

[First Reprint]

ASSEMBLY, No. 4782

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 17, 2022

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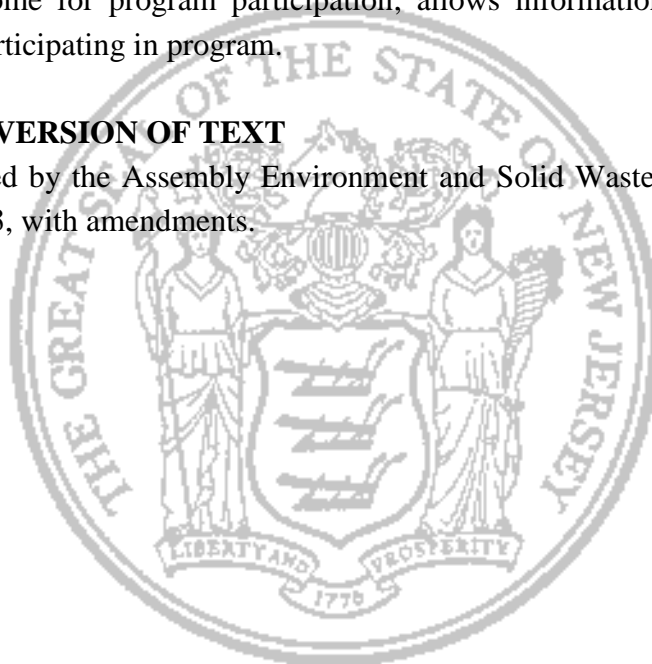
Assemblywomen Park, Reynolds-Jackson and Jaffer

SYNOPSIS

Revises goal for annual capacity of solar energy projects to be approved under Community Solar Energy Program; allows certain customers to self-attest to income for program participation; allows information disclosure of customers participating in program.

CURRENT VERSION OF TEXT

As reported by the Assembly Environment and Solid Waste Committee on June 15, 2023, with amendments.



(Sponsorship Updated As Of: 12/7/2023)

1 AN ACT concerning the Community Solar Energy Program and
2 amending P.L.2018, c.17 ¹and P.L.1999, c.23¹.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.2018, c.17 (C.48:3-87.11) is amended to read
8 as follows:

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

19 b. The rules and regulations developed by the board shall
20 establish:

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

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

25 (3) geographic limitations for solar energy projects and
26 participating customers;

27 (4) a minimum number of participating customers for each solar
28 energy project;

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

30 (6) standards to limit the land use impact of a solar energy project
31 as required in subsection r. of section 38 of P.L.1999, c.23 (C.48:3-
32 87);

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

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

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

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

42 c. The board shall make available on its Internet website
43 information on solar energy projects whose owners are seeking
44 participants.

45 d. The board shall establish standards and an application process
46 for owners of solar energy projects who wish to be included in the

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted June 15, 2023.

1 Community Solar Energy Pilot Program. The standards for the
2 Community Solar Energy Pilot Program shall include, but need not be
3 limited to, a verification process to ensure that the solar energy
4 projects are producing an amount of energy that is greater than or
5 equal to the amount of energy that is being credited to its participating
6 customer's electric utility bills pursuant to subsection b. of this section,
7 and consumer protection measures. Projects approved by the board
8 shall have at least two participating customers.

9 The board may restrict qualified solar energy projects to those
10 located on brownfields, landfills, areas designated in need of
11 redevelopment, in underserved communities, or on commercial
12 rooftops.

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

16 f. No later than 36 months after adoption of the rules and
17 regulations required pursuant to subsection b. of this section, the board
18 shall adopt rules and regulations, pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to convert the
20 Community Solar Energy Pilot Program to a permanent program. The
21 board shall adopt rules and regulations for the permanent program that
22 set forth standards for projects owned by electric public utilities,
23 special purpose entities, and nonprofit entities. The rules and
24 regulations shall also:

25 (1) limit the capacity of each solar energy project to a maximum of
26 five megawatts;

27 (2) establish a goal for the ¹development approval¹ of at least
28 ~~50~~ ¹500¹ 225¹ megawatts of solar energy projects ¹prior to June 1,
29 2024, an additional 225 megawatts prior to June 1, 2025, and an
30 additional 150 megawatts¹ per year ¹thereafter¹, taking into account
31 any changes to the SREC program;

32 (3) set geographic limitations for solar energy projects and
33 participating customers;

34 (4) provide for a minimum number of participating customers for
35 each solar energy project;

