

SENATE, No. 191

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Requires BPU to provide funding for purchase and installation of photovoltaic technologies for age-restricted community clubhouse facilities from societal benefits charge.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT providing for certain energy assistance grants and loans
2 and amending P.L.1999, c.23.

3

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

6

7 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
8 as follows:

9 3. As used in this act:

10 "Age-restricted community" means a community that complies
11 with the "housing for older persons" exception from the federal
12 "Fair Housing Amendments Act of 1988," Pub.L.100-430 (42
13 U.S.C. ss.3601 et seq.) for that community as set forth in section
14 100.301 of Title 24, Code of Federal Regulations;

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

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

29 "Basic generation service" means electric generation service that
30 is provided, pursuant to section 9 of P.L.1999, c.23 (C.48:3-57), to
31 any customer that has not chosen an alternative electric power
32 supplier, whether or not the customer has received offers as to
33 competitive supply options, including, but not limited to, any
34 customer that cannot obtain such service from an electric power
35 supplier for any reason, including non-payment for services. Basic
36 generation service is not a competitive service and shall be fully
37 regulated by the board;

38 "Basic generation service transition costs" means the amount by
39 which the payments by an electric public utility for the procurement
40 of power for basic generation service and related ancillary and
41 administrative costs exceeds the net revenues from the basic
42 generation service charge established by the board pursuant to
43 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
44 together with interest on the balance at the board-approved rate, that
45 is reflected in a deferred balance account approved by the board in

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 an order addressing the electric public utility's unbundled rates,
2 stranded costs, and restructuring filings pursuant to P.L.1999, c.23
3 (C.48:3-49 et al.). Basic generation service transition costs shall
4 include, but are not limited to, costs of purchases from the spot
5 market, bilateral contracts, contracts with non-utility generators,
6 parting contracts with the purchaser of the electric public utility's
7 divested generation assets, short-term advance purchases, and
8 financial instruments such as hedging, forward contracts, and
9 options. Basic generation service transition costs shall also include
10 the payments by an electric public utility pursuant to a competitive
11 procurement process for basic generation service supply during the
12 transition period, and costs of any such process used to procure the
13 basic generation service supply;

14 "Board" means the New Jersey Board of Public Utilities or any
15 successor agency;

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

39 "Bondable stranded costs rate order" means one or more
40 irrevocable written orders issued by the board pursuant to P.L.1999,
41 c.23 (C.48:3-49 et al.) which determines the amount of bondable
42 stranded costs and the initial amount of transition bond charges
43 authorized to be imposed to recover such bondable stranded costs,
44 including the costs to be financed from the proceeds of the
45 transition bonds, as well as on-going costs associated with servicing
46 and credit enhancing the transition bonds, and provides the electric
47 public utility specific authority to issue or cause to be issued,

1 directly or indirectly, transition bonds through a financing entity
2 and related matters as provided in P.L.1999, c.23, which order shall
3 become effective immediately upon the written consent of the
4 related electric public utility to such order as provided in P.L.1999,
5 c.23;

6 "Bondable transition property" means the property consisting of
7 the irrevocable right to charge, collect and receive, and be paid
8 from collections of, transition bond charges in the amount necessary
9 to provide for the full recovery of bondable stranded costs which
10 are determined to be recoverable in a bondable stranded costs rate
11 order, all rights of the related electric public utility under such
12 bondable stranded costs rate order including, without limitation, all
13 rights to obtain periodic adjustments of the related transition bond
14 charges pursuant to subsection b. of section 15 of P.L.1999, c.23
15 (C.48:3-64), and all revenues, collections, payments, money and
16 proceeds arising under, or with respect to, all of the foregoing;

17 "British thermal unit" or "Btu" means the amount of heat
18 required to increase the temperature of one pound of water by one
19 degree Fahrenheit;

20 "Broker" means a duly licensed electric power supplier that
21 assumes the contractual and legal responsibility for the sale of
22 electric generation service, transmission or other services to end-use
23 retail customers, but does not take title to any of the power sold, or
24 a duly licensed gas supplier that assumes the contractual and legal
25 obligation to provide gas supply service to end-use retail customers,
26 but does not take title to the gas;

