

**13:1E-99.122 TO 3:1E-99.125 and 52:32-61 et al
LEGISLATIVE HISTORY CHECKLIST**

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LAWS OF: 2020 **CHAPTER:** 24

NJSA: 13:1E-99.122 TO 3:1E-99.125 and 52:32-61 et al (Requires large food waste generators to separate and recycle food waste and amends definition of "Class I renewable energy.")

BILL NO: A2371 (Substituted for S865)

SPONSOR(S) James J. Kennedy and others

DATE INTRODUCED: 1/27/2020

COMMITTEE: **ASSEMBLY:** Environment & Solid Waste
Telecommunications & Utilities

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 2/24/2020

SENATE: 3/5/2020

DATE OF APPROVAL: 4/14/2020

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

A2371

SPONSOR'S STATEMENT: (Begins on page 22 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Environment & Solid Waste
Telecomm. & Utilities

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S865

SPONSOR'S STATEMENT: (Begins on page 22 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

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FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Murphy signs bill to boost food waste recycling in New Jersey." NJBIZ (New Brunswick, NJ), April 16, 2020.

Rwh/cl

P.L. 2020, CHAPTER 24, *approved April 14, 2020*
Assembly, No. 2371 (*Second Reprint*)

1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and amending ²P.L.1987, c.102 and² P.L.1999, c.23.

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

7
8 1. (New section) As used in P.L. , c. (C.) (pending
9 before the Legislature as this bill):

10 “Alternative authorized food waste recycling method” means: (1)
11 recycling food waste at the site at which it is generated as
12 authorized by the Department of Environmental Protection; (2)
13 treating food waste at the site at which it is generated pursuant to a
14 permit issued by the department; (3) sending food waste for offsite
15 use for agricultural purposes, including as animal feed; (4) sending
16 food waste offsite for treatment with sewage sludge in an anaerobic
17 digester for renewable natural gas or biogas recovery as authorized
18 by the department; or (5) any other method of recycling or reuse of
19 food waste, as authorized by the department.

20 “Authorized food waste recycling facility” means a Class C
21 recycling center within the State authorized to accept, store,
22 process, or transfer food waste or compostable material, pursuant to
23 subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

24 “Department” means the Department of Environmental
25 Protection.

26 “Food waste” means food processing vegetative waste, food
27 processing residue generated from processing and packaging
28 operations, overripe produce, trimmings from food, food product
29 over-runs from food processing, soiled and unrecyclable paper
30 generated from food processing, and used cooking fats, oil, and
31 grease, but shall not include food donated by the generator for
32 human consumption , any waste generated by a consumer after the
33 generator issues or sells food to the consumer, or any waste
34 regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R.
35 s.94.5.

36 “Large food waste generator” means any commercial food
37 wholesaler, distributor, industrial food processor, supermarket,
38 resort, conference center, banquet hall, restaurant, educational or

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:

¹Assembly AEN committee amendments adopted February 3, 2020.

²Assembly ATU committee amendments adopted February 20, 2020.

1 religious institution, military installation, prison, hospital, medical
2 facility, or casino that produces at least 52 tons per year of food
3 waste; provided that "large food waste generator" shall not include
4 any interstate carrier conducting interstate transportation operations
5 in the post-security area of an international airport.

6 "Source separate" or "source separated" means the process by
7 which food waste is separated at the point of generation by the
8 generator thereof from other solid waste for the purpose of
9 recycling.

10

11 2. (New section) a. Beginning ²[one year] 18 months² after
12 the effective date of P.L. , c. (C.) (pending before the
13 Legislature as this bill), each large food waste generator ², for each
14 individual establishment or location owned or operated by the large
15 food waste generator² that is located within 25 road miles of an
16 authorized food waste recycling facility and ²[that]² generates an
17 average projected volume of 52 or more tons per year of food waste
18 within 25 road miles of an authorized food waste recycling facility
19 ², ² shall:

20 (1) source separate its food waste from other solid waste; and

21 (2) send the source separated food waste to an authorized food
22 waste recycling facility that has available capacity and will accept
23 it.

24 b. Notwithstanding the provisions of subsection a. of this
25 section:

26 (1) If a large food waste generator is not located within 25 road
27 miles of an authorized food waste recycling facility, or the
28 authorized food waste recycling facility will not accept the
29 generator's food waste, the large food waste generator may send the
30 food waste for final disposal at a solid waste facility as provided in
31 the approved district solid waste management plan for the solid
32 waste management district in which the generator is located;

33 (2) Any large food waste generator that is obligated to source
34 separate and recycle its food waste pursuant to subsection a. of this
35 section shall be deemed to be in compliance with the provisions of
36 this section if the large food waste generator:

37 (a) performs enclosed on-site composting, or anaerobic or
38 aerobic digestion of its source separated food waste in accordance
39 with standards adopted by the department pursuant to subsection d.
40 of this section, or

41 (b) recycles food waste using an alternative authorized food
42 waste recycling method; and

43 (3) A large food waste generator may petition the Department of
44 Environmental Protection for a waiver of the requirements in
45 subsection a. of this section if the cost of transporting the food
46 waste plus the fee charged by an authorized food waste recycling
47 facility located within 25 road miles of the large food waste

1 generator is at least 10 percent more than the cost of transporting
2 the food waste for disposal as solid waste plus the disposal fee
3 charged for solid waste disposal in the State for noncontract
4 commercial waste by a properly licensed transfer station, sanitary
5 landfill facility, incinerator, or resource recovery facility located
6 within 25 road miles of the large food waste generator provided that
7 any authorized food waste recycling facility located within 25 road
8 miles of the large food waste generator seeking the waiver must be
9 given notice of the petition and an opportunity to participate in the
10 proceeding before the department.

11 c. Any person who violates ²**[this act]** P.L. _____, c. _____ (C. _____)
12 (pending before the Legislature as this bill)², or any rule or
13 regulation adopted pursuant thereto, shall be subject to a civil
14 penalty of \$250 for the first offense, \$500 for the second offense,
15 and \$1,000 for the third and each subsequent offense, to be
16 collected in a civil action by a summary proceeding under the
17 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
18 et seq.). If the violation is of a continuing nature, each day during
19 which it continues shall constitute an additional, separate, and
20 distinct offense. The Superior Court and the municipal court shall
21 have jurisdiction to enforce the provisions of the “Penalty
22 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.) in
23 connection with this subsection.

24 d. The Department of Environmental Protection shall adopt,
25 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
26 (C.52:14B-1 et seq.), rules and regulations necessary to implement
27 this section, including, but not limited to:

28 (1) record keeping and reporting requirements for large food
29 waste generators and authorized food waste recycling facilities, as
30 determined necessary by the department;

31 (2) guidelines and procedures for businesses to follow to
32 determine whether they are subject to the requirements of this
33 section, including food waste generation estimates and food waste
34 audits or assessments;

35 (3) a list of food waste products that must be source separated
36 and recycled pursuant to this section;

37 (4) standards for the enclosed on-site composting, or anaerobic
38 or aerobic digestion of source separated food waste, including
39 requirements for energy production and other sustainable uses of
40 the byproducts of recycled food waste; ²**[and]**²

41 (5) a list of actions businesses may take to reduce the amount of
42 food waste they generate to a level below the threshold amount
43 established in subsection a. of this section ²; and

44 (6) procedures for a large food waste generator to follow when
45 petitioning the department for a waiver pursuant to paragraph (3) of
46 subsection b. of this section² .

1 e. The department shall publish on its Internet website the
2 name, location, and contact information for each authorized food
3 waste recycling facility in the State.

4
5 3. (New section) a. Any municipality within which an
6 authorized food waste recycling facility is located, pursuant to an
7 adopted district solid waste management plan approved after the
8 effective date of P.L. , c. (C.)(pending before the
9 Legislature as this bill), shall be entitled to an economic benefit of
10 not less than the equivalent of \$0.50 per ton, to be paid and adjusted
11 quarterly, of all food waste accepted for processing at the
12 authorized food waste recycling facility during the ¹[2019] 2021¹
13 calendar year and each year thereafter. The owner or operator of
14 the authorized food waste recycling facility shall pay quarterly to
15 the municipality the full amount due under this subsection. The
16 municipality is authorized to anticipate this amount for the purposes
17 of preparing its annual budget.

18 b. For the purposes of calculating the payments, the owner or
19 operator of the authorized food waste recycling facility may, subject
20 to the prior agreement of the municipality and approval of the
21 Department of Environmental Protection, provide the municipality
22 with any of the following benefits in consideration for the use of
23 land within the municipality's boundaries as the location of the
24 authorized food waste recycling facility:

25 (1) quarterly payments of money in lieu of taxes on the land
26 used for the authorized food waste recycling center or other
27 authorized facility;

28 (2) exemption from all fees and charges for the acceptance of
29 food waste for composting, anaerobic or aerobic digestion, or other
30 processing, as approved by the department, of food waste generated
31 within the municipality's boundaries;

32 (3) quarterly lump sum cash payments; or

33 (4) any combination thereof.

34
35 4. (New section) a. There is established in the Department of
36 Environmental Protection a Food Waste Recycling Market
37 Development Council, which shall consist of 12 members. The
38 members shall include the Commissioner of Environmental
39 Protection, the President of the Board of Public Utilities, the
40 Commissioner of Transportation, the Secretary of Agriculture, the
41 State Treasurer, and the Attorney General, or their designees, who
42 shall serve ex officio; and six citizens of the State appointed by the
43 Governor. Of the appointed members: two shall be actively
44 engaged in the composting industry, of whom one shall be a
45 representative of the National Waste and Recycling Association and
46 one shall be a representative of the National Biosolids Partnership
47 or equivalent entities; two shall be actively engaged in the recycling
48 or solid waste collection industry, of whom one shall be a

1 representative of the Association of New Jersey Recyclers or
2 equivalent entities; and two shall represent the general public. The
3 Commissioner of Environmental Protection shall appoint the
4 chairperson and the vice-chairperson of the council from the citizen
5 members.

6 b. Members of the council shall serve without compensation,
7 but shall be reimbursed for expenses incurred in attending meetings
8 and performing their duties to the extent funds are available
9 therefor.

10 c. Within 18 months after the date of enactment of this act, the
11 Food Waste Recycling Market Development Council shall prepare a
12 report on the existing markets for any products and energy produced
13 from food recycling facilities, food waste composting facilities, and
14 anaerobic and aerobic digestion facilities that accept food waste
15 material. The council shall investigate the feasibility of providing
16 preferences for products or energy produced from food recycling
17 facilities, food waste composting facilities, and anaerobic and
18 aerobic digestion facilities in the State procurement process,
19 including how to stimulate the use in public projects of compost or
20 soil amendment products derived from these facilities. The council
21 shall provide recommendations on changes needed to State laws or
22 rules or regulations to stimulate the market for products and energy
23 produced from food recycling facilities, food waste composting
24 facilities, and anaerobic and aerobic digestion facilities that accept
25 food waste material. The report shall be transmitted to the Governor
26 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
27 Legislature.

28

29 5. (New section) a. Every State department or agency that
30 engages in landscaping or construction activities on State land, or
31 for State projects or facilities, shall use, where technically feasible,
32 environmentally sound, and competitively priced, compost, mulch,
33 or other soil amendments produced from municipal solid waste,
34 food waste, sludge, yard waste, clean wood waste, or other organic
35 materials that the supplier has certified comply with applicable
36 project standards and specifications. Such compost, mulch, or soil
37 amendments shall be used in place of chemical fertilizers or soil
38 amendments.

39 b. In purchasing compost, mulch, or other soil amendments for
40 use by the various departments or agencies of State government, the
41 Director of the Division of Purchase and Property in the Department
42 of the Treasury, whenever the price is competitive and the quality
43 satisfactory for the purpose intended, shall make contracts available
44 for compost, mulch, or other soil amendments produced from
45 municipal solid waste, food waste, sludge, yard waste, clean wood
46 waste, or other organic materials.

47 c. As used in this section:

1 "Competitive" or "competitively priced" means a price of no
2 more than 10% above the price of products which are manufactured
3 or produced from virgin materials; except that the Director of the
4 Division of Purchase and Property, upon consultation with the
5 Department of Environmental Protection, may make contracts
6 available for compost, mulch, or other soil amendments produced
7 from municipal solid waste, food waste, sludge, yard waste, clean
8 wood waste, or other organic materials at a price no more than 15%
9 above the price of products manufactured or produced from virgin
10 materials whenever the director determines that a 15% price
11 differential is in the best interest of the State.

12 "Food waste" shall have the same meaning as provided in section
13 1 of P.L. , c. (C.) (pending before the Legislature as this
14 bill).

15

16 ²6. Section 41 of P.L.1987, c.102 (C.13:1E-99.34) is amended
17 to read as follows:

18 41. a. Notwithstanding the provisions of P.L.1970, c.39
19 (C.13:1E-1 et seq.) or any other law, rule or regulation to the
20 contrary, no recycling center as defined in section 2 of P.L.1987,
21 c.102 (C.13:1E-99.12) shall be required by the department to obtain
22 a registration statement, engineering design approval, or approval of
23 an environmental and health impact statement prior to the
24 commencement of operations.

25 b. No recycling center shall receive, store, process or transfer
26 any waste material other than source separated nonputrescible or
27 source separated commingled nonputrescible metal, glass, paper, or
28 plastic containers, and corrugated and other cardboard without the
29 prior approval of the department.

30 c. An authorized food waste recycling facility, as defined
31 pursuant to section 1 of P.L. , c. (C.) (pending before the
32 Legislature as this bill), located and constructed, pursuant to an
33 adopted district solid waste management plan approved after the
34 effective date of P.L. , c. (C.) (pending before the
35 Legislature as this bill), shall, where feasible, employ minority and
36 women applicants that reside near the facility.²

37 (cf: P.L.1987, c.102, s.41)

38

39 ²[6.] 7.² Section 3 of P.L.1999, c.23 (C.48:3-51) is amended
40 to read as follows:

41 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

42 "Assignee" means a person to which an electric public utility or
43 another assignee assigns, sells, or transfers, other than as security,
44 all or a portion of its right to or interest in bondable transition
45 property. Except as specifically provided in P.L.1999,
46 c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public
47 utility requirements of Title 48 or any rules or regulations adopted
48 pursuant thereto.

1 "Base load electric power generation facility" means an electric
2 power generation facility intended to be operated at a greater than
3 50 percent capacity factor including, but not limited to, a combined
4 cycle power facility and a combined heat and power facility.

5 "Base residual auction" means the auction conducted by PJM, as
6 part of PJM's reliability pricing model, three years prior to the start
7 of the delivery year to secure electrical capacity as necessary to
8 satisfy the capacity requirements for that delivery year.

9 "Basic gas supply service" means gas supply service that is
10 provided to any customer that has not chosen an alternative gas
11 supplier, whether or not the customer has received offers as to
12 competitive supply options, including, but not limited to, any
13 customer that cannot obtain such service for any reason, including
14 non-payment for services. Basic gas supply service is not a
15 competitive service and shall be fully regulated by the board.

16 "Basic generation service" or "BGS" means electric generation
17 service that is provided, to any customer that has not chosen an
18 alternative electric power supplier, whether or not the customer has
19 received offers for competitive supply options, including, but not
20 limited to, any customer that cannot obtain such service from an
21 electric power supplier for any reason, including non-payment for
22 services. Basic generation service is not a competitive service and
23 shall be fully regulated by the board.

24 "Basic generation service provider" or "provider" means a
25 provider of basic generation service.

26 "Basic generation service transition costs" means the amount by
27 which the payments by an electric public utility for the procurement
28 of power for basic generation service and related ancillary and
29 administrative costs exceeds the net revenues from the basic
30 generation service charge established by the board pursuant to
31 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
32 together with interest on the balance at the board-approved rate, that
33 is reflected in a deferred balance account approved by the board in
34 an order addressing the electric public utility's unbundled rates,
35 stranded costs, and restructuring filings pursuant to P.L.1999,
36 c.23 (C.48:3-49 et al.). Basic generation service transition costs
37 shall include, but are not limited to, costs of purchases from the
38 spot market, bilateral contracts, contracts with non-utility
39 generators, parting contracts with the purchaser of the electric
40 public utility's divested generation assets, short-term advance
41 purchases, and financial instruments such as hedging, forward
42 contracts, and options. Basic generation service transition costs
43 shall also include the payments by an electric public utility pursuant
44 to a competitive procurement process for basic generation service
45 supply during the transition period, and costs of any such process
46 used to procure the basic generation service supply.

47 "Board" means the New Jersey Board of Public Utilities or any
48 successor agency.

1 "Bondable stranded costs" means any stranded costs or basic
2 generation service transition costs of an electric public utility
3 approved by the board for recovery pursuant to the provisions of
4 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
5 board: (1) the cost of retiring existing debt or equity capital of the
6 electric public utility, including accrued interest, premium and other
7 fees, costs, and charges relating thereto, with the proceeds of the
8 financing of bondable transition property; (2) if requested by an
9 electric public utility in its application for a bondable stranded costs
10 rate order, federal, State and local tax liabilities associated with
11 stranded costs recovery, basic generation service transition cost
12 recovery, or the transfer or financing of the property, or both,
13 including taxes, whose recovery period is modified by the effect of
14 a stranded costs recovery order, a bondable stranded costs rate
15 order, or both; and (3) the costs incurred to issue, service or
16 refinance transition bonds, including interest, acquisition or
17 redemption premium, and other financing costs, whether paid upon
18 issuance or over the life of the transition bonds, including, but not
19 limited to, credit enhancements, service charges,
20 overcollateralization, interest rate cap, swap or collar, yield
21 maintenance, maturity guarantee or other hedging agreements,
22 equity investments, operating costs, and other related fees, costs,
23 and charges, or to assign, sell, or otherwise transfer bondable
24 transition property.

25 "Bondable stranded costs rate order" means one or more
26 irrevocable written orders issued by the board pursuant to P.L.1999,
27 c.23 (C.48:3-49 et al.) which determines the amount of bondable
28 stranded costs and the initial amount of transition bond charges
29 authorized to be imposed to recover the bondable stranded costs,
30 including the costs to be financed from the proceeds of the
31 transition bonds, as well as on-going costs associated with servicing
32 and credit enhancing the transition bonds, and provides the electric
33 public utility specific authority to issue or cause to be issued,
34 directly or indirectly, transition bonds through a financing entity
35 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
36 which order shall become effective immediately upon the written
37 consent of the related electric public utility to the order as provided
38 in P.L.1999, c.23 (C.48:3-49 et al.).

39 "Bondable transition property" means the property consisting of
40 the irrevocable right to charge, collect, and receive, and be paid
41 from collections of, transition bond charges in the amount necessary
42 to provide for the full recovery of bondable stranded costs which
43 are determined to be recoverable in a bondable stranded costs rate
44 order, all rights of the related electric public utility under the
45 bondable stranded costs rate order including, without limitation, all
46 rights to obtain periodic adjustments of the related transition bond
47 charges pursuant to subsection b. of section 15 of P.L.1999,

1 c.23 (C.48:3-64), and all revenues, collections, payments, money,
2 and proceeds arising under, or with respect to, all of the foregoing.

3 "British thermal unit" or "Btu" means the amount of heat
4 required to increase the temperature of one pound of water by one
5 degree Fahrenheit.

6 "Broker" means a duly licensed electric power supplier that
7 assumes the contractual and legal responsibility for the sale of
8 electric generation service, transmission, or other services to end-
9 use retail customers, but does not take title to any of the power sold,
10 or a duly licensed gas supplier that assumes the contractual and
11 legal obligation to provide gas supply service to end-use retail
12 customers, but does not take title to the gas.

13 "Brownfield" means any former or current commercial or
14 industrial site that is currently vacant or underutilized and on which
15 there has been, or there is suspected to have been, a discharge of a
16 contaminant.

17 "Buydown" means an arrangement or arrangements involving the
18 buyer and seller in a given power purchase contract and, in some
19 cases third parties, for consideration to be given by the buyer in
20 order to effectuate a reduction in the pricing, or the restructuring of
21 other terms to reduce the overall cost of the power contract, for the
22 remaining succeeding period of the purchased power arrangement
23 or arrangements.

24 "Buyout" means an arrangement or arrangements involving the
25 buyer and seller in a given power purchase contract and, in some
26 cases third parties, for consideration to be given by the buyer in
27 order to effectuate a termination of such power purchase contract.

28 "Class I renewable energy" means electric energy produced from
29 solar technologies, photovoltaic technologies, wind energy, fuel
30 cells, geothermal technologies, wave or tidal action, small scale
31 hydropower facilities with a capacity of three megawatts or less and
32 put into service after the effective date of P.L.2012, c.24, **[and]**
33 methane gas from landfills **[or]**, methane gas from a biomass
34 facility**[,]** provided that the biomass is cultivated and harvested in a
35 sustainable manner, or methane gas from a composting or anaerobic
36 or aerobic digestion facility that converts food waste or other
37 organic waste to energy.

38 "Class II renewable energy" means electric energy produced at a
39 hydropower facility with a capacity of greater than three megawatts,
40 but less than 30 megawatts, or a resource recovery facility, provided
41 that the facility is located where retail competition is permitted and
42 provided further that the Commissioner of Environmental
43 Protection has determined that the facility meets the highest
44 environmental standards and minimizes any impacts to the
45 environment and local communities. Class II renewable energy
46 shall not include electric energy produced at a hydropower facility
47 with a capacity of greater than 30 megawatts on or after the
48 effective date of P.L.2015, c.51.

1 "Co-generation" means the sequential production of electricity
2 and steam or other forms of useful energy used for industrial or
3 commercial heating and cooling purposes.

