

[Second Reprint]

**ASSEMBLY, No. 4089**

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

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INTRODUCED MAY 26, 2022

**Sponsored by:**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Co-Sponsored by:**

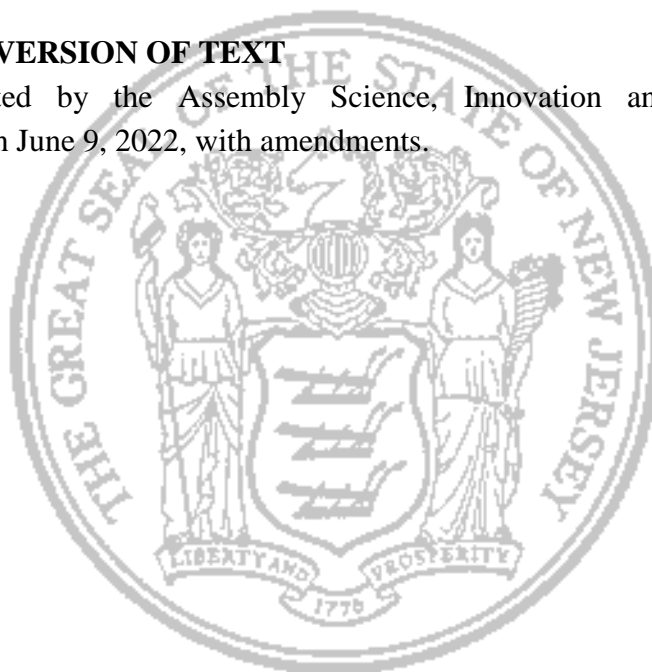
**Assemblymen Calabrese and Conaway**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Assembly Science, Innovation and Technology Committee on June 9, 2022, with amendments.



**(Sponsorship Updated As Of: 6/16/2022)**

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

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

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

19 The extension granted pursuant to this section shall be for a  
 20 period coextensive with the duration of the delay associated with  
 21 the applicable tolling event. <sup>1</sup>The delay shall be deemed to end at  
 22 such time as the developer of the qualified solar electric power  
 23 generation facility is authorized to commence construction using  
 24 the dates and pursuant to an Interconnection Service Agreement  
 25 executed between the project sponsor, PJM Interconnection, L.L.C.,  
 26 and the public electric utility.<sup>1</sup> The automatic extension shall  
 27 protect the qualified solar electric power generation facility from  
 28 forfeiting the following:

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

39 b. (1) To be eligible to receive the automatic extension  
 40 provided by this section, the project sponsor of a qualified solar  
 41 electric power generation facility shall certify in writing <sup>1</sup>, and  
 42 provide supporting documentation,<sup>1</sup> to the board of the occurrence  
 43 of <sup>1</sup>**[a]** the<sup>1</sup> tolling event. The certification shall describe the  
 44 tolling event <sup>1</sup>, the date of application to PJM Interconnection,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

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

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

1 L.L.C.,<sup>1</sup> and the <sup>1</sup>**['nature and']** anticipated duration of the delay  
2 associated with the <sup>1</sup>**['event'] tolling**<sup>1</sup>.

3 (2) Within 45 days after receipt of a certification from a project  
4 sponsor of the occurrence of a tolling event pursuant to paragraph  
5 (1) of this subsection, the board shall issue an unconditional order  
6 approving an automatic extension of the project deadline date or  
7 commercial operation deadline date established for the facility,  
8 whether established by law, rule, regulation, board order, incentive  
9 program registration acceptance letter, or other approval or  
10 authorization for that facility.

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

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

26 d. <sup>1</sup>**['The project sponsor of a qualified solar electric power**  
27 **generation facility that is granted relief under this section due to the**  
28 **occurrence of a tolling event shall use commercially reasonable**  
29 **efforts to timely satisfy the remaining requirements of the**  
30 **applicable solar incentive program that are within the project**  
31 **sponsor's control and whose performance has not been delayed by**  
32 **the tolling event.**

33 e.<sup>1</sup> Upon conclusion of the tolling event, the project sponsor  
34 shall timely resume and complete development of those aspects of  
35 the facility that were delayed by the tolling event. The project  
36 sponsor shall complete the facility and commence commercial  
37 operation within the <sup>1</sup>**['longer of: (1) six months following the**  
38 **conclusion of the tolling event; or (2) the time remaining under the**  
39 **terms of the original conditional approval authorized prior to the**  
40 **occurrence of the tolling event']** timeframe permitted by the  
41 Interconnection Service Agreement executed between the project  
42 sponsor, PJM Interconnection, L.L.C., and the public electric  
43 utility<sup>1</sup>.

