[First Reprint]

SENATE, No. 337

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
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District 17 (Middlesex and Somerset)
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SYNOPSIS

Establishes Renewable and Efficient Energy Financing Program; authorizes BPU to transfer up to $20 million annually in societal benefits charge revenues to New Jersey Infrastructure Bank for purposes of program.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on February 24, 2020, with amendments.

(Sponsorship Updated As Of: 11/8/2021)

AN ACT concerning [1]renewable energy and[1] energy efficiency in State, local, and school district buildings [1]and other property[1], supplementing Title 58 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. (New section) This act shall be known and may be cited as the "[1]**[**Energy Efficiency and**]**[1] Renewable [1]and Efficient[1] Energy Financing Act."

2. (New section) As used in [1]**[**this act**]** sections 1 through 9 of P.L. , c. (C.)(pending before the Legislature as this bill)[1]:

[1]**[**"Department" means the Department of Environmental Protection.**]**

"Board" means the Board of Public Utilities.[1]

"Energy efficiency improvement" means a modification or improvement to a building [1]or other property[1] that is designed to reduce energy consumption or provide a renewable energy source, and reduce energy costs for a State entity, local unit, or school district. "Energy efficiency improvement" shall include, but need not be limited to, insulation; storm windows or doors; caulking, weather-stripping, or other window and door system modifications or improvements that reduce energy consumption; automated or computerized energy control systems; energy efficient heating, ventilation, or air conditioning systems; energy efficient lighting systems; on-site solar energy systems or other renewable energy systems; energy recovery systems; cogeneration or combined heat and power systems; and other modifications or improvements as may be determined appropriate by the [1]**[**department**]** board[1].

"Local unit" means a county or municipality, or any agency, authority, [1]department,[1] or other entity thereof.

"Program" means the [1]**[**"Energy Efficiency and**]**[1] Renewable [1]and Efficient[1] Energy Financing Program [1]**[**"**]**[1] established pursuant to [1]**[**this act**]** section 3 of P.L. , c. (C.)(pending before the Legislature as this bill)[1].

"School district" means any local or regional school district established pursuant to chapters 8 or 13 of Title 18A of the New Jersey Statutes.

"State entity" means a department, agency, or office of State government, including a State university or college, or an authority created by the State.

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SEN committee amendments adopted February 24, 2020.

[1]"Total cost" means all of the costs associated with an energy efficiency improvement project, including, but not limited to, all of the costs of financing the project over the life of a loan.[1]

"Trust" means the New Jersey Infrastructure Bank, created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4).

3. (New section) There is established in the New Jersey Infrastructure Bank the [1][[]"Energy Efficiency and"[]][1] Renewable [1]and Efficient[1] Energy Financing Program. [1][[]"[]][1] The purpose of the program shall be to provide loans and other forms of financial assistance, as the trust deems appropriate, to State entities, local units, and school districts to finance cost-effective energy efficiency improvements in buildings [1]or other property[1] owned or operated by the State entities, local units, or school districts. [1]The trust is also authorized to provide loans and other forms of financial assistance directly to a private entity for an energy efficiency improvement project sponsored and guaranteed by a local unit, provided that any application for such loans or other forms of financial assistance is made by the local unit.[1]

4. (New section) a. A State entity, local unit, or school district seeking financial assistance under the [1][[]Energy Efficiency and[]][1] Renewable [1]and Efficient[1] Energy Financing Program shall first submit an application to the [1][[]Department of Environmental Protection[]] board[1] in a form and manner as determined by the [1][[]department. The department[]] board in consultation with the trust. The board[1], in consultation with the [1][[]New Jersey Infrastructure Bank[]] trust[1], shall develop criteria for the approval or disapproval of applications pursuant to this section.

b. As part of the application process, the [1][[]department[]] board[1] shall [1][[]perform, or[]][1] require the applicant to perform [1][[],[]][1] an energy efficiency assessment of the buildings [1]or other property[1] owned or operated by the applicant. The assessment shall identify the energy efficiency improvements that can be installed and operated in the buildings [1]or other property[1] at a total cost that is less than the energy cost savings, in the form of lower energy bills, realized by the applicant over [1]the lesser of[1] a 10-year period [1][[],[]][1] or [1][[]such shorter time as the department deems appropriate[]] the useful life of the energy efficiency improvements[1]. The assessment shall include a schedule for funding and installing the energy efficiency improvements that will realize the greatest cost savings to the applicant.

