

[First Reprint]
SENATE, No. 2420

STATE OF NEW JERSEY
216th LEGISLATURE

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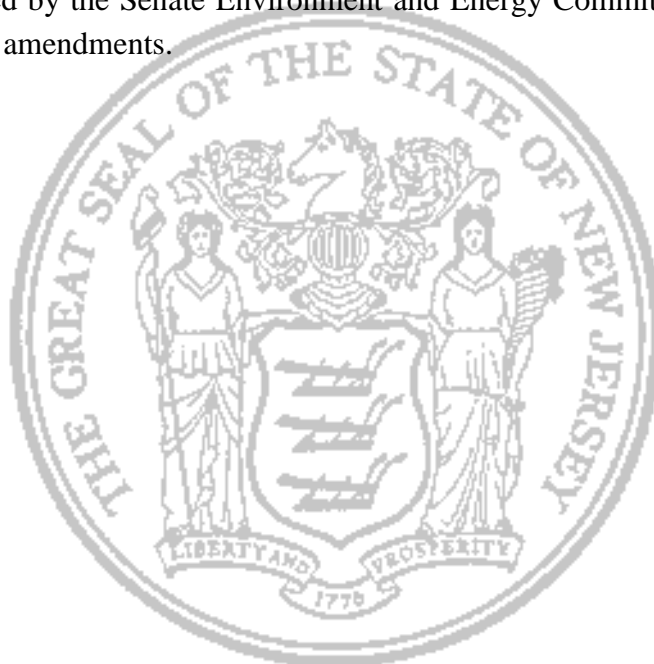
Senator Greenstein

SYNOPSIS

Increases electric power net metering capacity threshold to 4 percent of total annual kilowatt-hours sold in the State.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on October 9, 2014, with amendments.



1 AN ACT concerning electric power net metering and amending
2 P.L.1999, 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."

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted October 9, 2014.

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

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

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

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

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

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

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

45 d. Notwithstanding any provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 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.

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

24 (3) that the board establish a multi-year schedule, applicable to
25 each electric power supplier or basic generation service provider in
26 this State, beginning with the one-year period commencing on June
27 1, 2010, and continuing for each subsequent one-year period up to
28 and including, the one-year period commencing on June 1, 2028,
29 that requires the following number or percentage, as the case may
30 be, of kilowatt-hours sold in this State by each electric power
31 supplier and each basic generation service provider to be from solar
32 electric power generators connected to the distribution system in
33 this State:

34	EY 2011	306 Gigawatthours (Gwhrs)
35	EY 2012	442 Gwhrs
36	EY 2013	596 Gwhrs
37	EY 2014	2.050%
38	EY 2015	2.450%
39	EY 2016	2.750%
40	EY 2017	3.000%
41	EY 2018	3.200%
42	EY 2019	3.290%
43	EY 2020	3.380%
44	EY 2021	3.470%
45	EY 2022	3.560%
46	EY 2023	3.650%
47	EY 2024	3.740%
48	EY 2025	3.830%

1 EY 2026 3.920%

2 EY 2027 4.010%

3 EY 2028 4.100%, and for every energy year thereafter, at least
4 4.100% per energy year to reflect an increasing number of kilowatt-
5 hours to be purchased by suppliers or providers from solar electric
6 power generators connected to the distribution system in this State,
7 and to establish a framework within which, of the electricity that the
8 generators sell in this State, suppliers and providers shall each
9 obtain at least 3.470% in the energy year 2021 and 4.100% in the
10 energy year 2028 from solar electric power generators connected to
11 the distribution system in this State, provided, however, that:

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

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

23 (c) The solar renewable portfolio standards requirements in this
24 paragraph shall exempt those existing supply contracts which are
25 effective prior to the date of enactment of P.L.2012, c.24 from any
26 increase beyond the number of SRECs mandated by the solar
27 renewable portfolio standards requirements that were in effect on
28 the date that the providers executed their existing supply contracts.
29 This limited exemption for providers' existing supply contracts shall
30 not be construed to lower the Statewide solar sourcing requirements
31 set forth in this paragraph. Such incremental requirements that
32 would have otherwise been imposed on exempt providers shall be
33 distributed over the providers not subject to the existing supply
34 contract exemption until such time as existing supply contracts
35 expire and all providers are subject to the new requirement in a
36 manner that is competitively neutral among all providers and
37 suppliers. The board shall implement the provisions of this
38 subsection in a manner so as to prevent any subsidies between
39 suppliers and providers and to promote competition in the
40 electricity supply industry.

