

SENATE, No. 4297

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 4, 2022

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Directs BPU to establish process to maintain supply and demand for solar renewable energy certificates.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning solar renewable energy certificates, and
2 amending and supplementing 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. (New section) a. The board shall adopt, pursuant to the
8 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
9 1 et seq.), rules and regulations to establish a process to periodically
10 assess and adjust the SREC program to ensure that there is an
11 appropriate and stable ratio between the supply of, and demand for,
12 SRECs in the State. No later than 270 days after the effective date
13 of this section, the board shall file, with the Office of
14 Administrative Law, a notice of a proposed rule to establish the
15 process required by this section.

16 b. The rules and regulations shall include, but not be limited to:

17 (1) an assessment schedule such that an initial assessment of the
18 SREC program will be concluded in sufficient time to enable
19 adjustments, if any are determined to be required, in time for EY
20 2025, and that subsequent assessments will be made no less
21 frequently than will enable the implementation of any adjustments
22 in EY 2030 and EY 2035;

23 (2) criteria to measure and determine if the current and projected
24 levels of supply and demand for SRECs is sufficient to maintain an
25 appropriate value for SRECs, which is consistent with the historical
26 relationship between the value of the SREC and the value of the
27 solar alternative compliance payment, as determined by the board;

28 (3) a mechanism by which to adjust the solar renewable
29 portfolio standard as necessary to maintain an appropriate demand
30 for SRECs;

31 (4) a requirement that, after each assessment of the SREC
32 program, the board prepare and publish a report on the board's
33 Internet website that details the findings of its assessment, the
34 rationale for any adjustments to the solar renewable portfolio
35 standard, or the basis of a determination that no action was required
36 to be taken at that time;

37 (5) provisions sufficient to ensure that the assessment and
38 adjustment processes established pursuant to this section are:
39 transparent, simple, and effective; minimize the administrative
40 workload of the board; are carried out with adequate forewarning so
41 as to avoid disruption to existing contracts involving SRECs; and
42 minimize additional costs to the ratepayer while protecting investor
43 value and maintaining investor confidence.

44 c. As used in this section:

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 "Solar renewable portfolio standard" means the requirement that
2 electric power suppliers and basic generation service providers sell
3 a certain number or percentage of kilowatt-hours of energy
4 produced by solar electric power generators, as established in
5 paragraph (3) of subsection d. of section 38 of P.L.1999, c.23
6 (C.48:3-87).

7 "SREC program" means the program to oversee the distribution
8 of solar renewable energy certificates, administered by the board
9 pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).

10
11 2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
12 as follows:

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

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

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

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

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

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

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

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

45 Such standards shall be effective as regulations immediately
46 upon filing with the Office of Administrative Law and shall be
47 effective for a period not to exceed 18 months, and may, thereafter,

1 be amended, adopted or readopted by the board in accordance with
2 the provisions of the "Administrative Procedure Act."

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

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

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

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

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

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

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

1 d. Notwithstanding any provisions of the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
3 contrary, the board shall initiate a proceeding and shall adopt, after
4 notice, provision of the opportunity for comment, and public
5 hearing, renewable energy portfolio standards that shall require:
6 (1) that two and one-half percent of the kilowatt hours sold in
7 this State by each electric power supplier and each basic generation
8 service provider be from Class II renewable energy sources;
9 (2) beginning on January 1, 2020, that 21 percent of the kilowatt
10 hours sold in this State by each electric power supplier and each
11 basic generation service provider be from Class I renewable energy
12 sources. The board shall increase the required percentage for Class
13 I renewable energy sources so that by January 1, 2025, 35 percent
14 of the kilowatt hours sold in this State by each electric power
15 supplier and each basic generation service provider shall be from
16 Class I renewable energy sources, and by January 1, 2030, 50
17 percent of the kilowatt hours sold in this State by each electric
18 power supplier and each basic generation service provider shall be
19 from Class I renewable energy sources. Notwithstanding the
20 requirements of this subsection, the board shall ensure that the cost
21 to customers of the Class I renewable energy requirement imposed
22 pursuant to this subsection shall not exceed nine percent of the total
23 paid for electricity by all customers in the State for energy year
24 2019, energy year 2020, and energy year 2021, respectively, and
25 shall not exceed seven percent of the total paid for electricity by all
26 customers in the State in any energy year thereafter; provided that,
27 if in energy years 2019 through 2021 the cost to customers of the
28 Class I renewable energy requirement is less than nine percent of
29 the total paid for electricity by all customers in the State, the board
30 may increase the cost to customers of the Class I renewable energy
31 requirement in energy years 2022 through 2024 to a rate greater
32 than seven percent, as long as the total costs to customers for
33 energy years 2019 through 2024 does not exceed the sum of nine
34 percent of the total paid for electricity by all customers in the State
35 in energy years 2019 through 2021 and seven percent of the total
36 paid for electricity by all customers in the State in energy years
37 2022 through 2024. In calculating the cost to customers of the
38 Class I renewable energy requirement imposed pursuant to this
39 subsection, the board shall not include the costs of the offshore
40 wind energy certificate program established pursuant to paragraph
41 (4) of this subsection. In calculating the cost to customers of the
42 Class I renewable energy requirement, the board shall reflect any
43 energy and environmental savings attributable to the Class I
44 program in its calculation, which shall include, but not be limited
45 to, the social cost of carbon dioxide emissions at a value no less
46 than the most recently published three percent discount rate
47 scenario of the United States Government Interagency Working

