

SENATE, No. 771

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Requires large food waste generators to separate and recycle food waste and amends definition of "Class I renewable energy."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Title 13 of the Revised Statutes, and
3 amending P.L.1999, c.23.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. Beginning January 1, 2017, each large
9 food waste generator that is located within 35 miles of an
10 authorized recycling facility and that generates an average projected
11 volume of 104 or more tons per year of food waste shall: (1) source
12 separate its food waste from other solid waste; and (2) send the
13 source separated food waste to an authorized recycling facility that
14 has available capacity and will accept it.

15 b. Beginning January 1, 2020, each large food waste generator
16 that is located within 35 miles of an authorized recycling facility
17 and that generates an average projected volume of 52 or more tons
18 per year of food waste, and which is not already subject to the
19 provisions of subsection a. of this section, shall: (1) source separate
20 its food waste from other solid waste; and (2) send the source
21 separated food waste to an authorized recycling facility that has
22 available capacity and will accept it.

23 c. Notwithstanding the provisions of subsections a. and b. of
24 this section:

25 (1) If a large food waste generator is not located within 35 miles
26 of an authorized recycling facility, or the authorized recycling
27 facility will not accept the generator's food waste, the large food
28 waste generator may send the food waste for final disposal at a solid
29 waste facility as provided in the approved solid waste management
30 plan for the solid waste management district in which the generator
31 is located;

32 (2) Any large food waste generator that is obligated to source
33 separate and recycle its food waste pursuant to subsection a. or b. of
34 this section, and which performs enclosed on-site composting, or
35 anaerobic digestion of its source separated food waste in accordance
36 with standards adopted by the department pursuant to subsection e.
37 of this section, shall be deemed to be in compliance with the
38 provisions of this section; and

39 (3) Any large food waste generator that is obligated to source
40 separate and recycle its food waste pursuant to subsection a. or b. of
41 this section, and that sends its solid waste to a facility that source
42 separates food waste and provides for the recycling of that food
43 waste and the proper recycling or disposal of the remainder of the
44 solid waste, shall be deemed to be in compliance with the
45 provisions of this section.

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 d. Any person who violates this section, or any rule or
2 regulation adopted pursuant thereto, shall be subject to a civil
3 penalty of \$250 for the first offense, \$500 for the second offense,
4 and \$1,000 for the third and each subsequent offense, to be
5 collected in a civil action by a summary proceeding under the
6 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
7 et seq.). If the violation is of a continuing nature, each day during
8 which it continues shall constitute an additional, separate, and
9 distinct offense. The Superior Court and the municipal court shall
10 have jurisdiction to enforce the provisions of the “Penalty
11 Enforcement Law of 1999” in connection with this subsection.

12 e. Within 180 days after the date of enactment of this act, the
13 Department of Environmental Protection shall adopt, pursuant to
14 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
15 et seq.), rules and regulations necessary to implement this section,
16 including, but not limited to:

17 (1) record keeping and reporting requirements for large food
18 waste generators and authorized recycling facilities, as determined
19 necessary by the department;

20 (2) guidelines and procedures for businesses to follow to
21 determine whether they are subject to the requirements of
22 subsection a. or b. of this section, including food waste generation
23 estimates and food waste audits or assessments;

24 (3) a list of food waste products that must be source separated
25 and recycled pursuant to subsection a. or b. of this section;

26 (4) standards for the enclosed on-site composting, or anaerobic
27 digestion of source separated food waste, including requirements
28 for energy production and other sustainable uses of the byproducts
29 of recycled food waste; and

30 (5) a list of actions businesses may take to reduce the amount of
31 food waste they generate to a level below the threshold amounts
32 established in subsection a. and b. of this section.

33 f. The department shall publish on its Internet website the
34 name, location, and contact information for each authorized
35 recycling facility in the State.

36 g. As used in this section:

37 “Authorized recycling facility” means a facility, authorized by
38 the department pursuant to subsection b. of section 41 of P.L.1987,
39 c.102 (C.13:1E-99.34), that collects source separated food waste or
40 organic waste for the purpose of recycling.

41 “Department” means the Department of Environmental
42 Protection.

