

ASSEMBLY, No. 1714

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Allows BPU to increase cost to customers of Class I renewable energy requirement for energy years 2022 through 2024, under certain conditions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the cost to customers of Class I renewable
2 energy and amending P.L.1999, c.23.

3

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

6

7 1. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
8 as follows:

9 38. a. The board shall require an electric power supplier or
10 basic generation service provider to disclose on a customer's bill or
11 on customer contracts or marketing materials, a uniform, common
12 set of information about the environmental characteristics of the
13 energy purchased by the customer, including, but not limited to:

14 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
15 solar, hydroelectric, wind and biomass, or a regional average
16 determined by the board;

17 (2) Its emissions, in pounds per megawatt hour, of sulfur
18 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
19 that the board may determine to pose an environmental or health
20 hazard, or an emissions default to be determined by the board; and

21 (3) Any discrete emission reduction retired pursuant to rules and
22 regulations adopted pursuant to P.L.1995, c.188.

23 b. Notwithstanding any provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
25 contrary, the board shall initiate a proceeding and shall adopt, in
26 consultation with the Department of Environmental Protection, after
27 notice and opportunity for public comment and public hearing,
28 interim standards to implement this disclosure requirement,
29 including, but not limited to:

30 (1) A methodology for disclosure of emissions based on output
31 pounds per megawatt hour;

32 (2) Benchmarks for all suppliers and basic generation service
33 providers to use in disclosing emissions that will enable consumers
34 to perform a meaningful comparison with a supplier's or basic
35 generation service provider's emission levels; and

36 (3) A uniform emissions disclosure format that is graphic in
37 nature and easily understandable by consumers. The board shall
38 periodically review the disclosure requirements to determine if
39 revisions to the environmental disclosure system as implemented
40 are necessary.

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

46 c. (1) The board may adopt, in consultation with the
47 Department of Environmental Protection, after notice and

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 opportunity for public comment, an emissions portfolio standard
2 applicable to all electric power suppliers and basic generation
3 service providers, upon a finding that:

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

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

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

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

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

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

43 d. Notwithstanding any provisions of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
45 contrary, the board shall initiate a proceeding and shall adopt, after
46 notice, provision of the opportunity for comment, and public
47 hearing, renewable energy portfolio standards that shall require:

1 (1) that two and one-half percent of the kilowatt hours sold in
2 this State by each electric power supplier and each basic generation
3 service provider be from Class II renewable energy sources;

4 (2) beginning on January 1, 2020, that 21 percent of the
5 kilowatt hours sold in this State by each electric power supplier and
6 each basic generation service provider be from Class I renewable
7 energy sources. The board shall increase the required percentage
8 for Class I renewable energy sources so that by January 1, 2025, 35
9 percent of the kilowatt hours sold in this State by each electric
10 power supplier and each basic generation service provider shall be
11 from Class I renewable energy sources, and by January 1, 2030, 50
12 percent of the kilowatt hours sold in this State by each electric
13 power supplier and each basic generation service provider shall be
14 from Class I renewable energy sources. Notwithstanding the
15 requirements of this subsection, the board shall ensure that the cost
16 to customers of the Class I renewable energy requirement imposed
17 pursuant to this subsection shall not exceed nine percent of the total
18 paid for electricity by all customers in the State for energy year
19 2019, energy year 2020, and energy year 2021, respectively, and
20 shall not exceed seven percent of the total paid for electricity by all
21 customers in the State in any energy year thereafter ; provided that,
22 if in energy years 2019 through 2021 the cost to customers of the
23 Class I renewable energy requirement is less than nine percent of
24 the total paid for electricity by all customers in the State, the board
25 may increase the cost to customers of the Class I renewable energy
26 requirement in energy years 2022 through 2024 to a rate greater
27 than seven percent, as long as the total costs to customers for
28 energy years 2019 through 2024 does not exceed the sum of nine
29 percent of the total paid for electricity by all customers in the State
30 in energy years 2019 through 2021 and seven percent of the total
31 paid for electricity by all customers in the State in energy years
32 2022 through 2024 . In calculating the cost to customers of the
33 Class I renewable energy requirement imposed pursuant to this
34 subsection, the board shall not include the costs of the offshore
35 wind energy certificate program established pursuant to paragraph
36 (4) of this subsection. The board shall take any steps necessary to
37 prevent the exceedance of the cap on the cost to customers
38 including, but not limited to, adjusting the Class I renewable energy
39 requirement.