36 (5) require the provision of access to solar energy projects for low
37 and moderate income customers;

38 (6) establish standards to ensure the ability of residential and
39 commercial customers to participate in solar energy projects, including
40 residential customers in multifamily housing;

41 (7) establish a method for determining the value of the credit on
42 each participating customer's bill;

43 (8) establish timeframes for the credit available to the customer;

44 (9) establish standards and methods to verify solar electric energy
45 generation on a monthly basis for a solar energy project;

46 (10) establish standards consistent with the land use provisions for
47 solar energy projects as provided in subsections r., s., and t. of section
48 38 of P.L.1999, c.23 (C.48:3-87);

1 (11) establish standards, fees, and uniform procedures for solar
2 energy projects to be connected to the distribution system of an
3 electric public utility;

4 (12) minimize impacts to the distribution system of an electric
5 public utility;

6 (13) require monthly reporting requirements for the operators of
7 solar energy projects to the electric public utility, project customers,
8 and the board;

9 (14) require reporting by the electric public utility to the operator
10 of a solar energy project on the value of credits to the participating
11 customer's bills; ¹~~and~~¹

12 (15) require transferability, portability, and buy-out provisions for
13 customers who participate in community solar energy projects ¹;

14 (16) establish requirements and standards that provide for the
15 auditing and enforcement of a solar energy project's compliance with
16 the provisions of this section and the rules and regulations adopted
17 pursuant thereto, including the project's compliance with
18 commitments related to providing access to solar energy projects to
19 low- and moderate-income customers and bill crediting; and

20 (17) allow, in a form and manner to be determined by the board,
21 low- and moderate-income residential customers to self-attest to the
22 customer's income as an acceptable income verification method for
23 participation in a solar energy project ¹ .

24 g. As used in this section:

25 "Solar energy project" means a system containing one or more
26 solar panels and associated equipment.

27 "Solar panel" means an elevated panel or plate, or a canopy or
28 array thereof, that captures and converts solar radiation to produce
29 electric power, and is approved by the board to be included in the
30 Community Solar Energy Pilot Program.

31 "Solar power" includes flat plate, focusing solar collectors, or
32 photovoltaic solar cells and excludes the base or foundation of the
33 panel, plate, canopy, or array.

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

35
36 ¹2. Section 36 of P.L.1999, c.23 (C.48:3-85) is amended to read as
37 follows:

38 36. a. Notwithstanding any provisions of the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
40 the board, in consultation with the Division of Consumer Affairs in the
41 Department of Law and Public Safety, shall initiate a proceeding and
42 shall adopt, after notice, provision of the opportunity for comment, and
43 public hearing, interim consumer protection standards for electric
44 power suppliers or gas suppliers, within 90 days of February 9, 1999,
45 including, but not limited to, standards for collections, credit,
46 contracts, and authorized changes of an energy customer's electric
47 power supplier or gas supplier, for the prohibition of discriminatory
48 marketing, for advertising and for disclosure. The standards shall be

1 effective as regulations immediately upon filing with the Office of
2 Administrative Law and shall be effective for a period not to exceed
3 18 months, and may, thereafter, be amended, adopted, or readopted by
4 the board in accordance with the provisions of the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6 (1) (a) An electric power supplier or gas supplier shall not
7 provide electric generation service or gas supply service to a customer
8 in this State unless the electric power supplier or gas supplier has
9 provided the customer a one-page information sheet summarizing the
10 material terms and conditions of the contract as determined by the
11 board. Contract standards shall include, but not be limited to,
12 requirements that electric power supply contracts or gas supply
13 contracts conspicuously disclose the duration of the contract; state the
14 price per kilowatt hour or per therm or other pricing determinant
15 approved by the board; use a 12-point font; provide a one-page
16 information sheet in a 12-point font summarizing the material terms
17 and conditions of the contract in English and Spanish, as determined
18 by the board; provide the phone number and website for filing
19 complaints with the Board of Public Utilities, Division of Customer
20 Assistance, and a one-sentence explanation of the practice known as
21 "slamming," which is an unauthorized change of a customer's electric
22 power supplier or gas supplier, in a 12-point, boldface font on the one-
23 page information sheet; and state, in a 12-point, boldface font, whether
24 the contract is for a fixed rate or a variable rate, and provide a brief
25 explanation of the difference between a fixed rate and a variable rate
26 that is easily understandable by the general public, including an
27 explanation on how weather fluctuations may affect the price of
28 variable rate contracts; have the customer's written signature or
29 electronic signature; an audio recording of a telephone call initiated by
30 the customer; independent, third-party verification, in accordance with
31 section 37 of P.L.1999, c.23 (C.48:3-86), of a telephone call initiated
32 by an electric power supplier, gas supplier, or private aggregator; or
33 any alternative forms of verification as the board, in consultation with
34 the Division of Consumer Affairs in the Department of Law and
35 Public Safety, may permit prior to switching electric power suppliers
36 or gas suppliers and for contract renewal; and include termination
37 procedures, notice of any fees, and toll-free or local telephone numbers
38 for the electric power supplier or gas supplier and for the board. An
39 electric power supplier or gas supplier shall not provide the customer's
40 telephone number, electronic mail address, or postal address to other
41 electric power suppliers or gas suppliers if the customer's telephone
42 number appears on the no telemarketing call list established and
43 maintained by the Division of Consumer Affairs, pursuant to the
44 provisions of section 9 of P.L.2003, c.76 (C.56:8-127), or the national
45 do-not-call registry as maintained by the Federal Trade Commission.