43 “Food waste” means food processing vegetative waste, food
44 processing residue generated from processing and packaging
45 operations, overripe produce, trimmings from food, food product
46 over-runs, soiled and unrecyclable paper, and used cooking fats, oil,
47 and grease.

1 “Large food waste generator” means any commercial food
2 wholesaler, distributor, industrial food processor, supermarket,
3 resort, conference center, banquet hall, restaurant, educational or
4 religious institution, military installation, prison, hospital, medical
5 facility, or casino that produces at least 52 tons per year of food
6 waste.

7 “Source separate” or “source separated” means the process by
8 which food waste is separated at the point of generation by the
9 generator thereof from other solid waste for the purpose of
10 recycling.

11

12 2. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
13 as follows:

14 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

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

22 "Base load electric power generation facility" means an electric
23 power generation facility intended to be operated at a greater than
24 50 percent capacity factor including, but not limited to, a combined
25 cycle power facility and a combined heat and power facility.

26 "Base residual auction" means the auction conducted by PJM, as
27 part of PJM's reliability pricing model, three years prior to the start
28 of the delivery year to secure electrical capacity as necessary to
29 satisfy the capacity requirements for that delivery year.

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

37 "Basic generation service" or "BGS" means electric generation
38 service that is provided, to any customer that has not chosen an
39 alternative electric power supplier, whether or not the customer has
40 received offers for competitive supply options, including, but not
41 limited to, any customer that cannot obtain such service from an
42 electric power supplier for any reason, including non-payment for
43 services. Basic generation service is not a competitive service and
44 shall be fully regulated by the board.

45 "Basic generation service provider" or "provider" means a
46 provider of basic generation service.

47 "Basic generation service transition costs" means the amount by
48 which the payments by an electric public utility for the procurement

1 of power for basic generation service and related ancillary and
2 administrative costs exceeds the net revenues from the basic
3 generation service charge established by the board pursuant to
4 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
5 together with interest on the balance at the board-approved rate, that
6 is reflected in a deferred balance account approved by the board in
7 an order addressing the electric public utility's unbundled rates,
8 stranded costs, and restructuring filings pursuant to P.L.1999,
9 c.23 (C.48:3-49 et al.). Basic generation service transition costs
10 shall include, but are not limited to, costs of purchases from the
11 spot market, bilateral contracts, contracts with non-utility
12 generators, parting contracts with the purchaser of the electric
13 public utility's divested generation assets, short-term advance
14 purchases, and financial instruments such as hedging, forward
15 contracts, and options. Basic generation service transition costs
16 shall also include the payments by an electric public utility pursuant
17 to a competitive procurement process for basic generation service
18 supply during the transition period, and costs of any such process
19 used to procure the basic generation service supply.

20 "Board" means the New Jersey Board of Public Utilities or any
21 successor agency.

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

46 "Bondable stranded costs rate order" means one or more
47 irrevocable written orders issued by the board pursuant to P.L.1999,
48 c.23 (C.48:3-49 et al.) which determines the amount of bondable

1 stranded costs and the initial amount of transition bond charges
2 authorized to be imposed to recover the bondable stranded costs,
3 including the costs to be financed from the proceeds of the
4 transition bonds, as well as on-going costs associated with servicing
5 and credit enhancing the transition bonds, and provides the electric
6 public utility specific authority to issue or cause to be issued,
7 directly or indirectly, transition bonds through a financing entity
8 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
9 which order shall become effective immediately upon the written
10 consent of the related electric public utility to the order as provided
11 in P.L.1999, c.23 (C.48:3-49 et al.).

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

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

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

33 "Brownfield" means any former or current commercial or
34 industrial site that is currently vacant or underutilized and on which
35 there has been, or there is suspected to have been, a discharge of a
36 contaminant.

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

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

1 "Class I renewable energy" means electric energy produced from
2 solar technologies, photovoltaic technologies, wind energy, fuel
3 cells, geothermal technologies, wave or tidal action, small scale
4 hydropower facilities with a capacity of three megawatts or less and
5 put into service after the effective date of P.L.2012, c.24, [and]
6 methane gas from landfills [or] methane gas from a biomass
7 facility[,] provided that the biomass is cultivated and harvested in a
8 sustainable manner , or methane gas from a composting or
9 anaerobic digestion facility that converts food waste or other
10 organic waste to energy.

