ASSEMBLY, No. 3345

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman STERLEY S. STANLEY
District 18 (Middlesex)
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)

SYNOPSIS

Establishes uniform alternative assessment for commercial renewable energy systems and limits municipal construction permit fees for non-commercial renewable energy systems.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 1/27/2021)

AN ACT concerning commercial and non-commercial renewable energy systems, amending P.L.2008, c.90 and P.L.1985, c.85, and repealing P.L.1977, c.256.

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

1. Section 1 of P.L.2008, c.90 (C.54:4-3.113a) is amended to read as follows:

1. As used in this act:

"Board of appeals" means the construction board of appeals established under section 9 of P.L.1975, c.217 (C.52:27D-127), having jurisdiction in the municipality in which the property is located.

"Commercial renewable energy system" means a system producing renewable energy onsite for uses other than to provide the electrical, heating, cooling, or general energy needs of an onsite residential, commercial, industrial, or mixed use building, but shall not include an on-site generation facility as defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Commissioner" means the Commissioner of Community Affairs.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Local enforcing agency" means the enforcing agency in any municipality provided for under the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and rules and regulations adopted pursuant thereto.

"Non-commercial renewable energy system" means any equipment that is part of, or added to, a residential, commercial, industrial, or mixed use building as an accessory use, and that produces renewable energy onsite to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building.

"Renewable energy" means: (1) electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, methane gas from landfills, a resource recovery facility, a hydropower facility or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner, and provided further that the Commissioner of Environmental Protection has determined that the resource recovery facility, hydropower facility or biomass facility, as appropriate, meets the highest environmental standards and minimizes any impacts to the environment and local communities; and (2) energy produced from solar thermal or geothermal technologies.

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.

["Renewable energy system" means any equipment that is part of, or added to, a residential, commercial, industrial, or mixed use building as an accessory use, and that produces renewable energy onsite to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building.**]**
(cf: P.L.2008, c.90, s.1)

2. Section 2 of P.L.2008, c.90 (C.54:4-3.113b) is amended to read as follows:

2. a. Property that has been certified by a local enforcing agency as a non-commercial renewable energy system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes. The owner of real property which is equipped with a certified non-commercial renewable energy system may have exempted annually from the assessed valuation of the real property a sum equal to the assessed valuation of the real property with the non-commercial renewable energy system included, minus the assessed valuation of the real property without the non-commercial renewable energy system included.

b. (1) Property that has been certified by a local enforcing agency as a commercial renewable energy system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes except as otherwise provided pursuant to paragraph (2) of this subsection.

(2) The real property on which a certified commercial renewable energy system is located shall have an assessed value equal to the assessed valuation of the real property without the commercial renewable energy system included, with an assessment due for the commercial renewable energy system calculated as follows: $7,000 for each 1,000 kilowatts of direct current capacity, or its equivalent, for the first year of commercial operation, with the amount due increasing by one percent in each subsequent year of commercial operation of the commercial renewable energy system and until the decommissioning of the commercial renewable energy system. The alternative assessment pursuant to this paragraph shall be paid in the same manner as taxation under chapter 4 of Title 54 of the Revised Statutes. The owner of the real property on which a certified commercial renewable energy system is located shall provide to the assessor of the taxing district in which the commercial renewable energy system is located documentation of the nameplate capacity of the commercial renewable energy system.
(cf: P.L.2008, c.90, s.2)

3. Section 4 of P.L.2008, c.90 (C.54:4-3.113d) is amended to read as follows:

4. The local enforcing agency, when requested for a certification pursuant to **[**this act**]** P.L.2008, c.90 (C.54:4-3.113a et seq.), shall certify a system as being a non-commercial renewable

energy system or a commercial renewable energy system, as appropriate, whenever the local enforcing agency finds that the system installed was designed primarily as a non-commercial renewable energy system or a commercial renewable energy system, as appropriate, in accordance with rules and regulations adopted by the commissioner pursuant to subsection b. of section 7 of **[**this act**]** P.L.2008, c.90 (C.54:4-3.113g). The certificate shall contain information identifying the non-commercial renewable energy system or the commercial renewable energy system, as appropriate, and the cost thereof and shall be in such form and detail as the director shall prescribe. The certificate shall be provided to the applicant therefor, with a copy retained on file by the local enforcing agency, and a copy of the certificate shall be sent to the assessor of the taxing district in which the property containing the non-commercial renewable energy system or commercial renewable energy system, as appropriate, is located and has been installed. The exemption from taxation for the non-commercial renewable energy system or commercial renewable energy system, as appropriate, shall become effective for the tax year following the year in which certification has been granted and thereafter during its use primarily for such purposes.
(cf: P.L.2008, c.90, s.4)

