

SENATE, No. 708

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Gives priority status for connection of solar photovoltaic systems for customer-generators who are public entities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning certain solar photovoltaic systems and
2 amending P.L.1999, c.23.

3

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

6

7 1. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
8 as follows:

9 38. a. The board shall require an electric power supplier or
10 basic generation service provider to disclose on a customer's bill or
11 on customer contracts or marketing materials, a uniform, common
12 set of information about the environmental characteristics of the
13 energy purchased by the customer, including, but not limited to:

14 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
15 solar, hydroelectric, wind, and biomass, or a regional average
16 determined by the board;

17 (2) Its emissions, in pounds per megawatt hour, of sulfur
18 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
19 that the board may determine to pose an environmental or health
20 hazard, or an emissions default to be determined by the board; and

21 (3) Any discrete emission reduction retired pursuant to rules and
22 regulations adopted pursuant to P.L.1995, c.188.

23 b. Notwithstanding any provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
25 contrary, the board shall initiate a proceeding and shall adopt, in
26 consultation with the Department of Environmental Protection, after
27 notice and opportunity for public comment and public hearing,
28 interim standards to implement this disclosure requirement,
29 including, but not limited to:

30 (1) A methodology for disclosure of emissions based on output
31 pounds per megawatt hour;

32 (2) Benchmarks for all suppliers and basic generation service
33 providers to use in disclosing emissions that will enable consumers
34 to perform a meaningful comparison with a supplier's or basic
35 generation service provider's emission levels; and

36 (3) A uniform emissions disclosure format that is graphic in
37 nature and easily understandable by consumers. The board shall
38 periodically review the disclosure requirements to determine if
39 revisions to the environmental disclosure system as implemented
40 are necessary.

41 Such standards shall be effective as regulations immediately
42 upon filing with the Office of Administrative Law and shall be
43 effective for a period not to exceed 18 months, and may, thereafter,
44 be amended, adopted, or readopted by the board in accordance with
45 the provisions of the "Administrative Procedure Act."

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 c. (1) The board may adopt, in consultation with the
2 Department of Environmental Protection, after notice and
3 opportunity for public comment, an emissions portfolio standard
4 applicable to all electric power suppliers and basic generation
5 service providers, upon a finding that:

6 (a) The standard is necessary as part of a plan to enable the
7 State to meet federal Clean Air Act or State ambient air quality
8 standards; and

9 (b) Actions at the regional or federal level cannot reasonably be
10 expected to achieve the compliance with the federal standards.

11 (2) By July 1, 2009, the board shall adopt, pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.), a greenhouse gas emissions portfolio standard to mitigate
14 leakage or another regulatory mechanism to mitigate leakage
15 applicable to all electric power suppliers and basic generation
16 service providers that provide electricity to customers within the
17 State. The greenhouse gas emissions portfolio standard or any other
18 regulatory mechanism to mitigate leakage shall:

19 (a) Allow a transition period, either before or after the effective
20 date of the regulation to mitigate leakage, for a basic generation
21 service provider or electric power supplier to either meet the
22 emissions portfolio standard or other regulatory mechanism to
23 mitigate leakage, or to transfer any customer to a basic generation
24 service provider or electric power supplier that meets the emissions
25 portfolio standard or other regulatory mechanism to mitigate
26 leakage. If the transition period allowed pursuant to this
27 subparagraph occurs after the implementation of an emissions
28 portfolio standard or other regulatory mechanism to mitigate
29 leakage, the transition period shall be no longer than three years;
30 and

31 (b) Exempt the provision of basic generation service pursuant to
32 a basic generation service purchase and sale agreement effective
33 prior to the date of the regulation.

34 Unless the Attorney General or the Attorney General's designee
35 determines that a greenhouse gas emissions portfolio standard
36 would unconstitutionally burden interstate commerce or would be
37 preempted by federal law, the adoption by the board of an electric
38 energy efficiency portfolio standard pursuant to subsection g. of this
39 section, a gas energy efficiency portfolio standard pursuant to
40 subsection h. of this section, or any other enhanced energy
41 efficiency policies to mitigate leakage shall not be considered
42 sufficient to fulfill the requirement of this subsection for the
43 adoption of a greenhouse gas emissions portfolio standard or any
44 other regulatory mechanism to mitigate leakage.

