

ASSEMBLY, No. 3726

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 26, 2018

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2019)

1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and 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) As used in this act:

9 “Alternative authorized food waste recycling method” means (1)
10 recycling food waste at the site at which it is generated as
11 authorized by the Department of Environmental Protection, (2)
12 treating food waste at the site at which it is generated pursuant to a
13 permit issued by the department, (3) sending food waste for offsite
14 use for agricultural purposes, including as animal feed, (4) sending
15 food waste offsite for treatment with sewage sludge in an anaerobic
16 digester for biogas recovery as authorized by the department, or (5)
17 any other method of recycling or reuse of food waste, as authorized
18 by the department.

19 “Authorized food waste recycling facility” means a recycling
20 center within the State authorized to accept, store, process, or
21 transfer food waste or compostable material, pursuant to subsection
22 b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

23 “Department” means the Department of Environmental
24 Protection.

25 “Food waste” means food processing vegetative waste, food
26 processing residue generated from processing and packaging
27 operations, overripe produce, trimmings from food, food product
28 over-runs, soiled and unrecyclable paper, and used cooking fats, oil,
29 and grease, but shall not include food donated by the generator for
30 human consumption.

31 “Large food waste generator” means any commercial food
32 wholesaler, distributor, industrial food processor, supermarket,
33 resort, conference center, banquet hall, restaurant, educational or
34 religious institution, military installation, prison, hospital, medical
35 facility, or casino that produces at least 52 tons per year of food
36 waste.

37 “Source separate” or “source separated” means the process by
38 which food waste is separated at the point of generation by the
39 generator thereof from other solid waste for the purpose of
40 recycling.

41
42 2. (New section) a. Beginning January 1, 2020, each large food
43 waste generator that is located within 25 road miles of an authorized
44 food waste recycling facility and that generates an average projected
45 volume of 104 or more tons per year of food waste shall: (1) source

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 separate its food waste from other solid waste; and (2) send the source
2 separated food waste to an authorized food waste recycling facility that
3 has available capacity and will accept it.

4 b. Beginning January 1, 2023, each large food waste generator
5 that is located within 25 road miles of an authorized food waste
6 recycling facility and that generates an average projected volume of 52
7 or more tons per year of food waste, and which is not already subject
8 to the provisions of subsection a. of this section, shall: (1) source
9 separate its food waste from other solid waste; and (2) send the source
10 separated food waste to an authorized food waste recycling facility that
11 has available capacity and will accept it.

12 c. Notwithstanding the provisions of subsections a. and b. of this
13 section:

14 (1) If a large food waste generator is not located within 25 road
15 miles of an authorized food waste recycling facility, or the authorized
16 food waste recycling facility will not accept the generator's food
17 waste, the large food waste generator may send the food waste for
18 final disposal at a solid waste facility as provided in the approved
19 district solid waste management plan for the solid waste management
20 district in which the generator is located;

21 (2) Any large food waste generator that is obligated to source
22 separate and recycle its food waste pursuant to subsection a. or b. of
23 this section, and which (a) performs enclosed on-site composting, or
24 anaerobic or aerobic digestion of its source separated food waste in
25 accordance with standards adopted by the department pursuant to
26 subsection e. of this section, or (b) recycles food waste using an
27 alternative authorized food waste recycling method, shall be deemed to
28 be in compliance with the provisions of this section;

29 (3) A large food waste generator may petition the Department of
30 Environmental Protection for a waiver of the requirements in
31 subsection a. or b. of this section if the cost of transporting the food
32 waste plus the fee charged by an authorized food waste recycling
33 facility located within 25 road miles of the large food waste generator
34 is at least 10 percent more than the cost of transporting the food waste
35 for disposal as solid waste plus the disposal fee charged for solid waste
36 disposal in the State for noncontract commercial waste by a properly
37 licensed transfer station, sanitary landfill facility, incinerator, or
38 resource recovery facility located within 25 road miles of the large
39 food waste generator; and

40 (4) A large food waste generator shall be deemed in compliance
41 with the provisions of this section if it sends its food waste for final
42 disposal to a sanitary landfill facility that delivers the landfill gas to a
43 gas-to-energy facility as fuel for the generation of electricity.

