

ASSEMBLY, No. 4064

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 19, 2022

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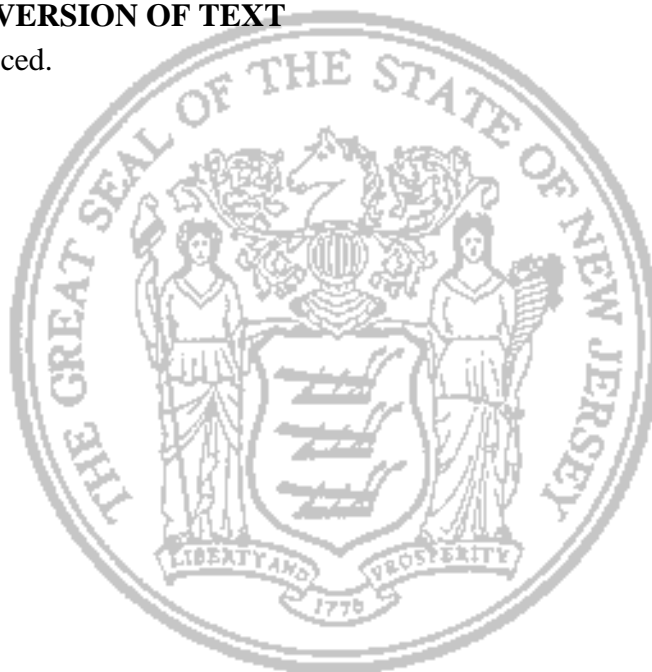
Assemblymen DiMaio and Barranco

SYNOPSIS

Directs BPU to adopt rules and regulations concerning small modular nuclear reactors; authorizes EDA to incentivize construction and operation of such reactors.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/21/2022)

1 AN ACT concerning certain nuclear fission reactors, amending
2 P.L.2007, c.340, and supplementing P.L.1999, c.23 (C.48:3-51 et
3 al.).

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

7
8 1. Section 2 of P.L.2007, c.340 (C.26:2C-46) is amended to
9 read as follows:

10 2. As used in sections 1 through 11 and sections 14 and 15 of
11 P.L.2007, c.340 (C.26:2C-45 et seq.):

12 "Allowance" means a limited authorization, as defined by the
13 department, to emit up to one ton of carbon dioxide or its
14 equivalent.

15 "Board" means the Board of Public Utilities.

16 "Compliance entity" means an owner or operator of an electric
17 generating unit, with a nameplate capacity equal to or greater than
18 25 megawatts of electrical output, in New Jersey that is required to
19 obtain allowances in order to operate an electric generating unit that
20 holds an operating permit from the department issued pursuant to
21 P.L.1954, c.212 (C.26:2C-1 et seq.), whether that unit is in
22 operation or in development. "Compliance entity" shall not include
23 any cogeneration facility or combined heat and power facility that is
24 an "on-site generation facility" as that term is defined in section 3
25 of P.L.1999, c.23 (C.48:3-51) and sells less than 10 percent of its
26 annual gross electrical generation.

27 "Consumer benefit" means any action or measure to: promote
28 energy efficiency; directly mitigate electricity ratepayer impacts;
29 develop and deliver renewable or non-carbon-emitting energy
30 technologies; stimulate or reward investment in the development of
31 innovative carbon emissions abatement technologies with
32 significant carbon emissions reduction potential; fund programs that
33 promote measurable electricity end-use energy efficiency in the
34 commercial, institutional, and industrial sectors; or fund the
35 administration of greenhouse gas emissions allowance trading and
36 consumer benefit programs.

37 "Department" means the Department of Environmental
38 Protection.

39 "Dispatch agreement facility" means a facility that is a
40 compliance entity that is a cogeneration facility or has a heat rate
41 below 8,100 BTU per kilowatt-hour, and has entered into a power
42 agreement: (1) with a duration of more than 15 years from its
43 effective date; (2) that provides that the entity's counterpart to the
44 agreement controls the electric dispatch of the facility; (3) which

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 was executed prior to January 1, 2002; and (4) which does not allow
2 for the entity to pass the cost of allowances on to the counterpart to
3 the agreement.

4 "Global Warming Solutions Fund" or "fund" means the "Global
5 Warming Solutions Fund" established pursuant to section 6 of
6 P.L.2007, c.340 (C.26:2C-50).

7 "Greenhouse gas" means the same as the term is defined in
8 section 3 of P.L.2007, c.112 (C.26:2C-39).

9 "Qualified participant" means a compliance entity or other entity
10 that meets financial assurance and any other requirements to
11 participate in an auction, as determined by the department in
12 consultation with other entities participating in a regional, national
13 or international program.

14 "Regional Greenhouse Gas Initiative" means the cooperative
15 effort to reduce carbon dioxide emissions entered into by the
16 governors of seven states through a Memorandum of Understanding
17 signed on December 20, 2005, as amended.

18 "Small modular nuclear reactor" means a nuclear fission reactor
19 that: (1) has a rated electric generating capacity of not more than
20 300 megawatts; (2) is capable of being constructed and operated
21 either alone or in combination with one or more similar reactors if
22 additional reactors are or become necessary at a single site; and (3)
23 is required to be licensed by the United States Nuclear Regulatory
24 Commission.