45 d. Notwithstanding any provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public
2 hearing, renewable energy portfolio standards that shall require:

3 (1) that two and one-half percent of the kilowatt hours sold in
4 this State by each electric power supplier and each basic generation
5 service provider be from Class I or Class II renewable energy
6 sources;

7 (2) beginning on January 1, 2001, that one-half of one percent
8 of the kilowatt hours sold in this State by each electric power
9 supplier and each basic generation service provider be from Class I
10 renewable energy sources. The board shall increase the required
11 percentage for Class I renewable energy sources so that by January
12 1, 2006, one percent of the kilowatt hours sold in this State by each
13 electric power supplier and each basic generation service provider
14 shall be from Class I renewable energy sources and shall
15 additionally increase the required percentage for Class I renewable
16 energy sources by one-half of one percent each year until January 1,
17 2012, when four percent of the kilowatt hours sold in this State by
18 each electric power supplier and each basic generation service
19 provider shall be from Class I renewable energy sources.

20 An electric power supplier or basic generation service provider
21 may satisfy the requirements of this subsection by participating in a
22 renewable energy trading program approved by the board in
23 consultation with the Department of Environmental Protection;

24 (3) that the board establish a multi-year schedule, applicable to
25 each electric power supplier or basic generation service provider in
26 this State, beginning with the one-year period commencing on June
27 1, 2010, and continuing for each subsequent one-year period up to
28 and including, the one-year period commencing on June 1, 2028,
29 that requires the following number or percentage, as the case may
30 be, of kilowatt-hours sold in this State by each electric power
31 supplier and each basic generation service provider to be from solar
32 electric power generators connected to the distribution system in
33 this State:

34	EY 2011	306 Gigawatthours (Gwhrs)
35	EY 2012	442 Gwhrs
36	EY 2013	596 Gwhrs
37	EY 2014	2.050%
38	EY 2015	2.450%
39	EY 2016	2.750%
40	EY 2017	3.000%
41	EY 2018	3.200%
42	EY 2019	3.290%
43	EY 2020	3.380%
44	EY 2021	3.470%
45	EY 2022	3.560%
46	EY 2023	3.650%
47	EY 2024	3.740%
48	EY 2025	3.830%

1 EY 2026 3.920%
2 EY 2027 4.010%
3 EY 2028 4.100%, and for every energy year thereafter, at least
4 4.100% per energy year to reflect an increasing number of kilowatt-
5 hours to be purchased by suppliers or providers from solar electric
6 power generators connected to the distribution system in this State,
7 and to establish a framework within which, of the electricity that the
8 generators sell in this State, suppliers and providers shall each
9 obtain at least 3.470% in the energy year 2021 and 4.100% in the
10 energy year 2028 from solar electric power generators connected to
11 the distribution system in this State, provided, however, that:
12 (a) The board shall determine an appropriate period of no less
13 than 120 days following the end of an energy year prior to which a
14 provider or supplier must demonstrate compliance for that energy
15 year with the annual renewable portfolio standard;
16 (b) No more than 24 months following the date of enactment of
17 P.L.2012, c.24, the board shall complete a proceeding to investigate
18 approaches to mitigate solar development volatility and prepare and
19 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
20 report to the Legislature, detailing its findings and
21 recommendations. As part of the proceeding, the board shall
22 evaluate other techniques used nationally and internationally;
23 (c) The solar renewable portfolio standards requirements in this
24 paragraph shall exempt those existing supply contracts which are
25 effective prior to the date of enactment of P.L.2012, c.24 from any
26 increase beyond the number of SRECs mandated by the solar
27 renewable portfolio standards requirements that were in effect on
28 the date that the providers executed their existing supply contracts.
29 This limited exemption for providers' existing supply contracts shall
30 not be construed to lower the Statewide solar sourcing requirements
31 set forth in this paragraph. Such incremental requirements that
32 would have otherwise been imposed on exempt providers shall be
33 distributed over the providers not subject to the existing supply
34 contract exemption until such time as existing supply contracts
35 expire and all providers are subject to the new requirement in a
36 manner that is competitively neutral among all providers and
37 suppliers. The board shall implement the provisions of this
38 subsection in a manner so as to prevent any subsidies between
39 suppliers and providers and to promote competition in the
40 electricity supply industry.
41 An electric power supplier or basic generation service provider
42 may satisfy the requirements of this subsection by participating in a
43 renewable energy trading program approved by the board in
44 consultation with the Department of Environmental Protection, or
45 compliance with the requirements of this subsection may be
46 demonstrated to the board by suppliers or providers through the
47 purchase of SRECs.

1 The renewable energy portfolio standards adopted by the board
2 pursuant to paragraphs (1) and (2) of this subsection shall be
3 effective as regulations immediately upon filing with the Office of
4 Administrative Law and shall be effective for a period not to exceed
5 18 months, and may, thereafter, be amended, adopted or readopted
6 by the board in accordance with the provisions of the
7 "Administrative Procedure Act."