46 (b) As used in this paragraph, "customer" means a residential
47 customer or a commercial electric customer with a cumulative peak

1 load of 50 kilowatts or less, or a commercial gas customer with a
2 cumulative peak load of 5,000 therms or less.

3 (2) Standards for the prohibition of discriminatory marketing shall
4 provide, at a minimum, that a decision made by an electric power
5 supplier or a gas supplier to accept or reject a customer shall not be
6 based on race, color, national origin, age, gender, religion, source of
7 income, receipt of public benefits, family status, sexual preference, or
8 geographic location. The board shall adopt reporting requirements to
9 monitor compliance with its standards.

10 (3) Advertising standards for electric power suppliers or gas
11 suppliers shall provide, at a minimum, that optional charges to the
12 customer will not be added to any advertised cost per kilowatt hour or
13 per therm, and that the only unit of measurement that may be used in
14 advertisements is cost per kilowatt hour or per therm, unless otherwise
15 approved by the board. If an electric power supplier or gas supplier
16 does not advertise using cost per kilowatt hour or per therm, the
17 electric power supplier or gas supplier shall provide, at the customer's
18 request, an estimate of the cost per kilowatt hour or per therm. Any
19 optional charges to the customer shall be identified separately and
20 denoted as optional.

21 (4) Credit standards shall include, at a minimum, that the credit
22 requirements used to make decisions must be the same for all
23 residential customers and that electric power suppliers, gas suppliers,
24 and private aggregators not impose unreasonable income or credit
25 requirements.

26 (5) Billing standards shall include, at a minimum, provisions
27 prohibiting electric public utilities, gas public utilities, electric power
28 suppliers, and gas suppliers from charging a fee to residential
29 customers for either the commencement or termination of electric
30 generation service or gas supply service.

31 b. (1) Except as provided in paragraph (2) of this subsection, an
32 electric power supplier, a gas supplier, an electric public utility, and a
33 gas public utility shall not disclose, sell, or transfer individual
34 proprietary information, including, but not limited to, a customer's
35 name, address, telephone number, energy usage, and electric power
36 payment history, to a third party without the consent of the customer.

37 (2) (a) An electric public utility or a gas public utility may
38 disclose and provide, in an electronic format, which may include a CD
39 rom, diskette, and other format as determined by the board, without the
40 consent of a residential customer, a residential customer's name, rate
41 class, and account number, to a government aggregator that is a
42 municipality or a county, or to an energy agent acting as a consultant
43 to a government aggregator that is a municipality or a county, if the
44 customer information is to be used to establish a government energy
45 aggregation program pursuant to sections 42, 43, and 45 of P.L.1999,
46 c.23 (C.48:3-91; C.48:3-92; and C.48:3-94). The number of residential
47 customers and their rate class, and the load profile of non-residential
48 customers who have affirmatively chosen to be included in a

1 government energy aggregation program pursuant to paragraph (3) of
2 subsection a. of section 45 of P.L.1999, c.23 (C.48:3-94) may be
3 disclosed pursuant to this paragraph prior to the request by the
4 government aggregator for bids pursuant to paragraph (1) of
5 subsection b. of section 45 of P.L.1999, c.23 (C.48:3-94), and the
6 name, address, and account number of a residential customer and the
7 name, address, and account number of non-residential customers who
8 have affirmatively chosen to be included in a government energy
9 aggregation program pursuant to paragraph (3) of subsection a. of
10 section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant to
11 this paragraph upon the awarding of a contract to a licensed power
12 supplier or licensed gas supplier pursuant to paragraph (2) of
13 subsection b. of section 45 of P.L.1999, c.23 (C.48:3-94). Any
14 customer information disclosed pursuant to this paragraph shall not be
15 considered a government record for the purposes of and shall be
16 exempt from the provisions of P.L.2001, c.404 (C.47:1A-5 et al.).