4 "Combined cycle power facility" means a generation facility that
5 combines two or more thermodynamic cycles, by producing electric
6 power via the combustion of fuel and then routing the resulting
7 waste heat by-product to a conventional boiler or to a heat recovery
8 steam generator for use by a steam turbine to produce electric
9 power, thereby increasing the overall efficiency of the generating
10 facility.

11 "Combined heat and power facility" or "co-generation facility"
12 means a generation facility which produces electric energy and
13 steam or other forms of useful energy such as heat, which are used
14 for industrial or commercial heating or cooling purposes. A
15 combined heat and power facility or co-generation facility shall not
16 be considered a public utility.

17 "Competitive service" means any service offered by an electric
18 public utility or a gas public utility that the board determines to be
19 competitive pursuant to section 8 or section 10 of P.L.1999,
20 c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board.

21 "Commercial and industrial energy pricing class customer" or
22 "CIEP class customer" means that group of non-residential
23 customers with high peak demand, as determined by periodic board
24 order, which either is eligible or which would be eligible, as
25 determined by periodic board order, to receive funds from the Retail
26 Margin Fund established pursuant to section 9 of P.L.1999,
27 c.23 (C.48:3-57) and for which basic generation service is hourly-
28 priced.

29 "Comprehensive resource analysis" means an analysis including,
30 but not limited to, an assessment of existing market barriers to the
31 implementation of energy efficiency and renewable technologies
32 that are not or cannot be delivered to customers through a
33 competitive marketplace.

34 "Connected to the distribution system" means, for a solar electric
35 power generation facility, that the facility is: (1) connected to a net
36 metering customer's side of a meter, regardless of the voltage at
37 which that customer connects to the electric grid; (2) an on-site
38 generation facility; (3) qualified for net metering aggregation as
39 provided pursuant to paragraph (4) of subsection e. of section 38 of
40 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
41 public utility and approved by the board pursuant to section 13 of
42 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric
43 grid at 69 kilovolts or less, regardless of how an electric public
44 utility classifies that portion of its electric grid, and is designated as
45 "connected to the distribution system" by the board pursuant to
46 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
47 87); or (6) is certified by the board, in consultation with the
48 Department of Environmental Protection, as being located on a

1 brownfield, on an area of historic fill, or on a properly closed
2 sanitary landfill facility. Any solar electric power generation
3 facility, other than that of a net metering customer on the customer's
4 side of the meter, connected above 69 kilovolts shall not be
5 considered connected to the distribution system.

6 "Customer" means any person that is an end user and is
7 connected to any part of the transmission and distribution system
8 within an electric public utility's service territory or a gas public
9 utility's service territory within this State.

10 "Customer account service" means metering, billing, or such
11 other administrative activity associated with maintaining a customer
12 account.

13 "Delivery year" or "DY" means the 12-month period from June
14 1st through May 31st, numbered according to the calendar year in
15 which it ends.

16 "Demand side management" means the management of customer
17 demand for energy service through the implementation of cost-
18 effective energy efficiency technologies, including, but not limited
19 to, installed conservation, load management, and energy efficiency
20 measures on and in the residential, commercial, industrial,
21 institutional, and governmental premises and facilities in this State.

22 "Electric generation service" means the provision of retail
23 electric energy and capacity which is generated off-site from the
24 location at which the consumption of such electric energy and
25 capacity is metered for retail billing purposes, including agreements
26 and arrangements related thereto.

27 "Electric power generator" means an entity that proposes to
28 construct, own, lease, or operate, or currently owns, leases, or
29 operates, an electric power production facility that will sell or does
30 sell at least 90 percent of its output, either directly or through a
31 marketer, to a customer or customers located at sites that are not on
32 or contiguous to the site on which the facility will be located or is
33 located. The designation of an entity as an electric power generator
34 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
35 and of itself, affect the entity's status as an exempt wholesale
36 generator under the Public Utility Holding Company Act of 1935,
37 15 U.S.C. s.79 et seq., or its successor act.

38 "Electric power supplier" means a person or entity that is duly
39 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
40 al.) to offer and to assume the contractual and legal responsibility to
41 provide electric generation service to retail customers, and includes
42 load serving entities, marketers, and brokers that offer or provide
43 electric generation service to retail customers. The term excludes an
44 electric public utility that provides electric generation service only
45 as a basic generation service pursuant to section 9 of P.L.1999,
46 c.23 (C.48:3-57).

1 "Electric public utility" means a public utility, as that term is
2 defined in R.S.48:2-13, that transmits and distributes electricity to
3 end users within this State.

4 "Electric related service" means a service that is directly related
5 to the consumption of electricity by an end user, including, but not
6 limited to, the installation of demand side management measures at
7 the end user's premises, the maintenance, repair, or replacement of
8 appliances, lighting, motors, or other energy-consuming devices at
9 the end user's premises, and the provision of energy consumption
10 measurement and billing services.

11 "Electronic signature" means an electronic sound, symbol, or
12 process, attached to, or logically associated with, a contract or other
13 record, and executed or adopted by a person with the intent to sign
14 the record.

15 "Eligible generator" means a developer of a base load or mid-
16 merit electric power generation facility including, but not limited to,
17 an on-site generation facility that qualifies as a capacity resource
18 under PJM criteria and that commences construction after the
19 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

20 "Energy agent" means a person that is duly registered pursuant to
21 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
22 sale of retail electricity or electric related services, or retail gas
23 supply or gas related services, between government aggregators or
24 private aggregators and electric power suppliers or gas suppliers,
25 but does not take title to the electric or gas sold.

26 "Energy consumer" means a business or residential consumer of
27 electric generation service or gas supply service located within the
28 territorial jurisdiction of a government aggregator.

29 "Energy efficiency portfolio standard" means a requirement to
30 procure a specified amount of energy efficiency or demand side
31 management resources as a means of managing and reducing energy
32 usage and demand by customers.

33 "Energy year" or "EY" means the 12-month period from June 1st
34 through May 31st, numbered according to the calendar year in
35 which it ends.

36 "Existing business relationship" means a relationship formed by
37 a voluntary two-way communication between an electric power
38 supplier, gas supplier, broker, energy agent, marketer, private
39 aggregator, sales representative, or telemarketer and a customer,
40 regardless of an exchange of consideration, on the basis of an
41 inquiry, application, purchase, or transaction initiated by the
42 customer regarding products or services offered by the electric
43 power supplier, gas supplier, broker, energy agent, marketer,
44 private aggregator, sales representative, or telemarketer; however, a
45 consumer's use of electric generation service or gas supply service
46 through the consumer's electric public utility or gas public utility
47 shall not constitute or establish an existing business relationship for
48 the purpose of P.L.2013, c.263.

1 "Farmland" means land actively devoted to agricultural or
2 horticultural use that is valued, assessed, and taxed pursuant to the
3 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
4 23.1 et seq.).

5 "Federal Energy Regulatory Commission" or "FERC" means the
6 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
7 regulate the interstate transmission of electricity, natural gas, and
8 oil.

9 "Final remediation document" shall have the same meaning as
10 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

11 "Financing entity" means an electric public utility, a special
12 purpose entity, or any other assignee of bondable transition
13 property, which issues transition bonds. Except as specifically
14 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
15 which is not itself an electric public utility shall not be subject to
16 the public utility requirements of Title 48 of the Revised Statutes or
17 any rules or regulations adopted pursuant thereto.

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

20 "Gas related service" means a service that is directly related to
21 the consumption of gas by an end user, including, but not limited to,
22 the installation of demand side management measures at the end
23 user's premises, the maintenance, repair or replacement of
24 appliances or other energy-consuming devices at the end user's
25 premises, and the provision of energy consumption measurement
26 and billing services.

27 "Gas supplier" means a person that is duly licensed pursuant to
28 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
29 assume the contractual and legal obligation to provide gas supply
30 service to retail customers, and includes, but is not limited to,
31 marketers and brokers. A non-public utility affiliate of a public
32 utility holding company may be a gas supplier, but a gas public
33 utility or any subsidiary of a gas utility is not a gas supplier. In the
34 event that a gas public utility is not part of a holding company legal
35 structure, a related competitive business segment of that gas public
36 utility may be a gas supplier, provided that related competitive
37 business segment is structurally separated from the gas public
38 utility, and provided that the interactions between the gas public
39 utility and the related competitive business segment are subject to
40 the affiliate relations standards adopted by the board pursuant to
41 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

42 "Gas supply service" means the provision to customers of the
43 retail commodity of gas, but does not include any regulated
44 distribution service.

45 "Government aggregator" means any government entity subject
46 to the requirements of the "Local Public Contracts Law," P.L.1971,
47 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
48 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"

1 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
2 contract with a licensed electric power supplier or a licensed gas
3 supplier for: (1) the provision of electric generation service, electric
4 related service, gas supply service, or gas related service for its own
5 use or the use of other government aggregators; or (2) if a
6 municipal or county government, the provision of electric
7 generation service or gas supply service on behalf of business or
8 residential customers within its territorial jurisdiction.

9 "Government energy aggregation program" means a program and
10 procedure pursuant to which a government aggregator enters into a
11 written contract for the provision of electric generation service or
12 gas supply service on behalf of business or residential customers
13 within its territorial jurisdiction.

14 "Governmental entity" means any federal, state, municipal, local,
15 or other governmental department, commission, board, agency,
16 court, authority, or instrumentality having competent jurisdiction.

17 "Greenhouse gas emissions portfolio standard" means a
18 requirement that addresses or limits the amount of carbon dioxide
19 emissions indirectly resulting from the use of electricity as applied
20 to any electric power suppliers and basic generation service
21 providers of electricity.

22 "Historic fill" means generally large volumes of non-indigenous
23 material, no matter what date they were emplaced on the site, used
24 to raise the topographic elevation of a site, which were
25 contaminated prior to emplacement and are in no way connected
26 with the operations at the location of emplacement and which
27 include, but are not limited to, construction debris, dredge spoils,
28 incinerator residue, demolition debris, fly ash, and non-hazardous
29 solid waste. "Historic fill" shall not include any material which is
30 substantially chromate chemical production waste or any other
31 chemical production waste or waste from processing of metal or
32 mineral ores, residues, slags, or tailings.

33 "Incremental auction" means an auction conducted by PJM, as
34 part of PJM's reliability pricing model, prior to the start of the
35 delivery year to secure electric capacity as necessary to satisfy the
36 capacity requirements for that delivery year, that is not otherwise
37 provided for in the base residual auction.

38 "Leakage" means an increase in greenhouse gas emissions
39 related to generation sources located outside of the State that are not
40 subject to a state, interstate, or regional greenhouse gas emissions
41 cap or standard that applies to generation sources located within the
42 State.

43 "Locational deliverability area" or "LDA" means one or more of
44 the zones within the PJM region which are used to evaluate area
45 transmission constraints and reliability issues including electric
46 public utility company zones, sub-zones, and combinations of
47 zones.

1 "Long-term capacity agreement pilot program" or "LCAPP"
2 means a pilot program established by the board that includes
3 participation by eligible generators, to seek offers for financially-
4 settled standard offer capacity agreements with eligible generators
5 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

6 "Market transition charge" means a charge imposed pursuant to
7 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
8 utility, at a level determined by the board, on the electric public
9 utility customers for a limited duration transition period to recover
10 stranded costs created as a result of the introduction of electric
11 power supply competition pursuant to the provisions of P.L.1999,
12 c.23 (C.48:3-49 et al.).

13 "Marketer" means a duly licensed electric power supplier that
14 takes title to electric energy and capacity, transmission and other
15 services from electric power generators and other wholesale
16 suppliers and then assumes the contractual and legal obligation to
17 provide electric generation service, and may include transmission
18 and other services, to an end-use retail customer or customers, or a
19 duly licensed gas supplier that takes title to gas and then assumes
20 the contractual and legal obligation to provide gas supply service to
21 an end-use customer or customers.

22 "Mid-merit electric power generation facility" means a
23 generation facility that operates at a capacity factor between
24 baseload generation facilities and peaker generation facilities.

25 "Net metering aggregation" means a procedure for calculating
26 the combination of the annual energy usage for all facilities owned
27 by a single customer where such customer is a State entity, school
28 district, county, county agency, county authority, municipality,
29 municipal agency, or municipal authority, and which are served by
30 a solar electric power generating facility as provided pursuant to
31 paragraph (4) of subsection e. of section 38 of P.L.1999,
32 c.23 (C.48:3-87).

33 "Net proceeds" means proceeds less transaction and other related
34 costs as determined by the board.

35 "Net revenues" means revenues less related expenses, including
36 applicable taxes, as determined by the board.

37 "Offshore wind energy" means electric energy produced by a
38 qualified offshore wind project.

39 "Offshore wind renewable energy certificate" or "OREC" means
40 a certificate, issued by the board or its designee, representing the
41 environmental attributes of one megawatt hour of electric
42 generation from a qualified offshore wind project.

43 "Off-site end use thermal energy services customer" means an
44 end use customer that purchases thermal energy services from an
45 on-site generation facility, combined heat and power facility, or co-
46 generation facility, and that is located on property that is separated
47 from the property on which the on-site generation facility,
48 combined heat and power facility, or co-generation facility is

1 located by more than one easement, public thoroughfare, or
2 transportation or utility-owned right-of-way.

3 "On-site generation facility" means a generation facility,
4 including, but not limited to, a generation facility that produces
5 Class I or Class II renewable energy, and equipment and services
6 appurtenant to electric sales by such facility to the end use customer
7 located on the property or on property contiguous to the property on
8 which the end user is located. An on-site generation facility shall
9 not be considered a public utility. The property of the end use
10 customer and the property on which the on-site generation facility is
11 located shall be considered contiguous if they are geographically
12 located next to each other, but may be otherwise separated by an
13 easement, public thoroughfare, transportation or utility-owned
14 right-of-way, or if the end use customer is purchasing thermal
15 energy services produced by the on-site generation facility, for use
16 for heating or cooling, or both, regardless of whether the customer
17 is located on property that is separated from the property on which
18 the on-site generation facility is located by more than one easement,
19 public thoroughfare, or transportation or utility-owned right-of-way.

20 "Person" means an individual, partnership, corporation,
21 association, trust, limited liability company, governmental entity, or
22 other legal entity.

23 "PJM Interconnection, L.L.C." or "PJM" means the privately-
24 held, limited liability corporation that is a FERC-approved Regional
25 Transmission Organization, or its successor, that manages the
26 regional, high-voltage electricity grid serving all or parts of 13
27 states including New Jersey and the District of Columbia, operates
28 the regional competitive wholesale electric market, manages the
29 regional transmission planning process, and establishes systems and
30 rules to ensure that the regional and in-State energy markets operate
31 fairly and efficiently.

32 "Preliminary assessment" shall have the same meaning as
33 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

34 "Private aggregator" means a non-government aggregator that is
35 a duly-organized business or non-profit organization authorized to
36 do business in this State that enters into a contract with a duly
37 licensed electric power supplier for the purchase of electric energy
38 and capacity, or with a duly licensed gas supplier for the purchase
39 of gas supply service, on behalf of multiple end-use customers by
40 combining the loads of those customers.

41 "Properly closed sanitary landfill facility" means a sanitary
42 landfill facility, or a portion of a sanitary landfill facility, for which
43 performance is complete with respect to all activities associated
44 with the design, installation, purchase, or construction of all
45 measures, structures, or equipment required by the Department of
46 Environmental Protection, pursuant to law, in order to prevent,
47 minimize, or monitor pollution or health hazards resulting from a
48 sanitary landfill facility subsequent to the termination of operations

1 at any portion thereof, including, but not necessarily limited to, the
2 placement of earthen or vegetative cover, and the installation of
3 methane gas vents or monitors and leachate monitoring wells or
4 collection systems at the site of any sanitary landfill facility.

5 "Public utility holding company" means: (1) any company that,
6 directly or indirectly, owns, controls, or holds with power to vote,
7 10 percent or more of the outstanding voting securities of an
8 electric public utility or a gas public utility or of a company which
9 is a public utility holding company by virtue of this definition,
10 unless the Securities and Exchange Commission, or its successor,
11 by order declares such company not to be a public utility holding
12 company under the Public Utility Holding Company Act of 1935,
13 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
14 Securities and Exchange Commission, or its successor, determines,
15 after notice and opportunity for hearing, directly or indirectly, to
16 exercise, either alone or pursuant to an arrangement or
17 understanding with one or more other persons, such a controlling
18 influence over the management or policies of an electric public
19 utility or a gas public utility or public utility holding company as to
20 make it necessary or appropriate in the public interest or for the
21 protection of investors or consumers that such person be subject to
22 the obligations, duties, and liabilities imposed in the Public Utility
23 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
24 successor act.

25 "Qualified offshore wind project" means a wind turbine
26 electricity generation facility in the Atlantic Ocean and connected
27 to the electric transmission system in this State, and includes the
28 associated transmission-related interconnection facilities and
29 equipment, and approved by the board pursuant to section 3 of
30 P.L.2010, c.57 (C.48:3-87.1).

31 "Registration program" means an administrative process
32 developed by the board pursuant to subsection u. of section 38 of
33 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
34 power generation facilities connected to the distribution system that
35 intend to generate SRECs, to file with the board documents
36 detailing the size, location, interconnection plan, land use, and other
37 project information as required by the board.

38 "Regulatory asset" means an asset recorded on the books of an
39 electric public utility or gas public utility pursuant to the Statement
40 of Financial Accounting Standards, No. 71, entitled "Accounting for
41 the Effects of Certain Types of Regulation," or any successor
42 standard and as deemed recoverable by the board.

43 "Related competitive business segment of an electric public
44 utility or gas public utility" means any business venture of an
45 electric public utility or gas public utility including, but not limited
46 to, functionally separate business units, joint ventures, and
47 partnerships, that offers to provide or provides competitive services.

1 "Related competitive business segment of a public utility holding
2 company" means any business venture of a public utility holding
3 company, including, but not limited to, functionally separate
4 business units, joint ventures, and partnerships and subsidiaries, that
5 offers to provide or provides competitive services, but does not
6 include any related competitive business segments of an electric
7 public utility or gas public utility.

8 "Reliability pricing model" or "RPM" means PJM's capacity-
9 market model, and its successors, that secures capacity on behalf of
10 electric load serving entities to satisfy load obligations not satisfied
11 through the output of electric generation facilities owned by those
12 entities, or otherwise secured by those entities through bilateral
13 contracts.

14 "Renewable energy certificate" or "REC" means a certificate
15 representing the environmental benefits or attributes of one
16 megawatt-hour of generation from a generating facility that
17 produces Class I or Class II renewable energy, but shall not include
18 a solar renewable energy certificate or an offshore wind renewable
19 energy certificate.

20 "Resource clearing price" or "RCP" means the clearing price
21 established for the applicable locational deliverability area by the
22 base residual auction or incremental auction, as determined by the
23 optimization algorithm for each auction, conducted by PJM as part
24 of PJM's reliability pricing model.

25 "Resource recovery facility" means a solid waste facility
26 constructed and operated for the incineration of solid waste for
27 energy production and the recovery of metals and other materials
28 for reuse, which the Department of Environmental Protection has
29 determined to be in compliance with current environmental
30 standards, including, but not limited to, all applicable requirements
31 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

32 "Restructuring related costs" means reasonably incurred costs
33 directly related to the restructuring of the electric power industry,
34 including the closure, sale, functional separation, and divestiture of
35 generation and other competitive utility assets by a public utility, or
36 the provision of competitive services as those costs are determined
37 by the board, and which are not stranded costs as defined in
38 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
39 to, investments in management information systems, and which
40 shall include expenses related to employees affected by
41 restructuring which result in efficiencies and which result in
42 benefits to ratepayers, such as training or retraining at the level
43 equivalent to one year's training at a vocational or technical school
44 or county community college, the provision of severance pay of two
45 weeks of base pay for each year of full-time employment, and a
46 maximum of 24 months' continued health care coverage. Except as
47 to expenses related to employees affected by restructuring,
48 "restructuring related costs" shall not include going forward costs.

1 "Retail choice" means the ability of retail customers to shop for
2 electric generation or gas supply service from electric power or gas
3 suppliers, or opt to receive basic generation service or basic gas
4 service, and the ability of an electric power or gas supplier to offer
5 electric generation service or gas supply service to retail customers,
6 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

7 "Retail margin" means an amount, reflecting differences in
8 prices that electric power suppliers and electric public utilities may
9 charge in providing electric generation service and basic generation
10 service, respectively, to retail customers, excluding residential
11 customers, which the board may authorize to be charged to
12 categories of basic generation service customers of electric public
13 utilities in this State, other than residential customers, under the
14 board's continuing regulation of basic generation service pursuant to
15 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
16 purpose of promoting a competitive retail market for the supply of
17 electricity.

18 "Sales representative" means a person employed by, acting on
19 behalf of, or as an independent contractor for, an electric power
20 supplier, gas supplier, broker, energy agent, marketer, or private
21 aggregator who, by any means, solicits a potential residential
22 customer for the provision of electric generation service or gas
23 supply service.

24 "Sanitary landfill facility" shall have the same meaning as
25 provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

26 "School district" means a local or regional school district
27 established pursuant to chapter 8 or chapter 13 of Title 18A of the
28 New Jersey Statutes, a county special services school district
29 established pursuant to article 8 of chapter 46 of Title 18A of the
30 New Jersey Statutes, a county vocational school district established
31 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
32 Statutes, and a district under full State intervention pursuant to
33 P.L.1987, c.399 (C.18A:7A-34 et al.).

34 "Shopping credit" means an amount deducted from the bill of an
35 electric public utility customer to reflect the fact that the customer
36 has switched to an electric power supplier and no longer takes basic
37 generation service from the electric public utility.