44 d. Any person who violates this act, or any rule or regulation
45 adopted pursuant thereto, shall be subject to a civil penalty of \$250 for
46 the first offense, \$500 for the second offense, and \$1,000 for the third
47 and each subsequent offense, to be collected in a civil action by a
48 summary proceeding under the "Penalty Enforcement Law of 1999,"

1 P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
2 continuing nature, each day during which it continues shall constitute
3 an additional, separate, and distinct offense. The Superior Court and
4 the municipal court shall have jurisdiction to enforce the provisions of
5 the “Penalty Enforcement Law of 1999” in connection with this
6 subsection.

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

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

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

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

21 (4) standards for the enclosed on-site composting, or anaerobic or
22 aerobic digestion of source separated food waste, including
23 requirements for energy production and other sustainable uses of the
24 byproducts of recycled food waste; and

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

28 f. The department shall publish on its Internet website the name,
29 location, and contact information for each authorized food waste
30 recycling facility in the State.

31

32 3. (New section) a. Any municipality within which an
33 authorized food waste recycling facility is located, pursuant to an
34 adopted and approved district solid waste management plan, shall
35 be entitled to an economic benefit of not less than the equivalent of
36 \$0.50 per ton, to be paid and adjusted quarterly, of all food waste
37 accepted for processing at the authorized food waste recycling
38 facility during the 2019 calendar year and each year thereafter. The
39 owner or operator of the authorized food waste recycling facility
40 shall pay quarterly to the municipality the full amount due under
41 this subsection. The municipality is authorized to anticipate this
42 amount for the purposes of preparing its annual budget.

43 b. For the purposes of calculating the payments, the owner or
44 operator of the authorized food waste recycling facility may, subject
45 to the prior agreement of the municipality and approval of the
46 Department of Environmental Protection, provide the municipality
47 with any of the following benefits in consideration for the use of

1 land within the municipality's boundaries as the location of the
2 authorized food waste recycling facility:

3 (1) quarterly payments of money in lieu of taxes on the land used
4 for the authorized food waste recycling center or other authorized
5 facility;

6 (2) exemption from all fees and charges for the acceptance of
7 food waste for composting, anaerobic or aerobic digestion, or other
8 processing, as approved by the department, of food waste generated
9 within the municipality's boundaries;

10 (3) quarterly lump sum cash payments; or

11 (4) any combination thereof.

12

13 4. (New section) a. There is established in the Department of
14 Environmental Protection a Food Waste Recycling Market
15 Development Council, which shall consist of 12 members. The
16 members shall include the Commissioner of Environmental
17 Protection, the President of the Board of Public Utilities, the
18 Commissioner of Transportation, the Secretary of Agriculture, the
19 State Treasurer, and the Attorney General, or their designees, who
20 shall serve ex officio; and six citizens of the State appointed by the
21 Commissioner of Environmental Protection. Of the appointed
22 members: two shall be actively engaged in the composting
23 industry, of whom one shall be a representative of the National
24 Waste and Recycling Association and one shall be a representative
25 of the National Biosolids Partnership or equivalent entities; two
26 shall be actively engaged in the recycling or solid waste collection
27 industry, of whom one shall be a representative of the Association
28 of New Jersey Recyclers or equivalent entities; and two shall
29 represent the general public. The Commissioner of Environmental
30 Protection shall appoint the chairperson and the vice-chairperson of
31 the council from the citizen members.

32 b. Members of the council shall serve without compensation,
33 but shall be reimbursed for expenses incurred in attending meetings
34 and performing their duties to the extent funds are available
35 therefor.

36 c. Within 18 months after the date of enactment of this act, the
37 Food Waste Recycling Market Development Council shall prepare a
38 report on the existing markets for any products and energy produced
39 from food recycling facilities, food waste composting facilities, and
40 anaerobic and aerobic digestion facilities that accept food waste
41 material. The council shall investigate the feasibility of providing
42 preferences for products or energy produced from food recycling
43 facilities, food waste composting facilities, and anaerobic and
44 aerobic digestion facilities in the State procurement process,
45 including how to stimulate the use in public projects of compost or
46 soil amendment products derived from these facilities. The council
47 shall provide recommendations on changes needed to State laws or
48 rules or regulations to stimulate the market for products and energy

1 produced from food recycling facilities, food waste composting
2 facilities, and anaerobic and aerobic digestion facilities that accept
3 food waste material. The report shall be transmitted to the
4 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
5 19.1), to the Legislature.