17 (b) An electric public utility or a gas public utility disclosing
18 customer information pursuant to this paragraph shall exercise
19 reasonable care in the preparation of this customer information, but
20 shall not be responsible for errors or omissions in the preparation or
21 the content of the customer information.

22 (c) Any person using any information disclosed pursuant to this
23 paragraph for any purpose other than to establish a government energy
24 aggregation program pursuant to sections 42, 43, and 45 of P.L.1999,
25 c.23 (C.48:3-91; C.48:3-92; and C.48:3-94), or a solar energy project
26 established pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11),
27 shall be subject to the provisions of section 34 of P.L.1999, c.23
28 (C.48:3-83).

29 (d) The role of an electric public utility or a gas public utility in a
30 government energy aggregation program established pursuant to
31 P.L.1999, c.23 (C.48:3-49 et al.) shall be limited to the provisions of
32 this paragraph.

33 (e) An electric public utility may disclose and provide, in an
34 electronic format, which may include any format as determined by the
35 board, without the consent of a residential customer, a residential
36 customer's name, address, rate class, account number, and energy
37 usage, to a municipality, county, or an agent acting for a municipality
38 or county, if the information is to be used for automatic enrollment in a
39 solar energy project under the Community Solar Energy Pilot Program
40 or the permanent Community Solar Energy Program established by the
41 board pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11). Any
42 customer information disclosed pursuant to this paragraph shall not be
43 considered a government record for the purposes of, and shall be
44 exempt from the provisions of, P.L.2001, c.404 (C.47:1A-5 et al.).

45 (3) Whenever any individual proprietary information is disclosed,
46 sold, or transferred, pursuant to paragraph (1) or paragraph (2) of this
47 subsection, it shall be used only for the provision of continued electric
48 generation service, electric-related service, gas supply service, or gas-

1 related service to that customer. In the case of a transfer or sale of a
2 business, customer consent shall not be required for the transfer of
3 customer proprietary information to the subsequent owner of the
4 business for maintaining the continuation of those services.

5 (4) Notwithstanding any provisions of the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
7 the board shall, within 90 days of the effective date of P.L.2003, c.24
8 (C.48:3-93.1 et al.), review existing regulations including, without
9 limitation, Chapter 4 of Title 14 of the New Jersey Administrative
10 Code (Energy Competition), to determine their consistency with the
11 provisions of section 36 of P.L.1999, c.23 (C.48:3-85), section 43 of
12 P.L.1999, c.23 (C.48:3-92) and section 45 of P.L.1999, c.23 (C.48:3-
13 94), repeal or modify any regulations that are inconsistent with the
14 provisions thereof, and shall adopt regulations and standards
15 implementing the provisions thereof permitting disclosure of customer
16 information without the consent of the customer including, without
17 limitation, provisions for the development of a board-approved
18 agreement between the disclosing party and the receiving party and the
19 creation of a mechanism for the recovery by the disclosing electric
20 public utility or gas public utility of its reasonable incremental costs of
21 providing the customer information if those costs are not covered in an
22 existing third-party supplier agreement.

23 (5) An electric power supplier, a gas supplier, a gas public utility,
24 or an electric public utility may use individual proprietary information
25 that it has obtained by virtue of its provision of electric generation
26 service, electric related service, gas supply service, or gas related
27 service to:

28 (a) Initiate, render, bill, and collect for these services to the extent
29 otherwise authorized to provide billing and collection services;

30 (b) Protect the rights or property of the electric power supplier, gas
31 supplier, or public utility; and

32 (c) Protect consumers of these services and other electric power
33 suppliers, gas suppliers, or electric and gas public utilities from
34 fraudulent, abusive, or unlawful use of, or subscription to, these
35 services.

36 c. The board shall establish and maintain a database for the
37 purpose of recording customer complaints concerning electric and gas
38 public utilities, electric power suppliers, gas suppliers, private
39 aggregators, and energy agents. The board shall publish on its website
40 on a quarterly basis a detailed report regarding customer complaints
41 that shall not include the names or other personal information of the
42 customers who complained, but shall include the names of the electric
43 and gas public utilities, electric power suppliers, gas suppliers, private
44 aggregators, and energy agents against which the complaints were
45 filed.

