

# ASSEMBLY, No. 2576

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Establishes green infrastructure financing program.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/16/2020)

1 AN ACT establishing a green infrastructure financing program,  
2 supplementing Title 52 of the Revised Statutes, and amending  
3 P.L.1974, c.80.

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

7  
8 1. (New section) a. The Legislature finds that:

9 (1) Building New Jersey's clean energy infrastructure at the  
10 lowest possible cost is vital to the State reaching its clean energy  
11 goals;

12 (2) Significant investment in infrastructure installations is  
13 required to achieve the State's goals of energy self-sufficiency,  
14 energy security, and energy diversification and to support the  
15 achievement of the renewable energy portfolio standards and energy  
16 efficiency and conservation program requirements;

17 (3) These green infrastructure investments support New Jersey's  
18 evolving energy market and ecosystem and provide affordable  
19 energy options for all of New Jersey's consumers. Green  
20 infrastructure installations require significant amounts of capital  
21 and it is in the public interest to minimize these costs. A key  
22 component to minimizing costs is reducing the cost of capital  
23 required to finance green infrastructure installations;

24 (4) The upfront costs of green infrastructure equipment are a  
25 barrier preventing many electric and gas public utility customers  
26 from investing in green infrastructure. Existing programs and  
27 incentives do not serve the entire spectrum of the customer market,  
28 particularly those customers who lack access to capital or who  
29 cannot afford the large upfront costs required to install and use  
30 green infrastructure, thus creating an underserved market; and

31 (5) A green infrastructure financing program, administered by  
32 the State, that capitalizes on electric and gas public utility customer  
33 contributions for green infrastructure equipment would serve a  
34 critical role in ensuring these customers receive the greatest  
35 opportunity for affordable and clean energy.

36 b. The Legislature further finds that the State would be best  
37 served by a State-administered green infrastructure financing  
38 program that:

39 (1) Focuses on providing low-cost financing as an alternative  
40 means to traditional financing for green infrastructure equipment  
41 for New Jersey's electric and gas public utility customers,  
42 particularly those customers not able to obtain green technology on  
43 reasonable financing terms, including those electric and gas public  
44 utility customers receiving a loan from the loan program paying a

**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 fee their monthly bills instead of a large up-front payment for the  
2 cost of the equipment;

3 (2) Establishes clearly defined program procedures and targets  
4 that encourage effective coordination among State agencies,  
5 industry, investors, and other critical energy industry stakeholders  
6 in order to help the State achieve its clean energy goals and to  
7 provide customers affordable energy options; and

8 (3) Utilizes loan program repayment funds as a funding source  
9 to finance additional green infrastructure installations, subject to  
10 regulatory guidelines and approval of the program.

11 c. The Legislature further finds that the impact and reach of the  
12 Board of Public Utilities' existing clean energy financing programs  
13 can be greatly enhanced through the use of low-cost capital made  
14 available through the green infrastructure financing program  
15 established by P.L. , c. (C. ) (pending before the Legislature  
16 as this bill).

17 d. The Legislature therefore determines that it is in the public  
18 interest to make cost-effective green infrastructure equipment  
19 options accessible and affordable to electric and gas public utility  
20 customers in an equitable way. The manner in which to implement  
21 this goal is to establish a regulatory financing structure that  
22 authorizes the New Jersey Economic Development Authority, in  
23 cooperation with the Board of Public Utilities, to acquire and  
24 provide alternative low-cost financing to be deployed through a  
25 financing program to make green infrastructure installations  
26 accessible and affordable for New Jersey's electric and gas public  
27 utility customers, achieve measurable cost savings, and achieve this  
28 State's clean energy goals.

29

30 2. (New section) As used in P.L. , c. (C. ) (pending  
31 before the Legislature as this bill):

32 "Ancillary agreement" means any bond insurance policy, letter of  
33 credit, reserve account, surety bond, swap arrangement, hedging  
34 arrangement, liquidity or credit support arrangement, or other  
35 related bond document or other similar agreement or arrangement,  
36 entered into in connection with, the issuance of green infrastructure  
37 bonds pursuant to P.L. , c. (C. ) (pending before the  
38 Legislature as this bill), that is designed to promote the credit  
39 quality and marketability of green infrastructure bonds or to  
40 mitigate the risk of an increase in interest rates.

41 "Authority" means the New Jersey Economic Development  
42 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

43 "Board" means the Board of Public Utilities or any successor  
44 agency.

45 "Clean energy technology" means any commercially available  
46 technology that enables the State to meet its renewable energy  
47 portfolio standards or any energy efficiency or conservation  
48 program requirements, demand response technology or energy use

1 reduction or demand-side management infrastructure, programs,  
2 and services and approved by a board rule or order.

3 "Financing costs" means any of the following:

4 a. The principal and interest payable on green infrastructure  
5 bonds;

6 b. Any payment required pursuant to an ancillary agreement  
7 entered into in connection with the issuance of green infrastructure  
8 bonds;

9 c. Any amount required to fund or replenish a reserve account  
10 or another account established under any indenture, ancillary  
11 agreement, or other financing document in connection with the  
12 issuance of green infrastructure bonds;

13 d. Any redemption or call premium or cost of redeeming or  
14 refunding any existing debt of the authority in connection with  
15 either the issuance of, or the use of proceeds from, green  
16 infrastructure bonds;

17 e. Any costs incurred by the authority to modify or amend any  
18 indenture, financing agreement, security agreement, or similar  
19 agreement or instrument securing green infrastructure bonds or any  
20 ancillary agreement;

21 f. Any costs incurred by the authority to obtain any consent,  
22 release, waiver, or approval from any green infrastructure  
23 bondholder or of any party to an ancillary agreement that is  
24 necessary to be incurred for the authority to issue green  
25 infrastructure bonds;

26 g. Any costs in connection with issuing or servicing green  
27 infrastructure bonds or related to obtaining a financing order,  
28 including servicing fees and expenses, trustee fees and expenses,  
29 legal, accounting, or other professional fees and expenses,  
30 administrative fees, placement fees, underwriting fees and  
31 discounts, capitalized interest and equity, and rating-agency fees, or  
32 loan program administration costs as authorized for recovery under  
33 a financing order or orders; or

34 h. Any other costs incident to the issuance, administration, or  
35 servicing of green infrastructure bonds that the authority finds  
36 appropriate.

37 "Financing order" means an order issued by the board, at the  
38 request of the authority, that pursuant to section 8 of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill)  
40 becomes final, and that authorizes the issuance of green  
41 infrastructure bonds and the imposition, adjustment from time to  
42 time, and collection of green infrastructure fees.

43 "Financing party" means:

44 a. Any trustee, collateral agent, or other person acting for the  
45 benefit of the holder of a green infrastructure bond; or

46 b. Any party to an ancillary agreement, the rights and  
47 obligations of which agreement relate to or depend upon the  
48 existence of green infrastructure property and green infrastructure

1 fees, the enforcement and priority of a security interest in green  
2 infrastructure property, the timely collection and payment of green  
3 infrastructure fees, or a combination of these factors.

