

**48:3-87.13; 54:4-23.3c & 54:4-23.3e**  
**LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2021                    **CHAPTER:** 170

**NJSA:** 48:3-87.13; 54:4-23.3c & 54:4-23.3e (Establishes dual-use solar project pilot program for unpreserved farmland; allows land used for dual-use solar project to be eligible for farmland assessment under certain conditions.)

**BILL NO:** A5434                    (Substituted for S3484 (SCS/1R))

**SPONSOR(S)** Dancer, Ronald S. and others

**DATE INTRODUCED:** 3/8/2021

**COMMITTEE:**                    **ASSEMBLY:** Agriculture

**SENATE:** ---

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                    **ASSEMBLY:** 6/24/2021

**SENATE:** 6/30/2021

**DATE OF APPROVAL:** 7/9/2021

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Assembly Committee Substitute enacted)                    Yes

**A5434**

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes                    Agriculture

**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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**S3484 (SCS/1R)**

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes                    Environment & Energy  
Budget & Appropriations

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**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

PARRY, WAYNE. "Murphy signs clean energy bills for electric cars and solar." Associated Press State Wire: New Jersey (NJ), July 9, 2021.

RH/CL

P.L. 2021, CHAPTER 170, *approved July 9, 2021*  
Assembly Committee Substitute for  
Assembly, No. 5434

1 AN ACT concerning dual-use solar energy projects on unpreserved  
2 farmland, supplementing P.L.1999, c.23 (C.48:3-49 et al.) and  
3 P.L.1964, c.48 (C.54:4-23.1 et seq.), and amending P.L.2009,  
4 c.213.

5  
6

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

9

10 1. (New section) a. No later than 180 days after the date of  
11 enactment of P.L. , c. (C. ) (pending before the Legislature  
12 as this bill), the Board of Public Utilities, in consultation with the  
13 Secretary of Agriculture, shall adopt, pursuant to the  
14 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), rules and regulations establishing a “Dual-Use Solar Energy  
16 Pilot Program” to permit the construction, installation, and  
17 operation of dual-use solar energy projects that are connected to the  
18 distribution or transmission system owned or operated by a New  
19 Jersey public utility or local government unit and located on  
20 unpreserved farmland, while maintaining the affected land in active  
21 agricultural or horticultural use.

22 b. The rules and regulations developed by the board, in  
23 consultation with the Secretary of Agriculture, for the Dual-Use  
24 Solar Energy Pilot Program shall establish:

25 (1) a 10 megawatt, as measured in direct current, capacity limit  
26 for each individual dual-use solar energy project;

27 (2) annual capacity targets, such that the total capacity of all  
28 dual-use solar energy projects approved under the pilot program  
29 shall not exceed 200 megawatts, as measured in direct current, for  
30 all dual-use solar energy projects approved under the pilot program,  
31 except as otherwise provided pursuant to subsection e. of this  
32 section;

33 (3) financial incentives available to dual-use solar energy  
34 projects approved pursuant to the pilot program;

35 (4) a prohibition on siting a dual-use solar energy project on  
36 prime agricultural soils and soils of Statewide importance, as  
37 identified by the United States Department of Agriculture's Natural

**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 Resources Conservation Service, which are located in Agricultural  
2 Development Areas certified by the State Agriculture Development  
3 Committee, unless the project is in association with a research study  
4 undertaken in coordination with a New Jersey public research  
5 institution of higher education, as approved by the board in  
6 consultation with the Secretary of Agriculture;

7 (5) a prohibition on siting a dual-use solar energy project on any  
8 of the following unless the board, in consultation with the  
9 Department of Environmental Protection and the Secretary of  
10 Agriculture, grants a waiver based on unique factors that make the  
11 project consistent with the character of the specific parcel:

12 (a) land located within the preservation area of the pinelands  
13 area, as designated in subsection b. of section 10 of P.L.1979, c.111  
14 (C.13:18A-11);

15 (b) land designated as forest area in the pinelands  
16 comprehensive management plan adopted pursuant to P.L.1979,  
17 c.111 (C.13:18A-1 et seq.);

18 (c) land designated as freshwater wetlands, as defined pursuant  
19 to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands, as  
20 defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.); or

21 (d) land located within the Highlands preservation area as  
22 designated in subsection b. of section 7 of P.L.2004, c.120  
23 (C.13:20-7);

24 (6) the requirement that the land on which the dual-use solar  
25 energy project is installed continues to be actively devoted to  
26 agricultural or horticultural use;

27 (7) the requirement that the project comply with all applicable  
28 federal, State, or local laws, rules, regulations, or ordinances;

29 (8) an application process for owners who wish to develop a  
30 dual-use solar energy project as part of the pilot program, including  
31 such fees or deposits as shall be determined by the board; and

32 (9) criteria, consistent with the provisions of paragraph (1) of  
33 subsection c. of this section, for evaluating and scoring proposed  
34 projects to determine which projects should be allowed to  
35 participate in the pilot program and be awarded incentives pursuant  
36 to paragraph (3) of this subsection.

37 c. (1) An owner proposing a dual-use solar energy project  
38 shall submit an application to the board before constructing,  
39 installing, or operating the project. The board shall consult with the  
40 Secretary of Agriculture in the review and approval of all dual-use  
41 solar energy projects under the Dual-Use Solar Energy Pilot  
42 Program. In reviewing and making decisions on dual-use solar  
43 energy projects, the board and secretary shall give consideration to  
44 criteria including, but not limited to:

45 (a) proposals for monitoring the quality of agricultural or  
46 horticultural use of the land;

47 (b) the incentive level sought by the applicant;

48 (c) geographic location;

- 1 (d) interconnection planning;  
2 (e) proposals for minimizing negative impacts to farmland;  
3 (f) proposals to address decommissioning;  
4 (g) proposals for addressing stormwater runoff and other  
5 environmental issues;  
6 (h) technical feasibility;  
7 (i) technical innovation;  
8 (j) the quality of any research committed to during the  
9 evaluation period; and  
10 (k) any other criteria as may be deemed advisable by the board.

11 The review shall also consider whether the selected projects are  
12 of varying sizes, and, collectively, involve diverse types of  
13 agricultural and horticultural production. The board, in consultation  
14 with the Secretary of Agriculture, shall, within 180 days after  
15 receipt, approve, disapprove, or approve with conditions an  
16 application submitted pursuant to this section.

17 (2) An owner who receives approval from the board pursuant to  
18 this section shall obtain all necessary permits and other approvals as  
19 may be required pursuant to federal, State, or local law, rule,  
20 regulation, or ordinance, prior to the construction of the dual-use  
21 solar energy project.

22 d. The Secretary of Agriculture may request that the board  
23 suspend or revoke an approval issued pursuant to this section for a  
24 violation of any term or condition of the approval or any provision  
25 of this section.

26 e. The Dual-Use Solar Energy Pilot Program shall continue for  
27 36 months after the adoption of the rules and regulations required  
28 pursuant to subsection a. of this section, except that the board may  
29 extend the pilot program by no more than two additional 12-month  
30 periods if the board, in consultation with the Secretary of  
31 Agriculture, determines that such extensions are necessary to  
32 adequately evaluate the performance of the projects selected for  
33 construction as part of the Dual-Use Solar Energy Pilot Program. If  
34 the board extends the Dual-Use Solar Energy Pilot Program, it may  
35 increase the total capacity limit of all projects under the program by  
36 no more than 50 megawatts, as measured in direct current, per  
37 additional 12-month period.

38 f. Notwithstanding any law, ordinance, rule, or regulation to  
39 the contrary, a dual-use solar energy project approved pursuant to  
40 this section shall be a permitted use within every municipality.

41 g. No later than 36 months, or no later than 48 or 60 months if  
42 applicable due to extensions of the Dual-Use Solar Energy Pilot  
43 Program pursuant to subsection e. of this section, after adoption of  
44 the rules and regulations required pursuant to subsection a. of this  
45 section, the board, in consultation with the Secretary of Agriculture,  
46 shall adopt rules and regulations, pursuant to the "Administrative  
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to convert  
48 the Dual-Use Solar Energy Pilot Program to a permanent program

1 as part of the permanent successor to the solar incentive program  
2 established pursuant to P.L. , c. (C. ) (pending before the  
3 Legislature as Senate Bill No. 2605 and Assembly Bill No. 4554 of  
4 the 2020-2011 session). The rules and regulations for the  
5 permanent program shall set forth standards for dual-use solar  
6 energy projects that take into account the results of the pilot  
7 program and any research studies on the efficacy of dual-use solar  
8 energy in New Jersey, and shall include, but not be limited to:

9 (1) a capacity limit for individual dual-use solar energy projects;

10 (2) a total annual capacity limit;

11 (3) provisions to protect New Jersey's prime agricultural soils  
12 and soils of Statewide importance, as identified by the United States  
13 Department of Agriculture's Natural Resources Conservation  
14 Service, which are located in Agricultural Development Areas  
15 certified by the State Agriculture Development Committee, and  
16 provisions to protect the State's agricultural and horticultural  
17 diversity;

18 (4) standards for: installation and decommissioning techniques  
19 that minimize negative impacts to farmland, which may include the  
20 posting of a performance bond for decommissioning; impervious  
21 coverage; and water management, including, but not limited to,  
22 water recapture and filtration;

23 (5) provisions to ensure the continued active agricultural or  
24 horticultural use of land on which dual-use solar energy projects are  
25 installed;

26 (6) siting criteria and restrictions, which may differ from those  
27 established pursuant to section 6 of P.L. , c. (C. ) (pending  
28 before the Legislature as Senate Bill No. 2605 and Assembly Bill  
29 No. 4554 of the 2020-2011 session) to the extent necessary to  
30 accomplish the purposes of the dual-use solar energy program; and

31 (7) an application process, including such fees, escrows, or  
32 deposits as shall be determined by the board.

33 h. As used in this section:

34 "Dual-use solar energy project" means the energy generation  
35 facilities, structures, and equipment for the production of electric  
36 power from solar photovoltaic panels located on unreserved  
37 farmland in agricultural or horticultural production that ensures the  
38 continued simultaneous use of the land below and adjacent to the  
39 panels for agricultural or horticultural production.

40 "Owner" means the owner of the unreserved farmland, the  
41 owner of the dual-use solar energy project, or a representative duly  
42 authorized to act on the owner's behalf.

43 "Preserved farmland" means the same as the term is defined in  
44 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

45 "Unreserved farmland" means any land that is valued, assessed,  
46 and taxed pursuant to the "Farmland Assessment Act of 1964,"  
47 P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.

1       2. (New section) a. No land used for a dual-use solar energy  
2 project constructed, installed, and operated pursuant to the Dual-  
3 Use Solar Energy Pilot Program established pursuant to section 1 of  
4 P.L. , c. (C. ) (pending before the Legislature as this bill)  
5 shall be considered land in agricultural or horticultural use or  
6 actively devoted to agricultural or horticultural use for the purposes  
7 of the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-  
8 23.1 et seq.), except as provided in this section.

9       b. Land used for a dual-use solar energy project constructed,  
10 installed, and operated pursuant to section 1 of P.L. , c. (C. )  
11 (pending before the Legislature as this bill) may be eligible for  
12 valuation, assessment, and taxation pursuant to P.L.1964, c.48  
13 (C.54:4-23.1 et seq.), provided that:

14       (1) the dual-use solar energy project is located on unreserved  
15 farmland that is continuing to be in operation as a farm in the tax  
16 year for which the valuation, assessment, and taxation pursuant to  
17 P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

18       (2) in the tax year preceding the construction, installation, and  
19 operation of the dual-use solar energy project, the acreage used for  
20 the dual-use solar energy project was valued, assessed, and taxed as  
21 land in agricultural or horticultural use;

22       (3) the land on which the dual-use solar energy project is  
23 located continues to be actively devoted to agricultural and  
24 horticultural use, and meets the income requirements set forth in  
25 section 5 of P.L.1964, c.48 (C.54:4-23.5);

26       (4) the approval issued for the dual-use solar energy project by  
27 the Board of Public Utilities pursuant to section 1 of  
28 P.L. , c. (C. ) (before the Legislature as this bill) has not  
29 been suspended or revoked; and

30       (5) all other requirements of P.L.1964, c.48 (C.54:4-23.1 et seq.)  
31 are met.

32       c. No generated energy from a dual-use solar energy project  
33 shall be considered an agricultural or horticultural product, and no  
34 income from any power sold from the dual-use solar energy project  
35 may be considered income for eligibility for valuation, assessment,  
36 and taxation of land pursuant to P.L.1964, c.48 (C.54:4-  
37 23.1 et seq.).

38       d. Within one year after the date of enactment of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
40 Division of Taxation, in consultation with the Secretary of  
41 Agriculture and the Board of Public Utilities, shall:

42       (1) adopt, pursuant to the “Administrative Procedure Act,”  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as  
44 may be necessary for the implementation and administration of this  
45 section; and

46       (2) incorporate information concerning dual-use solar energy  
47 projects into the guidelines provided, and the continuing education  
48 course offered, to municipal tax assessors, county assessors, county

1 tax administrators, and other appropriate local government officials  
2 pursuant to section 1 of P.L.2013, c.43 (C.54:4-23.3d).

3 e. As used in this section:

4 “Dual-use solar energy project” means the same as the term is  
5 defined in section 1 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill).

7 “Preserved farmland” means the same as the term is defined in  
8 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

9 “Unpreserved farmland” means the same as the term is defined  
10 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
11 as this bill).

12

13 3. Section 4 of P.L.2009, c.213 (C.54:4-23.3c) is amended to  
14 read as follows:

15 4. a. (1) No land used for biomass, solar, or wind energy  
16 generation shall be considered land in agricultural or horticultural  
17 use or actively devoted to agricultural or horticultural use for the  
18 purposes of the “Farmland Assessment Act of 1964,” P.L.1964,  
19 c.48 (C.54:4-23.1 et seq.), except as provided in this section or, in  
20 the case of unpreserved farmland used for a dual-use solar energy  
21 project, as provided in section 1 of P.L. , c. (C. ) (pending  
22 before the Legislature as this bill) .

23 (2) No generated energy from any source shall be considered an  
24 agricultural or horticultural product.

25 b. Land used for biomass, solar, or wind energy generation  
26 may be eligible for valuation, assessment and taxation pursuant to  
27 P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

28 (1) the biomass, solar, or wind energy generation facilities,  
29 structures, and equipment were constructed, installed, and operated  
30 on property that is part of an operating farm continuing to be in  
31 operation as a farm in the tax year for which the valuation,  
32 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et  
33 seq.) is applied for;

34 (2) in the tax year preceding the construction, installation, and  
35 operation of the biomass, solar, or wind energy generation facilities,  
36 structures, and equipment on an operating farm, the acreage used  
37 for the biomass, solar, or wind energy generation facilities,  
38 structures, and equipment was valued, assessed and taxed as land in  
39 agricultural or horticultural use;

40 (3) the power or heat generated by the biomass, solar, or wind  
41 energy generation facilities, structures, and equipment is used to  
42 provide, either directly or indirectly but not necessarily exclusively,  
43 power or heat to the farm or agricultural or horticultural operations  
44 supporting the viability of the farm;

45 (4) the owner of the property has filed a conservation plan with  
46 the soil conservation district, with provisions for compliance with  
47 paragraph (5) of this subsection where applicable, to account for the  
48 aesthetic, impervious coverage, and environmental impacts of the



1 construction, installation, and operation of the biomass, solar, or  
2 wind energy generation facilities, structures, and equipment,  
3 including, but not necessarily limited to, water recapture and  
4 filtration, and the conservation plan has been approved by the  
5 district;

6 (5) where solar energy generation facilities, structures, and  
7 equipment are installed, the property under the solar panels is used  
8 to the greatest extent practicable for the farming of shade crops or  
9 other plants capable of being grown under such conditions, or for  
10 pasture for grazing;

11 (6) the amount of acreage devoted to the biomass, solar, or wind  
12 energy generation facilities, structures, and equipment does not  
13 exceed a ratio of one to five acres, or portion thereof, of land  
14 devoted to energy generation facilities, structures, and equipment  
15 and land devoted to agricultural or horticultural operations;

16 (7) biomass, solar, or wind energy generation facilities,  
17 structures, and equipment are constructed or installed on no more  
18 than 10 acres of the farmland for which the owner of the property is  
19 applying for valuation, assessment and taxation pursuant to  
20 P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being  
21 generated, no more than two megawatts of power are generated on  
22 the 10 acres or less; and

23 (8) for biomass energy generation, the owner of the property has  
24 obtained the approval of the Department of Agriculture pursuant to  
25 section 5 of P.L.2009, c.213 (C.4:1C-32.5).

26 c. No income from any power or heat sold from the biomass,  
27 solar, or wind energy generation may be considered income for  
28 eligibility for valuation, assessment and taxation of land pursuant to  
29 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-  
30 23.1 et seq.), and, notwithstanding the provisions of that act, or any  
31 rule or regulation adopted pursuant thereto, to the contrary, there  
32 shall be no income requirement for property valued, assessed and  
33 taxed pursuant to subsection b. of this section.

34 d. Notwithstanding any provision of this section, section 3 of  
35 P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48  
36 (C.54:4-23.4) to the contrary, the construction, installation, or  
37 operation of any biomass, solar, or wind energy generation facility,  
38 structure, or equipment in the pinelands area, as defined and  
39 regulated by the "Pinelands Protection Act," P.L.1979, c.111  
40 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979,  
41 c.111 and the comprehensive management plan for the pinelands  
42 area adopted pursuant to P.L.1979, c.111.

43 e. The Division of Taxation, in consultation with the  
44 Department of Agriculture, shall adopt, pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
46 1 et seq.), such rules and regulations as may be necessary for the  
47 implementation and administration of this section.

48 f. For the purposes of this section:

1 “Biomass” means an agricultural crop, crop residue, or  
2 agricultural byproduct that is cultivated, harvested, or produced on  
3 the farm, or directly obtained from a farm where it was cultivated,  
4 harvested, or produced, and which can be used to generate energy in  
5 a sustainable manner, except with respect to preserved farmland,  
6 “biomass” means the same as that term is defined in section 1 of  
7 P.L.2009, c.213 (C.4:1C-32.4).

8 “Dual-use solar energy project” means the same as the term is  
9 defined in section 1 of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill).

11 “Land used for biomass, solar, or wind energy generation” means  
12 the land upon which the biomass, solar, or wind energy generation  
13 facilities, structures, and equipment are constructed, installed, and  
14 operated. In the case of biomass energy generation, “land used for  
15 biomass, solar, or wind energy generation” shall not mean the land  
16 upon which agricultural or horticultural products used as fuel in the  
17 biomass energy generation facility, structure, or equipment are  
18 grown. “Land used for biomass, solar, or wind energy generation”  
19 shall not include land used for a dual-use solar energy project.

20 “Preserved farmland” means land on which a development  
21 easement was conveyed to, or retained by, the State Agriculture  
22 Development Committee, a county agriculture development board,  
23 or a qualifying tax exempt nonprofit organization pursuant to the  
24 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
25 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
26 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
27 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
28 other State law enacted for farmland preservation purposes.

29 “Unpreserved farmland” means the same as the term is defined  
30 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
31 as this bill).

32 (cf: P.L.2009, c.213, s.4)

33  
34 4. This act shall take effect immediately.  
35  
36  
37  
38

39 \_\_\_\_\_  
40 Establishes dual-use solar project pilot program for unpreserved  
41 farmland; allows land used for dual-use solar project to be eligible  
for farmland assessment under certain conditions.

## CHAPTER 170

**AN ACT** concerning dual-use solar energy projects on unreserved farmland, supplementing P.L.1999, c.23 (C.48:3-49 et al.) and P.L.1964, c.48 (C.54:4-23.1 et seq.), and amending P.L.2009, c.213.

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

C.48:3-87.13 Rules, regulations for “Dual-Use Solar Energy Pilot Program.”

1. a. No later than 180 days after the date of enactment of P.L.2021, c.170 (C.48:3-87.13 et al.), the Board of Public Utilities, in consultation with the Secretary of Agriculture, shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing a “Dual-Use Solar Energy Pilot Program” to permit the construction, installation, and operation of dual-use solar energy projects that are connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit and located on unreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

b. The rules and regulations developed by the board, in consultation with the Secretary of Agriculture, for the Dual-Use Solar Energy Pilot Program shall establish:

(1) a 10 megawatt, as measured in direct current, capacity limit for each individual dual-use solar energy project;

(2) annual capacity targets, such that the total capacity of all dual-use solar energy projects approved under the pilot program shall not exceed 200 megawatts, as measured in direct current, for all dual-use solar energy projects approved under the pilot program, except as otherwise provided pursuant to subsection e. of this section;

(3) financial incentives available to dual-use solar energy projects approved pursuant to the pilot program;

(4) a prohibition on siting a dual-use solar energy project on prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, unless the project is in association with a research study undertaken in coordination with a New Jersey public research institution of higher education, as approved by the board in consultation with the Secretary of Agriculture;

(5) a prohibition on siting a dual-use solar energy project on any of the following unless the board, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, grants a waiver based on unique factors that make the project consistent with the character of the specific parcel:

(a) land located within the preservation area of the pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (C.13:18A-11);

(b) land designated as forest area in the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

(c) land designated as freshwater wetlands, as defined pursuant to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands, as defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.); or

(d) land located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

(6) the requirement that the land on which the dual-use solar energy project is installed continues to be actively devoted to agricultural or horticultural use;

(7) the requirement that the project comply with all applicable federal, State, or local laws, rules, regulations, or ordinances;

(8) an application process for owners who wish to develop a dual-use solar energy project as part of the pilot program, including such fees or deposits as shall be determined by the board; and

(9) criteria, consistent with the provisions of paragraph (1) of subsection c. of this section, for evaluating and scoring proposed projects to determine which projects should be allowed to participate in the pilot program and be awarded incentives pursuant to paragraph (3) of this subsection.

c. (1) An owner proposing a dual-use solar energy project shall submit an application to the board before constructing, installing, or operating the project. The board shall consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the Dual-Use Solar Energy Pilot Program. In reviewing and making decisions on dual-use solar energy projects, the board and secretary shall give consideration to criteria including, but not limited to:

- (a) proposals for monitoring the quality of agricultural or horticultural use of the land;
- (b) the incentive level sought by the applicant;
- (c) geographic location;
- (d) interconnection planning;
- (e) proposals for minimizing negative impacts to farmland;
- (f) proposals to address decommissioning;
- (g) proposals for addressing stormwater runoff and other environmental issues;
- (h) technical feasibility;
- (i) technical innovation;
- (j) the quality of any research committed to during the evaluation period; and
- (k) any other criteria as may be deemed advisable by the board.

