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**FLOOR AMENDMENT STATEMENT:** Yes 06/20/2023  
06/26/2023

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** Yes

Committee Meeting of Senate Environment and Energy Committee: "The Committee will meet to hear testimony from invited guests on business and industry efforts to mitigate climate change and their perspectives on New Jersey's climate change mitigation policies," June 9, 2022 <https://hdl.handle.net/10929/101247>

**NEWSPAPER ARTICLES:** No

CL/JA

P.L. 2023, CHAPTER 158, *approved September 12, 2023*  
Assembly, No. 4089 (*Fifth Reprint*)

1 AN ACT concerning <sup>1</sup>**[certain]**<sup>1</sup> deadlines for completion and  
2 commercial operation of <sup>1</sup>certain<sup>1</sup> solar electric power generation  
3 facilities under certain circumstances and supplementing  
4 P.L.1999, c.23 (C.48:3-49 et al.).  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. a. Notwithstanding the provisions of P.L.1999, c.23 (C.48:3-  
10 49 et al.), P.L.2021, c.169 (C.48:3-114 et al.), or any other law,  
11 rule, regulation, or order to the contrary, a qualified solar electric  
12 power generation facility that, due to a delay attributable to a tolling  
13 event, fails, or is projected to fail, to achieve project completion or  
14 commercial operation by the deadline date established by law, rule,  
15 regulation, board order, incentive program registration acceptance  
16 letter, or other approval or authorization for that facility, shall  
17 receive an automatic extension of the project completion or  
18 commercial operation deadline date established for that facility.

19 The extension granted pursuant to this section shall be for a  
20 period <sup>3</sup>**[coextensive with the duration of the delay associated with**  
21 **the applicable tolling event. <sup>1</sup>The delay shall be deemed to end at**  
22 **such time as the developer of the qualified solar electric power**  
23 **generation facility is authorized to commence construction using**  
24 **the dates and pursuant to an Interconnection Service Agreement**  
25 **executed between the project sponsor, PJM Interconnection, L.L.C.,**  
26 **and the public electric utility.<sup>1</sup>]** that is two years beyond what  
27 otherwise would be the deadline for the qualified solar electric  
28 power generation facility to achieve commercial operation pursuant  
29 to the applicable board order granting conditional certification as  
30 connected to the distribution system, including any extensions  
31 previously authorized by law, rule, regulation, or applicable board  
32 order.<sup>3</sup> The automatic extension shall protect the qualified solar  
33 electric power generation facility from forfeiting the following:

34 (1) designation as “connected to the distribution system”;  
35 (2) eligibility to continue to participate in the applicable solar  
36 incentive program for which application was made <sup>1</sup>**[and**  
37 **conditional approval was granted]**<sup>1</sup>;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ATU committee amendments adopted June 2, 2022.

<sup>2</sup>Assembly AST committee amendments adopted June 9, 2022.

<sup>3</sup>Senate floor amendments adopted June 20, 2023.

<sup>4</sup>Senate floor amendments adopted June 26, 2023.

<sup>5</sup>Senate SBA committee amendments adopted June 27, 2023.

1 (3) eligibility to receive the financial incentives provided by the  
2 solar incentive program for which application was made <sup>1</sup>and  
3 conditional approval was granted<sup>1</sup>; and

4 (4) any other benefit or incentive available to a qualified solar  
5 electric power generation facility conditionally approved to  
6 participate in the solar incentive program.

7 b. (1) To be eligible to receive the automatic extension  
8 provided by this section, the project sponsor of a qualified solar  
9 electric power generation facility shall certify in writing <sup>1</sup>, and  
10 provide supporting documentation,<sup>1</sup> to the board of the occurrence  
11 of <sup>1</sup>[a] the<sup>1</sup> tolling event. The certification shall describe the  
12 tolling event <sup>1</sup>, the date of application to PJM Interconnection,  
13 L.L.C.,<sup>1</sup> and the <sup>1</sup>[nature and]<sup>1</sup> anticipated duration of the delay  
14 associated with the <sup>1</sup>[event] tolling<sup>1</sup>.

15 (2) Within 45 days after receipt of a certification from a project  
16 sponsor of the occurrence of a tolling event pursuant to paragraph  
17 (1) of this subsection, the board shall issue an unconditional order  
18 approving an automatic extension of the project deadline date or  
19 commercial operation deadline date established for the facility,  
20 whether established by law, rule, regulation, board order, incentive  
21 program registration acceptance letter, or other approval or  
22 authorization for that facility.

23 The order shall be issued by the board on a non-discretionary  
24 basis, and no factual investigation or hearing by the board shall be  
25 conducted. The order shall acknowledge receipt of certification of  
26 the tolling event, extend the previously established project  
27 completion or commercial operation deadline date for the facility by  
28 an amount of time <sup>3</sup>[coextensive with the duration of the tolling  
29 event] prescribed by this section<sup>3</sup>, and provide such other and  
30 further relief as the board may deem appropriate. <sup>3</sup>[The board  
31 order shall be effective as of the date of the certification of the  
32 tolling event.]<sup>3</sup>

33 c. A project sponsor shall have a continuing obligation to  
34 apprise the board, on at least a quarterly basis, regarding the nature  
35 and extent of the tolling event and its anticipated duration, which  
36 requirement may be satisfied by including such information in the  
37 quarterly milestone reporting form required to be submitted to the  
38 board for the qualified solar electric power generation facility.

39 d. <sup>1</sup>[The project sponsor of a qualified solar electric power  
40 generation facility that is granted relief under this section due to the  
41 occurrence of a tolling event shall use commercially reasonable  
42 efforts to timely satisfy the remaining requirements of the  
43 applicable solar incentive program that are within the project  
44 sponsor's control and whose performance has not been delayed by  
45 the tolling event.

46 e.]<sup>1</sup> <sup>3</sup>[Upon conclusion of the tolling event, the project sponsor  
47 shall timely resume and complete development of those aspects of

1 the facility that were delayed by the tolling event.]<sup>3</sup> The project  
2 sponsor shall complete the facility and commence commercial  
3 operation within the <sup>1</sup>[longer of: (1) six months following the  
4 conclusion of the tolling event; or (2) the time remaining under the  
5 terms of the original conditional approval authorized prior to the  
6 occurrence of the tolling event] <sup>3</sup>[timeframe permitted by the  
7 Interconnection Service Agreement executed between the project  
8 sponsor, PJM Interconnection, L.L.C., and the public electric  
9 utility<sup>1</sup>] time period provided by the applicable board order and this  
10 section<sup>3</sup>.

11 <sup>1</sup>[f.] e.<sup>1</sup> <sup>4</sup>[<sup>3</sup>To receive the extension of time to achieve commercial  
12 operation provided by this section, the project sponsor shall, together  
13 with the certification of the tolling event for which an extension is  
14 required, deposit with the board a security escrow in the amount of  
15 \$4,000 per megawatt for which the qualified solar electric power  
16 generation facility has applied to be certified as connected to the  
17 distribution system by the board. In the event the qualified solar  
18 electric power generation facility for which a security escrow has been  
19 deposited pursuant to this subsection does not achieve commercial  
20 operation by the date required by any applicable board order and this  
21 section, the security escrow shall be released to the board and forfeited  
22 by the project sponsor.