8 The renewable energy portfolio standards adopted by the board
9 pursuant to this paragraph shall be effective as regulations
10 immediately upon filing with the Office of Administrative Law and
11 shall be effective for a period not to exceed 30 months after such
12 filing, and shall, thereafter, be amended, adopted or readopted by
13 the board in accordance with the "Administrative Procedure Act";
14 and

15 (4) within 180 days after the date of enactment of P.L.2010,
16 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
17 renewable energy certificate program to require that a percentage of
18 the kilowatt hours sold in this State by each electric power supplier
19 and each basic generation service provider be from offshore wind
20 energy in order to support at least 1,100 megawatts of generation
21 from qualified offshore wind projects.

22 The percentage established by the board pursuant to this
23 paragraph shall serve as an offset to the renewable energy portfolio
24 standard established pursuant to paragraphs (1) and (2) of this
25 subsection and shall reduce the corresponding Class I renewable
26 energy requirement.

27 The percentage established by the board pursuant to this
28 paragraph shall reflect the projected OREC production of each
29 qualified offshore wind project, approved by the board pursuant to
30 section 3 of P.L.2010, c.57 (C.48:3-87.1), for **【twenty】** 20 years
31 from the commercial operation start date of the qualified offshore
32 wind project which production projection and OREC purchase
33 requirement, once approved by the board, shall not be subject to
34 reduction.

35 An electric power supplier or basic generation service provider
36 shall comply with the OREC program established pursuant to this
37 paragraph through the purchase of offshore wind renewable energy
38 certificates at a price and for the time period required by the board.
39 In the event there are insufficient offshore wind renewable energy
40 certificates available, the electric power supplier or basic generation
41 service provider shall pay an offshore wind alternative compliance
42 payment established by the board. Any offshore wind alternative
43 compliance payments collected shall be refunded directly to the
44 ratepayers by the electric public utilities.

45 The rules established by the board pursuant to this paragraph
46 shall be effective as regulations immediately upon filing with the
47 Office of Administrative Law and shall be effective for a period not
48 to exceed 18 months, and may, thereafter, be amended, adopted or

1 readopted by the board in accordance with the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.).

4 e. Notwithstanding any provisions of the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
6 contrary, the board shall initiate a proceeding and shall adopt, after
7 notice, provision of the opportunity for comment, and public
8 hearing:

9 (1) net metering standards for electric power suppliers and basic
10 generation service providers. The standards shall require electric
11 power suppliers and basic generation service providers to offer net
12 metering at non-discriminatory rates to industrial, large
13 commercial, residential, and small commercial customers, as those
14 customers are classified or defined by the board, that generate
15 electricity, on the customer's side of the meter, using a Class I
16 renewable energy source, for the net amount of electricity supplied
17 by the electric power supplier or basic generation service provider
18 over an annualized period. Systems of any sized capacity, as
19 measured in watts, are eligible for net metering. If the amount of
20 electricity generated by the customer-generator, plus any kilowatt
21 hour credits held over from the previous billing periods, exceeds the
22 electricity supplied by the electric power supplier or basic
23 generation service provider, then the electric power supplier or
24 basic generation service provider, as the case may be, shall credit
25 the customer-generator for the excess kilowatt hours until the end of
26 the annualized period at which point the customer-generator will be
27 compensated for any remaining credits or, if the customer-generator
28 chooses, credit the customer-generator on a real-time basis, at the
29 electric power supplier's or basic generation service provider's
30 avoided cost of wholesale power or the PJM electric power pool's
31 real-time locational marginal pricing rate, adjusted for losses, for
32 the respective zone in the PJM electric power pool. Alternatively,
33 the customer-generator may execute a bilateral agreement with an
34 electric power supplier or basic generation service provider for the
35 sale and purchase of the customer-generator's excess generation.
36 The customer-generator may be credited on a real-time basis, so
37 long as the customer-generator follows applicable rules prescribed
38 by the PJM electric power pool for its capacity requirements for the
39 net amount of electricity supplied by the electric power supplier or
40 basic generation service provider. The board may authorize an
41 electric power supplier or basic generation service provider to cease
42 offering net metering whenever the total rated generating capacity
43 owned and operated by net metering customer-generators Statewide
44 equals 2.5 percent of the State's peak electricity demand;

45 (2) safety and power quality interconnection standards for Class
46 I renewable energy source systems used by a customer-generator
47 that shall be eligible for net metering.