41 An electric power supplier or basic generation service provider
42 may satisfy the requirements of this subsection by participating in a
43 renewable energy trading program approved by the board in
44 consultation with the Department of Environmental Protection, or
45 compliance with the requirements of this subsection may be
46 demonstrated to the board by suppliers or providers through the
47 purchase of SRECs.

1 The renewable energy portfolio standards adopted by the board
2 pursuant to paragraphs (1) and (2) of this subsection shall be
3 effective as regulations immediately upon filing with the Office of
4 Administrative Law and shall be effective for a period not to exceed
5 18 months, and may, thereafter, be amended, adopted or readopted
6 by the board in accordance with the provisions of the
7 "Administrative Procedure Act."

8 The renewable energy portfolio standards adopted by the board
9 pursuant to this paragraph shall be effective as regulations
10 immediately upon filing with the Office of Administrative Law and
11 shall be effective for a period not to exceed 30 months after such
12 filing, and shall, thereafter, be amended, adopted or readopted by
13 the board in accordance with the "Administrative Procedure Act";
14 and

15 (4) within 180 days after the date of enactment of P.L.2010,
16 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
17 renewable energy certificate program to require that a percentage of
18 the kilowatt hours sold in this State by each electric power supplier
19 and each basic generation service provider be from offshore wind
20 energy in order to support at least 1,100 megawatts of generation
21 from qualified offshore wind projects.

22 The percentage established by the board pursuant to this
23 paragraph shall serve as an offset to the renewable energy portfolio
24 standard established pursuant to paragraphs (1) and (2) of this
25 subsection and shall reduce the corresponding Class I renewable
26 energy requirement.

27 The percentage established by the board pursuant to this
28 paragraph shall reflect the projected OREC production of each
29 qualified offshore wind project, approved by the board pursuant to
30 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the
31 commercial operation start date of the qualified offshore wind
32 project which production projection and OREC purchase
33 requirement, once approved by the board, shall not be subject to
34 reduction.

35 An electric power supplier or basic generation service provider
36 shall comply with the OREC program established pursuant to this
37 paragraph through the purchase of offshore wind renewable energy
38 certificates at a price and for the time period required by the board.
39 In the event there are insufficient offshore wind renewable energy
40 certificates available, the electric power supplier or basic generation
41 service provider shall pay an offshore wind alternative compliance
42 payment established by the board. Any offshore wind alternative
43 compliance payments collected shall be refunded directly to the
44 ratepayers by the electric public utilities.

45 The rules established by the board pursuant to this paragraph
46 shall be effective as regulations immediately upon filing with the
47 Office of Administrative Law and shall be effective for a period not
48 to exceed 18 months, and may, thereafter, be amended, adopted or

1 readopted by the board in accordance with the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.).

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

9 (1) net metering standards for electric power suppliers and basic
10 generation service providers. The standards shall require electric
11 power suppliers and basic generation service providers to offer net
12 metering at non-discriminatory rates to industrial, large
13 commercial, residential and small commercial customers, as those
14 customers are classified or defined by the board, that generate
15 electricity, on the customer's side of the meter, using a Class I
16 renewable energy source, for the net amount of electricity supplied
17 by the electric power supplier or basic generation service provider
18 over an annualized period. Systems of any sized capacity, as
19 measured in watts, are eligible for net metering. If the amount of
20 electricity generated by the customer-generator, plus any kilowatt
21 hour credits held over from the previous billing periods, exceeds the
22 electricity supplied by the electric power supplier or basic
23 generation service provider, then the electric power supplier or
24 basic generation service provider, as the case may be, shall credit
25 the customer-generator for the excess kilowatt hours until the end of
26 the annualized period at which point the customer-generator will be
27 compensated for any remaining credits or, if the customer-generator
28 chooses, credit the customer-generator on a real-time basis, at the
29 electric power supplier's or basic generation service provider's
30 avoided cost of wholesale power or the PJM electric power pool's
31 real-time locational marginal pricing rate, adjusted for losses, for
32 the respective zone in the PJM electric power pool. Alternatively,
33 the customer-generator may execute a bilateral agreement with an
34 electric power supplier or basic generation service provider for the
35 sale and purchase of the customer-generator's excess generation.
36 The customer-generator may be credited on a real-time basis, so
37 long as the customer-generator follows applicable rules prescribed
38 by the PJM electric power pool for its capacity requirements for the
39 net amount of electricity supplied by the electric power supplier or
40 basic generation service provider. The board may authorize an
41 electric power supplier or basic generation service provider to cease
42 offering net metering ¹to customers that are not already net
43 metered¹ whenever the total rated generating capacity owned and
44 operated by net metering customer-generators Statewide equals
45 **[2.5] ¹[7.5] 4¹** percent of the ¹**[State's peak electricity demand]**
46 total annual kilowatt-hours sold in this State by each electric power
47 supplier and each basic generation service provider during the prior
48 one-year period¹;