23 f.]<sup>4</sup> <sup>5</sup>[Notwithstanding any provision of this section or any other  
24 law, rule, or regulation to the contrary, in the event a qualified solar  
25 electric power generation facility receiving an <sup>4</sup>additional two-year<sup>4</sup>  
26 extension pursuant to this section achieves commercial operation on  
27 or prior to December 31, 2026, that qualified solar electric power  
28 generation facility shall receive the full solar incentive pursuant to the  
29 solar incentive program for which application was made.]<sup>5</sup>

30 In the event a qualified solar electric power generation facility  
31 receiving an extension pursuant to this section achieves commercial  
32 operation <sup>4</sup>[on or after January 1, 2027, but prior to December 31,  
33 2027] 12 months or less beyond what otherwise would be the  
34 deadline for the qualified solar electric power generation facility to  
35 achieve commercial operation pursuant to the applicable board  
36 order granting conditional certification as connected to the  
37 distribution system, including any extensions previously authorized  
38 by law, rule, regulation, or applicable board order<sup>4</sup>, that qualified  
39 solar electric power generation facility shall receive the solar  
40 incentive pursuant to the solar incentive program for which  
41 application was made at a discount of <sup>4</sup>[five] <sup>4</sup>10<sup>4</sup> percent of the  
42 original incentive value.

43 In the event a qualified solar electric power generation facility  
44 receiving an extension pursuant to this section achieves commercial  
45 operation <sup>4</sup>[on or after January 1, 2028, but prior to December 31,  
46 2028] between 12 and 24 months beyond what otherwise would be

1 the deadline for the qualified solar electric power generation facility  
2 to achieve commercial operation pursuant to the applicable board  
3 order granting conditional certification as connected to the  
4 distribution system, including any extensions previously authorized  
5 by law, rule, regulation, or applicable board order<sup>4</sup>, that qualified  
6 solar electric power generation facility shall receive the solar  
7 incentive pursuant to the solar incentive program for which  
8 application was made at a discount of ~~4~~<sup>4</sup> ~~10~~ 15<sup>4</sup> percent of the  
9 original incentive value.

10 <sup>4</sup>~~g.~~<sup>3</sup> f. <sup>4</sup> As used in this section:

11 “Project sponsor” means a municipality, business entity, person,  
12 property owner, developer, redeveloper, or other interest that is the  
13 party pursuing the development and implementation of a qualified  
14 solar electric power generation facility under a solar incentive  
15 program administered by the board.

16 “Qualified solar electric power generation facility” or “facility”  
17 means a solar electric power generation facility <sup>4</sup>~~for which a~~  
18 ~~project sponsor has submitted <sup>2</sup>, on or before August 28, 2021,<sup>2</sup> an~~  
19 ~~application for conditional approval to participate in a solar~~  
20 ~~incentive program <sup>1</sup>pursuant to subsection t. of section 38 of~~  
21 ~~P.L.1999, c.23 (C.48:3-87)<sup>1</sup>, and includes a facility that has~~  
22 ~~received conditional approval from the board to participate in the~~  
23 ~~solar incentive program <sup>1</sup>pursuant to subsection t. of section 38 of~~  
24 ~~P.L.1999, c.23 (C.48:3-87)<sup>1</sup> for which application was made] that~~  
25 ~~has, as of the effective date of P.L. , c. (C. ) (pending before the~~  
26 ~~Legislature as this bill), received by board order conditional~~  
27 ~~certification to participate in a solar incentive program pursuant to~~  
28 ~~subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87)<sup>4</sup>.~~

29 <sup>2</sup>~~“Solar incentive program” means a program administered by~~  
30 ~~the board which awards <sup>1</sup>~~SRECs,~~<sup>1</sup> transition renewable energy~~  
31 ~~certificates <sup>1</sup>, SREC-IIs, or other solar renewable energy~~  
32 ~~certificates capable of counting towards the renewable energy~~  
33 ~~portfolio standard of an electric power supplier or basic generation~~  
34 ~~service provider pursuant to section 38 of P.L.1999, c.23 (C.48:3-~~  
35 ~~87)<sup>1</sup>.<sup>2</sup>~~

36 “Tolling event” means <sup>1</sup>~~the action or inaction of a third party,~~  
37 ~~or occurrence or circumstance that delays the timely completion or~~  
38 ~~commercial operation of a qualified solar electric power generation~~  
39 ~~facility, that is not within the reasonable control of the project~~  
40 ~~sponsor of the qualified solar electric power generation facility, and~~  
41 ~~shall be limited solely to the failure of an electric public utility or~~  
42 ~~PJM Interconnection, L.L.C. to approve an application for~~  
43 ~~interconnection with the utility distribution system or interstate~~  
44 ~~transmission system, or to negotiate, execute, and deliver any other~~  
45 ~~engineering or other studies, agreements, or approvals required by~~  
46 ~~the electric public utility or PJM Interconnection, L.L.C. as a~~

1 prerequisite to project interconnection or commercial operation,  
 2 within such time period as would allow a project sponsor to achieve  
 3 commercial operation of a qualified solar electric power generation  
 4 facility pursuant to an award, authorization, or conditional approval  
 5 under a solar incentive program] any action or inaction of the PJM  
 6 Interconnection, L.L.C., <sup>3</sup>[or an applicable electric public utility,]<sup>3</sup>  
 7 any moratorium in new applications declared by the PJM  
 8 Interconnection, L.L.C., <sup>3</sup>[or an applicable electric public utility,]<sup>3</sup>  
 9 any deferral in processing of existing applications by the PJM  
 10 Interconnection, L.L.C., <sup>3</sup>[or an applicable electric public utility,]<sup>3</sup>  
 11 any new application process, study, report, or analysis established  
 12 by the PJM Interconnection, L.L.C., <sup>3</sup>[or an applicable electric  
 13 public utility,]<sup>3</sup> to approve and contract a project, <sup>2</sup>[or]<sup>2</sup> the  
 14 deferral to negotiate, execute, and deliver any other engineering or  
 15 other studies, agreements, or approvals required by the PJM  
 16 Interconnection, L.L.C., <sup>3</sup>[or an applicable electric public utility,]<sup>3</sup>  
 17 as a prerequisite to project interconnection or commercial operation  
 18 of a qualified solar electric power generation facility <sup>3</sup>[, <sup>2</sup>[that] or  
 19 any undue delay in the provision of a permit or approval required  
 20 by a local government unit, including a local land use board, caused  
 21 by the action or inaction of the local government unit, which<sup>2</sup>  
 22 delays the timely completion or commercial operation of a qualified  
 23 solar electric power generation facility<sup>1</sup>]<sup>3</sup>.

24 <sup>2</sup>["Transition renewable energy certificate" means <sup>1</sup>[the same as  
 25 the term is defined in in section 2 of P.L.2021, c.201 (C.34:1B-  
 26 375)] a certificate issued by the Board of Public Utilities or its  
 27 designee, under the solar energy transition incentive program,  
 28 which is designed to transition between the solar renewable energy  
 29 certificate program and a solar successor incentive program to be  
 30 developed by the Board of Public Utilities pursuant to P.L.2018,  
 31 c.17 (C.48:3-87.8 et al.)<sup>1</sup>.]<sup>2</sup>

32

33 2. This act shall take effect immediately.

34

35

36

37

38 Extends deadlines, under certain circumstances, for completion  
 39 and commercial operation of certain solar electric power generation  
 40 facilities.

