

[Second Reprint]

SENATE, No. 3123

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:

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District 17 (Middlesex and Somerset)

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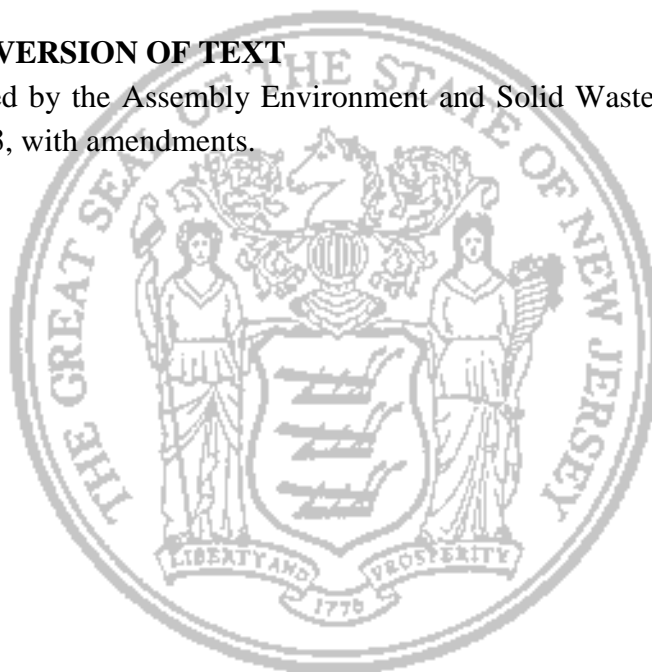
Senators Gopal and Ruiz

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: 5/8/2023)

1 AN ACT concerning the Community Solar Energy Program and
2 amending P.L.2018, c.17 ²and P.L.1999, c.23².

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
11 shall adopt, pursuant to the "Administrative Procedure Act,"
12 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
13 establishing a "Community Solar Energy Pilot Program" to permit
14 customers of an electric public utility to participate in a solar energy
15 project that is remotely located from their properties but is within
16 their electric public utility service territory to allow for a credit to
17 the customer's utility bill equal to the electricity generated that is
18 attributed to the customer's 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
24 the 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
31 project as required in subsection r. of section 38 of P.L.1999, c.23
32 (C.48:3-87);

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
37 residential 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
41 of 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.

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:

¹Senate SEN committee amendments adopted February 16, 2023.

²Assembly AEN committee amendments adopted June 15, 2023.

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

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

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

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

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

30 (2) establish a goal for the ²**[development]** approval² of at least
31 **[50]** ¹**[500]** 225¹ megawatts of solar energy projects ¹prior to June
32 1, 2024, an additional 225 megawatts prior to June 1, 2025, and an
33 additional 150 megawatts¹ per year ¹thereafter¹ , taking into
34 account any changes to the SREC program;

35 (3) set geographic limitations for solar energy projects and
36 participating customers;

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

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

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

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

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

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

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

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

7 (12) minimize impacts to the distribution system of an electric
8 public utility;

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

12 (14) require reporting by the electric public utility to the
13 operator of a solar energy project on the value of credits to the
14 participating customer's bills; ¹**[and]**¹

15 (15) require transferability, portability, and buy-out provisions
16 for customers who participate in community solar energy projects ¹;
17 ²**[and]**²

18 (16) establish requirements and standards that provide for the
19 auditing and enforcement of a solar energy project's compliance
20 with the provisions of this section and the rules and regulations
21 adopted pursuant thereto, including the project's compliance with
22 commitments related to providing access to solar energy projects to
23 low- and moderate-income customers and bill crediting^{1 2}; and

24 (17) allow, in a form and manner to be determined by the board,
25 low- and moderate-income residential customers to self-attest to the
26 customer's income as an acceptable income verification method for
27 participation in a solar energy project².

28 g. As used in this section:

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

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

35 "Solar power" includes flat plate, focusing solar collectors, or
36 photovoltaic solar cells and excludes the base or foundation of the
37 panel, plate, canopy, or array.