1 **【Such】** The standards or rules shall take into consideration the
2 goals of the New Jersey Energy Master Plan, applicable industry
3 standards, and the standards of other states and the Institute of
4 Electrical and Electronic Engineers. The standards or rules shall
5 provide priority status to a solar electric power generation system
6 that is installed on property of a State entity, school district, county,
7 county agency, county authority, municipality, municipal agency, or
8 municipal authority and expected or intended to provide energy
9 savings to that public entity, over a solar electric power generation
10 system that is installed on private property, provided the electric
11 public utility has already determined that the solar electric power
12 generation system of the public entity is eligible for net metering
13 and has received board approval of a designation that the solar
14 electric power generation system can be connected to the
15 distribution system. The board shall allow electric public utilities to
16 recover the costs of any new net meters, upgraded net meters,
17 system reinforcements or upgrades, and interconnection costs
18 through either their regulated rates or from the net metering
19 customer-generator;

20 (3) credit or other incentive rules for generators using Class I
21 renewable energy generation systems that connect to New Jersey's
22 electric public utilities' distribution system but who do not net
23 meter; and

24 (4) net metering aggregation standards to require electric public
25 utilities to provide net metering aggregation to single electric public
26 utility customers that operate a solar electric power generation
27 system installed at one of the customer's facilities or on property
28 owned by the customer, provided that any such customer is a State
29 entity, school district, county, county agency, county authority,
30 municipality, municipal agency, or municipal authority. The
31 standards shall provide that, in order to qualify for net metering
32 aggregation, the customer must operate a solar electric power
33 generation system using a net metering billing account, which
34 system is located on property owned by the customer, provided that:
35 (a) the property is not land that has been actively devoted to
36 agricultural or horticultural use and that is valued, assessed, and
37 taxed pursuant to the "Farmland Assessment Act of 1964,"
38 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
39 period prior to the effective date of P.L.2012, c.24, provided,
40 however, that the municipal planning board of a municipality in
41 which a solar electric power generation system is located may
42 waive the requirement of this subparagraph (a), (b) the system is not
43 an on-site generation facility, (c) all of the facilities of the single
44 customer combined for the purpose of net metering aggregation are
45 facilities owned or operated by the single customer and are located
46 within its territorial jurisdiction except that all of the facilities of a
47 State entity engaged in net metering aggregation shall be located
48 within five miles of one another, and (d) all of those facilities are

1 within the service territory of a single electric public utility and are
2 all served by the same basic generation service provider or by the
3 same electric power supplier. The standards shall provide that in
4 order to qualify for net metering aggregation, the customer's solar
5 electric power generation system shall be sized so that its annual
6 generation does not exceed the combined metered annual energy
7 usage of the qualified customer facilities, and the qualified
8 customer facilities shall all be in the same customer rate class under
9 the applicable electric public utility tariff. For the customer's
10 facility or property on which the solar electric generation system is
11 installed, the electricity generated from the customer's solar electric
12 generation system shall be accounted for pursuant to the provisions
13 of paragraph (1) of this subsection to provide that the electricity
14 generated in excess of the electricity supplied by the electric power
15 supplier or the basic generation service provider, as the case may
16 be, for the customer's facility on which the solar electric generation
17 system is installed, over the annualized period, is credited at the
18 electric power supplier's or the basic generation service provider's
19 avoided cost of wholesale power or the PJM electric power pool
20 real-time locational marginal pricing rate. All electricity used by
21 the customer's qualified facilities, with the exception of the facility
22 or property on which the solar electric power generation system is
23 installed, shall be billed at the full retail rate pursuant to the electric
24 public utility tariff applicable to the customer class of the customer
25 using the electricity. A customer may contract with a third party to
26 operate a solar electric power generation system, for the purpose of
27 net metering aggregation. Any contractual relationship entered into
28 for operation of a solar electric power generation system related to
29 net metering aggregation shall include contractual protections that
30 provide for adequate performance and provision for construction
31 and operation for the term of the contract, including any appropriate
32 bonding or escrow requirements. Any incremental cost to an
33 electric public utility for net metering aggregation shall be fully and
34 timely recovered in a manner to be determined by the board. The
35 board shall adopt net metering aggregation standards within 270
36 days after the effective date of P.L.2012, c.24.

37 **【Such】** The rules shall require the board or its designee to issue
38 a credit or other incentive to those generators that do not use a net
39 meter but otherwise generate electricity derived from a Class I
40 renewable energy source and to issue an enhanced credit or other
41 incentive, including, but not limited to, a solar renewable energy
42 credit, to those generators that generate electricity derived from
43 solar technologies.

44 **【Such】** The standards or rules shall be effective as regulations
45 immediately upon filing with the Office of Administrative Law and
46 shall be effective for a period not to exceed 18 months, and may,
47 thereafter, be amended, adopted or readopted by the board in

1 accordance with the provisions of the "Administrative Procedure
2 Act."

3 f. The board may assess, by written order and after notice and
4 opportunity for comment, a separate fee to cover the cost of
5 implementing and overseeing an emission disclosure system or
6 emission portfolio standard, which fee shall be assessed based on an
7 electric power supplier's or basic generation service provider's share
8 of the retail electricity supply market. The board shall not impose a
9 fee for the cost of implementing and overseeing a greenhouse gas
10 emissions portfolio standard adopted pursuant to paragraph (2) of
11 subsection c. of this section, the electric energy efficiency portfolio
12 standard adopted pursuant to subsection g. of this section, or the gas
13 energy efficiency portfolio standard adopted pursuant to subsection
14 h. of this section.