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

44 (3) that the board establish a multi-year schedule, applicable to
45 each electric power supplier or basic generation service provider in
46 this State, beginning with the one-year period commencing on June
47 1, 2010, and continuing for each subsequent one-year period up to
48 and including, the one-year period commencing on June 1, 2033,

that requires the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs
EY 2013	596 Gwhrs
EY 2014	2.050%
EY 2015	2.450%
EY 2016	2.750%
EY 2017	3.000%
EY 2018	3.200%
EY 2019	4.300%
EY 2020	4.900%
EY 2021	5.100%
EY 2022	5.100%
EY 2023	5.100%
EY 2024	4.900%
EY 2025	4.800%
EY 2026	4.500%
EY 2027	4.350%
EY 2028	3.740%
EY 2029	3.070%
EY 2030	2.210%
EY 2031	1.580%
EY 2032	1.400%
EY 2033	1.100%

No later than 180 days after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations to close the SREC program to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation provider from solar electric power generators connected to the distribution system. The board shall continue to consider any application filed before the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board shall provide for an orderly and transparent mechanism that will result in the closing of the existing SREC program on a date certain but no later than June 1, 2021.

No later than 24 months after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall complete a study that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State. The board shall submit the written report thereon to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The board shall consult with public utilities, industry experts, regional

1 grid operators, solar power providers and financiers, and other State
2 agencies to determine whether the board can modify the SREC
3 program such that the program will:

- 4 - continually reduce, where feasible, the cost of achieving the
5 solar energy goals set forth in this subsection;
- 6 - provide an orderly transition from the SREC program to a new
7 or modified program;
- 8 - develop megawatt targets for grid connected and distribution
9 systems, including residential and small commercial rooftop
10 systems, community solar systems, and large scale behind the meter
11 systems, as a share of the overall solar energy requirement, which
12 targets the board may modify periodically based on the cost,
13 feasibility, or social impacts of different types of projects;
- 14 - establish and update market-based maximum incentive
15 payment caps periodically for each of the above categories of solar
16 electric power generation facilities;
- 17 - encourage and facilitate market-based cost recovery through
18 long-term contracts and energy market sales; and
- 19 - where cost recovery is needed for any portion of an efficient
20 solar electric power generation facility when costs are not
21 recoverable through wholesale market sales and direct payments
22 from customers, utilize competitive processes such as competitive
23 procurement and long-term contracts where possible to ensure such
24 recovery, without exceeding the maximum incentive payment cap
25 for that category of facility.

26 The board shall approve, conditionally approve, or disapprove
27 any application for designation as connected to the distribution
28 system of a solar electric power generation facility filed with the
29 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et
30 al.), no more than 90 days after receipt by the board of a completed
31 application. For any such application for a project greater than 25
32 kilowatts, the board shall require the applicant to post a notice
33 escrow with the board in an amount of \$40 per kilowatt of DC
34 nameplate capacity of the facility, not to exceed \$40,000. The
35 notice escrow amount shall be reimbursed to the applicant in full
36 upon either denial of the application by the board or upon
37 commencement of commercial operation of the solar electric power
38 generation facility. The escrow amount shall be forfeited to the
39 State if the facility is designated as connected to the distribution
40 system pursuant to this subsection but does not commence
41 commercial operation within two years following the date of the
42 designation by the board.