38 "Site investigation" shall have the same meaning as provided in
39 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

40 "Small scale hydropower facility" means a facility located within
41 this State that is connected to the distribution system, and that
42 meets the requirements of, and has been certified by, a nationally
43 recognized low-impact hydropower organization that has
44 established low-impact hydropower certification criteria applicable
45 to: (1) river flows; (2) water quality; (3) fish passage and
46 protection; (4) watershed protection; (5) threatened and endangered
47 species protection; (6) cultural resource protection; (7) recreation;
48 and (8) facilities recommended for removal.

1 "Social program" means a program implemented with board
2 approval to provide assistance to a group of disadvantaged
3 customers, to provide protection to consumers, or to accomplish a
4 particular societal goal, and includes, but is not limited to, the
5 winter moratorium program, utility practices concerning "bad debt"
6 customers, low income assistance, deferred payment plans,
7 weatherization programs, and late payment and deposit policies, but
8 does not include any demand side management program or any
9 environmental requirements or controls.

10 "Societal benefits charge" means a charge imposed by an electric
11 public utility, at a level determined by the board, pursuant to, and in
12 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60).

13 "Solar alternative compliance payment" or "SACP" means a
14 payment of a certain dollar amount per megawatt hour (MWh)
15 which an electric power supplier or provider may submit to the
16 board in order to comply with the solar electric generation
17 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

18 "Solar renewable energy certificate" or "SREC" means a
19 certificate issued by the board or its designee, representing one
20 megawatt hour (MWh) of solar energy that is generated by a facility
21 connected to the distribution system in this State and has value
22 based upon, and driven by, the energy market.

23 "Standard offer capacity agreement" or "SOCA" means a
24 financially-settled transaction agreement, approved by board order,
25 that provides for eligible generators to receive payments from the
26 electric public utilities for a defined amount of electric capacity for
27 a term to be determined by the board but not to exceed 15 years,
28 and for such payments to be a fully non-bypassable charge, with
29 such an order, once issued, being irrevocable.

30 "Standard offer capacity price" or "SOCP" means the capacity
31 price that is fixed for the term of the SOCA and which is the price
32 to be received by eligible generators under a board-approved
33 SOCA.

34 "State entity" means a department, agency, or office of State
35 government, a State university or college, or an authority created by
36 the State.

37 "Stranded cost" means the amount by which the net cost of an
38 electric public utility's electric generating assets or electric power
39 purchase commitments, as determined by the board consistent with
40 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
41 market value of those assets or contractual commitments in a
42 competitive supply marketplace and the costs of buydowns or
43 buyouts of power purchase contracts.

44 "Stranded costs recovery order" means each order issued by the
45 board in accordance with subsection c. of section 13 of P.L.1999,
46 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if
47 any, the board has determined an electric public utility is eligible to
48 recover and collect in accordance with the standards set forth in

1 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
2 mechanisms therefor.

3 "Telemarketer" shall have the same meaning as set forth in
4 section 2 of P.L.2003, c.76 (C.56:8-120).

5 "Telemarketing sales call" means a telephone call made by a
6 telemarketer to a potential residential customer as part of a plan,
7 program, or campaign to encourage the customer to change the
8 customer's electric power supplier or gas supplier. A telephone call
9 made to an existing customer of an electric power supplier, gas
10 supplier, broker, energy agent, marketer, private aggregator, or
11 sales representative, for the sole purpose of collecting on accounts
12 or following up on contractual obligations, shall not be deemed a
13 telemarketing sales call. A telephone call made in response to an
14 express written request of a customer shall not be deemed a
15 telemarketing sales call.

16 "Thermal efficiency" means the useful electric energy output of a
17 facility, plus the useful thermal energy output of the facility,
18 expressed as a percentage of the total energy input to the facility.

19 "Transition bond charge" means a charge, expressed as an
20 amount per kilowatt hour, that is authorized by and imposed on
21 electric public utility ratepayers pursuant to a bondable stranded
22 costs rate order, as modified at any time pursuant to the provisions
23 of P.L.1999, c.23 (C.48:3-49 et al.).

24 "Transition bonds" means bonds, notes, certificates of
25 participation, beneficial interest, or other evidences of indebtedness
26 or ownership issued pursuant to an indenture, contract, or other
27 agreement of an electric public utility or a financing entity, the
28 proceeds of which are used, directly or indirectly, to recover,
29 finance or refinance bondable stranded costs and which are, directly
30 or indirectly, secured by or payable from bondable transition
31 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
32 principal, interest, and acquisition or redemption premium with
33 respect to transition bonds which are issued in the form of
34 certificates of participation or beneficial interest or other evidences
35 of ownership shall refer to the comparable payments on such
36 securities.

37 "Transition period" means the period from August 1, 1999
38 through July 31, 2003.

39 "Transmission and distribution system" means, with respect to an
40 electric public utility, any facility or equipment that is used for the
41 transmission, distribution, or delivery of electricity to the customers
42 of the electric public utility including, but not limited to, the land,
43 structures, meters, lines, switches, and all other appurtenances
44 thereof and thereto, owned or controlled by the electric public
45 utility within this State.

46 "Universal service" means any service approved by the board
47 with the purpose of assisting low-income residential customers in
48 obtaining or retaining electric generation or delivery service.

1 "Unsolicited advertisement" means any advertising claims of the
2 commercial availability or quality of services provided by an
3 electric power supplier, gas supplier, broker, energy agent,
4 marketer, private aggregator, sales representative, or telemarketer
5 which is transmitted to a potential customer without that customer's
6 prior express invitation or permission.
7 (cf: P.L.2015, c.51, s.1)

8

9 ²[7.] 8.² This act shall take effect immediately.

10

11

12

13

14 Requires large food waste generators to separate and recycle
15 food waste and amends definition of "Class I renewable energy."

ASSEMBLY, No. 2371

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

SYNOPSIS

Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and amending P.L.1999, c.23.

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

7
8 1. (New section) As used in P.L. , c. (C.) (pending
9 before the Legislature as this bill):

10 “Alternative authorized food waste recycling method” means: (1)
11 recycling food waste at the site at which it is generated as
12 authorized by the Department of Environmental Protection; (2)
13 treating food waste at the site at which it is generated pursuant to a
14 permit issued by the department; (3) sending food waste for offsite
15 use for agricultural purposes, including as animal feed; (4) sending
16 food waste offsite for treatment with sewage sludge in an anaerobic
17 digester for renewable natural gas or biogas recovery as authorized
18 by the department; or (5) any other method of recycling or reuse of
19 food waste, as authorized by the department.

20 “Authorized food waste recycling facility” means a Class C
21 recycling center within the State authorized to accept, store,
22 process, or transfer food waste or compostable material, pursuant to
23 subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

24 “Department” means the Department of Environmental
25 Protection.

26 “Food waste” means food processing vegetative waste, food
27 processing residue generated from processing and packaging
28 operations, overripe produce, trimmings from food, food product
29 over-runs from food processing, soiled and unrecyclable paper
30 generated from food processing, and used cooking fats, oil, and
31 grease, but shall not include food donated by the generator for
32 human consumption , any waste generated by a consumer after the
33 generator issues or sells food to the consumer, or any waste
34 regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R.
35 s.94.5.

36 “Large food waste generator” means any commercial food
37 wholesaler, distributor, industrial food processor, supermarket,
38 resort, conference center, banquet hall, restaurant, educational or
39 religious institution, military installation, prison, hospital, medical
40 facility, or casino that produces at least 52 tons per year of food
41 waste; provided that "large food waste generator" shall not include
42 any interstate carrier conducting interstate transportation operations
43 in the post-security area of an international airport.

44 “Source separate” or “source separated” means the process by
45 which food waste is separated at the point of generation by the

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 generator thereof from other solid waste for the purpose of
2 recycling.

3

4 2. (New section) a. Beginning one year after the effective
5 date of P.L. , c. (C.)(pending before the Legislature as this
6 bill), each large food waste generator that is located within 25 road
7 miles of an authorized food waste recycling facility and that
8 generates an average projected volume of 52 or more tons per year
9 of food waste within 25 road miles of an authorized food waste
10 recycling facility shall:

11 (1) source separate its food waste from other solid waste; and

12 (2) send the source separated food waste to an authorized food
13 waste recycling facility that has available capacity and will accept
14 it.

15 b. Notwithstanding the provisions of subsection a. of this
16 section:

17 (1) If a large food waste generator is not located within 25 road
18 miles of an authorized food waste recycling facility, or the
19 authorized food waste recycling facility will not accept the
20 generator's food waste, the large food waste generator may send the
21 food waste for final disposal at a solid waste facility as provided in
22 the approved district solid waste management plan for the solid
23 waste management district in which the generator is located;

24 (2) Any large food waste generator that is obligated to source
25 separate and recycle its food waste pursuant to subsection a. of this
26 section shall be deemed to be in compliance with the provisions of
27 this section if the large food waste generator:

28 (a) performs enclosed on-site composting, or anaerobic or
29 aerobic digestion of its source separated food waste in accordance
30 with standards adopted by the department pursuant to subsection d.
31 of this section, or

32 (b) recycles food waste using an alternative authorized food
33 waste recycling method; and

34 (3) A large food waste generator may petition the Department of
35 Environmental Protection for a waiver of the requirements in
36 subsection a. of this section if the cost of transporting the food
37 waste plus the fee charged by an authorized food waste recycling
38 facility located within 25 road miles of the large food waste
39 generator is at least 10 percent more than the cost of transporting
40 the food waste for disposal as solid waste plus the disposal fee
41 charged for solid waste disposal in the State for noncontract
42 commercial waste by a properly licensed transfer station, sanitary
43 landfill facility, incinerator, or resource recovery facility located
44 within 25 road miles of the large food waste generator provided that
45 any authorized food waste recycling facility located within 25 road
46 miles of the large food waste generator seeking the waiver must be
47 given notice of the petition and an opportunity to participate in the
48 proceeding before the department.

1 c. Any person who violates this act, or any rule or regulation
2 adopted pursuant thereto, shall be subject to a civil penalty of \$250
3 for the first offense, \$500 for the second offense, and \$1,000 for the
4 third and each subsequent offense, to be collected in a civil action
5 by a summary proceeding under the “Penalty Enforcement Law of
6 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
7 continuing nature, each day during which it continues shall
8 constitute an additional, separate, and distinct offense. The Superior
9 Court and the municipal court shall have jurisdiction to enforce the
10 provisions of the “Penalty Enforcement Law of 1999,” P.L.1999,
11 c.274 (C.2A:58-10 et seq.) in connection with this subsection.

12 d. The Department of Environmental Protection shall adopt,
13 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
14 (C.52:14B-1 et seq.), rules and regulations necessary to implement
15 this section, including, but not limited to:

16 (1) record keeping and reporting requirements for large food
17 waste generators and authorized food waste recycling facilities, as
18 determined necessary by the department;

19 (2) guidelines and procedures for businesses to follow to
20 determine whether they are subject to the requirements of this
21 section, including food waste generation estimates and food waste
22 audits or assessments;

23 (3) a list of food waste products that must be source separated
24 and recycled pursuant to this section;

25 (4) standards for the enclosed on-site composting, or anaerobic
26 or aerobic digestion of source separated food waste, including
27 requirements for energy production and other sustainable uses of
28 the byproducts of recycled food waste; and

29 (5) a list of actions businesses may take to reduce the amount of
30 food waste they generate to a level below the threshold amount
31 established in subsection a. of this section.

32 e. The department shall publish on its Internet website the
33 name, location, and contact information for each authorized food
34 waste recycling facility in the State.

35
36 3. (New section) a. Any municipality within which an
37 authorized food waste recycling facility is located, pursuant to an
38 adopted district solid waste management plan approved after the
39 effective date of P.L. , c. (C.)(pending before the
40 Legislature as this bill), shall be entitled to an economic benefit of
41 not less than the equivalent of \$0.50 per ton, to be paid and adjusted
42 quarterly, of all food waste accepted for processing at the
43 authorized food waste recycling facility during the 2019 calendar
44 year and each year thereafter. The owner or operator of the
45 authorized food waste recycling facility shall pay quarterly to the
46 municipality the full amount due under this subsection. The
47 municipality is authorized to anticipate this amount for the purposes
48 of preparing its annual budget.

1 b. For the purposes of calculating the payments, the owner or
2 operator of the authorized food waste recycling facility may, subject
3 to the prior agreement of the municipality and approval of the
4 Department of Environmental Protection, provide the municipality
5 with any of the following benefits in consideration for the use of
6 land within the municipality's boundaries as the location of the
7 authorized food waste recycling facility:

8 (1) quarterly payments of money in lieu of taxes on the land
9 used for the authorized food waste recycling center or other
10 authorized facility;

11 (2) exemption from all fees and charges for the acceptance of
12 food waste for composting, anaerobic or aerobic digestion, or other
13 processing, as approved by the department, of food waste generated
14 within the municipality's boundaries;

15 (3) quarterly lump sum cash payments; or

16 (4) any combination thereof.

17

18 4. (New section) a. There is established in the Department of
19 Environmental Protection a Food Waste Recycling Market
20 Development Council, which shall consist of 12 members. The
21 members shall include the Commissioner of Environmental
22 Protection, the President of the Board of Public Utilities, the
23 Commissioner of Transportation, the Secretary of Agriculture, the
24 State Treasurer, and the Attorney General, or their designees, who
25 shall serve ex officio; and six citizens of the State appointed by the
26 Governor. Of the appointed members: two shall be actively
27 engaged in the composting industry, of whom one shall be a
28 representative of the National Waste and Recycling Association and
29 one shall be a representative of the National Biosolids Partnership
30 or equivalent entities; two shall be actively engaged in the recycling
31 or solid waste collection industry, of whom one shall be a
32 representative of the Association of New Jersey Recyclers or
33 equivalent entities; and two shall represent the general public. The
34 Commissioner of Environmental Protection shall appoint the
35 chairperson and the vice-chairperson of the council from the citizen
36 members.

37 b. Members of the council shall serve without compensation,
38 but shall be reimbursed for expenses incurred in attending meetings
39 and performing their duties to the extent funds are available
40 therefor.

41 c. Within 18 months after the date of enactment of this act, the
42 Food Waste Recycling Market Development Council shall prepare a
43 report on the existing markets for any products and energy produced
44 from food recycling facilities, food waste composting facilities, and
45 anaerobic and aerobic digestion facilities that accept food waste
46 material. The council shall investigate the feasibility of providing
47 preferences for products or energy produced from food recycling
48 facilities, food waste composting facilities, and anaerobic and

1 aerobic digestion facilities in the State procurement process,
2 including how to stimulate the use in public projects of compost or
3 soil amendment products derived from these facilities. The council
4 shall provide recommendations on changes needed to State laws or
5 rules or regulations to stimulate the market for products and energy
6 produced from food recycling facilities, food waste composting
7 facilities, and anaerobic and aerobic digestion facilities that accept
8 food waste material. The report shall be transmitted to the Governor
9 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
10 Legislature.

11

12 5. (New section) a. Every State department or agency that
13 engages in landscaping or construction activities on State land, or
14 for State projects or facilities, shall use, where technically feasible,
15 environmentally sound, and competitively priced, compost, mulch,
16 or other soil amendments produced from municipal solid waste,
17 food waste, sludge, yard waste, clean wood waste, or other organic
18 materials that the supplier has certified comply with applicable
19 project standards and specifications. Such compost, mulch, or soil
20 amendments shall be used in place of chemical fertilizers or soil
21 amendments.

22 b. In purchasing compost, mulch, or other soil amendments for
23 use by the various departments or agencies of State government, the
24 Director of the Division of Purchase and Property in the Department
25 of the Treasury, whenever the price is competitive and the quality
26 satisfactory for the purpose intended, shall make contracts available
27 for compost, mulch, or other soil amendments produced from
28 municipal solid waste, food waste, sludge, yard waste, clean wood
29 waste, or other organic materials.

30 c. As used in this section:

31 "Competitive" or "competitively priced" means a price of no
32 more than 10% above the price of products which are manufactured
33 or produced from virgin materials; except that the Director of the
34 Division of Purchase and Property, upon consultation with the
35 Department of Environmental Protection, may make contracts
36 available for compost, mulch, or other soil amendments produced
37 from municipal solid waste, food waste, sludge, yard waste, clean
38 wood waste, or other organic materials at a price no more than 15%
39 above the price of products manufactured or produced from virgin
40 materials whenever the director determines that a 15% price
41 differential is in the best interest of the State.

42 "Food waste" shall have the same meaning as provided in section
43 1 of P.L. , c. (C.) (pending before the Legislature as this
44 bill).

45

46 6. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
47 as follows:

48 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

1 "Assignee" means a person to which an electric public utility or
2 another assignee assigns, sells, or transfers, other than as security,
3 all or a portion of its right to or interest in bondable transition
4 property. Except as specifically provided in P.L.1999,
5 c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public
6 utility requirements of Title 48 or any rules or regulations adopted
7 pursuant thereto.

8 "Base load electric power generation facility" means an electric
9 power generation facility intended to be operated at a greater than
10 50 percent capacity factor including, but not limited to, a combined
11 cycle power facility and a combined heat and power facility.

12 "Base residual auction" means the auction conducted by PJM, as
13 part of PJM's reliability pricing model, three years prior to the start
14 of the delivery year to secure electrical capacity as necessary to
15 satisfy the capacity requirements for that delivery year.

16 "Basic gas supply service" means gas supply service that is
17 provided to any customer that has not chosen an alternative gas
18 supplier, whether or not the customer has received offers as to
19 competitive supply options, including, but not limited to, any
20 customer that cannot obtain such service for any reason, including
21 non-payment for services. Basic gas supply service is not a
22 competitive service and shall be fully regulated by the board.

23 "Basic generation service" or "BGS" means electric generation
24 service that is provided, to any customer that has not chosen an
25 alternative electric power supplier, whether or not the customer has
26 received offers for competitive supply options, including, but not
27 limited to, any customer that cannot obtain such service from an
28 electric power supplier for any reason, including non-payment for
29 services. Basic generation service is not a competitive service and
30 shall be fully regulated by the board.

31 "Basic generation service provider" or "provider" means a
32 provider of basic generation service.

33 "Basic generation service transition costs" means the amount by
34 which the payments by an electric public utility for the procurement
35 of power for basic generation service and related ancillary and
36 administrative costs exceeds the net revenues from the basic
37 generation service charge established by the board pursuant to
38 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
39 together with interest on the balance at the board-approved rate, that
40 is reflected in a deferred balance account approved by the board in
41 an order addressing the electric public utility's unbundled rates,
42 stranded costs, and restructuring filings pursuant to P.L.1999,
43 c.23 (C.48:3-49 et al.). Basic generation service transition costs
44 shall include, but are not limited to, costs of purchases from the
45 spot market, bilateral contracts, contracts with non-utility
46 generators, parting contracts with the purchaser of the electric
47 public utility's divested generation assets, short-term advance
48 purchases, and financial instruments such as hedging, forward

1 contracts, and options. Basic generation service transition costs
2 shall also include the payments by an electric public utility pursuant
3 to a competitive procurement process for basic generation service
4 supply during the transition period, and costs of any such process
5 used to procure the basic generation service supply.

6 "Board" means the New Jersey Board of Public Utilities or any
7 successor agency.

8 "Bondable stranded costs" means any stranded costs or basic
9 generation service transition costs of an electric public utility
10 approved by the board for recovery pursuant to the provisions of
11 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
12 board: (1) the cost of retiring existing debt or equity capital of the
13 electric public utility, including accrued interest, premium and other
14 fees, costs, and charges relating thereto, with the proceeds of the
15 financing of bondable transition property; (2) if requested by an
16 electric public utility in its application for a bondable stranded costs
17 rate order, federal, State and local tax liabilities associated with
18 stranded costs recovery, basic generation service transition cost
19 recovery, or the transfer or financing of the property, or both,
20 including taxes, whose recovery period is modified by the effect of
21 a stranded costs recovery order, a bondable stranded costs rate
22 order, or both; and (3) the costs incurred to issue, service or
23 refinance transition bonds, including interest, acquisition or
24 redemption premium, and other financing costs, whether paid upon
25 issuance or over the life of the transition bonds, including, but not
26 limited to, credit enhancements, service charges,
27 overcollateralization, interest rate cap, swap or collar, yield
28 maintenance, maturity guarantee or other hedging agreements,
29 equity investments, operating costs, and other related fees, costs,
30 and charges, or to assign, sell, or otherwise transfer bondable
31 transition property.

32 "Bondable stranded costs rate order" means one or more
33 irrevocable written orders issued by the board pursuant to P.L.1999,
34 c.23 (C.48:3-49 et al.) which determines the amount of bondable
35 stranded costs and the initial amount of transition bond charges
36 authorized to be imposed to recover the bondable stranded costs,
37 including the costs to be financed from the proceeds of the
38 transition bonds, as well as on-going costs associated with servicing
39 and credit enhancing the transition bonds, and provides the electric
40 public utility specific authority to issue or cause to be issued,
41 directly or indirectly, transition bonds through a financing entity
42 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
43 which order shall become effective immediately upon the written
44 consent of the related electric public utility to the order as provided
45 in P.L.1999, c.23 (C.48:3-49 et al.).

46 "Bondable transition property" means the property consisting of
47 the irrevocable right to charge, collect, and receive, and be paid
48 from collections of, transition bond charges in the amount necessary

1 to provide for the full recovery of bondable stranded costs which
2 are determined to be recoverable in a bondable stranded costs rate
3 order, all rights of the related electric public utility under the
4 bondable stranded costs rate order including, without limitation, all
5 rights to obtain periodic adjustments of the related transition bond
6 charges pursuant to subsection b. of section 15 of P.L.1999,
7 c.23 (C.48:3-64), and all revenues, collections, payments, money,
8 and proceeds arising under, or with respect to, all of the foregoing.