The review shall also consider whether the selected projects are of varying sizes, and, collectively, involve diverse types of agricultural and horticultural production. The board, in consultation with the Secretary of Agriculture, shall, within 180 days after receipt, approve, disapprove, or approve with conditions an application submitted pursuant to this section.

(2) An owner who receives approval from the board pursuant to this section shall obtain all necessary permits and other approvals as may be required pursuant to federal, State, or local law, rule, regulation, or ordinance, prior to the construction of the dual-use solar energy project.

d. The Secretary of Agriculture may request that the board suspend or revoke an approval issued pursuant to this section for a violation of any term or condition of the approval or any provision of this section.

e. The Dual-Use Solar Energy Pilot Program shall continue for 36 months after the adoption of the rules and regulations required pursuant to subsection a. of this section, except that the board may extend the pilot program by no more than two additional 12-month periods if the board, in consultation with the Secretary of Agriculture, determines that such extensions are necessary to adequately evaluate the performance of the projects selected for construction as part of the Dual-Use Solar Energy Pilot Program. If the board extends the Dual-Use Solar Energy Pilot Program, it may increase the total capacity limit of all projects under the program by no more than 50 megawatts, as measured in direct current, per additional 12-month period.

f. Notwithstanding any law, ordinance, rule, or regulation to the contrary, a dual-use solar energy project approved pursuant to this section shall be a permitted use within every municipality.

g. No later than 36 months, or no later than 48 or 60 months if applicable due to extensions of the Dual-Use Solar Energy Pilot Program pursuant to subsection e. of this section, after adoption of the rules and regulations required pursuant to subsection a. of this section, the board, in consultation with the Secretary of Agriculture, shall adopt rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to convert the Dual-Use Solar Energy Pilot Program to a permanent program as part of the permanent successor to the solar incentive program established pursuant to P.L.2021, c.169 (C.48:3-114 et al.). The rules and regulations for the permanent program shall set forth standards for dual-use solar energy projects that take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy in New Jersey, and shall include, but not be limited to:

- (1) a capacity limit for individual dual-use solar energy projects;
- (2) a total annual capacity limit;
- (3) provisions to protect New Jersey’s prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture’s Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, and provisions to protect the State’s agricultural and horticultural diversity;
- (4) standards for: installation and decommissioning techniques that minimize negative impacts to farmland, which may include the posting of a performance bond for decommissioning; impervious coverage; and water management, including, but not limited to, water recapture and filtration;
- (5) provisions to ensure the continued active agricultural or horticultural use of land on which dual-use solar energy projects are installed;
- (6) siting criteria and restrictions, which may differ from those established pursuant to section 6 of P.L.2021, c.169 (C.48:3-119) to the extent necessary to accomplish the purposes of the dual-use solar energy program; and
- (7) an application process, including such fees, escrows, or deposits as shall be determined by the board.

h. As used in this section:

“Dual-use solar energy project” means the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production.

“Owner” means the owner of the unreserved farmland, the owner of the dual-use solar energy project, or a representative duly authorized to act on the owner’s behalf.

“Preserved farmland” means the same as the term is defined in section 4 of P.L.2009, c.213 (C.54:4-23.3c).

“Unreserved farmland” means any land that is valued, assessed, and taxed pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.

C.54:4-23.3e Land used not considered in agricultural, horticultural use.

2. a. No land used for a dual-use solar energy project constructed, installed, and operated pursuant to the Dual-Use Solar Energy Pilot Program established pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of

the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), except as provided in this section.

b. Land used for a dual-use solar energy project constructed, installed, and operated pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) may be eligible for valuation, assessment, and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

(1) the dual-use solar energy project is located on unreserved farmland that is continuing to be in operation as a farm in the tax year for which the valuation, assessment, and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

(2) in the tax year preceding the construction, installation, and operation of the dual-use solar energy project, the acreage used for the dual-use solar energy project was valued, assessed, and taxed as land in agricultural or horticultural use;

(3) the land on which the dual-use solar energy project is located continues to be actively devoted to agricultural and horticultural use, and meets the income requirements set forth in section 5 of P.L.1964, c.48 (C.54:4-23.5);

(4) the approval issued for the dual-use solar energy project by the Board of Public Utilities pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) has not been suspended or revoked; and

(5) all other requirements of P.L.1964, c.48 (C.54:4-23.1 et seq.) are met.

c. No generated energy from a dual-use solar energy project shall be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project may be considered income for eligibility for valuation, assessment, and taxation of land pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.).

d. Within one year after the date of enactment of P.L.2021, c.170 (C.48:3-87.13 et al.), the Division of Taxation, in consultation with the Secretary of Agriculture and the Board of Public Utilities, shall:

(1) adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation and administration of this section; and

(2) incorporate information concerning dual-use solar energy projects into the guidelines provided, and the continuing education course offered, to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials pursuant to section 1 of P.L.2013, c.43 (C.54:4-23.3d).

e. As used in this section:

“Dual-use solar energy project” means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

“Preserved farmland” means the same as the term is defined in section 4 of P.L.2009, c.213 (C.54:4-23.3c).

“Unreserved farmland” means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

3. Section 4 of P.L.2009, c.213 (C.54:4-23.3c) is amended to read as follows:

C.54:4-23.3c Land use for taxation purposes.

4. a. (1) No land used for biomass, solar, or wind energy generation shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), except as provided in this section or, in the case of unreserved farmland used

for a dual-use solar energy project, as provided in section 1 of P.L.2021, c.170 (C.48:3-87.13).

(2) No generated energy from any source shall be considered an agricultural or horticultural product.

b. Land used for biomass, solar, or wind energy generation may be eligible for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

(1) the biomass, solar, or wind energy generation facilities, structures, and equipment were constructed, installed, and operated on property that is part of an operating farm continuing to be in operation as a farm in the tax year for which the valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

(2) in the tax year preceding the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment on an operating farm, the acreage used for the biomass, solar, or wind energy generation facilities, structures, and equipment was valued, assessed and taxed as land in agricultural or horticultural use;

(3) the power or heat generated by the biomass, solar, or wind energy generation facilities, structures, and equipment is used to provide, either directly or indirectly but not necessarily exclusively, power or heat to the farm or agricultural or horticultural operations supporting the viability of the farm;

(4) the owner of the property has filed a conservation plan with the soil conservation district, with provisions for compliance with paragraph (5) of this subsection where applicable, to account for the aesthetic, impervious coverage, and environmental impacts of the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment, including, but not necessarily limited to, water recapture and filtration, and the conservation plan has been approved by the district;

(5) where solar energy generation facilities, structures, and equipment are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or other plants capable of being grown under such conditions, or for pasture for grazing;

(6) the amount of acreage devoted to the biomass, solar, or wind energy generation facilities, structures, and equipment does not exceed a ratio of one to five acres, or portion thereof, of land devoted to energy generation facilities, structures, and equipment and land devoted to agricultural or horticultural operations;

(7) biomass, solar, or wind energy generation facilities, structures, and equipment are constructed or installed on no more than 10 acres of the farmland for which the owner of the property is applying for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being generated, no more than two megawatts of power are generated on the 10 acres or less; and

(8) for biomass energy generation, the owner of the property has obtained the approval of the Department of Agriculture pursuant to section 5 of P.L.2009, c.213 (C.4:1C-32.5).

c. No income from any power or heat sold from the biomass, solar, or wind energy generation may be considered income for eligibility for valuation, assessment and taxation of land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and, notwithstanding the provisions of that act, or any rule or regulation adopted pursuant thereto, to the contrary, there shall be no income requirement for property valued, assessed and taxed pursuant to subsection b. of this section.

d. Notwithstanding any provision of this section, section 3 of P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48 (C.54:4-23.4) to the contrary, the construction,

installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the “Pinelands Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

e. The Division of Taxation, in consultation with the Department of Agriculture, shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation and administration of this section.

f. For the purposes of this section:

“Biomass” means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, “biomass” means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

“Dual-use solar energy project” means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

“Land used for biomass, solar, or wind energy generation” means the land upon which the biomass, solar, or wind energy generation facilities, structures, and equipment are constructed, installed, and operated. In the case of biomass energy generation, “land used for biomass, solar, or wind energy generation” shall not mean the land upon which agricultural or horticultural products used as fuel in the biomass energy generation facility, structure, or equipment are grown. “Land used for biomass, solar, or wind energy generation” shall not include land used for a dual-use solar energy project.

“Preserved farmland” means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

“Unpreserved farmland” means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

4. This act shall take effect immediately.

Approved July 9, 2021.



# ASSEMBLY, No. 5434

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 8, 2021

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**SYNOPSIS**

Increases amount of solar energy generation on lands eligible for farmland assessment under certain conditions; revises law concerning solar energy generation on preserved farmland; directs BPU to provide certain incentives to “dual-use” solar projects on unreserved farmland.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/5/2021)

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2

1 AN ACT concerning the use of agricultural lands for certain energy  
2 generation, supplementing P.L.1983, c.31 (C.4:1C-1 et al.) and  
3 P.L.1964, c.48 (C.54:4-23.1 et seq.), and amending P.L.2009,  
4 c.213, P.L.1999, c.23 and P.L.2018, c.17.

5

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

8

9 1. (New section) a. Notwithstanding the provisions of any  
10 law, rule, or regulation to the contrary, a person who owns  
11 unpreserved farmland that is valued, assessed, and taxed pursuant to  
12 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-  
13 23.1 et seq.), may construct, install, and operate a dual-use solar  
14 energy project on the farmland, provided that:

15 (1) the owner of the unpreserved farmland obtains the approval  
16 of the Department of Agriculture, in addition to any other approvals  
17 that may be required pursuant to State or local law, rule, regulation,  
18 or ordinance, prior to the construction of the dual-use solar energy  
19 project;

20 (2) the capacity of the dual-use solar energy project is less than  
21 10 megawatts of power;

22 (3) the dual-use solar energy project is not located:

23 (a) on preserved farmland;

24 (b) within the preservation area of the pinelands area, as  
25 designated in subsection b. of section 10 of P.L.1979, c.111  
26 (C.13:18A-11);

27 (c) with an area designated as forest area in the pinelands  
28 comprehensive management plan adopted pursuant to P.L.1979,  
29 c.111 (C.13:18A-1 et seq.);

30 (d) in a freshwater wetland as defined pursuant to P.L.1987,  
31 c.156 (C.13:9B-1 et seq.), or a coastal wetland as defined pursuant  
32 to P.L.1970, c.272 (C.13:9A-1 et seq.); or

33 (e) within the Highlands preservation area as designated in  
34 subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

35 (4) the owner of the land has filed a conservation plan with the  
36 soil conservation district to account for the aesthetic, impervious  
37 coverage, and environmental impacts of the dual-use solar energy  
38 project, including, but not limited to, water recapture and filtration,  
39 and the conservation plan has been approved by the district;

40 (5) the project complies with the agricultural management  
41 practices adopted by the State Agriculture Development Committee  
42 pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2) and the rules  
43 and regulations adopted pursuant to subsection d. of this section;  
44 and

45 (6) the owner of the land, or the person undertaking the dual-use

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

**Matter underlined thus is new matter.**

1 solar energy project, as applicable, obtains all necessary permits  
2 and other approvals as may be required pursuant to federal, State, or  
3 local law, rule, regulation, or ordinance.

4 b. A landowner shall submit an application for approval by the  
5 Department of Agriculture before constructing, installing, and  
6 operating a dual-use solar energy facility as allowed pursuant to  
7 subsection a. of this section. The Department of Agriculture, in  
8 consultation with the Board of Public Utilities, shall, within 90 days  
9 after receipt, approve, disapprove, or approve with conditions an  
10 application submitted for the purposes of subsection a. of this  
11 section.

12 c. The Department of Agriculture may suspend or revoke an  
13 approval issued pursuant to this section for a violation of any term  
14 or condition of the approval or any provision of this section.

15 d. The Department of Agriculture, in consultation with the  
16 State Agriculture Development Committee, the Board of Public  
17 Utilities, and the Department of Environmental Protection, shall  
18 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,  
19 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the  
20 implementation of this section, including but not limited to (1) the  
21 process by which a landowner may apply for the approval required  
22 pursuant to this section, and the establishment of reasonable  
23 application fees to pay for the cost of review of the application, and  
24 (2) provisions prescribing standards concerning impervious cover  
25 which may be permitted in connection with dual-use solar energy  
26 projects authorized to be constructed, installed, and operated on  
27 unpreserved farmland pursuant to this section.

28 e. The Board of Public Utilities shall provide technical  
29 assistance and support to the Department of Agriculture concerning  
30 the department’s responsibilities pursuant to this section.

31 f. As used in this section:

32 “Dual-use solar energy project” means the energy generation  
33 facilities, structures, and equipment for the production of less than  
34 10 megawatts of electric power from solar photovoltaic panels  
35 located on land in agricultural or horticultural production that allow  
36 the continued use of the land below the panels to simultaneously be  
37 used for agricultural or horticultural production.

38 “Preserved farmland” means the same as the term is defined in  
39 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

40 “Unpreserved farmland” means any land that is valued, assessed  
41 and taxed pursuant to the “Farmland Assessment Act of 1964,”  
42 P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.

43  
44 2. (New section) a. No land used for a dual-use solar energy  
45 project constructed, installed, and operated pursuant to section 1 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill)  
47 shall be considered land in agricultural or horticultural use or  
48 actively devoted to agricultural or horticultural use for the purposes

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1 of the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-  
2 23.1 et seq.), except as provided in this section.

3 b. Land used for a dual-use solar energy project constructed,  
4 installed, and operated pursuant to section 1 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill) may be eligible for  
6 valuation, assessment, and taxation pursuant to P.L.1964, c.48  
7 (C.54:4-23.1 et seq.), provided that:

8 (1) the dual-use solar energy project is located on unpreserved  
9 farmland that is continuing to be in operation as a farm in the tax  
10 year for which the valuation, assessment and taxation pursuant to  
11 P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

12 (2) in the tax year preceding the construction, installation, and  
13 operation of the dual-use solar energy project, the acreage used for  
14 the dual-use solar energy project was valued, assessed, and taxed as  
15 land in agricultural or horticultural use;

16 (3) the land on which the dual-use solar energy project is located  
17 continues to be actively devoted to agricultural and horticultural  
18 use, and meets the income requirements set forth in section 5 of  
19 P.L.1964, c.48 (C.54:4-23.5);

20 (4) the approval issued for the dual-use solar energy project by  
21 the Department of Agriculture pursuant to section 1 of P.L. ,  
22 c. (C. ) (before the Legislature as this bill) has not been  
23 suspended or revoked; and

24 (5) all other requirements of P.L.1964, c.48 (C.54:4-23.1 et seq.)  
25 are met.

26 c. No generated energy from a dual-use solar energy project  
27 shall be considered an agricultural or horticultural product, and no  
28 income from any power sold from the dual-use solar energy project  
29 may be considered income for eligibility for valuation, assessment,  
30 and taxation of land pursuant to P.L.1964, c.48 (C.54:4-23.1 et  
31 seq.).

32 d. Within one year after the date of enactment of P.L. ,  
33 c. (C. ) (pending before the Legislature as this bill), the Division  
34 of Taxation, in consultation with the Department of Agriculture and  
35 the Board of Public Utilities, shall:

36 (1) adopt, pursuant to the “Administrative Procedure Act,”  
37 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as  
38 may be necessary for the implementation and administration of this  
39 section; and

40 (2) incorporate information concerning dual-use solar energy  
41 projects into the guidelines provided, and the continuing education  
42 course offered, to municipal tax assessors, county assessors, county  
43 tax administrators, and other appropriate local government officials  
44 pursuant to section 1 of P.L.2013, c.43 (C.54:4-23.3d).

45 e. As used in this section:

46 “Dual-use solar energy project” means the same as the term is  
47 defined in section 1 of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill).

1       “Preserved farmland” means the same as the term is defined in  
2 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

3       “Unpreserved farmland” means the same as the term is defined  
4 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
5 as this bill).

6  
7       3. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as  
8 follows:

9       6. Notwithstanding the provisions of any municipal or county  
10 ordinance, resolution, or regulation to the contrary, the owner or  
11 operator of a commercial farm, located in an area in which, as of  
12 December 31, 1997 or thereafter, agriculture is a permitted use  
13 under the municipal zoning ordinance and is consistent with the  
14 municipal master plan, or which commercial farm is in operation as  
15 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the  
16 operation of which conforms to agricultural management practices  
17 recommended by the committee and adopted pursuant to the  
18 provisions of the “Administrative Procedure Act,” P.L.1968, c.410  
19 (C.52:14B-1 et seq.), or whose specific operation or practice has  
20 been determined by the appropriate county board, or in a county  
21 where no county board exists, the committee, to constitute a  
22 generally accepted agricultural operation or practice, and all  
23 relevant federal or State statutes or rules and regulations adopted  
24 pursuant thereto, and which does not pose a direct threat to public  
25 health and safety may:

26       a. Produce agricultural and horticultural crops, trees and forest  
27 products, livestock, and poultry and other commodities as described  
28 in the Standard Industrial Classification for agriculture, forestry,  
29 fishing and trapping or, after the operative date of the regulations  
30 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),  
31 included under the corresponding classification under the North  
32 American Industry Classification System;

33       b. Process and package the agricultural output of the  
34 commercial farm;

35       c. Provide for the operation of a farm market, including the  
36 construction of building and parking areas in conformance with  
37 municipal standards;

38       d. Replenish soil nutrients and improve soil tilth;

39       e. Control pests, predators and diseases of plants and animals;

40       f. Clear woodlands using open burning and other techniques,  
41 install and maintain vegetative and terrain alterations and other  
42 physical facilities for water and soil conservation and surface water  
43 control in wetland areas;

44       g. Conduct on-site disposal of organic agricultural wastes;

45       h. Conduct agriculture-related educational and farm-based  
46 recreational activities provided that the activities are related to  
47 marketing the agricultural or horticultural output of the commercial  
48 farm;

1 i. (1) Engage in the generation of power or heat from biomass,  
2 solar, or wind energy, provided that the energy generation is  
3 consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et  
4 al.), as applicable, and the rules and regulations adopted therefor  
5 and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2) ;

6 (2) Engage in a dual-use solar energy project pursuant to section  
7 1 of P.L. , c. (C. ) (pending before the Legislature as this  
8 bill), provided that the dual-use solar energy project complies with  
9 all applicable provisions of law and rules and regulations adopted  
10 pursuant thereto ; and

11 j. Engage in any other agricultural activity as determined by  
12 the State Agriculture Development Committee and adopted by rule  
13 or regulation pursuant to the provisions of the “Administrative  
14 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).  
15 (cf: P.L.2009, c.213, s.2)

16  
17 4. Section 3 of P.L.2009, c.213 (C.4:1C-9.2) is amended to  
18 read as follows:

19 3. a. The committee shall adopt, pursuant to the  
20 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
21 seq.):

22 (1) such rules and regulations as may be necessary for the  
23 implementation of subsection i. of section 6 of P.L.1983, c.31  
24 (C.4:1C-9); **[and]**

25 (2) agricultural management practices for biomass energy  
26 generation on commercial farms, including, but not necessarily  
27 limited to, standards for the management of odor, dust, and noise ;  
28 and

29 (3) agricultural management practices for dual-use solar energy  
30 projects approved, constructed, installed, and operated pursuant to  
31 section 1 of P.L. , c. (C. ) (pending before the Legislature as  
32 this bill) .

33 b. The Board of Public Utilities shall provide technical  
34 assistance and support to the State Agriculture Development  
35 Committee with regard to the committee's responsibilities in  
36 connection with this section and subsection i. of section 6 of  
37 P.L.1983, c.31 (C.4:1C-9).

38 c. Notwithstanding any provision of this section or subsection  
39 i. of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the  
40 construction, installation, or operation of any biomass, solar, or  
41 wind energy generation facility, structure, or equipment in the  
42 pinelands area, as defined and regulated by the “Pinelands  
43 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
44 with the standards of P.L.1979, c.111 and the comprehensive  
45 management plan for the pinelands area adopted pursuant to  
46 P.L.1979, c.111.

47 d. For the purposes of this section and subsection i. of section 6  
48 of P.L.1983, c.31 (C.4:1C-9), “biomass” means an agricultural crop,

1 crop residue, or agricultural byproduct that is cultivated, harvested,  
2 or produced on the commercial farm and which can be used to  
3 generate energy in a sustainable manner , and “dual-use solar  
4 energy project” means the same as the term is defined in section 1  
5 of P.L. , c. (C. ) (pending before the Legislature as this  
6 bill) .  
7 (cf: P.L.2009, c.213, s.3)

8  
9 5. Section 1 of P.L.2009, c.213 (C.4:1C-32.4) is amended to  
10 read as follows:

11 1. a. Notwithstanding any law, rule or regulation to the  
12 contrary, a person who owns preserved farmland may construct,  
13 install, and operate biomass, solar, or wind energy generation  
14 facilities, structures, and equipment on the farm, whether on the  
15 preserved portion of the farm or on any portion excluded from  
16 preservation, for the purpose of generating power or heat, and may  
17 make improvements to any agricultural, horticultural, residential, or  
18 other building or structure on the land for that purpose, provided  
19 that **【the biomass, solar, or wind energy generation facilities,**  
20 **structures, and equipment】 :**

21 (1) the biomass, solar, or wind energy generation facilities,  
22 structures, and equipment do not interfere significantly with the use  
23 of the land for agricultural or horticultural production, as  
24 determined by the committee;

25 (2) any biomass or wind energy generation facilities, structures,  
26 and equipment are owned by the landowner, or will be owned by  
27 the landowner upon the conclusion of the term of an agreement with  
28 the installer of the biomass **【, solar,】** or wind energy generation  
29 facilities, structures, or equipment by which the landowner uses the  
30 income or credits realized from the biomass **【, solar,】** or wind  
31 energy generation to purchase the facilities, structures, or  
32 equipment;

33 (3) the biomass, solar, or wind energy generation facilities,  
34 structures, and equipment are used to provide power or heat to the  
35 farm, either directly or indirectly, or to reduce, through net metering  
36 or similar programs and systems, energy costs on the farm; and

37 (4) the biomass, solar, or wind energy generation facilities,  
38 structures, and equipment are limited (a) in annual energy  
39 generation capacity to the previous calendar year's energy demand  
40 plus 10 percent, in addition to what is allowed under subsection b.  
41 of this section, or alternatively at the option of the landowner (b) to  
42 occupying no more than one percent of the area of the entire farm  
43 including both the preserved portion and any portion excluded from  
44 preservation.