46 d. The board, in consultation with the Division of Consumer
47 Affairs in the Department of Law and Public Safety, shall establish, or
48 cause to be established, a multi-lingual electric and gas consumer

1 education program. The goal of the consumer education program shall
2 be to educate residential, small business, and special needs consumers
3 about the implications for consumers of the restructuring of the electric
4 power and gas industries. The consumer education program shall
5 include, but need not be limited to, the dissemination of information to
6 enable consumers to make informed choices among available
7 electricity and gas services and suppliers, and the communication to
8 consumers of the consumer protection provisions of P.L.1999, c.23
9 (C.48:3-49 et al.).

10 The board shall ensure the neutrality of the content and message of
11 advertisements and materials.

12 The board shall promulgate standards for the recovery of consumer
13 education program costs from customers which include reasonable
14 measures and criteria to judge the success of the program in enhancing
15 customer understanding of retail choice.

16 e. (Deleted by amendment, P.L.2003, c.24)

17 f. (1) In addition to the advertising standards adopted by the
18 board pursuant to paragraph (3) of subsection a. of this section, the
19 board, in consultation with the Division of Consumer Affairs in the
20 Department of Law and Public Safety, shall adopt, pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
22 interim advertising and marketing standards for electric power
23 suppliers, gas suppliers, brokers, energy agents, marketers, private
24 aggregators, sales representatives, and telemarketers applicable to
25 potential residential customers, within 270 days of the effective date of
26 P.L.2013, c.263, which standards shall include, but not be limited to,
27 prohibiting electric power suppliers, gas suppliers, brokers, energy
28 agents, marketers, private aggregators, sales representatives, and
29 telemarketers from: (a) making false or misleading advertising claims
30 to a potential residential customer; or (b) contacting a potential
31 residential customer by telephone for the purpose of making an
32 unsolicited advertisement if the electric power supplier, gas supplier,
33 broker, energy agent, marketer, private aggregator, sales
34 representative, or telemarketer does not have an existing business
35 relationship with the potential residential customer and the residential
36 customer's telephone number appears on the no telemarketing call list
37 established and maintained by the Division of Consumer Affairs,
38 pursuant to the provisions of section 9 of P.L.2003, c.76 (C.56:8-127),
39 or the national do-not-call registry as maintained by the Federal Trade
40 Commission. The standards shall be effective as regulations
41 immediately upon filing with the Office of Administrative Law and
42 shall be effective for a period not to exceed 18 months, and may,
43 thereafter, be amended, adopted, or readopted by the board in
44 accordance with the provisions of the "Administrative Procedure Act,"
45 P.L.1968, c.410 (C.52:14B-1 et seq.).

46 (2) In addition to any other penalties, fines, or remedies authorized
47 by law, an electric power supplier, gas supplier, broker, energy agent,
48 marketer, private aggregator, sales representative, or telemarketer that

1 violates subparagraph (a) of paragraph (1) of this subsection and
2 collects charges for electric generation service or gas supply service
3 supplied to a residential customer, who was subjected to false or
4 misleading advertising claims by the electric power supplier, gas
5 supplier, broker, energy agent, marketer, private aggregator, sales
6 representative, or telemarketer in violation of subparagraph (a) of
7 paragraph (1) of this subsection, shall be liable to the residential
8 customer in an amount equal to all charges paid by the residential
9 customer after such violation occurs in accordance with any
10 procedures as the board may prescribe, whether the electric power
11 supplier or gas supplier provided the electric generation service or gas
12 supply service to that customer, or the electric generation service or
13 gas supply service was provided to the customer by a broker, energy
14 agent, marketer, private aggregator, sales representative, or
15 telemarketer who contacted the customer on behalf of the electric
16 power supplier or gas supplier. An electric power supplier, gas
17 supplier, broker, energy agent, marketer, private aggregator, sales
18 representative, or telemarketer that violates this subsection shall also
19 be liable for a civil penalty pursuant to section 34 of P.L.1999, c.23
20 (C.48:3-83). The board is hereby authorized to revoke the license of
21 any electric power supplier, gas supplier, broker, energy agent,
22 marketer, or private aggregator that violates this subsection.¹

23 (cf: P.L.2021, c.458, s.1)

24
25 ¹[2.] 3.¹ This act shall take effect immediately.