1 Group on Social Cost of Greenhouse Gases. The board shall take
2 any steps necessary to prevent the exceedance of the cap on the cost
3 to customers including, but not limited to, adjusting the Class I
4 renewable energy requirement.

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

9 (3) that the board establish a multi-year schedule, applicable to
10 each electric power supplier or basic generation service provider in
11 this State, beginning with the one-year period commencing on June
12 1, 2010, and continuing for each subsequent one-year period up to
13 and including, the one-year period commencing on June 1, **[2033]**
14 2034, that requires the following number or percentage, as the case
15 may be, of kilowatt-hours sold in this State by each electric power
16 supplier and each basic generation service provider to be from solar
17 electric power generators connected to the distribution system or
18 transmission system in this State:

19	EY 2011	306 Gigawatthours (Gwhrs)
20	EY 2012	442 Gwhrs
21	EY 2013	596 Gwhrs
22	EY 2014	2.050%
23	EY 2015	2.450%
24	EY 2016	2.750%
25	EY 2017	3.000%
26	EY 2018	3.200%
27	EY 2019	4.300%
28	EY 2020	4.900%
29	EY 2021	5.100%
30	EY 2022	5.100%
31	EY 2023	5.100%
32	EY 2024	4.900%
33	EY 2025	4.800%
34	EY 2026	4.500%
35	EY 2027	4.350%
36	EY 2028	3.740%
37	EY 2029	3.070%
38	EY 2030	2.210%
39	EY 2031	1.580%
40	EY 2032	1.400%
41	EY 2033	1.100%
42	<u>EY 2034</u>	<u>1.100%</u>
43	<u>EY 2035</u>	<u>1.100%</u>

44 No later than 180 days after the date of enactment of P.L.2018,
45 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations
46 to close the SREC program to new applications upon the attainment
47 of 5.1 percent of the kilowatt-hours sold in the State by each

1 electric power supplier and each basic generation provider from
2 solar electric power generators connected to the distribution system.
3 The board shall continue to consider any application filed before the
4 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board
5 shall provide for an orderly and transparent mechanism that will
6 result in the closing of the existing SREC program on a date certain
7 but no later than June 1, 2021. Commencing after the closure of the
8 SREC program and ending in EY 2035, the board may adjust the
9 solar renewable portfolio requirements of this paragraph to the
10 extent it deems appropriate as the result of an assessment of the
11 SREC program conducted pursuant to section 1 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill).

13 No later than 24 months after the date of enactment of P.L.2018,
14 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
15 evaluates how to modify or replace the SREC program to encourage
16 the continued efficient and orderly development of solar renewable
17 energy generating sources throughout the State. The board shall
18 submit the written report thereon to the Governor and, pursuant to
19 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
20 board shall consult with public utilities, industry experts, regional
21 grid operators, solar power providers and financiers, and other State
22 agencies to determine whether the board can modify the SREC
23 program such that the program will:

- 24 - continually reduce, where feasible, the cost of achieving the
25 solar energy goals set forth in this subsection;
- 26 - provide an orderly transition from the SREC program to a
27 new or modified program;
- 28 - develop megawatt targets for grid connected and distribution
29 systems, including residential and small commercial rooftop
30 systems, community solar systems, and large scale behind the meter
31 systems, as a share of the overall solar energy requirement, which
32 targets the board may modify periodically based on the cost,
33 feasibility, or social impacts of different types of projects;
- 34 - establish and update market-based maximum incentive
35 payment caps periodically for each of the above categories of solar
36 electric power generation facilities;
- 37 - encourage and facilitate market-based cost recovery through
38 long-term contracts and energy market sales; and
- 39 - where cost recovery is needed for any portion of an efficient
40 solar electric power generation facility when costs are not
41 recoverable through wholesale market sales and direct payments
42 from customers, utilize competitive processes such as competitive
43 procurement and long-term contracts where possible to ensure such
44 recovery, without exceeding the maximum incentive payment cap
45 for that category of facility.