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

4 Such standards or rules shall take into consideration the goals of
5 the New Jersey Energy Master Plan, applicable industry standards,
6 and the standards of other states and the Institute of Electrical and
7 Electronic Engineers. The board shall allow electric public utilities
8 to recover the costs of any new net meters, upgraded net meters,
9 system reinforcements or upgrades, and interconnection costs
10 through either their regulated rates or from the net metering
11 customer-generator;

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

16 (4) net metering aggregation standards to require electric public
17 utilities to provide net metering aggregation to single electric public
18 utility customers that operate a solar electric power generation
19 system installed at one of the customer's facilities or on property
20 owned by the customer, provided that any such customer is a State
21 entity, school district, county, county agency, county authority,
22 municipality, municipal agency, or municipal authority. The
23 standards shall provide that, in order to qualify for net metering
24 aggregation, the customer must operate a solar electric power
25 generation system using a net metering billing account, which
26 system is located on property owned by the customer, provided that:
27 (a) the property is not land that has been actively devoted to
28 agricultural or horticultural use and that is valued, assessed, and
29 taxed pursuant to the "Farmland Assessment Act of 1964,"
30 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
31 period prior to the effective date of P.L.2012, c.24, provided,
32 however, that the municipal planning board of a municipality in
33 which a solar electric power generation system is located may
34 waive the requirement of this subparagraph (a), (b) the system is not
35 an on-site generation facility, (c) all of the facilities of the single
36 customer combined for the purpose of net metering aggregation are
37 facilities owned or operated by the single customer and are located
38 within its territorial jurisdiction except that all of the facilities of a
39 State entity engaged in net metering aggregation shall be located
40 within five miles of one another, and (d) all of those facilities are
41 within the service territory of a single electric public utility and are
42 all served by the same basic generation service provider or by the
43 same electric power supplier. The standards shall provide that in
44 order to qualify for net metering aggregation, the customer's solar
45 electric power generation system shall be sized so that its annual
46 generation does not exceed the combined metered annual energy
47 usage of the qualified customer facilities, and the qualified
48 customer facilities shall all be in the same customer rate class

1 under the applicable electric public utility tariff. For the customer's
2 facility or property on which the solar electric generation system is
3 installed, the electricity generated from the customer's solar electric
4 generation system shall be accounted for pursuant to the provisions
5 of paragraph (1) of this subsection to provide that the electricity
6 generated in excess of the electricity supplied by the electric power
7 supplier or the basic generation service provider, as the case may
8 be, for the customer's facility on which the solar electric generation
9 system is installed, over the annualized period, is credited at the
10 electric power supplier's or the basic generation service provider's
11 avoided cost of wholesale power or the PJM electric power pool
12 real-time locational marginal pricing rate. All electricity used by
13 the customer's qualified facilities, with the exception of the facility
14 or property on which the solar electric power generation system is
15 installed, shall be billed at the full retail rate pursuant to the electric
16 public utility tariff applicable to the customer class of the customer
17 using the electricity. A customer may contract with a third party to
18 operate a solar electric power generation system, for the purpose of
19 net metering aggregation. Any contractual relationship entered into
20 for operation of a solar electric power generation system related to
21 net metering aggregation shall include contractual protections that
22 provide for adequate performance and provision for construction
23 and operation for the term of the contract, including any appropriate
24 bonding or escrow requirements. Any incremental cost to an
25 electric public utility for net metering aggregation shall be fully and
26 timely recovered in a manner to be determined by the board. The
27 board shall adopt net metering aggregation standards within 270
28 days after the effective date of P.L.2012, c.24.

