ratepayers, such as training or retraining at the level equivalent to one year's training at a vocational or technical school or county community college, the provision of severance pay of two weeks of base pay for each year of full-time employment, and a maximum of 24 months' continued health care coverage. Except as to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs;

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service or basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Retail margin" means an amount, reflecting differences in prices that electric power suppliers and electric public utilities may charge in providing electric generation service and basic generation service, respectively, to retail customers, excluding residential customers, which the board may authorize to be charged to categories of basic generation service customers of electric public utilities in this State, other than residential customers, under the board's continuing regulation of basic generation service pursuant to sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the purpose of promoting a competitive retail market for the supply of electricity;

"Shopping credit" means an amount deducted from the bill of an electric public utility customer to reflect the fact that such customer has switched to an electric power supplier and no longer takes basic generation service from the electric public utility;

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged customers, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls;

"Societal benefits charge" means a charge imposed by an electric public utility, at a level determined by the board, pursuant to, and in accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

"Stranded cost" means the amount by which the net cost of an electric public utility's electric generating assets or electric power purchase commitments, as determined by the board consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the market value of those assets or contractual commitments in a competitive supply marketplace and the costs of buydowns or buyouts of power purchase contracts;

"Stranded costs recovery order" means each order issued by the board in accordance with subsection c. of section 13 of P.L.1999, c.23 (C.48:3-61) which sets forth the amount of stranded costs, if any, the board has determined an electric public utility is eligible to recover and collect in accordance with the standards set forth in section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery mechanisms therefor;

"Thermal efficiency" means the useful electric energy output of a facility, plus the useful thermal energy output of the facility, expressed as a percentage of the total energy input to the facility;

"Transition bond charge" means a charge, expressed as an amount per kilowatt hour, that is authorized by and imposed on electric public utility ratepayers pursuant to a bondable stranded costs rate order, as modified at any time pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Transition bonds" means bonds, notes, certificates of participation or beneficial interest or other evidences of indebtedness or ownership issued pursuant to an indenture, contract or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which are, directly or indirectly, secured by or payable from bondable transition property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities;

"Transition period" means the period from August 1, 1999 through July 31, 2003;

"Transmission and distribution system" means, with respect to an electric public utility, any facility or equipment that is used for the transmission, distribution or delivery of electricity to the customers of the electric public utility including, but not limited to, the land, structures, meters, lines, switches and all other appurtenances thereof and thereto, owned or controlled by the electric public utility within this State; and

"Universal service" means any service approved by the board with the purpose of assisting low-income residential customers in obtaining or retaining electric generation or delivery service.

(cf: P.L.2009, c.34, s.1)

- 2. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:
  - 12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of [this act] P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:
  - (1) The costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of [this act] P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the

- 1 effective date of [this act] P.L.1999, c.23 (C.48:3-49 et al.). The 2 board may subsequently order, pursuant to its rules and regulations, 3 an increase or decrease in the societal benefits charge to reflect 4 changes in the costs to the utility of administering existing social 5 programs. Nothing in [this act] P.L.1999, c.23 shall be construed 6 to abolish or change any social program required by statute or board 7 order or rule or regulation to be provided by an electric public 8 utility. Any such social program shall continue to be provided by 9 the utility until otherwise provided by law, unless the board 10 determines that it is no longer appropriate for the electric public 11 utility to provide the program, or the board chooses to modify the 12 program;
  - (2) Nuclear plant decommissioning costs;

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14 (3) The costs of demand side management programs that were 15 approved by the board pursuant to its demand side management 16 regulations prior to April 30, 1997. For the purpose of establishing 17 initial unbundled rates pursuant to section 4 of [this act] P.L.1999. 18 c.23 (C.48:3-52), the societal benefits charge shall be set to recover 19 the same level of demand side management program costs as is 20 being collected in the bundled rates of the electric public utility on 21 the effective date of [this act] P.L.1999, c.23. Within four months 22 of the effective date of [this act] P.L.1999, c.23, and every four 23 years thereafter, the board shall initiate a proceeding and cause to 24 be undertaken a comprehensive resource analysis of energy 25 programs, and within eight months of initiating such proceeding 26 and after notice, provision of the opportunity for public comment, 27 and public hearing, the board, in consultation with the Department 28 of Environmental Protection, shall determine the appropriate level 29 of funding for energy efficiency and Class I renewable energy 30 programs that provide environmental benefits above and beyond 31 those provided by standard offer or similar programs in effect as of 32 the effective date of [this act] P.L.1999, c.23; provided that the 33 funding for such programs be no less than 50% of the total 34 Statewide amount being collected in public electric and gas utility 35 rates for demand side management programs on the effective date 36 of [this act] P.L.1999, c.23 for an initial period of four years from 37 the issuance of the first comprehensive resource analysis following the effective date of [this act] P.L.1999, c.23, and provided that 38 39 25% of this amount shall be used to provide funding for Class I 40 renewable energy projects in the State. In each of the following 41 fifth through eighth years, the Statewide funding for such programs 42 shall be no less than 50 percent of the total Statewide amount being 43 collected in public electric and gas utility rates for demand side 44 management programs on the effective date of [this act] P.L.1999, 45 c.23, except that as additional funds are made available as a result 46 of the expiration of past standard offer or similar commitments, the 47 minimum amount of funding for such programs shall increase by

an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches \$140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. Such programs shall also include a program to provide grants and low-interest loans to age-restricted communities to cover costs of the purchase and installation of photovoltaic technologies for use in age-restricted community clubhouse facilities.

The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding;

- (4) Manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and
- (5) The cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of [this act] P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of [this act] P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of [this act] P.L.1999, c.23 (C.48:3-85).
- b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds

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1 appropriated to fund the "Lifeline Credit Program" established 2 pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' 3 Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low 4 5 Income Home Energy Assistance Program established pursuant to 6 42 U.S.C. s. 8621 et seq., and funds collected by electric and natural 7 gas utilities, as authorized by the board, to offset uncollectible 8 electricity and natural gas bills should be deposited in the fund; and 9 whether new charges should be imposed to fund new or expanded 10 social programs. 11 (cf: P.L.1999, c.23, s.12)

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3. This act shall take effect on the first day of the third month following enactment, except that the board may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

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#### **STATEMENT**

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This bill would expand the demand side management programs administered by the Board of Public Utilities (the "board) and funded from the societal benefits charge to include grants and lowinterest loans to age-restricted communities to cover costs of the purchase and installation of photovoltaic technologies for use in age-restricted community clubhouse facilities.

The bill defines "age-restricted community" as a community that complies with the "housing for older persons" exception from the federal "Fair Housing Amendments Act of 1988," Pub.L.100-430 (42U.S.C. ss.3601 et seq.) for that community as set forth in section 100.301 of Title 24, Code of Federal Regulations.