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

34 "Buyout" means an arrangement or arrangements involving the
35 buyer and seller in a given power purchase contract and, in some
36 cases third parties, for consideration to be given by the buyer in
37 order to effectuate a termination of such power purchase contract;

38 "Class I renewable energy" means electric energy produced from
39 solar technologies, photovoltaic technologies, wind energy, fuel
40 cells, geothermal technologies, wave or tidal action, and methane
41 gas from landfills or a biomass facility, provided that the biomass is
42 cultivated and harvested in a sustainable manner;

43 "Class II renewable energy" means electric energy produced at a
44 resource recovery facility or hydropower facility, provided that
45 such facility is located where retail competition is permitted and
46 provided further that the Commissioner of Environmental
47 Protection has determined that such facility meets the highest

1 environmental standards and minimizes any impacts to the
2 environment and local communities;

3 "Combined heat and power facility" means a facility which
4 produces electric energy, steam or other forms of useful energy
5 such as heat, which are used for industrial, commercial, heating or
6 cooling purposes;

7 "Community clubhouse" means an area devoted to facilities and
8 equipment for recreational purposes typically including, but not
9 limited to, swimming pools, tennis courts, resident recreational club
10 meetings, and other similar uses maintained and operated by an age-
11 restricted community whose membership is limited to residents
12 within the age-restricted community;

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

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

24 "Comprehensive resource analysis" means an analysis including,
25 but not limited to, an assessment of existing market barriers to the
26 implementation of energy efficiency and renewable technologies
27 that are not or cannot be delivered to customers through a
28 competitive marketplace;

29 "Customer" means any person that is an end user and is
30 connected to any part of the transmission and distribution system
31 within an electric public utility's service territory or a gas public
32 utility's service territory within this State;

33 "Customer account service" means metering, billing, or such
34 other administrative activity associated with maintaining a customer
35 account;

36 "Demand side management" means the management of customer
37 demand for energy service through the implementation of cost-
38 effective energy efficiency technologies, including, but not limited
39 to, installed conservation, load management and energy efficiency
40 measures on and in the residential, commercial, industrial,
41 institutional and governmental premises and facilities in this State;

42 "Electric generation service" means the provision of retail
43 electric energy and capacity which is generated off-site from the
44 location at which the consumption of such electric energy and
45 capacity is metered for retail billing purposes, including agreements
46 and arrangements related thereto;

1 "Electric power generator" means an entity that proposes to
2 construct, own, lease or operate, or currently owns, leases or
3 operates, an electric power production facility that will sell or does
4 sell at least 90 percent of its output, either directly or through a
5 marketer, to a customer or customers located at sites that are not on
6 or contiguous to the site on which the facility will be located or is
7 located. The designation of an entity as an electric power generator
8 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
9 and of itself, affect the entity's status as an exempt wholesale
10 generator under the Public Utility Holding Company Act of 1935,
11 15 U.S.C.s.79 et seq.;

12 "Electric power supplier" means a person or entity that is duly
13 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
14 al.) to offer and to assume the contractual and legal responsibility to
15 provide electric generation service to retail customers, and includes
16 load serving entities, marketers and brokers that offer or provide
17 electric generation service to retail customers. The term excludes
18 an electric public utility that provides electric generation service
19 only as a basic generation service pursuant to section 9 of P.L.1999,
20 c.23 (C.48:3-57);

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

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

31 "Electronic signature" means an electronic sound, symbol or
32 process, attached to, or logically associated with, a contract or other
33 record, and executed or adopted by a person with the intent to sign
34 the record;

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

41 "Energy consumer" means a business or residential consumer of
42 electric generation service or gas supply service located within the
43 territorial jurisdiction of a government aggregator;

44 "Financing entity" means an electric public utility, a special
45 purpose entity, or any other assignee of bondable transition
46 property, which issues transition bonds. Except as specifically
47 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity

1 which is not itself an electric public utility shall not be subject to
2 the public utility requirements of Title 48 or any rules or regulations
3 adopted pursuant thereto;