25 (cf: P.L.2007, c.340, s.2)

26
27 2. Section 7 of P.L.2007, c.340 (C.26:2C-51) is amended to
28 read as follows:

29 7. a. The agencies administering programs established pursuant
30 to this section shall maximize coordination in the administration of
31 the programs to avoid overlap between the uses of the fund
32 prescribed in this section.

33 b. Moneys in the fund, after appropriation annually for
34 payment of administrative costs authorized pursuant to subsection c.
35 of this section, shall be annually appropriated and used for the
36 following purposes:

37 (1) Sixty percent shall be allocated to the New Jersey Economic
38 Development Authority to provide grants and other forms of
39 financial assistance to commercial, institutional, and industrial
40 entities to support end-use energy efficiency projects and new,
41 efficient electric generation facilities that are state of the art, as
42 determined by the department, including but not limited to energy
43 efficiency and renewable energy applications, to develop combined
44 heat and power production and other high efficiency electric
45 generation facilities, to stimulate or reward investment in the
46 development of innovative carbon emissions abatement
47 technologies with significant carbon emissions reduction or
48 avoidance potential, to develop qualified offshore wind projects

1 pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), **[and]** to
2 provide financial assistance to manufacturers of equipment
3 associated with qualified offshore wind projects; and to incentivize
4 the construction and operation of small modular nuclear reactors.

5 The authority, in consultation with the board and the department,
6 shall determine: (a) the appropriate level of grants or other forms
7 of financial assistance to be awarded to individual commercial,
8 institutional, and industrial sectors and to individual projects within
9 each of these sectors; (b) the evaluation criteria for selecting
10 projects to be awarded grants or other forms of financial assistance,
11 which criteria shall include the ability of the project to result in a
12 measurable reduction of the emission of greenhouse gases or a
13 measurable reduction in energy demand, provided, however, that
14 neither the development of a new combined heat and power
15 production facility, nor an increase in the electrical and thermal
16 output of an existing combined heat and power production facility,
17 shall be subject to the requirement to demonstrate such a
18 measurable reduction; and (c) the process by which grants or other
19 forms of financial assistance can be applied for and awarded
20 including, if applicable, the payment terms and conditions for
21 authority investments in certain projects with commercial viability;

22 (2) Twenty percent shall be allocated to the board to support
23 programs that are designed to reduce electricity demand or costs to
24 electricity customers in the low-income and moderate-income
25 residential sector with a focus on urban areas, including efforts to
26 address heat island effect and reduce impacts on ratepayers
27 attributable to the implementation of P.L.2007, c.340 (C.26:2C-45
28 et al.) or to support the light duty plug-in electric vehicle incentive
29 program and the incentive program for in-home electric vehicle
30 service equipment established pursuant to sections 4 and 6 of
31 P.L.2019, c.362 (C.48:25-4 and C.48:25-6). For the purposes of
32 this paragraph, the board, in consultation with the authority and the
33 department, shall determine the types of programs to be supported
34 and the mechanism by which to quantify benefits to ensure that the
35 supported programs result in a measurable reduction in energy
36 demand or accomplishment of the plug-in electric vehicle goals
37 established pursuant to section 3 of P.L.2019, c.362 (C.48:25-3);

38 (3) Ten percent shall be allocated to the department to support
39 programs designed to promote local government efforts to plan,
40 develop and implement measures to reduce greenhouse gas
41 emissions, including but not limited to technical assistance to local
42 governments, and the awarding of grants and other forms of
43 assistance to local governments to conduct and implement energy
44 efficiency, renewable energy, and distributed energy programs and
45 land use planning where the grant or assistance results in a
46 measurable reduction of the emission of greenhouse gases or a
47 measurable reduction in energy demand. For the purpose of
48 conducting any program pursuant to this paragraph, the department,

1 in consultation with the authority and the board, shall determine:
2 (a) the appropriate level of grants or other forms of financial
3 assistance to be awarded to local governments; (b) the evaluation
4 criteria for selecting projects to be awarded grants or other forms of
5 financial assistance; (c) the process by which grants or other forms
6 of financial assistance can be applied for and awarded; and (d) a
7 mechanism by which to quantify benefits; and

8 (4) Ten percent shall be allocated to the department to support
9 programs that enhance the stewardship and restoration of the State's
10 forests and tidal marshes that provide important opportunities to
11 sequester or reduce greenhouse gases.

12 c. (1) The department may use up to four percent of the total
13 amount in the fund each year to pay for administrative costs
14 justifiable and approved in the annual budget process, incurred by
15 the department in administering the provisions of P.L.2007, c.340
16 (C.26:2C-45 et al.) and in administering programs to reduce the
17 emissions of greenhouse gases including any obligations that may
18 arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-
19 55).

