

SENATE, No. 3526

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

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District 8 (Atlantic, Burlington and Camden)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

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SYNOPSIS

Directs BPU to establish program concerning renewable natural gas; provides gas public utilities with customer rate recovery mechanism for costs associated with program.

CURRENT VERSION OF TEXT

As introduced.



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

1 **AN ACT** concerning renewable natural gas and supplementing Title
2 48 of the Revised Statutes.

3

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

6

7 1. a. The Legislature finds and declares that:

8 (1) renewable natural gas can provide benefits to gas public
9 utility customers and to the public;

10 (2) the development of renewable natural gas resources should
11 be encouraged to support a smooth transition to a low carbon
12 energy economy in New Jersey;

13 (3) the societal benefits that may be achieved through the
14 development and use of renewable natural gas warrant the State's
15 support for investment in renewable natural gas; and

16 (4) gas public utilities can reduce greenhouse gas emissions
17 from the direct use of natural gas by procuring renewable natural
18 gas and investing in renewable natural gas infrastructure.

19 b. The Legislature therefore determines that:

20 (1) regulatory guidelines should be established for the
21 procurement of renewable natural gas and investments in renewable
22 natural gas infrastructure in order to enable that procurement and
23 investment while also protecting New Jersey ratepayers; and

24 (2) renewable natural gas should be included in the broader set
25 of low carbon resources that may leverage the natural gas system to
26 reduce greenhouse gas emissions.

27

28 2. As used in P.L. , c. (C.) (pending before the
29 Legislature as this bill):

30 "Biogas" means a mixture of carbon dioxide and hydrocarbons,
31 primarily methane gas, released from the biological decomposition
32 of organic materials.

33 "Board" means the Board of Public Utilities or any successor
34 agency.

35 "Class I renewable energy" shall have the same meaning as
36 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

37 "Class II renewable energy" shall have the same meaning as
38 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

39 "Gas public utility" means a public utility, as that term is defined
40 in R.S.48:2-13, that distributes gas to end users within this State.

41 "Qualified investment" means any capital investment in
42 renewable natural gas infrastructure incurred by a gas public utility
43 for the purpose of providing natural gas service under a renewable
44 natural gas program pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill).

46 "Renewable natural gas" means any of the following products
47 processed to meet pipeline quality standards or transportation fuel

1 grade requirements: (1) biogas that is upgraded to meet natural gas
2 pipeline quality standards such that it may blend with, or substitute
3 for, geologic natural gas; (2) hydrogen gas derived from Class I
4 renewable energy or Class II renewable energy; or (3) methane gas
5 derived from any combination of biogas, hydrogen gas or carbon
6 oxides derived from renewable energy sources, or waste carbon
7 dioxide.

8 “Renewable natural gas infrastructure” means the equipment and
9 facilities for the production, processing, pipeline interconnection,
10 and distribution of renewable natural gas to natural gas customers in
11 the State.

12

13 3. a. Notwithstanding any provisions of the “Administrative
14 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
15 contrary, the board shall initiate a proceeding upon the filing of a
16 petition by a gas public utility with the board for approval of a
17 program for the procurement of renewable natural gas and
18 investment in renewable natural gas infrastructure and an associated
19 cost recovery mechanism, and the board shall adopt, after notice
20 and opportunity for public comment and public hearing, a program
21 for the procurement of renewable natural gas and investment in
22 renewable natural gas infrastructure by a gas public utility.

23 b. A gas public utility that participates in the renewable natural
24 gas program adopted by the board, pursuant to subsection a. of this
25 section, may make qualified investments and procure renewable
26 natural gas from third parties, including affiliates of the gas public
27 utility, to pursue the following portfolio targets for the percentage
28 of gas purchased or transported by the gas public utility for
29 distribution to retail natural gas customers in the State:

30 (1) in each of the energy years 2022 through 2024, up to five
31 percent may be renewable natural gas;

32 (2) in each of the energy years 2025 through 2029, up to 10
33 percent may be renewable natural gas;

34 (3) in each of the energy years 2030 through 2034, up to 15
35 percent may be renewable natural gas;

36 (4) in each of the energy years 2035 through 2039, up to 20
37 percent may be renewable natural gas;

38 (5) in each of the energy years 2040 through 2044, up to 25
39 percent may be renewable natural gas; and

40 (6) in each of the energy years 2045 through 2050, up to 30
41 percent may be renewable natural gas.

42 c. The board shall adopt a ratemaking mechanism that ensures
43 the recovery of and on all prudently incurred costs that contribute to
44 the gas public utility’s meeting the portfolio targets established
45 pursuant to subsection b. of this section. Under a ratemaking
46 mechanism adopted by the board pursuant to this subsection:

1 (1) any qualified investment and operating cost approved by the
2 board that is associated with a qualified investment that contributes
3 to a gas public utility's meeting the portfolio targets established
4 pursuant to subsection b. of this section may be recovered from
5 ratepayers by means of a periodic recovery mechanism established
6 by the board; and

7 (2) any cost of procurement of renewable natural gas from a
8 third party, including from an affiliate of the gas public utility,
9 approved by the board that contributes to the gas public utility
10 meeting the portfolio targets established pursuant to subsection b. of
11 this section may be recovered from ratepayers by means of a
12 periodic recovery mechanism established by the board.

13 d. When a gas public utility makes a qualified investment
14 pursuant to subsection b. of this section, the costs associated with
15 the qualified investment shall include the cost of capital established
16 by the board in the gas public utility's most recent rate case as well
17 as other incremental costs associated with those qualified
18 investments.