# ASSEMBLY, No. 4089

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 26, 2022

**Sponsored by:**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**SYNOPSIS**

Extends certain deadlines for completion and commercial operation of solar electric power generation facilities under certain circumstances.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/26/2022)

1 AN ACT concerning certain deadlines for completion and  
2 commercial operation of solar electric power generation facilities  
3 under certain circumstances and supplementing P.L.1999, c.23  
4 (C.48:3-49 et al.).

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

8  
9 1. a. Notwithstanding the provisions of P.L.1999, c.23 (C.48:3-  
10 49 et al.), P.L.2021, c.169 (C.48:3-114 et al.), or any other law,  
11 rule, regulation, or order to the contrary, a qualified solar electric  
12 power generation facility that, due to a delay attributable to a tolling  
13 event, fails, or is projected to fail, to achieve project completion or  
14 commercial operation by the deadline date established by law, rule,  
15 regulation, board order, incentive program registration acceptance  
16 letter, or other approval or authorization for that facility, shall  
17 receive an automatic extension of the project completion or  
18 commercial operation deadline date established for that facility.

19 The extension granted pursuant to this section shall be for a  
20 period coextensive with the duration of the delay associated with  
21 the applicable tolling event. The automatic extension shall protect  
22 the qualified solar electric power generation facility from forfeiting  
23 the following:

- 24 (1) designation as “connected to the distribution system”;
- 25 (2) eligibility to continue to participate in the applicable solar  
26 incentive program for which application was made and conditional  
27 approval was granted;
- 28 (3) eligibility to receive the financial incentives provided by the  
29 solar incentive program for which application was made and  
30 conditional approval was granted; and
- 31 (4) any other benefit or incentive available to a qualified solar  
32 electric power generation facility conditionally approved to  
33 participate in the solar incentive program.

34 b. (1) To be eligible to receive the automatic extension  
35 provided by this section, the project sponsor of a qualified solar  
36 electric power generation facility shall certify in writing to the  
37 board of the occurrence of a tolling event. The certification shall  
38 describe the tolling event and the nature and anticipated duration of  
39 the delay associated with the event.

40 (2) Within 45 days after receipt of a certification from a project  
41 sponsor of the occurrence of a tolling event pursuant to paragraph  
42 (1) of this subsection, the board shall issue an unconditional order  
43 approving an automatic extension of the project deadline date or  
44 commercial operation deadline date established for the facility,  
45 whether established by law, rule, regulation, board order, incentive  
46 program registration acceptance letter, or other approval or  
47 authorization for that facility.

1 The order shall be issued by the board on a non-discretionary  
2 basis, and no factual investigation or hearing by the board shall be  
3 conducted. The order shall acknowledge receipt of certification of  
4 the tolling event, extend the previously established project  
5 completion or commercial operation deadline date for the facility by  
6 an amount of time coextensive with the duration of the tolling  
7 event, and provide such other and further relief as the board may  
8 deem appropriate. The board order shall be effective as of the date  
9 of the certification of the tolling event.

10 c. A project sponsor shall have a continuing obligation to  
11 apprise the board, on at least a quarterly basis, regarding the nature  
12 and extent of the tolling event and its anticipated duration, which  
13 requirement may be satisfied by including such information in the  
14 quarterly milestone reporting form required to be submitted to the  
15 board for the qualified solar electric power generation facility.

16 d. The project sponsor of a qualified solar electric power  
17 generation facility that is granted relief under this section due to the  
18 occurrence of a tolling event shall use commercially reasonable  
19 efforts to timely satisfy the remaining requirements of the  
20 applicable solar incentive program that are within the project  
21 sponsor's control and whose performance has not been delayed by  
22 the tolling event.

23 e. Upon conclusion of the tolling event, the project sponsor shall  
24 timely resume and complete development of those aspects of the  
25 facility that were delayed by the tolling event. The project sponsor  
26 shall complete the facility and commence commercial operation  
27 within the longer of: (1) six months following the conclusion of the  
28 tolling event; or (2) the time remaining under the terms of the  
29 original conditional approval authorized prior to the occurrence of  
30 the tolling event.

31 f. As used in this section:

32 "Project sponsor" means a municipality, business entity, person,  
33 property owner, developer, redeveloper, or other interest that is the  
34 party pursuing the development and implementation of a qualified  
35 solar electric power generation facility under a solar incentive  
36 program administered by the board.

37 "Qualified solar electric power generation facility" or "facility"  
38 means a solar electric power generation facility for which a project  
39 sponsor has submitted an application for conditional approval to  
40 participate in a solar incentive program, and includes a facility that  
41 has received conditional approval from the board to participate in  
42 the solar incentive program for which application was made.

43 "Solar incentive program" means a program administered by the  
44 board which awards SRECs, transition renewable energy  
45 certificates, SREC-IIs, or other solar renewable energy certificates  
46 capable of counting towards the renewable energy portfolio  
47 standard of an electric power supplier or basic generation service  
48 provider pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).

1       “Tolling event” means the action or inaction of a third party, or  
2 occurrence or circumstance that delays the timely completion or  
3 commercial operation of a qualified solar electric power generation  
4 facility, that is not within the reasonable control of the project  
5 sponsor of the qualified solar electric power generation facility, and  
6 shall be limited solely to the failure of an electric public utility or  
7 PJM Interconnection, L.L.C. to approve an application for  
8 interconnection with the utility distribution system or interstate  
9 transmission system, or to negotiate, execute, and deliver any other  
10 engineering or other studies, agreements, or approvals required by  
11 the electric public utility or PJM Interconnection, L.L.C. as a  
12 prerequisite to project interconnection or commercial operation,  
13 within such time period as would allow a project sponsor to achieve  
14 commercial operation of a qualified solar electric power generation  
15 facility pursuant to an award, authorization, or conditional approval  
16 under a solar incentive program.

17       “Transition renewable energy certificate” means the same as the  
18 term is defined in in section 2 of P.L.2021, c.201 (C.34:1B-375).

19

20       2. This act shall take effect immediately.

21

22

23

#### STATEMENT

24

25       This bill provides that certain deadlines for the completion or  
26 commercial operation of a solar electric power generation facility  
27 (facility) may be extended under certain circumstances.

28       Specifically, the bill would automatically extend the project  
29 completion or commercial operation deadline dates established for a  
30 solar electric power generation when a facility fails, or is projected  
31 to fail, to achieve project completion or commercial operation by  
32 the deadline date established by law, rule, regulation, board order,  
33 incentive program registration acceptance letter, or other approval  
34 or authorization for that facility, when the delay is due to a tolling  
35 event as defined by the bill. To receive the extension provided by  
36 the bill, a project sponsor would be required to certify in writing to  
37 the Board of Public Utilities (board) describing the tolling event and  
38 the nature and anticipated duration of the delay associated with the  
39 event. Within 45 days after receipt of this certification, the bill  
40 would require the board to issue an unconditional order approving  
41 an automatic extension of the project deadline date or commercial  
42 operation deadline date established for that facility. The order  
43 would be issued by the board on a non-discretionary basis, and no  
44 factual investigation or hearing by the board would be conducted.  
45 The order would extend the previously established project  
46 completion or commercial operation deadline date for the facility by  
47 an amount of time coextensive with the duration of the tolling

1 event, and may provide such other and further relief as the board  
2 may deem appropriate.