11 "Class II renewable energy" means electric energy produced at a
12 hydropower facility with a capacity of greater than three megawatts,
13 but less than 30 megawatts, or a resource recovery facility, provided
14 that the facility is located where retail competition is permitted and
15 provided further that the Commissioner of Environmental
16 Protection has determined that the facility meets the highest
17 environmental standards and minimizes any impacts to the
18 environment and local communities. Class II renewable energy
19 shall not include electric energy produced at a hydropower facility
20 with a capacity of greater than 30 megawatts on or after the
21 effective date of P.L.2015, c.51.

22 "Co-generation" means the sequential production of electricity
23 and steam or other forms of useful energy used for industrial or
24 commercial heating and cooling purposes.

25 "Combined cycle power facility" means a generation facility that
26 combines two or more thermodynamic cycles, by producing electric
27 power via the combustion of fuel and then routing the resulting
28 waste heat by-product to a conventional boiler or to a heat recovery
29 steam generator for use by a steam turbine to produce electric
30 power, thereby increasing the overall efficiency of the generating
31 facility.

32 "Combined heat and power facility" or "co-generation facility"
33 means a generation facility which produces electric energy and
34 steam or other forms of useful energy such as heat, which are used
35 for industrial or commercial heating or cooling purposes. A
36 combined heat and power facility or co-generation facility shall not
37 be considered a public utility.

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

42 "Commercial and industrial energy pricing class customer" or
43 "CIEP class customer" means that group of non-residential
44 customers with high peak demand, as determined by periodic board
45 order, which either is eligible or which would be eligible, as
46 determined by periodic board order, to receive funds from the Retail
47 Margin Fund established pursuant to section 9 of P.L.1999,

1 c.23 (C.48:3-57) and for which basic generation service is hourly-
2 priced.

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

8 "Connected to the distribution system" means, for a solar electric
9 power generation facility, that the facility is: (1) connected to a net
10 metering customer's side of a meter, regardless of the voltage at
11 which that customer connects to the electric grid; (2) an on-site
12 generation facility; (3) qualified for net metering aggregation as
13 provided pursuant to paragraph (4) of subsection e. of section 38 of
14 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
15 public utility and approved by the board pursuant to section 13 of
16 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric
17 grid at 69 kilovolts or less, regardless of how an electric public
18 utility classifies that portion of its electric grid, and is designated as
19 "connected to the distribution system" by the board pursuant to
20 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
21 87); or (6) is certified by the board, in consultation with the
22 Department of Environmental Protection, as being located on a
23 brownfield, on an area of historic fill, or on a properly closed
24 sanitary landfill facility. Any solar electric power generation
25 facility, other than that of a net metering customer on the customer's
26 side of the meter, connected above 69 kilovolts shall not be
27 considered connected to the distribution system.

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

32 "Customer account service" means metering, billing, or such
33 other administrative activity associated with maintaining a customer
34 account.

35 "Delivery year" or "DY" means the 12-month period from June
36 1st through May 31st, numbered according to the calendar year in
37 which it ends.

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

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

1 "Electric power generator" means an entity that proposes to
2 construct, own, lease, or operate, or currently owns, leases, or
3 operates, an electric power production facility that will sell or does
4 sell at least 90 percent of its output, either directly or through a
5 marketer, to a customer or customers located at sites that are not on
6 or contiguous to the site on which the facility will be located or is
7 located. The designation of an entity as an electric power generator
8 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
9 and of itself, affect the entity's status as an exempt wholesale
10 generator under the Public Utility Holding Company Act of 1935,
11 15 U.S.C. s.79 et seq., or its successor act.

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

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

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

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

35 "Eligible generator" means a developer of a base load or mid-
36 merit electric power generation facility including, but not limited to,
37 an on-site generation facility that qualifies as a capacity resource
38 under PJM criteria and that commences construction after the
39 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

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

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

1 "Energy efficiency portfolio standard" means a requirement to
2 procure a specified amount of energy efficiency or demand side
3 management resources as a means of managing and reducing energy
4 usage and demand by customers.

5 "Energy year" or "EY" means the 12-month period from June 1st
6 through May 31st, numbered according to the calendar year in
7 which it ends.