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

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

13 "Gas supplier" means a person that is duly licensed pursuant to
14 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
15 assume the contractual and legal obligation to provide gas supply
16 service to retail customers, and includes, but is not limited to,
17 marketers and brokers. A non-public utility affiliate of a public
18 utility holding company may be a gas supplier, but a gas public
19 utility or any subsidiary of a gas utility is not a gas supplier. In the
20 event that a gas public utility is not part of a holding company legal
21 structure, a related competitive business segment of that gas public
22 utility may be a gas supplier, provided that related competitive
23 business segment is structurally separated from the gas public
24 utility, and provided that the interactions between the gas public
25 utility and the related competitive business segment are subject to
26 the affiliate relations standards adopted by the board pursuant to
27 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

28 "Gas supply service" means the provision to customers of the
29 retail commodity of gas, but does not include any regulated
30 distribution service;

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

43 "Government energy aggregation program" means a program and
44 procedure pursuant to which a government aggregator enters into a
45 written contract for the provision of electric generation service or
46 gas supply service on behalf of business or residential customers
47 within its territorial jurisdiction;

1 "Governmental entity" means any federal, state, municipal, local
2 or other governmental department, commission, board, agency,
3 court, authority or instrumentality having competent jurisdiction;

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

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

20 "Net proceeds" means proceeds less transaction and other related
21 costs as determined by the board;

22 "Net revenues" means revenues less related expenses, including
23 applicable taxes, as determined by the board;

24 "On-site generation facility" means a generation facility, and
25 equipment and services appurtenant to electric sales by such facility
26 to the end use customer located on the property or on property
27 contiguous to the property on which the end user is located. An on-
28 site generation facility shall not be considered a public utility. The
29 property of the end use customer and the property on which the on-
30 site generation facility is located shall be considered contiguous if
31 they are geographically located next to each other, but may be
32 otherwise separated by an easement, public thoroughfare,
33 transportation or utility-owned right-of-way;

34 "Person" means an individual, partnership, corporation,
35 association, trust, limited liability company, governmental entity or
36 other legal entity;

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

44 "Public utility holding company" means: (1) any company that,
45 directly or indirectly, owns, controls, or holds with power to vote,
46 ten percent or more of the outstanding voting securities of an
47 electric public utility or a gas public utility or of a company which

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

16 "Regulatory asset" means an asset recorded on the books of an
17 electric public utility or gas public utility pursuant to the Statement
18 of Financial Accounting Standards, No. 71, entitled "Accounting for
19 the Effects of Certain Types of Regulation," or any successor
20 standard and as deemed recoverable by the board;

21 "Related competitive business segment of an electric public
22 utility or gas public utility" means any business venture of an
23 electric public utility or gas public utility including, but not limited
24 to, functionally separate business units, joint ventures, and
25 partnerships, that offers to provide or provides competitive services;

26 "Related competitive business segment of a public utility holding
27 company" means any business venture of a public utility holding
28 company, including, but not limited to, functionally separate
29 business units, joint ventures, and partnerships and subsidiaries, that
30 offers to provide or provides competitive services, but does not
31 include any related competitive business segments of an electric
32 public utility or gas public utility;

33 "Resource recovery facility" means a solid waste facility
34 constructed and operated for the incineration of solid waste for
35 energy production and the recovery of metals and other materials
36 for reuse;

37 "Restructuring related costs" means reasonably incurred costs
38 directly related to the restructuring of the electric power industry,
39 including the closure, sale, functional separation and divestiture of
40 generation and other competitive utility assets by a public utility, or
41 the provision of competitive services as such costs are determined
42 by the board, and which are not stranded costs as defined in
43 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
44 to, investments in management information systems, and which
45 shall include expenses related to employees affected by
46 restructuring which result in efficiencies and which result in
47 benefits to ratepayers, such as training or retraining at the level

1 equivalent to one year's training at a vocational or technical school
2 or county community college, the provision of severance pay of two
3 weeks of base pay for each year of full-time employment, and a
4 maximum of 24 months' continued health care coverage. Except as
5 to expenses related to employees affected by restructuring,
6 "restructuring related costs" shall not include going forward costs;

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

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

24 "Shopping credit" means an amount deducted from the bill of an
25 electric public utility customer to reflect the fact that such customer
26 has switched to an electric power supplier and no longer takes basic
27 generation service from the electric public utility;