29 Such rules shall require the board or its designee to issue a credit
30 or other incentive to those generators that do not use a net meter but
31 otherwise generate electricity derived from a Class I renewable
32 energy source and to issue an enhanced credit or other incentive,
33 including, but not limited to, a solar renewable energy credit, to
34 those generators that generate electricity derived from solar
35 technologies.

36 Such standards or rules shall be effective as regulations
37 immediately upon filing with the Office of Administrative Law and
38 shall be effective for a period not to exceed 18 months, and may,
39 thereafter, be amended, adopted or readopted by the board in
40 accordance with the provisions of the "Administrative Procedure
41 Act."

42 f. The board may assess, by written order and after notice and
43 opportunity for comment, a separate fee to cover the cost of
44 implementing and overseeing an emission disclosure system or
45 emission portfolio standard, which fee shall be assessed based on an
46 electric power supplier's or basic generation service provider's share
47 of the retail electricity supply market. The board shall not impose a
48 fee for the cost of implementing and overseeing a greenhouse gas

1 emissions portfolio standard adopted pursuant to paragraph (2) of
2 subsection c. of this section, the electric energy efficiency portfolio
3 standard adopted pursuant to subsection g. of this section, or the gas
4 energy efficiency portfolio standard adopted pursuant to subsection
5 h. of this section.

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

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

26 i. After the board establishes a schedule of solar kilowatt-hour
27 sale or purchase requirements pursuant to paragraph (3) of
28 subsection d. of this section, the board may initiate subsequent
29 proceedings and adopt, after appropriate notice and opportunity for
30 public comment and public hearing, increased minimum solar
31 kilowatt-hour sale or purchase requirements, provided that the
32 board shall not reduce previously established minimum solar
33 kilowatt-hour sale or purchase requirements, or otherwise impose
34 constraints that reduce the requirements by any means.

35 j. The board shall determine an appropriate level of solar
36 alternative compliance payment, and permit each supplier or
37 provider to submit an SACP to comply with the solar electric
38 generation requirements of paragraph (3) of subsection d. of this
39 section. The value of the SACP for each Energy Year, for Energy
40 Years 2014 through 2028 per megawatt hour from solar electric
41 generation required pursuant to this section, shall be:

42 EY 2014	\$339
43 EY 2015	\$331
44 EY 2016	\$323
45 EY 2017	\$315
46 EY 2018	\$308
47 EY 2019	\$300
48 EY 2020	\$293

1	EY 2021	\$286
2	EY 2022	\$279
3	EY 2023	\$272
4	EY 2024	\$266
5	EY 2025	\$260
6	EY 2026	\$253
7	EY 2027	\$250
8	EY 2028	\$239.

9 The board may initiate subsequent proceedings and adopt, after
10 appropriate notice and opportunity for public comment and public
11 hearing, an increase in solar alternative compliance payments,
12 provided that the board shall not reduce previously established
13 levels of solar alternative compliance payments, nor shall the board
14 provide relief from the obligation of payment of the SACP by the
15 electric power suppliers or basic generation service providers in any
16 form. Any SACP payments collected shall be refunded directly to
17 the ratepayers by the electric public utilities.

18 k. The board may allow electric public utilities to offer long-
19 term contracts through a competitive process, direct electric public
20 utility investment and other means of financing, including but not
21 limited to loans, for the purchase of SRECs and the resale of SRECs
22 to suppliers or providers or others, provided that after such
23 contracts have been approved by the board, the board's approvals
24 shall not be modified by subsequent board orders. If the board
25 allows the offering of contracts pursuant to this subsection, the
26 board may establish a process, after hearing, and opportunity for
27 public comment, to provide that a designated segment of the
28 contracts approved pursuant to this subsection shall be contracts
29 involving solar electric power generation facility projects with a
30 capacity of up to 250 kilowatts.