4. Section 5 of P.L.2008, c.90 (C.54:4-3.113e) is amended to read as follows:

5. The local enforcing agency, after giving notice to the holder of a **[**renewable energy system**]** certificate for a non-commercial renewable energy system or a commercial renewable energy system, as appropriate, may revoke a certificate whenever any of the following appears or occurs:

a. the certificate was obtained by fraud or misrepresentation;

b. the claimant for tax exemption has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a non-commercial renewable energy system or commercial renewable energy system, as appropriate ;

c. in the case of a non-commercial renewable energy system, the structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of providing renewable energy to provide all or a portion of the electrical, heating, cooling, or general energy needs of the structure and is being used for a different primary purpose; **[**or**]**

d. in the case of a non-commercial renewable energy system, the claimant for the tax exemption has so departed from the equipment, design and construction previously certified by the local enforcing agency that, in the opinion of the local enforcing agency, the non-commercial renewable energy system is not suitable and reasonably adequate for the purpose of using renewable energy to

provide all or a portion of the electrical, heating, cooling, or general energy needs of the structure; or

e. in the case of a commercial renewable energy system, the structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of providing renewable energy for use offsite or the claimant for the tax exemption has so departed from the equipment, design and construction previously certified by the local enforcing agency that, in the opinion of the local enforcing agency, the commercial renewable energy system is not suitable and reasonably adequate for the purpose of producing renewable energy for use offsite.

(cf: P.L.2008, c.90, s.5)

5. Section 7 of P.L.2008, c.90 (C.54:4-3.113g) is amended to read as follows:

7. a. The director, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt any rules and regulations necessary for the proper certification of any tax exemption pursuant to [this act] P.L.2008, c.90 (C.54:4-3.113a et seq.), the form of any certificate to be issued, [and] any other matter related to the exemption , and any documentation necessary to determine the capacity of a commercial renewable energy system for the purposes of paragraph (2) of subsection b. of section 2 of P.L.2008, c.90 (C.54:4-3.113b).

b. The commissioner, in consultation with the Board of Public Utilities, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), standards with respect to the technical sufficiency of non-commercial renewable energy systems and commercial renewable energy systems for the purposes of qualification for exemption pursuant to P.L.2008, c.90 (C.54:4-3.113a et seq.).

(cf: P.L.2008, c.90, s.7)

6. Section 1 of P.L.1985, c.85 (C.52:27D-130.2) is amended to read as follows:

1. [No person shall be required to pay a municipal fee or charge in] In order to secure a construction permit for the installation or alteration of a [solar] non-commercial renewable energy [heating or cooling] system in any building or part thereof, no person shall be required to pay a municipal fee or charge in excess of the cost of review and issuance of the permit by the municipality. As used in [this act] P.L.1985, c.85 (C.52:27D-130.2 et seq.), "[solar] non-commercial renewable energy [heating and cooling] system" means a system which is certified as eligible for an exemption from property taxation by [the Department of Community Affairs] the local enforcing agency pursuant to

【P.L.1977, c.256 (C.54:4-3.113 et seq.)】 section 4 of P.L.2008, c.90 (C.54:4-3.113d).
(cf: P.L.1985, c.85, s.1)

7. Section 2 of P.L.1985, c.85 (C.52:27D-130.3) is amended to read as follows:

2. The installation or alteration of a solar energy heating or cooling system in any building shall not be subject to any fee, including any surcharge or training fee, imposed by any department or agency of State government pursuant to any law, or rule or regulation. As used in this section, "solar energy heating or cooling system" means a solar energy heating or cooling system that is certified as eligible for an exemption from property taxation as a commercial renewable energy system or non-commercial renewable energy system by the local enforcing agency pursuant to section 4 of P.L.2008, c.90 (C.54:4-3.113d).
(cf: P.L.1985, c.85, s.2)

8. P.L.1977, c.256 (C.54:4-3.113 et al.) is repealed.

9. This act shall take effect immediately.

STATEMENT

This bill amends P.L.2008, c.90 (C.54:4-3.113a et seq.), which exempts renewable energy systems from real property taxation. This bill would establish a uniform assessment for “commercial renewable energy systems,” defined in the bill as a system producing renewable energy onsite, that is not an "on-site generation facility" as defined in section 3 of P.L.1999, c.23 (C.48:3-51) (the “Electric Discount and Energy Competition Act”), for uses other than to provide the electrical, heating, cooling, or general energy needs of an onsite residential, commercial, industrial, or mixed use building.

Under the bill, property that has been certified by a local enforcing agency as a commercial renewable energy system would be exempt from property taxation, and would instead be subject to a uniform assessment. The real property on which a certified commercial renewable energy system is located would have an assessed value equal to the assessed valuation of the real property without the commercial renewable energy system included, with the assessment due for the commercial renewable energy system calculated as follows: $7,000 for each 1,000 kilowatts of direct current capacity, or its equivalent, for the first year of commercial operation of the system, increasing by one percent in each subsequent year of commercial operation and until decommissioning of the system.

This bill also requires the Commissioner of Community Affairs, in consultation with the Board of Public Utilities, to adopt standards with respect to the technical sufficiency of commercial renewable energy systems for purposes of qualification for the exemption.

The bill also amends current law regarding municipal construction permit fees (section 1 of P.L.1985, c.85 (C.52:27D-130.2)) to replace references to "solar energy heating or cooling system" with "non-commercial renewable energy system." In addition, the bill would limit the municipal fees for a construction permit for a non-commercial renewable energy system to the cost of review and issuance of the permit by the municipality.

The bill repeals P.L.1977, c.256, a temporary law relating to the exemption of solar energy systems from taxation, that expired on December 31, 1987 but was not formally repealed.