46 The board shall approve, conditionally approve, or disapprove
47 any application for designation as connected to the distribution

1 system of a solar electric power generation facility filed with the
2 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et
3 al.), no more than 90 days after receipt by the board of a completed
4 application. For any such application for a project greater than 25
5 kilowatts, the board shall require the applicant to post a notice
6 escrow with the board in an amount of \$40 per kilowatt of DC
7 nameplate capacity of the facility, not to exceed \$40,000. The
8 notice escrow amount shall be reimbursed to the applicant in full
9 upon either denial of the application by the board or upon
10 commencement of commercial operation of the solar electric power
11 generation facility. The escrow amount shall be forfeited to the
12 State if the facility is designated as connected to the distribution
13 system pursuant to this subsection but does not commence
14 commercial operation within two years following the date of the
15 designation by the board.

16 For all applications for designation as connected to the
17 distribution system of a solar electric power generation facility filed
18 with the board after the date of enactment of P.L.2018, c.17
19 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

20 (a) The board shall determine an appropriate period of no less
21 than 120 days following the end of an energy year prior to which a
22 provider or supplier must demonstrate compliance for that energy
23 year with the annual renewable portfolio standard;

24 (b) No more than 24 months following the date of enactment of
25 P.L.2012, c.24, the board shall complete a proceeding to investigate
26 approaches to mitigate solar development volatility and prepare and
27 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
28 report to the Legislature, detailing its findings and
29 recommendations. As part of the proceeding, the board shall
30 evaluate other techniques used nationally and internationally;

31 (c) The solar renewable portfolio standards requirements in this
32 paragraph shall exempt those existing supply contracts which are
33 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
34 87.8 et al.) from any increase beyond the number of SRECs
35 mandated by the solar renewable energy portfolio standards
36 requirements that were in effect on the date that the providers
37 executed their existing supply contracts. This limited exemption for
38 providers' existing supply contracts shall not be construed to lower
39 the Statewide solar sourcing requirements set forth in this
40 paragraph. Such incremental requirements that would have
41 otherwise been imposed on exempt providers shall be distributed
42 over the providers not subject to the existing supply contract
43 exemption until such time as existing supply contracts expire and
44 all providers are subject to the new requirement in a manner that is
45 competitively neutral among all providers and suppliers.
46 Notwithstanding any rule or regulation to the contrary, the board
47 shall recognize these new solar purchase obligations as a change

1 required by operation of law and implement the provisions of this
2 subsection in a manner so as to prevent any subsidies between
3 suppliers and providers and to promote competition in the
4 electricity supply industry.

5 An electric power supplier or basic generation service provider
6 may satisfy the requirements of this subsection by participating in a
7 renewable energy trading program approved by the board in
8 consultation with the Department of Environmental Protection, or
9 compliance with the requirements of this subsection may be
10 demonstrated to the board by suppliers or providers through the
11 purchase of SRECs.

12 The renewable energy portfolio standards adopted by the board
13 pursuant to paragraphs (1) and (2) of this subsection shall be
14 effective as regulations immediately upon filing with the Office of
15 Administrative Law and shall be effective for a period not to exceed
16 18 months, and may, thereafter, be amended, adopted or readopted
17 by the board in accordance with the provisions of the
18 "Administrative Procedure Act."

19 The renewable energy portfolio standards adopted by the board
20 pursuant to this paragraph shall be effective as regulations
21 immediately upon filing with the Office of Administrative Law and
22 shall be effective for a period not to exceed 30 months after such
23 filing, and shall, thereafter, be amended, adopted or readopted by
24 the board in accordance with the "Administrative Procedure Act";
25 and

26 (4) within 180 days after the date of enactment of P.L.2010,
27 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
28 renewable energy certificate program to require that a percentage of
29 the kilowatt hours sold in this State by each electric power supplier
30 and each basic generation service provider be from offshore wind
31 energy in order to support at least 3,500 megawatts of generation
32 from qualified offshore wind projects.