c. Upon approval of an application pursuant to this section, the [1][[]department[]] board[1] shall submit a copy of [1][[]the application and[]][1] the energy efficiency assessment [1]and a certification of application approval[1] to the trust. Subject to the availability of funds under the

program, the trust may make and contract to make loans or other forms of financial assistance, as the trust deems appropriate, to the applicant to finance [1]all or a portion of[1] the cost of the energy efficiency improvements as identified in the energy efficiency assessment and approved by the [1]**[**department**]** board[1]. The loans and other forms of financial assistance may be made subject to such terms and conditions as the trust shall deem appropriate.

5. (New section) Pursuant to an energy efficiency assessment performed pursuant to section 4 of [1]**[**this act**]** P.L. , c. (C.)(pending before the Legislature as this bill)[1], and with the approval of the [1]**[**department**]** board[1] and the trust, a State entity, local unit, or school district may install or contract for the installation of, energy efficiency improvements on its buildings [1]or other property[1], as identified in the assessment. The installation or contract shall address provisions concerning payment schedules, monitoring, inspection, measuring, and warranties as are necessary to ensure [1], to the greatest extent practicable,[1] that the energy efficiency improvements will be installed and operated in the buildings [1]or other property[1] at a total cost that is less than the energy cost savings realized by the applicant over the [1]lesser of a[1] 10-year period or [1]**[**such other timeframe as the department deems appropriate**]** the useful life of the energy efficiency improvements[1].

[1]**[**6. (New section) a. The New Jersey Infrastructure Bank is authorized, from time to time, to issue bonds, pursuant to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any other applicable laws, in an amount outstanding at any one time not to exceed $20,000,000, for the purpose of providing financial assistance to State entities, local units, and school districts under this act. The payment of interest on, and repayment of principal of, these bonds shall be secured by and paid out of:

(1) moneys obtained from the payment of interest assessed on, and the repayment of principal of, any loans made pursuant to this act;

(2) moneys transferred to the trust from the Board of Public Utilities pursuant to section 7 of this act; and

(3) any other moneys appropriated by the Legislature or otherwise made available to the trust for the purposes of this act.

b. The trust may establish such reserves, funds, or accounts as, in its discretion, are necessary or desirable to carry out the purposes of this act, within the limits of funds appropriated or otherwise made available to the trust for its purposes.**]**[1]

[1]**[**7. (New section) Notwithstanding the provisions of section 12 of P.L.1999, c.23 (C.48:3-60), or any rule, regulation, or order

adopted pursuant thereto, to the contrary, commencing with the first State fiscal year in which a loan or other form of financial assistance is made pursuant to this act, the Board of Public Utilities shall, from available balances accumulated in accounts of the board from funds collected through the societal benefits charge imposed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), transfer to the trust such amounts as are necessary to secure the debt service payments on any bonds of the trust to be issued pursuant to this act. The board and the trust may enter into any contract deemed necessary to implement the payment arrangement that is provided for in this section.**]**[1]

[1]6. (New section) a. There is established in the New Jersey Infrastructure Bank a special, nonlapsing fund to be known as the Renewable and Efficient Energy Financing Fund. Monies in the fund shall be used by the trust only to provide loans and other forms of financial assistance to State entities, local units, and school districts under the program, and for the trust's administration and management of the program. The fund shall be credited with:

(1) moneys obtained from the payment of interest assessed on, and the repayment of principal of, any loans made pursuant to P.L. , c. (C.)(pending before the Legislature as this bill);

(2) moneys transferred to the trust from the board pursuant to subsection c. of section 12 of P.L.1999, c.23 (C.48:3-60);

(3) any other moneys appropriated by the Legislature or otherwise made available to the trust for the purposes of P.L. , c. (C.)(pending before the Legislature as this bill); and