28 "Social program" means a program implemented with board
29 approval to provide assistance to a group of disadvantaged
30 customers, to provide protection to consumers, or to accomplish a
31 particular societal goal, and includes, but is not limited to, the
32 winter moratorium program, utility practices concerning "bad debt"
33 customers, low income assistance, deferred payment plans,
34 weatherization programs, and late payment and deposit policies, but
35 does not include any demand side management program or any
36 environmental requirements or controls;

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

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

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

8 "Thermal efficiency" means the useful electric energy output of a
9 facility, plus the useful thermal energy output of the facility,
10 expressed as a percentage of the total energy input to the facility;

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

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

29 "Transition period" means the period from August 1, 1999
30 through July 31, 2003;

31 "Transmission and distribution system" means, with respect to an
32 electric public utility, any facility or equipment that is used for the
33 transmission, distribution or delivery of electricity to the customers
34 of the electric public utility including, but not limited to, the land,
35 structures, meters, lines, switches and all other appurtenances
36 thereof and thereto, owned or controlled by the electric public
37 utility within this State; and

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

41 (cf: P.L.2009, c.34, s.1)

42
43 2. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read
44 as follows:

45 12. a. Simultaneously with the starting date for the
46 implementation of retail choice as determined by the board pursuant
47 to subsection a. of section 5 of **[this act]** P.L.1999, c.23 (C.48:3-

1 53), the board shall permit each electric public utility and gas public
2 utility to recover some or all of the following costs through a
3 societal benefits charge that shall be collected as a non-bypassable
4 charge imposed on all electric public utility customers and gas
5 public utility customers, as appropriate:

6 (1) The costs for the social programs for which rate recovery
7 was approved by the board prior to April 30, 1997. For the purpose
8 of establishing initial unbundled rates pursuant to section 4 of **[this**
9 **act]** P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall
10 be set to recover the same level of social program costs as is being
11 collected in the bundled rates of the electric public utility on the
12 effective date of **[this act]** P.L.1999, c.23 (C.48:3-49 et al.). The
13 board may subsequently order, pursuant to its rules and regulations,
14 an increase or decrease in the societal benefits charge to reflect
15 changes in the costs to the utility of administering existing social
16 programs. Nothing in **[this act]** P.L.1999, c.23 shall be construed
17 to abolish or change any social program required by statute or board
18 order or rule or regulation to be provided by an electric public
19 utility. Any such social program shall continue to be provided by
20 the utility until otherwise provided by law, unless the board
21 determines that it is no longer appropriate for the electric public
22 utility to provide the program, or the board chooses to modify the
23 program;

24 (2) Nuclear plant decommissioning costs;

25 (3) The costs of demand side management programs that were
26 approved by the board pursuant to its demand side management
27 regulations prior to April 30, 1997. For the purpose of establishing
28 initial unbundled rates pursuant to section 4 of **[this act]** P.L.1999,
29 c.23 (C.48:3-52), the societal benefits charge shall be set to recover
30 the same level of demand side management program costs as is
31 being collected in the bundled rates of the electric public utility on
32 the effective date of **[this act]** P.L.1999, c.23. Within four months
33 of the effective date of **[this act]** P.L.1999, c.23, and every four
34 years thereafter, the board shall initiate a proceeding and cause to
35 be undertaken a comprehensive resource analysis of energy
36 programs, and within eight months of initiating such proceeding
37 and after notice, provision of the opportunity for public comment,
38 and public hearing, the board, in consultation with the Department
39 of Environmental Protection, shall determine the appropriate level
40 of funding for energy efficiency and Class I renewable energy
41 programs that provide environmental benefits above and beyond
42 those provided by standard offer or similar programs in effect as of
43 the effective date of **[this act]** P.L.1999, c.23; provided that the
44 funding for such programs be no less than 50% of the total
45 Statewide amount being collected in public electric and gas utility
46 rates for demand side management programs on the effective date
47 of **[this act]** P.L.1999, c.23 for an initial period of four years from