43 For all applications for designation as connected to the
44 distribution system of a solar electric power generation facility filed
45 with the board after the date of enactment of P.L.2018, c.17
46 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

47 (a) The board shall determine an appropriate period of no less
48 than 120 days following the end of an energy year prior to which a

1 provider or supplier must demonstrate compliance for that energy
2 year with the annual renewable portfolio standard;

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

10 (c) The solar renewable portfolio standards requirements in this
11 paragraph shall exempt those existing supply contracts which are
12 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
13 87.8 et al.) from any increase beyond the number of SRECs
14 mandated by the solar renewable energy portfolio standards
15 requirements that were in effect on the date that the providers
16 executed their existing supply contracts. This limited exemption for
17 providers' existing supply contracts shall not be construed to lower
18 the Statewide solar sourcing requirements set forth in this
19 paragraph. Such incremental requirements that would have
20 otherwise been imposed on exempt providers shall be distributed
21 over the providers not subject to the existing supply contract
22 exemption until such time as existing supply contracts expire and
23 all providers are subject to the new requirement in a manner that is
24 competitively neutral among all providers and suppliers.
25 Notwithstanding any rule or regulation to the contrary, the board
26 shall recognize these new solar purchase obligations as a change
27 required by operation of law and implement the provisions of this
28 subsection in a manner so as to prevent any subsidies between
29 suppliers and providers and to promote competition in the
30 electricity supply industry.

31 An electric power supplier or basic generation service provider
32 may satisfy the requirements of this subsection by participating in a
33 renewable energy trading program approved by the board in
34 consultation with the Department of Environmental Protection, or
35 compliance with the requirements of this subsection may be
36 demonstrated to the board by suppliers or providers through the
37 purchase of SRECs.

38 The renewable energy portfolio standards adopted by the board
39 pursuant to paragraphs (1) and (2) of this subsection shall be
40 effective as regulations immediately upon filing with the Office of
41 Administrative Law and shall be effective for a period not to exceed
42 18 months, and may, thereafter, be amended, adopted or readopted
43 by the board in accordance with the provisions of the
44 "Administrative Procedure Act."

45 The renewable energy portfolio standards adopted by the board
46 pursuant to this paragraph shall be effective as regulations
47 immediately upon filing with the Office of Administrative Law and
48 shall be effective for a period not to exceed 30 months after such

1 filing, and shall, thereafter, be amended, adopted or readopted by
2 the board in accordance with the "Administrative Procedure Act";
3 and

4 (4) within 180 days after the date of enactment of P.L.2010,
5 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
6 renewable energy certificate program to require that a percentage of
7 the kilowatt hours sold in this State by each electric power supplier
8 and each basic generation service provider be from offshore wind
9 energy in order to support at least 3,500 megawatts of generation
10 from qualified offshore wind projects.

11 The percentage established by the board pursuant to this
12 paragraph shall serve as an offset to the renewable energy portfolio
13 standard established pursuant to paragraph (2) of this subsection
14 and shall reduce the corresponding Class I renewable energy
15 requirement.

16 The percentage established by the board pursuant to this
17 paragraph shall reflect the projected OREC production of each
18 qualified offshore wind project, approved by the board pursuant to
19 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
20 commercial operation start date of the qualified offshore wind
21 project which production projection and OREC purchase
22 requirement, once approved by the board, shall not be subject to
23 reduction.

24 An electric power supplier or basic generation service provider
25 shall comply with the OREC program established pursuant to this
26 paragraph through the purchase of offshore wind renewable energy
27 certificates at a price and for the time period required by the board.
28 In the event there are insufficient offshore wind renewable energy
29 certificates available, the electric power supplier or basic generation
30 service provider shall pay an offshore wind alternative compliance
31 payment established by the board. Any offshore wind alternative
32 compliance payments collected shall be refunded directly to the
33 ratepayers by the electric public utilities.

34 The rules established by the board pursuant to this paragraph
35 shall be effective as regulations immediately upon filing with the
36 Office of Administrative Law and shall be effective for a period not
37 to exceed 18 months, and may, thereafter, be amended, adopted or
38 readopted by the board in accordance with the provisions of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.).