3 Under the bill, a project sponsor would have a continuing  
4 obligation to apprise the board, on at least a quarterly basis,  
5 regarding the nature and extent of the tolling event and its  
6 anticipated duration. Upon conclusion of the tolling event, the  
7 project sponsor would be required to complete the facility and  
8 commence commercial operation within the longer of: (1) six  
9 months following the conclusion of the tolling event; or (2) the time  
10 remaining under the terms of the original conditional approval  
11 authorized prior to the occurrence of the tolling event.

12 The bill defines “tolling event” as “the action or inaction of a  
13 third party, or occurrence or circumstance that delays the timely  
14 completion or commercial operation of a qualified solar electric  
15 power generation facility, that is not within the reasonable control  
16 of the project sponsor of the qualified solar electric power  
17 generation facility, and shall be limited solely to the failure of an  
18 electric public utility or PJM Interconnection, L.L.C. (PJM) to  
19 approve an application for interconnection with the utility  
20 distribution system or interstate transmission system, or to  
21 negotiate, execute, and deliver any other engineering or other  
22 studies, agreements, or approvals required by the electric public  
23 utility or PJM as a prerequisite to project interconnection or  
24 commercial operation, within such time period as would allow a  
25 project sponsor to achieve commercial operation of a qualified solar  
26 electric power generation facility pursuant to an award,  
27 authorization, or conditional approval under a solar incentive  
28 program.”

29 In the current solar energy development environment, certain  
30 regulatory and market barriers have emerged which, if left  
31 unaddressed, could provide significant disincentives to solar  
32 expansion and threaten the State’s ability to achieve its clean energy  
33 goals. In particular, delays associated with the interconnection of  
34 solar electric power generation facilities with the electric public  
35 utility distribution grid and the PJM interstate transmission grid,  
36 and securing related project development, interconnection, and  
37 construction agreements from the electric public utilities and PJM  
38 have, with increasing regularity, impeded the timely development of  
39 solar electric power generation facility projects.

40 Interconnection applications to an electric public utility and PJM  
41 typically involve the performance of detailed and lengthy  
42 engineering studies which, when completed, may result in a project  
43 sponsor being required to assume responsibility for system  
44 upgrades determined to be necessary to accommodate the additional  
45 load associated with the solar electric power generation facility.  
46 Each of these approvals must be obtained for solar energy projects  
47 to be deemed complete and authorized to commence commercial  
48 operation. The recent announcement by PJM regarding the

1 imposition of a multi-year moratorium on the processing of  
2 interconnection applications underscores that this is a special  
3 circumstance that requires relief in a manner similar to the  
4 relaxation of certain programmatic and rule requirements in  
5 response to the COVID-19 pandemic.

6 In addition, solar electric power generation facility project  
7 financing and development remains dependent upon the availability  
8 of the financial incentives made available through the clean energy  
9 programs administered by the board. As currently structured, a  
10 solar electric power generation facility is conditionally approved for  
11 participation in the board's solar financial incentive programs and  
12 to receive an award of incentives, with the approval contingent  
13 upon compliance with all program requirements, including the  
14 timely completion and commercial operation of the facility by a  
15 deadline date designated by the board. If a conditionally approved  
16 facility is not completed and in commercial operation by the  
17 designated deadline date, the facility is deemed ineligible to further  
18 participate in the solar incentive program applied for and the  
19 incentive is rescinded. The loss of incentives significantly detracts  
20 from the feasibility of proposed solar energy projects, rendering  
21 many more risky and less attractive to lenders, and increases the  
22 likelihood of project abandonment.

23 Given the increasing frequency and duration of delays associated  
24 with the interconnection of solar electric power generation  
25 facilities, it is appropriate for the State to safeguard against the  
26 potential loss of viable solar electric power generation facility  
27 projects. In the current environment, solar electric power  
28 generation facility projects may become ineligible to participate in  
29 the solar incentive program for which they applied and to receive  
30 the solar incentives applied for due to a failure to achieve timely  
31 project completion and commercial operation solely because of  
32 unforeseeable delays caused by third parties or unforeseen  
33 circumstances beyond a project sponsor's control. It is in the  
34 interests of the State to afford project sponsors automatic extensions  
35 of project completion and commercial operation deadline dates to  
36 preserve eligibility to participate in the solar incentive programs for  
37 which they were conditionally approved and to receive the  
38 incentives offered by those programs in circumstances where  
39 project interconnection-related delays are attributable to third  
40 parties or circumstances over which the project sponsors are unable  
41 to exercise control. While project sponsors shall remain responsible  
42 for their failure to comply with deadline dates and other program  
43 requirements where the failure is attributable to the actions or  
44 inaction of the sponsors, under this bill, they would not be held  
45 responsible for failures to comply with requirements as a result of  
46 circumstances they cannot control.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 4089**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 2, 2022

The Assembly Telecommunications and Utilities Committee reports favorably and with committee amendments Assembly Bill No. 4089.

As amended and reported, this bill provides that deadlines for the completion or commercial operation of certain solar electric power generation facilities may be extended as a result of delays in the approval and contracting process by the PJM Interconnection, L.L.C. (“PJM”), or an applicable electric public utility.

Specifically, the bill would automatically extend the project completion or commercial operation deadline dates established for a solar electric power generation facility when the facility fails, or is projected to fail, to achieve project completion or commercial operation by certain deadline dates, provided that the delay is due to a tolling event. As defined in the bill, a “tolling event” includes any act or inaction by PJM or an applicable electric public utility, any moratorium in new applications declared by PJM or an electric public utility, any deferral in processing of existing applications by PJM or an electric public utility, any new application process, study, report, or analysis established by PJM or an electric public utility to approve and contract a project, or the deferral to negotiate, execute, and deliver any other engineering or other studies, agreements, or approvals required by the PJM or electric public utility as a prerequisite to project interconnection or commercial operation of a qualified solar electric power generation facility.

To receive the extension provided by the bill, a project sponsor would be required to certify in writing, and provide supporting documentation, to the Board of Public Utilities (“BPU”) describing the tolling event and anticipated duration of the delay associated with the tolling event. Within 45 days after receipt of this certification, the bill would require the BPU to issue an unconditional order approving an automatic extension of the project deadline date or commercial operation deadline date established for that facility. The order would be issued by the BPU on a non-discretionary basis, and no factual investigation or hearing by the

BPU would be conducted. The order would extend the previously established project completion or commercial operation deadline date for the facility by an amount of time coextensive with the duration of the tolling event, and may provide such other and further relief as the BPU may deem appropriate.

Under the bill, a project sponsor would have a continuing obligation to apprise the BPU, on at least a quarterly basis, regarding the nature and extent of the tolling event and its anticipated duration. Upon conclusion of the tolling event, the project sponsor would be required to complete the facility and commence commercial operation within the timeframe permitted by the Interconnection Service Agreement executed between the project sponsor, PJM, and the public electric utility.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) clarify that any delay attributable to a tolling event would be deemed to end when the developer of the qualified solar power electric generation facility is authorized to commence construction, as determined pursuant to an Interconnection Service Agreement executed between the project sponsor, PJM, and the electric public utility;

(2) provide that when a project sponsor submits written certification to the BPU for an automated extension of the project deadline, the project sponsor would also be required to provide supporting documentation of the tolling event and indicate the date of application to PJM;

(3) remove the requirement that after receiving an extension, a project sponsor must use commercially reasonable efforts to satisfy the remaining requirements of the solar incentive program that are within the sponsor's control and whose performance has not been delayed by the tolling event;

(4) provide that after the conclusion of a tolling event, the project sponsor would be required to complete the facility and commence commercial operations with the timeframe permitted by the Interconnection Service Agreement; and

(5) redefine the terms "solar incentive program," "tolling event," and "transition renewable energy certificate."