8 "Existing business relationship" means a relationship formed by
9 a voluntary two-way communication between an electric power
10 supplier, gas supplier, broker, energy agent, marketer, private
11 aggregator, sales representative, or telemarketer and a customer,
12 regardless of an exchange of consideration, on the basis of an
13 inquiry, application, purchase, or transaction initiated by the
14 customer regarding products or services offered by the electric
15 power supplier, gas supplier, broker, energy agent, marketer,
16 private aggregator, sales representative, or telemarketer; however, a
17 consumer's use of electric generation service or gas supply service
18 through the consumer's electric public utility or gas public utility
19 shall not constitute or establish an existing business relationship for
20 the purpose of P.L.2013, c.263.

21 "Farmland" means land actively devoted to agricultural or
22 horticultural use that is valued, assessed, and taxed pursuant to the
23 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
24 seq.).

25 "Federal Energy Regulatory Commission" or "FERC" means the
26 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
27 regulate the interstate transmission of electricity, natural gas, and
28 oil.

29 "Final remediation document" shall have the same meaning as
30 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

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

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

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

47 "Gas supplier" means a person that is duly licensed pursuant to
48 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and

1 assume the contractual and legal obligation to provide gas supply
2 service to retail customers, and includes, but is not limited to,
3 marketers and brokers. A non-public utility affiliate of a public
4 utility holding company may be a gas supplier, but a gas public
5 utility or any subsidiary of a gas utility is not a gas supplier. In the
6 event that a gas public utility is not part of a holding company legal
7 structure, a related competitive business segment of that gas public
8 utility may be a gas supplier, provided that related competitive
9 business segment is structurally separated from the gas public
10 utility, and provided that the interactions between the gas public
11 utility and the related competitive business segment are subject to
12 the affiliate relations standards adopted by the board pursuant to
13 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

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

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

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

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

37 "Greenhouse gas emissions portfolio standard" means a
38 requirement that addresses or limits the amount of carbon dioxide
39 emissions indirectly resulting from the use of electricity as applied
40 to any electric power suppliers and basic generation service
41 providers of electricity.

42 "Historic fill" means generally large volumes of non-indigenous
43 material, no matter what date they were emplaced on the site, used
44 to raise the topographic elevation of a site, which were
45 contaminated prior to emplacement and are in no way connected
46 with the operations at the location of emplacement and which
47 include, but are not limited to, construction debris, dredge spoils,
48 incinerator residue, demolition debris, fly ash, and non-hazardous

1 solid waste. "Historic fill" shall not include any material which is
2 substantially chromate chemical production waste or any other
3 chemical production waste or waste from processing of metal or
4 mineral ores, residues, slags, or tailings.

5 "Incremental auction" means an auction conducted by PJM, as
6 part of PJM's reliability pricing model, prior to the start of the
7 delivery year to secure electric capacity as necessary to satisfy the
8 capacity requirements for that delivery year, that is not otherwise
9 provided for in the base residual auction.

10 "Leakage" means an increase in greenhouse gas emissions
11 related to generation sources located outside of the State that are not
12 subject to a state, interstate, or regional greenhouse gas emissions
13 cap or standard that applies to generation sources located within the
14 State.

15 "Locational deliverability area" or "LDA" means one or more of
16 the zones within the PJM region which are used to evaluate area
17 transmission constraints and reliability issues including electric
18 public utility company zones, sub-zones, and combinations of
19 zones.

20 "Long-term capacity agreement pilot program" or "LCAPP"
21 means a pilot program established by the board that includes
22 participation by eligible generators, to seek offers for financially-
23 settled standard offer capacity agreements with eligible generators
24 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

25 "Market transition charge" means a charge imposed pursuant to
26 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
27 utility, at a level determined by the board, on the electric public
28 utility customers for a limited duration transition period to recover
29 stranded costs created as a result of the introduction of electric
30 power supply competition pursuant to the provisions of P.L.1999,
31 c.23 (C.48:3-49 et al.).

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

41 "Mid-merit electric power generation facility" means a
42 generation facility that operates at a capacity factor between
43 baseload generation facilities and peaker generation facilities.

44 "Net metering aggregation" means a procedure for calculating
45 the combination of the annual energy usage for all facilities owned
46 by a single customer where such customer is a State entity, school
47 district, county, county agency, county authority, municipality,
48 municipal agency, or municipal authority, and which are served by

1 a solar electric power generating facility as provided pursuant to
2 paragraph (4) of subsection e. of section 38 of P.L.1999,
3 c.23 (C.48:3-87).