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

46 (1) net metering standards for electric power suppliers and basic
47 generation service providers. The standards shall require electric
48 power suppliers and basic generation service providers to offer net

1 metering at non-discriminatory rates to industrial, large
2 commercial, residential and small commercial customers, as those
3 customers are classified or defined by the board, that generate
4 electricity, on the customer's side of the meter, using a Class I
5 renewable energy source, for the net amount of electricity supplied
6 by the electric power supplier or basic generation service provider
7 over an annualized period. Systems of any sized capacity, as
8 measured in watts, are eligible for net metering. If the amount of
9 electricity generated by the customer-generator, plus any kilowatt
10 hour credits held over from the previous billing periods, exceeds the
11 electricity supplied by the electric power supplier or basic
12 generation service provider, then the electric power supplier or
13 basic generation service provider, as the case may be, shall credit
14 the customer-generator for the excess kilowatt hours until the end of
15 the annualized period at which point the customer-generator will be
16 compensated for any remaining credits or, if the customer-generator
17 chooses, credit the customer-generator on a real-time basis, at the
18 electric power supplier's or basic generation service provider's
19 avoided cost of wholesale power or the PJM electric power pool's
20 real-time locational marginal pricing rate, adjusted for losses, for
21 the respective zone in the PJM electric power pool. Alternatively,
22 the customer-generator may execute a bilateral agreement with an
23 electric power supplier or basic generation service provider for the
24 sale and purchase of the customer-generator's excess generation.
25 The customer-generator may be credited on a real-time basis, so
26 long as the customer-generator follows applicable rules prescribed
27 by the PJM electric power pool for its capacity requirements for the
28 net amount of electricity supplied by the electric power supplier or
29 basic generation service provider. The board may authorize an
30 electric power supplier or basic generation service provider to cease
31 offering net metering to customers that are not already net metered
32 whenever the total rated generating capacity owned and operated by
33 net metering customer-generators Statewide equals 5.8 percent of
34 the total annual kilowatt-hours sold in this State by each electric
35 power supplier and each basic generation service provider during
36 the prior one-year period;

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

40 Such standards or rules shall take into consideration the goals of
41 the New Jersey Energy Master Plan, applicable industry standards,
42 and the standards of other states and the Institute of Electrical and
43 Electronics Engineers. The board shall allow electric public
44 utilities to recover the costs of any new net meters, upgraded net
45 meters, system reinforcements or upgrades, and interconnection
46 costs through either their regulated rates or from the net metering
47 customer-generator;

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

5 (4) net metering aggregation standards to require electric public
6 utilities to provide net metering aggregation to single electric public
7 utility customers that operate a solar electric power generation
8 system installed at one of the customer's facilities or on property
9 owned by the customer, provided that any such customer is a State
10 entity, school district, county, county agency, county authority,
11 municipality, municipal agency, or municipal authority. The
12 standards shall provide that, in order to qualify for net metering
13 aggregation, the customer must operate a solar electric power
14 generation system using a net metering billing account, which
15 system is located on property owned by the customer, provided that:

16 (a) the property is not land that has been actively devoted to
17 agricultural or horticultural use and that is valued, assessed, and
18 taxed pursuant to the "Farmland Assessment Act of 1964,"
19 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
20 period prior to the effective date of P.L.2012, c.24, provided,
21 however, that the municipal planning board of a municipality in
22 which a solar electric power generation system is located may
23 waive the requirement of this subparagraph (a), (b) the system is not
24 an on-site generation facility, (c) all of the facilities of the single
25 customer combined for the purpose of net metering aggregation are
26 facilities owned or operated by the single customer and are located
27 within its territorial jurisdiction except that all of the facilities of a
28 State entity engaged in net metering aggregation shall be located
29 within five miles of one another, and (d) all of those facilities are
30 within the service territory of a single electric public utility and are
31 all served by the same basic generation service provider or by the
32 same electric power supplier. The standards shall provide that in
33 order to qualify for net metering aggregation, the customer's solar
34 electric power generation system shall be sized so that its annual
35 generation does not exceed the combined metered annual energy
36 usage of the qualified customer facilities, and the qualified
37 customer facilities shall all be in the same customer rate class under
38 the applicable electric public utility tariff. For the customer's
39 facility or property on which the solar electric generation system is
40 installed, the electricity generated from the customer's solar electric
41 generation system shall be accounted for pursuant to the provisions
42 of paragraph (1) of this subsection to provide that the electricity
43 generated in excess of the electricity supplied by the electric power
44 supplier or the basic generation service provider, as the case may
45 be, for the customer's facility on which the solar electric generation
46 system is installed, over the annualized period, is credited at the
47 electric power supplier's or the basic generation service provider's
48 avoided cost of wholesale power or the PJM electric power pool