6
7 5. (New section) a. Every State department or agency that
8 engages in landscaping or construction activities on State land, or
9 for State projects or facilities, shall use, where technically feasible,
10 environmentally sound, and competitively priced, compost, mulch,
11 or other soil amendments produced from municipal solid waste,
12 food waste, sludge, yard waste, clean wood waste, or other organic
13 materials. Such compost, mulch, or soil amendments shall be used
14 in place of chemical fertilizers or soil amendments.

15 b. In purchasing compost, mulch, or other soil amendments for
16 use by the various departments or agencies of State government, the
17 Director of the Division of Purchase and Property in the Department
18 of the Treasury, whenever the price is competitive and the quality
19 satisfactory for the purpose intended, shall make contracts available
20 for compost, mulch, or other soil amendments produced from
21 municipal solid waste, food waste, sludge, yard waste, clean wood
22 waste, or other organic materials.

23 c. As used in this section:

24 "Competitive" or "competitively priced" means a price of no
25 more than 10% above the price of products which are manufactured
26 or produced from virgin materials; except that the Director of the
27 Division of Purchase and Property, upon consultation with the
28 Department of Environmental Protection, may make contracts
29 available for compost, mulch, or other soil amendments produced
30 from municipal solid waste, food waste, sludge, yard waste, clean
31 wood waste, or other organic materials at a price no more than 15%
32 above the price of products manufactured or produced from virgin
33 materials whenever the director determines that a 15% price
34 differential is in the best interest of the State.

35 "Food waste" shall have the same meaning as provided in section
36 1 of P.L. , c. (C.) (pending before the Legislature as this
37 bill).

38
39 6. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
40 as follows:

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

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

1 "Base load electric power generation facility" means an electric
2 power generation facility intended to be operated at a greater than
3 50 percent capacity factor including, but not limited to, a combined
4 cycle power facility and a combined heat and power facility.

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

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

16 "Basic generation service" or "BGS" means electric generation
17 service that is provided, to any customer that has not chosen an
18 alternative electric power supplier, whether or not the customer has
19 received offers for competitive supply options, including, but not
20 limited to, any customer that cannot obtain such service from an
21 electric power supplier for any reason, including non-payment for
22 services. Basic generation service is not a competitive service and
23 shall be fully regulated by the board.

24 "Basic generation service provider" or "provider" means a
25 provider of basic generation service.

26 "Basic generation service transition costs" means the amount by
27 which the payments by an electric public utility for the procurement
28 of power for basic generation service and related ancillary and
29 administrative costs exceeds the net revenues from the basic
30 generation service charge established by the board pursuant to
31 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
32 together with interest on the balance at the board-approved rate, that
33 is reflected in a deferred balance account approved by the board in
34 an order addressing the electric public utility's unbundled rates,
35 stranded costs, and restructuring filings pursuant to P.L.1999,
36 c.23 (C.48:3-49 et al.). Basic generation service transition costs
37 shall include, but are not limited to, costs of purchases from the
38 spot market, bilateral contracts, contracts with non-utility
39 generators, parting contracts with the purchaser of the electric
40 public utility's divested generation assets, short-term advance
41 purchases, and financial instruments such as hedging, forward
42 contracts, and options. Basic generation service transition costs
43 shall also include the payments by an electric public utility pursuant
44 to a competitive procurement process for basic generation service
45 supply during the transition period, and costs of any such process
46 used to procure the basic generation service supply.

47 "Board" means the New Jersey Board of Public Utilities or any
48 successor agency.