15 g. The board may adopt, pursuant to the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
17 energy efficiency portfolio standard that may require each electric
18 public utility to implement energy efficiency measures that reduce
19 electricity usage in the State by 2020 to a level that is 20 percent
20 below the usage projected by the board in the absence of such a
21 standard. Nothing in this section shall be construed to prevent an
22 electric public utility from meeting the requirements of this section
23 by contracting with another entity for the performance of the
24 requirements.

25 h. The board may adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
27 efficiency portfolio standard that may require each gas public utility
28 to implement energy efficiency measures that reduce natural gas
29 usage for heating in the State by 2020 to a level that is 20 percent
30 below the usage projected by the board in the absence of such a
31 standard. Nothing in this section shall be construed to prevent a gas
32 public utility from meeting the requirements of this section by
33 contracting with another entity for the performance of the
34 requirements.

35 i. After the board establishes a schedule of solar kilowatt-hour
36 sale or purchase requirements pursuant to paragraph (3) of
37 subsection d. of this section, the board may initiate subsequent
38 proceedings and adopt, after appropriate notice and opportunity for
39 public comment and public hearing, increased minimum solar
40 kilowatt-hour sale or purchase requirements, provided that the
41 board shall not reduce previously established minimum solar
42 kilowatt-hour sale or purchase requirements, or otherwise impose
43 constraints that reduce the requirements by any means.

44 j. The board shall determine an appropriate level of solar
45 alternative compliance payment, and permit each supplier or
46 provider to submit an SACP to comply with the solar electric
47 generation requirements of paragraph (3) of subsection d. of this
48 section. The value of the SACP for each Energy Year, for Energy

1 Years 2014 through 2028 per megawatt hour from solar electric
2 generation required pursuant to this section, shall be:

3	EY 2014	\$339
4	EY 2015	\$331
5	EY 2016	\$323
6	EY 2017	\$315
7	EY 2018	\$308
8	EY 2019	\$300
9	EY 2020	\$293
10	EY 2021	\$286
11	EY 2022	\$279
12	EY 2023	\$272
13	EY 2024	\$266
14	EY 2025	\$260
15	EY 2026	\$253
16	EY 2027	\$250
17	EY 2028	\$239.

18 The board may initiate subsequent proceedings and adopt, after
19 appropriate notice and opportunity for public comment and public
20 hearing, an increase in solar alternative compliance payments,
21 provided that the board shall not reduce previously established
22 levels of solar alternative compliance payments, nor shall the board
23 provide relief from the obligation of payment of the SACP by the
24 electric power suppliers or basic generation service providers in any
25 form. Any SACP payments collected shall be refunded directly to
26 the ratepayers by the electric public utilities.

27 k. The board may allow electric public utilities to offer long-
28 term contracts through a competitive process, direct electric public
29 utility investment and other means of financing, including but not
30 limited to loans, for the purchase of SRECs and the resale of SRECs
31 to suppliers or providers or others, provided that after such
32 contracts have been approved by the board, the board's approvals
33 shall not be modified by subsequent board orders. If the board
34 allows the offering of contracts pursuant to this subsection, the
35 board may establish a process, after hearing, and opportunity for
36 public comment, to provide that a designated segment of the
37 contracts approved pursuant to this subsection shall be contracts
38 involving solar electric power generation facility projects with a
39 capacity of up to 250 kilowatts.

40 l. The board shall implement its responsibilities under the
41 provisions of this section in such a manner as to:

42 (1) place greater reliance on competitive markets, with the
43 explicit goal of encouraging and ensuring the emergence of new
44 entrants that can foster innovations and price competition;

45 (2) maintain adequate regulatory authority over non-competitive
46 public utility services;

47 (3) consider alternative forms of regulation in order to address
48 changes in the technology and structure of electric public utilities;