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

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

36 (2) maintain adequate regulatory authority over non-competitive
37 public utility services;

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

40 (4) promote energy efficiency and Class I renewable energy
41 market development, taking into consideration environmental
42 benefits and market barriers;

43 (5) make energy services more affordable for low and moderate
44 income customers;

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

1 (7) achieve the goals put forth under the renewable energy
2 portfolio standards;

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

4 (9) allow all market segments to participate.

5 m. The board shall ensure the availability of financial incentives
6 under its jurisdiction, including, but not limited to, long-term
7 contracts, loans, SRECs, or other financial support, to ensure
8 market diversity, competition, and appropriate coverage across all
9 ratepayer segments, including, but not limited to, residential,
10 commercial, industrial, non-profit, farms, schools, and public entity
11 customers.

12 n. For projects which are owned, or directly invested in, by a
13 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
14 98.1), the board shall determine the number of SRECs with which
15 such projects shall be credited; and in determining such number the
16 board shall ensure that the market for SRECs does not detrimentally
17 affect the development of non-utility solar projects and shall
18 consider how its determination may impact the ratepayers.

19 o. The board, in consultation with the Department of
20 Environmental Protection, electric public utilities, the Division of
21 Rate Counsel in, but not of, the Department of the Treasury,
22 affected members of the solar energy industry, and relevant
23 stakeholders, shall periodically consider increasing the renewable
24 energy portfolio standards beyond the minimum amounts set forth
25 in subsection d. of this section, taking into account the cost impacts
26 and public benefits of such increases including, but not limited to:

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

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

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

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

36 p. Class I RECs and ORECs shall be eligible for use in
37 renewable energy portfolio standards compliance in the energy year
38 in which they are generated, and for the following two energy years.
39 SRECs shall be eligible for use in renewable energy portfolio
40 standards compliance in the energy year in which they are
41 generated, and for the following four energy years.

42 q. (1) During the energy years of 2014, 2015, and 2016, a solar
43 electric power generation facility project that is not: (a) net
44 metered; (b) an on-site generation facility; (c) qualified for net
45 metering aggregation; or (d) certified as being located on a
46 brownfield, on an area of historic fill or on a properly closed
47 sanitary landfill facility, as provided pursuant to subsection t. of this
48 section may file an application with the board for approval of a

1 designation pursuant to this subsection that the facility is connected
2 to the distribution system. An application filed pursuant to this
3 subsection shall include a notice escrow of \$40,000 per megawatt of
4 the proposed capacity of the facility. The board shall approve the
5 designation if: the facility has filed a notice in writing with the
6 board applying for designation pursuant to this subsection, together
7 with the notice escrow; and the capacity of the facility, when added
8 to the capacity of other facilities that have been previously
9 approved for designation prior to the facility's filing under this
10 subsection, does not exceed 80 megawatts in the aggregate for each
11 year. The capacity of any one solar electric power supply project
12 approved pursuant to this subsection shall not exceed 10 megawatts.
13 No more than 90 days after its receipt of a completed application
14 for designation pursuant to this subsection, the board shall approve,
15 conditionally approve, or disapprove the application. The notice
16 escrow shall be reimbursed to the facility in full upon either
17 rejection by the board or the facility entering commercial operation,
18 or shall be forfeited to the State if the facility is designated pursuant
19 to this subsection but does not enter commercial operation pursuant
20 to paragraph (2) of this subsection.

21 (2) If the proposed solar electric power generation facility does
22 not commence commercial operations within two years following
23 the date of the designation by the board pursuant to this subsection,
24 the designation of the facility shall be deemed to be null and void,
25 and the facility shall not be considered connected to the distribution
26 system thereafter.

27 r. (1) For all proposed solar electric power generation facility
28 projects except for those solar electric power generation facility
29 projects approved pursuant to subsection q. of this section, and for
30 all projects proposed in each energy year following energy year
31 2016, a proposed solar electric power generation facility that is
32 neither net metered nor an on-site generation facility, may be
33 considered "connected to the distribution system" only upon
34 designation as such by the board, after notice to the public and
35 opportunity for public comment or hearing. A proposed solar
36 power electric generation facility seeking board designation as
37 "connected to the distribution system" shall submit an application to
38 the board that includes for the proposed facility: the nameplate
39 capacity; the estimated energy and number of SRECs to be
40 produced and sold per year; the estimated annual rate impact on
41 ratepayers; the estimated capacity of the generator as defined by
42 PJM for sale in the PJM capacity market; the point of
43 interconnection; the total project acreage and location; the current
44 land use designation of the property; the type of solar technology to
45 be used; and such other information as the board shall require.