4 "Green infrastructure bond" means any bond, note, or other  
5 evidence of indebtedness that is issued by the authority, acting  
6 through the board, under a financing order, the proceeds of which  
7 are used directly or indirectly to recover, finance, or refinance  
8 financing costs of clean energy technology, and that are secured by  
9 or payable from green infrastructure property.

10 "Green infrastructure costs" means costs incurred or to be  
11 incurred by public utility customers receiving a loan under the  
12 program to pay for clean energy technology including, without  
13 limitation, the purchase or installation of green infrastructure  
14 equipment, programs, and services authorized by the loan program.

15 "Green infrastructure equipment" means infrastructure  
16 improvements, equipment, and personal property to be installed to  
17 deploy clean energy technology.

18 "Green infrastructure fee" means the non-bypassable bill fee,  
19 authorized by a financing order of the board pursuant to section 7 of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill),  
21 imposed on and collected from those customers of a public utility  
22 receiving a loan made to finance the purchase or installation of  
23 green infrastructure equipment under the loan program established  
24 by P.L. , c. (C. ) (pending before the Legislature as this bill).

25 "Green infrastructure fund" means the special fund created  
26 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill).

28 "Green infrastructure loan program" or "program" means the  
29 program established by P.L. , c. (C. ) (pending before the  
30 Legislature as this bill).

31 "Green infrastructure loan program order" means an order issued  
32 by the board pursuant to section 16 of P.L. , c. (C. )  
33 (pending before the Legislature as this bill) that establishes the use  
34 or other disposition of moneys deposited and held in the green  
35 infrastructure fund established pursuant to section 5 of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill).

37 "Green infrastructure property" means the property, rights, and  
38 interests of the holders of green infrastructure bonds issued by the  
39 authority and created by the board under a financing order,  
40 including the right to impose, charge, and collect from public utility  
41 customers subject to the green infrastructure fee that shall be used  
42 to pay and secure the payment of green infrastructure bonds and  
43 financing costs, including the right to obtain adjustments to the  
44 green infrastructure fee, and any revenues, receipts, collections,  
45 rights to payment, payments, moneys, claims, or other proceeds  
46 arising from the rights and interests created by the board under any  
47 financing order.

1 "Public utility" means a public utility, as that term is defined in  
2 R.S.48:2-13, that is under the jurisdiction of the Board of Public  
3 Utilities, is investor-owned, and distributes either electricity or  
4 natural gas to end users within this State.

5 "Successor" means, with respect to any public utility, another  
6 public utility or other entity that succeeds voluntarily or by  
7 operation of law to the rights and obligations of the prior public  
8 utility or other entity pursuant to any bankruptcy, reorganization,  
9 restructuring, or other insolvency proceedings; any merger,  
10 acquisition, or consolidation; or any sale or transfer of assets,  
11 regardless of how any of these actions occurred.

12 "Trustee" means any trustee or fiscal agent appointed under an  
13 indenture or certificate of the executive director of the authority  
14 executed in connection with the issuance of bonds pursuant to  
15 P.L. , c. (C. ) (pending before the Legislature as this bill).

16  
17 3. (New section) There is established a green infrastructure  
18 loan program, which shall be administered by the New Jersey  
19 Economic Development Authority, in conjunction with the Board of  
20 Public Utilities, for the purpose of acquiring and providing low-cost  
21 financing, to be deployed through a financing program, to make  
22 green infrastructure equipment and installations accessible and  
23 affordable for New Jersey's public utility customers, achieve  
24 measurable cost savings, and achieve the State's clean energy goals.  
25 The loan program may include loans made to public or private  
26 entities, whether corporations, partnerships, limited liability  
27 companies, or other persons, which entities may lease or provide  
28 green infrastructure equipment to public utility customers, as well  
29 as direct loans to public utility customers, on terms approved by the  
30 authority.

31  
32 4. (New section) In addition to the powers and duties granted  
33 to the authority pursuant to section 5 of P.L.1974, c.80 (C.34:1B-5),  
34 upon approval by the board pursuant to board order, the authority is  
35 authorized to:

36 a. Issue green infrastructure bonds for the purposes established  
37 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
38 this bill);

39 b. Make loans and expend funds to finance the purchase or  
40 installation of green infrastructure equipment for clean energy  
41 technology;

42 c. Hold and invest moneys in the green infrastructure fund in  
43 investments as permitted by law and in accordance with approved  
44 investment guidelines established in one or more orders issued by  
45 the board pursuant to section 16 of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill);

1 d. Enter into contracts for the rendering of professional and  
2 technical assistance and advice necessary and proper for the  
3 administration and implementation of the loan program;

4 e. Establish loan program guidelines to be approved in one or  
5 more orders issued by the board pursuant to section 16 of P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill) to carry  
7 out the purposes of P.L. , c. (C. ) (pending before the  
8 Legislature as this bill); and

9 f. Perform all functions necessary to effectuate the purposes of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill).

11

12 5. (New section) a. There is established within the authority  
13 the green infrastructure fund as a special fund into which shall be  
14 deposited:

15 (1) The proceeds of green infrastructure bonds, net of issuance  
16 costs and reserves, or overcollateralization amounts;

17 (2) The proceeds of green infrastructure fees and any green  
18 infrastructure property received for the use and services of the loan  
19 program, including the repayment of loans made under the loan  
20 program;

21 (3) All other funds received by the board or the authority and  
22 legally available for the purposes of the green infrastructure fund;

23 (4) Interest earnings on all amounts in the green infrastructure  
24 fund; and

25 (5) Such other moneys as the authority may determine as shall  
26 be authorized by an order of the board.

27 b. Any amounts received from green infrastructure fees or any  
28 other net proceeds earned from the allocation, use, expenditure, or  
29 other disposition of moneys approved by the board and deposited or  
30 held in the green infrastructure fund in excess of moneys necessary  
31 for the purposes of subsection c. of this section shall be credited to  
32 public utility customers paying a green infrastructure fee as  
33 provided in a green infrastructure loan program order or orders.  
34 Moneys that are transferred back to the public utility in order to  
35 credit a public utility customer under this subsection shall not be  
36 considered revenue of the public utility and shall not be subject to  
37 any taxes, fees, charges, or assessments established pursuant to  
38 State law.

39 c. Moneys in the green infrastructure fund may be used, subject  
40 to the approval of the board, for the purposes of:

41 (1) Making green infrastructure loans;

42 (2) Paying administrative costs of the green infrastructure loan  
43 program;

44 (3) Paying any other costs related to the green infrastructure  
45 loan program; and

46 (4) Paying financing costs to the extent permitted by the board  
47 in a financing order issued pursuant to section 8 of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill).