45 **【The person who owns the farm and the energy generation**  
46 **facilities, structures, and equipment may only sell energy through**  
47 **net metering or as otherwise permitted under an agreement allowed**  
48 **pursuant to paragraph (2) of this subsection.】**

1       b. The limit on the annual energy generation capacity  
2 established pursuant to subparagraph (a) of paragraph (4) of  
3 subsection a. of this section shall not include energy generated from  
4 facilities, structures, or equipment existing on the roofs of buildings  
5 or other structures on the farm as of the date of enactment of  
6 P.L.2009, c.213 (C.4:1C-32.4 et al.).

7       c. A landowner shall seek and obtain the approval of the  
8 committee before constructing, installing, and operating biomass,  
9 solar, or wind energy generation facilities, structures, and  
10 equipment on the farm as allowed pursuant to subsection a. of this  
11 section. The committee shall provide the holder of any  
12 development easement on the farm with a copy of the application  
13 submitted for the purposes of subsection a. of this section, and the  
14 holder of the development easement shall have 30 days within  
15 which to provide comments to the committee on the application.  
16 The committee shall, within 90 days of receipt, approve,  
17 disapprove, or approve with conditions an application submitted for  
18 the purposes of subsection a. of this section. The decision of the  
19 committee on the application shall be based solely upon the criteria  
20 listed in subsection a. of this section and comments received from  
21 the holder of the development easement.

22       d. No fee shall be charged of the landowner for review of an  
23 application submitted to, or issuance of a decision by, the  
24 committee pursuant to this section.

25       e. The committee may suspend or revoke an approval issued  
26 pursuant to this section for a violation of any term or condition of  
27 the approval or any provision of this section.

28       f. The committee, in consultation with the Department of  
29 Environmental Protection and the Department of Agriculture, shall  
30 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
31 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the  
32 implementation of this section, including provisions prescribing  
33 standards concerning impervious cover which may be permitted in  
34 connection with biomass, solar, or wind energy generation  
35 facilities, structures, and equipment authorized to be constructed,  
36 installed, and operated on lands pursuant to this section.

37       g. In the case of biomass energy generation facilities,  
38 structures, or equipment, the landowner shall also seek and obtain  
39 the approval of the Department of Agriculture as required pursuant  
40 to section 5 of P.L.2009, c.213 (C.4:1C-32.5) if the land is valued,  
41 assessed, and taxed pursuant to the "Farmland Assessment Act of  
42 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

43       h. Notwithstanding any provision of this section to the  
44 contrary, the construction, installation, or operation of any biomass,  
45 solar, or wind energy generation facility, structure, or equipment in  
46 the pinelands area, as defined and regulated by the "Pinelands  
47 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
48 with the standards of P.L.1979, c.111 and the comprehensive



1 management plan for the pinelands area adopted pursuant to  
2 P.L.1979, c.111.

3 i. For the purposes of this section:

4 “Biomass” means an agricultural crop, crop residue, or  
5 agricultural byproduct that is cultivated, harvested, or produced on  
6 the farm and which can be used to generate energy in a sustainable  
7 manner.

8 “Net metering” means the same as that term is used for purposes  
9 of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

10 “Preserved farmland” means land on which a development  
11 easement was conveyed to, or retained by, the committee, a board,  
12 or a qualifying tax exempt nonprofit organization pursuant to the  
13 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
14 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
15 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
16 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
17 other State law enacted for farmland preservation purposes.

18 (cf: P.L.2009, c.213, s.1)

19

20 6. Section 4 of P.L.2009, c.213 (C.54:4-23.3c) is amended to  
21 read as follows:

22 4. a. (1) No land used for biomass, solar, or wind energy  
23 generation shall be considered land in agricultural or horticultural  
24 use or actively devoted to agricultural or horticultural use for the  
25 purposes of the “Farmland Assessment Act of 1964,” P.L.1964,  
26 c.48 (C.54:4-23.1 et seq.), except as provided in this section or, in  
27 the case of unpreserved farmland used for a dual-use solar energy  
28 project, as provided in section 2 of P.L. , c. (C. ) (pending  
29 before the Legislature as this bill) .

30 (2) No generated energy from any source shall be considered an  
31 agricultural or horticultural product.

32 b. Land used for biomass, solar, or wind energy generation  
33 may be eligible for valuation, assessment and taxation pursuant to  
34 P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

35 (1) the biomass, solar, or wind energy generation facilities,  
36 structures, and equipment were constructed, installed, and operated  
37 on property that is part of an operating farm continuing to be in  
38 operation as a farm in the tax year for which the valuation,  
39 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et  
40 seq.) is applied for;

41 (2) in the tax year preceding the construction, installation, and  
42 operation of the biomass, solar, or wind energy generation facilities,  
43 structures, and equipment on an operating farm, the acreage used  
44 for the biomass, solar, or wind energy generation facilities,  
45 structures, and equipment was valued, assessed and taxed as land in  
46 agricultural or horticultural use;

47 (3) the power or heat generated by the biomass, solar, or wind  
48 energy generation facilities, structures, and equipment is used to

1 provide, either directly or indirectly but not necessarily exclusively,  
2 power or heat to the farm or agricultural or horticultural operations  
3 supporting the viability of the farm;

4 (4) the owner of the property has filed a conservation plan with  
5 the soil conservation district, with provisions for compliance with  
6 paragraph (5) of this subsection where applicable, to account for the  
7 aesthetic, impervious coverage, and environmental impacts of the  
8 construction, installation, and operation of the biomass, solar, or  
9 wind energy generation facilities, structures, and equipment,  
10 including, but not necessarily limited to, water recapture and  
11 filtration, and the conservation plan has been approved by the  
12 district;

13 (5) where solar energy generation facilities, structures, and  
14 equipment are installed, the property under the solar panels is used  
15 to the greatest extent practicable for the farming of shade crops or  
16 other plants capable of being grown under such conditions, or for  
17 pasture for grazing;

18 (6) the amount of acreage devoted to the biomass, solar, or wind  
19 energy generation facilities, structures, and equipment does not  
20 exceed a ratio of one to five acres, or portion thereof, of land  
21 devoted to energy generation facilities, structures, and equipment  
22 and land devoted to agricultural or horticultural operations;

23 (7) biomass, solar, or wind energy generation facilities,  
24 structures, and equipment are constructed or installed on no more  
25 than 10 acres of the farmland for which the owner of the property is  
26 applying for valuation, assessment and taxation pursuant to  
27 P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being  
28 generated, no more than two megawatts of power are generated on  
29 the 10 acres or less; and

30 (8) for biomass energy generation, the owner of the property has  
31 obtained the approval of the Department of Agriculture pursuant to  
32 section 5 of P.L.2009, c.213 (C.4:1C-32.5).

33 c. No income from any power or heat sold from the biomass,  
34 solar, or wind energy generation may be considered income for  
35 eligibility for valuation, assessment and taxation of land pursuant to  
36 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-  
37 23.1 et seq.), and, notwithstanding the provisions of that act, or any  
38 rule or regulation adopted pursuant thereto, to the contrary, there  
39 shall be no income requirement for property valued, assessed and  
40 taxed pursuant to subsection b. of this section.

41 d. Notwithstanding any provision of this section, section 3 of  
42 P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48  
43 (C.54:4-23.4) to the contrary, the construction, installation, or  
44 operation of any biomass, solar, or wind energy generation facility,  
45 structure, or equipment in the pinelands area, as defined and  
46 regulated by the "Pinelands Protection Act," P.L.1979, c.111  
47 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979,

1 c.111 and the comprehensive management plan for the pinelands  
2 area adopted pursuant to P.L.1979, c.111.

3 e. The Division of Taxation, in consultation with the  
4 Department of Agriculture, shall adopt, pursuant to the  
5 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
6 seq.), such rules and regulations as may be necessary for the  
7 implementation and administration of this section.

8 f. For the purposes of this section:

9 “Biomass” means an agricultural crop, crop residue, or  
10 agricultural byproduct that is cultivated, harvested, or produced on  
11 the farm, or directly obtained from a farm where it was cultivated,  
12 harvested, or produced, and which can be used to generate energy in  
13 a sustainable manner, except with respect to preserved farmland,  
14 “biomass” means the same as that term is defined in section 1 of  
15 P.L.2009, c.213 (C.4:1C-32.4).

16 “Dual-use solar energy project” means the same as the term is  
17 defined in section 1 of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill).

19 “Land used for biomass, solar, or wind energy generation” means  
20 the land upon which the biomass, solar, or wind energy generation  
21 facilities, structures, and equipment are constructed, installed, and  
22 operated. In the case of biomass energy generation, “land used for  
23 biomass, solar, or wind energy generation” shall not mean the land  
24 upon which agricultural or horticultural products used as fuel in the  
25 biomass energy generation facility, structure, or equipment are  
26 grown. “Land used for biomass, solar, or wind energy generation”  
27 shall not include land used for a dual-use solar energy project.

28 “Preserved farmland” means land on which a development  
29 easement was conveyed to, or retained by, the State Agriculture  
30 Development Committee, a county agriculture development board,  
31 or a qualifying tax exempt nonprofit organization pursuant to the  
32 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
33 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
34 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
35 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
36 other State law enacted for farmland preservation purposes.

37 “Unpreserved farmland” means the same as the term is defined  
38 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
39 as this bill).

40 (cf: P.L.2009, c.213, s.4)

41

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

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

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

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

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

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

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

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

23 (3) A uniform emissions disclosure format that is graphic in  
24 nature and easily understandable by consumers. The board shall  
25 periodically review the disclosure requirements to determine if  
26 revisions to the environmental disclosure system as implemented  
27 are necessary.

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

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

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

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

43 (2) By July 1, 2009, the board shall adopt, pursuant to the  
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
45 seq.), a greenhouse gas emissions portfolio standard to mitigate  
46 leakage or another regulatory mechanism to mitigate leakage  
47 applicable to all electric power suppliers and basic generation  
48 service providers that provide electricity to customers within the

1 State. The greenhouse gas emissions portfolio standard or any other  
2 regulatory mechanism to mitigate leakage shall:

3 (a) Allow a transition period, either before or after the effective  
4 date of the regulation to mitigate leakage, for a basic generation  
5 service provider or electric power supplier to either meet the  
6 emissions portfolio standard or other regulatory mechanism to  
7 mitigate leakage, or to transfer any customer to a basic generation  
8 service provider or electric power supplier that meets the emissions  
9 portfolio standard or other regulatory mechanism to mitigate  
10 leakage. If the transition period allowed pursuant to this  
11 subparagraph occurs after the implementation of an emissions  
12 portfolio standard or other regulatory mechanism to mitigate  
13 leakage, the transition period shall be no longer than three years;  
14 and

15 (b) Exempt the provision of basic generation service pursuant to  
16 a basic generation service purchase and sale agreement effective  
17 prior to the date of the regulation.

18 Unless the Attorney General or the Attorney General's designee  
19 determines that a greenhouse gas emissions portfolio standard  
20 would unconstitutionally burden interstate commerce or would be  
21 preempted by federal law, the adoption by the board of an electric  
22 energy efficiency portfolio standard pursuant to subsection g. of this  
23 section, a gas energy efficiency portfolio standard pursuant to  
24 subsection h. of this section, or any other enhanced energy  
25 efficiency policies to mitigate leakage shall not be considered  
26 sufficient to fulfill the requirement of this subsection for the  
27 adoption of a greenhouse gas emissions portfolio standard or any  
28 other regulatory mechanism to mitigate leakage.

29 d. Notwithstanding any provisions of the "Administrative  
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
31 contrary, the board shall initiate a proceeding and shall adopt, after  
32 notice, provision of the opportunity for comment, and public  
33 hearing, renewable energy portfolio standards that shall require:

34 (1) that two and one-half percent of the kilowatt hours sold in  
35 this State by each electric power supplier and each basic generation  
36 service provider be from Class II renewable energy sources;

37 (2) beginning on January 1, 2020, that 21 percent of the kilowatt  
38 hours sold in this State by each electric power supplier and each  
39 basic generation service provider be from Class I renewable energy  
40 sources. The board shall increase the required percentage for Class  
41 I renewable energy sources so that by January 1, 2025, 35 percent  
42 of the kilowatt hours sold in this State by each electric power  
43 supplier and each basic generation service provider shall be from  
44 Class I renewable energy sources, and by January 1, 2030, 50  
45 percent of the kilowatt hours sold in this State by each electric  
46 power supplier and each basic generation service provider shall be  
47 from Class I renewable energy sources. Notwithstanding the  
48 requirements of this subsection, the board shall ensure that the cost

1 to customers of the Class I renewable energy requirement imposed  
 2 pursuant to this subsection shall not exceed nine percent of the total  
 3 paid for electricity by all customers in the State for energy year  
 4 2019, energy year 2020, and energy year 2021, respectively, and  
 5 shall not exceed seven percent of the total paid for electricity by all  
 6 customers in the State in any energy year thereafter ; provided that,  
 7 if in energy years 2019 through 2021 the cost to customers of the  
 8 Class I renewable energy requirement is less than nine percent of  
 9 the total paid for electricity by all customers in the State, the board  
 10 may increase the cost to customers of the Class I renewable energy  
 11 requirement in energy years 2022 through 2024 to a rate greater  
 12 than seven percent, as long as the total costs to customers for  
 13 energy years 2019 through 2024 does not exceed the sum of nine  
 14 percent of the total paid for electricity by all customers in the State  
 15 in energy years 2019 through 2021 and seven percent of the total  
 16 paid for electricity by all customers in the State in energy years  
 17 2022 through 2024. In calculating the cost to customers of the  
 18 Class I renewable energy requirement imposed pursuant to this  
 19 subsection, the board shall not include the costs of the offshore  
 20 wind energy certificate program established pursuant to paragraph  
 21 (4) of this subsection. The board shall take any steps necessary to  
 22 prevent the exceedance of the cap on the cost to customers  
 23 including, but not limited to, adjusting the Class I renewable energy  
 24 requirement.

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

29 (3) that the board establish a multi-year schedule, applicable to  
 30 each electric power supplier or basic generation service provider in  
 31 this State, beginning with the one-year period commencing on June  
 32 1, 2010, and continuing for each subsequent one-year period up to  
 33 and including, the one-year period commencing on June 1, 2033,  
 34 that requires the following number or percentage, as the case may  
 35 be, of kilowatt-hours sold in this State by each electric power  
 36 supplier and each basic generation service provider to be from solar  
 37 electric power generators connected to the distribution system in  
 38 this State:

39	EY 2011	306 Gigawatthours (Gwhrs)
40	EY 2012	442 Gwhrs
41	EY 2013	596 Gwhrs
42	EY 2014	2.050%
43	EY 2015	2.450%
44	EY 2016	2.750%
45	EY 2017	3.000%
46	EY 2018	3.200%
47	EY 2019	4.300%
48	EY 2020	4.900%

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1	EY 2021	5.100%
2	EY 2022	5.100%
3	EY 2023	5.100%
4	EY 2024	4.900%
5	EY 2025	4.800%
6	EY 2026	4.500%
7	EY 2027	4.350%
8	EY 2028	3.740%
9	EY 2029	3.070%
10	EY 2030	2.210%
11	EY 2031	1.580%
12	EY 2032	1.400%
13	EY 2033	1.100%

14 No later than 180 days after the date of enactment of P.L.2018,  
15 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations  
16 to close the SREC program to new applications upon the attainment  
17 of 5.1 percent of the kilowatt-hours sold in the State by each  
18 electric power supplier and each basic generation provider from  
19 solar electric power generators connected to the distribution system.  
20 The board shall continue to consider any application filed before the  
21 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board  
22 shall provide for an orderly and transparent mechanism that will  
23 result in the closing of the existing SREC program on a date certain  
24 but no later than June 1, 2021.

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

36 - continually reduce, where feasible, the cost of achieving the  
37 solar energy goals set forth in this subsection;

38 - provide an orderly transition from the SREC program to a  
39 new or modified program;

40 - develop megawatt targets for grid connected and distribution  
41 systems, including residential and small commercial rooftop  
42 systems, community solar systems, and large scale behind the meter  
43 systems, as a share of the overall solar energy requirement, which  
44 targets the board may modify periodically based on the cost,  
45 feasibility, or social impacts of different types of projects;

46 -establish and update market-based maximum incentive payment  
47 caps periodically for each of the above categories of solar electric  
48 power generation facilities;

1 -encourage and facilitate market-based cost recovery through  
2 long-term contracts and energy market sales; and

3 -where cost recovery is needed for any portion of an efficient  
4 solar electric power generation facility when costs are not  
5 recoverable through wholesale market sales and direct payments  
6 from customers, utilize competitive processes such as competitive  
7 procurement and long-term contracts where possible to ensure such  
8 recovery, without exceeding the maximum incentive payment cap  
9 for that category of facility.

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

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

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

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

42 (c) The solar renewable portfolio standards requirements in this  
43 paragraph shall exempt those existing supply contracts which are  
44 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-  
45 87.8 et al.) from any increase beyond the number of SRECs  
46 mandated by the solar renewable energy portfolio standards  
47 requirements that were in effect on the date that the providers  
48 executed their existing supply contracts. This limited exemption for



1 providers' existing supply contracts shall not be construed to lower  
2 the Statewide solar sourcing requirements set forth in this  
3 paragraph. Such incremental requirements that would have  
4 otherwise been imposed on exempt providers shall be distributed  
5 over the providers not subject to the existing supply contract  
6 exemption until such time as existing supply contracts expire and  
7 all providers are subject to the new requirement in a manner that is  
8 competitively neutral among all providers and suppliers.  
9 Notwithstanding any rule or regulation to the contrary, the board  
10 shall recognize these new solar purchase obligations as a change  
11 required by operation of law and implement the provisions of this  
12 subsection in a manner so as to prevent any subsidies between  
13 suppliers and providers and to promote competition in the  
14 electricity supply industry.

15 An electric power supplier or basic generation service provider  
16 may satisfy the requirements of this subsection by participating in a  
17 renewable energy trading program approved by the board in  
18 consultation with the Department of Environmental Protection, or  
19 compliance with the requirements of this subsection may be  
20 demonstrated to the board by suppliers or providers through the  
21 purchase of SRECs.

22 The renewable energy portfolio standards adopted by the board  
23 pursuant to paragraphs (1) and (2) of this subsection shall be  
24 effective as regulations immediately upon filing with the Office of  
25 Administrative Law and shall be effective for a period not to exceed  
26 18 months, and may, thereafter, be amended, adopted or readopted  
27 by the board in accordance with the provisions of the  
28 "Administrative Procedure Act."

29 The renewable energy portfolio standards adopted by the board  
30 pursuant to this paragraph shall be effective as regulations  
31 immediately upon filing with the Office of Administrative Law and  
32 shall be effective for a period not to exceed 30 months after such  
33 filing, and shall, thereafter, be amended, adopted or readopted by  
34 the board in accordance with the "Administrative Procedure Act";  
35 and

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

43 The percentage established by the board pursuant to this  
44 paragraph shall serve as an offset to the renewable energy portfolio  
45 standard established pursuant to paragraph (2) of this subsection  
46 and shall reduce the corresponding Class I renewable energy  
47 requirement.

1 The percentage established by the board pursuant to this  
2 paragraph shall reflect the projected OREC production of each  
3 qualified offshore wind project, approved by the board pursuant to  
4 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the  
5 commercial operation start date of the qualified offshore wind  
6 project which production projection and OREC purchase  
7 requirement, once approved by the board, shall not be subject to  
8 reduction.

9 An electric power supplier or basic generation service provider  
10 shall comply with the OREC program established pursuant to this  
11 paragraph through the purchase of offshore wind renewable energy  
12 certificates at a price and for the time period required by the board.  
13 In the event there are insufficient offshore wind renewable energy  
14 certificates available, the electric power supplier or basic generation  
15 service provider shall pay an offshore wind alternative compliance  
16 payment established by the board. Any offshore wind alternative  
17 compliance payments collected shall be refunded directly to the  
18 ratepayers by the electric public utilities.

