

ASSEMBLY, No. 5578

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 5, 2021

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Modifies rate-regulation over municipal electric utilities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning electric rates charged by municipal utilities,
2 amending and supplementing Title 40 of the Revised Statutes,
3 and amending P.L.1983, c.111.

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

7
8 1. R.S.40:62-24 is amended to read as follows.

9 40:62-24. Every municipality in supplying electricity, gas, steam
10 or other product beyond its corporate limits is hereby declared to be
11 a public utility. **[The]** Except as otherwise provided in section 2 of
12 P.L. , c. (C.) (pending before the Legislature as this bill), the
13 Board of Public Utilities shall have the same supervision and
14 regulation of, and jurisdiction and control over such municipality in
15 respect to its acts in supplying electricity, gas, steam or other
16 product beyond its corporate limits, and of and over the property,
17 property rights, equipment, facilities and franchises used in
18 supplying electricity, gas, steam or other product beyond its
19 corporate limits as over other public utilities. **[Every]** Except as
20 otherwise provided in section 2 of P.L. , c. (C.) (pending
21 before the Legislature as this bill), every such municipality shall be
22 subject as to its service, accounts, property rights, equipment,
23 franchises, extensions, reports, issuance of bonds or other
24 indebtedness maturing in more than 1 year from the date thereof, to
25 the jurisdiction of the Board of Public Utilities to the same extent as
26 other public utilities.

27 **[Every]** Except as otherwise provided in section 2 of P.L. , c.
28 (C.) (pending before the Legislature as this bill), every
29 municipality supplying electricity, gas, steam or other product
30 beyond its corporate limits shall have the rates for these utilities
31 subject to the jurisdiction of the Board of Public Utilities. The
32 board in regulating these rates shall provide for a rate structure
33 which allows the municipality, within the limits of any covenants
34 made with bondholders pursuant to law, to:

35 a. Recoup all costs of operation, including but not limited to the
36 costs of raw materials, administration, equipment, buildings,
37 property, maintenance, taxes, debt service, fees and offsetting any
38 budget deficit occurring in the immediately preceding fiscal year;

39 b. Establish a surplus sufficient to provide for the reasonable
40 anticipation of contingencies which may affect the operation of the
41 utility and for an amount which may be transferred from the
42 accounts of the municipal utility and included in the local budget
43 pursuant to section 5 of **[this amendatory and supplementary act]**
44 P.L.1983, c.111 (C.40A:4-35.1).
45 (cf: P.L.1983, c.111, s.2)

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 2. (New section) a. Except as otherwise provided in subsection
2 b. of this section, a municipality that provides electricity, gas, steam
3 or other product pursuant to the provisions of R.S.40:62-12 et seq.,
4 and which supplies electricity to more than 10,000 billed customers
5 located outside of the municipality, shall be subject to the
6 jurisdiction, regulation and control of the Board of Public Utilities
7 in accordance with the provisions of Title 48 of the Revised
8 Statutes.

9 b. Notwithstanding any other provision of law, rule, order or
10 regulation to the contrary, whenever a municipality providing
11 electricity, gas, steam or other product pursuant to the provisions of
12 R.S.40:62-12 et seq., charges the same rates to the billed customers
13 located inside and outside of the municipality, the municipality
14 shall be exempt from the jurisdiction, regulation and control of the
15 Board of Public Utilities. The governing body of the municipality
16 shall authorize any increase in rates by ordinance. Customers
17 located outside of the supplying municipality shall have an
18 opportunity to be heard at the public hearing.

19 c. Nothing in this section shall be construed to exempt a
20 municipality supplying another local unit or billed customers
21 outside of the municipality, from the jurisdiction, regulation and
22 control of the Board of Public Utilities, with respect to service and
23 reliability.

24 d. Supplying municipalities shall continue to pay an assessment
25 to the Board of Public Utilities in accordance with any other
26 applicable provision of law.

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28 3. Section 5 of P.L.1983, c.111 (C.40A:4-35.1) is amended to
29 read as follows:

30 5. To the extent there is available surplus revenue collected by
31 a municipality pursuant to chapter 62 of Title 40 of the Revised
32 Statutes for supplying a utility service which is regulated by the
33 Board of Public Utilities pursuant to R.S.40:62-24 or subsection d.
34 of N.J.S.40A:31-23, or to the extent there is available surplus
35 revenue collected by a county or municipality from a stormwater
36 utility established pursuant to P.L.2019, c.42 (C.40A:26B-1 et al.),
37 an amount not to exceed five percent of the annual costs of
38 operation of the utility may be transferred annually from the
39 accounts of the municipal utility or county utility, as appropriate,
40 and included in the local budget pursuant to N.J.S.40A:4-35.
41 (cf: P.L.2019, c.42, s.20)

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43 4. This act shall take effect immediately.

1 STATEMENT

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This bill would modify the circumstances under which municipal electric utilities' rates are subject to the jurisdiction of the Board of Public Utilities (BPU). Under current law, the rates of a municipal electric utility that supplies power to customers beyond its corporate limits are subject to the jurisdiction of the BPU. The bill would modify this by limiting BPU rate-jurisdiction to municipal electric utilities that service more than 10,000 billed customers outside of the supplying municipality. Further, municipal electric utilities would not be subject to BPU rate regulation if the utility charges customers the same rates, regardless of whether the customer is located inside or outside of the supplying municipality.