- 1 d. The authority may invest moneys held in the green  
2 infrastructure fund in investments as permitted by law, and in  
3 accordance with approved investment guidelines established in one  
4 or more orders issued by the board pursuant to section 16 of P.L. ,  
5 c. (C. ) (pending before the Legislature as this bill). All  
6 moneys in the green infrastructure fund shall be exempt from any  
7 taxes, fees, charges, or assessments established pursuant to State  
8 law.
- 9 e. The green infrastructure fund shall be audited annually by a  
10 firm of independent certified public accountants selected by the  
11 authority, and the results of this audit shall be provided annually to  
12 the authority and the board.
- 13 f. The authority shall appoint a trustee to receive, hold, and  
14 disburse all moneys required to be held in the green infrastructure  
15 fund upon terms and conditions as set forth in a certificate,  
16 indenture, or trust agreement.
- 17
- 18 6. (New section) a. The authority shall apply to the board,  
19 pursuant to section 15 of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill), for one or more board orders to effectuate  
21 the green infrastructure loan program. Nothing herein shall  
22 preclude the authority from applying for a financing order, pursuant  
23 to section 7 of P.L. , c. (C. ) (pending before the Legislature  
24 as this bill), prior to the issuance of an order or orders to effectuate  
25 the green infrastructure loan program under section 16 of P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill), or from  
27 requesting consolidation of the proceeding for a financing order  
28 with a loan program implementation order.
- 29 b. An application shall be submitted by the authority to the  
30 board in accordance with the provisions of section 15 of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill).
- 32 c. In accordance with an approved green infrastructure loan  
33 program order or orders, the authority shall utilize the proceeds of  
34 green infrastructure bonds and other amounts deposited in the green  
35 infrastructure fund established pursuant to section 5 of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill), or to the  
37 extent permitted by a financing order, to pay financing costs.
- 38 d. Within the order or orders issued by the board under section  
39 16 of P.L. , c. (C. ) (pending before the Legislature as this  
40 bill), the authority shall obtain approval from the board requiring a  
41 public utility to serve as an agent to bill and collect the green  
42 infrastructure fee imposed upon a customer receiving a loan under  
43 the program to repay green infrastructure costs and transfer all  
44 green infrastructure fees collected to the authority on behalf of the  
45 board. Notwithstanding anything to the contrary, a public utility  
46 shall not be obligated to bill, collect, or remit a green infrastructure  
47 fee from a non-public utility customer.



1       7. (New section) a. In connection with green infrastructure  
2 bonds issued pursuant to P.L. , c. (C. ) (pending before the  
3 Legislature as this bill), the authority may apply to the board for  
4 one or more financing orders, each of which financing orders may  
5 authorize the following:

6       (1) The imposition, charging, and collection on behalf of the  
7 authority of the green infrastructure fee, to become effective upon  
8 the issuance of the green infrastructure bonds, and the adjustment of  
9 the green infrastructure fee on behalf of the authority in accordance  
10 with an adjustment mechanism requested by the authority under  
11 P.L. , c. (C. ) (pending before the Legislature as this bill) in  
12 amounts sufficient to pay the principal of and interest on green  
13 infrastructure bonds and all related financing costs on a timely  
14 basis;

15       (2) The creation of green infrastructure property under the  
16 financing order; and

17       (3) The deposit of the net proceeds of the green infrastructure  
18 bonds into the green infrastructure fund.

19       b. The application shall include:

20       (1) The principal amount of the green infrastructure bonds  
21 proposed to be issued;

22       (2) An estimate of the date each series of green infrastructure  
23 bonds is expected to be issued;

24       (3) The expected term, not to exceed 30 years, during which  
25 term the green infrastructure fee associated with the issuance of  
26 each series of green infrastructure bonds is expected to be imposed  
27 and collected;

28       (4) An estimate of the financing costs associated with the  
29 issuance of each series of green infrastructure bonds;

30       (5) An estimate of the amount of the green infrastructure fee  
31 revenues necessary to pay the principal and interest on the green  
32 infrastructure bonds and related financing costs as set forth in the  
33 application and the calculation for that estimate, which calculation  
34 shall take into account the estimated date or dates of issuance and  
35 the estimated principal amount of each series of green infrastructure  
36 bonds;

37       (6) A proposed methodology for allocating the green  
38 infrastructure fee among public utilities and customers who are  
39 subject to the green infrastructure fee within each public utility;

40       (7) A description of a proposed formulaic adjustment  
41 mechanism for the adjustment of the green infrastructure fee to  
42 ensure the timely payment of principal and interest on the green  
43 infrastructure bonds and related financing costs; and

44       (8) Any other information required by the board.  
45

46       8. (New section) a. The board shall issue its financing order  
47 as final or if a finding in subsection b. of this section cannot be  
48 made, its denial of a financing order, as expeditiously as possible

1 and, in any event, within 90 days from the date the completed  
2 application is submitted.

3 b. The board may issue a financing order if the board finds that  
4 the creation of the green infrastructure property to secure the  
5 payment of the green infrastructure bonds, including the imposition  
6 of the green infrastructure fee, will facilitate the acquisition of low-  
7 cost financing, pursuant to an application under section 7 of P.L. ,  
8 c. (C. ) (pending before the Legislature as this bill).

9 c. The board shall include all of the following information in a  
10 financing order:

11 (1) The maximum money of green infrastructure bonds to be  
12 issued by the authority under the financing order;

13 (2) A description of the green infrastructure property, the  
14 creation of which property is authorized by the financing order;

15 (3) A description of the financing costs that will be recoverable  
16 through green infrastructure fees, including any reserves or  
17 overcollateralization amounts required by the authority to secure  
18 payment of the green infrastructure bonds;

19 (4) A description of the methodology to be applied by the board,  
20 on behalf of the authority, for calculating the green infrastructure  
21 fee, including the allocation of financing costs among public  
22 utilities whose customers subject to the green infrastructure fee;

23 (5) A procedure to require the board, in accordance with a  
24 formula set out in the financing order and approved by the  
25 authority, to expeditiously review and approve periodic adjustments  
26 to the green infrastructure fee to ensure the payment of the green  
27 infrastructure bonds and related financing costs on a timely basis;

28 (6) A description of the formulaic adjustment mechanism to be  
29 used by the board, on behalf of the authority, to adjust the green  
30 infrastructure fee in order to ensure that the amount of the green  
31 infrastructure fee projected to be collected shall be sufficient to pay  
32 the principal and interest on the green infrastructure bonds, and all  
33 related financing costs on a timely basis, including the funding or  
34 maintenance of any reserves required to be maintained by the  
35 authority;

36 (7) The term of the green infrastructure bonds, as proposed by  
37 the authority, during which term the green infrastructure fee shall  
38 continue to be collected and pledged to pay the bonds, which term  
39 shall automatically be extended by the term of any refunding bonds,  
40 as approved in a subsequent financing order, issued in such  
41 principal amounts as the authority may determine to be necessary to  
42 refund the green infrastructure bonds that are the subject of the  
43 original financing order;