44 <sup>1</sup>**['f.] e.**<sup>1</sup> As used in this section:

45 "Project sponsor" means a municipality, business entity, person,  
46 property owner, developer, redeveloper, or other interest that is the  
47 party pursuing the development and implementation of a qualified

1 solar electric power generation facility under a solar incentive  
2 program administered by the board.

3 “Qualified solar electric power generation facility” or “facility”  
4 means a solar electric power generation facility for which a project  
5 sponsor has submitted <sup>2</sup>, on or before August 28, 2021,<sup>2</sup> an  
6 application for conditional approval to participate in a solar  
7 incentive program <sup>1</sup>pursuant to subsection t. of section 38 of  
8 P.L.1999, c.23 (C.48:3-87)<sup>1</sup>, and includes a facility that has  
9 received conditional approval from the board to participate in the  
10 solar incentive program <sup>1</sup>pursuant to subsection t. of section 38 of  
11 P.L.1999, c.23 (C.48:3-87)<sup>1</sup> for which application was made.

12 <sup>2</sup>**“Solar incentive program”** means a program administered by  
13 the board which awards <sup>1</sup>**“SRECs,”**<sup>1</sup> transition renewable energy  
14 certificates <sup>1</sup>**“SREC-IIs, or other solar renewable energy**  
15 **certificates capable of counting towards the renewable energy**  
16 **portfolio standard of an electric power supplier or basic generation**  
17 **service provider pursuant to section 38 of P.L.1999, c.23 (C.48:3-**  
18 **87)”**<sup>1</sup>.<sup>2</sup>

19 “Tolling event” means <sup>1</sup>**“the action or inaction of a third party,**  
20 **or occurrence or circumstance that delays the timely completion or**  
21 **commercial operation of a qualified solar electric power generation**  
22 **facility, that is not within the reasonable control of the project**  
23 **sponsor of the qualified solar electric power generation facility, and**  
24 **shall be limited solely to the failure of an electric public utility or**  
25 **PJM Interconnection, L.L.C. to approve an application for**  
26 **interconnection with the utility distribution system or interstate**  
27 **transmission system, or to negotiate, execute, and deliver any other**  
28 **engineering or other studies, agreements, or approvals required by**  
29 **the electric public utility or PJM Interconnection, L.L.C. as a**  
30 **prerequisite to project interconnection or commercial operation,**  
31 **within such time period as would allow a project sponsor to achieve**  
32 **commercial operation of a qualified solar electric power generation**  
33 **facility pursuant to an award, authorization, or conditional approval**  
34 **under a solar incentive program”** any action or inaction of the PJM  
35 Interconnection, L.L.C., or an applicable electric public utility, any  
36 moratorium in new applications declared by the PJM  
37 Interconnection, L.L.C., or an applicable electric public utility, any  
38 deferral in processing of existing applications by the PJM  
39 Interconnection, L.L.C., or an applicable electric public utility, any  
40 new application process, study, report, or analysis established by  
41 the PJM Interconnection, L.L.C., or an applicable electric public  
42 utility, to approve and contract a project, <sup>2</sup>**“or”**<sup>2</sup> the deferral to  
43 negotiate, execute, and deliver any other engineering or other  
44 studies, agreements, or approvals required by the PJM  
45 Interconnection, L.L.C., or an applicable electric public utility, as a  
46 prerequisite to project interconnection or commercial operation of a  
47 qualified solar electric power generation facility, <sup>2</sup>**“that”** or any

1 undue delay in the provision of a permit or approval required by a  
2 local government unit, including a local land use board, caused by  
3 the action or inaction of the local government unit, which<sup>2</sup> delays  
4 the timely completion or commercial operation of a qualified solar  
5 electric power generation facility<sup>1</sup>.

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

14

15 2. This act shall take effect immediately.