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

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

31 (1) net metering standards for electric power suppliers and basic  
32 generation service providers. The standards shall require electric  
33 power suppliers and basic generation service providers to offer net  
34 metering at non-discriminatory rates to industrial, large  
35 commercial, residential and small commercial customers, as those  
36 customers are classified or defined by the board, that generate  
37 electricity, on the customer's side of the meter, using a Class I  
38 renewable energy source, for the net amount of electricity supplied  
39 by the electric power supplier or basic generation service provider  
40 over an annualized period. Systems of any sized capacity, as  
41 measured in watts, are eligible for net metering. If the amount of  
42 electricity generated by the customer-generator, plus any kilowatt  
43 hour credits held over from the previous billing periods, exceeds the  
44 electricity supplied by the electric power supplier or basic  
45 generation service provider, then the electric power supplier or  
46 basic generation service provider, as the case may be, shall credit  
47 the customer-generator for the excess kilowatt hours until the end of  
48 the annualized period at which point the customer-generator will be

1 compensated for any remaining credits or, if the customer-generator  
2 chooses, credit the customer-generator on a real-time basis, at the  
3 electric power supplier's or basic generation service provider's  
4 avoided cost of wholesale power or the PJM electric power pool's  
5 real-time locational marginal pricing rate, adjusted for losses, for  
6 the respective zone in the PJM electric power pool. Alternatively,  
7 the customer-generator may execute a bilateral agreement with an  
8 electric power supplier or basic generation service provider for the  
9 sale and purchase of the customer-generator's excess generation.  
10 The customer-generator may be credited on a real-time basis, so  
11 long as the customer-generator follows applicable rules prescribed  
12 by the PJM electric power pool for its capacity requirements for the  
13 net amount of electricity supplied by the electric power supplier or  
14 basic generation service provider. The board may authorize an  
15 electric power supplier or basic generation service provider to cease  
16 offering net metering to customers that are not already net metered  
17 whenever the total rated generating capacity owned and operated by  
18 net metering customer-generators Statewide equals 5.8 percent of  
19 the total annual kilowatt-hours sold in this State by each electric  
20 power supplier and each basic generation service provider during  
21 the prior one-year period;

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

25 Such standards or rules shall take into consideration the goals of  
26 the New Jersey Energy Master Plan, applicable industry standards,  
27 and the standards of other states and the Institute of Electrical and  
28 Electronics Engineers. The board shall allow electric public utilities  
29 to recover the costs of any new net meters, upgraded net meters,  
30 system reinforcements or upgrades, and interconnection costs  
31 through either their regulated rates or from the net metering  
32 customer-generator;

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

37 (4) net metering aggregation standards to require electric public  
38 utilities to provide net metering aggregation to single electric public  
39 utility customers that operate a solar electric power generation  
40 system installed at one of the customer's facilities or on property  
41 owned by the customer, provided that any such customer is a State  
42 entity, school district, county, county agency, county authority,  
43 municipality, municipal agency, or municipal authority. The  
44 standards shall provide that, in order to qualify for net metering  
45 aggregation, the customer must operate a solar electric power  
46 generation system using a net metering billing account, which  
47 system is located on property owned by the customer, provided that:  
48 (a) the property is not land that has been actively devoted to

1 agricultural or horticultural use and that is valued, assessed, and  
2 taxed pursuant to the "Farmland Assessment Act of 1964,"  
3 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year  
4 period prior to the effective date of P.L.2012, c.24, provided,  
5 however, that the municipal planning board of a municipality in  
6 which a solar electric power generation system is located may  
7 waive the requirement of this subparagraph (a), (b) the system is not  
8 an on-site generation facility, (c) all of the facilities of the single  
9 customer combined for the purpose of net metering aggregation are  
10 facilities owned or operated by the single customer and are located  
11 within its territorial jurisdiction except that all of the facilities of a  
12 State entity engaged in net metering aggregation shall be located  
13 within five miles of one another, and (d) all of those facilities are  
14 within the service territory of a single electric public utility and are  
15 all served by the same basic generation service provider or by the  
16 same electric power supplier. The standards shall provide that in  
17 order to qualify for net metering aggregation, the customer's solar  
18 electric power generation system shall be sized so that its annual  
19 generation does not exceed the combined metered annual energy  
20 usage of the qualified customer facilities, and the qualified  
21 customer facilities shall all be in the same customer rate class under  
22 the applicable electric public utility tariff. For the customer's  
23 facility or property on which the solar electric generation system is  
24 installed, the electricity generated from the customer's solar electric  
25 generation system shall be accounted for pursuant to the provisions  
26 of paragraph (1) of this subsection to provide that the electricity  
27 generated in excess of the electricity supplied by the electric power  
28 supplier or the basic generation service provider, as the case may  
29 be, for the customer's facility on which the solar electric generation  
30 system is installed, over the annualized period, is credited at the  
31 electric power supplier's or the basic generation service provider's  
32 avoided cost of wholesale power or the PJM electric power pool  
33 real-time locational marginal pricing rate. All electricity used by  
34 the customer's qualified facilities, with the exception of the facility  
35 or property on which the solar electric power generation system is  
36 installed, shall be billed at the full retail rate pursuant to the electric  
37 public utility tariff applicable to the customer class of the customer  
38 using the electricity. A customer may contract with a third party to  
39 operate a solar electric power generation system, for the purpose of  
40 net metering aggregation. Any contractual relationship entered into  
41 for operation of a solar electric power generation system related to  
42 net metering aggregation shall include contractual protections that  
43 provide for adequate performance and provision for construction  
44 and operation for the term of the contract, including any appropriate  
45 bonding or escrow requirements. Any incremental cost to an  
46 electric public utility for net metering aggregation shall be fully and  
47 timely recovered in a manner to be determined by the board. The

1 board shall adopt net metering aggregation standards within 270  
2 days after the effective date of P.L.2012, c.24.

3 Such rules shall require the board or its designee to issue a credit  
4 or other incentive to those generators that do not use a net meter but  
5 otherwise generate electricity derived from a Class I renewable  
6 energy source and to issue an enhanced credit or other incentive,  
7 including, but not limited to, a solar renewable energy credit, to  
8 those generators that generate electricity derived from solar  
9 technologies.

10 Such standards or rules shall be effective as regulations  
11 immediately upon filing with the Office of Administrative Law and  
12 shall be effective for a period not to exceed 18 months, and may,  
13 thereafter, be amended, adopted or readopted by the board in  
14 accordance with the provisions of the "Administrative Procedure  
15 Act."

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

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

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

1 i. After the board establishes a schedule of solar kilowatt-hour  
2 sale or purchase requirements pursuant to paragraph (3) of  
3 subsection d. of this section, the board may initiate subsequent  
4 proceedings and adopt, after appropriate notice and opportunity for  
5 public comment and public hearing, increased minimum solar  
6 kilowatt-hour sale or purchase requirements, provided that the  
7 board shall not reduce previously established minimum solar  
8 kilowatt-hour sale or purchase requirements, or otherwise impose  
9 constraints that reduce the requirements by any means.

10 j. The board shall determine an appropriate level of solar  
11 alternative compliance payment, and permit each supplier or  
12 provider to submit an SACP to comply with the solar electric  
13 generation requirements of paragraph (3) of subsection d. of this  
14 section. The value of the SACP for each Energy Year, for Energy  
15 Years 2014 through 2033 per megawatt hour from solar electric  
16 generation required pursuant to this section, shall be:

17	EY 2014	\$339
18	EY 2015	\$331
19	EY 2016	\$323
20	EY 2017	\$315
21	EY 2018	\$308
22	EY 2019	\$268
23	EY 2020	\$258
24	EY 2021	\$248
25	EY 2022	\$238
26	EY 2023	\$228
27	EY 2024	\$218
28	EY 2025	\$208
29	EY 2026	\$198
30	EY 2027	\$188
31	EY 2028	\$178
32	EY 2029	\$168
33	EY 2030	\$158
34	EY 2031	\$148
35	EY 2032	\$138
36	EY 2033	\$128.

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

46 k. The board may allow electric public utilities to offer long-  
47 term contracts through a competitive process, direct electric public  
48 utility investment and other means of financing, including but not

1 limited to loans, for the purchase of SRECs and the resale of SRECs  
2 to suppliers or providers or others, provided that after such  
3 contracts have been approved by the board, the board's approvals  
4 shall not be modified by subsequent board orders. If the board  
5 allows the offering of contracts pursuant to this subsection, the  
6 board may establish a process, after hearing, and opportunity for  
7 public comment, to provide that a designated segment of the  
8 contracts approved pursuant to this subsection shall be contracts  
9 involving solar electric power generation facility projects with a  
10 capacity of up to 250 kilowatts.

11 1. The board shall implement its responsibilities under the  
12 provisions of this section in such a manner as to:

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

16 (2) maintain adequate regulatory authority over non-competitive  
17 public utility services;

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

20 (4) promote energy efficiency and Class I renewable energy  
21 market development, taking into consideration environmental  
22 benefits and market barriers;

23 (5) make energy services more affordable for low and moderate  
24 income customers;

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

28 (7) achieve the goals put forth under the renewable energy  
29 portfolio standards;

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

31 (9) allow all market segments to participate.

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

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

46 o. The board, in consultation with the Department of  
47 Environmental Protection, electric public utilities, the Division of  
48 Rate Counsel in, but not of, the Department of the Treasury,

1 affected members of the solar energy industry, and relevant  
2 stakeholders, shall periodically consider increasing the renewable  
3 energy portfolio standards beyond the minimum amounts set forth  
4 in subsection d. of this section, taking into account the cost impacts  
5 and public benefits of such increases including, but not limited to:

6 (1) reductions in air pollution, water pollution, land disturbance,  
7 and greenhouse gas emissions;

8 (2) reductions in peak demand for electricity and natural gas,  
9 and the overall impact on the costs to customers of electricity and  
10 natural gas;

11 (3) increases in renewable energy development, manufacturing,  
12 investment, and job creation opportunities in this State; and

13 (4) reductions in State and national dependence on the use of  
14 fossil fuels.

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

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



1 (2) If the proposed solar electric power generation facility does  
2 not commence commercial operations within two years following  
3 the date of the designation by the board pursuant to this subsection,  
4 the designation of the facility shall be deemed to be null and void,  
5 and the facility shall not be considered connected to the distribution  
6 system thereafter.

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

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

39 (2) The board shall approve the designation of the proposed  
40 solar **[power]** electric power generation facility as "connected to  
41 the distribution system" if the board determines that:

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

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

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

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

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

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

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

1 subsection shall be considered "connected to the distribution system  
2 **[".]** ." shall not require such designation by the board, and shall not  
3 be subject to board review required pursuant to subsections q. and r.  
4 of this section. Notwithstanding the provisions of section 3 of  
5 P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or  
6 order to the contrary, for projects certified under this subsection, the  
7 board shall establish a financial incentive that is designed to  
8 supplement the SRECs generated by the facility in order to cover  
9 the additional cost of constructing and operating a solar electric  
10 power generation facility on a brownfield, on an area of historic fill  
11 or on a properly closed sanitary landfill facility. Any financial  
12 benefit realized in relation to a project owned or operated by an  
13 electric public utility and approved by the board pursuant to section  
14 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a  
15 financial incentive established by the board pursuant to this  
16 subsection, shall be credited to ratepayers. The issuance of SRECs  
17 for all solar electric power generation facility projects pursuant to  
18 this subsection shall be deemed "Board of Public Utilities financial  
19 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-  
20 29.47).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 y. (1) No more than 180 days after the date of enactment of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill),  
35 the board shall, in consultation with the Department of Agriculture,  
36 and, after notice and opportunity for public comment and public  
37 hearing, complete a proceeding to create a program to (a) provide  
38 credits issued under the permanent successor to the SREC program  
39 established by the board pursuant to paragraph (3) of subsection d.  
40 of this section to the owner of a dual-use solar energy project  
41 located on unreserved farmland and (b) establish a process for  
42 projects to be certified by the board, in consultation with the  
43 Department of Agriculture, as eligible for such credits pursuant to  
44 this subsection, including those owned or operated by an electric  
45 public utility and approved pursuant to section 13 of P.L.2007,  
46 c.340 (C.48:3-98.1).

47 A dual-use solar energy project approved pursuant to section 1  
48 of P.L. , c. (C. ) (pending before the Legislature as this bill)

1 and certified pursuant to this subsection shall be considered  
2 "connected to the distribution system," shall not require such  
3 designation by the board, and shall not be subject to board review  
4 required pursuant to subsections q. and r. of this section.

5 Any financial benefit realized by an electric public utility  
6 pursuant to this subsection shall be credited to ratepayers. The  
7 issuance of credits under the permanent successor to the SREC  
8 program established by the board pursuant to paragraph (3) of  
9 subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87) to a dual-  
10 use solar energy project pursuant to this subsection shall be deemed  
11 "Board of Public Utilities financial assistance" as provided pursuant  
12 to section 1 of P.L.2009, c.89 (C.48:2-29.47).

13 (2) As used in this subsection:

14 "Dual-use solar energy project" means the same as the term is  
15 defined in section 1 of P.L. , c. (C. ) (pending before the  
16 Legislature as this bill).

17 "Unpreserved farmland" means the same as the term is defined  
18 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
19 as this bill).

20 (cf: P.L.2019, c.448, s.1)

21  
22 8. Section 5 of P.L.2018, c.17 (C.48:3-87.11) is amended to  
23 read as follows:

24 5. a. No later than 210 days after the date of enactment of  
25 P.L.2018, c.17 (C.48:3-87.8 et al.), the Board of Public Utilities  
26 shall adopt, pursuant to the "Administrative Procedure Act,"  
27 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
28 establishing a "Community Solar Energy Pilot Program" to permit  
29 customers of an electric public utility to participate in a solar energy  
30 project that is remotely located from their properties but is within  
31 their electric public utility service territory to allow for a credit to  
32 the customer's utility bill equal to the electricity generated that is  
33 attributed to the customer's participation in the solar energy project.

34 b. The rules and regulations developed by the board shall  
35 establish:

36 (1) a capacity limit for individual solar energy projects to a  
37 maximum of five megawatts per project;

38 (2) an annual capacity limit for all solar energy projects under  
39 the pilot program;

40 (3) geographic limitations for solar energy projects and  
41 participating customers;

42 (4) a minimum number of participating customers for each solar  
43 energy project;

44 (5) the value of the credit on each participating customer's bill;

45 (6) standards to limit the land use impact of a solar energy  
46 project as required in subsection r. of section 38 of P.L.1999, c.23  
47 (C.48:3-87);

- 1 (7) the provision of access to solar energy projects for low and  
2 moderate income customers;
- 3 (8) standards to ensure the ability of residential and commercial  
4 customers to participate in solar energy projects, including  
5 residential customers in multifamily housing;
- 6 (9) standards for connection to the distribution system of an  
7 electric public utility; and
- 8 (10) provisions to minimize impacts to the distribution system  
9 of an electric public utility.
- 10 c. The board shall make available on its Internet website  
11 information on solar energy projects whose owners are seeking  
12 participants.
- 13 d. The board shall establish standards and an application  
14 process for owners of solar energy projects who wish to be included  
15 in the Community Solar Energy Pilot Program. The standards for  
16 the Community Solar Energy Pilot Program shall include, but need  
17 not be limited to, a verification process to ensure that the solar  
18 energy projects are producing an amount of energy that is greater  
19 than or equal to the amount of energy that is being credited to its  
20 participating customer's electric utility bills pursuant to subsection  
21 b. of this section, and consumer protection measures. Projects  
22 approved by the board shall have at least two participating  
23 customers.
- 24 The board may restrict qualified solar energy projects to those  
25 located on brownfields, landfills, areas designated in need of  
26 redevelopment, in underserved communities, or on commercial  
27 rooftops , except that, notwithstanding the provisions of this  
28 subsection to the contrary, the board shall consider a dual-use solar  
29 energy project constructed, installed, operated, and approved  
30 pursuant to section 1 of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill) as a qualified solar energy project provided  
32 all other standards established pursuant to this section are met .
- 33 e. Subject to review by the board, an electric public utility shall  
34 be entitled to full and timely cost recovery for all costs incurred in  
35 implementation and compliance with this section.
- 36 f. No later than 36 months after adoption of the rules and  
37 regulations required pursuant to subsection b. of this section, the  
38 board shall adopt rules and regulations, pursuant to the  
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), to convert the Community Solar Energy Pilot Program to a  
41 permanent program. The board shall adopt rules and regulations for  
42 the permanent program that set forth standards for projects owned  
43 by electric public utilities, special purpose entities, and nonprofit  
44 entities. The rules and regulations shall also:
- 45 (1) limit the capacity of each solar energy project to a maximum  
46 of five megawatts;

- 1 (2) establish a goal for the development of at least 50 megawatts  
2 of solar energy projects per year, taking into account any changes to  
3 the SREC program;
- 4 (3) set geographic limitations for solar energy projects and  
5 participating customers;
- 6 (4) provide for a minimum number of participating customers  
7 for each solar energy project;
- 8 (5) require the provision of access to solar energy projects for  
9 low and moderate income customers;
- 10 (6) establish standards to ensure the ability of residential and  
11 commercial customers to participate in solar energy projects,  
12 including residential customers in multifamily housing;
- 13 (7) establish a method for determining the value of the credit on  
14 each participating customer's bill;
- 15 (8) establish timeframes for the credit available to the customer;
- 16 (9) establish standards and methods to verify solar electric  
17 energy generation on a monthly basis for a solar energy project;
- 18 (10) establish standards consistent with the land use provisions  
19 for solar energy projects as provided in subsections r., s., and t. of  
20 section 38 of P.L.1999, c.23 (C.48:3-87);
- 21 (11) establish standards, fees, and uniform procedures for solar  
22 energy projects to be connected to the distribution system of an  
23 electric public utility;
- 24 (12) minimize impacts to the distribution system of an electric  
25 public utility;
- 26 (13) require monthly reporting requirements for the operators of  
27 solar energy projects to the electric public utility, project customers,  
28 and the board;
- 29 (14) require reporting by the electric public utility to the  
30 operator of a solar energy project on the value of credits to the  
31 participating customer's bills; and
- 32 (15) require transferability, portability, and buy-out provisions  
33 for customers who participate in community solar energy projects.
- 34 g. As used in this section:
- 35 "Dual-use solar energy project" means the same as the term is  
36 defined in section 1 of P.L. , c. (C. ) (pending before the  
37 Legislature as this bill).
- 38 "Solar energy project" means a system containing one or more  
39 solar panels and associated equipment.
- 40 "Solar panel" means an elevated panel or plate, or a canopy or  
41 array thereof, that captures and converts solar radiation to produce  
42 electric power, and is approved by the board to be included in the  
43 Community Solar Energy Pilot Program.
- 44 "Solar power" includes flat plate, focusing solar collectors, or  
45 photovoltaic solar cells and excludes the base or foundation of the  
46 panel, plate, canopy, or array.
- 47 (cf: P.L.2018, c.17, s.5)



1       9. This act shall take effect immediately, except that section 2  
2 of this act shall be applicable to tax years commencing after the  
3 date of enactment of this act.

4

5

6

STATEMENT

7

8       This bill revises and supplements the law concerning certain  
9 solar energy generation projects located on farmland.

10       This bill would allow an owner of unreserved farmland that is  
11 valued, assessed, and taxed pursuant to the “Farmland Assessment  
12 Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), (i.e., receives  
13 farmland assessment) to construct, install, and operate a dual-use  
14 solar energy project on the farmland and continue to receive  
15 farmland assessment subject to certain conditions set forth in the  
16 bill. The bill defines “dual-use solar energy project” as the energy  
17 generation facilities, structures, and equipment for the production of  
18 less than 10 megawatts of electric power from solar photovoltaic  
19 panels located on land in agricultural or horticultural production  
20 that allow the continued use of the land below the panels to  
21 simultaneously be used for agricultural or horticultural production.

22       To be eligible under the bill, the owner of the unreserved  
23 farmland would be required to obtain the approval of the  
24 Department of Agriculture, in addition to any other approvals that  
25 may be required pursuant to federal, State or local law, rule,  
26 regulation, or ordinance, prior to the construction of the dual-use  
27 solar energy project. The bill would prohibit a dual-use solar  
28 energy project from being located: on preserved farmland; within  
29 the preservation area of the pinelands area; with an area designated  
30 as forest area in the pinelands comprehensive management; in  
31 wetlands; or within the Highlands preservation area. In addition,  
32 the land owner would be required to file a conservation plan with  
33 the soil conservation district to account for the aesthetic,  
34 impervious coverage, and environmental impacts of the dual-use  
35 solar energy project, including, but not limited to, water recapture  
36 and filtration, and the conservation plan would require approval by  
37 the district, and to comply with agricultural management practices  
38 adopted by the State Agriculture Development Committee (SADC).

39       Prior to constructing, installing, and operating a dual-use solar  
40 energy facility, the landowner would be required to apply to the  
41 Department of Agriculture for approval and the department, in  
42 consultation with the Board of Public Utilities (BPU) would be  
43 required to, within 90 days after receipt, approve, disapprove, or  
44 approve with conditions the application. The bill directs the  
45 Department of Agriculture, in consultation with the SADC, the  
46 BPU, and the Department of Environmental Protection, to adopt  
47 rules and regulations, including, but not limited to: the process by  
48 which a landowner may apply for the approval required by the bill;

1 the establishment of reasonable application fees to pay for the cost  
2 of review of the application; and provisions prescribing standards  
3 concerning impervious cover which may be permitted in connection  
4 with dual-use solar energy projects.

5 Further, the bill would provide that land on which a dual-use  
6 solar energy project constructed and approved pursuant to the bill  
7 would be eligible for farmland assessment, subject to certain  
8 conditions, including that: (1) the dual-use solar energy project is  
9 located on unreserved farmland that is continuing to be in  
10 operation as a farm in the tax year for which farmland assessment is  
11 applied for; (2) in the tax year preceding the construction,  
12 installation, and operation of the dual-use solar energy project, the  
13 acreage used for the dual-use solar energy project was valued,  
14 assessed, and taxed as land in agricultural or horticultural use; (3)  
15 the land on which the dual-use solar energy project is located  
16 continues to be actively devoted to agricultural and horticultural  
17 use, and meets the income requirements set forth in law for  
18 farmland assessment; and (4) the Department of Agriculture's  
19 approval issued for the dual-use solar energy project pursuant to  
20 section 1 of the bill has not been suspended or revoked. In addition,  
21 the bill provides that no generated energy from a dual-use solar  
22 energy project would be considered an agricultural or horticultural  
23 product, and no income from any power sold from the dual-use  
24 solar energy project would be considered income for the purposes  
25 of eligibility for farmland assessment.

26 Under current law, to be eligible for farmland assessment, the  
27 amount of acreage devoted to the solar energy generation facilities,  
28 structures, and equipment may not exceed 10 acres and, if  
29 power is being generated, no more than two megawatts of power  
30 may be generated. This bill eliminates these restrictions for a dual-  
31 use solar energy project on unreserved farmland approved and  
32 constructed pursuant to the bill.

33 The bill would require the Division of Taxation, in consultation  
34 with the Department of Agriculture and the BPU, to adopt rules and  
35 regulations as may be necessary for the implementation and  
36 administration of the bill, and to incorporate information  
37 concerning dual-use solar energy projects into the guidelines  
38 provided and the continuing education course offered to municipal  
39 tax assessors, county assessors, county tax administrators, and other  
40 appropriate local government officials.

41 The bill also would amend section 1 of P.L.2009, c.213 (C.4:1C-  
42 32.4), which allows an owner of preserved farmland to construct,  
43 install, and operate biomass, solar, or wind energy facilities,  
44 structures, and equipment on the farm, whether on the preserved or  
45 unreserved portion of the farm, for the purpose of generating  
46 power or heat, and to make improvements to any agricultural,  
47 residential, or other building or structure on the land for that  
48 purpose, subject to certain conditions. Under current law, these

1 conditions include that the biomass, solar, or wind energy  
2 generation facilities, structures, and equipment: (1) cannot interfere  
3 significantly with the use of the land for agricultural or horticulture  
4 production, as determined by the SADC; (2) are, or will be under a  
5 specialized agreement, owned by the landowner; (3) are used to  
6 provide power or heat to the farm, either directly or indirectly, or to  
7 reduce, through net metering or similar programs and systems,  
8 energy costs on the farm; and (4) are limited in annual energy  
9 generation capacity to the previous calendar year's energy demand  
10 plus 10 percent, in addition to certain other allowances. This bill  
11 would delete, for solar energy generation facilities, structures, and  
12 equipment: (1) the requirement in current law that requires energy  
13 generation facilities, structures, and equipment on agricultural lands  
14 either be owned by the landowner or that the landowner uses the  
15 income or credits realized from the biomass, solar, or wind energy  
16 generation to purchase the facilities, structures, or equipment, and  
17 (2) the requirement for the owner to only sell energy via net  
18 metering or as otherwise permitted under a specialized agreement  
19 with an installer whereby the landowner uses the income or credits  
20 realized from the solar energy generation activities to purchase the  
21 solar energy generating facilities, structures, or equipment. The bill  
22 does not change any other requirements set forth in law concerning  
23 the amount of acreage and the energy generation capacity of  
24 biomass, solar, or wind energy generation facilities, structures, and  
25 equipment located on preserved farmland.