44 (8) A requirement that a public utility serve as an agent to  
45 collect the green infrastructure fee and transfer the fees to the  
46 trustee or other financing party as required by the financing order  
47 and any agreement with the authority;

1 (9) The procedures to be followed by a public utility in the event  
2 of non-payment or partial payment of the green infrastructure fee by  
3 a public utility customer subject to the green infrastructure fee,  
4 which procedures shall be consistent with the board approved  
5 procedures for non-payment and partial payment of rates, charges,  
6 and fees under the public utilities' tariffs;

7 (10) The distribution of the total amounts collected by each  
8 public utility for amounts billed to customers subject to the green  
9 infrastructure fee for a public utility's rates, fees, the green  
10 infrastructure fee, if applicable, other board-approved fees, and for  
11 associated taxes, in the event of partial payments of the billed  
12 amounts;

13 (11) Terms satisfactory to the board to ensure that the green  
14 infrastructure fee shall be non-bypassable and be paid by a  
15 customer of a public utility receiving a loan under the loan program,  
16 and that any outstanding obligation by a customer receiving a loan  
17 shall be transferred to any other customer who purchases the  
18 property where the green infrastructure equipment is installed; and

19 (12) Any other provision the board considers appropriate to  
20 ensure the full and timely imposition, charging, collection, and  
21 adjustment, pursuant to an approved adjustment mechanism by the  
22 board, of the green infrastructure fee described in this subsection.

23 d. A public utility serving as a billing and collecting agent shall  
24 be a party to the proceedings in which the financing order or orders  
25 are issued.

26 e. The board, in a financing order, may permit the authority  
27 flexibility in establishing the terms and conditions for the green  
28 infrastructure bonds to accommodate changes in market conditions,  
29 including repayment schedules, interest rates, financing costs,  
30 collateral requirements, required debt service and other reserves,  
31 and the ability of the authority, at its option, to effect a series of  
32 issuances of green infrastructure bonds and correlated assignments,  
33 sales, pledges, or other transfers of green infrastructure property.  
34 Any changes made to the terms and conditions for the green  
35 infrastructure bonds shall be in conformance with the financing  
36 order.

37 f. At the request of the authority, the board shall determine, in  
38 accordance with the adjustment mechanism set forth in the  
39 financing order, the initial green infrastructure fee after the  
40 determination of the final terms of each series of green  
41 infrastructure bonds, so that the green infrastructure fee shall be  
42 final and effective upon the issuance of the green infrastructure  
43 bonds.

44 g. Any adjustment to the green infrastructure fee made by the  
45 board pursuant to the adjustment mechanism approved in the  
46 financing order shall be made by board order.

1       9. (New section) Green infrastructure property shall be created  
2 simultaneously with the issuance of the green infrastructure bonds  
3 and shall immediately vest in the authority, which shall pledge and  
4 create a lien on the property, together with all other money in the  
5 green infrastructure fund, solely and exclusively in favor of green  
6 infrastructure bondholders and financing parties, to secure the  
7 payment of green infrastructure bonds, amounts payable to  
8 financing parties and green infrastructure bondholders, amounts  
9 payable under any ancillary agreement, and other financing costs as  
10 provided in the financing documents executed by the authority.  
11 Subject to the provisions of this section, the lien and charge on  
12 green infrastructure property and all other moneys in the green  
13 infrastructure fund for the benefit of any financing party shall be  
14 governed by P.L. , c. (C. ) (pending before the Legislature  
15 as this bill).

16  
17       10. (New section) a. A financing order shall remain in effect  
18 until the green infrastructure bonds issued under the financing order  
19 and all financing costs related to the green infrastructure bonds have  
20 been paid in full or otherwise satisfied. A financing order shall  
21 remain in effect and unabated notwithstanding the bankruptcy,  
22 reorganization, or insolvency of any public utility or any affiliate of  
23 the public utility or the commencement of any judicial or  
24 nonjudicial proceeding on the financing order.

25       b. Once a financing order has become final as provided by law,  
26 the financing order shall become irrevocable. The board may not  
27 directly or indirectly, except as provided in the adjustment  
28 mechanism approved in the financing order, reduce, impair,  
29 postpone, rescind, alter, or terminate the green infrastructure fee  
30 authorized in the financing order or impair the green infrastructure  
31 property or the collection of the green infrastructure fee so long as  
32 any green infrastructure bonds are outstanding or any financing  
33 costs remain unpaid.

34  
35       11. (New section) a. The board may create, pursuant to a  
36 financing order approved pursuant to section 8 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill), a  
38 green infrastructure fee, which revenues from the fee shall be  
39 deposited into the green infrastructure fund and be pledged to  
40 secure and be applied to the repayment of green infrastructure  
41 bonds and related financing costs as described in  
42 P.L. , c. (C. ) (pending before the Legislature as this bill).  
43 The green infrastructure fee may be a usage-based surcharge, a flat  
44 user fee, or a charge, based upon a customer's electric or gas  
45 service usage, as determined by the board for each customer class in  
46 any financing order. The green infrastructure fee shall be itemized  
47 and separately identified on the periodic bill of any public utility  
48 customer subject to the fee.

1        b. Nothing in this section shall affect the right to impose,  
2 collect, and adjust from time to time the green infrastructure fee  
3 imposed on a public utility customer subject to the green  
4 infrastructure fee as provided in the financing order and P.L.     ,  
5 c. (C.     ) (pending before the Legislature as this bill).

6        c. As long as any green infrastructure bonds are outstanding  
7 and any financing costs have not been paid in full, the green  
8 infrastructure fee authorized under any financing order shall be non-  
9 bypassable. Subject to any exceptions provided in a financing  
10 order, the green infrastructure fee shall be paid by public utility  
11 customers receiving a loan from the loan program.

12        d. The green infrastructure fee shall be collected by a public  
13 utility as a collection agent for the authority or the financing parties,  
14 in full through a surcharge, fee, or charge that is separate and apart  
15 from the public utility's rates.

16        e. A public utility shall not have any ownership or beneficial  
17 interest in or any claim or right to the green infrastructure fee, green  
18 infrastructure property, or green infrastructure equipment, other  
19 than the obligation to bill and collect the green infrastructure fee as  
20 agent for the authority or any financing party and remit the  
21 collected revenue to the authority or such financing party entitled to  
22 receive those surcharges in accordance with the financing order.  
23 The board shall ensure that all reasonable costs incurred by a public  
24 utility to implement the green infrastructure fee may be recovered  
25 as part of the public utility's revenue requirement, including  
26 necessary billing system adjustments, costs arising out of the billing  
27 and collection of the green infrastructure fee, and any costs for the  
28 green infrastructure fee that are not recovered otherwise. The green  
29 infrastructure fee or green infrastructure property shall not be  
30 considered revenue of any public utility.