9 "British thermal unit" or "Btu" means the amount of heat
10 required to increase the temperature of one pound of water by one
11 degree Fahrenheit.

12 "Broker" means a duly licensed electric power supplier that
13 assumes the contractual and legal responsibility for the sale of
14 electric generation service, transmission, or other services to end-
15 use retail customers, but does not take title to any of the power sold,
16 or a duly licensed gas supplier that assumes the contractual and
17 legal obligation to provide gas supply service to end-use retail
18 customers, but does not take title to the gas.

19 "Brownfield" means any former or current commercial or
20 industrial site that is currently vacant or underutilized and on which
21 there has been, or there is suspected to have been, a discharge of a
22 contaminant.

23 "Buydown" means an arrangement or arrangements involving the
24 buyer and seller in a given power purchase contract and, in some
25 cases third parties, for consideration to be given by the buyer in
26 order to effectuate a reduction in the pricing, or the restructuring of
27 other terms to reduce the overall cost of the power contract, for the
28 remaining succeeding period of the purchased power arrangement
29 or arrangements.

30 "Buyout" means an arrangement or arrangements involving the
31 buyer and seller in a given power purchase contract and, in some
32 cases third parties, for consideration to be given by the buyer in
33 order to effectuate a termination of such power purchase contract.

34 "Class I renewable energy" means electric energy produced from
35 solar technologies, photovoltaic technologies, wind energy, fuel
36 cells, geothermal technologies, wave or tidal action, small scale
37 hydropower facilities with a capacity of three megawatts or less and
38 put into service after the effective date of P.L.2012, c.24, **[and]**
39 methane gas from landfills **[or],** methane gas from a biomass
40 facility**[,]** provided that the biomass is cultivated and harvested in a
41 sustainable manner, or methane gas from a composting or anaerobic
42 or aerobic digestion facility that converts food waste or other
43 organic waste to energy.

44 "Class II renewable energy" means electric energy produced at a
45 hydropower facility with a capacity of greater than three megawatts,
46 but less than 30 megawatts, or a resource recovery facility, provided
47 that the facility is located where retail competition is permitted and
48 provided further that the Commissioner of Environmental

1 Protection has determined that the facility meets the highest
2 environmental standards and minimizes any impacts to the
3 environment and local communities. Class II renewable energy
4 shall not include electric energy produced at a hydropower facility
5 with a capacity of greater than 30 megawatts on or after the
6 effective date of P.L.2015, c.51.

7 "Co-generation" means the sequential production of electricity
8 and steam or other forms of useful energy used for industrial or
9 commercial heating and cooling purposes.

10 "Combined cycle power facility" means a generation facility that
11 combines two or more thermodynamic cycles, by producing electric
12 power via the combustion of fuel and then routing the resulting
13 waste heat by-product to a conventional boiler or to a heat recovery
14 steam generator for use by a steam turbine to produce electric
15 power, thereby increasing the overall efficiency of the generating
16 facility.

17 "Combined heat and power facility" or "co-generation facility"
18 means a generation facility which produces electric energy and
19 steam or other forms of useful energy such as heat, which are used
20 for industrial or commercial heating or cooling purposes. A
21 combined heat and power facility or co-generation facility shall not
22 be considered a public utility.

23 "Competitive service" means any service offered by an electric
24 public utility or a gas public utility that the board determines to be
25 competitive pursuant to section 8 or section 10 of P.L.1999,
26 c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board.

27 "Commercial and industrial energy pricing class customer" or
28 "CIEP class customer" means that group of non-residential
29 customers with high peak demand, as determined by periodic board
30 order, which either is eligible or which would be eligible, as
31 determined by periodic board order, to receive funds from the Retail
32 Margin Fund established pursuant to section 9 of P.L.1999,
33 c.23 (C.48:3-57) and for which basic generation service is hourly-
34 priced.

35 "Comprehensive resource analysis" means an analysis including,
36 but not limited to, an assessment of existing market barriers to the
37 implementation of energy efficiency and renewable technologies
38 that are not or cannot be delivered to customers through a
39 competitive marketplace.

40 "Connected to the distribution system" means, for a solar electric
41 power generation facility, that the facility is: (1) connected to a net
42 metering customer's side of a meter, regardless of the voltage at
43 which that customer connects to the electric grid; (2) an on-site
44 generation facility; (3) qualified for net metering aggregation as
45 provided pursuant to paragraph (4) of subsection e. of section 38 of
46 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
47 public utility and approved by the board pursuant to section 13 of
48 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric

1 grid at 69 kilovolts or less, regardless of how an electric public
2 utility classifies that portion of its electric grid, and is designated as
3 "connected to the distribution system" by the board pursuant to
4 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
5 87); or (6) is certified by the board, in consultation with the
6 Department of Environmental Protection, as being located on a
7 brownfield, on an area of historic fill, or on a properly closed
8 sanitary landfill facility. Any solar electric power generation
9 facility, other than that of a net metering customer on the customer's
10 side of the meter, connected above 69 kilovolts shall not be
11 considered connected to the distribution system.

12 "Customer" means any person that is an end user and is
13 connected to any part of the transmission and distribution system
14 within an electric public utility's service territory or a gas public
15 utility's service territory within this State.

16 "Customer account service" means metering, billing, or such
17 other administrative activity associated with maintaining a customer
18 account.

19 "Delivery year" or "DY" means the 12-month period from June
20 1st through May 31st, numbered according to the calendar year in
21 which it ends.

22 "Demand side management" means the management of customer
23 demand for energy service through the implementation of cost-
24 effective energy efficiency technologies, including, but not limited
25 to, installed conservation, load management, and energy efficiency
26 measures on and in the residential, commercial, industrial,
27 institutional, and governmental premises and facilities in this State.

28 "Electric generation service" means the provision of retail
29 electric energy and capacity which is generated off-site from the
30 location at which the consumption of such electric energy and
31 capacity is metered for retail billing purposes, including agreements
32 and arrangements related thereto.

33 "Electric power generator" means an entity that proposes to
34 construct, own, lease, or operate, or currently owns, leases, or
35 operates, an electric power production facility that will sell or does
36 sell at least 90 percent of its output, either directly or through a
37 marketer, to a customer or customers located at sites that are not on
38 or contiguous to the site on which the facility will be located or is
39 located. The designation of an entity as an electric power generator
40 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
41 and of itself, affect the entity's status as an exempt wholesale
42 generator under the Public Utility Holding Company Act of 1935,
43 15 U.S.C. s.79 et seq., or its successor act.

44 "Electric power supplier" means a person or entity that is duly
45 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
46 al.) to offer and to assume the contractual and legal responsibility to
47 provide electric generation service to retail customers, and includes
48 load serving entities, marketers, and brokers that offer or provide

1 electric generation service to retail customers. The term excludes an
2 electric public utility that provides electric generation service only
3 as a basic generation service pursuant to section 9 of P.L.1999,
4 c.23 (C.48:3-57).

5 "Electric public utility" means a public utility, as that term is
6 defined in R.S.48:2-13, that transmits and distributes electricity to
7 end users within this State.

8 "Electric related service" means a service that is directly related
9 to the consumption of electricity by an end user, including, but not
10 limited to, the installation of demand side management measures at
11 the end user's premises, the maintenance, repair, or replacement of
12 appliances, lighting, motors, or other energy-consuming devices at
13 the end user's premises, and the provision of energy consumption
14 measurement and billing services.

15 "Electronic signature" means an electronic sound, symbol, or
16 process, attached to, or logically associated with, a contract or other
17 record, and executed or adopted by a person with the intent to sign
18 the record.

19 "Eligible generator" means a developer of a base load or mid-
20 merit electric power generation facility including, but not limited to,
21 an on-site generation facility that qualifies as a capacity resource
22 under PJM criteria and that commences construction after the
23 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

24 "Energy agent" means a person that is duly registered pursuant to
25 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
26 sale of retail electricity or electric related services, or retail gas
27 supply or gas related services, between government aggregators or
28 private aggregators and electric power suppliers or gas suppliers,
29 but does not take title to the electric or gas sold.

30 "Energy consumer" means a business or residential consumer of
31 electric generation service or gas supply service located within the
32 territorial jurisdiction of a government aggregator.

33 "Energy efficiency portfolio standard" means a requirement to
34 procure a specified amount of energy efficiency or demand side
35 management resources as a means of managing and reducing energy
36 usage and demand by customers.

37 "Energy year" or "EY" means the 12-month period from June 1st
38 through May 31st, numbered according to the calendar year in
39 which it ends.

40 "Existing business relationship" means a relationship formed by
41 a voluntary two-way communication between an electric power
42 supplier, gas supplier, broker, energy agent, marketer, private
43 aggregator, sales representative, or telemarketer and a customer,
44 regardless of an exchange of consideration, on the basis of an
45 inquiry, application, purchase, or transaction initiated by the
46 customer regarding products or services offered by the electric
47 power supplier, gas supplier, broker, energy agent, marketer,
48 private aggregator, sales representative, or telemarketer; however, a

1 consumer's use of electric generation service or gas supply service
2 through the consumer's electric public utility or gas public utility
3 shall not constitute or establish an existing business relationship for
4 the purpose of P.L.2013, c.263.

5 "Farmland" means land actively devoted to agricultural or
6 horticultural use that is valued, assessed, and taxed pursuant to the
7 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
8 23.1 et seq.).

9 "Federal Energy Regulatory Commission" or "FERC" means the
10 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
11 regulate the interstate transmission of electricity, natural gas, and
12 oil.

13 "Final remediation document" shall have the same meaning as
14 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

15 "Financing entity" means an electric public utility, a special
16 purpose entity, or any other assignee of bondable transition
17 property, which issues transition bonds. Except as specifically
18 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
19 which is not itself an electric public utility shall not be subject to
20 the public utility requirements of Title 48 of the Revised Statutes or
21 any rules or regulations adopted pursuant thereto.

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

24 "Gas related service" means a service that is directly related to
25 the consumption of gas by an end user, including, but not limited to,
26 the installation of demand side management measures at the end
27 user's premises, the maintenance, repair or replacement of
28 appliances or other energy-consuming devices at the end user's
29 premises, and the provision of energy consumption measurement
30 and billing services.

31 "Gas supplier" means a person that is duly licensed pursuant to
32 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
33 assume the contractual and legal obligation to provide gas supply
34 service to retail customers, and includes, but is not limited to,
35 marketers and brokers. A non-public utility affiliate of a public
36 utility holding company may be a gas supplier, but a gas public
37 utility or any subsidiary of a gas utility is not a gas supplier. In the
38 event that a gas public utility is not part of a holding company legal
39 structure, a related competitive business segment of that gas public
40 utility may be a gas supplier, provided that related competitive
41 business segment is structurally separated from the gas public
42 utility, and provided that the interactions between the gas public
43 utility and the related competitive business segment are subject to
44 the affiliate relations standards adopted by the board pursuant to
45 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

46 "Gas supply service" means the provision to customers of the
47 retail commodity of gas, but does not include any regulated
48 distribution service.

1 "Government aggregator" means any government entity subject
2 to the requirements of the "Local Public Contracts Law," P.L.1971,
3 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
4 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
5 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
6 contract with a licensed electric power supplier or a licensed gas
7 supplier for: (1) the provision of electric generation service, electric
8 related service, gas supply service, or gas related service for its own
9 use or the use of other government aggregators; or (2) if a
10 municipal or county government, the provision of electric
11 generation service or gas supply service on behalf of business or
12 residential customers within its territorial jurisdiction.

13 "Government energy aggregation program" means a program and
14 procedure pursuant to which a government aggregator enters into a
15 written contract for the provision of electric generation service or
16 gas supply service on behalf of business or residential customers
17 within its territorial jurisdiction.

18 "Governmental entity" means any federal, state, municipal, local,
19 or other governmental department, commission, board, agency,
20 court, authority, or instrumentality having competent jurisdiction.

21 "Greenhouse gas emissions portfolio standard" means a
22 requirement that addresses or limits the amount of carbon dioxide
23 emissions indirectly resulting from the use of electricity as applied
24 to any electric power suppliers and basic generation service
25 providers of electricity.

26 "Historic fill" means generally large volumes of non-indigenous
27 material, no matter what date they were emplaced on the site, used
28 to raise the topographic elevation of a site, which were
29 contaminated prior to emplacement and are in no way connected
30 with the operations at the location of emplacement and which
31 include, but are not limited to, construction debris, dredge spoils,
32 incinerator residue, demolition debris, fly ash, and non-hazardous
33 solid waste. "Historic fill" shall not include any material which is
34 substantially chromate chemical production waste or any other
35 chemical production waste or waste from processing of metal or
36 mineral ores, residues, slags, or tailings.

37 "Incremental auction" means an auction conducted by PJM, as
38 part of PJM's reliability pricing model, prior to the start of the
39 delivery year to secure electric capacity as necessary to satisfy the
40 capacity requirements for that delivery year, that is not otherwise
41 provided for in the base residual auction.

42 "Leakage" means an increase in greenhouse gas emissions
43 related to generation sources located outside of the State that are not
44 subject to a state, interstate, or regional greenhouse gas emissions
45 cap or standard that applies to generation sources located within the
46 State.

47 "Locational deliverability area" or "LDA" means one or more of
48 the zones within the PJM region which are used to evaluate area

1 transmission constraints and reliability issues including electric
2 public utility company zones, sub-zones, and combinations of
3 zones.

4 "Long-term capacity agreement pilot program" or "LCAPP"
5 means a pilot program established by the board that includes
6 participation by eligible generators, to seek offers for financially-
7 settled standard offer capacity agreements with eligible generators
8 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

9 "Market transition charge" means a charge imposed pursuant to
10 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
11 utility, at a level determined by the board, on the electric public
12 utility customers for a limited duration transition period to recover
13 stranded costs created as a result of the introduction of electric
14 power supply competition pursuant to the provisions of P.L.1999,
15 c.23 (C.48:3-49 et al.).

16 "Marketer" means a duly licensed electric power supplier that
17 takes title to electric energy and capacity, transmission and other
18 services from electric power generators and other wholesale
19 suppliers and then assumes the contractual and legal obligation to
20 provide electric generation service, and may include transmission
21 and other services, to an end-use retail customer or customers, or a
22 duly licensed gas supplier that takes title to gas and then assumes
23 the contractual and legal obligation to provide gas supply service to
24 an end-use customer or customers.

25 "Mid-merit electric power generation facility" means a
26 generation facility that operates at a capacity factor between
27 baseload generation facilities and peaker generation facilities.

28 "Net metering aggregation" means a procedure for calculating
29 the combination of the annual energy usage for all facilities owned
30 by a single customer where such customer is a State entity, school
31 district, county, county agency, county authority, municipality,
32 municipal agency, or municipal authority, and which are served by
33 a solar electric power generating facility as provided pursuant to
34 paragraph (4) of subsection e. of section 38 of P.L.1999,
35 c.23 (C.48:3-87).

36 "Net proceeds" means proceeds less transaction and other related
37 costs as determined by the board.

38 "Net revenues" means revenues less related expenses, including
39 applicable taxes, as determined by the board.

40 "Offshore wind energy" means electric energy produced by a
41 qualified offshore wind project.

42 "Offshore wind renewable energy certificate" or "OREC" means
43 a certificate, issued by the board or its designee, representing the
44 environmental attributes of one megawatt hour of electric
45 generation from a qualified offshore wind project.

46 "Off-site end use thermal energy services customer" means an
47 end use customer that purchases thermal energy services from an
48 on-site generation facility, combined heat and power facility, or co-

1 generation facility, and that is located on property that is separated
2 from the property on which the on-site generation facility,
3 combined heat and power facility, or co-generation facility is
4 located by more than one easement, public thoroughfare, or
5 transportation or utility-owned right-of-way.

6 "On-site generation facility" means a generation facility,
7 including, but not limited to, a generation facility that produces
8 Class I or Class II renewable energy, and equipment and services
9 appurtenant to electric sales by such facility to the end use customer
10 located on the property or on property contiguous to the property on
11 which the end user is located. An on-site generation facility shall
12 not be considered a public utility. The property of the end use
13 customer and the property on which the on-site generation facility is
14 located shall be considered contiguous if they are geographically
15 located next to each other, but may be otherwise separated by an
16 easement, public thoroughfare, transportation or utility-owned
17 right-of-way, or if the end use customer is purchasing thermal
18 energy services produced by the on-site generation facility, for use
19 for heating or cooling, or both, regardless of whether the customer
20 is located on property that is separated from the property on which
21 the on-site generation facility is located by more than one easement,
22 public thoroughfare, or transportation or utility-owned right-of-way.

23 "Person" means an individual, partnership, corporation,
24 association, trust, limited liability company, governmental entity, or
25 other legal entity.

26 "PJM Interconnection, L.L.C." or "PJM" means the privately-
27 held, limited liability corporation that is a FERC-approved Regional
28 Transmission Organization, or its successor, that manages the
29 regional, high-voltage electricity grid serving all or parts of 13
30 states including New Jersey and the District of Columbia, operates
31 the regional competitive wholesale electric market, manages the
32 regional transmission planning process, and establishes systems and
33 rules to ensure that the regional and in-State energy markets operate
34 fairly and efficiently.

35 "Preliminary assessment" shall have the same meaning as
36 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

37 "Private aggregator" means a non-government aggregator that is
38 a duly-organized business or non-profit organization authorized to
39 do business in this State that enters into a contract with a duly
40 licensed electric power supplier for the purchase of electric energy
41 and capacity, or with a duly licensed gas supplier for the purchase
42 of gas supply service, on behalf of multiple end-use customers by
43 combining the loads of those customers.

44 "Properly closed sanitary landfill facility" means a sanitary
45 landfill facility, or a portion of a sanitary landfill facility, for which
46 performance is complete with respect to all activities associated
47 with the design, installation, purchase, or construction of all
48 measures, structures, or equipment required by the Department of

1 Environmental Protection, pursuant to law, in order to prevent,
2 minimize, or monitor pollution or health hazards resulting from a
3 sanitary landfill facility subsequent to the termination of operations
4 at any portion thereof, including, but not necessarily limited to, the
5 placement of earthen or vegetative cover, and the installation of
6 methane gas vents or monitors and leachate monitoring wells or
7 collection systems at the site of any sanitary landfill facility.

8 "Public utility holding company" means: (1) any company that,
9 directly or indirectly, owns, controls, or holds with power to vote,
10 10 percent or more of the outstanding voting securities of an
11 electric public utility or a gas public utility or of a company which
12 is a public utility holding company by virtue of this definition,
13 unless the Securities and Exchange Commission, or its successor,
14 by order declares such company not to be a public utility holding
15 company under the Public Utility Holding Company Act of 1935,
16 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
17 Securities and Exchange Commission, or its successor, determines,
18 after notice and opportunity for hearing, directly or indirectly, to
19 exercise, either alone or pursuant to an arrangement or
20 understanding with one or more other persons, such a controlling
21 influence over the management or policies of an electric public
22 utility or a gas public utility or public utility holding company as to
23 make it necessary or appropriate in the public interest or for the
24 protection of investors or consumers that such person be subject to
25 the obligations, duties, and liabilities imposed in the Public Utility
26 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
27 successor act.

28 "Qualified offshore wind project" means a wind turbine
29 electricity generation facility in the Atlantic Ocean and connected
30 to the electric transmission system in this State, and includes the
31 associated transmission-related interconnection facilities and
32 equipment, and approved by the board pursuant to section 3 of
33 P.L.2010, c.57 (C.48:3-87.1).

34 "Registration program" means an administrative process
35 developed by the board pursuant to subsection u. of section 38 of
36 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
37 power generation facilities connected to the distribution system that
38 intend to generate SRECs, to file with the board documents
39 detailing the size, location, interconnection plan, land use, and other
40 project information as required by the board.

41 "Regulatory asset" means an asset recorded on the books of an
42 electric public utility or gas public utility pursuant to the Statement
43 of Financial Accounting Standards, No. 71, entitled "Accounting for
44 the Effects of Certain Types of Regulation," or any successor
45 standard and as deemed recoverable by the board.

46 "Related competitive business segment of an electric public
47 utility or gas public utility" means any business venture of an
48 electric public utility or gas public utility including, but not limited

1 to, functionally separate business units, joint ventures, and
2 partnerships, that offers to provide or provides competitive services.

3 "Related competitive business segment of a public utility holding
4 company" means any business venture of a public utility holding
5 company, including, but not limited to, functionally separate
6 business units, joint ventures, and partnerships and subsidiaries, that
7 offers to provide or provides competitive services, but does not
8 include any related competitive business segments of an electric
9 public utility or gas public utility.

10 "Reliability pricing model" or "RPM" means PJM's capacity-
11 market model, and its successors, that secures capacity on behalf of
12 electric load serving entities to satisfy load obligations not satisfied
13 through the output of electric generation facilities owned by those
14 entities, or otherwise secured by those entities through bilateral
15 contracts.

16 "Renewable energy certificate" or "REC" means a certificate
17 representing the environmental benefits or attributes of one
18 megawatt-hour of generation from a generating facility that
19 produces Class I or Class II renewable energy, but shall not include
20 a solar renewable energy certificate or an offshore wind renewable
21 energy certificate.

22 "Resource clearing price" or "RCP" means the clearing price
23 established for the applicable locational deliverability area by the
24 base residual auction or incremental auction, as determined by the
25 optimization algorithm for each auction, conducted by PJM as part
26 of PJM's reliability pricing model.

