

SENATE, No. 338

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

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District 14 (Mercer and Middlesex)

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

Introduced Pending Technical Review by Legislative Counsel.



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

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

7
8 1. Section 1 of P.L.2008, c.90 (C.54:4-3.113a) is amended to
9 read as follows:

10 1. As used in this act:

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

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

21 "Commissioner" means the Commissioner of Community
22 Affairs.

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

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

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

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

47 (cf: P.L.2008, c.90, s.1)

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

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

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

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

36
37 3. Section 4 of P.L.2008, c.90 (C.54:4-3.113d) is amended to
38 read as follows:

39 4. The local enforcing agency, when requested for a
40 certification pursuant to **【this act】** P.L.2008, c.90 (C.54:4-
41 3.113a et seq.), shall certify a system as being a non-commercial
42 renewable energy system or a commercial renewable energy
43 system, as appropriate, whenever the local enforcing agency finds
44 that the system installed was designed primarily as a non-
45 commercial renewable energy system or a commercial renewable
46 energy system, as appropriate, in accordance with rules and
47 regulations adopted by the commissioner pursuant to subsection b.
48 of section 7 of 【this act】 P.L.2008, c.90 (C.54:4-3.113g). The

1 certificate shall contain information identifying the non-commercial
2 renewable energy system or the commercial renewable energy
3 system, as appropriate, and the cost thereof and shall be in such
4 form and detail as the director shall prescribe. The certificate shall
5 be provided to the applicant therefor, with a copy retained on file by
6 the local enforcing agency, and a copy of the certificate shall be
7 sent to the assessor of the taxing district in which the property
8 containing the non-commercial renewable energy system or
9 commercial renewable energy system, as appropriate, is located and
10 has been installed. The exemption from taxation for the non-
11 commercial renewable energy system or commercial renewable
12 energy system, as appropriate, shall become effective for the tax
13 year following the year in which certification has been granted and
14 thereafter during its use primarily for such purposes.
15 (cf: P.L.2008, c.90, s.4)

16

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

19 5. The local enforcing agency, after giving notice to the holder
20 of a **【renewable energy system】** certificate for a non-commercial
21 renewable energy system or a commercial renewable energy
22 system, as appropriate, may revoke a certificate whenever any of
23 the following appears or occurs:

24 a. the certificate was obtained by fraud or misrepresentation;

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

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

35 d. in the case of a non-commercial renewable energy system,
36 the claimant for the tax exemption has so departed from the
37 equipment, design and construction previously certified by the local
38 enforcing agency that, in the opinion of the local enforcing agency,
39 the non-commercial renewable energy system is not suitable and
40 reasonably adequate for the purpose of using renewable energy to
41 provide all or a portion of the electrical, heating, cooling, or general
42 energy needs of the structure; or

43 e. in the case of a commercial renewable energy system, the
44 structure or equipment or both to which the certificate relates has
45 ceased to be used for the primary purpose of providing renewable
46 energy for use offsite or the claimant for the tax exemption has so
47 departed from the equipment, design and construction previously
48 certified by the local enforcing agency that, in the opinion of the

1 local enforcing agency, the commercial renewable energy system is
2 not suitable and reasonably adequate for the purpose of producing
3 renewable energy for use offsite.

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

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

8 7. a. The director, pursuant to the "Administrative Procedure
9 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt any rules
10 and regulations necessary for the proper certification of any tax
11 exemption pursuant to **【this act】** P.L.2008, c.90 (C.54:4-
12 3.113a et seq.), the form of any certificate to be issued, **【and】** any
13 other matter related to the exemption , and any documentation
14 necessary to determine the capacity of a commercial renewable
15 energy system for the purposes of paragraph (2) of subsection b. of
16 section 2 of P.L.2008, c.90 (C.54:4-3.113b).

17 b. The commissioner, in consultation with the Board of Public
18 Utilities, shall adopt, pursuant to the "Administrative Procedure
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), standards with respect
20 to the technical sufficiency of non-commercial renewable energy
21 systems and commercial renewable energy systems for the purposes
22 of qualification for exemption pursuant to P.L.2008, c.90 (C.54:4-
23 3.113a et seq.).

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

25
26 6. Section 1 of P.L.1985, c.85 (C.52:27D-130.2) is amended to
27 read as follows:

28 1. **【No person shall be required to pay a municipal fee or**
29 **charge in】** In order to secure a construction permit for the
30 installation or alteration of a **【solar】** non-commercial renewable
31 energy 【heating or cooling】 system in any building or part thereof,
32 no person shall be required to pay a municipal fee or charge in
33 excess of the cost of review and issuance of the permit by the
34 municipality. As used in **【this act】** P.L.1985, c.85 (C.52:27D-
35 130.2 et seq.), "**【solar】** non-commercial renewable energy 【heating
36 and cooling】 system" means a system which is certified as eligible
37 for an exemption from property taxation by **【the Department of**
38 **Community Affairs】** the local enforcing agency pursuant to
39 **【P.L.1977, c.256 (C.54:4-3.113 et seq.)】** section 4 of P.L.2008,
40 c.90 (C.54:4-3.113d).

41 (cf: P.L.1985, c.85, s.1)

42
43 7. Section 2 of P.L.1985, c.85 (C.52:27D-130.3) is amended to
44 read as follows:

45 2. The installation or alteration of a solar energy heating or
46 cooling system in any building shall not be subject to any fee,
47 including any surcharge or training fee, imposed by any department

1 or agency of State government pursuant to any law, or rule or
2 regulation. As used in this section, "solar energy heating or cooling
3 system" means a solar energy heating or cooling system that is
4 certified as eligible for an exemption from property taxation as a
5 commercial renewable energy system or non-commercial renewable
6 energy system by the local enforcing agency pursuant to section 4
7 of P.L.2008, c.90 (C.54:4-3.113d).
8 (cf: P.L.1985, c.85, s.2)

9
10 8. P.L.1977, c.256 (C.54:4-3.113 et al.) is repealed.

11
12 9. This act shall take effect immediately.

13
14
15 STATEMENT

16
17 This bill amends P.L.2008, c.90 (C.54:4-3.113a et seq.), which
18 exempts renewable energy systems from real property
19 taxation. This bill would establish a uniform assessment for
20 “commercial renewable energy systems,” defined in the bill as a
21 system producing renewable energy onsite, that is not an "on-site
22 generation facility" as defined in section 3 of P.L.1999, c.23
23 (C.48:3-51) (the “Electric Discount and Energy Competition Act”),
24 for uses other than to provide the electrical, heating, cooling, or
25 general energy needs of an onsite residential, commercial,
26 industrial, or mixed use building.

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

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

44 The bill also amends current law regarding municipal
45 construction permit fees (section 1 of P.L.1985, c.85 (C.52:27D-
46 130.2)) to replace references to “solar energy heating or cooling
47 system” with “non-commercial renewable energy system.” In
48 addition, the bill would limit the municipal fees for a construction

- 1 permit for a non-commercial renewable energy system to the cost of
- 2 review and issuance of the permit by the municipality.
- 3 The bill repeals P.L.1977, c.256, a temporary law relating to the
- 4 exemption of solar energy systems from taxation, that expired on
- 5 December 31, 1987 but was not formally repealed.