- 1 (4) promote energy efficiency and Class I renewable energy
- 2 market development, taking into consideration environmental
- 3 benefits and market barriers;
- 4 (5) make energy services more affordable for low and moderate
- 5 income customers;
- 6 (6) attempt to transform the renewable energy market into one
- 7 that can move forward without subsidies from the State or public
- 8 utilities;
- 9 (7) achieve the goals put forth under the renewable energy
- 10 portfolio standards;
- 11 (8) promote the lowest cost to ratepayers; and
- 12 (9) allow all market segments to participate.
- 13 m. The board shall ensure the availability of financial incentives
- 14 under its jurisdiction, including, but not limited to, long-term
- 15 contracts, loans, SRECs, or other financial support, to ensure
- 16 market diversity, competition, and appropriate coverage across all
- 17 ratepayer segments, including, but not limited to, residential,
- 18 commercial, industrial, non-profit, farms, schools, and public entity
- 19 customers.
- 20 n. For projects which are owned, or directly invested in, by a
- 21 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
- 22 98.1), the board shall determine the number of SRECs with which
- 23 such projects shall be credited; and in determining such number the
- 24 board shall ensure that the market for SRECs does not detrimentally
- 25 affect the development of non-utility solar projects and shall
- 26 consider how its determination may impact the ratepayers.
- 27 o. The board, in consultation with the Department of
- 28 Environmental Protection, electric public utilities, the Division of
- 29 Rate Counsel in, but not of, the Department of the Treasury,
- 30 affected members of the solar energy industry, and relevant
- 31 stakeholders, shall periodically consider increasing the renewable
- 32 energy portfolio standards beyond the minimum amounts set forth
- 33 in subsection d. of this section, taking into account the cost impacts
- 34 and public benefits of such increases including, but not limited to:
- 35 (1) reductions in air pollution, water pollution, land disturbance,
- 36 and greenhouse gas emissions;
- 37 (2) reductions in peak demand for electricity and natural gas,
- 38 and the overall impact on the costs to customers of electricity and
- 39 natural gas;
- 40 (3) increases in renewable energy development, manufacturing,
- 41 investment, and job creation opportunities in this State; and
- 42 (4) reductions in State and national dependence on the use of
- 43 fossil fuels.
- 44 p. Class I RECs and ORECs shall be eligible for use in
- 45 renewable energy portfolio standards compliance in the energy year
- 46 in which they are generated, and for the following two energy years.
- 47 SRECs shall be eligible for use in renewable energy portfolio

1 standards compliance in the energy year in which they are
2 generated, and for the following four energy years.

3 q. (1) During the energy years of 2014, 2015, and 2016, a solar
4 electric power generation facility project that is not: (a) net
5 metered; (b) an on-site generation facility; (c) qualified for net
6 metering aggregation; or (d) certified as being located on a
7 brownfield, on an area of historic fill or on a properly closed
8 sanitary landfill facility, as provided pursuant to subsection t. of this
9 section may file an application with the board for approval of a
10 designation pursuant to this subsection that the facility is connected
11 to the distribution system. An application filed pursuant to this
12 subsection shall include a notice escrow of \$40,000 per megawatt of
13 the proposed capacity of the facility. The board shall approve the
14 designation if: the facility has filed a notice in writing with the
15 board applying for designation pursuant to this subsection, together
16 with the notice escrow; and the capacity of the facility, when added
17 to the capacity of other facilities that have been previously
18 approved for designation prior to the facility's filing under this
19 subsection, does not exceed 80 megawatts in the aggregate for each
20 year. The capacity of any one solar electric power supply project
21 approved pursuant to this subsection shall not exceed 10 megawatts.
22 No more than 90 days after its receipt of a completed application
23 for designation pursuant to this subsection, the board shall approve,
24 conditionally approve, or disapprove the application. The notice
25 escrow shall be reimbursed to the facility in full upon either
26 rejection by the board or the facility entering commercial operation,
27 or shall be forfeited to the State if the facility is designated pursuant
28 to this subsection but does not enter commercial operation pursuant
29 to paragraph (2) of this subsection.

30 (2) If the proposed solar electric power generation facility does
31 not commence commercial operations within two years following
32 the date of the designation by the board pursuant to this subsection,
33 the designation of the facility shall be deemed to be null and void,
34 and the facility shall not be considered connected to the distribution
35 system thereafter.

36 r. (1) For all proposed solar electric power generation facility
37 projects except for those solar electric power generation facility
38 projects approved pursuant to subsection q. of this section, and for
39 all projects proposed in each energy year following energy year
40 2016, a proposed solar electric power generation facility that is
41 neither net metered nor an on-site generation facility, may be
42 considered "connected to the distribution system" only upon
43 designation as such by the board, after notice to the public and
44 opportunity for public comment or hearing. A proposed solar
45 power electric generation facility seeking board designation as
46 "connected to the distribution system" shall submit an application to
47 the board that includes for the proposed facility: the nameplate
48 capacity; the estimated energy and number of SRECs to be

1 produced and sold per year; the estimated annual rate impact on
2 ratepayers; the estimated capacity of the generator as defined by
3 PJM for sale in the PJM capacity market; the point of
4 interconnection; the total project acreage and location; the current
5 land use designation of the property; the type of solar technology to
6 be used; and such other information as the board shall require.