4 "Net proceeds" means proceeds less transaction and other related
5 costs as determined by the board.

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

8 "Offshore wind energy" means electric energy produced by a
9 qualified offshore wind project.

10 "Offshore wind renewable energy certificate" or "OREC" means
11 a certificate, issued by the board or its designee, representing the
12 environmental attributes of one megawatt hour of electric
13 generation from a qualified offshore wind project.

14 "Off-site end use thermal energy services customer" means an
15 end use customer that purchases thermal energy services from an
16 on-site generation facility, combined heat and power facility, or co-
17 generation facility, and that is located on property that is separated
18 from the property on which the on-site generation facility,
19 combined heat and power facility, or co-generation facility is
20 located by more than one easement, public thoroughfare, or
21 transportation or utility-owned right-of-way.

22 "On-site generation facility" means a generation facility,
23 including, but not limited to, a generation facility that produces
24 Class I or Class II renewable energy, and equipment and services
25 appurtenant to electric sales by such facility to the end use customer
26 located on the property or on property contiguous to the property on
27 which the end user is located. An on-site generation facility shall
28 not be considered a public utility. The property of the end use
29 customer and the property on which the on-site generation facility is
30 located shall be considered contiguous if they are geographically
31 located next to each other, but may be otherwise separated by an
32 easement, public thoroughfare, transportation or utility-owned
33 right-of-way, or if the end use customer is purchasing thermal
34 energy services produced by the on-site generation facility, for use
35 for heating or cooling, or both, regardless of whether the customer
36 is located on property that is separated from the property on which
37 the on-site generation facility is located by more than one easement,
38 public thoroughfare, or transportation or utility-owned right-of-way.

39 "Person" means an individual, partnership, corporation,
40 association, trust, limited liability company, governmental entity, or
41 other legal entity.

42 "PJM Interconnection, L.L.C." or "PJM" means the privately-
43 held, limited liability corporation that is a FERC-approved Regional
44 Transmission Organization, or its successor, that manages the
45 regional, high-voltage electricity grid serving all or parts of 13
46 states including New Jersey and the District of Columbia, operates
47 the regional competitive wholesale electric market, manages the
48 regional transmission planning process, and establishes systems and

1 rules to ensure that the regional and in-State energy markets operate
2 fairly and efficiently.

3 "Preliminary assessment" shall have the same meaning as
4 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

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

12 "Properly closed sanitary landfill facility" means a sanitary
13 landfill facility, or a portion of a sanitary landfill facility, for which
14 performance is complete with respect to all activities associated
15 with the design, installation, purchase, or construction of all
16 measures, structures, or equipment required by the Department of
17 Environmental Protection, pursuant to law, in order to prevent,
18 minimize, or monitor pollution or health hazards resulting from a
19 sanitary landfill facility subsequent to the termination of operations
20 at any portion thereof, including, but not necessarily limited to, the
21 placement of earthen or vegetative cover, and the installation of
22 methane gas vents or monitors and leachate monitoring wells or
23 collection systems at the site of any sanitary landfill facility.

24 "Public utility holding company" means: (1) any company that,
25 directly or indirectly, owns, controls, or holds with power to vote,
26 10 percent or more of the outstanding voting securities of an
27 electric public utility or a gas public utility or of a company which
28 is a public utility holding company by virtue of this definition,
29 unless the Securities and Exchange Commission, or its successor,
30 by order declares such company not to be a public utility holding
31 company under the Public Utility Holding Company Act of 1935,
32 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
33 Securities and Exchange Commission, or its successor, determines,
34 after notice and opportunity for hearing, directly or indirectly, to
35 exercise, either alone or pursuant to an arrangement or
36 understanding with one or more other persons, such a controlling
37 influence over the management or policies of an electric public
38 utility or a gas public utility or public utility holding company as to
39 make it necessary or appropriate in the public interest or for the
40 protection of investors or consumers that such person be subject to
41 the obligations, duties, and liabilities imposed in the Public Utility
42 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
43 successor act.