27 "Resource recovery facility" means a solid waste facility
28 constructed and operated for the incineration of solid waste for
29 energy production and the recovery of metals and other materials
30 for reuse, which the Department of Environmental Protection has
31 determined to be in compliance with current environmental
32 standards, including, but not limited to, all applicable requirements
33 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

34 "Restructuring related costs" means reasonably incurred costs
35 directly related to the restructuring of the electric power industry,
36 including the closure, sale, functional separation, and divestiture of
37 generation and other competitive utility assets by a public utility, or
38 the provision of competitive services as those costs are determined
39 by the board, and which are not stranded costs as defined in
40 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
41 to, investments in management information systems, and which
42 shall include expenses related to employees affected by
43 restructuring which result in efficiencies and which result in
44 benefits to ratepayers, such as training or retraining at the level
45 equivalent to one year's training at a vocational or technical school
46 or county community college, the provision of severance pay of two
47 weeks of base pay for each year of full-time employment, and a
48 maximum of 24 months' continued health care coverage. Except as

1 to expenses related to employees affected by restructuring,
2 "restructuring related costs" shall not include going forward costs.

3 "Retail choice" means the ability of retail customers to shop for
4 electric generation or gas supply service from electric power or gas
5 suppliers, or opt to receive basic generation service or basic gas
6 service, and the ability of an electric power or gas supplier to offer
7 electric generation service or gas supply service to retail customers,
8 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

9 "Retail margin" means an amount, reflecting differences in
10 prices that electric power suppliers and electric public utilities may
11 charge in providing electric generation service and basic generation
12 service, respectively, to retail customers, excluding residential
13 customers, which the board may authorize to be charged to
14 categories of basic generation service customers of electric public
15 utilities in this State, other than residential customers, under the
16 board's continuing regulation of basic generation service pursuant to
17 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
18 purpose of promoting a competitive retail market for the supply of
19 electricity.

20 "Sales representative" means a person employed by, acting on
21 behalf of, or as an independent contractor for, an electric power
22 supplier, gas supplier, broker, energy agent, marketer, or private
23 aggregator who, by any means, solicits a potential residential
24 customer for the provision of electric generation service or gas
25 supply service.

26 "Sanitary landfill facility" shall have the same meaning as
27 provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

28 "School district" means a local or regional school district
29 established pursuant to chapter 8 or chapter 13 of Title 18A of the
30 New Jersey Statutes, a county special services school district
31 established pursuant to article 8 of chapter 46 of Title 18A of the
32 New Jersey Statutes, a county vocational school district established
33 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
34 Statutes, and a district under full State intervention pursuant to
35 P.L.1987, c.399 (C.18A:7A-34 et al.).

36 "Shopping credit" means an amount deducted from the bill of an
37 electric public utility customer to reflect the fact that the customer
38 has switched to an electric power supplier and no longer takes basic
39 generation service from the electric public utility.

40 "Site investigation" shall have the same meaning as provided in
41 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

42 "Small scale hydropower facility" means a facility located within
43 this State that is connected to the distribution system, and that
44 meets the requirements of, and has been certified by, a nationally
45 recognized low-impact hydropower organization that has
46 established low-impact hydropower certification criteria applicable
47 to: (1) river flows; (2) water quality; (3) fish passage and
48 protection; (4) watershed protection; (5) threatened and endangered

1 species protection; (6) cultural resource protection; (7) recreation;
2 and (8) facilities recommended for removal.

3 "Social program" means a program implemented with board
4 approval to provide assistance to a group of disadvantaged
5 customers, to provide protection to consumers, or to accomplish a
6 particular societal goal, and includes, but is not limited to, the
7 winter moratorium program, utility practices concerning "bad debt"
8 customers, low income assistance, deferred payment plans,
9 weatherization programs, and late payment and deposit policies, but
10 does not include any demand side management program or any
11 environmental requirements or controls.

12 "Societal benefits charge" means a charge imposed by an electric
13 public utility, at a level determined by the board, pursuant to, and in
14 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60).

15 "Solar alternative compliance payment" or "SACP" means a
16 payment of a certain dollar amount per megawatt hour (MWh)
17 which an electric power supplier or provider may submit to the
18 board in order to comply with the solar electric generation
19 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

20 "Solar renewable energy certificate" or "SREC" means a
21 certificate issued by the board or its designee, representing one
22 megawatt hour (MWh) of solar energy that is generated by a facility
23 connected to the distribution system in this State and has value
24 based upon, and driven by, the energy market.

25 "Standard offer capacity agreement" or "SOCA" means a
26 financially-settled transaction agreement, approved by board order,
27 that provides for eligible generators to receive payments from the
28 electric public utilities for a defined amount of electric capacity for
29 a term to be determined by the board but not to exceed 15 years,
30 and for such payments to be a fully non-bypassable charge, with
31 such an order, once issued, being irrevocable.

32 "Standard offer capacity price" or "SOCP" means the capacity
33 price that is fixed for the term of the SOCA and which is the price
34 to be received by eligible generators under a board-approved
35 SOCA.

36 "State entity" means a department, agency, or office of State
37 government, a State university or college, or an authority created by
38 the State.

39 "Stranded cost" means the amount by which the net cost of an
40 electric public utility's electric generating assets or electric power
41 purchase commitments, as determined by the board consistent with
42 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
43 market value of those assets or contractual commitments in a
44 competitive supply marketplace and the costs of buydowns or
45 buyouts of power purchase contracts.

46 "Stranded costs recovery order" means each order issued by the
47 board in accordance with subsection c. of section 13 of P.L.1999,
48 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if

1 any, the board has determined an electric public utility is eligible to
2 recover and collect in accordance with the standards set forth in
3 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
4 mechanisms therefor.

5 "Telemarketer" shall have the same meaning as set forth in
6 section 2 of P.L.2003, c.76 (C.56:8-120).

7 "Telemarketing sales call" means a telephone call made by a
8 telemarketer to a potential residential customer as part of a plan,
9 program, or campaign to encourage the customer to change the
10 customer's electric power supplier or gas supplier. A telephone call
11 made to an existing customer of an electric power supplier, gas
12 supplier, broker, energy agent, marketer, private aggregator, or
13 sales representative, for the sole purpose of collecting on accounts
14 or following up on contractual obligations, shall not be deemed a
15 telemarketing sales call. A telephone call made in response to an
16 express written request of a customer shall not be deemed a
17 telemarketing sales call.

18 "Thermal efficiency" means the useful electric energy output of a
19 facility, plus the useful thermal energy output of the facility,
20 expressed as a percentage of the total energy input to the facility.

21 "Transition bond charge" means a charge, expressed as an
22 amount per kilowatt hour, that is authorized by and imposed on
23 electric public utility ratepayers pursuant to a bondable stranded
24 costs rate order, as modified at any time pursuant to the provisions
25 of P.L.1999, c.23 (C.48:3-49 et al.).

26 "Transition bonds" means bonds, notes, certificates of
27 participation, beneficial interest, or other evidences of indebtedness
28 or ownership issued pursuant to an indenture, contract, or other
29 agreement of an electric public utility or a financing entity, the
30 proceeds of which are used, directly or indirectly, to recover,
31 finance or refinance bondable stranded costs and which are, directly
32 or indirectly, secured by or payable from bondable transition
33 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
34 principal, interest, and acquisition or redemption premium with
35 respect to transition bonds which are issued in the form of
36 certificates of participation or beneficial interest or other evidences
37 of ownership shall refer to the comparable payments on such
38 securities.

39 "Transition period" means the period from August 1, 1999
40 through July 31, 2003.

41 "Transmission and distribution system" means, with respect to an
42 electric public utility, any facility or equipment that is used for the
43 transmission, distribution, or delivery of electricity to the customers
44 of the electric public utility including, but not limited to, the land,
45 structures, meters, lines, switches, and all other appurtenances
46 thereof and thereto, owned or controlled by the electric public
47 utility within this State.

1 "Universal service" means any service approved by the board
2 with the purpose of assisting low-income residential customers in
3 obtaining or retaining electric generation or delivery service.

4 "Unsolicited advertisement" means any advertising claims of the
5 commercial availability or quality of services provided by an
6 electric power supplier, gas supplier, broker, energy agent,
7 marketer, private aggregator, sales representative, or telemarketer
8 which is transmitted to a potential customer without that customer's
9 prior express invitation or permission.

10 (cf: P.L.2015, c.51, s.1)

11

12 7. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill would require certain generators of solid waste to
18 separate and recycle food waste, and amend the definition of "Class
19 I renewable energy."

20 Specifically, beginning one year after the effective date of the
21 bill, every large food waste generator that is located within 25 road
22 miles of an authorized food waste recycling facility and that
23 generates an average projected volume of 52 or more tons per year
24 of food waste would be required to: (1) source separate its food
25 waste from other solid waste; and (2) send that source separated
26 food waste to an authorized food waste recycling facility that has
27 available capacity and will accept it.

28 Under the bill, if a large food waste generator is not located
29 within 25 road miles of an authorized food waste recycling facility,
30 or the facility will not accept the generator's food waste, the
31 generator may send the food waste for final disposal at a solid waste
32 facility as provided in the approved district solid waste management
33 plan for the solid waste management district in which the generator
34 is located. In addition, a large food waste generator would be
35 deemed in compliance with the bill if the generator: (1) performs
36 enclosed on-site composting, or anaerobic or aerobic digestion of its
37 source separated food waste in accordance with standards adopted
38 by the department; or (2) recycles food waste using an alternative
39 authorized food waste recycling method.

40 The bill would authorize a large food waste generator to petition
41 the Department of Environmental Protection (DEP) for a waiver of
42 the recycling requirement if the cost of transporting the food waste
43 plus the fee charged by an authorized food waste recycling facility
44 located within 25 road miles of the large food waste generator is at
45 least 10 percent more than the cost of transporting the food waste
46 for disposal as solid waste plus the disposal fee charged for solid
47 waste disposal in the State for noncontract commercial waste by a
48 properly licensed transfer station, sanitary landfill facility,

1 incinerator, or resource recovery facility located within 25 road
2 miles of the large food waste generator. The bill would require that
3 any authorized food waste recycling facility located within 25 road
4 miles of the large food waste generator seeking the waiver be given
5 notice of the petition and an opportunity to participate in the
6 proceeding before the DEP.

7 Any person who violates the bill would be subject to a civil
8 penalty of \$250 for the first offense, \$500 for the second offense,
9 and \$1,000 for the third and subsequent offenses. If the violation is
10 of a continuing nature, each day during which the violation
11 continues would constitute a separate offense.

12 The DEP would be required to adopt regulations to implement
13 the bill, including: (1) record keeping and reporting requirements
14 for large food waste generators and authorized food waste recycling
15 facilities; (2) guidelines and procedures for businesses to follow to
16 determine whether they are subject to the requirements of the bill,
17 including food waste generation estimates and food waste audits or
18 assessments; (3) a list of food waste products that must be source
19 separated and recycled; (4) standards for the enclosed on-site
20 composting, or anaerobic or aerobic digestion of source separated
21 food waste, including requirements for energy production and other
22 sustainable uses of the byproducts of recycled food waste; and (5) a
23 list of actions businesses may take to reduce the amount of food
24 waste they generate to a level below the threshold amount
25 established in the bill. The DEP would publish on its Internet
26 website the name, location, and contact information for each
27 authorized food waste recycling facility in the State.

28 Under the bill, any municipality within which an authorized food
29 waste recycling facility is located, pursuant to an adopted district
30 solid waste management plan approved after the effective date of
31 the bill would be entitled to an economic benefit. The bill would
32 also establish the Food Waste Recycling Market Development
33 Council. The bill would require State departments and agencies to
34 use, where technically feasible, environmentally sound, and
35 competitively priced, compost, mulch, or other soil amendments
36 produced from municipal solid waste, food waste, sludge, yard
37 waste, clean wood waste, or other similar materials that the supplier
38 has certified comply with applicable project standards and
39 specifications. Finally, the bill would amend the definition of
40 "Class I renewable energy" to include electric energy produced
41 from methane gas from a composting or anaerobic or aerobic
42 digestion facility that converts food waste or other organic waste to
43 energy.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2371

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2020

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2371.

This bill would require certain generators of solid waste to separate and recycle food waste, and amend the definition of “Class I renewable energy.”

Specifically, beginning one year after the effective date of the bill, every large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and that generates an average projected volume of 52 or more tons per year of food waste within 25 road miles of an authorized food waste recycling facility would be required to: (1) source separate its food waste from other solid waste; and (2) send that source separated food waste to an authorized food waste recycling facility that has available capacity and will accept it.

Under the bill, if a large food waste generator is not located within 25 road miles of an authorized food waste recycling facility, or the facility will not accept the generator’s food waste, the generator may send the food waste for final disposal at a solid waste facility as provided in the approved district solid waste management plan for the solid waste management district in which the generator is located. In addition, a large food waste generator would be deemed in compliance with the bill if the generator: (1) performs enclosed on-site composting, or anaerobic or aerobic digestion of its source separated food waste in accordance with standards adopted by the department; or (2) recycles food waste using an alternative authorized food waste recycling method.

The bill would authorize a large food waste generator to petition the Department of Environmental Protection (DEP) for a waiver of the recycling requirement if the cost of transporting the food waste plus the fee charged by an authorized food waste recycling facility located within 25 road miles of the large food waste generator is at least 10 percent more than the cost of transporting the food waste for disposal as solid waste plus the disposal fee charged for solid waste disposal in the State for noncontract commercial waste by a properly licensed

transfer station, sanitary landfill facility, incinerator, or resource recovery facility located within 25 road miles of the large food waste generator. The bill would require that any authorized food waste recycling facility located within 25 road miles of the large food waste generator seeking the waiver be given notice of the petition and an opportunity to participate in the proceeding before the DEP.

Any person who violates the provisions in the bill would be subject to a civil penalty of \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses. If the violation is of a continuing nature, each day during which the violation continues would constitute a separate offense.

The DEP would be required to adopt regulations to implement the bill, including: (1) record keeping and reporting requirements for large food waste generators and authorized food waste recycling facilities; (2) guidelines and procedures for businesses to follow to determine whether they are subject to the requirements of the bill, including food waste generation estimates and food waste audits or assessments; (3) a list of food waste products that must be source separated and recycled; (4) standards for the enclosed on-site composting, or anaerobic or aerobic digestion of source separated food waste, including requirements for energy production and other sustainable uses of the byproducts of recycled food waste; and (5) a list of actions businesses may take to reduce the amount of food waste they generate to a level below the threshold amount established in the bill. The DEP would publish on its Internet website the name, location, and contact information for each authorized food waste recycling facility in the State.

Under the bill, any municipality within which an authorized food waste recycling facility is located, pursuant to an adopted district solid waste management plan approved after the effective date of the bill would be entitled to an economic benefit.

The bill would also establish the Food Waste Recycling Market Development Council. The bill would require State departments and agencies to use, where technically feasible, environmentally sound, and competitively priced, compost, mulch, or other soil amendments produced from municipal solid waste, food waste, sludge, yard waste, clean wood waste, or other similar materials that the supplier has certified comply with applicable project standards and specifications.

Finally, the bill would amend the definition of “Class I renewable energy” to include electric energy produced from methane gas from a composting or anaerobic or aerobic digestion facility that converts food waste or other organic waste to energy.

COMMITTEE AMENDMENTS:

The committee amendments update the date in section 3 of the bill referring to the calendar year 2019 to instead refer to calendar year 2021.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2371

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 20, 2020

The Assembly Telecommunications and Utilities Committee reports favorably and with committee amendments Assembly Bill No. 2371 (1R).

As amended and reported, this bill requires certain generators of solid waste to separate and recycle food waste, and amends the definition of “Class I renewable energy.”

Specifically, beginning 18 months after the effective date of the bill, for each individual establishment or location owned or operated by a large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and generates an average projected volume of 52 or more tons per year of food waste within 25 road miles of an authorized food waste recycling facility is required to: 1) source separate its food waste from other solid waste; and 2) send that source separated food waste to an authorized food waste recycling facility that has available capacity and will accept it.

Under the bill, if a large food waste generator is not located within 25 road miles of an authorized food waste recycling facility, or the facility will not accept the generator’s food waste, the generator may send the food waste for final disposal at a solid waste facility as provided in the approved district solid waste management plan for the solid waste management district in which the generator is located. In addition, a large food waste generator is deemed in compliance with the bill if the generator: 1) performs enclosed on-site composting, or anaerobic or aerobic digestion of its source separated food waste in accordance with standards adopted by the department; or 2) recycles food waste using an alternative authorized food waste recycling method.

The bill authorizes a large food waste generator to petition the Department of Environmental Protection (DEP) for a waiver of the recycling requirement if the cost of transporting the food waste plus the fee charged by an authorized food waste recycling facility located within 25 road miles of the large food waste generator is at least 10 percent more than the cost of transporting the food waste for disposal as solid waste plus the disposal fee charged for solid waste disposal in the State for noncontract commercial waste by a properly licensed transfer

station, sanitary landfill facility, incinerator, or resource recovery facility located within 25 road miles of the large food waste generator. The bill requires that any authorized food waste recycling facility located within 25 road miles of the large food waste generator seeking the waiver be given notice of the petition and an opportunity to participate in the proceeding before the DEP.

Any person who violates the provisions in the bill would be subject to a civil penalty of \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses. If the violation is of a continuing nature, each day during which the violation continues would constitute a separate offense.

The DEP is required to adopt regulations to implement certain provisions of the bill. The DEP is to publish on its Internet website the name, location, and contact information for each authorized food waste recycling facility in the State.

Under the bill, any municipality within which an authorized food waste recycling facility is located, pursuant to an adopted district solid waste management plan approved after the effective date of the bill, is entitled to an economic benefit.

The bill establishes a 12-member Food Waste Recycling Market Development Council in the DEP as provided in the bill. The bill requires State departments and agencies to use, where technically feasible, environmentally sound, and competitively priced, compost, mulch, or other soil amendments produced from municipal solid waste, food waste, sludge, yard waste, clean wood waste, or other similar materials that the supplier has certified comply with applicable project standards and specifications.

Finally, the bill amends the definition of “Class I renewable energy” to include electric energy produced from methane gas from a composting or anaerobic or aerobic digestion facility that converts food waste or other organic waste to energy.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) provide that each individual establishment or location owned or operated by a large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and generates an average projected volume of 52 or more tons per year of food waste within 25 road miles of an authorized food waste recycling facility is required to source separate and recycle its food waste, and extend this requirement from one year to 18 months;

2) require the DEP to include in its rules and regulations procedures for a large food waste generator to follow when petitioning for a waiver as allowed by the bill; and

3) require an authorized food waste recycling facility located and constructed pursuant to an adopted district solid waste management plan approved after the effective date of the bill to, where feasible, employ minority and women applicants that reside near the facility.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2371

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: FEBRUARY 27, 2020

SUMMARY

- Synopsis:** Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”
- Type of Impact:** Annual expenditure increases to the State, public higher educational institutions, counties, municipalities, and school districts. Annual revenue increases to certain municipalities, and potentially the State.
- Agencies Affected:** Department of Environmental Protection, State departments with facilities that are subject to the bill, public higher educational institutions, counties, municipalities, and school districts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill would lead to an indeterminate annual expenditure increase by the State and State institutions of higher education. No precise estimate is feasible due to the unavailability of information on which State facilities would be affected by the bill. Because the bill authorizes a large food waste generator to petition the Department of Environmental Protection (DEP) for a waiver of the recycling requirement if the transportation cost together with the fee for recycling is at least 10 percent more than the transportation cost and disposal fee for noncontract commercial solid waste disposal, the bill may result in no additional State costs for compliance.
- The OLS determines that this bill may have an indeterminate annual expenditure impact on any county, school district, or municipality that is a large food waste generator. No precise estimate is feasible due to the unavailability of information on which local government or school facilities would be affected by the bill. The ability to obtain a waiver from compliance also applies to local governments and school districts.

- Annual revenue increases may be realized by certain municipalities due to the bill's provision for a local economic benefit payment to any municipality that hosts a facility approved to accept food waste. The payments would be made by authorized food waste recycling facilities located in the municipality. Insufficient data are available upon which to base an estimate of this impact.
- The DEP would incur additional recurring administrative costs to discharge its new responsibilities under the bill and to enforce compliance with the bill's requirements. The OLS has insufficient information upon which to base an estimate of this impact.

BILL DESCRIPTION

This bill would require certain generators of solid waste to separate and recycle food waste, and amend the definition of "Class I renewable energy."

Specifically, beginning one year after the effective date of the bill, every large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and that generates an average projected volume of 52 or more tons per year of food waste would be required to: (1) source separate its food waste from other solid waste; and (2) send that source separated food waste to an authorized food waste recycling facility that has available capacity and will accept it.

Under the bill, if a large food waste generator is not located within 25 road miles of an authorized food waste recycling facility, or the facility will not accept the generator's food waste, the generator may send the food waste for final disposal at a solid waste facility as provided in the approved district solid waste management plan for the solid waste management district in which the generator is located. In addition, a large food waste generator would be deemed in compliance with the bill if the generator: (1) performs enclosed on-site composting, or anaerobic or aerobic digestion of its source separated food waste in accordance with standards adopted by the department; or (2) recycles food waste using an alternative authorized food waste recycling method.

The bill would authorize a large food waste generator to petition the DEP for a waiver of the recycling requirement if the cost of transporting the food waste plus the fee charged by an authorized food waste recycling facility located within 25 road miles of the large food waste generator is at least 10 percent more than the cost of transporting the food waste for disposal as solid waste plus the disposal fee charged for solid waste disposal in the State for noncontract commercial waste by a properly licensed transfer station, sanitary landfill facility, incinerator, or resource recovery facility located within 25 road miles of the large food waste generator.