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

25 "Bondable stranded costs rate order" means one or more
26 irrevocable written orders issued by the board pursuant to P.L.1999,
27 c.23 (C.48:3-49 et al.) which determines the amount of bondable
28 stranded costs and the initial amount of transition bond charges
29 authorized to be imposed to recover the bondable stranded costs,
30 including the costs to be financed from the proceeds of the
31 transition bonds, as well as on-going costs associated with servicing
32 and credit enhancing the transition bonds, and provides the electric
33 public utility specific authority to issue or cause to be issued,
34 directly or indirectly, transition bonds through a financing entity
35 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
36 which order shall become effective immediately upon the written
37 consent of the related electric public utility to the order as provided
38 in P.L.1999, c.23 (C.48:3-49 et al.).

39 "Bondable transition property" means the property consisting of
40 the irrevocable right to charge, collect, and receive, and be paid
41 from collections of, transition bond charges in the amount necessary
42 to provide for the full recovery of bondable stranded costs which
43 are determined to be recoverable in a bondable stranded costs rate
44 order, all rights of the related electric public utility under the
45 bondable stranded costs rate order including, without limitation, all
46 rights to obtain periodic adjustments of the related transition bond
47 charges pursuant to subsection b. of section 15 of P.L.1999,

1 c.23 (C.48:3-64), and all revenues, collections, payments, money,
2 and proceeds arising under, or with respect to, all of the foregoing.

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

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

13 "Brownfield" means any former or current commercial or
14 industrial site that is currently vacant or underutilized and on which
15 there has been, or there is suspected to have been, a discharge of a
16 contaminant.

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

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

28 "Class I renewable energy" means electric energy produced from
29 solar technologies, photovoltaic technologies, wind energy, fuel
30 cells, geothermal technologies, wave or tidal action, small scale
31 hydropower facilities with a capacity of three megawatts or less and
32 put into service after the effective date of P.L.2012, c.24, **[and]**
33 methane gas from landfills **[or]**, methane gas from a biomass
34 facility~~**[,]**~~ provided that the biomass is cultivated and harvested in a
35 sustainable manner, or methane gas from a composting or anaerobic
36 or aerobic digestion facility that converts food waste or other
37 organic waste to energy.

38 "Class II renewable energy" means electric energy produced at a
39 hydropower facility with a capacity of greater than three megawatts,
40 but less than 30 megawatts, or a resource recovery facility, provided
41 that the facility is located where retail competition is permitted and
42 provided further that the Commissioner of Environmental
43 Protection has determined that the facility meets the highest
44 environmental standards and minimizes any impacts to the
45 environment and local communities. Class II renewable energy
46 shall not include electric energy produced at a hydropower facility
47 with a capacity of greater than 30 megawatts on or after the
48 effective date of P.L.2015, c.51.

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

4 "Combined cycle power facility" means a generation facility that
5 combines two or more thermodynamic cycles, by producing electric
6 power via the combustion of fuel and then routing the resulting
7 waste heat by-product to a conventional boiler or to a heat recovery
8 steam generator for use by a steam turbine to produce electric
9 power, thereby increasing the overall efficiency of the generating
10 facility.

11 "Combined heat and power facility" or "co-generation facility"
12 means a generation facility which produces electric energy and
13 steam or other forms of useful energy such as heat, which are used
14 for industrial or commercial heating or cooling purposes. A
15 combined heat and power facility or co-generation facility shall not
16 be considered a public utility.

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

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

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

34 "Connected to the distribution system" means, for a solar electric
35 power generation facility, that the facility is: (1) connected to a net
36 metering customer's side of a meter, regardless of the voltage at
37 which that customer connects to the electric grid; (2) an on-site
38 generation facility; (3) qualified for net metering aggregation as
39 provided pursuant to paragraph (4) of subsection e. of section 38 of
40 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
41 public utility and approved by the board pursuant to section 13 of
42 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric
43 grid at 69 kilovolts or less, regardless of how an electric public
44 utility classifies that portion of its electric grid, and is designated as
45 "connected to the distribution system" by the board pursuant to
46 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
47 87); or (6) is certified by the board, in consultation with the
48 Department of Environmental Protection, as being located on a

1 brownfield, on an area of historic fill, or on a properly closed
2 sanitary landfill facility. Any solar electric power generation
3 facility, other than that of a net metering customer on the customer's
4 side of the meter, connected above 69 kilovolts shall not be
5 considered connected to the distribution system.