44 "Qualified offshore wind project" means a wind turbine
45 electricity generation facility in the Atlantic Ocean and connected
46 to the electric transmission system in this State, and includes the
47 associated transmission-related interconnection facilities and

1 equipment, and approved by the board pursuant to section 3 of
2 P.L.2010, c.57 (C.48:3-87.1).

3 "Registration program" means an administrative process
4 developed by the board pursuant to subsection u. of section 38 of
5 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
6 power generation facilities connected to the distribution system that
7 intend to generate SRECs, to file with the board documents
8 detailing the size, location, interconnection plan, land use, and other
9 project information as required by the board.

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

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

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

27 "Reliability pricing model" or "RPM" means PJM's capacity-
28 market model, and its successors, that secures capacity on behalf of
29 electric load serving entities to satisfy load obligations not satisfied
30 through the output of electric generation facilities owned by those
31 entities, or otherwise secured by those entities through bilateral
32 contracts.

33 "Renewable energy certificate" or "REC" means a certificate
34 representing the environmental benefits or attributes of one
35 megawatt-hour of generation from a generating facility that
36 produces Class I or Class II renewable energy, but shall not include
37 a solar renewable energy certificate or an offshore wind renewable
38 energy certificate.

39 "Resource clearing price" or "RCP" means the clearing price
40 established for the applicable locational deliverability area by the
41 base residual auction or incremental auction, as determined by the
42 optimization algorithm for each auction, conducted by PJM as part
43 of PJM's reliability pricing model.

44 "Resource recovery facility" means a solid waste facility
45 constructed and operated for the incineration of solid waste for
46 energy production and the recovery of metals and other materials
47 for reuse, which the Department of Environmental Protection has
48 determined to be in compliance with current environmental

1 standards, including, but not limited to, all applicable requirements
2 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

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

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

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

37 "Sales representative" means a person employed by, acting on
38 behalf of, or as an independent contractor for, an electric power
39 supplier, gas supplier, broker, energy agent, marketer, or private
40 aggregator who, by any means, solicits a potential residential
41 customer for the provision of electric generation service or gas
42 supply service.

43 "Sanitary landfill facility" shall have the same meaning as
44 provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

45 "School district" means a local or regional school district
46 established pursuant to chapter 8 or chapter 13 of Title 18A of the
47 New Jersey Statutes, a county special services school district
48 established pursuant to article 8 of chapter 46 of Title 18A of the

1 New Jersey Statutes, a county vocational school district established
2 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
3 Statutes, and a district under full State intervention pursuant to
4 P.L.1987, c.399 (C.18A:7A-34 et al.).

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

9 "Site investigation" shall have the same meaning as provided in
10 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

11 "Small scale hydropower facility" means a facility located within
12 this State that is connected to the distribution system, and that
13 meets the requirements of, and has been certified by, a nationally
14 recognized low-impact hydropower organization that has
15 established low-impact hydropower certification criteria applicable
16 to: (1) river flows; (2) water quality; (3) fish passage and
17 protection; (4) watershed protection; (5) threatened and endangered
18 species protection; (6) cultural resource protection; (7) recreation;
19 and (8) facilities recommended for removal.

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

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

32 "Solar alternative compliance payment" or "SACP" means a
33 payment of a certain dollar amount per megawatt hour (MWh)
34 which an electric power supplier or provider may submit to the
35 board in order to comply with the solar electric generation
36 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

37 "Solar renewable energy certificate" or "SREC" means a
38 certificate issued by the board or its designee, representing one
39 megawatt hour (MWh) of solar energy that is generated by a facility
40 connected to the distribution system in this State and has value
41 based upon, and driven by, the energy market.

42 "Standard offer capacity agreement" or "SOCA" means a
43 financially-settled transaction agreement, approved by board order,
44 that provides for eligible generators to receive payments from the
45 electric public utilities for a defined amount of electric capacity for
46 a term to be determined by the board but not to exceed 15 years,
47 and for such payments to be a fully non-bypassable charge, with
48 such an order, once issued, being irrevocable.

1 "Standard offer capacity price" or "SOCP" means the capacity
2 price that is fixed for the term of the SOCA and which is the price
3 to be received by eligible generators under a board-approved
4 SOCA.

5 "State entity" means a department, agency, or office of State
6 government, a State university or college, or an authority created by
7 the State.