ASSEMBLY SCIENCE, INNOVATION AND TECHNOLOGY  
COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 4089**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 9, 2022

The Assembly Science, Innovation And Technology Committee reports favorably and with committee amendments Assembly Bill No. 4089 (1R).

As amended and reported, this bill provides that deadlines for the completion or commercial operation of certain solar electric power generation facilities may be extended as a result of delays in the approval and contracting process by the PJM Interconnection, L.L.C. (PJM), or an applicable electric public utility.

Specifically, the bill would automatically extend the project completion or commercial operation deadline dates established for a solar electric power generation facility when the facility fails, or is projected to fail, to achieve project completion or commercial operation by certain deadline dates, provided that the delay is due to a tolling event. As defined in the bill, a “tolling event” includes any act or inaction by PJM or an applicable electric public utility, any moratorium in new applications declared by PJM or an electric public utility, any deferral in processing of existing applications by PJM or an electric public utility, any new application process, study, report, or analysis established by PJM or an electric public utility to approve and contract a project, the deferral to negotiate, execute, and deliver any other engineering or other studies, agreements, or approvals required by PJM or electric public utility as a prerequisite to project interconnection or commercial operation of a qualified solar electric power generation facility, or any undue delay in the provision of a permit of approval required by a local government unit, including a local land use board, caused by the action or inaction of the local government unit.

To receive the extension provided by the bill, a project sponsor would be required to certify in writing, and provide supporting documentation, to the Board of Public Utilities (BPU) describing the tolling event and anticipated duration of the delay associated with the tolling event. Within 45 days after receipt of this certification, the bill would require the BPU to issue an

unconditional order approving an automatic extension of the project deadline date or commercial operation deadline date established for that facility. The order would be issued by the BPU on a non-discretionary basis, and no factual investigation or hearing by the BPU would be conducted. The order would extend the previously established project completion or commercial operation deadline date for the facility by an amount of time coextensive with the duration of the tolling event, and may provide such other and further relief as the BPU may deem appropriate.

Under the bill, a project sponsor would have a continuing obligation to apprise the BPU, on at least a quarterly basis, regarding the nature and extent of the tolling event and its anticipated duration. Upon conclusion of the tolling event, the project sponsor would be required to complete the facility and commence commercial operation within the timeframe permitted by the Interconnection Service Agreement executed between the project sponsor, PJM, and the public electric utility.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- 1) restrict the applicability of the bill to solar projects that submitted an application for conditional approval to participate in a solar incentive program prior to August 28, 2021, rather than any solar project that submitted an application pursuant to that law;
- 2) delete the definitions of "solar incentive program" and "transition renewable energy certificate"; and
- 3) expand the definition of "tolling event" to include certain delays related to permits and approvals required by local government units.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Fourth Reprint]

## ASSEMBLY, No. 4089

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4089 (4R).

As amended by the committee, this bill provides that deadlines for the completion or commercial operation of certain solar electric power generation facilities may be extended as a result of delays in the approval and contracting process by the PJM Interconnection, L.L.C. (PJM).

Specifically, the bill would apply to solar electric power generation facilities that that have, as of the effective date of the bill, received by board order conditional certification to participate in a solar incentive program pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would automatically extend the project completion or commercial operation deadline dates established for a solar electric power generation facility when the facility fails, or is projected to fail, to achieve project completion or commercial operation by certain deadline dates, provided that the delay is due to a tolling event. The extension granted by the bill would be for a period that is two years beyond what otherwise would be the deadline for the qualified solar electric power generation facility to achieve commercial operation pursuant to the applicable board order granting conditional certification as connected to the distribution system, including any extensions previously authorized by law, rule, regulation, or applicable board order. As defined in the bill, a “tolling event” means any action or inaction of the PJM Interconnection, L.L.C., any moratorium in new applications declared by the PJM Interconnection, L.L.C., any deferral in processing of existing applications by the PJM Interconnection, L.L.C., any new application process, study, report, or analysis established by the PJM Interconnection, L.L.C., to approve and contract a project, the deferral to negotiate, execute, and deliver any other engineering or other studies, agreements, or approvals required by the PJM Interconnection, L.L.C., as a prerequisite to

project interconnection or commercial operation of a qualified solar electric power generation facility.

To receive the extension provided by the bill, a project sponsor would be required to certify in writing, and provide supporting documentation, to the Board of Public Utilities (BPU) describing the tolling event and anticipated duration of the delay associated with the tolling event. Within 45 days after receipt of this certification, the bill would require the BPU to issue an unconditional order approving an automatic extension of the project deadline date or commercial operation deadline date established for that facility. The order would be issued by the BPU on a non-discretionary basis, and no factual investigation or hearing by the BPU would be conducted. The order would extend the previously established project completion or commercial operation deadline date for the facility by an amount of time as provided by the bill, and may provide such other and further relief as the BPU may deem appropriate.

Under the bill, a project sponsor would have a continuing obligation to apprise the BPU, on at least a quarterly basis, regarding the nature and extent of the tolling event and its anticipated duration. The project sponsor would be required to complete the facility and commence commercial operation within the time period provided by the applicable board order and this section.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2732 (3R) as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill delete language that would have provided a full solar incentive to a facility receiving an extension pursuant to the bill that achieves commercial operation on or prior to December 31, 2026.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 4089**

with Assembly Floor Amendments  
(Proposed by Senator SCUTARI)

ADOPTED: JUNE 20, 2023

These floor amendments:

1) change the length of the extension granted by the bill to be a period of two years beyond what otherwise would be the deadline for the qualified solar electric power generation facility (facility) to achieve commercial operation, instead of being a period coextensive with the duration of the delay associated with the applicable tolling event;

2) delete the requirement for a project sponsor to, upon conclusion of the tolling event, timely resume and complete development of those aspects of the facility that were delayed by the tolling event, and specify that the project sponsor complete the facility and commence commercial operation within the time period provided by applicable Board of Public Utilities (board) order and this bill, instead of within the timeframe permitted by the Interconnection Service Agreement executed between the project sponsor, PJM Interconnection, L.L.C., and the public electric utility;

3) require a project sponsor, in order to receive the extension of time provided by the bill, to deposit with the board a security escrow in the amount of \$4,000 per megawatt for which the facility applied to be certified as connected to the distribution system, and provide that if the facility does not achieve commercial operation by the date required by the bill, the security escrow would be released to the board and forfeited by the project sponsor;

4) provide that if a facility receiving an extension pursuant to the bill achieves commercial operation on or prior to December 31, 2026, that facility would receive the full solar incentive pursuant to the solar incentive program for which application was made;

5) provide that if a facility receiving an extension pursuant to the bill achieves commercial operation on or after January 1, 2027, but prior to December 31, 2027, that facility would receive the solar incentive pursuant to the solar incentive program for which application was made at a discount of five percent of the original incentive value;

6) provide that if a facility receiving an extension pursuant to the bill achieves commercial operation on or after January 1, 2028, but prior to December 31, 2028, that facility would receive the solar incentive pursuant to the solar incentive program for which application was made at a discount of 10 percent of the original incentive value; and

7) revise the definition of “tolling event.”