31        f. The obligation of any public utility customer subject to the  
32 green infrastructure fee to pay the green infrastructure fee and,  
33 notwithstanding subsection b. of this section, the obligation of the  
34 public utility to collect and remit the green infrastructure fee shall  
35 not be subject to any setoff, counterclaim, surcharge, or defense by  
36 the public utility or by any public utility customer, or in connection  
37 with a bankruptcy of any public utility or any public utility  
38 customer.

39  
40        12. (New section) Any successor public utility to a public utility  
41 subject to a financing order shall be bound by the requirements of  
42 P.L.     , c. (C.     ) (pending before the Legislature as this bill).  
43 The successor public utility shall perform and satisfy all obligations  
44 of the prior public utility under an applicable financing order, in the  
45 same manner and to the same extent as the prior public utility,  
46 including the obligation to collect and pay the green infrastructure  
47 fee to the authority or to any financing party as required by a  
48 financing order.

1       13. (New section) a. The ownership, transfer, and pledge of the  
2 green infrastructure fee and green infrastructure property and the  
3 imposition, charging, collection, and receipt of the green  
4 infrastructure fee are exempt from all taxes, fees, charges, and  
5 assessments imposed pursuant to State law.

6       b. Green infrastructure bonds issued under a financing order  
7 shall not be an obligation of any public utility. The issuance of  
8 green infrastructure bonds shall not directly, indirectly, or  
9 contingently obligate the public utility for payment of the principal  
10 of or interest on the green infrastructure bonds.

11  
12       14. (New section) a. The State hereby pledges to and agrees  
13 with the green infrastructure bondholders and any financing party  
14 under a financing order that the State will not take or permit any  
15 action that impairs the value of green infrastructure property under  
16 the financing order, or reduce, alter, or impair the green  
17 infrastructure fee that is imposed, charged, collected, or remitted for  
18 the benefit of the green infrastructure bondholders and any  
19 financing party, until any principal, interest, and redemption  
20 premium in respect of green infrastructure bonds, all financing  
21 costs, and all moneys to be paid to a financing party under an  
22 ancillary agreement are paid or performed in full or unless adequate  
23 provision has been made by law for the protection of green  
24 infrastructure bondholders and any other financing party.

25       b. In issuing the green infrastructure bonds, the authority may  
26 include the pledge specified in subsection a. of this section in the  
27 green infrastructure bonds, ancillary agreements, and  
28 documentation related to the issuance and marketing of the green  
29 infrastructure bonds.

30       c. Green infrastructure bonds are revenue bonds issued under  
31 the powers of the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et  
32 seq.).

33       d. Under a final financing order, the authority shall retain sole  
34 discretion to cause green infrastructure bonds to be issued,  
35 including the right to defer or postpone such issuance, assignment,  
36 sale, or transfer.

37  
38       15. (New section) a. The authority shall submit an application  
39 to the board for the use or other disposition of moneys deposited or  
40 held in the green infrastructure fund established pursuant to section  
41 5 of P.L. , c. (C. ) (pending before the Legislature as this  
42 bill) prior to the allocation, use, expenditure, or other disposition of  
43 any such amounts; provided that this subsection shall not apply to  
44 the expenditure of moneys deposited or held in the green  
45 infrastructure fund that have been reviewed and approved by the  
46 board for operational or administrative expenses of the authority  
47 pursuant to section 4 of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill).

1       b. An application submitted by the authority to the board under  
2 this section shall include the following information:

3       (1) A description of the loan program, financing agreement, or  
4 other arrangement for which the authority seeks to allocate, use,  
5 expend, or otherwise dispose of amounts deposited or held in the  
6 green infrastructure fund, including:

7       (a) The clean energy technology to be financed;

8       (b) A description of the parties, both direct and incidental,  
9 intended to benefit from any financing made in connection with the  
10 green infrastructure fund amounts requested by the authority in an  
11 application submitted to the board under this section;

12       (c) A description of the loan programs or other arrangements  
13 designed, established, identified, agreed to, agreed to in principle,  
14 continued, carried over, or otherwise intended to be effectuated for  
15 the use of the green infrastructure fund amounts requested by the  
16 authority in an application submitted to the board under this section;  
17 and

18       (d) Any and all funding or credit sources identified, pledged,  
19 dedicated, or otherwise provided to supplement the green  
20 infrastructure fund amounts requested by the authority in an  
21 application submitted to the board under this section;

22       (2) The minimum lending, crediting, or investing criteria in  
23 relation to the loan program, financing agreement, or other  
24 arrangement described in an application submitted to the board  
25 under this section;

26       (3) A description of the repayment processes, mechanisms, and  
27 applicable calculations for the loan program, financing agreement,  
28 or other arrangement described in an application submitted to the  
29 board under this section;

30       (4) An explanation of the anticipated impacts and benefits to  
31 public utility customers of the loan program, financing agreement,  
32 or other arrangement described under an application submitted by  
33 the authority to the board under this section; and

34       (5) Any other additional information determined to be necessary  
35 by the board upon the review of an application submitted or  
36 resubmitted by the authority under this section.

37

38       16. (New section) a. The board shall issue a loan program order  
39 authorizing the allocation, use, expenditure, or other disposition of  
40 any amounts deposited or held in the green infrastructure fund upon  
41 the submission by the authority to the board of a completed  
42 application as described in this section. A green infrastructure loan  
43 program order issued by the board shall include the following  
44 information, where determined necessary and applicable by the  
45 board:

46       (1) An identification and description of the loan program,  
47 financing agreement, or other arrangement approved by the board

1 for which amounts deposited or held in the green infrastructure fund  
2 may be allocated, used, expended, or otherwise disposed of;

3 (2) The minimum criteria for the lending, crediting, or investing  
4 of amounts deposited or held in the green infrastructure fund;

5 (3) A description of the repayment processes, mechanisms, and  
6 applicable calculations for the loan program, financing agreement,  
7 or other arrangement approved by the board for which amounts  
8 deposited or held in the green infrastructure fund may be allocated,  
9 used, expended, or otherwise disposed of;

10 (4) A review of the anticipated impacts and benefits to public  
11 utility customers receiving a loan under the program, financing  
12 agreement, or other arrangement approved under a green  
13 infrastructure loan program order; and

14 (5) Any other provision or information determined to be  
15 necessary by the board.

16 b. The board shall issue an order under this section as  
17 expeditiously as possible and, in any event, within 90 days from the  
18 date the board received from the authority a completed application  
19 submitted pursuant to section 15 of P.L. , c. (C. ) (pending  
20 before the Legislature as this bill).