33 The percentage established by the board pursuant to this
34 paragraph shall serve as an offset to the renewable energy portfolio
35 standard established pursuant to paragraph (2) of this subsection
36 and shall reduce the corresponding Class I renewable energy
37 requirement.

38 The percentage established by the board pursuant to this
39 paragraph shall reflect the projected OREC production of each
40 qualified offshore wind project, approved by the board pursuant to
41 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
42 commercial operation start date of the qualified offshore wind
43 project which production projection and OREC purchase
44 requirement, once approved by the board, shall not be subject to
45 reduction.

46 An electric power supplier or basic generation service provider
47 shall comply with the OREC program established pursuant to this

1 paragraph through the purchase of offshore wind renewable energy
2 certificates at a price and for the time period required by the board.
3 In the event there are insufficient offshore wind renewable energy
4 certificates available, the electric power supplier or basic generation
5 service provider shall pay an offshore wind alternative compliance
6 payment established by the board. Any offshore wind alternative
7 compliance payments collected shall be refunded directly to the
8 ratepayers by the electric public utilities.

9 The rules established by the board pursuant to this paragraph
10 shall be effective as regulations immediately upon filing with the
11 Office of Administrative Law and shall be effective for a period not
12 to exceed 18 months, and may, thereafter, be amended, adopted or
13 readopted by the board in accordance with the provisions of the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
15 1 et seq.).

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

21 (1) net metering standards for electric power suppliers and basic
22 generation service providers. The standards shall require electric
23 power suppliers and basic generation service providers to offer net
24 metering at non-discriminatory rates to industrial, large
25 commercial, residential and small commercial customers, as those
26 customers are classified or defined by the board, that generate
27 electricity, on the customer's side of the meter, using a Class I
28 renewable energy source, for the net amount of electricity supplied
29 by the electric power supplier or basic generation service provider
30 over an annualized period. Systems of any sized capacity, as
31 measured in watts, are eligible for net metering. If the amount of
32 electricity generated by the customer-generator, plus any kilowatt
33 hour credits held over from the previous billing periods, exceeds the
34 electricity supplied by the electric power supplier or basic
35 generation service provider, then the electric power supplier or
36 basic generation service provider, as the case may be, shall credit
37 the customer-generator for the excess kilowatt hours until the end of
38 the annualized period at which point the customer-generator will be
39 compensated for any remaining credits or, if the customer-generator
40 chooses, credit the customer-generator on a real-time basis, at the
41 electric power supplier's or basic generation service provider's
42 avoided cost of wholesale power or the PJM electric power pool's
43 real-time locational marginal pricing rate, adjusted for losses, for
44 the respective zone in the PJM electric power pool. Alternatively,
45 the customer-generator may execute a bilateral agreement with an
46 electric power supplier or basic generation service provider for the
47 sale and purchase of the customer-generator's excess generation.

1 The customer-generator may be credited on a real-time basis, so
2 long as the customer-generator follows applicable rules prescribed
3 by the PJM electric power pool for its capacity requirements for the
4 net amount of electricity supplied by the electric power supplier or
5 basic generation service provider. The board may authorize an
6 electric power supplier or basic generation service provider to cease
7 offering net metering to customers that are not already net metered
8 whenever the total rated generating capacity owned and operated by
9 net metering customer-generators Statewide equals 5.8 percent of
10 the total annual kilowatt-hours sold in this State by each electric
11 power supplier and each basic generation service provider during
12 the prior one-year period;

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

16 Such standards or rules shall take into consideration the goals of
17 the New Jersey Energy Master Plan, applicable industry standards,
18 and the standards of other states and the Institute of Electrical and
19 Electronics Engineers. The board shall allow electric public
20 utilities to recover the costs of any new net meters, upgraded net
21 meters, system reinforcements or upgrades, and interconnection
22 costs through either their regulated rates or from the net metering
23 customer-generator;

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

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

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

42 Such rules shall require the board or its designee to issue a credit
43 or other incentive to those generators that do not use a net meter but
44 otherwise generate electricity derived from a Class I renewable
45 energy source and to issue an enhanced credit or other incentive,
46 including, but not limited to, a solar renewable energy credit, to

1 those generators that generate electricity derived from solar
2 technologies.