STATEMENT TO  
[Third Reprint]  
**ASSEMBLY, No. 4089**

with Senate Floor Amendments  
(Proposed by Senator SCUTARI)

ADOPTED: JUNE 26, 2023

These floor amendments:

- 1) delete the requirement for a project sponsor to provide a security escrow in order to receive the extension of time provided by the bill;
- 2) revise the amount of solar incentive that a facility would receive under the bill; and
- 3) revise the definition of “qualified solar electric power generation facility.”

**SENATE, No. 2732**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MAY 26, 2022

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Extends deadlines, under certain circumstances, for completion and commercial operation of certain solar electric power generation facilities.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning deadlines for completion and commercial  
2 operation of certain solar electric power generation facilities  
3 under certain circumstances and supplementing P.L.1999, c.23  
4 (C.48:3-49 et al.).

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

8  
9 1. a. Notwithstanding the provisions of P.L.1999, c.23  
10 (C.48:3-49 et al.), P.L.2021, c.169 (C.48:3-114 et al.), or any other  
11 law, rule, regulation, or order to the contrary, a qualified solar  
12 electric power generation facility that, due to a delay attributable to  
13 a tolling event, fails, or is projected to fail, to achieve project  
14 completion or commercial operation by the deadline date  
15 established by law, rule, regulation, board order, incentive program  
16 registration acceptance letter, or other approval or authorization for  
17 that facility, shall receive an automatic extension of the project  
18 completion or commercial operation deadline date established for  
19 that facility.

20 The extension granted pursuant to this section shall be for a  
21 period coextensive with the duration of the delay associated with  
22 the applicable tolling event. The delay shall be deemed to end at  
23 such time as the developer of the qualified solar electric power  
24 generation facility is authorized to commence construction using  
25 the dates and pursuant to an Interconnection Service Agreement  
26 executed between the project sponsor, PJM Interconnection, L.L.C.,  
27 and the public electric utility. The automatic extension shall protect  
28 the qualified solar electric power generation facility from forfeiting  
29 the following:

- 30 (1) designation as “connected to the distribution system”;
- 31 (2) eligibility to continue to participate in the applicable solar  
32 incentive program for which application was made;
- 33 (3) eligibility to receive the financial incentives provided by the  
34 solar incentive program for which application was made; and
- 35 (4) any other benefit or incentive available to a qualified solar  
36 electric power generation facility conditionally approved to  
37 participate in the solar incentive program.

38 b. (1) To be eligible to receive the automatic extension provided  
39 by this section, the project sponsor of a qualified solar electric  
40 power generation facility shall certify in writing, and provide  
41 supporting documentation, to the board of the occurrence of the  
42 tolling event. The certification shall describe the tolling event, the  
43 date of application to PJM Interconnection, L.L.C., and the  
44 anticipated duration of the delay associated with the tolling.

45 (2) Within 45 days after receipt of a certification from a project  
46 sponsor of the occurrence of a tolling event pursuant to paragraph  
47 (1) of this subsection, the board shall issue an unconditional order  
48 approving an automatic extension of the project deadline date or

1 commercial operation deadline date established for the facility,  
2 whether established by law, rule, regulation, board order, incentive  
3 program registration acceptance letter, or other approval or  
4 authorization for that facility.

5 The order shall be issued by the board on a non-discretionary  
6 basis, and no factual investigation or hearing by the board shall be  
7 conducted. The order shall acknowledge receipt of certification of  
8 the tolling event, extend the previously established project  
9 completion or commercial operation deadline date for the facility by  
10 an amount of time coextensive with the duration of the tolling  
11 event, and provide such other and further relief as the board may  
12 deem appropriate. The board order shall be effective as of the date  
13 of the certification of the tolling event.

14 c. A project sponsor shall have a continuing obligation to  
15 apprise the board, on at least a quarterly basis, regarding the nature  
16 and extent of the tolling event and its anticipated duration, which  
17 requirement may be satisfied by including such information in the  
18 quarterly milestone reporting form required to be submitted to the  
19 board for the qualified solar electric power generation facility.

20 d. Upon conclusion of the tolling event, the project sponsor  
21 shall timely resume and complete development of those aspects of  
22 the facility that were delayed by the tolling event. The project  
23 sponsor shall complete the facility and commence commercial  
24 operation within the timeframe permitted by the Interconnection  
25 Service Agreement executed between the project sponsor, PJM  
26 Interconnection, L.L.C., and the public electric utility.

27 e. As used in this section:

28 “Project sponsor” means a municipality, business entity, person,  
29 property owner, developer, redeveloper, or other interest that is the  
30 party pursuing the development and implementation of a qualified  
31 solar electric power generation facility under a solar incentive  
32 program administered by the board.

33 “Qualified solar electric power generation facility” or “facility”  
34 means a solar electric power generation facility for which a project  
35 sponsor has submitted an application for conditional approval to  
36 participate in a solar incentive program pursuant to subsection t. of  
37 section 38 of P.L.1999, c.23 (C.48:3-87), and includes a facility that  
38 has received conditional approval from the board to participate in  
39 the solar incentive program pursuant to subsection t. of section 38  
40 of P.L.1999, c.23 (C.48:3-87) for which application was made.

41 “Solar incentive program” means a program administered by the  
42 board which awards transition renewable energy certificates.

43 “Tolling event” means any action or inaction of the PJM  
44 Interconnection, L.L.C., or an applicable electric public utility, any  
45 moratorium in new applications declared by the PJM  
46 Interconnection, L.L.C., or an applicable electric public utility, any  
47 deferral in processing of existing applications by the PJM  
48 Interconnection, L.L.C., or an applicable electric public utility, any

1 new application process, study, report, or analysis established by  
2 the PJM Interconnection, L.L.C., or an applicable electric public  
3 utility, to approve and contract a project, or the deferral to  
4 negotiate, execute, and deliver any other engineering or other  
5 studies, agreements, or approvals required by the PJM  
6 Interconnection, L.L.C., or an applicable electric public utility, as a  
7 prerequisite to project interconnection or commercial operation of a  
8 qualified solar electric power generation facility, that delays the  
9 timely completion or commercial operation of a qualified solar  
10 electric power generation facility.

11 “Transition renewable energy certificate” means a certificate  
12 issued by the Board of Public Utilities or its designee, under the  
13 solar energy transition incentive program, which is designed to  
14 transition between the solar renewable energy certificate program  
15 and a solar successor incentive program to be developed by the  
16 Board of Public Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et  
17 al.).

18

19 2. This act shall take effect immediately.

20

21

22

#### STATEMENT

23

24 This bill provides that deadlines for the completion or  
25 commercial operation of certain solar electric power generation  
26 facilities pursuant to subsection t. of section 38 of P.L.1999, c.23  
27 (C.48:3-87) may be extended as a result of delays in the approval  
28 and contracting process by the PJM Interconnection, L.L.C., or an  
29 applicable electric public utility.