Any person who violates the bill would be subject to a civil penalty of \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses. If the violation is of a continuing nature, each day during which the violation continues would constitute a separate offense.

The DEP would be required to adopt regulations to implement the bill, including: (1) record keeping and reporting requirements for large food waste generators and authorized food waste recycling facilities; (2) guidelines and procedures for businesses to follow to determine whether they are subject to the requirements of the bill, including food waste generation estimates and food waste audits or assessments; (3) a list of food waste products that must be source separated and recycled; (4) standards for the enclosed on-site composting, or anaerobic or aerobic digestion of source separated food waste, including requirements for energy production and other sustainable

uses of the byproducts of recycled food waste; (5) a list of actions businesses may take to reduce the amount of food waste they generate to a level below the threshold amount established in the bill; and (6) procedures for a large food waste generator to follow when petitioning the department for a waiver. The DEP would publish on its Internet website the name, location, and contact information for each authorized food waste recycling facility in the State.

Under the bill, any municipality within which an authorized food waste recycling facility is located, pursuant to an adopted district solid waste management plan approved after the effective date of the bill would be entitled to an economic benefit. The bill would also establish the Food Waste Recycling Market Development Council. The bill would require State departments and agencies to use, where technically feasible, environmentally sound, and competitively priced, compost, mulch, or other soil amendments produced from municipal solid waste, food waste, sludge, yard waste, clean wood waste, or other similar materials that the supplier has certified comply with applicable project standards and specifications. Finally, the bill would amend the definition of “Class I renewable energy” to include electric energy produced from methane gas from a composting or anaerobic or aerobic digestion facility that converts food waste or other organic waste to energy.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill would lead to an indeterminate annual expenditure increase by the State and State institutions of higher education. No precise estimate is feasible due to the unavailability of information on which State facilities would be affected by the bill. Because the bill authorizes a large food waste generator to petition the DEP for a waiver of the recycling requirement if the transportation cost together with the fee for recycling is at least 10 percent more than the transportation cost and disposal fee for noncontract commercial solid waste disposal, the bill may result in no additional State costs for compliance.

Rutgers University, New Brunswick has informed the OLS that it will not be required to send its food waste to a recycling facility because it is implementing a program for the on-site recycling of its food waste. In addition, Rutgers University, Newark and Kean University have indicated that they will not be subject to the bill's provisions because they generate less than 52 tons of food waste per year. The OLS also notes that William Patterson University, Stockton University, and Ramapo College are currently not covered by the bill's provisions because they are more than 25 road miles from the nearest food waste recycling facility. There are currently four DEP-certified food waste recycling facilities in the State, located in Gloucester City, the City of Trenton, Middlesex Borough, and the City of Elizabeth.

The New Jersey Institute of Technology (NJIT) has indicated that implementing a food waste recycling program would increase its disposal costs by approximately 300 percent. NJIT would therefore qualify for a waiver from the DEP. This may indicate that the costs of implementing food waste recycling programs at large institutions are currently well above the 10 percent threshold for a waiver, in which case many other State facilities that are large food waste generators would likely seek a waiver and see no additional costs. NJIT has also informed the OLS that it paid roughly \$168 per ton for solid waste disposal in FY 2019, suggesting that facilities who do

not qualify for the waiver could expect to pay a maximum of roughly \$16 additionally per ton, under the bill—assuming NJIT's costs are representative.

The same potential impacts, mitigating factors, and insufficiency of data apply to local governments and school districts that may be required to comply with the bill's requirements. Burlington County has informed the OLS that it does not have any facilities that produce more than 52 tons of food waste per year. In addition, much of Salem, Cumberland, Cape May, Atlantic, Ocean, Warren, Sussex, and Bergen counties is farther than 25 road miles from the nearest food waste recycling facility, and thus the bill's provisions would not affect facilities in these areas.

County landfills may see decreased revenue in tipping fees as a result of the bill's provisions, since food waste that is currently being disposed of in landfills would be diverted to food waste recycling facilities. Burlington County has informed the OLS that it anticipates an annual revenue decrease of between \$450,000 and \$1,000,000 due to decreased tipping fees. However, it is unclear how the county estimated the decrease in food waste, given the uncertainty about which entities will qualify for and seek a waiver from the DEP or would use an alternative authorized composting or recycling method. The bill's provisions may also affect county landfill gas-to-energy (LGTE) facilities, since food waste that is currently producing landfill gas in these facilities would be diverted to food waste recycling facilities. The OLS notes that Atlantic, Burlington, Cape May, Cumberland, Middlesex, Monmouth, Ocean, Salem, and Sussex counties currently have a LGTE facility. However, this effect would be mitigated for the LGTE facilities in Atlantic, Cape May, Cumberland, Ocean, Salem, and Sussex counties, since, as noted above, large areas of these counties are currently not within 25 road miles of an authorized food waste recycling facility. Moreover, the LGTE facility in Burlington County is scheduled to cease operations in 2020.

Any municipality within which an authorized food waste recycling facility is located, pursuant to an adopted district solid waste management plan approved after the effective date of the bill, would be entitled to an annual economic benefit of at least \$0.50 per ton of all food waste accepted for processing at the authorized food waste recycling facility each year. The payments would be made by authorized food waste recycling facilities located in the municipality. The OLS anticipates that the bill would generate demand for new food waste recycling facilities in the State, but it cannot predict the municipalities in which they will be constructed.

The OLS notes that there may be marginal recurring revenue gains from the civil penalties associated with the bill. In addition, the DEP would incur additional recurring administrative costs to discharge its new responsibilities under the bill and to enforce compliance with the bill's requirements. The additional duties would include the operation of the temporary Food Waste Recycling Market Development Council. The OLS has insufficient information upon which to base an estimate of these impacts.

Section: Environment, Agriculture, Energy and Natural Resources
Analyst: Eric Hansen
Assistant Research Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 865

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and amending P.L.1999, c.23.

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

7
8 1. (New section) As used in P.L. , c. (C.) (pending
9 before the Legislature as this bill):

10 “Alternative authorized food waste recycling method” means: (1)
11 recycling food waste at the site at which it is generated as
12 authorized by the Department of Environmental Protection; (2)
13 treating food waste at the site at which it is generated pursuant to a
14 permit issued by the department; (3) sending food waste for offsite
15 use for agricultural purposes, including as animal feed; (4) sending
16 food waste offsite for treatment with sewage sludge in an anaerobic
17 digester for renewable natural gas or biogas recovery as authorized
18 by the department; or (5) any other method of recycling or reuse of
19 food waste, as authorized by the department.

20 “Authorized food waste recycling facility” means a Class C
21 recycling center within the State authorized to accept, store,
22 process, or transfer food waste or compostable material, pursuant to
23 subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

24 “Department” means the Department of Environmental
25 Protection.

26 “Food waste” means food processing vegetative waste, food
27 processing residue generated from processing and packaging
28 operations, overripe produce, trimmings from food, food product
29 over-runs from food processing, soiled and unrecyclable paper
30 generated from food processing, and used cooking fats, oil, and
31 grease, but shall not include food donated by the generator for
32 human consumption , any waste generated by a consumer after the
33 generator issues or sells food to the consumer, or any waste
34 regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R.
35 s.94.5.

36 “Large food waste generator” means any commercial food
37 wholesaler, distributor, industrial food processor, supermarket,
38 resort, conference center, banquet hall, restaurant, educational or
39 religious institution, military installation, prison, hospital, medical
40 facility, or casino that produces at least 52 tons per year of food
41 waste; provided that "large food waste generator" shall not include
42 any interstate carrier conducting interstate transportation operations
43 in the post-security area of an international airport.

44 “Source separate” or “source separated” means the process by
45 which food waste is separated at the point of generation by the
46 generator thereof from other solid waste for the purpose of
47 recycling.

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

Matter underlined thus is new matter.

1 2. (New section) a. Beginning one year after the effective
2 date of P.L. , c. (C.)(pending before the Legislature as this
3 bill), each large food waste generator that is located within 25 road
4 miles of an authorized food waste recycling facility and that
5 generates an average projected volume of 52 or more tons per year
6 of food waste within 25 road miles of an authorized food waste
7 recycling facility shall:

8 (1) source separate its food waste from other solid waste; and

9 (2) send the source separated food waste to an authorized food
10 waste recycling facility that has available capacity and will accept
11 it.

12 b. Notwithstanding the provisions of subsection a. of this
13 section:

14 (1) If a large food waste generator is not located within 25 road
15 miles of an authorized food waste recycling facility, or the
16 authorized food waste recycling facility will not accept the
17 generator's food waste, the large food waste generator may send the
18 food waste for final disposal at a solid waste facility as provided in
19 the approved district solid waste management plan for the solid
20 waste management district in which the generator is located;

21 (2) Any large food waste generator that is obligated to source
22 separate and recycle its food waste pursuant to subsection a. of this
23 section shall be deemed to be in compliance with the provisions of
24 this section if the large food waste generator:

25 (a) performs enclosed on-site composting, or anaerobic or
26 aerobic digestion of its source separated food waste in accordance
27 with standards adopted by the department pursuant to subsection d.
28 of this section, or

29 (b) recycles food waste using an alternative authorized food
30 waste recycling method; and

31 (3) A large food waste generator may petition the Department of
32 Environmental Protection for a waiver of the requirements in
33 subsection a. of this section if the cost of transporting the food
34 waste plus the fee charged by an authorized food waste recycling
35 facility located within 25 road miles of the large food waste
36 generator is at least 10 percent more than the cost of transporting
37 the food waste for disposal as solid waste plus the disposal fee
38 charged for solid waste disposal in the State for noncontract
39 commercial waste by a properly licensed transfer station, sanitary
40 landfill facility, incinerator, or resource recovery facility located
41 within 25 road miles of the large food waste generator provided that
42 any authorized food waste recycling facility located within 25 road
43 miles of the large food waste generator seeking the waiver must be
44 given notice of the petition and an opportunity to participate in the
45 proceeding before the department.

46 c. Any person who violates this act, or any rule or regulation
47 adopted pursuant thereto, shall be subject to a civil penalty of \$250
48 for the first offense, \$500 for the second offense, and \$1,000 for the

1 third and each subsequent offense, to be collected in a civil action
2 by a summary proceeding under the “Penalty Enforcement Law of
3 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
4 continuing nature, each day during which it continues shall
5 constitute an additional, separate, and distinct offense. The Superior
6 Court and the municipal court shall have jurisdiction to enforce the
7 provisions of the “Penalty Enforcement Law of 1999,”
8 P.L.1999, c.274 (C.2A:58-10 et seq.) in connection with this
9 subsection.

10 d. The Department of Environmental Protection shall adopt,
11 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
12 (C.52:14B-1 et seq.), rules and regulations necessary to implement
13 this section, including, but not limited to:

14 (1) record keeping and reporting requirements for large food
15 waste generators and authorized food waste recycling facilities, as
16 determined necessary by the department;

17 (2) guidelines and procedures for businesses to follow to
18 determine whether they are subject to the requirements of this
19 section, including food waste generation estimates and food waste
20 audits or assessments;

21 (3) a list of food waste products that must be source separated
22 and recycled pursuant to this section;

23 (4) standards for the enclosed on-site composting, or anaerobic
24 or aerobic digestion of source separated food waste, including
25 requirements for energy production and other sustainable uses of
26 the byproducts of recycled food waste; and

27 (5) a list of actions businesses may take to reduce the amount of
28 food waste they generate to a level below the threshold amount
29 established in subsection a. of this section.

30 e. The department shall publish on its Internet website the
31 name, location, and contact information for each authorized food
32 waste recycling facility in the State.

33

34 3. (New section) a. Any municipality within which an
35 authorized food waste recycling facility is located, pursuant to an
36 adopted district solid waste management plan approved after the
37 effective date of P.L. , c. (C.)(pending before the
38 Legislature as this bill), shall be entitled to an economic benefit of
39 not less than the equivalent of \$0.50 per ton, to be paid and adjusted
40 quarterly, of all food waste accepted for processing at the
41 authorized food waste recycling facility during the 2019 calendar
42 year and each year thereafter. The owner or operator of the
43 authorized food waste recycling facility shall pay quarterly to the
44 municipality the full amount due under this subsection. The
45 municipality is authorized to anticipate this amount for the purposes
46 of preparing its annual budget.

47 b. For the purposes of calculating the payments, the owner or
48 operator of the authorized food waste recycling facility may, subject

1 to the prior agreement of the municipality and approval of the
2 Department of Environmental Protection, provide the municipality
3 with any of the following benefits in consideration for the use of
4 land within the municipality's boundaries as the location of the
5 authorized food waste recycling facility:

6 (1) quarterly payments of money in lieu of taxes on the land
7 used for the authorized food waste recycling center or other
8 authorized facility;

9 (2) exemption from all fees and charges for the acceptance of
10 food waste for composting, anaerobic or aerobic digestion, or other
11 processing, as approved by the department, of food waste generated
12 within the municipality's boundaries;

13 (3) quarterly lump sum cash payments; or

14 (4) any combination thereof.

15

16 4. (New section) a. There is established in the Department of
17 Environmental Protection a Food Waste Recycling Market
18 Development Council, which shall consist of 12 members. The
19 members shall include the Commissioner of Environmental
20 Protection, the President of the Board of Public Utilities, the
21 Commissioner of Transportation, the Secretary of Agriculture, the
22 State Treasurer, and the Attorney General, or their designees, who
23 shall serve ex officio; and six citizens of the State appointed by the
24 Governor. Of the appointed members: two shall be actively
25 engaged in the composting industry, of whom one shall be a
26 representative of the National Waste and Recycling Association and
27 one shall be a representative of the National Biosolids Partnership
28 or equivalent entities; two shall be actively engaged in the recycling
29 or solid waste collection industry, of whom one shall be a
30 representative of the Association of New Jersey Recyclers or
31 equivalent entities; and two shall represent the general public. The
32 Commissioner of Environmental Protection shall appoint the
33 chairperson and the vice-chairperson of the council from the citizen
34 members.

35 b. Members of the council shall serve without compensation,
36 but shall be reimbursed for expenses incurred in attending meetings
37 and performing their duties to the extent funds are available
38 therefor.

39 c. Within 18 months after the date of enactment of this act, the
40 Food Waste Recycling Market Development Council shall prepare a
41 report on the existing markets for any products and energy produced
42 from food recycling facilities, food waste composting facilities, and
43 anaerobic and aerobic digestion facilities that accept food waste
44 material. The council shall investigate the feasibility of providing
45 preferences for products or energy produced from food recycling
46 facilities, food waste composting facilities, and anaerobic and
47 aerobic digestion facilities in the State procurement process,
48 including how to stimulate the use in public projects of compost or

1 soil amendment products derived from these facilities. The council
2 shall provide recommendations on changes needed to State laws or
3 rules or regulations to stimulate the market for products and energy
4 produced from food recycling facilities, food waste composting
5 facilities, and anaerobic and aerobic digestion facilities that accept
6 food waste material. The report shall be transmitted to the Governor
7 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
8 Legislature.

9
10 5. (New section) a. Every State department or agency that
11 engages in landscaping or construction activities on State land, or
12 for State projects or facilities, shall use, where technically feasible,
13 environmentally sound, and competitively priced, compost, mulch,
14 or other soil amendments produced from municipal solid waste,
15 food waste, sludge, yard waste, clean wood waste, or other organic
16 materials that the supplier has certified comply with applicable
17 project standards and specifications. Such compost, mulch, or soil
18 amendments shall be used in place of chemical fertilizers or soil
19 amendments.

20 b. In purchasing compost, mulch, or other soil amendments for
21 use by the various departments or agencies of State government, the
22 Director of the Division of Purchase and Property in the Department
23 of the Treasury, whenever the price is competitive and the quality
24 satisfactory for the purpose intended, shall make contracts available
25 for compost, mulch, or other soil amendments produced from
26 municipal solid waste, food waste, sludge, yard waste, clean wood
27 waste, or other organic materials.

28 c. As used in this section:

29 "Competitive" or "competitively priced" means a price of no
30 more than 10% above the price of products which are manufactured
31 or produced from virgin materials; except that the Director of the
32 Division of Purchase and Property, upon consultation with the
33 Department of Environmental Protection, may make contracts
34 available for compost, mulch, or other soil amendments produced
35 from municipal solid waste, food waste, sludge, yard waste, clean
36 wood waste, or other organic materials at a price no more than 15%
37 above the price of products manufactured or produced from virgin
38 materials whenever the director determines that a 15% price
39 differential is in the best interest of the State.

40 "Food waste" shall have the same meaning as provided in section
41 1 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43
44 6. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
45 as follows:

46 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

47 "Assignee" means a person to which an electric public utility or
48 another assignee assigns, sells, or transfers, other than as security,

1 all or a portion of its right to or interest in bondable transition
2 property. Except as specifically provided in
3 P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to
4 the public utility requirements of Title 48 or any rules or regulations
5 adopted pursuant thereto.

6 "Base load electric power generation facility" means an electric
7 power generation facility intended to be operated at a greater than
8 50 percent capacity factor including, but not limited to, a combined
9 cycle power facility and a combined heat and power facility.

10 "Base residual auction" means the auction conducted by PJM, as
11 part of PJM's reliability pricing model, three years prior to the start
12 of the delivery year to secure electrical capacity as necessary to
13 satisfy the capacity requirements for that delivery year.

14 "Basic gas supply service" means gas supply service that is
15 provided to any customer that has not chosen an alternative gas
16 supplier, whether or not the customer has received offers as to
17 competitive supply options, including, but not limited to, any
18 customer that cannot obtain such service for any reason, including
19 non-payment for services. Basic gas supply service is not a
20 competitive service and shall be fully regulated by the board.

21 "Basic generation service" or "BGS" means electric generation
22 service that is provided, to any customer that has not chosen an
23 alternative electric power supplier, whether or not the customer has
24 received offers for competitive supply options, including, but not
25 limited to, any customer that cannot obtain such service from an
26 electric power supplier for any reason, including non-payment for
27 services. Basic generation service is not a competitive service and
28 shall be fully regulated by the board.

29 "Basic generation service provider" or "provider" means a
30 provider of basic generation service.

31 "Basic generation service transition costs" means the amount by
32 which the payments by an electric public utility for the procurement
33 of power for basic generation service and related ancillary and
34 administrative costs exceeds the net revenues from the basic
35 generation service charge established by the board pursuant to
36 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
37 together with interest on the balance at the board-approved rate, that
38 is reflected in a deferred balance account approved by the board in
39 an order addressing the electric public utility's unbundled rates,
40 stranded costs, and restructuring filings pursuant to
41 P.L.1999, c.23 (C.48:3-49 et al.). Basic generation service
42 transition costs shall include, but are not limited to, costs of
43 purchases from the spot market, bilateral contracts, contracts with
44 non-utility generators, parting contracts with the purchaser of the
45 electric public utility's divested generation assets, short-term
46 advance purchases, and financial instruments such as hedging,
47 forward contracts, and options. Basic generation service transition
48 costs shall also include the payments by an electric public utility

1 pursuant to a competitive procurement process for basic generation
2 service supply during the transition period, and costs of any such
3 process used to procure the basic generation service supply.

4 "Board" means the New Jersey Board of Public Utilities or any
5 successor agency.

6 "Bondable stranded costs" means any stranded costs or basic
7 generation service transition costs of an electric public utility
8 approved by the board for recovery pursuant to the provisions of
9 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
10 board: (1) the cost of retiring existing debt or equity capital of the
11 electric public utility, including accrued interest, premium and other
12 fees, costs, and charges relating thereto, with the proceeds of the
13 financing of bondable transition property; (2) if requested by an
14 electric public utility in its application for a bondable stranded costs
15 rate order, federal, State and local tax liabilities associated with
16 stranded costs recovery, basic generation service transition cost
17 recovery, or the transfer or financing of the property, or both,
18 including taxes, whose recovery period is modified by the effect of
19 a stranded costs recovery order, a bondable stranded costs rate
20 order, or both; and (3) the costs incurred to issue, service or
21 refinance transition bonds, including interest, acquisition or
22 redemption premium, and other financing costs, whether paid upon
23 issuance or over the life of the transition bonds, including, but not
24 limited to, credit enhancements, service charges,
25 overcollateralization, interest rate cap, swap or collar, yield
26 maintenance, maturity guarantee or other hedging agreements,
27 equity investments, operating costs, and other related fees, costs,
28 and charges, or to assign, sell, or otherwise transfer bondable
29 transition property.

30 "Bondable stranded costs rate order" means one or more
31 irrevocable written orders issued by the board pursuant to
32 P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of
33 bondable stranded costs and the initial amount of transition bond
34 charges authorized to be imposed to recover the bondable stranded
35 costs, including the costs to be financed from the proceeds of the
36 transition bonds, as well as on-going costs associated with servicing
37 and credit enhancing the transition bonds, and provides the electric
38 public utility specific authority to issue or cause to be issued,
39 directly or indirectly, transition bonds through a financing entity
40 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
41 which order shall become effective immediately upon the written
42 consent of the related electric public utility to the order as provided
43 in P.L.1999, c.23 (C.48:3-49 et al.).

44 "Bondable transition property" means the property consisting of
45 the irrevocable right to charge, collect, and receive, and be paid
46 from collections of, transition bond charges in the amount necessary
47 to provide for the full recovery of bondable stranded costs which
48 are determined to be recoverable in a bondable stranded costs rate

1 order, all rights of the related electric public utility under the
2 bondable stranded costs rate order including, without limitation, all
3 rights to obtain periodic adjustments of the related transition bond
4 charges pursuant to subsection b. of section 15 of
5 P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments,
6 money, and proceeds arising under, or with respect to, all of the
7 foregoing.