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

39

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

42 36. a. Notwithstanding any provisions of the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
44 contrary, the board, in consultation with the Division of Consumer
45 Affairs in the Department of Law and Public Safety, shall initiate a
46 proceeding and shall adopt, after notice, provision of the
47 opportunity for comment, and public hearing, interim consumer

1 protection standards for electric power suppliers or gas suppliers,
2 within 90 days of February 9, 1999, including, but not limited to,
3 standards for collections, credit, contracts, and authorized changes
4 of an energy customer's electric power supplier or gas supplier, for
5 the prohibition of discriminatory marketing, for advertising and for
6 disclosure. The standards shall be effective as regulations
7 immediately upon filing with the Office of Administrative Law and
8 shall be effective for a period not to exceed 18 months, and may,
9 thereafter, be amended, adopted, or readopted by the board in
10 accordance with the provisions of the "Administrative Procedure
11 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

12 (1) (a) An electric power supplier or gas supplier shall not
13 provide electric generation service or gas supply service to a
14 customer in this State unless the electric power supplier or gas
15 supplier has provided the customer a one-page information sheet
16 summarizing the material terms and conditions of the contract as
17 determined by the board. Contract standards shall include, but not
18 be limited to, requirements that electric power supply contracts or
19 gas supply contracts conspicuously disclose the duration of the
20 contract; state the price per kilowatt hour or per therm or other
21 pricing determinant approved by the board; use a 12-point font;
22 provide a one-page information sheet in a 12-point font
23 summarizing the material terms and conditions of the contract in
24 English and Spanish, as determined by the board; provide the phone
25 number and website for filing complaints with the Board of Public
26 Utilities, Division of Customer Assistance, and a one-sentence
27 explanation of the practice known as "slamming," which is an
28 unauthorized change of a customer's electric power supplier or gas
29 supplier, in a 12-point, boldface font on the one-page information
30 sheet; and state, in a 12-point, boldface font, whether the contract is
31 for a fixed rate or a variable rate, and provide a brief explanation of
32 the difference between a fixed rate and a variable rate that is easily
33 understandable by the general public, including an explanation on
34 how weather fluctuations may affect the price of variable rate
35 contracts; have the customer's written signature or electronic
36 signature; an audio recording of a telephone call initiated by the
37 customer; independent, third-party verification, in accordance with
38 section 37 of P.L.1999, c.23 (C.48:3-86), of a telephone call
39 initiated by an electric power supplier, gas supplier, or private
40 aggregator; or any alternative forms of verification as the board, in
41 consultation with the Division of Consumer Affairs in the
42 Department of Law and Public Safety, may permit prior to
43 switching electric power suppliers or gas suppliers and for contract
44 renewal; and include termination procedures, notice of any fees, and
45 toll-free or local telephone numbers for the electric power supplier
46 or gas supplier and for the board. An electric power supplier or gas
47 supplier shall not provide the customer's telephone number,
48 electronic mail address, or postal address to other electric power

1 suppliers or gas suppliers if the customer's telephone number
2 appears on the no telemarketing call list established and maintained
3 by the Division of Consumer Affairs, pursuant to the provisions of
4 section 9 of P.L.2003, c.76 (C.56:8-127), or the national do-not-call
5 registry as maintained by the Federal Trade Commission.

6 (b) As used in this paragraph, "customer" means a residential
7 customer or a commercial electric customer with a cumulative peak
8 load of 50 kilowatts or less, or a commercial gas customer with a
9 cumulative peak load of 5,000 therms or less.

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

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

28 (4) Credit standards shall include, at a minimum, that the credit
29 requirements used to make decisions must be the same for all
30 residential customers and that electric power suppliers, gas
31 suppliers, and private aggregators not impose unreasonable income
32 or credit requirements.

33 (5) Billing standards shall include, at a minimum, provisions
34 prohibiting electric public utilities, gas public utilities, electric
35 power suppliers, and gas suppliers from charging a fee to residential
36 customers for either the commencement or termination of electric
37 generation service or gas supply service.