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

10 "Customer account service" means metering, billing, or such
11 other administrative activity associated with maintaining a customer
12 account.

13 "Delivery year" or "DY" means the 12-month period from June
14 1st through May 31st, numbered according to the calendar year in
15 which it ends.

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

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

27 "Electric power generator" means an entity that proposes to
28 construct, own, lease, or operate, or currently owns, leases, or
29 operates, an electric power production facility that will sell or does
30 sell at least 90 percent of its output, either directly or through a
31 marketer, to a customer or customers located at sites that are not on
32 or contiguous to the site on which the facility will be located or is
33 located. The designation of an entity as an electric power generator
34 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
35 and of itself, affect the entity's status as an exempt wholesale
36 generator under the Public Utility Holding Company Act of 1935,
37 15 U.S.C. s.79 et seq., or its successor act.

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

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

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

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

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

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

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

29 "Energy efficiency portfolio standard" means a requirement to
30 procure a specified amount of energy efficiency or demand side
31 management resources as a means of managing and reducing energy
32 usage and demand by customers.

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

36 "Existing business relationship" means a relationship formed by
37 a voluntary two-way communication between an electric power
38 supplier, gas supplier, broker, energy agent, marketer, private
39 aggregator, sales representative, or telemarketer and a customer,
40 regardless of an exchange of consideration, on the basis of an
41 inquiry, application, purchase, or transaction initiated by the
42 customer regarding products or services offered by the electric
43 power supplier, gas supplier, broker, energy agent, marketer,
44 private aggregator, sales representative, or telemarketer; however, a
45 consumer's use of electric generation service or gas supply service
46 through the consumer's electric public utility or gas public utility
47 shall not constitute or establish an existing business relationship for
48 the purpose of P.L.2013, c.263.

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

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

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

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

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

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

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

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

45 "Government aggregator" means any government entity subject
46 to the requirements of the "Local Public Contracts Law," P.L.1971,
47 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
48 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"

1 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
2 contract with a licensed electric power supplier or a licensed gas
3 supplier for: (1) the provision of electric generation service, electric
4 related service, gas supply service, or gas related service for its own
5 use or the use of other government aggregators; or (2) if a
6 municipal or county government, the provision of electric
7 generation service or gas supply service on behalf of business or
8 residential customers within its territorial jurisdiction.

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

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

17 "Greenhouse gas emissions portfolio standard" means a
18 requirement that addresses or limits the amount of carbon dioxide
19 emissions indirectly resulting from the use of electricity as applied
20 to any electric power suppliers and basic generation service
21 providers of electricity.

22 "Historic fill" means generally large volumes of non-indigenous
23 material, no matter what date they were emplaced on the site, used
24 to raise the topographic elevation of a site, which were
25 contaminated prior to emplacement and are in no way connected
26 with the operations at the location of emplacement and which
27 include, but are not limited to, construction debris, dredge spoils,
28 incinerator residue, demolition debris, fly ash, and non-hazardous
29 solid waste. "Historic fill" shall not include any material which is
30 substantially chromate chemical production waste or any other
31 chemical production waste or waste from processing of metal or
32 mineral ores, residues, slags, or tailings.

33 "Incremental auction" means an auction conducted by PJM, as
34 part of PJM's reliability pricing model, prior to the start of the
35 delivery year to secure electric capacity as necessary to satisfy the
36 capacity requirements for that delivery year, that is not otherwise
37 provided for in the base residual auction.

38 "Leakage" means an increase in greenhouse gas emissions
39 related to generation sources located outside of the State that are not
40 subject to a state, interstate, or regional greenhouse gas emissions
41 cap or standard that applies to generation sources located within the
42 State.

43 "Locational deliverability area" or "LDA" means one or more of
44 the zones within the PJM region which are used to evaluate area
45 transmission constraints and reliability issues including electric
46 public utility company zones, sub-zones, and combinations of
47 zones.

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

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

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

22 "Mid-merit electric power generation facility" means a
23 generation facility that operates at a capacity factor between
24 baseload generation facilities and peaker generation facilities.