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

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

22 "Telemarketer" shall have the same meaning as set forth in
23 section 2 of P.L.2003, c.76 (C.56:8-120).

24 "Telemarketing sales call" means a telephone call made by a
25 telemarketer to a potential residential customer as part of a plan,
26 program, or campaign to encourage the customer to change the
27 customer's electric power supplier or gas supplier. A telephone call
28 made to an existing customer of an electric power supplier, gas
29 supplier, broker, energy agent, marketer, private aggregator, or
30 sales representative, for the sole purpose of collecting on accounts
31 or following up on contractual obligations, shall not be deemed a
32 telemarketing sales call. A telephone call made in response to an
33 express written request of a customer shall not be deemed a
34 telemarketing sales call.

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

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

43 "Transition bonds" means bonds, notes, certificates of
44 participation, beneficial interest, or other evidences of indebtedness
45 or ownership issued pursuant to an indenture, contract, or other
46 agreement of an electric public utility or a financing entity, the
47 proceeds of which are used, directly or indirectly, to recover,
48 finance or refinance bondable stranded costs and which are, directly

1 or indirectly, secured by or payable from bondable transition
2 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
3 principal, interest, and acquisition or redemption premium with
4 respect to transition bonds which are issued in the form of
5 certificates of participation or beneficial interest or other evidences
6 of ownership shall refer to the comparable payments on such
7 securities.

8 "Transition period" means the period from August 1, 1999
9 through July 31, 2003.

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

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

20 "Unsolicited advertisement" means any advertising claims of the
21 commercial availability or quality of services provided by an
22 electric power supplier, gas supplier, broker, energy agent,
23 marketer, private aggregator, sales representative, or telemarketer
24 which is transmitted to a potential customer without that customer's
25 prior express invitation or permission.

26 (cf: P.L.2015, c.51, s.1)

27

28 3. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill would require certain generators of solid waste to
34 separate and recycle food waste, and amend the definition of "Class
35 I renewable energy."

36 Specifically, under the bill, beginning January 1, 2017, every
37 large food waste generator that is located within 35 miles of an
38 authorized recycling facility and that generates an average projected
39 volume of 104 or more tons per year of food waste would be
40 required to: (1) source separate that food waste; and (2) send the
41 source separated food waste to an authorized recycling facility that
42 has available capacity and will accept it. Beginning January 1,
43 2020, large food waste generators that produce an average projected
44 volume of 52 or more tons per year of food waste would have to
45 comply with these requirements.

46 Under the bill, if a large food waste generator is not located
47 within 35 miles of an authorized recycling facility, or the facility
48 will not accept the generator's food waste, the generator may send

1 the food waste for final disposal at a solid waste management
2 facility. In addition, a large food waste generator would be deemed
3 to be in compliance with the bill if the generator: (1) performs
4 enclosed, on-site composting or anaerobic digestion of its source
5 separated food waste; or (2) sends its solid waste to a facility that
6 source separates food waste and provides for the recycling of that
7 food waste and the proper recycling or disposal of the remainder of
8 the solid waste.

9 Any person who violates the bill would be subject to a civil
10 penalty of \$250 for the first offense, \$500 for the second offense,
11 and \$1,000 for the third and subsequent offenses. If the violation is
12 of a continuing nature, each day during which the violation
13 continues would constitute a separate offense.

14 The Department of Environmental Protection (DEP) would be
15 required to adopt regulations concerning: (1) record keeping and
16 reporting requirements; (2) guidelines for businesses to follow to
17 determine whether they are subject to the bill; (3) a list of food
18 waste products that must be source separated and recycled; (4)
19 standards for the enclosed, on-site composting or anaerobic
20 digestion of food waste; and (5) a list of actions businesses may
21 take to reduce the amount of food waste they generate. The DEP
22 would publish on its Internet website the name, location, and
23 contact information for each authorized food waste recycling
24 facility in the State.

25 Finally, the bill would amend the definition of Class I renewable
26 energy to include electric energy produced from methane gas from a
27 composting or anaerobic digestion facility that converts food waste
28 or other organic waste to energy.

29 It is the sponsor's intent by this bill to incentivize the
30 construction of more food waste-to-energy facilities in the State by
31 ensuring a constant feedstock of source separated food waste.