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

45 (2) (a) An electric public utility or a gas public utility may
46 disclose and provide, in an electronic format, which may include a
47 CD rom, diskette, and other format as determined by the board,
48 without the consent of a residential customer, a residential

1 customer's name, rate class, and account number, to a government
2 aggregator that is a municipality or a county, or to an energy agent
3 acting as a consultant to a government aggregator that is a
4 municipality or a county, if the customer information is to be used
5 to establish a government energy aggregation program pursuant to
6 sections 42, 43, and 45 of P.L.1999, c.23 (C.48:3-91; C.48:3-92;
7 and C.48:3-94). The number of residential customers and their rate
8 class, and the load profile of non-residential customers who have
9 affirmatively chosen to be included in a government energy
10 aggregation program pursuant to paragraph (3) of subsection a. of
11 section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant
12 to this paragraph prior to the request by the government aggregator
13 for bids pursuant to paragraph (1) of subsection b. of section 45 of
14 P.L.1999, c.23 (C.48:3-94), and the name, address, and account
15 number of a residential customer and the name, address, and
16 account number of non-residential customers who have
17 affirmatively chosen to be included in a government energy
18 aggregation program pursuant to paragraph (3) of subsection a. of
19 section 45 of P.L.1999, c.23 (C.48:3-94) may be disclosed pursuant
20 to this paragraph upon the awarding of a contract to a licensed
21 power supplier or licensed gas supplier pursuant to paragraph (2) of
22 subsection b. of section 45 of P.L.1999, c.23 (C.48:3-94). Any
23 customer information disclosed pursuant to this paragraph shall not
24 be considered a government record for the purposes of and shall be
25 exempt from the provisions of P.L.2001, c.404 (C.47:1A-5 et al.).

26 (b) An electric public utility or a gas public utility disclosing
27 customer information pursuant to this paragraph shall exercise
28 reasonable care in the preparation of this customer information, but
29 shall not be responsible for errors or omissions in the preparation or
30 the content of the customer information.

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

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

42 (e) An electric public utility may disclose and provide, in an
43 electronic format, which may include any format as determined by
44 the board, without the consent of a residential customer, a
45 residential customer's name, address, rate class, account number,
46 and energy usage, to a municipality, county, or an agent acting for a
47 municipality or county, if the information is to be used for
48 automatic enrollment in a solar energy project under the

1 Community Solar Energy Pilot Program or the permanent
2 Community Solar Energy Program established by the board
3 pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11). Any
4 customer information disclosed pursuant to this paragraph shall not
5 be considered a government record for the purposes of, and shall be
6 exempt from the provisions of, P.L.2001, c.404 (C.47:1A-5 et al.).

7 (3) Whenever any individual proprietary information is
8 disclosed, sold, or transferred, pursuant to paragraph (1) or
9 paragraph (2) of this subsection, it shall be used only for the
10 provision of continued electric generation service, electric-related
11 service, gas supply service, or gas-related service to that customer.
12 In the case of a transfer or sale of a business, customer consent shall
13 not be required for the transfer of customer proprietary information
14 to the subsequent owner of the business for maintaining the
15 continuation of those services.

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

35 (5) An electric power supplier, a gas supplier, a gas public
36 utility, or an electric public utility may use individual proprietary
37 information that it has obtained by virtue of its provision of electric
38 generation service, electric related service, gas supply service, or
39 gas related service to:

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

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

45 (c) Protect consumers of these services and other electric power
46 suppliers, gas suppliers, or electric and gas public utilities from
47 fraudulent, abusive, or unlawful use of, or subscription to, these
48 services.

1 c. The board shall establish and maintain a database for the
2 purpose of recording customer complaints concerning electric and
3 gas public utilities, electric power suppliers, gas suppliers, private
4 aggregators, and energy agents. The board shall publish on its
5 website on a quarterly basis a detailed report regarding customer
6 complaints that shall not include the names or other personal
7 information of the customers who complained, but shall include the
8 names of the electric and gas public utilities, electric power
9 suppliers, gas suppliers, private aggregators, and energy agents
10 against which the complaints were filed.