26 The bill also amends the "Electric Discount and Energy  
27 Competition Act" (EDECA), P.L.1999, c.23 (C.48:3-49 et al.), to  
28 direct the BPU to establish a program to provide credits issued  
29 under the permanent successor to the solar renewable energy  
30 certificate (SREC) program established by the BPU pursuant to law  
31 to the owner of a dual-use solar energy project located on  
32 unpreserved farmland that is certified by the board, in consultation  
33 with the Department of Agriculture, including those owned or  
34 operated by an electric public utility and approved pursuant to  
35 section 13 of P.L.2007, c.340 (C.48:3-98.1). This would enable the  
36 owners of dual-use solar energy projects constructed on  
37 unpreserved farmland pursuant to the bill to be eligible for SRECs.  
38 The bill further provides that a dual-use solar energy project  
39 approved pursuant to the bill would be considered "connected to the  
40 distribution system," without requiring certain other review by the  
41 BPU.

42 Lastly, the bill amends the law establishing the Community Solar  
43 Energy Pilot Program to provide that dual-use solar energy projects  
44 constructed pursuant to the bill would be considered qualified solar  
45 energy projects for the purposes of that program. Under current  
46 law, the BPU may restrict qualified solar energy projects to those  
47 located on brownfields, landfills, areas designated in need of

**A5434 DANCER, ARMATO**

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- 1 redevelopment, in underserved communities, or on commercial
- 2 rooftops.

ASSEMBLY AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 5434

**STATE OF NEW JERSEY**

DATED: JUNE 22, 2021

The Assembly Agriculture Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 5434.

This committee substitute would direct the Board of Public Utilities (BPU), in consultation with the Secretary of Agriculture, to establish a "Dual-Use Solar Energy Pilot Program" (pilot program) to permit the construction, installation, and operation of dual-use solar energy projects that are connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit and located on unreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

The bill defines "dual-use solar energy project" to mean the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production. A dual-use solar energy project would need to be approved by the BPU prior to its construction, installation, and operation, and the bill requires the BPU to consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the pilot program.

The bill would direct the BPU to adopt rules and regulations to establish the pilot program no later than 180 days after the bill's enactment. The bill would stipulate that an individual dual-use solar energy project could not be greater than 10 megawatts in size, and that the total power produced by all dual-use solar energy projects in the pilot program could not exceed 200 megawatts (except that this limit could be increased if the BPU extends the pilot program, as described below). In addition, the bill would direct the BPU to establish financial incentives available to dual-use solar energy projects under the pilot program.

The bill would establish certain restrictions on where dual-use solar energy projects participating in the pilot program could be sited, as enumerated in subsection b. of section 1 of the bill. Projects would be restricted from being sited on certain prime farmlands. In addition,

projects would be restricted from being sited on certain ecologically sensitive areas, unless granted a waiver by the BPU, including the Pinelands preservation area, the Highlands preservation area, and certain forests and wetlands. The bill would also direct the BPU to adopt certain technical standards, requirements, and application criteria, as enumerated in subsections b. and c. of section 1 of the bill.

The pilot program would continue for 36 months, under the bill, after which time the BPU would be authorized to extend the pilot program for a maximum of two additional 12-month periods. The BPU would also be authorized to increase the overall power limit of the pilot program by 50 megawatts each time it extends the program. The bill would provide that a project approved under the pilot program would be considered a permitted use in every municipality.

After the termination of the pilot program, the bill would direct the BPU to adopt rules and regulations to establish a permanent dual-use solar energy program, which take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy projects in New Jersey. The bill would establish certain guidelines for the permanent program, as enumerated in subsection f. of section 1 of the bill.

The bill would provide that land on which a dual-use solar energy project constructed and approved pursuant to the pilot program would be eligible for farmland assessment, subject to certain conditions, which are enumerated in subsection b. of section 2 of the bill. In addition, the bill would provide that no generated energy from a dual-use solar energy project would be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment. The bill would require the Division of Taxation, in consultation with the Secretary of Agriculture and the BPU, to adopt rules and regulations to implement the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

Under current law, to be eligible for farmland assessment, the amount of acreage devoted to the solar energy generation facilities, structures, and equipment may not exceed 10 acres and, if power is being generated, no more than two megawatts of power may be generated. This bill would eliminate these restrictions for a dual-use solar energy project on unreserved farmland approved and constructed pursuant to the bill.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 5434**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: JUNE 29, 2021

**SUMMARY**

- Synopsis:** Establishes dual-use solar project pilot program for unreserved farmland; allows land used for dual-use solar project to be eligible for farmland assessment under certain conditions.
- Type of Impact:** Annual State expenditure increase from the General Fund.
- Agencies Affected:** Board of Public Utilities, Department of Agriculture, Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Marginal

- The Office of Legislative Services (OLS) determines that this bill would result in a marginal one-time State expenditure increase from the General Fund to the Board of Public Utilities (BPU), the Secretary of Agriculture, and the Department of the Treasury to adopt rules and regulations necessary to establish the dual-use solar program.
- The bill would also result in an annual expenditure increase from the General Fund to the BPU to review applications and perform other administrative duties necessary to operate the program. It is likely that all tasks required under the bill could be subsumed within existing staff duties.

**BILL DESCRIPTION**

This bill would direct the BPU, in consultation with the Secretary of Agriculture, to establish a "Dual-Use Solar Energy Pilot Program" to permit the construction, installation, and operation of dual-use solar energy projects on unreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

The bill would direct the BPU to adopt rules and regulations to establish the pilot program no later than 180 days after the bill's enactment. The bill would stipulate that an individual dual-use solar energy project could not be greater than 10 megawatts in size, and that the total power produced by all dual-use solar energy projects in the pilot program could not exceed 200 megawatts (except that this limit could be increased if the BPU extends the pilot program, as described below). In addition, the bill would direct the BPU to establish financial incentives available to dual-use solar energy projects under the pilot program.

The bill would establish certain restrictions on where dual-use solar energy projects participating in the pilot program could be sited, as enumerated in subsection b. of section 1 of the bill. Projects would be restricted from being sited on certain prime farmlands. In addition, projects would be restricted from being sited on certain ecologically sensitive areas, unless granted a waiver by the BPU, including the preservation area in the pinelands area, the Highlands preservation area, and certain forests and wetlands. The bill would also direct the BPU to adopt certain technical standards, requirements, and application criteria, as enumerated in subsections b. and c. of section 1 of the bill.

The pilot program would continue for 36 months, under the bill, after which time the BPU would be authorized to extend the pilot program for a maximum of two additional 12-month periods. The BPU would also be authorized to increase the overall power limit of the pilot program by 50 megawatts each time it extends the program. The bill would provide that a project approved under the pilot program would be considered a permitted use in every municipality.

After the termination of the pilot program, the bill would direct the BPU to adopt rules and regulations to establish a permanent dual-use solar energy program, which take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy projects in New Jersey. The bill would establish certain guidelines for the permanent program, as enumerated in subsection f. of section 1 of the bill.

The bill would provide that land on which a dual-use solar energy project constructed and approved pursuant to the pilot program would be eligible for farmland assessment, subject to certain conditions, which are enumerated in subsection b. of section 2 of the bill. In addition, the bill would provide that no generated energy from a dual-use solar energy project would be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment. The bill would require the Division of Taxation, in consultation with the Secretary of Agriculture and the BPU, to adopt rules and regulations to implement the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that this bill would result in a marginal one-time State expenditure increase from the General Fund to the BPU, the Department of Agriculture, and the Department of the Treasury to adopt rules and regulations necessary to establish the dual-use solar program.



The bill would also result in an annual expenditure increase to the General Fund by the BPU to review applications and perform other administrative duties necessary to operate the program. It is likely that all tasks required under the bill could be subsumed within existing staff duties. The OLS notes that the program would begin as a three- to five-year pilot program, but that the bill directs the BPU to adopt rules and regulations again after the end of the pilot program in order to establish a permanent dual-use solar program. Thus, any expenditure increases caused by hiring additional staff, paying overtime hours, etc. related to the rulemaking process would likely occur one year after the bill's enactment and again four to six years after the bill's enactment.

*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Associate Research Analyst*

*Approved: Thomas Koenig  
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. 3484

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Increases amount of solar energy generation on lands eligible for farmland assessment under certain conditions; revises law concerning solar energy generation on preserved farmland; directs BPU to provide certain incentives to “dual-use” solar projects on unpreserved farmland.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/15/2021)**

1 AN ACT concerning the use of agricultural lands for certain energy  
2 generation, supplementing P.L.1983, c.31 (C.4:1C-1 et al.) and  
3 P.L.1964, c.48 (C.54:4-23.1 et seq.), and amending P.L.2009,  
4 c.213, P.L.1999, c.23 and P.L.2018, c.17.

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

8  
9 1. (New section) a. Notwithstanding the provisions of any  
10 law, rule, or regulation to the contrary, a person who owns  
11 unpreserved farmland that is valued, assessed, and taxed pursuant to  
12 the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-  
13 23.1 et seq.), may construct, install, and operate a dual-use solar  
14 energy project on the farmland, provided that:

15 (1) the owner of the unpreserved farmland obtains the approval  
16 of the Department of Agriculture, in addition to any other approvals  
17 that may be required pursuant to State or local law, rule, regulation,  
18 or ordinance, prior to the construction of the dual-use solar energy  
19 project;

20 (2) the capacity of the dual-use solar energy project is less than  
21 10 megawatts of power;

22 (3) the dual-use solar energy project is not located:

23 (a) on preserved farmland;

24 (b) within the preservation area of the pinelands area, as  
25 designated in subsection b. of section 10 of P.L.1979, c.111  
26 (C.13:18A-11);

27 (c) with an area designated as forest area in the pinelands  
28 comprehensive management plan adopted pursuant to P.L.1979,  
29 c.111 (C.13:18A-1 et seq.);

30 (d) in a freshwater wetland as defined pursuant to P.L.1987,  
31 c.156 (C.13:9B-1 et seq.), or a coastal wetland as defined pursuant  
32 to P.L.1970, c.272 (C.13:9A-1 et seq.); or

33 (e) within the Highlands preservation area as designated in  
34 subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

35 (4) the owner of the land has filed a conservation plan with the  
36 soil conservation district to account for the aesthetic, impervious  
37 coverage, and environmental impacts of the dual-use solar energy  
38 project, including, but not limited to, water recapture and filtration,  
39 and the conservation plan has been approved by the district;

40 (5) the project complies with the agricultural management  
41 practices adopted by the State Agriculture Development Committee  
42 pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2) and the rules  
43 and regulations adopted pursuant to subsection d. of this section;  
44 and

**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 (6) the owner of the land, or the person undertaking the dual-use  
2 solar energy project, as applicable, obtains all necessary permits  
3 and other approvals as may be required pursuant to federal, State, or  
4 local law, rule, regulation, or ordinance.

5 b. A landowner shall submit an application for approval by the  
6 Department of Agriculture before constructing, installing, and  
7 operating a dual-use solar energy facility as allowed pursuant to  
8 subsection a. of this section. The Department of Agriculture, in  
9 consultation with the Board of Public Utilities, shall, within 90 days  
10 after receipt, approve, disapprove, or approve with conditions an  
11 application submitted for the purposes of subsection a. of this  
12 section.

13 c. The Department of Agriculture may suspend or revoke an  
14 approval issued pursuant to this section for a violation of any term  
15 or condition of the approval or any provision of this section.

16 d. The Department of Agriculture, in consultation with the  
17 State Agriculture Development Committee, the Board of Public  
18 Utilities, and the Department of Environmental Protection, shall  
19 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
20 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the  
21 implementation of this section, including but not limited to (1) the  
22 process by which a landowner may apply for the approval required  
23 pursuant to this section, and the establishment of reasonable  
24 application fees to pay for the cost of review of the application, and  
25 (2) provisions prescribing standards concerning impervious cover  
26 which may be permitted in connection with dual-use solar energy  
27 projects authorized to be constructed, installed, and operated on  
28 unpreserved farmland pursuant to this section.

29 e. The Board of Public Utilities shall provide technical  
30 assistance and support to the Department of Agriculture concerning  
31 the department's responsibilities pursuant to this section.

32 f. As used in this section:

33 "Dual-use solar energy project" means the energy generation  
34 facilities, structures, and equipment for the production of less than  
35 10 megawatts of electric power from solar photovoltaic panels  
36 located on land in agricultural or horticultural production that allow  
37 the continued use of the land below the panels to simultaneously be  
38 used for agricultural or horticultural production.

39 "Preserved farmland" means the same as the term is defined in  
40 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

41 "Unpreserved farmland" means any land that is valued, assessed  
42 and taxed pursuant to the "Farmland Assessment Act of 1964,"  
43 P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.

44  
45 2. (New section) a. No land used for a dual-use solar energy  
46 project constructed, installed, and operated pursuant to section 1 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill)  
48 shall be considered land in agricultural or horticultural use or

1 actively devoted to agricultural or horticultural use for the purposes  
2 of the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-  
3 23.1 et seq.), except as provided in this section.

4 b. Land used for a dual-use solar energy project constructed,  
5 installed, and operated pursuant to section 1 of P.L. , c. (C. )  
6 (pending before the Legislature as this bill) may be eligible for  
7 valuation, assessment, and taxation pursuant to P.L.1964, c.48  
8 (C.54:4-23.1 et seq.), provided that:

9 (1) the dual-use solar energy project is located on unpreserved  
10 farmland that is continuing to be in operation as a farm in the tax  
11 year for which the valuation, assessment and taxation pursuant to  
12 P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

13 (2) in the tax year preceding the construction, installation, and  
14 operation of the dual-use solar energy project, the acreage used for  
15 the dual-use solar energy project was valued, assessed, and taxed as  
16 land in agricultural or horticultural use;

17 (3) the land on which the dual-use solar energy project is located  
18 continues to be actively devoted to agricultural and horticultural  
19 use, and meets the income requirements set forth in section 5 of  
20 P.L.1964, c.48 (C.54:4-23.5);

21 (4) the approval issued for the dual-use solar energy project by  
22 the Department of Agriculture pursuant to section 1 of P.L. ,  
23 c. (C. ) (before the Legislature as this bill) has not been  
24 suspended or revoked; and

25 (5) all other requirements of P.L.1964, c.48 (C.54:4-23.1 et seq.)  
26 are met.

27 c. No generated energy from a dual-use solar energy project  
28 shall be considered an agricultural or horticultural product, and no  
29 income from any power sold from the dual-use solar energy project  
30 may be considered income for eligibility for valuation, assessment,  
31 and taxation of land pursuant to P.L.1964, c.48 (C.54:4-23.1 et  
32 seq.).

33 d. Within one year after the date of enactment of P.L. ,  
34 c. (C. ) (pending before the Legislature as this bill), the Division  
35 of Taxation, in consultation with the Department of Agriculture and  
36 the Board of Public Utilities, shall:

37 (1) adopt, pursuant to the “Administrative Procedure Act,”  
38 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as  
39 may be necessary for the implementation and administration of this  
40 section; and

41 (2) incorporate information concerning dual-use solar energy  
42 projects into the guidelines provided, and the continuing education  
43 course offered, to municipal tax assessors, county assessors, county  
44 tax administrators, and other appropriate local government officials  
45 pursuant to section 1 of P.L.2013, c.43 (C.54:4-23.3d).

46 e. As used in this section:

1 “Dual-use solar energy project” means the same as the term is  
2 defined in section 1 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill).

4 “Preserved farmland” means the same as the term is defined in  
5 section 4 of P.L.2009, c.213 (C.54:4-23.3c).

6 “Unpreserved farmland” means the same as the term is defined  
7 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
8 as this bill).

9  
10 3. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as  
11 follows:

12 6. Notwithstanding the provisions of any municipal or county  
13 ordinance, resolution, or regulation to the contrary, the owner or  
14 operator of a commercial farm, located in an area in which, as of  
15 December 31, 1997 or thereafter, agriculture is a permitted use  
16 under the municipal zoning ordinance and is consistent with the  
17 municipal master plan, or which commercial farm is in operation as  
18 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the  
19 operation of which conforms to agricultural management practices  
20 recommended by the committee and adopted pursuant to the  
21 provisions of the “Administrative Procedure Act,” P.L.1968, c.410  
22 (C.52:14B-1 et seq.), or whose specific operation or practice has  
23 been determined by the appropriate county board, or in a county  
24 where no county board exists, the committee, to constitute a  
25 generally accepted agricultural operation or practice, and all  
26 relevant federal or State statutes or rules and regulations adopted  
27 pursuant thereto, and which does not pose a direct threat to public  
28 health and safety may:

29 a. Produce agricultural and horticultural crops, trees and forest  
30 products, livestock, and poultry and other commodities as described  
31 in the Standard Industrial Classification for agriculture, forestry,  
32 fishing and trapping or, after the operative date of the regulations  
33 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),  
34 included under the corresponding classification under the North  
35 American Industry Classification System;

36 b. Process and package the agricultural output of the  
37 commercial farm;

38 c. Provide for the operation of a farm market, including the  
39 construction of building and parking areas in conformance with  
40 municipal standards;

41 d. Replenish soil nutrients and improve soil tilth;

42 e. Control pests, predators and diseases of plants and animals;

43 f. Clear woodlands using open burning and other techniques,  
44 install and maintain vegetative and terrain alterations and other  
45 physical facilities for water and soil conservation and surface water  
46 control in wetland areas;

47 g. Conduct on-site disposal of organic agricultural wastes;

1 h. Conduct agriculture-related educational and farm-based  
2 recreational activities provided that the activities are related to  
3 marketing the agricultural or horticultural output of the commercial  
4 farm;

5 i. (1) Engage in the generation of power or heat from biomass,  
6 solar, or wind energy, provided that the energy generation is  
7 consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et  
8 al.), as applicable, and the rules and regulations adopted therefor  
9 and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2) ;

10 (2) Engage in a dual-use solar energy project pursuant to section  
11 1 of P.L. , c. (C. ) (pending before the Legislature as this  
12 bill), provided that the dual-use solar energy project complies with  
13 all applicable provisions of law and rules and regulations adopted  
14 pursuant thereto ; and

15 j. Engage in any other agricultural activity as determined by  
16 the State Agriculture Development Committee and adopted by rule  
17 or regulation pursuant to the provisions of the “Administrative  
18 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

19 (cf: P.L.2009, c.213, s.2)

20  
21 4. Section 3 of P.L.2009, c.213 (C.4:1C-9.2) is amended to  
22 read as follows:

23 3. a. The committee shall adopt, pursuant to the  
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
25 seq.):

26 (1) such rules and regulations as may be necessary for the  
27 implementation of subsection i. of section 6 of P.L.1983, c.31  
28 (C.4:1C-9); **[and]**

29 (2) agricultural management practices for biomass energy  
30 generation on commercial farms, including, but not necessarily  
31 limited to, standards for the management of odor, dust, and noise ;  
32 and

33 (3) agricultural management practices for dual-use solar energy  
34 projects approved, constructed, installed, and operated pursuant to  
35 section 1 of P.L. , c. (C. ) (pending before the Legislature as  
36 this bill) .

37 b. The Board of Public Utilities shall provide technical  
38 assistance and support to the State Agriculture Development  
39 Committee with regard to the committee's responsibilities in  
40 connection with this section and subsection i. of section 6 of  
41 P.L.1983, c.31 (C.4:1C-9).

42 c. Notwithstanding any provision of this section or subsection  
43 i. of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the  
44 construction, installation, or operation of any biomass, solar, or  
45 wind energy generation facility, structure, or equipment in the  
46 pinelands area, as defined and regulated by the “Pinelands  
47 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
48 with the standards of P.L.1979, c.111 and the comprehensive

1 management plan for the pinelands area adopted pursuant to  
2 P.L.1979, c.111.

3 d. For the purposes of this section and subsection i. of section 6  
4 of P.L.1983, c.31 (C.4:1C-9), “biomass” means an agricultural crop,  
5 crop residue, or agricultural byproduct that is cultivated, harvested,  
6 or produced on the commercial farm and which can be used to  
7 generate energy in a sustainable manner, and “dual-use solar  
8 energy project” means the same as the term is defined in section 1  
9 of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill) .

11 (cf: P.L.2009, c.213, s.3)

12

13 5. Section 1 of P.L.2009, c.213 (C.4:1C-32.4) is amended to  
14 read as follows:

15 1. a. Notwithstanding any law, rule or regulation to the  
16 contrary, a person who owns preserved farmland may construct,  
17 install, and operate biomass, solar, or wind energy generation  
18 facilities, structures, and equipment on the farm, whether on the  
19 preserved portion of the farm or on any portion excluded from  
20 preservation, for the purpose of generating power or heat, and may  
21 make improvements to any agricultural, horticultural, residential, or  
22 other building or structure on the land for that purpose, provided  
23 that **【the biomass, solar, or wind energy generation facilities,**  
24 **structures, and equipment】** :

25 (1) the biomass, solar, or wind energy generation facilities,  
26 structures, and equipment do not interfere significantly with the use  
27 of the land for agricultural or horticultural production, as  
28 determined by the committee;

29 (2) any biomass or wind energy generation facilities, structures,  
30 and equipment are owned by the landowner, or will be owned by  
31 the landowner upon the conclusion of the term of an agreement with  
32 the installer of the biomass **【, solar,】** or wind energy generation  
33 facilities, structures, or equipment by which the landowner uses the  
34 income or credits realized from the biomass **【, solar,】** or wind  
35 energy generation to purchase the facilities, structures, or  
36 equipment;

37 (3) the biomass, solar, or wind energy generation facilities,  
38 structures, and equipment are used to provide power or heat to the  
39 farm, either directly or indirectly, or to reduce, through net metering  
40 or similar programs and systems, energy costs on the farm; and

41 (4) the biomass, solar, or wind energy generation facilities,  
42 structures, and equipment are limited (a) in annual energy  
43 generation capacity to the previous calendar year's energy demand  
44 plus 10 percent, in addition to what is allowed under subsection b.  
45 of this section, or alternatively at the option of the landowner (b) to  
46 occupying no more than one percent of the area of the entire farm  
47 including both the preserved portion and any portion excluded from  
48 preservation.