25 "Net metering aggregation" means a procedure for calculating
26 the combination of the annual energy usage for all facilities owned
27 by a single customer where such customer is a State entity, school
28 district, county, county agency, county authority, municipality,
29 municipal agency, or municipal authority, and which are served by
30 a solar electric power generating facility as provided pursuant to
31 paragraph (4) of subsection e. of section 38 of P.L.1999,
32 c.23 (C.48:3-87).

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

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

37 "Offshore wind energy" means electric energy produced by a
38 qualified offshore wind project.

39 "Offshore wind renewable energy certificate" or "OREC" means
40 a certificate, issued by the board or its designee, representing the
41 environmental attributes of one megawatt hour of electric
42 generation from a qualified offshore wind project.

43 "Off-site end use thermal energy services customer" means an
44 end use customer that purchases thermal energy services from an
45 on-site generation facility, combined heat and power facility, or co-
46 generation facility, and that is located on property that is separated
47 from the property on which the on-site generation facility,
48 combined heat and power facility, or co-generation facility is

1 located by more than one easement, public thoroughfare, or
2 transportation or utility-owned right-of-way.

3 "On-site generation facility" means a generation facility,
4 including, but not limited to, a generation facility that produces
5 Class I or Class II renewable energy, and equipment and services
6 appurtenant to electric sales by such facility to the end use customer
7 located on the property or on property contiguous to the property on
8 which the end user is located. An on-site generation facility shall
9 not be considered a public utility. The property of the end use
10 customer and the property on which the on-site generation facility is
11 located shall be considered contiguous if they are geographically
12 located next to each other, but may be otherwise separated by an
13 easement, public thoroughfare, transportation or utility-owned
14 right-of-way, or if the end use customer is purchasing thermal
15 energy services produced by the on-site generation facility, for use
16 for heating or cooling, or both, regardless of whether the customer
17 is located on property that is separated from the property on which
18 the on-site generation facility is located by more than one easement,
19 public thoroughfare, or transportation or utility-owned right-of-way.

20 "Person" means an individual, partnership, corporation,
21 association, trust, limited liability company, governmental entity, or
22 other legal entity.

23 "PJM Interconnection, L.L.C." or "PJM" means the privately-
24 held, limited liability corporation that is a FERC-approved Regional
25 Transmission Organization, or its successor, that manages the
26 regional, high-voltage electricity grid serving all or parts of 13
27 states including New Jersey and the District of Columbia, operates
28 the regional competitive wholesale electric market, manages the
29 regional transmission planning process, and establishes systems and
30 rules to ensure that the regional and in-State energy markets operate
31 fairly and efficiently.

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

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

41 "Properly closed sanitary landfill facility" means a sanitary
42 landfill facility, or a portion of a sanitary landfill facility, for which
43 performance is complete with respect to all activities associated
44 with the design, installation, purchase, or construction of all
45 measures, structures, or equipment required by the Department of
46 Environmental Protection, pursuant to law, in order to prevent,
47 minimize, or monitor pollution or health hazards resulting from a
48 sanitary landfill facility subsequent to the termination of operations

1 at any portion thereof, including, but not necessarily limited to, the
2 placement of earthen or vegetative cover, and the installation of
3 methane gas vents or monitors and leachate monitoring wells or
4 collection systems at the site of any sanitary landfill facility.

5 "Public utility holding company" means: (1) any company that,
6 directly or indirectly, owns, controls, or holds with power to vote,
7 10 percent or more of the outstanding voting securities of an
8 electric public utility or a gas public utility or of a company which
9 is a public utility holding company by virtue of this definition,
10 unless the Securities and Exchange Commission, or its successor,
11 by order declares such company not to be a public utility holding
12 company under the Public Utility Holding Company Act of 1935,
13 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
14 Securities and Exchange Commission, or its successor, determines,
15 after notice and opportunity for hearing, directly or indirectly, to
16 exercise, either alone or pursuant to an arrangement or
17 understanding with one or more other persons, such a controlling
18 influence over the management or policies of an electric public
19 utility or a gas public utility or public utility holding company as to
20 make it necessary or appropriate in the public interest or for the
21 protection of investors or consumers that such person be subject to
22 the obligations, duties, and liabilities imposed in the Public Utility
23 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
24 successor act.