11 d. The board, in consultation with the Division of Consumer
12 Affairs in the Department of Law and Public Safety, shall establish,
13 or cause to be established, a multi-lingual electric and gas consumer
14 education program. The goal of the consumer education program
15 shall be to educate residential, small business, and special needs
16 consumers about the implications for consumers of the restructuring
17 of the electric power and gas industries. The consumer education
18 program shall include, but need not be limited to, the dissemination
19 of information to enable consumers to make informed choices
20 among available electricity and gas services and suppliers, and the
21 communication to consumers of the consumer protection provisions
22 of P.L.1999, c.23 (C.48:3-49 et al.).

23 The board shall ensure the neutrality of the content and message
24 of advertisements and materials.

25 The board shall promulgate standards for the recovery of
26 consumer education program costs from customers which include
27 reasonable measures and criteria to judge the success of the
28 program in enhancing customer understanding of retail choice.

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

30 f. (1) In addition to the advertising standards adopted by the
31 board pursuant to paragraph (3) of subsection a. of this section, the
32 board, in consultation with the Division of Consumer Affairs in the
33 Department of Law and Public Safety, shall adopt, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.) interim advertising and marketing standards for electric power
36 suppliers, gas suppliers, brokers, energy agents, marketers, private
37 aggregators, sales representatives, and telemarketers applicable to
38 potential residential customers, within 270 days of the effective date
39 of P.L.2013, c.263, which standards shall include, but not be limited
40 to, prohibiting electric power suppliers, gas suppliers, brokers,
41 energy agents, marketers, private aggregators, sales representatives,
42 and telemarketers from: (a) making false or misleading advertising
43 claims to a potential residential customer; or (b) contacting a
44 potential residential customer by telephone for the purpose of
45 making an unsolicited advertisement if the electric power supplier,
46 gas supplier, broker, energy agent, marketer, private aggregator,
47 sales representative, or telemarketer does not have an existing
48 business relationship with the potential residential customer and the

1 residential customer's telephone number appears on the no
2 telemarketing call list established and maintained by the Division of
3 Consumer Affairs, pursuant to the provisions of section 9 of
4 P.L.2003, c.76 (C.56:8-127), or the national do-not-call registry as
5 maintained by the Federal Trade Commission. The standards shall
6 be effective as regulations immediately upon filing with the Office
7 of Administrative Law and shall be effective for a period not to
8 exceed 18 months, and may, thereafter, be amended, adopted, or
9 readopted by the board in accordance with the provisions of the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.).

12 (2) In addition to any other penalties, fines, or remedies
13 authorized by law, an electric power supplier, gas supplier, broker,
14 energy agent, marketer, private aggregator, sales representative, or
15 telemarketer that violates subparagraph (a) of paragraph (1) of this
16 subsection and collects charges for electric generation service or
17 gas supply service supplied to a residential customer, who was
18 subjected to false or misleading advertising claims by the electric
19 power supplier, gas supplier, broker, energy agent, marketer,
20 private aggregator, sales representative, or telemarketer in violation
21 of subparagraph (a) of paragraph (1) of this subsection, shall be
22 liable to the residential customer in an amount equal to all charges
23 paid by the residential customer after such violation occurs in
24 accordance with any procedures as the board may prescribe,
25 whether the electric power supplier or gas supplier provided the
26 electric generation service or gas supply service to that customer, or
27 the electric generation service or gas supply service was provided to
28 the customer by a broker, energy agent, marketer, private
29 aggregator, sales representative, or telemarketer who contacted the
30 customer on behalf of the electric power supplier or gas supplier.
31 An electric power supplier, gas supplier, broker, energy agent,
32 marketer, private aggregator, sales representative, or telemarketer
33 that violates this subsection shall also be liable for a civil penalty
34 pursuant to section 34 of P.L.1999, c.23 (C.48:3-83). The board is
35 hereby authorized to revoke the license of any electric power
36 supplier, gas supplier, broker, energy agent, marketer, or private
37 aggregator that violates this subsection.²

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

39

40 ²[2.] 3.² This act shall take effect immediately.