1       **【**The person who owns the farm and the energy generation  
2 facilities, structures, and equipment may only sell energy through  
3 net metering or as otherwise permitted under an agreement allowed  
4 pursuant to paragraph (2) of this subsection. **】**

5       b. The limit on the annual energy generation capacity  
6 established pursuant to subparagraph (a) of paragraph (4) of  
7 subsection a. of this section shall not include energy generated from  
8 facilities, structures, or equipment existing on the roofs of buildings  
9 or other structures on the farm as of the date of enactment of  
10 P.L.2009, c.213 (C.4:1C-32.4 et al.).

11       c. A landowner shall seek and obtain the approval of the  
12 committee before constructing, installing, and operating biomass,  
13 solar, or wind energy generation facilities, structures, and  
14 equipment on the farm as allowed pursuant to subsection a. of this  
15 section. The committee shall provide the holder of any  
16 development easement on the farm with a copy of the application  
17 submitted for the purposes of subsection a. of this section, and the  
18 holder of the development easement shall have 30 days within  
19 which to provide comments to the committee on the application.  
20 The committee shall, within 90 days of receipt, approve,  
21 disapprove, or approve with conditions an application submitted for  
22 the purposes of subsection a. of this section. The decision of the  
23 committee on the application shall be based solely upon the criteria  
24 listed in subsection a. of this section and comments received from  
25 the holder of the development easement.

26       d. No fee shall be charged of the landowner for review of an  
27 application submitted to, or issuance of a decision by, the  
28 committee pursuant to this section.

29       e. The committee may suspend or revoke an approval issued  
30 pursuant to this section for a violation of any term or condition of  
31 the approval or any provision of this section.

32       f. The committee, in consultation with the Department of  
33 Environmental Protection and the Department of Agriculture, shall  
34 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,  
35 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the  
36 implementation of this section, including provisions prescribing  
37 standards concerning impervious cover which may be permitted in  
38 connection with biomass, solar, or wind energy generation  
39 facilities, structures, and equipment authorized to be constructed,  
40 installed, and operated on lands pursuant to this section.

41       g. In the case of biomass energy generation facilities,  
42 structures, or equipment, the landowner shall also seek and obtain  
43 the approval of the Department of Agriculture as required pursuant  
44 to section 5 of P.L.2009, c.213 (C.4:1C-32.5) if the land is valued,  
45 assessed, and taxed pursuant to the “Farmland Assessment Act of  
46 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

47       h. Notwithstanding any provision of this section to the  
48 contrary, the construction, installation, or operation of any biomass,

1 solar, or wind energy generation facility, structure, or equipment in  
2 the pinelands area, as defined and regulated by the “Pinelands  
3 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
4 with the standards of P.L.1979, c.111 and the comprehensive  
5 management plan for the pinelands area adopted pursuant to  
6 P.L.1979, c.111.

7 i. For the purposes of this section:

8 “Biomass” means an agricultural crop, crop residue, or  
9 agricultural byproduct that is cultivated, harvested, or produced on  
10 the farm and which can be used to generate energy in a sustainable  
11 manner.

12 “Net metering” means the same as that term is used for purposes  
13 of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

14 “Preserved farmland” means land on which a development  
15 easement was conveyed to, or retained by, the committee, a board,  
16 or a qualifying tax exempt nonprofit organization pursuant to the  
17 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
18 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
19 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
20 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
21 other State law enacted for farmland preservation purposes.

22 (cf: P.L.2009, c.213, s.1)

23

24 6. Section 4 of P.L.2009, c.213 (C.54:4-23.3c) is amended to  
25 read as follows:

26 4. a. (1) No land used for biomass, solar, or wind energy  
27 generation shall be considered land in agricultural or horticultural  
28 use or actively devoted to agricultural or horticultural use for the  
29 purposes of the “Farmland Assessment Act of 1964,” P.L.1964,  
30 c.48 (C.54:4-23.1 et seq.), except as provided in this section or, in  
31 the case of unpreserved farmland used for a dual-use solar energy  
32 project, as provided in section 2 of P.L. , c. (C. ) (pending  
33 before the Legislature as this bill) .

34 (2) No generated energy from any source shall be considered an  
35 agricultural or horticultural product.

36 b. Land used for biomass, solar, or wind energy generation  
37 may be eligible for valuation, assessment and taxation pursuant to  
38 P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

39 (1) the biomass, solar, or wind energy generation facilities,  
40 structures, and equipment were constructed, installed, and operated  
41 on property that is part of an operating farm continuing to be in  
42 operation as a farm in the tax year for which the valuation,  
43 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et  
44 seq.) is applied for;

45 (2) in the tax year preceding the construction, installation, and  
46 operation of the biomass, solar, or wind energy generation facilities,  
47 structures, and equipment on an operating farm, the acreage used  
48 for the biomass, solar, or wind energy generation facilities,

1 structures, and equipment was valued, assessed and taxed as land in  
2 agricultural or horticultural use;

3 (3) the power or heat generated by the biomass, solar, or wind  
4 energy generation facilities, structures, and equipment is used to  
5 provide, either directly or indirectly but not necessarily exclusively,  
6 power or heat to the farm or agricultural or horticultural operations  
7 supporting the viability of the farm;

8 (4) the owner of the property has filed a conservation plan with  
9 the soil conservation district, with provisions for compliance with  
10 paragraph (5) of this subsection where applicable, to account for the  
11 aesthetic, impervious coverage, and environmental impacts of the  
12 construction, installation, and operation of the biomass, solar, or  
13 wind energy generation facilities, structures, and equipment,  
14 including, but not necessarily limited to, water recapture and  
15 filtration, and the conservation plan has been approved by the  
16 district;

17 (5) where solar energy generation facilities, structures, and  
18 equipment are installed, the property under the solar panels is used  
19 to the greatest extent practicable for the farming of shade crops or  
20 other plants capable of being grown under such conditions, or for  
21 pasture for grazing;

22 (6) the amount of acreage devoted to the biomass, solar, or wind  
23 energy generation facilities, structures, and equipment does not  
24 exceed a ratio of one to five acres, or portion thereof, of land  
25 devoted to energy generation facilities, structures, and equipment  
26 and land devoted to agricultural or horticultural operations;

27 (7) biomass, solar, or wind energy generation facilities,  
28 structures, and equipment are constructed or installed on no more  
29 than 10 acres of the farmland for which the owner of the property is  
30 applying for valuation, assessment and taxation pursuant to  
31 P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being  
32 generated, no more than two megawatts of power are generated on  
33 the 10 acres or less; and

34 (8) for biomass energy generation, the owner of the property has  
35 obtained the approval of the Department of Agriculture pursuant to  
36 section 5 of P.L.2009, c.213 (C.4:1C-32.5).

37 c. No income from any power or heat sold from the biomass,  
38 solar, or wind energy generation may be considered income for  
39 eligibility for valuation, assessment and taxation of land pursuant to  
40 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-  
41 23.1 et seq.), and, notwithstanding the provisions of that act, or any  
42 rule or regulation adopted pursuant thereto, to the contrary, there  
43 shall be no income requirement for property valued, assessed and  
44 taxed pursuant to subsection b. of this section.

45 d. Notwithstanding any provision of this section, section 3 of  
46 P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48  
47 (C.54:4-23.4) to the contrary, the construction, installation, or  
48 operation of any biomass, solar, or wind energy generation facility,

1 structure, or equipment in the pinelands area, as defined and  
2 regulated by the “Pinelands Protection Act,” P.L.1979, c.111  
3 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979,  
4 c.111 and the comprehensive management plan for the pinelands  
5 area adopted pursuant to P.L.1979, c.111.

6 e. The Division of Taxation, in consultation with the  
7 Department of Agriculture, shall adopt, pursuant to the  
8 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
9 seq.), such rules and regulations as may be necessary for the  
10 implementation and administration of this section.

11 f. For the purposes of this section:

12 “Biomass” means an agricultural crop, crop residue, or  
13 agricultural byproduct that is cultivated, harvested, or produced on  
14 the farm, or directly obtained from a farm where it was cultivated,  
15 harvested, or produced, and which can be used to generate energy in  
16 a sustainable manner, except with respect to preserved farmland,  
17 “biomass” means the same as that term is defined in section 1 of  
18 P.L.2009, c.213 (C.4:1C-32.4).

19 “Dual-use solar energy project” means the same as the term is  
20 defined in section 1 of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill).

22 “Land used for biomass, solar, or wind energy generation” means  
23 the land upon which the biomass, solar, or wind energy generation  
24 facilities, structures, and equipment are constructed, installed, and  
25 operated. In the case of biomass energy generation, “land used for  
26 biomass, solar, or wind energy generation” shall not mean the land  
27 upon which agricultural or horticultural products used as fuel in the  
28 biomass energy generation facility, structure, or equipment are  
29 grown. “Land used for biomass, solar, or wind energy generation”  
30 shall not include land used for a dual-use solar energy project.

31 “Preserved farmland” means land on which a development  
32 easement was conveyed to, or retained by, the State Agriculture  
33 Development Committee, a county agriculture development board,  
34 or a qualifying tax exempt nonprofit organization pursuant to the  
35 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
36 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
37 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
38 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
39 other State law enacted for farmland preservation purposes.

40 “Unpreserved farmland” means the same as the term is defined  
41 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
42 as this bill).

43 (cf: P.L.2009, c.213, s.4)

44

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

47 38. a. The board shall require an electric power supplier or  
48 basic generation service provider to disclose on a customer's bill or

1 on customer contracts or marketing materials, a uniform, common  
2 set of information about the environmental characteristics of the  
3 energy purchased by the customer, including, but not limited to:

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

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

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

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

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

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

26 (3) A uniform emissions disclosure format that is graphic in  
27 nature and easily understandable by consumers. The board shall  
28 periodically review the disclosure requirements to determine if  
29 revisions to the environmental disclosure system as implemented  
30 are necessary.

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

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

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

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

46 (2) By July 1, 2009, the board shall adopt, pursuant to the  
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
48 seq.), a greenhouse gas emissions portfolio standard to mitigate

1 leakage or another regulatory mechanism to mitigate leakage  
2 applicable to all electric power suppliers and basic generation  
3 service providers that provide electricity to customers within the  
4 State. The greenhouse gas emissions portfolio standard or any other  
5 regulatory mechanism to mitigate leakage shall:

6 (a) Allow a transition period, either before or after the effective  
7 date of the regulation to mitigate leakage, for a basic generation  
8 service provider or electric power supplier to either meet the  
9 emissions portfolio standard or other regulatory mechanism to  
10 mitigate leakage, or to transfer any customer to a basic generation  
11 service provider or electric power supplier that meets the emissions  
12 portfolio standard or other regulatory mechanism to mitigate  
13 leakage. If the transition period allowed pursuant to this  
14 subparagraph occurs after the implementation of an emissions  
15 portfolio standard or other regulatory mechanism to mitigate  
16 leakage, the transition period shall be no longer than three years;  
17 and

18 (b) Exempt the provision of basic generation service pursuant to  
19 a basic generation service purchase and sale agreement effective  
20 prior to the date of the regulation.

21 Unless the Attorney General or the Attorney General's designee  
22 determines that a greenhouse gas emissions portfolio standard  
23 would unconstitutionally burden interstate commerce or would be  
24 preempted by federal law, the adoption by the board of an electric  
25 energy efficiency portfolio standard pursuant to subsection g. of this  
26 section, a gas energy efficiency portfolio standard pursuant to  
27 subsection h. of this section, or any other enhanced energy  
28 efficiency policies to mitigate leakage shall not be considered  
29 sufficient to fulfill the requirement of this subsection for the  
30 adoption of a greenhouse gas emissions portfolio standard or any  
31 other regulatory mechanism to mitigate leakage.

32 d. Notwithstanding any provisions of the "Administrative  
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
34 contrary, the board shall initiate a proceeding and shall adopt, after  
35 notice, provision of the opportunity for comment, and public  
36 hearing, renewable energy portfolio standards that shall require:

37 (1) that two and one-half percent of the kilowatt hours sold in  
38 this State by each electric power supplier and each basic generation  
39 service provider be from Class II renewable energy sources;

40 (2) beginning on January 1, 2020, that 21 percent of the kilowatt  
41 hours sold in this State by each electric power supplier and each  
42 basic generation service provider be from Class I renewable energy  
43 sources. The board shall increase the required percentage for Class  
44 I renewable energy sources so that by January 1, 2025, 35 percent  
45 of the kilowatt hours sold in this State by each electric power  
46 supplier and each basic generation service provider shall be from  
47 Class I renewable energy sources, and by January 1, 2030, 50  
48 percent of the kilowatt hours sold in this State by each electric

1 power supplier and each basic generation service provider shall be  
 2 from Class I renewable energy sources. Notwithstanding the  
 3 requirements of this subsection, the board shall ensure that the cost  
 4 to customers of the Class I renewable energy requirement imposed  
 5 pursuant to this subsection shall not exceed nine percent of the total  
 6 paid for electricity by all customers in the State for energy year  
 7 2019, energy year 2020, and energy year 2021, respectively, and  
 8 shall not exceed seven percent of the total paid for electricity by all  
 9 customers in the State in any energy year thereafter ; provided that,  
 10 if in energy years 2019 through 2021 the cost to customers of the  
 11 Class I renewable energy requirement is less than nine percent of  
 12 the total paid for electricity by all customers in the State, the board  
 13 may increase the cost to customers of the Class I renewable energy  
 14 requirement in energy years 2022 through 2024 to a rate greater  
 15 than seven percent, as long as the total costs to customers for  
 16 energy years 2019 through 2024 does not exceed the sum of nine  
 17 percent of the total paid for electricity by all customers in the State  
 18 in energy years 2019 through 2021 and seven percent of the total  
 19 paid for electricity by all customers in the State in energy years  
 20 2022 through 2024. In calculating the cost to customers of the  
 21 Class I renewable energy requirement imposed pursuant to this  
 22 subsection, the board shall not include the costs of the offshore  
 23 wind energy certificate program established pursuant to paragraph  
 24 (4) of this subsection. The board shall take any steps necessary to  
 25 prevent the exceedance of the cap on the cost to customers  
 26 including, but not limited to, adjusting the Class I renewable energy  
 27 requirement.

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

32 (3) that the board establish a multi-year schedule, applicable to  
 33 each electric power supplier or basic generation service provider in  
 34 this State, beginning with the one-year period commencing on June  
 35 1, 2010, and continuing for each subsequent one-year period up to  
 36 and including, the one-year period commencing on June 1, 2033,  
 37 that requires the following number or percentage, as the case may  
 38 be, of kilowatt-hours sold in this State by each electric power  
 39 supplier and each basic generation service provider to be from solar  
 40 electric power generators connected to the distribution system in  
 41 this State:

42	EY 2011	306 Gigawatthours (Gwhrs)
43	EY 2012	442 Gwhrs
44	EY 2013	596 Gwhrs
45	EY 2014	2.050%
46	EY 2015	2.450%
47	EY 2016	2.750%
48	EY 2017	3.000%

1	EY 2018	3.200%
2	EY 2019	4.300%
3	EY 2020	4.900%
4	EY 2021	5.100%
5	EY 2022	5.100%
6	EY 2023	5.100%
7	EY 2024	4.900%
8	EY 2025	4.800%
9	EY 2026	4.500%
10	EY 2027	4.350%
11	EY 2028	3.740%
12	EY 2029	3.070%
13	EY 2030	2.210%
14	EY 2031	1.580%
15	EY 2032	1.400%
16	EY 2033	1.100%

17 No later than 180 days after the date of enactment of P.L.2018,  
18 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations  
19 to close the SREC program to new applications upon the attainment  
20 of 5.1 percent of the kilowatt-hours sold in the State by each  
21 electric power supplier and each basic generation provider from  
22 solar electric power generators connected to the distribution system.  
23 The board shall continue to consider any application filed before the  
24 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board  
25 shall provide for an orderly and transparent mechanism that will  
26 result in the closing of the existing SREC program on a date certain  
27 but no later than June 1, 2021.

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

- 39 - continually reduce, where feasible, the cost of achieving the  
40 solar energy goals set forth in this subsection;
- 41 - provide an orderly transition from the SREC program to a  
42 new or modified program;
- 43 - develop megawatt targets for grid connected and distribution  
44 systems, including residential and small commercial rooftop  
45 systems, community solar systems, and large scale behind the meter  
46 systems, as a share of the overall solar energy requirement, which  
47 targets the board may modify periodically based on the cost,  
48 feasibility, or social impacts of different types of projects;



- 1 - establish and update market-based maximum incentive  
2 payment caps periodically for each of the above categories of solar  
3 electric power generation facilities;
- 4 - encourage and facilitate market-based cost recovery through  
5 long-term contracts and energy market sales; and
- 6 - where cost recovery is needed for any portion of an efficient  
7 solar electric power generation facility when costs are not  
8 recoverable through wholesale market sales and direct payments  
9 from customers, utilize competitive processes such as competitive  
10 procurement and long-term contracts where possible to ensure such  
11 recovery, without exceeding the maximum incentive payment cap  
12 for that category of facility.

13 The board shall approve, conditionally approve, or disapprove  
14 any application for designation as connected to the distribution  
15 system of a solar electric power generation facility filed with the  
16 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et  
17 al.), no more than 90 days after receipt by the board of a completed  
18 application. For any such application for a project greater than 25  
19 kilowatts, the board shall require the applicant to post a notice  
20 escrow with the board in an amount of \$40 per kilowatt of DC  
21 nameplate capacity of the facility, not to exceed \$40,000. The  
22 notice escrow amount shall be reimbursed to the applicant in full  
23 upon either denial of the application by the board or upon  
24 commencement of commercial operation of the solar electric power  
25 generation facility. The escrow amount shall be forfeited to the  
26 State if the facility is designated as connected to the distribution  
27 system pursuant to this subsection but does not commence  
28 commercial operation within two years following the date of the  
29 designation by the board.

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

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

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

45 (c) The solar renewable portfolio standards requirements in this  
46 paragraph shall exempt those existing supply contracts which are  
47 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-  
48 87.8 et al.) from any increase beyond the number of SRECs

1 mandated by the solar renewable energy portfolio standards  
2 requirements that were in effect on the date that the providers  
3 executed their existing supply contracts. This limited exemption for  
4 providers' existing supply contracts shall not be construed to lower  
5 the Statewide solar sourcing requirements set forth in this  
6 paragraph. Such incremental requirements that would have  
7 otherwise been imposed on exempt providers shall be distributed  
8 over the providers not subject to the existing supply contract  
9 exemption until such time as existing supply contracts expire and  
10 all providers are subject to the new requirement in a manner that is  
11 competitively neutral among all providers and suppliers.  
12 Notwithstanding any rule or regulation to the contrary, the board  
13 shall recognize these new solar purchase obligations as a change  
14 required by operation of law and implement the provisions of this  
15 subsection in a manner so as to prevent any subsidies between  
16 suppliers and providers and to promote competition in the  
17 electricity supply industry.

18 An electric power supplier or basic generation service provider  
19 may satisfy the requirements of this subsection by participating in a  
20 renewable energy trading program approved by the board in  
21 consultation with the Department of Environmental Protection, or  
22 compliance with the requirements of this subsection may be  
23 demonstrated to the board by suppliers or providers through the  
24 purchase of SRECs.

25 The renewable energy portfolio standards adopted by the board  
26 pursuant to paragraphs (1) and (2) of this subsection shall be  
27 effective as regulations immediately upon filing with the Office of  
28 Administrative Law and shall be effective for a period not to exceed  
29 18 months, and may, thereafter, be amended, adopted or readopted  
30 by the board in accordance with the provisions of the  
31 "Administrative Procedure Act."

32 The renewable energy portfolio standards adopted by the board  
33 pursuant to this paragraph shall be effective as regulations  
34 immediately upon filing with the Office of Administrative Law and  
35 shall be effective for a period not to exceed 30 months after such  
36 filing, and shall, thereafter, be amended, adopted or readopted by  
37 the board in accordance with the "Administrative Procedure Act";  
38 and

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

46 The percentage established by the board pursuant to this  
47 paragraph shall serve as an offset to the renewable energy portfolio  
48 standard established pursuant to paragraph (2) of this subsection

1 and shall reduce the corresponding Class I renewable energy  
2 requirement.

3 The percentage established by the board pursuant to this  
4 paragraph shall reflect the projected OREC production of each  
5 qualified offshore wind project, approved by the board pursuant to  
6 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the  
7 commercial operation start date of the qualified offshore wind  
8 project which production projection and OREC purchase  
9 requirement, once approved by the board, shall not be subject to  
10 reduction.

11 An electric power supplier or basic generation service provider  
12 shall comply with the OREC program established pursuant to this  
13 paragraph through the purchase of offshore wind renewable energy  
14 certificates at a price and for the time period required by the board.  
15 In the event there are insufficient offshore wind renewable energy  
16 certificates available, the electric power supplier or basic generation  
17 service provider shall pay an offshore wind alternative compliance  
18 payment established by the board. Any offshore wind alternative  
19 compliance payments collected shall be refunded directly to the  
20 ratepayers by the electric public utilities.