21 c. The order shall specify the following information, including:

22 (1) The procedures to be followed by a public utility in the event  
23 of non-payment or partial payment of the green infrastructure fee by  
24 a public utility customer subject to the green infrastructure fee,  
25 which procedures shall be consistent with the board's approved  
26 procedures for non-payment and partial payment of rates, charges,  
27 and fees under a public utility's tariffs; and

28 (2) The distribution of the total amounts collected by a public  
29 utility for amounts billed to customers for the public utility's rates,  
30 fees, and charges, for the green infrastructure fee, for other fees and  
31 charges approved by the board, and for associated taxes, in the  
32 event of partial payments of the billed amounts.

33 d. A public utility serving as a billing and collecting agent shall  
34 be a party to the proceedings in which the order or orders are  
35 issued.

36 e. A public utility shall not disconnect electric or gas service to  
37 a customer receiving a loan from the program for non-payment of  
38 the loan as long as a customer's other outstanding obligations to the  
39 public utility have been met and the public utility shall have to  
40 follow existing procedures, as provided in current law, to receive  
41 payment for those other outstanding obligations.

42

43 17. (New section) a. The board shall ensure that all reasonable  
44 costs incurred by a public utility to start and implement the loan  
45 program may be recovered as part of the public utility's revenue  
46 requirement, including necessary billing system adjustments, costs  
47 arising out of the billing and collection of green infrastructure fees,  
48 and any costs for green infrastructure fees that are not recovered via



1 participating customers' green infrastructure bill payments, or  
2 otherwise.

3 b. The green infrastructure fee shall not be considered revenue  
4 of a public utility and accordingly, shall not be subject to any tax,  
5 fee, charge, or assessment authorized pursuant to State law.

6 c. The loan program or the act of serving as an agent to bill and  
7 to collect the green infrastructure fee shall not cause any public  
8 utility to be subject to the laws that regulate financial institutions,  
9 escrow depositories, or collection agencies. A public utility shall  
10 not be responsible for lending, underwriting, and credit  
11 determinations.

12

13 18. (New section) The authority or a financing party shall not be  
14 considered a public utility or person providing electric or gas  
15 service by virtue of engaging in the transactions described in  
16 P.L. , c. (C. ) (pending before the Legislature as this bill).

17

18 19. (New section) a. The authority is authorized to issue green  
19 infrastructure bonds as revenue bonds pursuant to P.L. , c. (C. )  
20 (pending before the Legislature as this bill), in a principal amount  
21 not to exceed \$200,000,000 to establish and administer the green  
22 infrastructure loan program pursuant to P.L. , c. (C. )  
23 (pending before the Legislature as this bill).

24 b. The authority is authorized to issue from time to time  
25 refunding bonds in such principal amounts as the authority shall  
26 determine to be necessary to refund the green infrastructure bonds  
27 authorized under P.L. , c. (C. ) (pending before the  
28 Legislature as this bill), to the extent permitted by the financing  
29 documents.

30

31 20. (New section) a. The authority, jointly with the board, shall  
32 conduct a study in the 2018 calendar year to determine:

33 (1) The extent to which the authority's and the board's activities  
34 have benefitted the State by advancing the State's renewable energy  
35 goals and reducing energy costs for consumers by providing  
36 affordable alternative energy options; and

37 (2) Whether the loan program shall be extended, eliminated, or  
38 otherwise modified beginning July 1, 2019.

39 The authority, jointly with the board, shall submit a report of its  
40 findings from the study to the Governor and, pursuant to section 2  
41 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, no later than  
42 June 30, 2019.

43 b. The authority, jointly with the board, shall submit a report to  
44 the Governor and, pursuant to section 2 of P.L.1991, c.164  
45 (C.52:14-19.1), to the Legislature, on the status of the authority's  
46 and the board's activities, including approved loan program  
47 description and uses; summary information and analytical data  
48 concerning implementation of the loan program; summary

1 information and analytical data concerning the deployment of clean  
2 energy technology, demand response technology, and energy use  
3 reduction and demand-side management infrastructure, programs,  
4 and services; and repayments made or credits provided to public  
5 utility customers, no later than May 1 of each year.

6  
7 21. (New section) The authority, in consultation with the board,  
8 shall adopt, pursuant to the "Administrative Procedure Act,"  
9 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to  
10 effectuate the purposes of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill).

12  
13 22. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
14 as follows:

15 5. The authority shall have the following powers:

16 a. To adopt bylaws for the regulation of its affairs and the  
17 conduct of its business;

18 b. To adopt and have a seal and to alter the same at pleasure;

19 c. To sue and be sued;

20 d. To acquire in the name of the authority by purchase or  
21 otherwise, on **【such】** terms and conditions and **【such】** manner as  
22 **【it】** the authority may deem proper, or by the exercise of the power  
23 of eminent domain in the manner provided by the "Eminent Domain  
24 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or  
25 interests therein or other property which **【it】** the authority may  
26 determine is reasonably necessary for any project; provided,  
27 however, that the authority, in connection with any project, shall  
28 not take by exercise of the power of eminent domain any real  
29 property except upon consent thereto given by resolution of the  
30 governing body of the municipality in which **【such】** the real  
31 property is located; and provided further that the authority shall be  
32 limited in its exercise of the power of eminent domain in connection  
33 with any project in qualifying municipalities, as defined under the  
34 provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
35 municipalities which had a population, according to the latest  
36 federal decennial census, in excess of 10,000;

37 e. To enter into contracts with a person upon **【such】** terms and  
38 conditions as the authority shall determine to be reasonable,  
39 including, but not limited to, reimbursement for the planning,  
40 designing, financing, construction, reconstruction, improvement,  
41 equipping, furnishing, operation, and maintenance of the project  
42 and to pay or compromise any claims arising therefrom;

43 f. To establish and maintain reserve and insurance funds with  
44 respect to the financing of the project or the school facilities project  
45 and any project financed pursuant to the "Municipal Rehabilitation  
46 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
47 al.);

- 1 g. To sell, convey, or lease to any person all or any portion of a  
2 project for **【such】** consideration and upon **【such】** terms as the  
3 authority may determine to be reasonable;
- 4 h. To mortgage, pledge, or assign or otherwise encumber all or  
5 any portion of a project, or revenues, whenever **【it】** the authority  
6 shall find **【such】** that action to be in furtherance of the purposes of  
7 **【this act】** P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72  
8 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
10 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
11 c.90 (C.52:27D-489c et al.);
- 12 i. To grant options to purchase or renew a lease for any of  
13 **【its】** the authority's projects on such terms as the authority may  
14 determine to be reasonable;
- 15 j. To contract for and to accept any gifts or grants or loans of  
16 funds or property or financial or other aid in any form from the  
17 United States of America or any agency or instrumentality thereof,  
18 or from the State or any agency, instrumentality, or political  
19 subdivision thereof, or from any other source and to comply,  
20 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
21 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
22 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
23 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
24 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
25 conditions thereof;
- 26 k. In connection with any action undertaken by the authority in  
27 the performance of its duties and any application for assistance or  
28 commitments therefor and modifications thereof, to require and  
29 collect **【such】** fees and charges as the authority shall determine to  
30 be reasonable, including, but not limited to, fees and charges for the  
31 authority's administrative, organizational, insurance, operating,  
32 legal, and other expenses;
- 33 l. To adopt, amend, and repeal regulations to carry out the  
34 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
35 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
36 the "Municipal Rehabilitation and Economic Recovery Act,"  
37 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
38 (C.52:18A-235 et al.);
- 39 m. To acquire, purchase, manage and operate, hold, and dispose  
40 of real and personal property or interests therein, take assignments  
41 of rentals and leases, and make and enter into all contracts, leases,  
42 agreements, and arrangements necessary or incidental to the  
43 performance of **【its】** the authority's duties;
- 44 n. To purchase, acquire, and take assignments of notes,  
45 mortgages, and other forms of security and evidences of  
46 indebtedness;