8 "British thermal unit" or "Btu" means the amount of heat
9 required to increase the temperature of one pound of water by one
10 degree Fahrenheit.

11 "Broker" means a duly licensed electric power supplier that
12 assumes the contractual and legal responsibility for the sale of
13 electric generation service, transmission, or other services to end-
14 use retail customers, but does not take title to any of the power sold,
15 or a duly licensed gas supplier that assumes the contractual and
16 legal obligation to provide gas supply service to end-use retail
17 customers, but does not take title to the gas.

18 "Brownfield" means any former or current commercial or
19 industrial site that is currently vacant or underutilized and on which
20 there has been, or there is suspected to have been, a discharge of a
21 contaminant.

22 "Buydown" means an arrangement or arrangements involving the
23 buyer and seller in a given power purchase contract and, in some
24 cases third parties, for consideration to be given by the buyer in
25 order to effectuate a reduction in the pricing, or the restructuring of
26 other terms to reduce the overall cost of the power contract, for the
27 remaining succeeding period of the purchased power arrangement
28 or arrangements.

29 "Buyout" means an arrangement or arrangements involving the
30 buyer and seller in a given power purchase contract and, in some
31 cases third parties, for consideration to be given by the buyer in
32 order to effectuate a termination of such power purchase contract.

33 "Class I renewable energy" means electric energy produced from
34 solar technologies, photovoltaic technologies, wind energy, fuel
35 cells, geothermal technologies, wave or tidal action, small scale
36 hydropower facilities with a capacity of three megawatts or less and
37 put into service after the effective date of P.L.2012, c.24, **[and]**
38 methane gas from landfills **[or], methane gas from** a biomass
39 facility**[,]** provided that the biomass is cultivated and harvested in a
40 sustainable manner, or methane gas from a composting or anaerobic
41 or aerobic digestion facility that converts food waste or other
42 organic waste to energy.

43 "Class II renewable energy" means electric energy produced at a
44 hydropower facility with a capacity of greater than three megawatts,
45 but less than 30 megawatts, or a resource recovery facility, provided
46 that the facility is located where retail competition is permitted and
47 provided further that the Commissioner of Environmental
48 Protection has determined that the facility meets the highest

1 environmental standards and minimizes any impacts to the
2 environment and local communities. Class II renewable energy
3 shall not include electric energy produced at a hydropower facility
4 with a capacity of greater than 30 megawatts on or after the
5 effective date of P.L.2015, c.51.

6 "Co-generation" means the sequential production of electricity
7 and steam or other forms of useful energy used for industrial or
8 commercial heating and cooling purposes.

9 "Combined cycle power facility" means a generation facility that
10 combines two or more thermodynamic cycles, by producing electric
11 power via the combustion of fuel and then routing the resulting
12 waste heat by-product to a conventional boiler or to a heat recovery
13 steam generator for use by a steam turbine to produce electric
14 power, thereby increasing the overall efficiency of the generating
15 facility.

16 "Combined heat and power facility" or "co-generation facility"
17 means a generation facility which produces electric energy and
18 steam or other forms of useful energy such as heat, which are used
19 for industrial or commercial heating or cooling purposes. A
20 combined heat and power facility or co-generation facility shall not
21 be considered a public utility.

22 "Competitive service" means any service offered by an electric
23 public utility or a gas public utility that the board determines to be
24 competitive pursuant to section 8 or section 10 of
25 P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by
26 the board.

27 "Commercial and industrial energy pricing class customer" or
28 "CIEP class customer" means that group of non-residential
29 customers with high peak demand, as determined by periodic board
30 order, which either is eligible or which would be eligible, as
31 determined by periodic board order, to receive funds from the Retail
32 Margin Fund established pursuant to section 9 of
33 P.L.1999, c.23 (C.48:3-57) and for which basic generation service
34 is hourly-priced.

35 "Comprehensive resource analysis" means an analysis including,
36 but not limited to, an assessment of existing market barriers to the
37 implementation of energy efficiency and renewable technologies
38 that are not or cannot be delivered to customers through a
39 competitive marketplace.

40 "Connected to the distribution system" means, for a solar electric
41 power generation facility, that the facility is: (1) connected to a net
42 metering customer's side of a meter, regardless of the voltage at
43 which that customer connects to the electric grid; (2) an on-site
44 generation facility; (3) qualified for net metering aggregation as
45 provided pursuant to paragraph (4) of subsection e. of section 38 of
46 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
47 public utility and approved by the board pursuant to section 13 of
48 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric

1 grid at 69 kilovolts or less, regardless of how an electric public
2 utility classifies that portion of its electric grid, and is designated as
3 "connected to the distribution system" by the board pursuant to
4 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
5 87); or (6) is certified by the board, in consultation with the
6 Department of Environmental Protection, as being located on a
7 brownfield, on an area of historic fill, or on a properly closed
8 sanitary landfill facility. Any solar electric power generation
9 facility, other than that of a net metering customer on the customer's
10 side of the meter, connected above 69 kilovolts shall not be
11 considered connected to the distribution system.

12 "Customer" means any person that is an end user and is
13 connected to any part of the transmission and distribution system
14 within an electric public utility's service territory or a gas public
15 utility's service territory within this State.

16 "Customer account service" means metering, billing, or such
17 other administrative activity associated with maintaining a customer
18 account.

19 "Delivery year" or "DY" means the 12-month period from June
20 1st through May 31st, numbered according to the calendar year in
21 which it ends.

22 "Demand side management" means the management of customer
23 demand for energy service through the implementation of cost-
24 effective energy efficiency technologies, including, but not limited
25 to, installed conservation, load management, and energy efficiency
26 measures on and in the residential, commercial, industrial,
27 institutional, and governmental premises and facilities in this State.

28 "Electric generation service" means the provision of retail
29 electric energy and capacity which is generated off-site from the
30 location at which the consumption of such electric energy and
31 capacity is metered for retail billing purposes, including agreements
32 and arrangements related thereto.

33 "Electric power generator" means an entity that proposes to
34 construct, own, lease, or operate, or currently owns, leases, or
35 operates, an electric power production facility that will sell or does
36 sell at least 90 percent of its output, either directly or through a
37 marketer, to a customer or customers located at sites that are not on
38 or contiguous to the site on which the facility will be located or is
39 located. The designation of an entity as an electric power generator
40 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
41 and of itself, affect the entity's status as an exempt wholesale
42 generator under the Public Utility Holding Company Act of 1935,
43 15 U.S.C. s.79 et seq., or its successor act.

44 "Electric power supplier" means a person or entity that is duly
45 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
46 al.) to offer and to assume the contractual and legal responsibility to
47 provide electric generation service to retail customers, and includes
48 load serving entities, marketers, and brokers that offer or provide

1 electric generation service to retail customers. The term excludes an
2 electric public utility that provides electric generation service only
3 as a basic generation service pursuant to section 9 of
4 P.L.1999, c.23 (C.48:3-57).

5 "Electric public utility" means a public utility, as that term is
6 defined in R.S.48:2-13, that transmits and distributes electricity to
7 end users within this State.

8 "Electric related service" means a service that is directly related
9 to the consumption of electricity by an end user, including, but not
10 limited to, the installation of demand side management measures at
11 the end user's premises, the maintenance, repair, or replacement of
12 appliances, lighting, motors, or other energy-consuming devices at
13 the end user's premises, and the provision of energy consumption
14 measurement and billing services.

15 "Electronic signature" means an electronic sound, symbol, or
16 process, attached to, or logically associated with, a contract or other
17 record, and executed or adopted by a person with the intent to sign
18 the record.

19 "Eligible generator" means a developer of a base load or mid-
20 merit electric power generation facility including, but not limited to,
21 an on-site generation facility that qualifies as a capacity resource
22 under PJM criteria and that commences construction after the
23 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

24 "Energy agent" means a person that is duly registered pursuant to
25 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
26 sale of retail electricity or electric related services, or retail gas
27 supply or gas related services, between government aggregators or
28 private aggregators and electric power suppliers or gas suppliers,
29 but does not take title to the electric or gas sold.

30 "Energy consumer" means a business or residential consumer of
31 electric generation service or gas supply service located within the
32 territorial jurisdiction of a government aggregator.

33 "Energy efficiency portfolio standard" means a requirement to
34 procure a specified amount of energy efficiency or demand side
35 management resources as a means of managing and reducing energy
36 usage and demand by customers.

37 "Energy year" or "EY" means the 12-month period from June 1st
38 through May 31st, numbered according to the calendar year in
39 which it ends.

40 "Existing business relationship" means a relationship formed by
41 a voluntary two-way communication between an electric power
42 supplier, gas supplier, broker, energy agent, marketer, private
43 aggregator, sales representative, or telemarketer and a customer,
44 regardless of an exchange of consideration, on the basis of an
45 inquiry, application, purchase, or transaction initiated by the
46 customer regarding products or services offered by the electric
47 power supplier, gas supplier, broker, energy agent, marketer,

1 private aggregator, sales representative, or telemarketer; however, a
2 consumer's use of electric generation service or gas supply service
3 through the consumer's electric public utility or gas public utility
4 shall not constitute or establish an existing business relationship for
5 the purpose of P.L.2013, c.263.

6 "Farmland" means land actively devoted to agricultural or
7 horticultural use that is valued, assessed, and taxed pursuant to the
8 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
9 23.1 et seq.).

10 "Federal Energy Regulatory Commission" or "FERC" means the
11 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
12 regulate the interstate transmission of electricity, natural gas, and
13 oil.

14 "Final remediation document" shall have the same meaning as
15 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

16 "Financing entity" means an electric public utility, a special
17 purpose entity, or any other assignee of bondable transition
18 property, which issues transition bonds. Except as specifically
19 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
20 which is not itself an electric public utility shall not be subject to
21 the public utility requirements of Title 48 of the Revised Statutes or
22 any rules or regulations adopted pursuant thereto.

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

25 "Gas related service" means a service that is directly related to
26 the consumption of gas by an end user, including, but not limited to,
27 the installation of demand side management measures at the end
28 user's premises, the maintenance, repair or replacement of
29 appliances or other energy-consuming devices at the end user's
30 premises, and the provision of energy consumption measurement
31 and billing services.

32 "Gas supplier" means a person that is duly licensed pursuant to
33 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
34 assume the contractual and legal obligation to provide gas supply
35 service to retail customers, and includes, but is not limited to,
36 marketers and brokers. A non-public utility affiliate of a public
37 utility holding company may be a gas supplier, but a gas public
38 utility or any subsidiary of a gas utility is not a gas supplier. In the
39 event that a gas public utility is not part of a holding company legal
40 structure, a related competitive business segment of that gas public
41 utility may be a gas supplier, provided that related competitive
42 business segment is structurally separated from the gas public
43 utility, and provided that the interactions between the gas public
44 utility and the related competitive business segment are subject to
45 the affiliate relations standards adopted by the board pursuant to
46 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

1 "Gas supply service" means the provision to customers of the
2 retail commodity of gas, but does not include any regulated
3 distribution service.

4 "Government aggregator" means any government entity subject
5 to the requirements of the "Local Public Contracts Law,"
6 P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts
7 Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts
8 Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a
9 written contract with a licensed electric power supplier or a licensed
10 gas supplier for: (1) the provision of electric generation service,
11 electric related service, gas supply service, or gas related service for
12 its own use or the use of other government aggregators; or (2) if a
13 municipal or county government, the provision of electric
14 generation service or gas supply service on behalf of business or
15 residential customers within its territorial jurisdiction.

16 "Government energy aggregation program" means a program and
17 procedure pursuant to which a government aggregator enters into a
18 written contract for the provision of electric generation service or
19 gas supply service on behalf of business or residential customers
20 within its territorial jurisdiction.

21 "Governmental entity" means any federal, state, municipal, local,
22 or other governmental department, commission, board, agency,
23 court, authority, or instrumentality having competent jurisdiction.

24 "Greenhouse gas emissions portfolio standard" means a
25 requirement that addresses or limits the amount of carbon dioxide
26 emissions indirectly resulting from the use of electricity as applied
27 to any electric power suppliers and basic generation service
28 providers of electricity.

29 "Historic fill" means generally large volumes of non-indigenous
30 material, no matter what date they were emplaced on the site, used
31 to raise the topographic elevation of a site, which were
32 contaminated prior to emplacement and are in no way connected
33 with the operations at the location of emplacement and which
34 include, but are not limited to, construction debris, dredge spoils,
35 incinerator residue, demolition debris, fly ash, and non-hazardous
36 solid waste. "Historic fill" shall not include any material which is
37 substantially chromate chemical production waste or any other
38 chemical production waste or waste from processing of metal or
39 mineral ores, residues, slags, or tailings.

40 "Incremental auction" means an auction conducted by PJM, as
41 part of PJM's reliability pricing model, prior to the start of the
42 delivery year to secure electric capacity as necessary to satisfy the
43 capacity requirements for that delivery year, that is not otherwise
44 provided for in the base residual auction.

45 "Leakage" means an increase in greenhouse gas emissions
46 related to generation sources located outside of the State that are not
47 subject to a state, interstate, or regional greenhouse gas emissions

1 cap or standard that applies to generation sources located within the
2 State.

3 "Locational deliverability area" or "LDA" means one or more of
4 the zones within the PJM region which are used to evaluate area
5 transmission constraints and reliability issues including electric
6 public utility company zones, sub-zones, and combinations of
7 zones.

8 "Long-term capacity agreement pilot program" or "LCAPP"
9 means a pilot program established by the board that includes
10 participation by eligible generators, to seek offers for financially-
11 settled standard offer capacity agreements with eligible generators
12 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

13 "Market transition charge" means a charge imposed pursuant to
14 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
15 utility, at a level determined by the board, on the electric public
16 utility customers for a limited duration transition period to recover
17 stranded costs created as a result of the introduction of electric
18 power supply competition pursuant to the provisions of
19 P.L.1999, c.23 (C.48:3-49 et al.).

20 "Marketer" means a duly licensed electric power supplier that
21 takes title to electric energy and capacity, transmission and other
22 services from electric power generators and other wholesale
23 suppliers and then assumes the contractual and legal obligation to
24 provide electric generation service, and may include transmission
25 and other services, to an end-use retail customer or customers, or a
26 duly licensed gas supplier that takes title to gas and then assumes
27 the contractual and legal obligation to provide gas supply service to
28 an end-use customer or customers.

29 "Mid-merit electric power generation facility" means a
30 generation facility that operates at a capacity factor between
31 baseload generation facilities and peaker generation facilities.

32 "Net metering aggregation" means a procedure for calculating
33 the combination of the annual energy usage for all facilities owned
34 by a single customer where such customer is a State entity, school
35 district, county, county agency, county authority, municipality,
36 municipal agency, or municipal authority, and which are served by
37 a solar electric power generating facility as provided pursuant to
38 paragraph (4) of subsection e. of section 38 of
39 P.L.1999, c.23 (C.48:3-87).

40 "Net proceeds" means proceeds less transaction and other related
41 costs as determined by the board.

42 "Net revenues" means revenues less related expenses, including
43 applicable taxes, as determined by the board.

44 "Offshore wind energy" means electric energy produced by a
45 qualified offshore wind project.

46 "Offshore wind renewable energy certificate" or "OREC" means
47 a certificate, issued by the board or its designee, representing the

1 environmental attributes of one megawatt hour of electric
2 generation from a qualified offshore wind project.

3 "Off-site end use thermal energy services customer" means an
4 end use customer that purchases thermal energy services from an
5 on-site generation facility, combined heat and power facility, or co-
6 generation facility, and that is located on property that is separated
7 from the property on which the on-site generation facility,
8 combined heat and power facility, or co-generation facility is
9 located by more than one easement, public thoroughfare, or
10 transportation or utility-owned right-of-way.

11 "On-site generation facility" means a generation facility,
12 including, but not limited to, a generation facility that produces
13 Class I or Class II renewable energy, and equipment and services
14 appurtenant to electric sales by such facility to the end use customer
15 located on the property or on property contiguous to the property on
16 which the end user is located. An on-site generation facility shall
17 not be considered a public utility. The property of the end use
18 customer and the property on which the on-site generation facility is
19 located shall be considered contiguous if they are geographically
20 located next to each other, but may be otherwise separated by an
21 easement, public thoroughfare, transportation or utility-owned
22 right-of-way, or if the end use customer is purchasing thermal
23 energy services produced by the on-site generation facility, for use
24 for heating or cooling, or both, regardless of whether the customer
25 is located on property that is separated from the property on which
26 the on-site generation facility is located by more than one easement,
27 public thoroughfare, or transportation or utility-owned right-of-way.

28 "Person" means an individual, partnership, corporation,
29 association, trust, limited liability company, governmental entity, or
30 other legal entity.

31 "PJM Interconnection, L.L.C." or "PJM" means the privately-
32 held, limited liability corporation that is a FERC-approved Regional
33 Transmission Organization, or its successor, that manages the
34 regional, high-voltage electricity grid serving all or parts of 13
35 states including New Jersey and the District of Columbia, operates
36 the regional competitive wholesale electric market, manages the
37 regional transmission planning process, and establishes systems and
38 rules to ensure that the regional and in-State energy markets operate
39 fairly and efficiently.

40 "Preliminary assessment" shall have the same meaning as
41 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

42 "Private aggregator" means a non-government aggregator that is
43 a duly-organized business or non-profit organization authorized to
44 do business in this State that enters into a contract with a duly
45 licensed electric power supplier for the purchase of electric energy

1 and capacity, or with a duly licensed gas supplier for the purchase
2 of gas supply service, on behalf of multiple end-use customers by
3 combining the loads of those customers.

4 "Properly closed sanitary landfill facility" means a sanitary
5 landfill facility, or a portion of a sanitary landfill facility, for which
6 performance is complete with respect to all activities associated
7 with the design, installation, purchase, or construction of all
8 measures, structures, or equipment required by the Department of
9 Environmental Protection, pursuant to law, in order to prevent,
10 minimize, or monitor pollution or health hazards resulting from a
11 sanitary landfill facility subsequent to the termination of operations
12 at any portion thereof, including, but not necessarily limited to, the
13 placement of earthen or vegetative cover, and the installation of
14 methane gas vents or monitors and leachate monitoring wells or
15 collection systems at the site of any sanitary landfill facility.

16 "Public utility holding company" means: (1) any company that,
17 directly or indirectly, owns, controls, or holds with power to vote,
18 10 percent or more of the outstanding voting securities of an
19 electric public utility or a gas public utility or of a company which
20 is a public utility holding company by virtue of this definition,
21 unless the Securities and Exchange Commission, or its successor,
22 by order declares such company not to be a public utility holding
23 company under the Public Utility Holding Company Act of 1935,
24 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
25 Securities and Exchange Commission, or its successor, determines,
26 after notice and opportunity for hearing, directly or indirectly, to
27 exercise, either alone or pursuant to an arrangement or
28 understanding with one or more other persons, such a controlling
29 influence over the management or policies of an electric public
30 utility or a gas public utility or public utility holding company as to
31 make it necessary or appropriate in the public interest or for the
32 protection of investors or consumers that such person be subject to
33 the obligations, duties, and liabilities imposed in the Public Utility
34 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
35 successor act.

36 "Qualified offshore wind project" means a wind turbine
37 electricity generation facility in the Atlantic Ocean and connected
38 to the electric transmission system in this State, and includes the
39 associated transmission-related interconnection facilities and
40 equipment, and approved by the board pursuant to section 3 of
41 P.L.2010, c.57 (C.48:3-87.1).

42 "Registration program" means an administrative process
43 developed by the board pursuant to subsection u. of section 38 of
44 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
45 power generation facilities connected to the distribution system that
46 intend to generate SRECs, to file with the board documents
47 detailing the size, location, interconnection plan, land use, and other
48 project information as required by the board.

1 "Regulatory asset" means an asset recorded on the books of an
2 electric public utility or gas public utility pursuant to the Statement
3 of Financial Accounting Standards, No. 71, entitled "Accounting for
4 the Effects of Certain Types of Regulation," or any successor
5 standard and as deemed recoverable by the board.

6 "Related competitive business segment of an electric public
7 utility or gas public utility" means any business venture of an
8 electric public utility or gas public utility including, but not limited
9 to, functionally separate business units, joint ventures, and
10 partnerships, that offers to provide or provides competitive services.

11 "Related competitive business segment of a public utility holding
12 company" means any business venture of a public utility holding
13 company, including, but not limited to, functionally separate
14 business units, joint ventures, and partnerships and subsidiaries, that
15 offers to provide or provides competitive services, but does not
16 include any related competitive business segments of an electric
17 public utility or gas public utility.

18 "Reliability pricing model" or "RPM" means PJM's capacity-
19 market model, and its successors, that secures capacity on behalf of
20 electric load serving entities to satisfy load obligations not satisfied
21 through the output of electric generation facilities owned by those
22 entities, or otherwise secured by those entities through bilateral
23 contracts.

24 "Renewable energy certificate" or "REC" means a certificate
25 representing the environmental benefits or attributes of one
26 megawatt-hour of generation from a generating facility that
27 produces Class I or Class II renewable energy, but shall not include
28 a solar renewable energy certificate or an offshore wind renewable
29 energy certificate.

30 "Resource clearing price" or "RCP" means the clearing price
31 established for the applicable locational deliverability area by the
32 base residual auction or incremental auction, as determined by the
33 optimization algorithm for each auction, conducted by PJM as part
34 of PJM's reliability pricing model.