30 Specifically, the bill would automatically extend the project  
31 completion or commercial operation deadline dates established for a  
32 solar electric power generation facility when a facility fails, or is  
33 projected to fail, to achieve project completion or commercial  
34 operation by the deadline date established by law, rule, regulation,  
35 board order, incentive program registration acceptance letter, or  
36 other approval or authorization for that facility, when the delay is  
37 due to any act or inaction by the PJM Interconnection, L.L.C.  
38 (“PJM”) or an applicable electric public utility, any moratorium in  
39 new applications declared by PJM or an electric public utility, any  
40 deferral in processing of existing applications by PJM or an electric  
41 public utility, any new application process, study, report, or analysis  
42 established by PJM or an electric public utility to approve and  
43 contract a project, or the deferral to negotiate, execute, and deliver  
44 any other engineering or other studies, agreements, or approvals  
45 required by the PJM or electric public utility as a prerequisite to  
46 project interconnection or commercial operation of a qualified solar  
47 electric power generation facility, ie., a “tolling event.”

1 To receive the extension provided by the bill, a project sponsor  
2 would be required to certify in writing, and provide supporting  
3 documentation, to the Board of Public Utilities (board) describing  
4 the tolling event and anticipated duration of the delay associated  
5 with the tolling event. Within 45 days after receipt of this  
6 certification, the bill would require the board to issue an  
7 unconditional order approving an automatic extension of the project  
8 deadline date or commercial operation deadline date established for  
9 that facility. The order would be issued by the board on a non-  
10 discretionary basis, and no factual investigation or hearing by the  
11 board would be conducted. The order would extend the previously  
12 established project completion or commercial operation deadline  
13 date for the facility by an amount of time coextensive with the  
14 duration of the tolling event, and may provide such other and  
15 further relief as the board may deem appropriate.

16 Under the bill, a project sponsor would have a continuing  
17 obligation to apprise the board, on at least a quarterly basis,  
18 regarding the nature and extent of the tolling event and its  
19 anticipated duration. Upon conclusion of the tolling event, the  
20 project sponsor would be required to complete the facility and  
21 commence commercial operation within the within the timeframe  
22 permitted by the Interconnection Service Agreement executed  
23 between the project sponsor, PJM Interconnection, L.L.C., and the  
24 public electric utility.

25 In the current solar energy development environment, the  
26 reorganization and reprogramming of application and contracting  
27 processes, including, but not limited to, a moratorium on new  
28 applications, and the suspension of existing applications by PJM  
29 and electric public utilities, have emerged which, if left  
30 unaddressed, could provide significant disincentives to solar  
31 expansion and threaten the State's ability to achieve its clean energy  
32 goals. In particular, delays associated with the interconnection of  
33 solar electric power generation facilities with the electric public  
34 utility distribution grid and the PJM interstate transmission grid,  
35 and securing related project development, interconnection, and  
36 construction agreements from the electric public utilities and PJM  
37 have, with increasing regularity, impeded the timely development of  
38 solar electric power generation facility projects.

39 Interconnection applications to an electric public utility and PJM  
40 typically involve the performance of detailed and lengthy  
41 engineering studies which, when completed, may result in a project  
42 sponsor being required to assume responsibility for system  
43 upgrades determined to be necessary to accommodate the additional  
44 load associated with the solar electric power generation facility.  
45 Each of these approvals must be obtained for solar energy projects  
46 to be deemed complete and authorized to commence commercial  
47 operation. The recent announcement by PJM regarding the  
48 imposition of a multi-year moratorium on the processing of

1 interconnection applications underscores that this is a special  
2 circumstance that requires relief in a manner similar to the  
3 relaxation of certain programmatic and rule requirements in  
4 response to the COVID-19 pandemic.

5 In addition, solar electric power generation facility project  
6 financing and development remains dependent upon the availability  
7 of the financial incentives made available through the clean energy  
8 programs administered by the board. As currently structured, a  
9 solar electric power generation facility is conditionally approved for  
10 participation in the board's solar financial incentive programs and  
11 to receive an award of incentives, with the approval contingent  
12 upon compliance with all program requirements, including the  
13 timely completion and commercial operation of the facility by a  
14 deadline date designated by the board. If a conditionally approved  
15 facility is not completed and in commercial operation by the  
16 designated deadline date, the facility is deemed ineligible to further  
17 participate in the solar incentive program applied for and the  
18 incentive is rescinded. The loss of incentives significantly detracts  
19 from the feasibility of proposed solar energy projects, rendering  
20 many more risky and less attractive to lenders, and increases the  
21 likelihood of project abandonment.

22 Given the increasing frequency and duration of delays associated  
23 with the interconnection of solar electric power generation  
24 facilities, it is appropriate for the State to safeguard against the  
25 potential loss of certain viable solar electric power generation  
26 facility projects pursuant to subsection t. of section 38 of P.L.1999,  
27 c.23 (C.48:3-87). In the current environment, solar electric power  
28 generation facility projects may become ineligible to participate in  
29 the solar incentive program for which they applied and to receive  
30 the solar incentives applied for due to a failure to achieve timely  
31 project completion and commercial operation solely because of  
32 unforeseeable delays caused PJM and electric public utilities. It is  
33 in the interests of the State to afford project sponsors automatic  
34 extensions of project completion and commercial operation  
35 deadline dates to preserve eligibility to participate in the solar  
36 incentive program pursuant to subsection t. of section 38 of  
37 P.L.1999, c.23 (C.48:3-87) for which the project was were  
38 conditionally approved and to receive the incentives offered  
39 pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87)  
40 in circumstances where project interconnection-related delays are  
41 attributable to third parties or circumstances over which the project  
42 sponsors are unable to exercise control. While project sponsors  
43 shall remain responsible for their failure to comply with deadline  
44 dates and other program requirements where the failure is  
45 attributable to the actions or inaction of the sponsors, under this  
46 bill, they would not be held responsible for failures to comply with  
47 requirements as a result of circumstances they cannot control.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2732**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 9, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2732, with committee amendments.

This bill, as amended by the committee, provides that deadlines for the completion or commercial operation of certain solar electric power generation facilities pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87) may be extended as a result of delays in the approval and contracting process by the PJM Interconnection, L.L.C., an electric public utility, or a local government unit.

Specifically, the bill would automatically extend the project completion or commercial operation deadline dates established for a "qualified solar electric power generation facility" when the facility fails, or is projected to fail, to achieve project completion or commercial operation by the deadline date established by law, rule, regulation, board order, incentive program registration acceptance letter, or other approval or authorization for that facility, as a result of a "tolling event." As defined by the bill, "qualified solar electric power generation facility" means "a solar electric power generation facility for which a project sponsor has submitted, on or before August 28, 2021, an application for conditional approval to participate in a solar incentive program pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87), and includes a facility that has received conditional approval from the board to participate in the solar incentive program pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87) for which application was made." The bill defines "tolling event" as "any action or inaction of the PJM Interconnection, L.L.C., or an applicable electric public utility, any moratorium in new applications declared by the PJM Interconnection, L.L.C., or an applicable electric public utility, any deferral in processing of existing applications by the PJM Interconnection, L.L.C., or an applicable electric public utility, any new application process, study, report, or analysis established by the PJM Interconnection, L.L.C., or an applicable electric public utility, to approve and contract a project, or the deferral to negotiate, execute, and deliver any other engineering or other studies, agreements, or approvals required by the PJM Interconnection, L.L.C., or an applicable electric public utility, as a prerequisite to project interconnection or commercial operation of a

qualified solar electric power generation facility, or any undue delay in the provision of a permit or approval required by a local government unit, including a local land use board, caused by the action or inaction of the local government unit, which delays the timely completion or commercial operation of a qualified solar electric power generation facility."