- 1 o. To purchase, acquire, attach, seize, accept, or take title to  
2 any project or school facilities project by conveyance or by  
3 foreclosure, and sell, lease, manage, or operate any project or  
4 school facilities project for a use specified in **[this act]** P.L.1974,  
5 c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), the  
6 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
7 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
8 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 9 p. To borrow money and to issue bonds of the authority and to  
10 provide for the rights of the holders thereof, as provided in  
11 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
12 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
13 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
14 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
15 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 16 q. To extend credit or make loans to any person for the  
17 planning, designing, acquiring, constructing, reconstructing,  
18 improving, equipping, and furnishing of a project or school  
19 facilities project, which credits or loans may be secured by loan and  
20 security agreements, mortgages, leases, and any other instruments,  
21 upon **[such]** terms and conditions as the authority shall deem  
22 reasonable, including provision for the establishment and  
23 maintenance of reserve and insurance funds, and to require the  
24 inclusion in any mortgage, lease, contract, loan and security  
25 agreement, or other instrument, of **[such]** provisions for the  
26 construction, use, operation and maintenance, and financing of a  
27 project or school facilities project as the authority may deem  
28 necessary or desirable;
- 29 r. To guarantee up to **[90%]** 90 percent of the amount of a  
30 loan to a person, if the proceeds of the loan are to be applied to the  
31 purchase and installation, in a building devoted to industrial or  
32 commercial purposes, or in an office building, of an energy  
33 improvement system;
- 34 s. To employ consulting engineers, architects, attorneys, real  
35 estate counselors, appraisers, and **[such]** other consultants and  
36 employees as may be required in the judgment of the redevelopment  
37 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
38 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
39 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
40 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
41 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
42 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
43 from funds available to the redevelopment utility therefor, all  
44 without regard to the provisions of Title 11A of the New Jersey  
45 Statutes;
- 46 t. To do and perform any acts and things authorized by  
47 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401

- 1 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
2 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
3 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
4 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
5 under, through or by means of its own officers, agents, and  
6 employees, or by contract with any person;
- 7 u. To procure insurance against any losses in connection with  
8 **【its】** authority property, operations, or assets in **【such】** amounts  
9 and from **【such】** insurers as **【it】** the authority deems desirable;
- 10 v. To do any and all things necessary or convenient to carry out  
11 **【its】** the authority's purposes and exercise the powers given and  
12 granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
13 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
14 the "Municipal Rehabilitation and Economic Recovery Act,"  
15 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
16 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
17 489c et al.);
- 18 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
19 maintain or repair, or provide for the construction, reconstruction,  
20 improvement, alteration, equipping or maintenance, or repair of any  
21 development property and lot, award and enter into construction  
22 contracts, purchase orders, and other contracts with respect thereto,  
23 upon **【such】** terms and conditions as the authority shall determine  
24 to be reasonable, including, but not limited to, reimbursement for  
25 the planning, designing, financing, construction, reconstruction,  
26 improvement, equipping, furnishing, operation, and maintenance of  
27 **【any such】** the development property and the settlement of any  
28 claims arising therefrom, and the establishment and maintenance of  
29 reserve funds with respect to the financing of **【such】** the  
30 development property;
- 31 x. When authorized by the governing body of a municipality  
32 exercising jurisdiction over an urban growth zone, to construct,  
33 cause to be constructed, or to provide financial assistance to  
34 projects in an urban growth zone which shall be exempt from the  
35 terms and requirements of the land use ordinances and regulations,  
36 including, but not limited to, the master plan and zoning ordinances,  
37 of **【such】** the municipality;
- 38 y. To enter into business employment incentive agreements as  
39 provided in the "Business Employment Incentive Program Act,"  
40 P.L.1996, c.26 (C.34:1B-124 et al.);
- 41 z. To enter into agreements or contracts, execute instruments,  
42 and do and perform all acts or things necessary, convenient, or  
43 desirable for the purposes of the redevelopment utility to carry out  
44 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
45 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
46 (C.52:18A-235 et al.), including, but not limited to, entering into  
47 contracts with the State Treasurer, the Commissioner of Education,

1 districts, the New Jersey Schools Development Authority, and any  
2 other entity which may be required in order to carry out the  
3 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
4 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
5 (C.52:27D-489c et al.);

6 aa. (Deleted by amendment, P.L.2007, c.137);

7 bb. To make and contract to make loans to local units to finance  
8 the cost of school facilities projects and to acquire and contract to  
9 acquire bonds, notes, or other obligations issued or to be issued by  
10 local units to evidence the loans, all in accordance with the  
11 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
12 c.137 (C.52:18A-235 et al.);

13 cc. Subject to any agreement with holders of **[its]** authority  
14 bonds issued to finance a project or school facilities project, to  
15 obtain as security, or to provide liquidity for payment of all or any  
16 part of the principal of and interest and premium on the bonds of  
17 the authority or for the purchase upon tender or otherwise of the  
18 bonds, lines of credit, letters of credit, reimbursement agreements,  
19 interest rate exchange agreements, currency exchange agreements,  
20 interest rate floors or caps, options, puts, or calls to hedge payment,  
21 currency, rate, spread, or similar exposure or similar agreements,  
22 float agreements, forward agreements, insurance contract, surety  
23 bond, commitment to purchase or sell bonds, purchase, or sale  
24 agreement, or commitments or other contracts or agreements, and  
25 other security agreements or instruments in any amounts and upon  
26 any terms as the authority may determine and pay any fees and  
27 expenses required in connection therewith;

28 dd. To charge to and collect from local units, the State, and any  
29 other person, any fees and charges in connection with the  
30 authority's actions undertaken with respect to school facilities  
31 projects, including, but not limited to, fees and charges for the  
32 authority's administrative, organization, insurance, operating, and  
33 other expenses incident to the financing of school facilities projects;