3 Such standards or rules shall be effective as regulations
4 immediately upon filing with the Office of Administrative Law and
5 shall be effective for a period not to exceed 18 months, and may,
6 thereafter, be amended, adopted or readopted by the board in
7 accordance with the provisions of the "Administrative Procedure
8 Act."

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

18 g. The board shall adopt, pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
20 energy efficiency program in order to ensure investment in cost-
21 effective energy efficiency measures, ensure universal access to
22 energy efficiency measures, and serve the needs of low-income
23 communities that shall require each electric public utility to
24 implement energy efficiency measures that reduce electricity usage
25 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
26 Nothing in this subsection shall be construed to prevent an electric
27 public utility from meeting the requirements of this subsection by
28 contracting with another entity for the performance of the
29 requirements.

30 h. The board shall adopt, pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
32 efficiency program in order to ensure investment in cost-effective
33 energy efficiency measures, ensure universal access to energy
34 efficiency measures, and serve the needs of low-income
35 communities that shall require each gas public utility to implement
36 energy efficiency measures that reduce natural gas usage in the
37 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
38 Nothing in this subsection shall be construed to prevent a gas public
39 utility from meeting the requirements of this subsection by
40 contracting with another entity for the performance of the
41 requirements.

42 i. After the board establishes a schedule of solar kilowatt-hour
43 sale or purchase requirements pursuant to paragraph (3) of
44 subsection d. of this section, the board may initiate subsequent
45 proceedings and adopt, after appropriate notice and opportunity for
46 public comment and public hearing, increased minimum solar
47 kilowatt-hour sale or purchase requirements, provided that the

1 board shall not reduce previously established minimum solar
2 kilowatt-hour sale or purchase requirements, or otherwise impose
3 constraints that reduce the requirements by any means.

4 j. The board shall determine an appropriate level of solar
5 alternative compliance payment, and permit each supplier or
6 provider to submit an SACP to comply with the solar electric
7 generation requirements of paragraph (3) of subsection d. of this
8 section. The value of the SACP for each Energy Year, for Energy
9 Years 2014 through ~~2033~~ 2035 per megawatt hour from solar
10 electric generation required pursuant to this section, shall be:

11	EY 2014	\$339
12	EY 2015	\$331
13	EY 2016	\$323
14	EY 2017	\$315
15	EY 2018	\$308
16	EY 2019	\$268
17	EY 2020	\$258
18	EY 2021	\$248
19	EY 2022	\$238
20	EY 2023	\$228
21	EY 2024	\$218
22	EY 2025	\$208
23	EY 2026	\$198
24	EY 2027	\$188
25	EY 2028	\$178
26	EY 2029	\$168
27	EY 2030	\$158
28	EY 2031	\$148
29	EY 2032	\$138
30	EY 2033	\$128
31	<u>EY 2034</u>	<u>\$118</u>
32	<u>EY 2035</u>	<u>\$108.</u>

33 The board may initiate subsequent proceedings and adopt, after
34 appropriate notice and opportunity for public comment and public
35 hearing, an increase in solar alternative compliance payments,
36 provided that the board shall not reduce previously established
37 levels of solar alternative compliance payments, nor shall the board
38 provide relief from the obligation of payment of the SACP by the
39 electric power suppliers or basic generation service providers in any
40 form. Any SACP payments collected shall be refunded directly to
41 the ratepayers by the electric public utilities.

42 k. The board may allow electric public utilities to offer long-
43 term contracts through a competitive process, direct electric public
44 utility investment and other means of financing, including but not
45 limited to loans, for the purchase of SRECs and the resale of SRECs
46 to suppliers or providers or others, provided that after such
47 contracts have been approved by the board, the board's approvals

1 shall not be modified by subsequent board orders. If the board
2 allows the offering of contracts pursuant to this subsection, the
3 board may establish a process, after hearing, and opportunity for
4 public comment, to provide that a designated segment of the
5 contracts approved pursuant to this subsection shall be contracts
6 involving solar electric power generation facility projects with a
7 capacity of up to 250 kilowatts.

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

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

13 (2) maintain adequate regulatory authority over non-competitive
14 public utility services;

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

17 (4) promote energy efficiency and Class I renewable energy
18 market development, taking into consideration environmental
19 benefits and market barriers;

20 (5) make energy services more affordable for low and moderate
21 income customers;

22 (6) attempt to transform the renewable energy market into one
23 that can move forward without subsidies from the State or public
24 utilities;

25 (7) achieve the goals put forth under the renewable energy
26 portfolio standards;

27 (8) promote the lowest cost to ratepayers; and

28 (9) allow all market segments to participate.