(4) any interest earnings or other investment income earned or received on the moneys in the fund.

b. The trust may establish other such reserves or subaccounts which, in the trusts' discretion, are necessary or desirable to carry out the purposes of P.L. , c. (C.)(pending before the Legislature as this bill), within the limits of funds appropriated or otherwise made available to the trust for its purposes.[1]

[1]7. (New section) The board, in consultation with the trust, shall develop a priority system for energy efficiency improvement projects, and establish ranking criteria and funding policies for the energy efficiency improvement projects to be funded under the program. The board shall set forth a "Renewable and Efficient Energy Financing Program Project Priority List," hereinafter referred to as the project priority list, for funding by the trust each fiscal year, and shall include the aggregate amount of funds that the trust is authorized to use for the purposes of the program. The board may include an energy efficiency improvement project on the project priority list if the project meets the eligibility requirements for funding, and any other criteria developed by the board, pursuant to P.L. , c. (C.)(pending before the Legislature as this bill).

The board shall submit the project priority list to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. A project shall be eligible for funding under P.L. , c. (C.)(pending before the Legislature as this bill) only if it is identified on a project priority list.[1]

8. (New section) No later than one year after the first loan or other form of financial assistance is made pursuant to [1][this act] P.L. , c. (C.)(pending before the Legislature as this bill)[1], and for each succeeding year in which such financial assistance is made, the [1][Department of Environmental Protection] board[1] and the [1][New Jersey Infrastructure Bank] trust[1] together shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, on the effectiveness of the program in promoting energy efficiency [1], renewable energy,[1] and energy cost savings for State entities, local units, and school districts. The [1][department] board[1] and the trust may include any recommendations for legislation to improve the effectiveness of the program.

9. (New section) The [1][Department of Environmental Protection] board[1], in cooperation with the [1][New Jersey Infrastructure Bank] trust[1], shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as are necessary to implement the provisions of [1][this act] P.L. , c. (C.)(pending before the Legislature as this bill)[1].

[1][10. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of this act, the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) The costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of this act, the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act. The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in this act shall be construed to abolish or change any social program required by statute or board order or rule

or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) Nuclear plant decommissioning costs;

(3) The costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of this act, the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act. Within four months of the effective date of this act, and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of this act; provided that the funding for such programs be no less than 50% of the total Statewide amount being collected in public electric and gas utility rates for demand side management programs on the effective date of this act for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of this act, and provided that 25% of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in public electric and gas utility rates for demand side management programs on the effective date of this act, except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall

include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding;

(4) Manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) The cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of this act and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of this act, shall be sufficient to fund the consumer education program established pursuant to section 36 of this act.

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s. 8621 et seq., and funds collected by electric and natural gas utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

c. Notwithstanding the requirements of subsection a. of this section to the contrary, the Board of Public Utilities shall, each year, transfer to the New Jersey Infrastructure Bank, such amounts from the moneys collected pursuant to this section as are necessary to secure the interest payments on any bonds of the New Jersey

Infrastructure Bank issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.1999, c.23, s.12)**]**[1]

[1]10. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) The costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) Nuclear plant decommissioning costs;

(3) The costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency , plug-in electric vehicles and plug-in electric vehicle

charging infrastructure, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al..), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding;

(4) Manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) The cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees

pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and natural gas utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

c. Notwithstanding the provisions of this section, or any rule, regulation, or order adopted pursuant thereto, to the contrary, in the State fiscal year commencing July 1, 2020, and each year thereafter, the Board of Public Utilities shall transfer up to $20 million from available balances accumulated in accounts of the board from funds collected through the societal benefits charge imposed pursuant to paragraph (3) of subsection a. of this section to the New Jersey Infrastructure Bank for deposit into the Renewable and Efficient Energy Financing Fund established pursuant to section 6 of P.L. , c. (C.)(pending before the Legislature as this bill) for the purposes of the Renewable and Efficient Energy Financing Program. The board and the trust may enter into any contract deemed necessary to implement the payment arrangement from the board to the trust that is provided for in this section.[1]

(cf: P.L.2019, c.362, s.13)

11. This act shall take effect immediately.