

SENATE, No. 889

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

Sponsored by:

Senator JOSEPH PENNACCHIO
District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Senators O'Scanlon and Oroho

SYNOPSIS

“The Reliability, Preparedness, and Storm Response Act of 2012”; requires public utilities to file certain information concerning emergency preparedness with BPU and increases certain penalties.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/6/2018)

S889 PENNACCHIO

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1 AN ACT requiring public utilities to file certain information
2 concerning emergency preparedness with the Board of Public
3 Utilities, increasing certain penalties, and amending R.S.48:2-42,
4 and supplementing Title 48 of the Revised Statutes.

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

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9 1. (New section) This act shall be known and may be cited as
10 “The Reliability, Preparedness, and Storm Response Act of 2012.”

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12 2. (New section) Consistent with federal law, the board shall
13 develop and enforce performance benchmarks for service reliability,
14 service disruption preparedness, service restoration, and
15 communications for electric public utilities conducting business in
16 the State. The board shall require, no less than annually, periodic
17 reliability performance reporting by the electric public utilities.

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19 3. (New section) a. The board shall require each public utility
20 conducting business in the State to annually submit to the board, on
21 or before May 15th of each year, a service reliability plan for the
22 board’s review and approval. After review of a public utility’s
23 service reliability plan, the board may order the public utility to
24 make such modifications as it deems reasonably necessary to
25 remedy any deficiency. The service reliability plan shall include,
26 but not be limited to, the provision of safe and reliable service and
27 the reasonably prompt restoration of service in the event of an
28 outage in the service area of the public utility.

29 b. The board shall have the authority to open an investigation
30 to review the performance of any public utility in restoring service
31 during a disruption of service in the utility’s service area. If, after
32 evidentiary hearings or other investigatory proceedings, the board
33 finds that, as a result of the failure of the public utility to implement
34 its service reliability plan, the duration of an outage was materially
35 longer than it would have been but for the public utility’s failure,
36 the board may impose a civil administrative penalty pursuant to
37 section 6 of P.L. , c. (C.) (pending before the Legislature as
38 this bill).

39 c. The board shall undertake a detailed study of public utility
40 service reliability. Within eighteen months after the effective date
41 of P.L. , c. (C.) (pending before the Legislature as this bill),
42 the board shall prepare a report of its study and shall provide a copy
43 thereof to the Governor and, pursuant to section 2 of P.L.1991,
44 c.164 (C.52:14-19.1), to the Legislature.

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 4. (New section) a. The board shall require each public utility
2 conducting business in the State to annually submit to the board, on
3 or before May 15th of each year, an emergency communications
4 strategic plan for review and approval. This plan shall be reviewed
5 in consultation with the State Office of Emergency Management in
6 the Division of State Police in the Department of Law and Public
7 Safety. After review of a public utility's emergency
8 communications strategic plan, the board may order the public
9 utility to make such modifications as it deems reasonably necessary
10 to remedy any deficiency. The plan shall include, but not be limited
11 to, providing an explanation of the public utility's system for
12 communicating with customers during and after an emergency that
13 extends beyond normal business hours and the designation of public
14 utility staff to communicate with local officials and relevant
15 regulatory agencies.

16 b. The board shall have the authority to open an investigation
17 to review the communications of any public utility during a
18 disruption of service in the utility's service area. If, after
19 evidentiary hearings or other investigatory proceedings, the board
20 finds that, as a result of the failure of the public utility to implement
21 its emergency communications strategic plan, the public utility's
22 communications were materially less effective than they would
23 have been but for the public utility's failure, the board may impose
24 a civil administrative penalty pursuant to section 6 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill).

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27 5. (New section) The board shall require each electric public
28 utility conducting business in the State to annually submit to the
29 board, on or before May 15th of each year, a review of strategies to
30 mitigate potential flooding of substations constructed within flood
31 hazard areas as defined by the Department of Environmental
32 Protection. The board shall require that the review by the electric
33 public utility shall address the feasibility of mitigation by, among
34 other things, switching to other sources, deployment of mobile
35 units, construction of flood walls, raising equipment, and the
36 relocation of facilities. The review should include timeframes to
37 implement the recommended measures and cost estimates for each
38 scenario considered.