29 m. The board shall ensure the availability of financial incentives
30 under its jurisdiction, including, but not limited to, long-term
31 contracts, loans, SRECs, or other financial support, to ensure
32 market diversity, competition, and appropriate coverage across all
33 ratepayer segments, including, but not limited to, residential,
34 commercial, industrial, non-profit, farms, schools, and public entity
35 customers.

36 n. For projects which are owned, or directly invested in, by a
37 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
38 98.1), the board shall determine the number of SRECs with which
39 such projects shall be credited; and in determining such number the
40 board shall ensure that the market for SRECs does not detrimentally
41 affect the development of non-utility solar projects and shall
42 consider how its determination may impact the ratepayers.

43 o. The board, in consultation with the Department of
44 Environmental Protection, electric public utilities, the Division of
45 Rate Counsel in, but not of, the Department of the Treasury,
46 affected members of the solar energy industry, and relevant
47 stakeholders, shall periodically consider increasing the renewable

1 energy portfolio standards beyond the minimum amounts set forth
2 in subsection d. of this section, taking into account the cost impacts
3 and public benefits of such increases including, but not limited to:
4 (1) reductions in air pollution, water pollution, land disturbance,
5 and greenhouse gas emissions;
6 (2) reductions in peak demand for electricity and natural gas,
7 and the overall impact on the costs to customers of electricity and
8 natural gas;
9 (3) increases in renewable energy development, manufacturing,
10 investment, and job creation opportunities in this State; and
11 (4) reductions in State and national dependence on the use of
12 fossil fuels.

13 p. Class I RECs and ORECs shall be eligible for use in
14 renewable energy portfolio standards compliance in the energy year
15 in which they are generated, and for the following two energy years.
16 SRECs shall be eligible for use in renewable energy portfolio
17 standards compliance in the energy year in which they are
18 generated, and for the following four energy years.

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

46 (2) If the proposed solar electric power generation facility does
47 not commence commercial operations within two years following

1 the date of the designation by the board pursuant to this subsection,
2 the designation of the facility shall be deemed to be null and void,
3 and the facility shall not be considered connected to the distribution
4 system thereafter.

5 (3) Notwithstanding the provisions of paragraph (2) of this
6 subsection, a solar electric power generation facility project that as
7 of May 31, 2017 was designated as "connected to the distribution
8 system," but failed to commence commercial operations as of that
9 date, shall maintain that designation if it commences commercial
10 operations by May 31, 2018.

11 r. (1) For all proposed solar electric power generation facility
12 projects except for those solar electric power generation facility
13 projects approved pursuant to subsection q. of this section, and for
14 all projects proposed in energy year 2019 and energy year 2020, the
15 board may approve projects for up to 50 megawatts annually in
16 auctioned capacity in two auctions per year as long as the board is
17 accepting applications. If the board approves projects for less than
18 50 megawatts in energy year 2019 or less than 50 megawatts in
19 energy year 2020, the difference in each year shall be carried over
20 into the successive energy year until 100 megawatts of auctioned
21 capacity has been approved by the board pursuant to this
22 subsection. A proposed solar electric power generation facility that
23 is neither net metered nor an on-site generation facility, may be
24 considered "connected to the distribution system" only upon
25 designation as such by the board, after notice to the public and
26 opportunity for public comment or hearing. A proposed solar
27 electric power generation facility seeking board designation as
28 "connected to the distribution system" shall submit an application to
29 the board that includes for the proposed facility: the nameplate
30 capacity; the estimated energy and number of SRECs to be
31 produced and sold per year; the estimated annual rate impact on
32 ratepayers; the estimated capacity of the generator as defined by
33 PJM for sale in the PJM capacity market; the point of
34 interconnection; the total project acreage and location; the current
35 land use designation of the property; the type of solar technology to
36 be used; and such other information as the board shall require.

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

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

43 (b) the approval of the designation of the proposed facility
44 would not significantly impact the preservation of open space in
45 this State;

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

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

5 (3) The board shall act within 90 days of its receipt of a
6 completed application for designation of a solar electric power
7 generation facility as "connected to the distribution system," to
8 either approve, conditionally approve, or disapprove the
9 application. If the proposed solar electric power generation facility
10 does not commence commercial operations within two years
11 following the date of the designation by the board pursuant to this
12 subsection, the designation of the facility as "connected to the
13 distribution system" shall be deemed to be null and void, and the
14 facility shall thereafter be considered not "connected to the
15 distribution system."