35 "Resource recovery facility" means a solid waste facility
36 constructed and operated for the incineration of solid waste for
37 energy production and the recovery of metals and other materials
38 for reuse, which the Department of Environmental Protection has
39 determined to be in compliance with current environmental
40 standards, including, but not limited to, all applicable requirements
41 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

42 "Restructuring related costs" means reasonably incurred costs
43 directly related to the restructuring of the electric power industry,
44 including the closure, sale, functional separation, and divestiture of
45 generation and other competitive utility assets by a public utility, or
46 the provision of competitive services as those costs are determined
47 by the board, and which are not stranded costs as defined in
48 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited

1 to, investments in management information systems, and which
2 shall include expenses related to employees affected by
3 restructuring which result in efficiencies and which result in
4 benefits to ratepayers, such as training or retraining at the level
5 equivalent to one year's training at a vocational or technical school
6 or county community college, the provision of severance pay of two
7 weeks of base pay for each year of full-time employment, and a
8 maximum of 24 months' continued health care coverage. Except as
9 to expenses related to employees affected by restructuring,
10 "restructuring related costs" shall not include going forward costs.

11 "Retail choice" means the ability of retail customers to shop for
12 electric generation or gas supply service from electric power or gas
13 suppliers, or opt to receive basic generation service or basic gas
14 service, and the ability of an electric power or gas supplier to offer
15 electric generation service or gas supply service to retail customers,
16 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

17 "Retail margin" means an amount, reflecting differences in
18 prices that electric power suppliers and electric public utilities may
19 charge in providing electric generation service and basic generation
20 service, respectively, to retail customers, excluding residential
21 customers, which the board may authorize to be charged to
22 categories of basic generation service customers of electric public
23 utilities in this State, other than residential customers, under the
24 board's continuing regulation of basic generation service pursuant to
25 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
26 purpose of promoting a competitive retail market for the supply of
27 electricity.

28 "Sales representative" means a person employed by, acting on
29 behalf of, or as an independent contractor for, an electric power
30 supplier, gas supplier, broker, energy agent, marketer, or private
31 aggregator who, by any means, solicits a potential residential
32 customer for the provision of electric generation service or gas
33 supply service.

34 "Sanitary landfill facility" shall have the same meaning as
35 provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

36 "School district" means a local or regional school district
37 established pursuant to chapter 8 or chapter 13 of Title 18A of the
38 New Jersey Statutes, a county special services school district
39 established pursuant to article 8 of chapter 46 of Title 18A of the
40 New Jersey Statutes, a county vocational school district established
41 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
42 Statutes, and a district under full State intervention pursuant to
43 P.L.1987, c.399 (C.18A:7A-34 et al.).

44 "Shopping credit" means an amount deducted from the bill of an
45 electric public utility customer to reflect the fact that the customer
46 has switched to an electric power supplier and no longer takes basic
47 generation service from the electric public utility.

1 "Site investigation" shall have the same meaning as provided in
2 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

3 "Small scale hydropower facility" means a facility located within
4 this State that is connected to the distribution system, and that
5 meets the requirements of, and has been certified by, a nationally
6 recognized low-impact hydropower organization that has
7 established low-impact hydropower certification criteria applicable
8 to: (1) river flows; (2) water quality; (3) fish passage and
9 protection; (4) watershed protection; (5) threatened and endangered
10 species protection; (6) cultural resource protection; (7) recreation;
11 and (8) facilities recommended for removal.

12 "Social program" means a program implemented with board
13 approval to provide assistance to a group of disadvantaged
14 customers, to provide protection to consumers, or to accomplish a
15 particular societal goal, and includes, but is not limited to, the
16 winter moratorium program, utility practices concerning "bad debt"
17 customers, low income assistance, deferred payment plans,
18 weatherization programs, and late payment and deposit policies, but
19 does not include any demand side management program or any
20 environmental requirements or controls.

21 "Societal benefits charge" means a charge imposed by an electric
22 public utility, at a level determined by the board, pursuant to, and in
23 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60).

24 "Solar alternative compliance payment" or "SACP" means a
25 payment of a certain dollar amount per megawatt hour (MWh)
26 which an electric power supplier or provider may submit to the
27 board in order to comply with the solar electric generation
28 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

29 "Solar renewable energy certificate" or "SREC" means a
30 certificate issued by the board or its designee, representing one
31 megawatt hour (MWh) of solar energy that is generated by a facility
32 connected to the distribution system in this State and has value
33 based upon, and driven by, the energy market.

34 "Standard offer capacity agreement" or "SOCA" means a
35 financially-settled transaction agreement, approved by board order,
36 that provides for eligible generators to receive payments from the
37 electric public utilities for a defined amount of electric capacity for
38 a term to be determined by the board but not to exceed 15 years,
39 and for such payments to be a fully non-bypassable charge, with
40 such an order, once issued, being irrevocable.

41 "Standard offer capacity price" or "SOCP" means the capacity
42 price that is fixed for the term of the SOCA and which is the price
43 to be received by eligible generators under a board-approved
44 SOCA.

45 "State entity" means a department, agency, or office of State
46 government, a State university or college, or an authority created by
47 the State.

1 "Stranded cost" means the amount by which the net cost of an
2 electric public utility's electric generating assets or electric power
3 purchase commitments, as determined by the board consistent with
4 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
5 market value of those assets or contractual commitments in a
6 competitive supply marketplace and the costs of buydowns or
7 buyouts of power purchase contracts.

8 "Stranded costs recovery order" means each order issued by the
9 board in accordance with subsection c. of section 13 of
10 P.L.1999, c.23 (C.48:3-61) which sets forth the amount of stranded
11 costs, if any, the board has determined an electric public utility is
12 eligible to recover and collect in accordance with the standards set
13 forth in section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
14 mechanisms therefor.

15 "Telemarketer" shall have the same meaning as set forth in
16 section 2 of P.L.2003, c.76 (C.56:8-120).

17 "Telemarketing sales call" means a telephone call made by a
18 telemarketer to a potential residential customer as part of a plan,
19 program, or campaign to encourage the customer to change the
20 customer's electric power supplier or gas supplier. A telephone call
21 made to an existing customer of an electric power supplier, gas
22 supplier, broker, energy agent, marketer, private aggregator, or
23 sales representative, for the sole purpose of collecting on accounts
24 or following up on contractual obligations, shall not be deemed a
25 telemarketing sales call. A telephone call made in response to an
26 express written request of a customer shall not be deemed a
27 telemarketing sales call.

28 "Thermal efficiency" means the useful electric energy output of a
29 facility, plus the useful thermal energy output of the facility,
30 expressed as a percentage of the total energy input to the facility.

31 "Transition bond charge" means a charge, expressed as an
32 amount per kilowatt hour, that is authorized by and imposed on
33 electric public utility ratepayers pursuant to a bondable stranded
34 costs rate order, as modified at any time pursuant to the provisions
35 of P.L.1999, c.23 (C.48:3-49 et al.).

36 "Transition bonds" means bonds, notes, certificates of
37 participation, beneficial interest, or other evidences of indebtedness
38 or ownership issued pursuant to an indenture, contract, or other
39 agreement of an electric public utility or a financing entity, the
40 proceeds of which are used, directly or indirectly, to recover,
41 finance or refinance bondable stranded costs and which are, directly
42 or indirectly, secured by or payable from bondable transition
43 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
44 principal, interest, and acquisition or redemption premium with
45 respect to transition bonds which are issued in the form of
46 certificates of participation or beneficial interest or other evidences
47 of ownership shall refer to the comparable payments on such
48 securities.

1 "Transition period" means the period from August 1, 1999
2 through July 31, 2003.

3 "Transmission and distribution system" means, with respect to an
4 electric public utility, any facility or equipment that is used for the
5 transmission, distribution, or delivery of electricity to the customers
6 of the electric public utility including, but not limited to, the land,
7 structures, meters, lines, switches, and all other appurtenances
8 thereof and thereto, owned or controlled by the electric public
9 utility within this State.

10 "Universal service" means any service approved by the board
11 with the purpose of assisting low-income residential customers in
12 obtaining or retaining electric generation or delivery service.

13 "Unsolicited advertisement" means any advertising claims of the
14 commercial availability or quality of services provided by an
15 electric power supplier, gas supplier, broker, energy agent,
16 marketer, private aggregator, sales representative, or telemarketer
17 which is transmitted to a potential customer without that customer's
18 prior express invitation or permission.

19 (cf: P.L.2015, c.51, s.1)

20

21 7. This act shall take effect immediately.

22

23

24 STATEMENT

25

26 This bill would require certain generators of solid waste to
27 separate and recycle food waste, and amend the definition of "Class
28 I renewable energy."

29 Specifically, beginning one year after the effective date of the
30 bill, every large food waste generator that is located within 25 road
31 miles of an authorized food waste recycling facility and that
32 generates an average projected volume of 52 or more tons per year
33 of food waste would be required to: (1) source separate its food
34 waste from other solid waste; and (2) send that source separated
35 food waste to an authorized food waste recycling facility that has
36 available capacity and will accept it.

37 Under the bill, if a large food waste generator is not located
38 within 25 road miles of an authorized food waste recycling facility,
39 or the facility will not accept the generator's food waste, the
40 generator may send the food waste for final disposal at a solid waste
41 facility as provided in the approved district solid waste management
42 plan for the solid waste management district in which the generator
43 is located. In addition, a large food waste generator would be
44 deemed in compliance with the bill if the generator: (1) performs
45 enclosed on-site composting, or anaerobic or aerobic digestion of its
46 source separated food waste in accordance with standards adopted
47 by the department; or (2) recycles food waste using an alternative
48 authorized food waste recycling method.

1 The bill would authorize a large food waste generator to petition
2 the Department of Environmental Protection (DEP) for a waiver of
3 the recycling requirement if the cost of transporting the food waste
4 plus the fee charged by an authorized food waste recycling facility
5 located within 25 road miles of the large food waste generator is at
6 least 10 percent more than the cost of transporting the food waste
7 for disposal as solid waste plus the disposal fee charged for solid
8 waste disposal in the State for noncontract commercial waste by a
9 properly licensed transfer station, sanitary landfill facility,
10 incinerator, or resource recovery facility located within 25 road
11 miles of the large food waste generator. The bill would require that
12 any authorized food waste recycling facility located within 25 road
13 miles of the large food waste generator seeking the waiver be given
14 notice of the petition and an opportunity to participate in the
15 proceeding before the DEP.

16 Any person who violates the bill would be subject to a civil
17 penalty of \$250 for the first offense, \$500 for the second offense,
18 and \$1,000 for the third and subsequent offenses. If the violation is
19 of a continuing nature, each day during which the violation
20 continues would constitute a separate offense.

21 The DEP would be required to adopt regulations to implement
22 the bill, including: (1) record keeping and reporting requirements
23 for large food waste generators and authorized food waste recycling
24 facilities; (2) guidelines and procedures for businesses to follow to
25 determine whether they are subject to the requirements of the bill,
26 including food waste generation estimates and food waste audits or
27 assessments; (3) a list of food waste products that must be source
28 separated and recycled; (4) standards for the enclosed on-site
29 composting, or anaerobic or aerobic digestion of source separated
30 food waste, including requirements for energy production and other
31 sustainable uses of the byproducts of recycled food waste; and (5) a
32 list of actions businesses may take to reduce the amount of food
33 waste they generate to a level below the threshold amount
34 established in the bill. The DEP would publish on its Internet
35 website the name, location, and contact information for each
36 authorized food waste recycling facility in the State.

37 Under the bill, any municipality within which an authorized food
38 waste recycling facility is located, pursuant to an adopted district
39 solid waste management plan approved after the effective date of
40 the bill would be entitled to an economic benefit. The bill would
41 also establish the Food Waste Recycling Market Development
42 Council. The bill would require State departments and agencies to
43 use, where technically feasible, environmentally sound, and
44 competitively priced, compost, mulch, or other soil amendments
45 produced from municipal solid waste, food waste, sludge, yard
46 waste, clean wood waste, or other similar materials that the supplier

1 has certified comply with applicable project standards and
2 specifications. Finally, the bill would amend the definition of
3 “Class I renewable energy” to include electric energy produced
4 from methane gas from a composting or anaerobic or aerobic
5 digestion facility that converts food waste or other organic waste to
6 energy.

STATEMENT TO

SENATE, No. 865

with Senate Floor Amendments
(Proposed by Senator B. SMITH)

ADOPTED: MARCH 5, 2020

These floor amendments:

1) provide that each individual establishment or location owned or operated by a large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and generates an average projected volume of 52 or more tons per year of food waste within 25 road miles of an authorized food waste recycling facility is required to source separate and recycle its food waste, and extend this requirement from one year to 18 months;

2) require the DEP to include in its rules and regulations procedures for a large food waste generator to follow when petitioning for a waiver as allowed by the bill;

3) update the date in section 3 of the bill referring to the calendar year 2019 to instead refer to calendar year 2021; and

4) require an authorized food waste recycling facility located and constructed pursuant to an adopted district solid waste management plan approved after the effective date of the bill to, where feasible, employ minority and women applicants that reside near the facility.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 865
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 13, 2020

SUMMARY

- Synopsis:** Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”
- Type of Impact:** Annual expenditure increases to the State, public higher educational institutions, counties, municipalities, and school districts. Annual revenue increases to certain municipalities, and potentially the State.
- Agencies Affected:** Department of Environmental Protection, State departments with facilities that are subject to the bill, public higher educational institutions, counties, municipalities, and school districts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	
Local Expenditure Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, but potentially significant, annual expenditure impact on the State and on State institutions of higher education to comply with the bill’s requirements for separation and recycling of food waste. No precise estimate is feasible due to the unavailability of information concerning which State facilities would be affected by the bill. Because the bill authorizes a large food waste generator to petition the Department of Environmental Protection (DEP) for a waiver of the recycling requirement if the transportation cost together with the fee for recycling is at least 10 percent more than the transportation cost and disposal fee for noncontract commercial solid waste disposal, the bill may result in no additional State costs for compliance. Furthermore, it is possible that in certain circumstances the costs of a food waste recycling or composting program could be less than current costs of disposal for certain facilities.
- The OLS determines that this bill may have an indeterminate annual expenditure impact on any county, school district, or municipality that is a large food waste generator. No precise estimate is feasible due to the unavailability of information on which local government or school facilities would be affected by the bill. The ability to obtain a waiver from compliance also applies to local governments and school districts.

- Annual revenue increases may be realized by certain municipalities due to the bill's provision for a local economic benefit payment to any municipality that hosts a facility approved to accept food waste. The payments would be made by authorized food waste recycling facilities located in the municipality. Insufficient data are available upon which to base an estimate of this impact.
- The DEP would incur additional recurring administrative costs to discharge its new responsibilities under the bill and to enforce compliance with the bill's requirements. The OLS has insufficient information upon which to base an estimate of this impact.

BILL DESCRIPTION

This bill would require certain generators of solid waste to separate and recycle food waste, and amend the definition of "Class I renewable energy."

Specifically, beginning one year after the effective date of the bill, every large food waste generator that is located within 25 road miles of an authorized food waste recycling facility and that generates an average projected volume of 52 or more tons per year of food waste would be required to: (1) source separate its food waste from other solid waste; and (2) send that source separated food waste to an authorized food waste recycling facility that has available capacity and will accept it.

Under the bill, if a large food waste generator is not located within 25 road miles of an authorized food waste recycling facility, or the facility will not accept the generator's food waste, the generator may send the food waste for final disposal at a solid waste facility as provided in the approved district solid waste management plan for the solid waste management district in which the generator is located. In addition, a large food waste generator would be deemed in compliance with the bill if the generator: (1) performs enclosed on-site composting, or anaerobic or aerobic digestion of its source separated food waste in accordance with standards adopted by the department; or (2) recycles food waste using an alternative authorized food waste recycling method.

The bill would authorize a large food waste generator to petition the Department of Environmental Protection (DEP) for a waiver of the recycling requirement if the cost of transporting the food waste plus the fee charged by an authorized food waste recycling facility located within 25 road miles of the large food waste generator is at least 10 percent more than the cost of transporting the food waste for disposal as solid waste plus the disposal fee charged for solid waste disposal in the State for noncontract commercial waste by a properly licensed transfer station, sanitary landfill facility, incinerator, or resource recovery facility located within 25 road miles of the large food waste generator.

Any person who violates the bill would be subject to a civil penalty of \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and subsequent offenses. If the violation is of a continuing nature, each day during which the violation continues would constitute a separate offense.

The DEP would be required to adopt regulations to implement the bill, including: (1) record keeping and reporting requirements for large food waste generators and authorized food waste recycling facilities; (2) guidelines and procedures for businesses to follow to determine whether they are subject to the requirements of the bill, including food waste generation estimates and food waste audits or assessments; (3) a list of food waste products that must be source separated and recycled; (4) standards for the enclosed on-site composting, or anaerobic or aerobic digestion of

source separated food waste, including requirements for energy production and other sustainable uses of the byproducts of recycled food waste; and (5) a list of actions businesses may take to reduce the amount of food waste they generate to a level below the threshold amount established in the bill. The DEP would publish on its Internet website the name, location, and contact information for each authorized food waste recycling facility in the State.

Under the bill, any municipality within which an authorized food waste recycling facility is located, pursuant to an adopted district solid waste management plan approved after the effective date of the bill would be entitled to an economic benefit. The bill would also establish the Food Waste Recycling Market Development Council. The bill would require State departments and agencies to use, where technically feasible, environmentally sound, and competitively priced, compost, mulch, or other soil amendments produced from municipal solid waste, food waste, sludge, yard waste, clean wood waste, or other similar materials that the supplier has certified comply with applicable project standards and specifications. Finally, the bill would amend the definition of “Class I renewable energy” to include electric energy produced from methane gas from a composting or anaerobic or aerobic digestion facility that converts food waste or other organic waste to energy.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill would have an indeterminate, but potentially significant, annual expenditure impact on the State and on State institutions of higher education to comply with the bill’s requirements for separation and recycling of food waste. No precise estimate is feasible due to the unavailability of information on which State facilities would be affected by the bill. Because the bill authorizes a large food waste generator to petition the DEP for a waiver of the recycling requirement if the transportation cost together with the fee for recycling is at least 10 percent more than the transportation cost and disposal fee for noncontract commercial solid waste disposal, the bill may result in no additional State costs for compliance. Furthermore, it is possible that in certain circumstances the costs of a food waste recycling or composting program could be less than current costs of disposal for certain facilities.

The same potential impacts, mitigating factors, and insufficiency of data apply to local governments and school districts that may be required to comply with the bill’s requirements.

Any municipality within which an authorized food waste recycling facility is located would be entitled to an annual economic benefit of at least \$0.50 per ton of all food waste accepted for processing at the authorized food waste recycling facility each year. The payments would be made by authorized food waste recycling facilities located in the municipality. Insufficient data are available upon which to base an estimate of the number of municipalities that might gain revenue from this provision of the bill, or of how much revenue might be realized annually.

The OLS notes that there may be marginal recurring revenue gains from the civil penalties associated with the bill. In addition, the DEP would incur additional recurring administrative costs to discharge its new responsibilities under the bill and to enforce compliance with the bill’s

requirements. The additional duties would include the operation of the temporary Food Waste Recycling Market Development Council. The OLS has insufficient information upon which to base an estimate of these impacts.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Eric Hansen
Assistant Research Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

04/14/2020

TRENTON – Today, Governor Murphy signed the following bills into law:

A-2371/S-865 (Kennedy, Pinkin, Zwicker/Smith, Bateman) - Requires large food waste generators to separate and recycle food waste and amends definition of "Class I renewable energy"

A-3901/S-2334 (Chiaravalloti, Kennedy, Speight, Dunn/Pou, Vitale, Greenstein, Brown) - Permits professional and occupational licensing boards to reactivate licensure of certain individuals during state of emergency or public health emergency

A-3903/S-2336 (Downey, Houghtaling, Swain/Greenstein, Gopal, Singleton, O'Scanlon) - Allows remote notarial acts during Public Health Emergency and State of Emergency declared by Governor in Executive Order 103 of 2020

A-3904/S-2337 (Burzichelli, Schepisi, Lampitt, Jasey, Stanfield/Cardinale, Beach, Kean) - Permits use of virtual or remote instruction to meet minimum 180-day school year requirement under certain circumstances

S-2333/A-3910 (Kean, Sweeney, Smith, O'Scanlon/Kennedy, Burzichelli, DiMaio, Greenwald) - Provides civil and criminal immunity to certain health care professionals and health care facilities during public health emergency and state of emergency; facilitates issuance of certain temporary licenses and certifications during public health emergency and state of emergency

S-2338/A-3918 (Sarlo, Oroho, Bucco/Pintor Marin, Wirths, Burzichelli) - "COVID-19 Fiscal Mitigation Act"; clarifies filing and payment deadline for CBT and GIT taxpayers, modifies duration of State Fiscal Years 2020 and 2021, requires certain updates and presentation for State Fiscal Years 2020 and 2021

S-2342/A-3915 (Bucco, Greenstein/Dunn, Bergen) - Permits nonprofit corporations to allow members to participate in meetings by means of remote communication, and permits nonprofit corporations to hold meetings in part or solely by means of remote communication during state of emergency

S-2349/A-3922 (Beach/Coughlin, Jimenez, Swain) - Changes date of 2020 primary election from June 2 to July 7

S-2353/A-3938 (Cryan/Quijano) - Excludes from severance requirements under "Millville Dallas Airmotive Plant Job Loss Notification Act" mass layoffs resulting from coronavirus disease 2019 pandemic