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40 6. R.S.48:2-42 is amended to read as follows:
41 48:2-42. **【Any】** a. Notwithstanding the provisions of any
42 law, rule, regulation, or board order to the contrary, any person【or】,
43 public utility, or other person or entity subject to the jurisdiction of
44 the board that shall fail to comply with **【an】** any law, rule,
45 regulation, or order of the board 【, except an order to resume
46 service which has been discontinued,】 shall be **【subject to a penalty**
47 of one hundred dollars for every day during which the default

1 continues. Any person or public utility that shall fail to comply with
2 any order of the board directing the public utility to resume service
3 which has been discontinued shall be subject to a penalty of two
4 hundred and fifty dollars for every day during which such default
5 continues. Such penalties shall be recovered in an action at law in
6 the name of the state] liable for a civil administrative penalty not to
7 exceed \$25,000 for each violation, except that any maximum civil
8 penalty may not exceed \$2,000,000 for any related series of events.
9 Each day during which the violation continues shall constitute an
10 additional, separate, and distinct violation.

11 b. Any civil administrative penalty may be compromised by the
12 board in an amount and with conditions the board deems
13 appropriate. In determining the amount of the penalty, or the
14 amount agreed upon in compromise, the board shall consider: the
15 nature, circumstances, and gravity of the violation; the degree of the
16 violator's culpability; any history of prior violations; any good faith
17 effort on the part of the violator in attempting to achieve
18 compliance; and any other factors the board determines to be
19 appropriate.

20 c. Pursuit of any remedy specified in this section shall not
21 preclude the pursuit of any other remedy provided by any other law
22 except, if the penalty amount set forth in any other law, rule,
23 regulation, or board order is less than the amount set forth in
24 P.L. , c. (C.) (pending before the Legislature as this bill),
25 then amounts set forth in P.L. , c. (C.) (pending before the
26 Legislature as this bill) shall control.

27 d. Civil administrative penalties may be recovered, if
28 necessary, in a summary proceeding pursuant to the "Penalty
29 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
30 The Superior Court shall have jurisdiction to enforce the provisions
31 of the "Penalty Enforcement Law of 1999" in connection with
32 P.L. , c. (C.) (pending before the Legislature as this
33 bill).

34 e. Notwithstanding any law to the contrary, there is hereby
35 established in the board a nonlapsing, special revenue fund called
36 the "Board of Public Utilities Civil Penalty Fund" into which all
37 penalties imposed or obtained pursuant to P.L. , c. (C.)
38 (pending before the Legislature as this bill) shall be deposited. The
39 moneys in the Board of Public Utilities Civil Penalty Fund shall be
40 used for the improvement of public utility service quality and
41 reliability.

42 f. Consistent with section 1 of P.L.1988, c.100, (C. 48:2-
43 21.14), any civil administrative penalty imposed under this act shall
44 not be recoverable from ratepayers.

45 (cf: R.S.48:2-42)

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47 7. This act shall take effect immediately.

STATEMENT

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This bill, known as “The Reliability, Preparedness, and Storm Response Act of 2012,” requires the Board of Public Utilities (“BPU”) to develop and enforce performance benchmarks for service reliability and communications for electric public utilities and requires electric public utilities to submit to the BPU a review of strategies to mitigate flooding of substations within flood zones.

In addition, the bill requires all public utilities conducting business in the State to file a service reliability plan and an emergency communications strategic plan for review and approval by the BPU. After review of a public utility’s service reliability plan and communications plan, in either or both, the BPU may order the public utility to make such modifications as it deems reasonably necessary to remedy any deficiency.

This bill reaffirms the BPU’s authority to open an investigation to review the performance or communications of a public utility during a disruption of service in the public utility’s service area. If the BPU finds that, as a result of the failure of a public utility to implement its service reliability plan or communications plan, the public utility’s performance was materially less effective, the BPU may impose a civil administrative penalty.

This bill amends existing law to increase the civil penalties paid by all public utilities for violating any law, rule, regulation, or order by the BPU. Civil penalties will be increased from \$100 a day to \$25,000 for each violation, but penalties are not to exceed \$2,000,000 for any series of related events. The “Board of Public Utilities Civil Penalty Fund” will be established in the BPU, into which all penalties collected will be deposited. The money in the fund will be used to increase public utilities’ service quality and reliability. Civil penalties will not be recoverable from ratepayers.