16 s. In addition to any other requirements of P.L.1999, c.23 or
17 any other law, rule, regulation or order, a solar electric power
18 generation facility that is not net metered or an on-site generation
19 facility and which is located on land that has been actively devoted
20 to agricultural or horticultural use that is valued, assessed, and
21 taxed pursuant to the "Farmland Assessment Act of 1964,"
22 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
23 period prior to the effective date of P.L.2012, c.24, shall only be
24 considered "connected to the distribution system" if (1) the board
25 approves the facility's designation pursuant to subsection q. of this
26 section; or (2) (a) PJM issued a System Impact Study for the facility
27 on or before June 30, 2011, (b) the facility files a notice with the
28 board within 60 days of the effective date of P.L.2012, c.24,
29 indicating its intent to qualify under this subsection, and (c) the
30 facility has been approved as "connected to the distribution system"
31 by the board. Nothing in this subsection shall limit the board's
32 authority concerning the review and oversight of facilities, unless
33 such facilities are exempt from such review as a result of having
34 been approved pursuant to subsection q. of this section.

35 t. (1) No more than 180 days after the date of enactment of
36 P.L.2012, c.24, the board shall, in consultation with the Department
37 of Environmental Protection and the New Jersey Economic
38 Development Authority, and, after notice and opportunity for public
39 comment and public hearing, complete a proceeding to establish a
40 program to provide SRECs to owners of solar electric power
41 generation facility projects certified by the board, in consultation
42 with the Department of Environmental Protection, as being located
43 on a brownfield, on an area of historic fill or on a properly closed
44 sanitary landfill facility, including those owned or operated by an
45 electric public utility and approved pursuant to section 13 of
46 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
47 subsection shall be considered "connected to the distribution

1 system", shall not require such designation by the board, and shall
2 not be subject to board review required pursuant to subsections q.
3 and r. of this section. Notwithstanding the provisions of section 3
4 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
5 order to the contrary, for projects certified under this subsection, the
6 board shall establish a financial incentive that is designed to
7 supplement the SRECs generated by the facility in order to cover
8 the additional cost of constructing and operating a solar electric
9 power generation facility on a brownfield, on an area of historic fill
10 or on a properly closed sanitary landfill facility. Any financial
11 benefit realized in relation to a project owned or operated by an
12 electric public utility and approved by the board pursuant to section
13 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
14 financial incentive established by the board pursuant to this
15 subsection, shall be credited to ratepayers. The issuance of SRECs
16 for all solar electric power generation facility projects pursuant to
17 this subsection shall be deemed "Board of Public Utilities financial
18 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
19 29.47).

20 (2) Notwithstanding the provisions of the "Spill Compensation
21 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
22 other law, rule, regulation, or order to the contrary, the board, in
23 consultation with the Department of Environmental Protection, may
24 find that a person who operates a solar electric power generation
25 facility project that has commenced operation on or after the
26 effective date of P.L.2012, c.24, which project is certified by the
27 board, in consultation with the Department of Environmental
28 Protection pursuant to paragraph (1) of this subsection, as being
29 located on a brownfield for which a final remediation document has
30 been issued, on an area of historic fill or on a properly closed
31 sanitary landfill facility, which projects shall include, but not be
32 limited to projects located on a brownfield for which a final
33 remediation document has been issued, on an area of historic fill or
34 on a properly closed sanitary landfill facility owned or operated by
35 an electric public utility and approved pursuant to section 13 of
36 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
37 acquired on or after the effective date of P.L.2012, c.24 on which
38 such a solar electric power generation facility project is constructed
39 and operated, shall not be liable for cleanup and removal costs to
40 the Department of Environmental Protection or to any other person
41 for the discharge of a hazardous substance provided that:

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

44 (b) the person did not discharge the hazardous substance, is not
45 in any way responsible for the hazardous substance, and is not a
46 successor to the discharger or to any person in any way responsible
47 for the hazardous substance or to anyone liable for cleanup and

1 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
2 23.11g);

3 (c) the person, within 30 days after acquisition of the property,
4 gave notice of the discharge to the Department of Environmental
5 Protection in a manner the Department of Environmental Protection
6 prescribes;

7 (d) the person does not disrupt or change, without prior written
8 permission from the Department of Environmental Protection, any
9 engineering or institutional control that is part of a remedial action
10 for the contaminated site or any landfill closure or post-closure
11 requirement;

12 (e) the person does not exacerbate the contamination at the
13 property;

14 (f) the person does not interfere with any necessary remediation
15 of the property;

16 (g) the person complies with any regulations and any permit the
17 Department of Environmental Protection issues pursuant to section
18 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
19 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

20 (h) with respect to an area of historic fill, the person has
21 demonstrated pursuant to a preliminary assessment and site
22 investigation, that hazardous substances have not been discharged;
23 and

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

30 Only the person who is liable to clean up and remove the
31 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
32 23.11g) and who does not have a defense to liability pursuant to
33 subsection d. of that section shall be liable for cleanup and removal
34 costs.