To receive the extension provided by the bill, a project sponsor would be required to certify in writing, and provide supporting documentation, to the Board of Public Utilities (board) describing the tolling event and anticipated duration of the delay associated with the tolling event. Within 45 days after receipt of this certification, the bill would require the board to issue an unconditional order approving an automatic extension of the project deadline date or commercial operation deadline date established for that facility. The order would be issued by the board on a non-discretionary basis, and no factual investigation or hearing by the board would be conducted. The order would extend the previously established project completion or commercial operation deadline date for the facility by an amount of time coextensive with the duration of the tolling event, and may provide such other and further relief as the board may deem appropriate.

Under the bill, a project sponsor would have a continuing obligation to apprise the board, on at least a quarterly basis, regarding the nature and extent of the tolling event and its anticipated duration. Upon conclusion of the tolling event, the project sponsor would be required to complete the facility and commence commercial operation within the timeframe permitted by the Interconnection Service Agreement executed between the project sponsor, PJM Interconnection, L.L.C., and the public electric utility.

The committee amendments to the bill:

(1) restrict the applicability of the bill to solar projects that submitted an application for conditional approval to participate in a solar incentive program pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87) prior to August 28, 2021, rather than any solar project that submitted an application pursuant to that law;

(2) delete the definitions of "solar incentive program" and "transition renewable energy certificate;" and

(3) expand the definition of "tolling event" to include certain delays related to permits and approvals required by local government units.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Third Reprint]

## **SENATE, No. 2732**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2732 (3R).

As amended by the committee, this bill provides that deadlines for the completion or commercial operation of certain solar electric power generation facilities may be extended as a result of delays in the approval and contracting process by the PJM Interconnection, L.L.C. (PJM).

Specifically, the bill would apply to solar electric power generation facilities that have, as of the effective date of the bill, received by board order conditional certification to participate in a solar incentive program pursuant to subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87). The bill would automatically extend the project completion or commercial operation deadline dates established for a solar electric power generation facility when the facility fails, or is projected to fail, to achieve project completion or commercial operation by certain deadline dates, provided that the delay is due to a tolling event. The extension granted by the bill would be for a period that is two years beyond what otherwise would be the deadline for the qualified solar electric power generation facility to achieve commercial operation pursuant to the applicable board order granting conditional certification as connected to the distribution system, including any extensions previously authorized by law, rule, regulation, or applicable board order. As defined in the bill, a “tolling event” means any action or inaction of the PJM Interconnection, L.L.C., any moratorium in new applications declared by the PJM Interconnection, L.L.C., any deferral in processing of existing applications by the PJM Interconnection, L.L.C., any new application process, study, report, or analysis established by the PJM Interconnection, L.L.C., to approve and contract a project, the deferral to negotiate, execute, and deliver any other engineering or other studies, agreements, or approvals required by the PJM Interconnection, L.L.C., as a prerequisite to project interconnection or commercial operation of a qualified solar electric power generation facility.

To receive the extension provided by the bill, a project sponsor would be required to certify in writing, and provide supporting documentation, to the Board of Public Utilities (BPU) describing the tolling event and anticipated duration of the delay associated with the tolling event. Within 45 days after receipt of this certification, the bill would require the BPU to issue an unconditional order approving an automatic extension of the project deadline date or commercial operation deadline date established for that facility. The order would be issued by the BPU on a non-discretionary basis, and no factual investigation or hearing by the BPU would be conducted. The order would extend the previously established project completion or commercial operation deadline date for the facility by an amount of time as provided by the bill, and may provide such other and further relief as the BPU may deem appropriate.

Under the bill, a project sponsor would have a continuing obligation to apprise the BPU, on at least a quarterly basis, regarding the nature and extent of the tolling event and its anticipated duration. The project sponsor would be required to complete the facility and commence commercial operation within the time period provided by the applicable board order and this section.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 4089 (4R) as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill delete language that would have provided a full solar incentive to a facility receiving an extension pursuant to the bill that achieves commercial operation on or prior to December 31, 2026.

FISCAL IMPACT:

Fiscal information for this bill currently unavailable.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2732**

with Senate Floor Amendments  
(Proposed by Senator SCUTARI)

ADOPTED: JUNE 20, 2023

These floor amendments:

1) change the length of the extension granted by the bill to be a period of two years beyond what otherwise would be the deadline for the qualified solar electric power generation facility (facility) to achieve commercial operation, instead of being a period coextensive with the duration of the delay associated with the applicable tolling event;

2) delete the requirement for a project sponsor to, upon conclusion of the tolling event, timely resume and complete development of those aspects of the facility that were delayed by the tolling event, and specify that the project sponsor complete the facility and commence commercial operation within the time period provided by applicable Board of Public Utilities (board) order and this bill, instead of within the timeframe permitted by the Interconnection Service Agreement executed between the project sponsor, PJM Interconnection, L.L.C., and the public electric utility;

3) require a project sponsor, in order to receive the extension of time provided by the bill, to deposit with the board a security escrow in the amount of \$4,000 per megawatt for which the facility applied to be certified as connected to the distribution system, and provide that if the facility does not achieve commercial operation by the date required by the bill, the security escrow would be released to the board and forfeited by the project sponsor;

4) provide that if a facility receiving an extension pursuant to the bill achieves commercial operation on or prior to December 31, 2026, that facility would receive the full solar incentive pursuant to the solar incentive program for which application was made;

5) provide that if a facility receiving an extension pursuant to the bill achieves commercial operation on or after January 1, 2027, but prior to December 31, 2027, that facility would receive the solar incentive pursuant to the solar incentive program for which application was made at a discount of five percent of the original incentive value;

6) provide that if a facility receiving an extension pursuant to the bill achieves commercial operation on or after January 1, 2028, but prior to December 31, 2028, that facility would receive the solar incentive pursuant to the solar incentive program for which application was made at a discount of 10 percent of the original incentive value; and

7) revise the definition of “tolling event.”

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 2732**

with Senate Floor Amendments  
(Proposed by Senator SCUTARI)

ADOPTED: JUNE 26, 2023

These floor amendments:

- 1) delete the requirement for a project sponsor to provide a security escrow in order to receive the extension of time provided by the bill;
- 2) revise the amount of solar incentive that a facility would receive under the bill; and
- 3) revise the definition of “qualified solar electric power generation facility.”

# Acting Governor Way Takes Action on Legislation

09/12/2023

**TRENTON** – Today, Acting Governor Way signed the following bills into law:

**S-3092/A-4793 (Smith, Codey/Benson, Daniels)** - Authorizes installation and operation of meter collar adapters on residential electric meters, under certain conditions

**S-3772/A-5671 (Pou/Atkins, Mukherji, Wimberly)** - Directs Office of the Public Defender to provide representation at parole revocation proceedings

**A-4089/S-2732 (DeAngelo, Benson, Karabinchak/Scutari, Smith)** - Extends deadlines, under certain circumstances, for completion and commercial operation of certain solar electric power generation facilities

**A-4090/S-1884 (Freiman, Pintor Marin, Karabinchak/Sarlo, Oroho)** - Requires State Auditor to annually publish user-friendly report summarizing and analyzing contents of State's Annual Financial Report

**A-4797/S-3255 (Karabinchak, Benson, Verrelli/Diegnan, Oroho)** - Concerns percentage of reclaimed asphalt pavement and recycled materials that can be used for certain road projects