19 e. When a gas public utility procures renewable natural gas
20 from a third party, the gas public utility shall purchase the
21 renewable natural gas supply at prices and on terms consistent with
22 market conditions in the market for renewable natural gas. A charge
23 assessed to customers for the supply of renewable natural gas shall
24 be regulated by the board and shall be based on the cost to the gas
25 public utility of providing that supply, including the cost of
26 renewable natural gas commodity and capacity, purchased at prices
27 consistent with market conditions in the market for renewable
28 natural gas, and related ancillary and administrative costs, as
29 determined by the board.

30 f. If a gas public utility's total incremental annual cost to meet
31 the portfolio targets of the renewable natural gas program
32 established pursuant to subsection b. of this section exceeds five
33 percent of the gas public utility's total revenue requirement for an
34 individual year, the gas public utility shall no longer be authorized
35 to make additional qualified investments under the renewable
36 natural gas program for that year without the approval of the board.

37 g. The total incremental annual cost to meet the portfolio
38 targets of the renewable natural gas program shall account for:

39 (1) any value received by a gas public utility upon any resale of
40 renewable natural gas, including any environmental credits that the
41 renewable natural gas producer chooses to include with the sale of
42 the renewable natural gas to the gas public utility; and

43 (2) any savings achieved through avoidance of conventional gas
44 purchases or development, such as avoided pipeline costs or carbon
45 emission reduction costs.

46 h. Notwithstanding the portfolio targets established pursuant to
47 subsection b. of this section, the board may, in its discretion, permit

1 a gas public utility to exceed those portfolio targets. In such a case,
2 the remaining provisions of this section shall continue to apply.

3
4 4. No later than 180 days after the enactment of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 the board shall adopt rules and regulations, pursuant to the
7 “Administrative Procedure Act,” P.L.1968, c.410 (C.52-14B-
8 1 et seq.), necessary to implement the provisions of
9 P.L. , c. (C.) (pending before the Legislature as this bill).

10
11 5. This act shall take effect immediately.

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14 STATEMENT

15
16 This bill directs the Board of Public Utilities (BPU) to establish a
17 program to encourage the procurement of renewable natural gas and
18 investment in renewable natural gas infrastructure by a gas public
19 utility (utility). The bill establishes portfolio targets for the
20 distribution of renewable natural gas to the utility’s retail natural
21 gas customers in the State, for energy years 2022 through 2050.
22 The portfolio target begins as a target of up to five percent in each
23 of the energy years 2022 through 2024, and increases up to 30
24 percent in each of the energy years 2045 through 2050. The bill
25 defines “renewable natural gas” as the following products,
26 processed to meet pipeline quality standards or transportation fuel
27 grade requirements: 1) biogas that meets natural gas pipeline
28 quality standards such that it may blend with, or substitute for,
29 geologic natural gas; 2) hydrogen gas derived from Class I
30 renewable energy or Class II renewable energy; or 3) methane gas
31 derived from any combination of biogas, hydrogen gas, or carbon
32 oxides derived from renewable energy sources, or waste carbon
33 dioxide.

34 The bill requires the BPU to adopt a ratemaking mechanism that
35 ensures the recovery of and on all prudently incurred costs that
36 contribute to a utility’s meeting the program’s renewable natural
37 gas portfolio targets established in the bill. Under a ratemaking
38 mechanism adopted by the BPU by means of a periodic rate
39 recovery mechanism: 1) any BPU-approved qualified investment
40 and operating cost associated with a qualified investment that
41 contributes to a utility’s meeting the program’s requirements may
42 be recovered from ratepayers; and 2) any BPU-approved cost of
43 procurement of renewable natural gas from a third party, including
44 from an affiliate of the utility, that contributes to the utility meeting
45 the program’s requirements may be recovered from ratepayers.
46 When a utility makes a qualified investment, the costs associated
47 with the qualified investment are to include the cost of capital

1 established in the utility's most recent rate case as well as other
2 incremental costs associated with those qualified investments.

3 The bill requires that when a utility procures renewable natural
4 gas from a third party, the utility is to purchase the renewable
5 natural gas supply at prices and on terms consistent with market
6 conditions in the market for renewable natural gas. A charge
7 assessed to customers for the supply of renewable natural gas is to
8 be regulated by the BPU and be based on the cost to the utility of
9 providing that supply, including the cost of renewable natural gas
10 commodity and capacity, purchased at prices consistent with market
11 conditions in the market for renewable natural gas, and related
12 ancillary and administrative costs. If a utility's total incremental
13 annual cost to meet the requirements of the renewable natural gas
14 program exceeds five percent of the utility's total revenue
15 requirement for an individual year, the utility is no longer
16 authorized to make additional qualified investments under the
17 renewable natural gas program for that year without the approval of
18 the BPU.

19 The bill provides that the total incremental annual cost to meet
20 the portfolio targets of the program are to account for: 1) any value
21 received by the utility upon any resale of renewable natural gas,
22 including any environmental credits that the renewable natural gas
23 producer chooses to include with the sale of the renewable natural
24 gas to the utility; and 2) any savings achieved through avoidance of
25 conventional gas purchases or development, such as avoided
26 pipeline costs or carbon costs. The bill allows the BPU to permit a
27 utility to exceed the program's portfolio targets and, in that
28 instance, the remaining provisions of the bill are to continue to
29 apply.