1 real-time locational marginal pricing rate. All electricity used by
2 the customer's qualified facilities, with the exception of the facility
3 or property on which the solar electric power generation system is
4 installed, shall be billed at the full retail rate pursuant to the electric
5 public utility tariff applicable to the customer class of the customer
6 using the electricity. A customer may contract with a third party to
7 operate a solar electric power generation system, for the purpose of
8 net metering aggregation. Any contractual relationship entered into
9 for operation of a solar electric power generation system related to
10 net metering aggregation shall include contractual protections that
11 provide for adequate performance and provision for construction
12 and operation for the term of the contract, including any appropriate
13 bonding or escrow requirements. Any incremental cost to an
14 electric public utility for net metering aggregation shall be fully and
15 timely recovered in a manner to be determined by the board. The
16 board shall adopt net metering aggregation standards within 270
17 days after the effective date of P.L.2012, c.24.

18 Such rules shall require the board or its designee to issue a credit
19 or other incentive to those generators that do not use a net meter but
20 otherwise generate electricity derived from a Class I renewable
21 energy source and to issue an enhanced credit or other incentive,
22 including, but not limited to, a solar renewable energy credit, to
23 those generators that generate electricity derived from solar
24 technologies.

25 Such standards or rules shall be effective as regulations
26 immediately upon filing with the Office of Administrative Law and
27 shall be effective for a period not to exceed 18 months, and may,
28 thereafter, be amended, adopted or readopted by the board in
29 accordance with the provisions of the "Administrative Procedure
30 Act."

31 f. The board may assess, by written order and after notice and
32 opportunity for comment, a separate fee to cover the cost of
33 implementing and overseeing an emission disclosure system or
34 emission portfolio standard, which fee shall be assessed based on an
35 electric power supplier's or basic generation service provider's share
36 of the retail electricity supply market. The board shall not impose a
37 fee for the cost of implementing and overseeing a greenhouse gas
38 emissions portfolio standard adopted pursuant to paragraph (2) of
39 subsection c. of this section.

40 g. The board shall adopt, pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
42 energy efficiency program in order to ensure investment in cost-
43 effective energy efficiency measures, ensure universal access to
44 energy efficiency measures, and serve the needs of low-income
45 communities that shall require each electric public utility to
46 implement energy efficiency measures that reduce electricity usage
47 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
48 Nothing in this subsection shall be construed to prevent an electric

1 public utility from meeting the requirements of this subsection by
2 contracting with another entity for the performance of the
3 requirements.

4 h. The board shall adopt, pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
6 efficiency program in order to ensure investment in cost-effective
7 energy efficiency measures, ensure universal access to energy
8 efficiency measures, and serve the needs of low-income
9 communities that shall require each gas public utility to implement
10 energy efficiency measures that reduce natural gas usage in the
11 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
12 Nothing in this subsection shall be construed to prevent a gas public
13 utility from meeting the requirements of this subsection by
14 contracting with another entity for the performance of the
15 requirements.

16 i. After the board establishes a schedule of solar kilowatt-hour
17 sale or purchase requirements pursuant to paragraph (3) of
18 subsection d. of this section, the board may initiate subsequent
19 proceedings and adopt, after appropriate notice and opportunity for
20 public comment and public hearing, increased minimum solar
21 kilowatt-hour sale or purchase requirements, provided that the
22 board shall not reduce previously established minimum solar
23 kilowatt-hour sale or purchase requirements, or otherwise impose
24 constraints that reduce the requirements by any means.

25 j. The board shall determine an appropriate level of solar
26 alternative compliance payment, and permit each supplier or
27 provider to submit an SACP to comply with the solar electric
28 generation requirements of paragraph (3) of subsection d. of this
29 section. The value of the SACP for each Energy Year, for Energy
30 Years 2014 through 2033 per megawatt hour from solar electric
31 generation required pursuant to this section, shall be:

32	EY 2014	\$339
33	EY 2015	\$331
34	EY 2016	\$323
35	EY 2017	\$315
36	EY 2018	\$308
37	EY 2019	\$268
38	EY 2020	\$258
39	EY 2021	\$248
40	EY 2022	\$238
41	EY 2023	\$228
42	EY 2024	\$218
43	EY 2025	\$208
44	EY 2026	\$198
45	EY 2027	\$188
46	EY 2028	\$178
47	EY 2029	\$168