1 the issuance of the first comprehensive resource analysis following
2 the effective date of **[this act]** P.L.1999, c.23, and provided that
3 25% of this amount shall be used to provide funding for Class I
4 renewable energy projects in the State. In each of the following
5 fifth through eighth years, the Statewide funding for such programs
6 shall be no less than 50 percent of the total Statewide amount being
7 collected in public electric and gas utility rates for demand side
8 management programs on the effective date of **[this act]** P.L.1999,
9 c.23, except that as additional funds are made available as a result
10 of the expiration of past standard offer or similar commitments, the
11 minimum amount of funding for such programs shall increase by
12 an additional amount equal to 50 percent of the additional funds
13 made available, until the minimum amount of funding dedicated to
14 such programs reaches \$140,000,000 total. After the eighth year
15 the board shall make a determination as to the appropriate level of
16 funding for these programs. Such programs shall include a program
17 to provide financial incentives for the installation of Class I
18 renewable energy projects in the State, and the board, in
19 consultation with the Department of Environmental Protection, shall
20 determine the level and total amount of such incentives as well as
21 the renewable technologies eligible for such incentives which shall
22 include, at a minimum, photovoltaic, wind, and fuel cells. Such
23 programs shall also include a program to provide grants and low-
24 interest loans to age-restricted communities to cover costs of the
25 purchase and installation of photovoltaic technologies for use in
26 age-restricted community clubhouse facilities.

27 The board shall simultaneously determine, as a result of the
28 comprehensive resource analysis, the programs to be funded by the
29 societal benefits charge, the level of cost recovery and performance
30 incentives for old and new programs and whether the recovery of
31 demand side management programs' costs currently approved by the
32 board may be reduced or extended over a longer period of time.
33 The board shall make these determinations taking into consideration
34 existing market barriers and environmental benefits, with the
35 objective of transforming markets, capturing lost opportunities,
36 making energy services more affordable for low income customers
37 and eliminating subsidies for programs that can be delivered in the
38 marketplace without electric public utility and gas public utility
39 customer funding;

40 (4) Manufactured gas plant remediation costs, which shall be
41 determined initially in a manner consistent with mechanisms in the
42 remediation adjustment clauses for the electric public utility and gas
43 public utility adopted by the board; and

44 (5) The cost, of consumer education, as determined by the
45 board, which shall be in an amount that, together with the consumer
46 education surcharge imposed on electric power supplier license fees
47 pursuant to subsection h. of section 29 of **[this act]** P.L.1999, c.23

1 (C.48:3-78) and the consumer education surcharge imposed on gas
2 supplier license fees pursuant to subsection g. of section 30 of **[this**
3 **act]** P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the
4 consumer education program established pursuant to section 36 of
5 **[this act]** P.L.1999, c.23 (C.48:3-85).

6 b. There is established in the Board of Public Utilities a
7 nonlapsing fund to be known as the "Universal Service Fund." The
8 board shall determine: the level of funding and the appropriate
9 administration of the fund; the purposes and programs to be funded
10 with monies from the fund; which social programs shall be provided
11 by an electric public utility as part of the provision of its regulated
12 services which provide a public benefit; whether the funds
13 appropriated to fund the "Lifeline Credit Program" established
14 pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants'
15 Lifeline Assistance Program" established pursuant to P.L.1981,
16 c.210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low
17 Income Home Energy Assistance Program established pursuant to
18 42 U.S.C. s. 8621 et seq., and funds collected by electric and natural
19 gas utilities, as authorized by the board, to offset uncollectible
20 electricity and natural gas bills should be deposited in the fund; and
21 whether new charges should be imposed to fund new or expanded
22 social programs.

23 (cf: P.L.1999, c.23, s.12)

24
25 3. This act shall take effect on the first day of the third month
26 following enactment, except that the board may take such
27 anticipatory administrative action in advance thereof as shall be
28 necessary for the implementation of this act.

31 STATEMENT

32
33 This bill would expand the demand side management programs
34 administered by the Board of Public Utilities (the "board") and
35 funded from the societal benefits charge to include grants and low-
36 interest loans to age-restricted communities to cover costs of the
37 purchase and installation of photovoltaic technologies for use in
38 age-restricted community clubhouse facilities.

39 The bill defines "age-restricted community" as a community that
40 complies with the "housing for older persons" exception from the
41 federal "Fair Housing Amendments Act of 1988," Pub.L.100-430
42 (42U.S.C. ss.3601 et seq.) for that community as set forth in section
43 100.301 of Title 24, Code of Federal Regulations.