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

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

4 (b) the approval of the designation of the proposed facility
5 would not significantly impact the preservation of open space in
6 this State;

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

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

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

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

43 t. (1) No more than 180 days after the date of enactment of
44 P.L.2012, c.24, the board shall, in consultation with the Department
45 of Environmental Protection and the New Jersey Economic
46 Development Authority, and, after notice and opportunity for public
47 comment and public hearing, complete a proceeding to establish a
48 program to provide SRECs to owners of solar electric power

1 generation facility projects certified by the board, in consultation
2 with the Department of Environmental Protection, as being located
3 on a brownfield, on an area of historic fill or on a properly closed
4 sanitary landfill facility, including those owned or operated by an
5 electric public utility and approved pursuant to section 13 of
6 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
7 subsection shall be considered "connected to the distribution
8 system", shall not require such designation by the board, and shall
9 not be subject to board review required pursuant to subsections q.
10 and r. of this section. Notwithstanding the provisions of section 3
11 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
12 order to the contrary, for projects certified under this subsection, the
13 board shall establish a financial incentive that is designed to
14 supplement the SRECs generated by the facility in order to cover
15 the additional cost of constructing and operating a solar electric
16 power generation facility on a brownfield, on an area of historic fill
17 or on a properly closed sanitary landfill facility. Any financial
18 benefit realized in relation to a project owned or operated by an
19 electric public utility and approved by the board pursuant to section
20 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
21 financial incentive established by the board pursuant to this
22 subsection, shall be credited to ratepayers. The issuance of SRECs
23 for all solar electric power generation facility projects pursuant to
24 this subsection shall be deemed "Board of Public Utilities financial
25 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
26 29.47).

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

- 1 (a) the person acquired or leased the real property after the
2 discharge of that hazardous substance at the real property;
- 3 (b) the person did not discharge the hazardous substance, is not
4 in any way responsible for the hazardous substance, and is not a
5 successor to the discharger or to any person in any way responsible
6 for the hazardous substance or to anyone liable for cleanup and
7 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
8 23.11g);
- 9 (c) the person, within 30 days after acquisition of the property,
10 gave notice of the discharge to the Department of Environmental
11 Protection in a manner the Department of Environmental Protection
12 prescribes;
- 13 (d) the person does not disrupt or change, without prior written
14 permission from the Department of Environmental Protection, any
15 engineering or institutional control that is part of a remedial action
16 for the contaminated site or any landfill closure or post-closure
17 requirement;
- 18 (e) the person does not exacerbate the contamination at the
19 property;
- 20 (f) the person does not interfere with any necessary remediation
21 of the property;
- 22 (g) the person complies with any regulations and any permit the
23 Department of Environmental Protection issues pursuant to section
24 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
25 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);
- 26 (h) with respect to an area of historic fill, the person has
27 demonstrated pursuant to a preliminary assessment and site
28 investigation, that hazardous substances have not been discharged;
29 and
- 30 (i) with respect to a properly closed sanitary landfill facility, no
31 person who owns or controls the facility receives, has received, or
32 will receive, with respect to such facility, any funds from any post-
33 closure escrow account established pursuant to section 10 of
34 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
35 the facility.
- 36 Only the person who is liable to clean up and remove the
37 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
38 23.11g) and who does not have a defense to liability pursuant to
39 subsection d. of that section shall be liable for cleanup and removal
40 costs.
- 41 u. No more than 180 days after the date of enactment of
42 P.L.2012, c.24, the board shall complete a proceeding to establish a
43 registration program. The registration program shall require the
44 owners of solar electric power generation facility projects
45 connected to the distribution system to make periodic milestone
46 filings with the board in a manner and at such times as determined
47 by the board to provide full disclosure and transparency regarding

1 the overall level of development and construction activity of those
2 projects Statewide.

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

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

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

40

41 2. This act shall take effect immediately.