1 EY 2030 \$158
2 EY 2031 \$148
3 EY 2032 \$138
4 EY 2033 \$128.

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

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

27 l. The board shall implement its responsibilities under the
28 provisions of this section in such a manner as to:

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

32 (2) maintain adequate regulatory authority over non-competitive
33 public utility services;

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

36 (4) promote energy efficiency and Class I renewable energy
37 market development, taking into consideration environmental
38 benefits and market barriers;

39 (5) make energy services more affordable for low and moderate
40 income customers;

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

44 (7) achieve the goals put forth under the renewable energy
45 portfolio standards;

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

47 (9) allow all market segments to participate.

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

8 n. For projects which are owned, or directly invested in, by a
9 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
10 98.1), the board shall determine the number of SRECs with which
11 such projects shall be credited; and in determining such number the
12 board shall ensure that the market for SRECs does not detrimentally
13 affect the development of non-utility solar projects and shall
14 consider how its determination may impact the ratepayers.

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

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

25 (2) reductions in peak demand for electricity and natural gas,
26 and the overall impact on the costs to customers of electricity and
27 natural gas;

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

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

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

38 q. (1) During the energy years of 2014, 2015, and 2016, a
39 solar electric power generation facility project that is not: (a) net
40 metered; (b) an on-site generation facility; (c) qualified for net
41 metering aggregation; or (d) certified as being located on a
42 brownfield, on an area of historic fill or on a properly closed
43 sanitary landfill facility, as provided pursuant to subsection t. of this
44 section may file an application with the board for approval of a
45 designation pursuant to this subsection that the facility is connected
46 to the distribution system. An application filed pursuant to this
47 subsection shall include a notice escrow of \$40,000 per megawatt of

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

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

24 (3) Notwithstanding the provisions of paragraph (2) of this
25 subsection, a solar electric power generation facility project that as
26 of May 31, 2017 was designated as "connected to the distribution
27 system," but failed to commence commercial operations as of that
28 date, shall maintain that designation if it commences commercial
29 operations by May 31, 2018.

30 r. (1) For all proposed solar electric power generation facility
31 projects except for those solar electric power generation facility
32 projects approved pursuant to subsection q. of this section, and for
33 all projects proposed in energy year 2019 and energy year 2020, the
34 board may approve projects for up to 50 megawatts annually in
35 auctioned capacity in two auctions per year as long as the board is
36 accepting applications. If the board approves projects for less than
37 50 megawatts in energy year 2019 or less than 50 megawatts in
38 energy year 2020, the difference in each year shall be carried over
39 into the successive energy year until 100 megawatts of auctioned
40 capacity has been approved by the board pursuant to this
41 subsection. A proposed solar electric power generation facility that
42 is neither net metered nor an on-site generation facility, may be
43 considered "connected to the distribution system" only upon
44 designation as such by the board, after notice to the public and
45 opportunity for public comment or hearing. A proposed solar
46 power electric generation facility seeking board designation as
47 "connected to the distribution system" shall submit an application to

1 the board that includes for the proposed facility: the nameplate
2 capacity; the estimated energy and number of SRECs to be
3 produced and sold per year; the estimated annual rate impact on
4 ratepayers; the estimated capacity of the generator as defined by
5 PJM for sale in the PJM capacity market; the point of
6 interconnection; the total project acreage and location; the current
7 land use designation of the property; the type of solar technology to
8 be used; and such other information as the board shall require.

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

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

15 (b) the approval of the designation of the proposed facility
16 would not significantly impact the preservation of open space in
17 this State;

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

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

24 (3) The board shall act within 90 days of its receipt of a
25 completed application for designation of a solar power electric
26 generation facility as "connected to the distribution system," to
27 either approve, conditionally approve, or disapprove the
28 application. If the proposed solar electric power generation facility
29 does not commence commercial operations within two years
30 following the date of the designation by the board pursuant to this
31 subsection, the designation of the facility as "connected to the
32 distribution system" shall be deemed to be null and void, and the
33 facility shall thereafter be considered not "connected to the
34 distribution system."