7 (2) The board shall approve the designation of the proposed
8 solar power electric generation facility as "connected to the
9 distribution system" if the board determines that:

10 (a) the SRECs forecasted to be produced by the facility do not
11 have a detrimental impact on the SREC market or on the
12 appropriate development of solar power in the State;

13 (b) the approval of the designation of the proposed facility
14 would not significantly impact the preservation of open space in
15 this State;

16 (c) the impact of the designation on electric rates and economic
17 development is beneficial; and

18 (d) there will be no impingement on the ability of an electric
19 public utility to maintain its property and equipment in such a
20 condition as to enable it to provide safe, adequate, and proper
21 service to each of its customers.

22 (3) The board shall act within 90 days of its receipt of a
23 completed application for designation of a solar power electric
24 generation facility as "connected to the distribution system," to
25 either approve, conditionally approve, or disapprove the
26 application. If the proposed solar electric power generation facility
27 does not commence commercial operations within two years
28 following the date of the designation by the board pursuant to this
29 subsection, the designation of the facility as "connected to the
30 distribution system" shall be deemed to be null and void, and the
31 facility shall thereafter be considered not "connected to the
32 distribution system."

33 s. In addition to any other requirements of P.L.1999, c.23 or
34 any other law, rule, regulation, or order, a solar electric power
35 generation facility that is not net metered or an on-site generation
36 facility and which is located on land that has been actively devoted
37 to agricultural or horticultural use that is valued, assessed, and
38 taxed pursuant to the "Farmland Assessment Act of 1964,"
39 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
40 period prior to the effective date of P.L.2012, c.24, shall only be
41 considered "connected to the distribution system" if (1) the board
42 approves the facility's designation pursuant to subsection q. of this
43 section; or (2) (a) PJM issued a System Impact Study for the facility
44 on or before June 30, 2011, (b) the facility files a notice with the
45 board within 60 days of the effective date of P.L.2012, c.24,
46 indicating its intent to qualify under this subsection, and (c) the
47 facility has been approved as "connected to the distribution system"
48 by the board. Nothing in this subsection shall limit the board's

1 authority concerning the review and oversight of facilities, unless
2 such facilities are exempt from such review as a result of having
3 been approved pursuant to subsection q. of this section.

4 t. (1) No more than 180 days after the date of enactment of
5 P.L.2012, c.24, the board shall, in consultation with the Department
6 of Environmental Protection and the New Jersey Economic
7 Development Authority, and, after notice and opportunity for public
8 comment and public hearing, complete a proceeding to establish a
9 program to provide SRECs to owners of solar electric power
10 generation facility projects certified by the board, in consultation
11 with the Department of Environmental Protection, as being located
12 on a brownfield, on an area of historic fill or on a properly closed
13 sanitary landfill facility, including those owned or operated by an
14 electric public utility and approved pursuant to section 13 of
15 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
16 subsection shall be considered "connected to the distribution
17 ~~system~~, system," shall not require such designation by the board,
18 and shall not be subject to board review required pursuant to
19 subsections q. and r. of this section. Notwithstanding the provisions
20 of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule,
21 regulation, or order to the contrary, for projects certified under this
22 subsection, the board shall establish a financial incentive that is
23 designed to supplement the SRECs generated by the facility in order
24 to cover the additional cost of constructing and operating a solar
25 electric power generation facility on a brownfield, on an area of
26 historic fill or on a properly closed sanitary landfill facility. Any
27 financial benefit realized in relation to a project owned or operated
28 by an electric public utility and approved by the board pursuant to
29 section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the
30 provision of a financial incentive established by the board pursuant
31 to this subsection, shall be credited to ratepayers. The issuance of
32 SRECs for all solar electric power generation facility projects
33 pursuant to this subsection shall be deemed "Board of Public
34 Utilities financial assistance" as provided under section 1 of
35 P.L.2009, c.89 (C.48:2-29.47).

36 (2) Notwithstanding the provisions of the "Spill Compensation
37 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
38 other law, rule, regulation, or order to the contrary, the board, in
39 consultation with the Department of Environmental Protection, may
40 find that a person who operates a solar electric power generation
41 facility project that has commenced operation on or after the
42 effective date of P.L.2012, c.24, which project is certified by the
43 board, in consultation with the Department of Environmental
44 Protection pursuant to paragraph (1) of this subsection, as being
45 located on a brownfield for which a final remediation document has
46 been issued, on an area of historic fill or on a properly closed
47 sanitary landfill facility, which projects shall include, but not be
48 limited to projects located on a brownfield for which a final

1 remediation document has been issued, on an area of historic fill or
2 on a properly closed sanitary landfill facility owned or operated by
3 an electric public utility and approved pursuant to section 13 of
4 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
5 acquired on or after the effective date of P.L.2012, c.24 on which
6 such a solar electric power generation facility project is constructed
7 and operated, shall not be liable for cleanup and removal costs to
8 the Department of Environmental Protection or to any other person
9 for the discharge of a hazardous substance provided that:

10 (a) the person acquired or leased the real property after the
11 discharge of that hazardous substance at the real property;

12 (b) the person did not discharge the hazardous substance, is not
13 in any way responsible for the hazardous substance, and is not a
14 successor to the discharger or to any person in any way responsible
15 for the hazardous substance or to anyone liable for cleanup and
16 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
17 23.11g);

18 (c) the person, within 30 days after acquisition of the property,
19 gave notice of the discharge to the Department of Environmental
20 Protection in a manner the Department of Environmental Protection
21 prescribes;

22 (d) the person does not disrupt or change, without prior written
23 permission from the Department of Environmental Protection, any
24 engineering or institutional control that is part of a remedial action
25 for the contaminated site or any landfill closure or post-closure
26 requirement;

27 (e) the person does not exacerbate the contamination at the
28 property;

29 (f) the person does not interfere with any necessary remediation
30 of the property;

31 (g) the person complies with any regulations and any permit the
32 Department of Environmental Protection issues pursuant to section
33 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
34 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

35 (h) with respect to an area of historic fill, the person has
36 demonstrated pursuant to a preliminary assessment and site
37 investigation, that hazardous substances have not been discharged;
38 and

39 (i) with respect to a properly closed sanitary landfill facility, no
40 person who owns or controls the facility receives, has received, or
41 will receive, with respect to such facility, any funds from any post-
42 closure escrow account established pursuant to section 10 of
43 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
44 the facility.

45 Only the person who is liable to clean up and remove the
46 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
47 23.11g) and who does not have a defense to liability pursuant to

1 subsection d. of that section shall be liable for cleanup and removal
2 costs.

3 u. No more than 180 days after the date of enactment of
4 P.L.2012, c.24, the board shall complete a proceeding to establish a
5 registration program. The registration program shall require the
6 owners of solar electric power generation facility projects
7 connected to the distribution system to make periodic milestone
8 filings with the board in a manner and at **[such]** times **[as]**
9 determined by the board to provide full disclosure and transparency
10 regarding the overall level of development and construction activity
11 of those projects Statewide.

12 v. The issuance of SRECs for all solar electric power
13 generation facility projects pursuant to this section, for projects
14 connected to the distribution system with a capacity of one
15 megawatt or greater, shall be deemed "Board of Public Utilities
16 financial assistance" as provided pursuant to section 1 of P.L.2009,
17 c.89 (C.48:2-29.47).

18 w. No more than 270 days after the date of enactment of
19 P.L.2012, c.24, the board shall, after notice and opportunity for
20 public comment and public hearing, complete a proceeding to
21 consider whether to establish a program to provide, to owners of
22 solar electric power generation facility projects certified by the
23 board as being three megawatts or greater in capacity and being net
24 metered, including facilities which are owned or operated by an
25 electric public utility and approved by the board pursuant to section
26 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
27 designed to supplement the SRECs generated by the facility to
28 further the goal of improving the economic competitiveness of
29 commercial and industrial customers taking power from such
30 projects. If the board determines to establish such a program
31 pursuant to this subsection, the board may establish a financial
32 incentive to provide that the board shall issue one SREC for no less
33 than every 750 kilowatt-hours of solar energy generated by the
34 certified projects. Any financial benefit realized in relation to a
35 project owned or operated by an electric public utility and approved
36 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
37 98.1), as a result of the provisions of a financial incentive
38 established by the board pursuant to this subsection, shall be
39 credited to ratepayers.

40 x. Solar electric power generation facility projects that are
41 located on an existing or proposed commercial, retail, industrial,
42 municipal, professional, recreational, transit, commuter,
43 entertainment complex, multi-use, or mixed-use parking lot with a
44 capacity to park 350 or more vehicles where the area to be utilized
45 for the facility is paved, or an impervious surface may be owned or
46 operated by an electric public utility and may be approved by the
47 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
48 (cf: P.L.2012, c.24, s.2)

1 2. This act shall take effect immediately but remain inoperative
2 for 60 days following the date of enactment.

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4

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STATEMENT

6

7 This bill provides priority status to a solar electric power
8 generation system that is installed on the property of a State entity,
9 school district, county, county agency, county authority,
10 municipality, municipal agency, or municipal authority and that is
11 expected or intended to provide energy savings to that public entity,
12 over a solar electric power generation system that is installed on
13 private property, provided the applicable electric public utility has
14 already determined that the public entity's solar electric power
15 generation system is eligible for net metering and has received
16 Board of Public Utilities approval to be connected to the electric
17 distribution system.