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

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

33 (1) net metering standards for electric power suppliers and basic  
34 generation service providers. The standards shall require electric  
35 power suppliers and basic generation service providers to offer net  
36 metering at non-discriminatory rates to industrial, large  
37 commercial, residential and small commercial customers, as those  
38 customers are classified or defined by the board, that generate  
39 electricity, on the customer's side of the meter, using a Class I  
40 renewable energy source, for the net amount of electricity supplied  
41 by the electric power supplier or basic generation service provider  
42 over an annualized period. Systems of any sized capacity, as  
43 measured in watts, are eligible for net metering. If the amount of  
44 electricity generated by the customer-generator, plus any kilowatt  
45 hour credits held over from the previous billing periods, exceeds the  
46 electricity supplied by the electric power supplier or basic  
47 generation service provider, then the electric power supplier or  
48 basic generation service provider, as the case may be, shall credit

1 the customer-generator for the excess kilowatt hours until the end of  
2 the annualized period at which point the customer-generator will be  
3 compensated for any remaining credits or, if the customer-generator  
4 chooses, credit the customer-generator on a real-time basis, at the  
5 electric power supplier's or basic generation service provider's  
6 avoided cost of wholesale power or the PJM electric power pool's  
7 real-time locational marginal pricing rate, adjusted for losses, for  
8 the respective zone in the PJM electric power pool. Alternatively,  
9 the customer-generator may execute a bilateral agreement with an  
10 electric power supplier or basic generation service provider for the  
11 sale and purchase of the customer-generator's excess generation.  
12 The customer-generator may be credited on a real-time basis, so  
13 long as the customer-generator follows applicable rules prescribed  
14 by the PJM electric power pool for its capacity requirements for the  
15 net amount of electricity supplied by the electric power supplier or  
16 basic generation service provider. The board may authorize an  
17 electric power supplier or basic generation service provider to cease  
18 offering net metering to customers that are not already net metered  
19 whenever the total rated generating capacity owned and operated by  
20 net metering customer-generators Statewide equals 5.8 percent of  
21 the total annual kilowatt-hours sold in this State by each electric  
22 power supplier and each basic generation service provider during  
23 the prior one-year period;

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

27 Such standards or rules shall take into consideration the goals of  
28 the New Jersey Energy Master Plan, applicable industry standards,  
29 and the standards of other states and the Institute of Electrical and  
30 Electronics Engineers. The board shall allow electric public utilities  
31 to recover the costs of any new net meters, upgraded net meters,  
32 system reinforcements or upgrades, and interconnection costs  
33 through either their regulated rates or from the net metering  
34 customer-generator;

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

39 (4) net metering aggregation standards to require electric public  
40 utilities to provide net metering aggregation to single electric public  
41 utility customers that operate a solar electric power generation  
42 system installed at one of the customer's facilities or on property  
43 owned by the customer, provided that any such customer is a State  
44 entity, school district, county, county agency, county authority,  
45 municipality, municipal agency, or municipal authority. The  
46 standards shall provide that, in order to qualify for net metering  
47 aggregation, the customer must operate a solar electric power  
48 generation system using a net metering billing account, which

1 system is located on property owned by the customer, provided that:  
2 (a) the property is not land that has been actively devoted to  
3 agricultural or horticultural use and that is valued, assessed, and  
4 taxed pursuant to the "Farmland Assessment Act of 1964,"  
5 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year  
6 period prior to the effective date of P.L.2012, c.24, provided,  
7 however, that the municipal planning board of a municipality in  
8 which a solar electric power generation system is located may  
9 waive the requirement of this subparagraph (a), (b) the system is not  
10 an on-site generation facility, (c) all of the facilities of the single  
11 customer combined for the purpose of net metering aggregation are  
12 facilities owned or operated by the single customer and are located  
13 within its territorial jurisdiction except that all of the facilities of a  
14 State entity engaged in net metering aggregation shall be located  
15 within five miles of one another, and (d) all of those facilities are  
16 within the service territory of a single electric public utility and are  
17 all served by the same basic generation service provider or by the  
18 same electric power supplier. The standards shall provide that in  
19 order to qualify for net metering aggregation, the customer's solar  
20 electric power generation system shall be sized so that its annual  
21 generation does not exceed the combined metered annual energy  
22 usage of the qualified customer facilities, and the qualified  
23 customer facilities shall all be in the same customer rate class under  
24 the applicable electric public utility tariff. For the customer's  
25 facility or property on which the solar electric generation system is  
26 installed, the electricity generated from the customer's solar electric  
27 generation system shall be accounted for pursuant to the provisions  
28 of paragraph (1) of this subsection to provide that the electricity  
29 generated in excess of the electricity supplied by the electric power  
30 supplier or the basic generation service provider, as the case may  
31 be, for the customer's facility on which the solar electric generation  
32 system is installed, over the annualized period, is credited at the  
33 electric power supplier's or the basic generation service provider's  
34 avoided cost of wholesale power or the PJM electric power pool  
35 real-time locational marginal pricing rate. All electricity used by  
36 the customer's qualified facilities, with the exception of the facility  
37 or property on which the solar electric power generation system is  
38 installed, shall be billed at the full retail rate pursuant to the electric  
39 public utility tariff applicable to the customer class of the customer  
40 using the electricity. A customer may contract with a third party to  
41 operate a solar electric power generation system, for the purpose of  
42 net metering aggregation. Any contractual relationship entered into  
43 for operation of a solar electric power generation system related to  
44 net metering aggregation shall include contractual protections that  
45 provide for adequate performance and provision for construction  
46 and operation for the term of the contract, including any appropriate  
47 bonding or escrow requirements. Any incremental cost to an  
48 electric public utility for net metering aggregation shall be fully and

1 timely recovered in a manner to be determined by the board. The  
2 board shall adopt net metering aggregation standards within 270  
3 days after the effective date of P.L.2012, c.24.

4 Such rules shall require the board or its designee to issue a credit  
5 or other incentive to those generators that do not use a net meter but  
6 otherwise generate electricity derived from a Class I renewable  
7 energy source and to issue an enhanced credit or other incentive,  
8 including, but not limited to, a solar renewable energy credit, to  
9 those generators that generate electricity derived from solar  
10 technologies.

11 Such standards or rules shall be effective as regulations  
12 immediately upon filing with the Office of Administrative Law and  
13 shall be effective for a period not to exceed 18 months, and may,  
14 thereafter, be amended, adopted or readopted by the board in  
15 accordance with the provisions of the "Administrative Procedure  
16 Act."

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

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

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

1 contracting with another entity for the performance of the  
2 requirements.

3 i. After the board establishes a schedule of solar kilowatt-hour  
4 sale or purchase requirements pursuant to paragraph (3) of  
5 subsection d. of this section, the board may initiate subsequent  
6 proceedings and adopt, after appropriate notice and opportunity for  
7 public comment and public hearing, increased minimum solar  
8 kilowatt-hour sale or purchase requirements, provided that the  
9 board shall not reduce previously established minimum solar  
10 kilowatt-hour sale or purchase requirements, or otherwise impose  
11 constraints that reduce the requirements by any means.

12 j. The board shall determine an appropriate level of solar  
13 alternative compliance payment, and permit each supplier or  
14 provider to submit an SACP to comply with the solar electric  
15 generation requirements of paragraph (3) of subsection d. of this  
16 section. The value of the SACP for each Energy Year, for Energy  
17 Years 2014 through 2033 per megawatt hour from solar electric  
18 generation required pursuant to this section, shall be:

19	EY 2014	\$339
20	EY 2015	\$331
21	EY 2016	\$323
22	EY 2017	\$315
23	EY 2018	\$308
24	EY 2019	\$268
25	EY 2020	\$258
26	EY 2021	\$248
27	EY 2022	\$238
28	EY 2023	\$228
29	EY 2024	\$218
30	EY 2025	\$208
31	EY 2026	\$198
32	EY 2027	\$188
33	EY 2028	\$178
34	EY 2029	\$168
35	EY 2030	\$158
36	EY 2031	\$148
37	EY 2032	\$138
38	EY 2033	\$128.

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

1 k. The board may allow electric public utilities to offer long-  
2 term contracts through a competitive process, direct electric public  
3 utility investment and other means of financing, including but not  
4 limited to loans, for the purchase of SRECs and the resale of SRECs  
5 to suppliers or providers or others, provided that after such  
6 contracts have been approved by the board, the board's approvals  
7 shall not be modified by subsequent board orders. If the board  
8 allows the offering of contracts pursuant to this subsection, the  
9 board may establish a process, after hearing, and opportunity for  
10 public comment, to provide that a designated segment of the  
11 contracts approved pursuant to this subsection shall be contracts  
12 involving solar electric power generation facility projects with a  
13 capacity of up to 250 kilowatts.

14 1. The board shall implement its responsibilities under the  
15 provisions of this section in such a manner as to:

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

19 (2) maintain adequate regulatory authority over non-competitive  
20 public utility services;

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

23 (4) promote energy efficiency and Class I renewable energy  
24 market development, taking into consideration environmental  
25 benefits and market barriers;

26 (5) make energy services more affordable for low and moderate  
27 income customers;

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

31 (7) achieve the goals put forth under the renewable energy  
32 portfolio standards;

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

34 (9) allow all market segments to participate.

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

42 n. For projects which are owned, or directly invested in, by a  
43 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
44 98.1), the board shall determine the number of SRECs with which  
45 such projects shall be credited; and in determining such number the  
46 board shall ensure that the market for SRECs does not detrimentally  
47 affect the development of non-utility solar projects and shall  
48 consider how its determination may impact the ratepayers.



1 o. The board, in consultation with the Department of  
2 Environmental Protection, electric public utilities, the Division of  
3 Rate Counsel in, but not of, the Department of the Treasury,  
4 affected members of the solar energy industry, and relevant  
5 stakeholders, shall periodically consider increasing the renewable  
6 energy portfolio standards beyond the minimum amounts set forth  
7 in subsection d. of this section, taking into account the cost impacts  
8 and public benefits of such increases including, but not limited to:

9 (1) reductions in air pollution, water pollution, land disturbance,  
10 and greenhouse gas emissions;

11 (2) reductions in peak demand for electricity and natural gas,  
12 and the overall impact on the costs to customers of electricity and  
13 natural gas;

14 (3) increases in renewable energy development, manufacturing,  
15 investment, and job creation opportunities in this State; and

16 (4) reductions in State and national dependence on the use of  
17 fossil fuels.

18 p. Class I RECs and ORECs shall be eligible for use in  
19 renewable energy portfolio standards compliance in the energy year  
20 in which they are generated, and for the following two energy years.  
21 SRECs shall be eligible for use in renewable energy portfolio  
22 standards compliance in the energy year in which they are  
23 generated, and for the following four energy years.

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

1 to this subsection but does not enter commercial operation pursuant  
2 to paragraph (2) of this subsection.

3 (2) If the proposed solar electric power generation facility does  
4 not commence commercial operations within two years following  
5 the date of the designation by the board pursuant to this subsection,  
6 the designation of the facility shall be deemed to be null and void,  
7 and the facility shall not be considered connected to the distribution  
8 system thereafter.

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

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

41 (2) The board shall approve the designation of the proposed  
42 solar **[power]** electric power generation facility as "connected to  
43 the distribution system" if the board determines that:

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

1 (b) the approval of the designation of the proposed facility  
2 would not significantly impact the preservation of open space in  
3 this State;

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

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

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

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

40 t. (1) No more than 180 days after the date of enactment of  
41 P.L.2012, c.24, the board shall, in consultation with the Department  
42 of Environmental Protection and the New Jersey Economic  
43 Development Authority, and, after notice and opportunity for public  
44 comment and public hearing, complete a proceeding to establish a  
45 program to provide SRECs to owners of solar electric power  
46 generation facility projects certified by the board, in consultation  
47 with the Department of Environmental Protection, as being located  
48 on a brownfield, on an area of historic fill or on a properly closed

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

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

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

1 (b) the person did not discharge the hazardous substance, is not  
2 in any way responsible for the hazardous substance, and is not a  
3 successor to the discharger or to any person in any way responsible  
4 for the hazardous substance or to anyone liable for cleanup and  
5 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-  
6 23.11g);

7 (c) the person, within 30 days after acquisition of the property,  
8 gave notice of the discharge to the Department of Environmental  
9 Protection in a manner the Department of Environmental Protection  
10 prescribes;

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

16 (e) the person does not exacerbate the contamination at the  
17 property;

18 (f) the person does not interfere with any necessary remediation  
19 of the property;

20 (g) the person complies with any regulations and any permit the  
21 Department of Environmental Protection issues pursuant to section  
22 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection  
23 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

24 (h) with respect to an area of historic fill, the person has  
25 demonstrated pursuant to a preliminary assessment and site  
26 investigation, that hazardous substances have not been discharged;  
27 and

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

34 Only the person who is liable to clean up and remove the  
35 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-  
36 23.11g) and who does not have a defense to liability pursuant to  
37 subsection d. of that section shall be liable for cleanup and removal  
38 costs.

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

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

7 w. No more than 270 days after the date of enactment of  
8 P.L.2012, c.24, the board shall, after notice and opportunity for  
9 public comment and public hearing, complete a proceeding to  
10 consider whether to establish a program to provide, to owners of  
11 solar electric power generation facility projects certified by the  
12 board as being three megawatts or greater in capacity and being net  
13 metered, including facilities which are owned or operated by an  
14 electric public utility and approved by the board pursuant to section  
15 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is  
16 designed to supplement the SRECs generated by the facility to  
17 further the goal of improving the economic competitiveness of  
18 commercial and industrial customers taking power from such  
19 projects. If the board determines to establish such a program  
20 pursuant to this subsection, the board may establish a financial  
21 incentive to provide that the board shall issue one SREC for no less  
22 than every 750 kilowatt-hours of solar energy generated by the  
23 certified projects. Any financial benefit realized in relation to a  
24 project owned or operated by an electric public utility and approved  
25 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
26 98.1), as a result of the provisions of a financial incentive  
27 established by the board pursuant to this subsection, shall be  
28 credited to ratepayers.

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

37 y. (1) No more than 180 days after the date of enactment of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill),  
39 the board shall, in consultation with the Department of Agriculture,  
40 and, after notice and opportunity for public comment and public  
41 hearing, complete a proceeding to create a program to (a) provide  
42 credits issued under the permanent successor to the SREC program  
43 established by the board pursuant to paragraph (3) of subsection d.  
44 of this section to the owner of a dual-use solar energy project  
45 located on unreserved farmland and (b) establish a process for  
46 projects to be certified by the board, in consultation with the  
47 Department of Agriculture, as eligible for such credits pursuant to  
48 this subsection, including those owned or operated by an electric

1 public utility and approved pursuant to section 13 of P.L.2007,  
2 c.340 (C.48:3-98.1).

3 A dual-use solar energy project approved pursuant to section 1  
4 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
5 and certified pursuant to this subsection shall be considered  
6 "connected to the distribution system," shall not require such  
7 designation by the board, and shall not be subject to board review  
8 required pursuant to subsections q. and r. of this section.

9 Any financial benefit realized by an electric public utility  
10 pursuant to this subsection shall be credited to ratepayers. The  
11 issuance of credits under the permanent successor to the SREC  
12 program established by the board pursuant to paragraph (3) of  
13 subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87) to a dual-  
14 use solar energy project pursuant to this subsection shall be deemed  
15 "Board of Public Utilities financial assistance" as provided pursuant  
16 to section 1 of P.L.2009, c.89 (C.48:2-29.47).

17 (2) As used in this subsection:

18 "Dual-use solar energy project" means the same as the term is  
19 defined in section 1 of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill).

21 "Unpreserved farmland" means the same as the term is defined  
22 in section 1 of P.L. , c. (C. ) (pending before the Legislature  
23 as this bill).

24 (cf: P.L.2019, c.448, s.1)

25

26 8. Section 5 of P.L.2018, c.17 (C.48:3-87.11) is amended to  
27 read as follows:

28 5. a. No later than 210 days after the date of enactment of  
29 P.L.2018, c.17 (C.48:3-87.8 et al.), the Board of Public Utilities  
30 shall adopt, pursuant to the "Administrative Procedure Act,"  
31 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
32 establishing a "Community Solar Energy Pilot Program" to permit  
33 customers of an electric public utility to participate in a solar energy  
34 project that is remotely located from their properties but is within  
35 their electric public utility service territory to allow for a credit to  
36 the customer's utility bill equal to the electricity generated that is  
37 attributed to the customer's participation in the solar energy project.

38 b. The rules and regulations developed by the board shall  
39 establish:

40 (1) a capacity limit for individual solar energy projects to a  
41 maximum of five megawatts per project;

42 (2) an annual capacity limit for all solar energy projects under  
43 the pilot program;

44 (3) geographic limitations for solar energy projects and  
45 participating customers;

46 (4) a minimum number of participating customers for each solar  
47 energy project;

48 (5) the value of the credit on each participating customer's bill;

1 (6) standards to limit the land use impact of a solar energy  
2 project as required in subsection r. of section 38 of P.L.1999, c.23  
3 (C.48:3-87);

4 (7) the provision of access to solar energy projects for low and  
5 moderate income customers;

6 (8) standards to ensure the ability of residential and commercial  
7 customers to participate in solar energy projects, including  
8 residential customers in multifamily housing;

9 (9) standards for connection to the distribution system of an  
10 electric public utility; and

11 (10) provisions to minimize impacts to the distribution system of  
12 an electric public utility.

13 c. The board shall make available on its Internet website  
14 information on solar energy projects whose owners are seeking  
15 participants.

16 d. The board shall establish standards and an application  
17 process for owners of solar energy projects who wish to be included  
18 in the Community Solar Energy Pilot Program. The standards for  
19 the Community Solar Energy Pilot Program shall include, but need  
20 not be limited to, a verification process to ensure that the solar  
21 energy projects are producing an amount of energy that is greater  
22 than or equal to the amount of energy that is being credited to its  
23 participating customer's electric utility bills pursuant to subsection  
24 b. of this section, and consumer protection measures. Projects  
25 approved by the board shall have at least two participating  
26 customers.

27 The board may restrict qualified solar energy projects to those  
28 located on brownfields, landfills, areas designated in need of  
29 redevelopment, in underserved communities, or on commercial  
30 rooftops , except that, notwithstanding the provisions of this  
31 subsection to the contrary, the board shall consider a dual-use solar  
32 energy project constructed, installed, operated, and approved  
33 pursuant to section 1 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) as a qualified solar energy project provided  
35 all other standards established pursuant to this section are met .

36 e. Subject to review by the board, an electric public utility shall  
37 be entitled to full and timely cost recovery for all costs incurred in  
38 implementation and compliance with this section.

39 f. No later than 36 months after adoption of the rules and  
40 regulations required pursuant to subsection b. of this section, the  
41 board shall adopt rules and regulations, pursuant to the  
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
43 seq.), to convert the Community Solar Energy Pilot Program to a  
44 permanent program. The board shall adopt rules and regulations for  
45 the permanent program that set forth standards for projects owned  
46 by electric public utilities, special purpose entities, and nonprofit  
47 entities. The rules and regulations shall also:



- 1 (1) limit the capacity of each solar energy project to a maximum
- 2 of five megawatts;
- 3 (2) establish a goal for the development of at least 50 megawatts
- 4 of solar energy projects per year, taking into account any changes to
- 5 the SREC program;
- 6 (3) set geographic limitations for solar energy projects and
- 7 participating customers;
- 8 (4) provide for a minimum number of participating customers
- 9 for each solar energy project;
- 10 (5) require the provision of access to solar energy projects for
- 11 low and moderate income customers;
- 12 (6) establish standards to ensure the ability of residential and
- 13 commercial customers to participate in solar energy projects,
- 14 including residential customers in multifamily housing;
- 15 (7) establish a method for determining the value of the credit on
- 16 each participating customer's bill;
- 17 (8) establish timeframes for the credit available to the customer;
- 18 (9) establish standards and methods to verify solar electric
- 19 energy generation on a monthly basis for a solar energy project;
- 20 (10) establish standards consistent with the land use provisions
- 21 for solar energy projects as provided in subsections r., s., and t. of
- 22 section 38 of P.L.1999, c.23 (C.48:3-87);
- 23 (11) establish standards, fees, and uniform procedures for solar
- 24 energy projects to be connected to the distribution system of an
- 25 electric public utility;
- 26 (12) minimize impacts to the distribution system of an electric
- 27 public utility;
- 28 (13) require monthly reporting requirements for the operators of
- 29 solar energy projects to the electric public utility, project customers,
- 30 and the board;
- 31 (14) require reporting by the electric public utility to the operator
- 32 of a solar energy project on the value of credits to the participating
- 33 customer's bills; and
- 34 (15) require transferability, portability, and buy-out provisions
- 35 for customers who participate in community solar energy projects.
- 36 g. As used in this section:
- 37 "Dual-use solar energy project" means the same as the term is
- 38 defined in section 1 of P.L. , c. (C. ) (pending before the
- 39 Legislature as this bill).
- 40 "Solar energy project" means a system containing one or more
- 41 solar panels and associated equipment.
- 42 "Solar panel" means an elevated panel or plate, or a canopy or
- 43 array thereof, that captures and converts solar radiation to produce
- 44 electric power, and is approved by the board to be included in the
- 45 Community Solar Energy Pilot Program.
- 46 "Solar power" includes flat plate, focusing solar collectors, or

1 photovoltaic solar cells and excludes the base or foundation of the  
2 panel, plate, canopy, or array.

3 (cf: P.L.2018, c.17, s.5)

4

5 9. This act shall take effect immediately, except that section 2  
6 of this act shall be applicable to tax years commencing after the  
7 date of enactment of this act.

8

9

10 STATEMENT

11

12 This bill revises and supplements the law concerning certain  
13 solar energy generation projects located on farmland.

14 This bill would allow an owner of unreserved farmland that is  
15 valued, assessed, and taxed pursuant to the “Farmland Assessment  
16 Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), (i.e., receives  
17 farmland assessment) to construct, install, and operate a dual-use  
18 solar energy project on the farmland and continue to receive  
19 farmland assessment subject to certain conditions set forth in the  
20 bill. The bill defines “dual-use solar energy project” as the energy  
21 generation facilities, structures, and equipment for the production of  
22 less than 10 megawatts of electric power from solar photovoltaic  
23 panels located on land in agricultural or horticultural production  
24 that allow the continued use of the land below the panels to  
25 simultaneously be used for agricultural or horticultural production.

26 To be eligible under the bill, the owner of the unreserved  
27 farmland would be required to obtain the approval of the  
28 Department of Agriculture, in addition to any other approvals that  
29 may be required pursuant to federal, State or local law, rule,  
30 regulation, or ordinance, prior to the construction of the dual-use  
31 solar energy project. The bill would prohibit a dual-use solar  
32 energy project from being located: on preserved farmland; within  
33 the preservation area of the pinelands area; with an area designated  
34 as forest area in the pinelands comprehensive management; in  
35 wetlands; or within the Highlands preservation area. In addition,  
36 the land owner would be required to file a conservation plan with  
37 the soil conservation district to account for the aesthetic,  
38 impervious coverage, and environmental impacts of the dual-use  
39 solar energy project, including, but not limited to, water recapture  
40 and filtration, and the conservation plan would require approval by  
41 the district, and to comply with agricultural management practices  
42 adopted by the State Agriculture Development Committee (SADC).

43 Prior to constructing, installing, and operating a dual-use solar  
44 energy facility, the landowner would be required to apply to the  
45 Department of Agriculture for approval and the department, in  
46 consultation with the Board of Public Utilities (BPU) would be  
47 required to, within 90 days after receipt, approve, disapprove, or  
48 approve with conditions the application. The bill directs the

1 Department of Agriculture, in consultation with the SADC, the  
2 BPU, and the Department of Environmental Protection, to adopt  
3 rules and regulations, including, but not limited to: the process by  
4 which a landowner may apply for the approval required by the bill;  
5 the establishment of reasonable application fees to pay for the cost  
6 of review of the application; and provisions prescribing standards  
7 concerning impervious cover which may be permitted in connection  
8 with dual-use solar energy projects.