20 (2) The board may use up to two percent of the total amount in
21 the fund each year to pay for administrative costs justifiable and
22 approved in the annual budget process, incurred by the board in
23 administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.)
24 and in administering programs to reduce the emissions of
25 greenhouse gases including any obligations that may arise under
26 subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

27 (3) The New Jersey Economic Development Authority may use
28 up to two percent of the total amount in the fund each year to pay
29 for administrative costs justifiable and approved in the annual
30 budget process, incurred by the authority in administering the
31 provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in
32 administering programs to reduce the emissions of greenhouse
33 gases.

34 d. The State Comptroller shall conduct or supervise
35 independent audit and fiscal oversight functions of the fund and its
36 uses.

37 (cf: P.L.2019, c.362, s.12)

38

39 3. (New section) a. No later than 18 months after the effective
40 date of P.L. , c. (C.) (pending before the Legislature as
41 this bill), the board shall adopt, pursuant to the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
43 regulations concerning the construction and operation of small
44 modular nuclear reactors in the State.

45 b. The rules and regulations adopted pursuant to this section
46 shall provide that, in acting on a petition by an electric power
47 supplier or basic generation service provider for the construction,

1 purchase, or lease of a small modular nuclear reactor, the board
2 shall consider the following:

3 (1) whether, and to what extent, the small modular nuclear
4 reactor proposed by the electric power supplier or basic generation
5 service provider will replace a loss of generating capacity in the
6 State resulting from the retirement or planned retirement of one or
7 more existing electric generating facilities, which are located in
8 New Jersey and which use coal or natural gas a fuel source; and

9 (2) whether the small modular nuclear reactor that will replace
10 an existing facility will be located on the same site as, or near, the
11 existing facility and, if so, potential opportunities for the electric
12 power supplier or basic generation service provider to make use of
13 any land and existing infrastructure or facilities already owned or
14 under the control of the electric power supplier or basic generation
15 service provider, or create new employment opportunities for
16 workers who have been, or would be, displaced as a result of the
17 retirement of the existing facility.

18 c. The board shall not authorize the operation of a small modular
19 nuclear reactor unless the owner or operator of the proposed small
20 modular nuclear reactor provides evidence of a plan to apply for all
21 licenses or permits to construct or operate the proposed small
22 modular nuclear reactor as may be required by the United States
23 Nuclear Regulatory Commission, the Department of Environmental
24 Protection, and any other relevant state or federal regulatory agency
25 with jurisdiction over the construction or operation of nuclear
26 generating facilities.

27 d. Any reports; notices of violations; or other notifications sent
28 to or from the United States Nuclear Regulatory Commission by or
29 to the owner or operator of a proposed small modular nuclear
30 reactor shall be submitted by the owner or operator to the
31 commission within such times as prescribed by the board, subject to
32 the board's duty to treat as confidential and protect from public
33 access and disclosure any information that is contained in a report
34 or notice and that is considered confidential or exempt from public
35 access and disclosure under State or federal law.

36 e. A person that owns or operates a small modular nuclear
37 reactor in the State may not store spent nuclear fuel or high level
38 radioactive waste from the small modular nuclear reactor on the site
39 of the small modular nuclear reactor without first meeting all
40 applicable requirements of the United States Nuclear Regulatory
41 Commission.

42 f. Nothing in this section shall be construed to affect the
43 authority of the United States Nuclear Regulatory Commission.

44

45 4. This act shall take effect immediately.

STATEMENT

This bill would direct the Board of Public Utilities (BPU) to adopt rules and regulations concerning the construction and operation of small modular nuclear reactors in the State. The bill would also authorize the New Jersey Economic Development Authority (EDA) to incentivize the construction and operation of small modular nuclear reactors using moneys in the "Global Warming Solutions Fund" established pursuant to P.L.2007, c.340 (C.26:2C-45 et al.).

As defined by the bill, "small modular nuclear reactor" means a nuclear fission reactor that: (1) has a rated electric generating capacity of not more than 300 megawatts; (2) is capable of being construction and operated either alone or in combination with one or more similar reactors if additional reactors are or become necessary at a single site; and (3) is required to be licensed by the United States Nuclear Regulatory Commission.

The bill would require the BPU, whenever it considers a petition by an electric power supplier or basic generation service provider for the construction, purchase, or lease of a small modular nuclear reactor, to consider:

(1) whether, and to what extent, the small modular nuclear reactor proposed by the electric power supplier or basic generation service provider will replace a loss of generating capacity in the State, resulting from the retirement or planned retirement of one or more existing electric generating facilities, which are located in New Jersey and which use coal or natural gas a fuel source; and

(2) whether the small modular nuclear reactor that will replace an existing facility will be located on the same site as, or near, the existing facility and, if so, potential opportunities for the electric power supplier or basic generation service provider to make use of any land and existing infrastructure or facilities already owned or under the control of the electric power supplier or basic generation service provider, or create new employment opportunities for workers who have been, or would be, displaced as a result of the retirement of the existing facility.

The bill would also establish other requirements for the operation of small modular nuclear reactors, as enumerated in subsections c. through e. of section 3 of the bill, including a requirement that a person that owns or operates a small modular nuclear reactor in the State may not store spent nuclear fuel or high level radioactive waste from the small modular nuclear reactor on the site of the small modular nuclear reactor without first meeting all applicable requirements of the United States Nuclear Regulatory Commission.