35 u. No more than 180 days after the date of enactment of
36 P.L.2012, c.24, the board shall complete a proceeding to establish a
37 registration program. The registration program shall require the
38 owners of solar electric power generation facility projects
39 connected to the distribution system to make periodic milestone
40 filings with the board in a manner and at such times as determined
41 by the board to provide full disclosure and transparency regarding
42 the overall level of development and construction activity of those
43 projects Statewide.

44 v. The issuance of SRECs for all solar electric power
45 generation facility projects pursuant to this section, for projects
46 connected to the distribution system with a capacity of one
47 megawatt or greater, shall be deemed "Board of Public Utilities

1 financial assistance" as provided pursuant to section 1 of P.L.2009,
2 c.89 (C.48:2-29.47).

3 w. No more than 270 days after the date of enactment of
4 P.L.2012, c.24, the board shall, after notice and opportunity for
5 public comment and public hearing, complete a proceeding to
6 consider whether to establish a program to provide, to owners of
7 solar electric power generation facility projects certified by the
8 board as being three megawatts or greater in capacity and being net
9 metered, including facilities which are owned or operated by an
10 electric public utility and approved by the board pursuant to section
11 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
12 designed to supplement the SRECs generated by the facility to
13 further the goal of improving the economic competitiveness of
14 commercial and industrial customers taking power from such
15 projects. If the board determines to establish such a program
16 pursuant to this subsection, the board may establish a financial
17 incentive to provide that the board shall issue one SREC for no less
18 than every 750 kilowatt-hours of solar energy generated by the
19 certified projects. Any financial benefit realized in relation to a
20 project owned or operated by an electric public utility and approved
21 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
22 98.1), as a result of the provisions of a financial incentive
23 established by the board pursuant to this subsection, shall be
24 credited to ratepayers.

25 x. Solar electric power generation facility projects that are
26 located on an existing or proposed commercial, retail, industrial,
27 municipal, professional, recreational, transit, commuter,
28 entertainment complex, multi-use, or mixed-use parking lot with a
29 capacity to park 350 or more vehicles where the area to be utilized
30 for the facility is paved, or an impervious surface may be owned or
31 operated by an electric public utility and may be approved by the
32 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
33 (cf: P.L.2021, c.169, s.10)

34
35 3. This act shall take effect immediately.
36
37

38 STATEMENT

39
40 This bill would direct the Board of Public Utilities (BPU) to
41 establish a process to periodically assess and adjust the solar
42 renewable energy certificate (SREC) program to ensure that there is
43 an appropriate and stable ratio between the supply of, and demand
44 for, SRECs in the State. The bill would also authorize the BPU to
45 make adjustments to the solar renewable portfolio standard, a
46 requirement established in law that a certain percentage of the

1 State's electricity be produced by solar electric power generators, in
2 order to maintain an appropriate demand for SRECs.

3 The bill would direct the BPU to publish an initial rule proposal
4 to implement the bill's provisions within 270 days of enactment.
5 The bill would include certain minimum requirements for the rules
6 and regulations, as enumerated in subsection b. of section 1 of the
7 bill. These requirements include an assessment schedule such that
8 an initial assessment of the SREC program would be concluded in
9 sufficient time to enable adjustments, if any are determined to be
10 required, in time for energy year (the 12-month period from June 1
11 through May 31, hereafter EY) 2025, and that subsequent
12 assessments will be made no less frequently than would enable the
13 implementation of any adjustments in EY 2030 and EY 2035.

14 The bill would also amend the "Energy Discount and Energy
15 Competition Act," P.L.1999, c.23 (C.48:3-49 et al.), to authorize the
16 BPU to adjust the solar renewable portfolio standard based on an
17 assessment conducted pursuant to this bill and to adjust the law to
18 account for SRECs that will be issued in EY 2034 and EY 2035.