25 "Qualified offshore wind project" means a wind turbine
26 electricity generation facility in the Atlantic Ocean and connected
27 to the electric transmission system in this State, and includes the
28 associated transmission-related interconnection facilities and
29 equipment, and approved by the board pursuant to section 3 of
30 P.L.2010, c.57 (C.48:3-87.1).

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

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

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

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

8 "Reliability pricing model" or "RPM" means PJM's capacity-
9 market model, and its successors, that secures capacity on behalf of
10 electric load serving entities to satisfy load obligations not satisfied
11 through the output of electric generation facilities owned by those
12 entities, or otherwise secured by those entities through bilateral
13 contracts.

14 "Renewable energy certificate" or "REC" means a certificate
15 representing the environmental benefits or attributes of one
16 megawatt-hour of generation from a generating facility that
17 produces Class I or Class II renewable energy, but shall not include
18 a solar renewable energy certificate or an offshore wind renewable
19 energy certificate.

20 "Resource clearing price" or "RCP" means the clearing price
21 established for the applicable locational deliverability area by the
22 base residual auction or incremental auction, as determined by the
23 optimization algorithm for each auction, conducted by PJM as part
24 of PJM's reliability pricing model.

25 "Resource recovery facility" means a solid waste facility
26 constructed and operated for the incineration of solid waste for
27 energy production and the recovery of metals and other materials
28 for reuse, which the Department of Environmental Protection has
29 determined to be in compliance with current environmental
30 standards, including, but not limited to, all applicable requirements
31 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

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

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

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

18 "Sales representative" means a person employed by, acting on
19 behalf of, or as an independent contractor for, an electric power
20 supplier, gas supplier, broker, energy agent, marketer, or private
21 aggregator who, by any means, solicits a potential residential
22 customer for the provision of electric generation service or gas
23 supply service.

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

26 "School district" means a local or regional school district
27 established pursuant to chapter 8 or chapter 13 of Title 18A of the
28 New Jersey Statutes, a county special services school district
29 established pursuant to article 8 of chapter 46 of Title 18A of the
30 New Jersey Statutes, a county vocational school district established
31 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
32 Statutes, and a district under full State intervention pursuant to
33 P.L.1987, c.399 (C.18A:7A-34 et al.).

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

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

40 "Small scale hydropower facility" means a facility located within
41 this State that is connected to the distribution system, and that
42 meets the requirements of, and has been certified by, a nationally
43 recognized low-impact hydropower organization that has
44 established low-impact hydropower certification criteria applicable
45 to: (1) river flows; (2) water quality; (3) fish passage and
46 protection; (4) watershed protection; (5) threatened and endangered
47 species protection; (6) cultural resource protection; (7) recreation;
48 and (8) facilities recommended for removal.

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

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

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

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

23 "Standard offer capacity agreement" or "SOCA" means a
24 financially-settled transaction agreement, approved by board order,
25 that provides for eligible generators to receive payments from the
26 electric public utilities for a defined amount of electric capacity for
27 a term to be determined by the board but not to exceed 15 years,
28 and for such payments to be a fully non-bypassable charge, with
29 such an order, once issued, being irrevocable.

30 "Standard offer capacity price" or "SOCP" means the capacity
31 price that is fixed for the term of the SOCA and which is the price
32 to be received by eligible generators under a board-approved
33 SOCA.

34 "State entity" means a department, agency, or office of State
35 government, a State university or college, or an authority created by
36 the State.

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

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

1 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
2 mechanisms therefor.

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

5 "Telemarketing sales call" means a telephone call made by a
6 telemarketer to a potential residential customer as part of a plan,
7 program, or campaign to encourage the customer to change the
8 customer's electric power supplier or gas supplier. A telephone call
9 made to an existing customer of an electric power supplier, gas
10 supplier, broker, energy agent, marketer, private aggregator, or
11 sales representative, for the sole purpose of collecting on accounts
12 or following up on contractual obligations, shall not be deemed a
13 telemarketing sales call. A telephone call made in response to an
14 express written request of a customer shall not be deemed a
15 telemarketing sales call.