35 s. In addition to any other requirements of P.L.1999, c.23 or
36 any other law, rule, regulation or order, a solar electric power
37 generation facility that is not net metered or an on-site generation
38 facility and which is located on land that has been actively devoted
39 to agricultural or horticultural use that is valued, assessed, and
40 taxed pursuant to the "Farmland Assessment Act of 1964,"
41 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
42 period prior to the effective date of P.L.2012, c.24, shall only be
43 considered "connected to the distribution system" if (1) the board
44 approves the facility's designation pursuant to subsection q. of this
45 section; or (2) (a) PJM issued a System Impact Study for the facility
46 on or before June 30, 2011, (b) the facility files a notice with the
47 board within 60 days of the effective date of P.L.2012, c.24,
48 indicating its intent to qualify under this subsection, and (c) the

1 facility has been approved as "connected to the distribution system"
2 by the board. Nothing in this subsection shall limit the board's
3 authority concerning the review and oversight of facilities, unless
4 such facilities are exempt from such review as a result of having
5 been approved pursuant to subsection q. of this section.

6 t. (1) No more than 180 days after the date of enactment of
7 P.L.2012, c.24, the board shall, in consultation with the Department
8 of Environmental Protection and the New Jersey Economic
9 Development Authority, and, after notice and opportunity for public
10 comment and public hearing, complete a proceeding to establish a
11 program to provide SRECs to owners of solar electric power
12 generation facility projects certified by the board, in consultation
13 with the Department of Environmental Protection, as being located
14 on a brownfield, on an area of historic fill or on a properly closed
15 sanitary landfill facility, including those owned or operated by an
16 electric public utility and approved pursuant to section 13 of
17 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
18 subsection shall be considered "connected to the distribution
19 system", shall not require such designation by the board, and shall
20 not be subject to board review required pursuant to subsections q.
21 and r. of this section. Notwithstanding the provisions of section 3
22 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
23 order to the contrary, for projects certified under this subsection, the
24 board shall establish a financial incentive that is designed to
25 supplement the SRECs generated by the facility in order to cover
26 the additional cost of constructing and operating a solar electric
27 power generation facility on a brownfield, on an area of historic fill
28 or on a properly closed sanitary landfill facility. Any financial
29 benefit realized in relation to a project owned or operated by an
30 electric public utility and approved by the board pursuant to section
31 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
32 financial incentive established by the board pursuant to this
33 subsection, shall be credited to ratepayers. The issuance of SRECs
34 for all solar electric power generation facility projects pursuant to
35 this subsection shall be deemed "Board of Public Utilities financial
36 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
37 29.47).

38 (2) Notwithstanding the provisions of the "Spill Compensation
39 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
40 other law, rule, regulation, or order to the contrary, the board, in
41 consultation with the Department of Environmental Protection, may
42 find that a person who operates a solar electric power generation
43 facility project that has commenced operation on or after the
44 effective date of P.L.2012, c.24, which project is certified by the
45 board, in consultation with the Department of Environmental
46 Protection pursuant to paragraph (1) of this subsection, as being
47 located on a brownfield for which a final remediation document has

1 been issued, on an area of historic fill or on a properly closed
2 sanitary landfill facility, which projects shall include, but not be
3 limited to projects located on a brownfield for which a final
4 remediation document has been issued, on an area of historic fill or
5 on a properly closed sanitary landfill facility owned or operated by
6 an electric public utility and approved pursuant to section 13 of
7 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
8 acquired on or after the effective date of P.L.2012, c.24 on which
9 such a solar electric power generation facility project is constructed
10 and operated, shall not be liable for cleanup and removal costs to
11 the Department of Environmental Protection or to any other person
12 for the discharge of a hazardous substance provided that:

13 (a) the person acquired or leased the real property after the
14 discharge of that hazardous substance at the real property;

15 (b) the person did not discharge the hazardous substance, is not
16 in any way responsible for the hazardous substance, and is not a
17 successor to the discharger or to any person in any way responsible
18 for the hazardous substance or to anyone liable for cleanup and
19 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
20 23.11g);