34 ee. To make loans to refinance solid waste facility bonds  
35 through the issuance of bonds or other obligations and the execution  
36 of any agreements with counties or public authorities to effect the  
37 refunding or rescheduling of solid waste facility bonds, or otherwise  
38 provide for the payment of all or a portion of any series of solid  
39 waste facility bonds. Any county or public authority refunding or  
40 rescheduling its solid waste facility bonds pursuant to this  
41 subsection shall provide for the payment of not less than fifty  
42 percent of the aggregate debt service for the refunded or  
43 rescheduled debt of the particular county or public authority for the  
44 duration of the loan; except that, whenever the solid waste facility  
45 bonds to be refinanced were issued by a public authority and the  
46 county solid waste facility was utilized as a regional county solid  
47 waste facility, as designated in the respective adopted district solid  
48 waste management plans of the participating counties as approved

1 by the department prior to November 10, 1997, and the utilization  
2 of the facility was established pursuant to tonnage obligations set  
3 forth in their respective interdistrict agreements, the public  
4 authority refunding or rescheduling its solid waste facility bonds,  
5 pursuant to this subsection, shall provide for the payment of a  
6 percentage of the aggregate debt service for the refunded or  
7 rescheduled debt of the public authority not to exceed the  
8 percentage of the specified tonnage obligation of the host county for  
9 the duration of the loan. Whenever the solid waste facility bonds  
10 are the obligation of a public authority, the relevant county shall  
11 execute a deficiency agreement with the authority, which shall  
12 provide that the county pledges to cover any shortfall and to pay  
13 deficiencies in scheduled repayment obligations of the public  
14 authority. All costs associated with the issuance of bonds pursuant  
15 to this subsection may be paid by the authority from the proceeds of  
16 these bonds. Any county or public authority is hereby authorized to  
17 enter into any agreement with the authority necessary, desirable,  
18 or convenient to effectuate the provisions of this subsection.

19 The authority shall not issue bonds or other obligations to effect  
20 the refunding or rescheduling of solid waste facility bonds after  
21 December 31, 2002. The authority may refund its own bonds issued  
22 for the purposes herein at any time;

23 ff. To pool loans for any local government units that are  
24 refunding bonds and do and perform any and all acts or things  
25 necessary, convenient, or desirable for the purpose of the authority  
26 to achieve more favorable interest rates and terms for those local  
27 governmental units;

28 gg. To finance projects approved by the board, provide staff  
29 support to the board, oversee and monitor progress on the part of  
30 the board in carrying out the revitalization, economic development,  
31 and restoration projects authorized pursuant to the "Municipal  
32 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
33 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
34 pursuant thereto;

35 hh. To offer financial assistance to qualified film production  
36 companies as provided in the "New Jersey Film Production  
37 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

38 ii. To finance or develop private or public parking facilities or  
39 structures, which may include the use of solar photovoltaic  
40 equipment, in municipalities qualified to receive State aid pursuant  
41 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
42 municipalities that contain areas designated pursuant to P.L.1985,  
43 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
44 Planning Area 2 (Suburban), or a town center, and to provide  
45 appropriate assistance, including but not limited to, extensions of  
46 credit, loans, and guarantees, to municipalities qualified to receive  
47 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
48 178 et seq.) and municipalities that contain areas designated

1 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
2 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
3 center, and their agencies and instrumentalities or to private entities  
4 whose projects are located in those municipalities, in order to  
5 facilitate the financing and development of parking facilities or  
6 structures in such municipalities. The authority may serve as the  
7 issuing agent of bonds to finance the undertaking of a project for  
8 the purposes of this subsection; and

9 jj. To establish and maintain the green infrastructure loan  
10 program and green infrastructure fund, and to issue green  
11 infrastructure bonds pursuant to P.L. , c. (C. ) (pending  
12 before the Legislature as this bill) for the purposes set forth therein.  
13 (cf: P.L.2010, c.28, s.3)

14  
15 23. This act shall take effect immediately, but shall remain  
16 inoperative for 60 days following the date of enactment.

#### 17 18 19 STATEMENT

20  
21 This bill establishes a regulatory financing structure that  
22 authorizes New Jersey Economic Development Authority  
23 (authority), in conjunction with the Board of Public Utilities  
24 (board), to acquire and provide low-cost financing, to be deployed  
25 through a financing program to make green infrastructure  
26 equipment and installations accessible and affordable for New  
27 Jersey's electric and gas public utility (utility) customers desiring  
28 financing for this purpose, achieve measurable cost savings, and  
29 attain the State's clean energy goals. Green infrastructure  
30 equipment is infrastructure improvements, equipment, and personal  
31 property to be installed to deploy clean energy technology, demand  
32 response technology, and energy use reduction and demand side  
33 management infrastructure.

34 Specifically, the bill: 1) establishes a green infrastructure loan  
35 program (loan program) for the purpose of acquiring and providing  
36 alternative low-cost financing for green infrastructure equipment  
37 and installations accessible and affordable for utility customers,  
38 through a financing program administered by the authority, and may  
39 include loans made to private entities who may lease or provide  
40 green infrastructure equipment to utility customers, as well as direct  
41 loans to utility customers, on terms approved by the authority; 2)  
42 authorizes the creation of green infrastructure property consisting of  
43 all property, rights, and interests of the loan program, which shall  
44 vest in the authority for the purpose of securing bond amounts  
45 payable under the loan program, and other financing costs; 3)  
46 establishes a green infrastructure fee, a non-bypassable bill fee  
47 imposed on and collected from those utility customers receiving a  
48 loan made to finance the purchase or installation of green



1 infrastructure equipment on the property enhanced by the  
2 equipment under the loan program and, if there is an outstanding  
3 obligation on the loan, that obligation is to be transferred to the new  
4 property owner; 4) authorizes the authority to issue revenue bonds  
5 to finance the loan program; 5) establishes a green infrastructure  
6 fund to be administered by the authority and to receive the proceeds  
7 of the green infrastructure fee, green infrastructure property, the  
8 loan program and other monies expended on the operations of the  
9 loan program, including through credits to utility customers subject  
10 to the green infrastructure fee for reimbursement of excess green  
11 infrastructure fees collected; and 6) authorizes the authority to issue  
12 up to \$200,000,000 in revenue bonds to establish and administer the  
13 loan program.

14 Up-front costs of green infrastructure equipment are a barrier  
15 preventing many utility customers from investing in these  
16 installations and thereby achieving lower energy costs. Existing  
17 programs may not serve the entire spectrum of New Jersey's energy  
18 market, particularly those utility customers who lack access to  
19 capital or who cannot afford these up-front costs, thereby creating  
20 an underserved market. This measure will establish a means of  
21 acquiring and providing alternative low-cost financing to  
22 underserved markets, enabling the installation of green  
23 infrastructure equipment in those markets.

24 Significant investment in green infrastructure equipment will  
25 help the State achieve its goals of energy self-sufficiency and  
26 greater energy security and diversification, support its efforts to  
27 meet the State's renewable portfolio standards and energy  
28 efficiency requirements as its energy market is evolving, and  
29 provide affordable and accessible energy options for New Jersey  
30 utility customers.