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

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

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

37 "Transition period" means the period from August 1, 1999
38 through July 31, 2003.

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

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

1 "Unsolicited advertisement" means any advertising claims of the
2 commercial availability or quality of services provided by an
3 electric power supplier, gas supplier, broker, energy agent,
4 marketer, private aggregator, sales representative, or telemarketer
5 which is transmitted to a potential customer without that customer's
6 prior express invitation or permission.
7 (cf: P.L.2015, c.51, s.1)

8
9 7. This act shall take effect immediately.

10
11
12 STATEMENT

13
14 This bill would require certain generators of solid waste to
15 separate and recycle food waste, and amend the definition of "Class
16 I renewable energy."

17 Specifically, under the bill, beginning January 1, 2020, every
18 large food waste generator that is located within 25 road miles of an
19 authorized food waste recycling facility and that generates an
20 average projected volume of 104 or more tons per year of food
21 waste would be required to: (1) source separate its food waste from
22 other solid waste; and (2) send that source separated food waste to
23 an authorized food waste recycling facility that has available
24 capacity and will accept it. Beginning January 1, 2023, large food
25 waste generators that produce an average projected volume of 52 or
26 more tons per year of food waste would have to comply with these
27 requirements.

28 Under the bill, if a large food waste generator is not located
29 within 25 road miles of an authorized food waste recycling facility,
30 or the facility will not accept the generator's food waste, the
31 generator may send the food waste for final disposal at a solid waste
32 management facility. In addition, a large food waste generator
33 would be deemed in compliance with the bill if the generator: (1)
34 performs enclosed, on-site composting or anaerobic or aerobic
35 digestion of its source separate food waste; or (2) recycles food
36 waste using an alternative authorized food waste recycling method.
37 Moreover, the bill would authorize a large food waste generator to
38 petition the Department of Environmental Protection (DEP) for a
39 waiver of the recycling requirement if the transportation cost
40 together with the fee for recycling is at least 10 percent more than
41 the transportation costs and disposal fee for noncontract commercial
42 solid waste disposal. The bill provides that a large food waste
43 generator would be deemed to be in compliance with the bill if it
44 sends its food waste for final disposal to a sanitary landfill facility
45 that delivers the landfill gas to a gas-to-energy facility as fuel for
46 the generation of electricity.

47 Any person who violates the bill would be subject to a civil
48 penalty of \$250 for the first offense, \$500 for the second offense,

1 and \$1,000 for the third and subsequent offenses. If the violation is
2 of a continuing nature, each day during which the violation
3 continues would constitute a separate offense.

4 The DEP would be required to adopt regulations concerning: (1)
5 recordkeeping and reporting requirements for large food waste
6 generators and authorized food waste recycling centers; (2)
7 guidelines and procedures for businesses to follow to determine
8 whether they are subject to the requirements of the bill; (3) a list of
9 food waste products that must be source separated and recycled
10 pursuant to the bill; (4) standards for the enclosed on-site
11 composting or anaerobic or aerobic digestion of source separated
12 food waste, including requirements for energy production and other
13 sustainable uses of the byproducts of recycled food waste; and (5) a
14 list of actions businesses may take to reduce the amount of food
15 waste they generate to a level below the threshold amounts
16 established in the bill. The DEP would publish on its Internet
17 website the name, location, and contact information for each
18 authorized food waste recycling facility in the State.

19 The bill would provide for a local economic benefit payment to
20 any municipality that hosts a facility approved to accept food waste.
21 The bill would also establish the Food Waste Recycling Market
22 Development Council. The bill would require State departments
23 and agencies to use, where technically feasible, environmentally
24 sound, and competitively priced, compost, mulch, or other soil
25 amendments produced from municipal solid waste, food waste,
26 sludge, yard waste, clean wood waste, or other similar materials.
27 Finally, the bill would amend the definition of "Class I renewable
28 energy" to include electric energy produced from methane gas from
29 a composting or anaerobic or aerobic digestion facility that converts
30 food waste or other organic waste to energy.