21 (c) the person, within 30 days after acquisition of the property,
22 gave notice of the discharge to the Department of Environmental
23 Protection in a manner the Department of Environmental Protection
24 prescribes;

25 (d) the person does not disrupt or change, without prior written
26 permission from the Department of Environmental Protection, any
27 engineering or institutional control that is part of a remedial action
28 for the contaminated site or any landfill closure or post-closure
29 requirement;

30 (e) the person does not exacerbate the contamination at the
31 property;

32 (f) the person does not interfere with any necessary remediation
33 of the property;

34 (g) the person complies with any regulations and any permit the
35 Department of Environmental Protection issues pursuant to section
36 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
37 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

38 (h) with respect to an area of historic fill, the person has
39 demonstrated pursuant to a preliminary assessment and site
40 investigation, that hazardous substances have not been discharged;
41 and

42 (i) with respect to a properly closed sanitary landfill facility, no
43 person who owns or controls the facility receives, has received, or
44 will receive, with respect to such facility, any funds from any post-
45 closure escrow account established pursuant to section 10 of
46 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
47 the facility.

1 Only the person who is liable to clean up and remove the
2 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
3 23.11g) and who does not have a defense to liability pursuant to
4 subsection d. of that section shall be liable for cleanup and removal
5 costs.

6 u. No more than 180 days after the date of enactment of
7 P.L.2012, c.24, the board shall complete a proceeding to establish a
8 registration program. The registration program shall require the
9 owners of solar electric power generation facility projects
10 connected to the distribution system to make periodic milestone
11 filings with the board in a manner and at such times as determined
12 by the board to provide full disclosure and transparency regarding
13 the overall level of development and construction activity of those
14 projects Statewide.

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

21 w. No more than 270 days after the date of enactment of
22 P.L.2012, c.24, the board shall, after notice and opportunity for
23 public comment and public hearing, complete a proceeding to
24 consider whether to establish a program to provide, to owners of
25 solar electric power generation facility projects certified by the
26 board as being three megawatts or greater in capacity and being net
27 metered, including facilities which are owned or operated by an
28 electric public utility and approved by the board pursuant to section
29 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
30 designed to supplement the SRECs generated by the facility to
31 further the goal of improving the economic competitiveness of
32 commercial and industrial customers taking power from such
33 projects. If the board determines to establish such a program
34 pursuant to this subsection, the board may establish a financial
35 incentive to provide that the board shall issue one SREC for no less
36 than every 750 kilowatt-hours of solar energy generated by the
37 certified projects. Any financial benefit realized in relation to a
38 project owned or operated by an electric public utility and approved
39 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
40 98.1), as a result of the provisions of a financial incentive
41 established by the board pursuant to this subsection, shall be
42 credited to ratepayers.

43 x. Solar electric power generation facility projects that are
44 located on an existing or proposed commercial, retail, industrial,
45 municipal, professional, recreational, transit, commuter,
46 entertainment complex, multi-use, or mixed-use parking lot with a
47 capacity to park 350 or more vehicles where the area to be utilized
48 for the facility is paved, or an impervious surface may be owned or

1 operated by an electric public utility and may be approved by the
2 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
3 (cf: P.L.2018, c.17, s.2)

4
5 2. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill would allow the Board of Public Utilities (BPU) to
11 increase the cost to customers of the State's Class I renewable
12 energy requirement during energy years 2022 through 2024 above
13 the current limit of seven percent of the total paid for electricity by
14 all customers in the State, under certain conditions.

15 Under the bill, the BPU could only make this increase if the cost
16 of the Class I renewable energy requirement is less than nine
17 percent of total energy costs during energy years 2019 through 2021
18 (the limit set by current law). In addition, the total amount paid by
19 customers during energy years 2019 through 2024 could not exceed
20 the sum of: (1) nine percent of total energy costs during energy
21 years 2019 through 2021; and (2) seven percent of total energy
22 costs during energy years 2022 through 2024, i.e. the maximum
23 amount allowed by current law over that six-year period.

24 "Energy year" means the 12-month period from June 1st through
25 May 31st, numbered according to the calendar year in which it
26 ends.