9 Further, the bill would provide that land on which a dual-use  
10 solar energy project constructed and approved pursuant to the bill  
11 would be eligible for farmland assessment, subject to certain  
12 conditions, including that: (1) the dual-use solar energy project is  
13 located on unreserved farmland that is continuing to be in  
14 operation as a farm in the tax year for which farmland assessment is  
15 applied for; (2) in the tax year preceding the construction,  
16 installation, and operation of the dual-use solar energy project, the  
17 acreage used for the dual-use solar energy project was valued,  
18 assessed, and taxed as land in agricultural or horticultural use; (3)  
19 the land on which the dual-use solar energy project is located  
20 continues to be actively devoted to agricultural and horticultural  
21 use, and meets the income requirements set forth in law for  
22 farmland assessment; and (4) the Department of Agriculture's  
23 approval issued for the dual-use solar energy project pursuant to  
24 section 1 of the bill has not been suspended or revoked. In addition,  
25 the bill provides that no generated energy from a dual-use solar  
26 energy project would be considered an agricultural or horticultural  
27 product, and no income from any power sold from the dual-use  
28 solar energy project would be considered income for the purposes  
29 of eligibility for farmland assessment.

30 Under current law, to be eligible for farmland assessment, the  
31 amount of acreage devoted to the solar energy generation facilities,  
32 structures, and equipment may does not exceed 10 acres and, if  
33 power is being generated, no more than two megawatts of power  
34 may be generated. This bill eliminates these restrictions for a dual-  
35 use solar energy project on unreserved farmland approved and  
36 constructed pursuant to the bill.

37 The bill would require the Division of Taxation, in consultation  
38 with the Department of Agriculture and the BPU, to adopt rules and  
39 regulations as may be necessary for the implementation and  
40 administration of the bill, and to incorporate information  
41 concerning dual-use solar energy projects into the guidelines  
42 provided and the continuing education course offered to municipal  
43 tax assessors, county assessors, county tax administrators, and other  
44 appropriate local government officials.

45 The bill also would amend section 1 of P.L.2009, c.213 (C.4:1C-  
46 32.4), which allows an owner of preserved farmland to construct,  
47 install, and operate biomass, solar, or wind energy facilities,  
48 structures, and equipment on the farm, whether on the preserved or

1 unpreserved portion of the farm, for the purpose of generating  
2 power or heat, and to make improvements to any agricultural,  
3 residential, or other building or structure on the land for that  
4 purpose, subject to certain conditions. Under current law, these  
5 conditions include that the biomass, solar, or wind energy  
6 generation facilities, structures, and equipment: (1) cannot interfere  
7 significantly with the use of the land for agricultural or horticulture  
8 production, as determined by the SADC; (2) are, or will be under a  
9 specialized agreement, owned by the landowner; (3) are used to  
10 provide power or heat to the farm, either directly or indirectly, or to  
11 reduce, through net metering or similar programs and systems,  
12 energy costs on the farm; and (4) are limited in annual energy  
13 generation capacity to the previous calendar year's energy demand  
14 plus 10 percent, in addition to certain other allowances. This bill  
15 would delete, for solar energy generation facilities, structures, and  
16 equipment: (1) the requirement in current law that requires energy  
17 generation facilities, structures, and equipment on agricultural lands  
18 either be owned by the landowner or that the landowner uses the  
19 income or credits realized from the biomass, solar, or wind energy  
20 generation to purchase the facilities, structures, or equipment, and  
21 (2) the requirement for the owner to only sell energy via net  
22 metering or as otherwise permitted under a specialized agreement  
23 with an installer whereby the landowner uses the income or credits  
24 realized from the solar energy generation activities to purchase the  
25 solar energy generating facilities, structures, or equipment. The bill  
26 does not change any other requirements set forth in law concerning  
27 the amount of acreage and the energy generation capacity of  
28 biomass, solar, or wind energy generation facilities, structures, and  
29 equipment located on preserved farmland.

30 The bill also amends the "Electric Discount and Energy  
31 Competition Act" (EDECA), P.L.1999, c.23 (C.48:3-49 et al.), to  
32 direct the BPU to establish a program to provide credits issued  
33 under the permanent successor to the solar renewable energy  
34 certificate (SREC) program established by the BPU pursuant to law  
35 to the owner of a dual-use solar energy project located on  
36 unpreserved farmland that is certified by the board, in consultation  
37 with the Department of Agriculture, including those owned or  
38 operated by an electric public utility and approved pursuant to  
39 section 13 of P.L.2007, c.340 (C.48:3-98.1). This would enable the  
40 owners of dual-use solar energy projects constructed on  
41 unpreserved farmland pursuant to the bill to be eligible for SRECs.  
42 The bill further provides that a dual-use solar energy project  
43 approved pursuant to the bill would be considered "connected to the  
44 distribution system," without requiring certain other review by the  
45 BPU.

46 Lastly, the bill amends the law establishing the Community Solar  
47 Energy Pilot Program to provide that dual-use solar energy projects  
48 constructed pursuant to the bill would be considered qualified solar

1 energy projects for the purposes of that program. Under current  
2 law, the BPU may restrict qualified solar energy projects to those  
3 located on brownfields, landfills, areas designated in need of  
4 redevelopment, in underserved communities, or on commercial  
5 rooftops.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3484**

# **STATE OF NEW JERSEY**

DATED: JUNE 15, 2021

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 3484.

This committee substitute would direct the Board of Public Utilities (BPU), in consultation with the Secretary of Agriculture, to establish a "Dual-Use Solar Energy Pilot Program" (pilot program) to permit the construction, installation, and operation of dual-use solar energy projects on unreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

The bill defines "dual-use solar energy project" to mean the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production. A dual-use solar energy project would need to be approved by the BPU prior to its construction, installation, and operation, and the bill requires the BPU to consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the pilot program.

The bill would direct the BPU to adopt rules and regulations to establish the pilot program no later than 180 days after the bill's enactment. The bill would stipulate that an individual dual-use solar energy project could not be greater than 10 megawatts in size, and that the total power produced by all dual-use solar energy projects in the pilot program could not exceed 200 megawatts (except that this limit could be increased if the BPU extends the pilot program, as described below). In addition, the bill would direct the BPU to establish financial incentives available to dual-use solar energy projects under the pilot program.

The bill would establish certain restrictions on where dual-use solar energy projects participating in the pilot program could be sited, as enumerated in subsection b. of section 1 of the bill. Projects would be restricted from being sited on certain prime farmlands. In addition, projects would be restricted from being sited on certain ecologically sensitive areas, unless granted a waiver by the BPU, including the Pinelands preservation area, the Highlands preservation area, and

certain forests and wetlands. The bill would also direct the BPU to adopt certain technical standards, requirements, and application criteria, as enumerated in subsections b. and c. of section 1 of the bill.

The pilot program would continue for 36 months, under the bill, after which time the BPU would be authorized to extend the pilot program for a maximum of two additional 12-month periods. The BPU would also be authorized to increase the overall power limit of the pilot program by 50 megawatts each time it extends the program. The bill would provide that a project approved under the pilot program would be considered a permitted use in every municipality.

After the termination of the pilot program, the bill would direct the BPU to adopt rules and regulations to establish a permanent dual-use solar energy program, which take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy projects in New Jersey. The bill would establish certain guidelines for the permanent program, as enumerated in subsection f. of section 1 of the bill.

The bill would provide that land on which a dual-use solar energy project constructed and approved pursuant to the pilot program would be eligible for farmland assessment, subject to certain conditions, which are enumerated in subsection b. of section 2 of the bill. In addition, the bill would provide that no generated energy from a dual-use solar energy project would be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment. The bill would require the Division of Taxation, in consultation with the Secretary of Agriculture and the BPU, to adopt rules and regulations to implement the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

Under current law, to be eligible for farmland assessment, the amount of acreage devoted to the solar energy generation facilities, structures, and equipment may not exceed 10 acres and, if power is being generated, no more than two megawatts of power may be generated. This bill would eliminate these restrictions for a dual-use solar energy project on unreserved farmland approved and constructed pursuant to the bill.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3484**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 22, 2021

The Senate Budget and Appropriations Committee reports favorably the Senate Committee Substitute for Senate Bill No. 3484, with committee amendments.

This bill, as amended by the committee, would direct the Board of Public Utilities (BPU), in consultation with the Secretary of Agriculture, to establish a "Dual-Use Solar Energy Pilot Program" (pilot program) to permit the construction, installation, and operation of dual-use solar energy projects on unreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

The bill defines "dual-use solar energy project" to mean the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production. A dual-use solar energy project would need to be approved by the BPU prior to its construction, installation, and operation, and the bill requires the BPU to consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the pilot program.

The bill would direct the BPU to adopt rules and regulations to establish the pilot program no later than 180 days after the bill's enactment. The bill would stipulate that an individual dual-use solar energy project could not be greater than 10 megawatts in size, and that the total power produced by all dual-use solar energy projects in the pilot program could not exceed 200 megawatts (except that this limit could be increased if the BPU extends the pilot program, as described below). In addition, the bill would direct the BPU to establish financial incentives available to dual-use solar energy projects under the pilot program.

The bill would establish certain restrictions on where dual-use solar energy projects participating in the pilot program could be sited, as enumerated in subsection b. of section 1 of the bill. Projects would be restricted from being sited on certain prime farmlands. In addition,



projects would be restricted from being sited on certain ecologically sensitive areas, unless granted a waiver by the BPU, including the Pinelands preservation area, the Highlands preservation area, and certain forests and wetlands. The bill would also direct the BPU to adopt certain technical standards, requirements, and application criteria, as enumerated in subsections b. and c. of section 1 of the bill.

The pilot program would continue for 36 months, under the bill, after which time the BPU would be authorized to extend the pilot program for a maximum of two additional 12-month periods. The BPU would also be authorized to increase the overall power limit of the pilot program by 50 megawatts each time it extends the program. The bill would provide that a project approved under the pilot program would be considered a permitted use in every municipality.

After the termination of the pilot program, the bill would direct the BPU to adopt rules and regulations to establish a permanent dual-use solar energy program, which take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy projects in New Jersey. The bill would establish certain guidelines for the permanent program, as enumerated in subsection f. of section 1 of the bill.

The bill would provide that land on which a dual-use solar energy project constructed and approved pursuant to the pilot program would be eligible for farmland assessment, subject to certain conditions, which are enumerated in subsection b. of section 2 of the bill. In addition, the bill would provide that no generated energy from a dual-use solar energy project would be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment. The bill would require the Division of Taxation, in consultation with the Secretary of Agriculture and the BPU, to adopt rules and regulations to implement the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

Under current law, to be eligible for farmland assessment, the amount of acreage devoted to the solar energy generation facilities, structures, and equipment may not exceed 10 acres and, if power is being generated, no more than two megawatts of power may be generated. This bill would eliminate these restrictions for a dual-use solar energy project on unpreserved farmland approved and constructed pursuant to the bill.

COMMITTEE AMENDMENTS:

The committee amendments would clarify that the pilot program is intended to apply to dual-use solar energy projects that are connected to a distribution or transmission system owned or operated by a New Jersey public utility or local government unit.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in marginal one-time and recurring expenditure increases from the State General Fund by the Board of Public Utilities (BPU) and the Secretary of Agriculture to establish and implement a dual-use solar program, as required by the bill. It is likely that the tasks required under the bill could be subsumed within existing staff duties. The OLS notes that the program would begin as a three- to five-year pilot program, but that the bill directs the BPU to adopt rules and regulations again after the end of the pilot program in order to establish a permanent dual-use solar program. Thus, any expenditure increases caused by hiring additional staff, paying overtime hours, etc. related to the rulemaking process would likely occur one year after the bill's enactment and again four to six years after the bill's enactment.

**LEGISLATIVE FISCAL ESTIMATE**  
[First Reprint]  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 3484**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: JUNE 29, 2021

**SUMMARY**

- Synopsis:** Establishes dual-use solar project pilot program for unreserved farmland; allows land used for dual-use solar project to be eligible for farmland assessment under certain conditions.
- Type of Impact:** Annual State expenditure increase from the General Fund.
- Agencies Affected:** Board of Public Utilities, Department of Agriculture, Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Marginal

- The Office of Legislative Services (OLS) determines that this bill would result in a marginal one-time State expenditure increase from the General Fund to the Board of Public Utilities (BPU), the Department of Agriculture, and the Department of the Treasury to adopt rules and regulations necessary to establish the dual-use solar program.
- The bill would also result in an annual expenditure increase from the General Fund to the BPU to review applications and perform other administrative duties necessary to operate the program. It is likely that all tasks required under the bill could be subsumed within existing staff duties.

**BILL DESCRIPTION**

This bill would direct the BPU, in consultation with the Secretary of Agriculture, to establish a "Dual-Use Solar Energy Pilot Program" to permit the construction, installation, and operation of dual-use solar energy projects on unreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

The bill would direct the BPU to adopt rules and regulations to establish the pilot program no later than 180 days after the bill's enactment. The bill would stipulate that an individual dual-use solar energy project could not be greater than 10 megawatts in size, and that the total power produced by all dual-use solar energy projects in the pilot program could not exceed 200 megawatts (except that this limit could be increased if the BPU extends the pilot program, as described below). In addition, the bill would direct the BPU to establish financial incentives available to dual-use solar energy projects under the pilot program.

The bill would establish certain restrictions on where dual-use solar energy projects participating in the pilot program could be sited, as enumerated in subsection b. of section 1 of the bill. Projects would be restricted from being sited on certain prime farmlands. In addition, projects would be restricted from being sited on certain ecologically sensitive areas, unless granted a waiver by the BPU, including the preservation area in the pinelands area, the Highlands preservation area, and certain forests and wetlands. The bill would also direct the BPU to adopt certain technical standards, requirements, and application criteria, as enumerated in subsections b. and c. of section 1 of the bill.

The pilot program would continue for 36 months, under the bill, after which time the BPU would be authorized to extend the pilot program for a maximum of two additional 12-month periods. The BPU would also be authorized to increase the overall power limit of the pilot program by 50 megawatts each time it extends the program. The bill would provide that a project approved under the pilot program would be considered a permitted use in every municipality.

After the termination of the pilot program, the bill would direct the BPU to adopt rules and regulations to establish a permanent dual-use solar energy program, which take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy projects in New Jersey. The bill would establish certain guidelines for the permanent program, as enumerated in subsection f. of section 1 of the bill.

The bill would provide that land on which a dual-use solar energy project constructed and approved pursuant to the pilot program would be eligible for farmland assessment, subject to certain conditions, which are enumerated in subsection b. of section 2 of the bill. In addition, the bill would provide that no generated energy from a dual-use solar energy project would be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment. The bill would require the Division of Taxation, in consultation with the Secretary of Agriculture and the BPU, to adopt rules and regulations to implement the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that this bill would result in a marginal one-time State expenditure increase from the General Fund to the BPU, the Department of Agriculture, and the Department

of the Treasury to adopt rules and regulations necessary to establish the dual-use solar program. The bill would also result in an annual expenditure increase to the General Fund by the BPU to review applications and perform other administrative duties necessary to operate the program. It is likely that all tasks required under the bill could be subsumed within existing staff duties. The OLS notes that the program would begin as a three- to five-year pilot program, but that the bill directs the BPU to adopt rules and regulations again after the end of the pilot program in order to establish a permanent dual-use solar program. Thus, any expenditure increases caused by hiring additional staff, paying overtime hours, etc. related to the rulemaking process would likely occur one year after the bill's enactment and again four to six years after the bill's enactment.

*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Associate Research Analyst*

*Approved: Thomas Koenig  
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 Signs Bills to Advance New Jersey's Clean Energy Future

07/9/2021

*Legislation will Increase Solar Development and Facilitate Installation of Electric Vehicle Charging Infrastructure throughout the State*

**SEASIDE HEIGHTS** – Governor Phil Murphy today signed a package of bills aimed at advancing New Jersey's transition to a clean energy future to further the Administration's goal of reaching 100 percent clean energy by 2050. The legislation will increase solar development and facilitate installation of electric vehicle charging infrastructure throughout the state.

"Three and a half years ago we put forth one of the most aggressive plans in the nation to move New Jersey away from fossil fuels and towards a future based on clean and renewable energy technologies," **said Governor Murphy**. "From wind-turbine component manufacturing, to solar energy installation, to electric vehicles, the modernization of our energy sector will not only aid us in addressing climate change, but also drive significant economic growth and create good-paying, union jobs across the state. By signing these bills today, we are marking another milestone on our path to 100 percent clean energy by 2050 and fueling our clean innovation economy."

"In order to combat climate change and its devastating consequences, we must do all we can to make it easier for people and families to use and charge electric vehicles whether they live in a single-family home or in a multi-family dwelling. Electric vehicles are the future and everyone should have access to the environmental and economic benefits they provide," **said Lt. Governor Sheila Oliver, who serves as Commissioner of the New Jersey Department of Community Affairs**. "The legislation that Governor Murphy signed today will go a long way to supporting electric vehicle adoption across New Jersey. In fact, DCA is already at work crafting model ordinances to provide local governments with the ability to safely and efficiently approve the installation of electric vehicle service equipment and parking spaces that are pre-wired for electric vehicle infrastructure. DCA looks forward to continuing to do its part on electric vehicles and the broader effort to protect our environment."

The Governor signed the following four bills into law:

**S3223 (Smith, Bateman/Swain, Benson, Lopez, Verrelli, Karabinchak, Zwicker)** - Establishes numerical requirements and zoning standards for installation of electric vehicle supply equipment and Make-Ready parking spaces

**A1653 (Quijano, Karabinchak, Holley/Smith, Bateman)** - Encourages development of zero-emission vehicle fueling and charging infrastructure in redevelopment projects.

**A4554 (Karabinchak, Burzichelli, Houghtaling/Smith, Bateman)** - Establishes successor program to solar renewable energy certificate program in BPU, including solicitation process for certain solar power generation facilities.

**A5434 (Dancer, Armato, Houghtaling/Smith, Bateman)** - Establishes dual-use solar project pilot program for unpreserved farmland; allows land used for dual-use solar project to be eligible for farmland assessment under certain conditions.

"I often talk about how significant these past few years have been for greatly expanding and growing renewable energy and electric vehicle capacity in New Jersey to combat climate change," **said Senator Smith**. "With the dual-use solar project and utility-scale solar program laws now established, we can significantly increase our renewable energy footprint in a way that both preserves farmland and open-space. This clean energy can then go into the electrical grid to help power the electric vehicles via charging stations installed around the state."

"In the not-so-distant future, we'll see the day when most cars on the road are electric. By 2040, over half of all passenger vehicles sold are projected to be electric," **said Assemblymembers Lisa Swain, Daniel Benson, Yvonne Lopez, Anthony Verrelli, Robert Karabinchak, and Andrew Zwicker in a joint statement.** "For the sake of our climate future, that day cannot come soon enough. If we want to encourage consumers to shift from buying gasoline-powered cars that emit dangerous fossil fuels into the air and erode our climate, to environmentally conscious electric vehicles that will reduce our dependence on oil and support clean air initiatives, we must invest in EV charging infrastructure in every community. The standards outlined in this law will remove roadblocks faced when installing EV supply equipment and parking spaces, which will expand our EV infrastructure and help New Jersey meet its climate goals."

"More people are using zero-emission vehicles now than ever before. This is due in part to the hundreds of dollars ZEV drivers save each year on gas," **said Assemblymembers Annette Quijano, Robert Karabinchak, and Jamel Holley in a joint statement.** "These vehicles are also better for our planet than gasoline cars because they don't create byproducts that can harm the environment. The Assembly passed quite a few bills last session to encourage the purchase of ZEVs, and we must continue our efforts of finding ways to make these cars more convenient for both current and prospective owners. This law will encourage municipalities to incorporate charging and refueling stations in their redevelopment plans to increase the number of stations throughout our state. The more places our residents can go to recharge or refuel their ZEV, the more practical and appealing these vehicles will be."

"Solar power is a clean, renewable source of energy that can reliably power homes and businesses throughout our state," **said Assemblymen Robert Karabinchak, John Burzichelli, and Eric Houghtaling in a joint statement.** "The Solar Successor Program will incentivize the generation of more solar power to help New Jersey reach our energy goals over the next five years and beyond. This program will not only create new jobs, but help protect our environment as well – ultimately benefitting everyone in our state."

"This law will allow large-scale solar energy projects to be used as a tool for farmland preservation, and improve long-term viability of New Jersey family-farming operations," **said Assemblymen John Armato and Eric Houghtaling in a joint statement.** "Studies have shown that agriculture production and solar generation can coexist on the same land. With a dual-use solar project pilot program, crops would flourish while the State continues its ambition toward 100% clean energy by 2050."

"A very good balance was struck between maintaining our best agricultural lands while at the same time advancing the state's Energy Master Plan," **said New Jersey Department of Agriculture Secretary Douglas Fisher.** "The Department of Agriculture is working closely with BPU as well as with Rutgers University to ensure the best possible outcomes are achieved. Thank you to Governor Murphy and the Legislature for continuing to make clean energy a priority that will allow solar interests to be developed while advancing agriculture in the Garden State."

"Governor Murphy's actions on these bills today will expand solar energy and electric vehicle infrastructure and continue to advance our efforts to achieve 100% clean energy by 2050," **said New Jersey Board of Public Utilities President Joseph L. Fiordaliso.** "We are building on the success of New Jersey's solar industry, which is going strong with over 142,000 installations in the state, as well developing the critical EV infrastructure necessary to help drivers make the switch. The new legislation complements our efforts at the Board and will help deliver on the Governor's vision of a clean energy future."

"Increasing the use of solar energy and zero-emission vehicles is not only essential for addressing the threat of climate change, but also creates important opportunities for long-term, sustainable economic growth," **said New Jersey Economic Development Authority Chief Executive Officer Tim Sullivan.** "Around the world, clean energy is a major job creator, and Governor Murphy's strong leadership in signing these bills is a critical step forward that will establish New Jersey as a leader in the fight against climate change while building a stronger, fairer economy."

"I am proud to stand with Governor Murphy today as he signs legislation that will make it easier for New Jersey's municipalities to create electric vehicle charging infrastructure in their communities and further advance the state's clean energy goals," **said New Jersey Department of Environmental Protection**

**Commissioner Shawn M. LaTourette.** "Driving electric has numerous benefits for public health, air quality and the environment. We encourage the public to review the many incentives New Jersey offers for purchasing and driving electric vehicles and consider doing so an investment in the state's clean energy future."

"Governor Murphy understands that the aggressive and thoughtful pursuit of clean energy and the economy of New Jersey will be the rising tide that lifts all boats," **said Pam Frank, CEO, ChargeVC-NJ.** "And importantly, in the name of fairness and in the name of decency, the governor recognizes that for so many generations, so many of our boats, never even left the shore. Putting his vision together with the leadership of these two men, Senator Smith and Assemblyman Benson means a lot is happening."