

**ASSEMBLY, No. 5439**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED MARCH 10, 2025

**Sponsored by:**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman WILLIAM B. SAMPSON, IV**

**District 31 (Hudson)**

**Assemblyman KEVIN P. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex and Hudson)**

**Co-Sponsored by:**

**Assemblyman Freiman**

**SYNOPSIS**

Restructures electric and gas public utility industries.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the regulation of the State's electric and gas  
2 industries and supplementing Title 48 of the Revised Statutes.

3

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

6

7 1. Sections 1 through 17 of P.L. , c. (C. through  
8 C. ) (pending before the Legislature as this bill) shall be known  
9 and may be cited as the "Public Utility Regulatory Reform Act."

10

11 2. As used in sections 3 and 4 of P.L. , c. (C. and  
12 C. ) (pending before the Legislature as this bill):

13 "Board" means the New Jersey Board of Public Utilities.

14 "Customer" means the same as that term is defined in section 3  
15 of P.L.1999, c.23 (C.48:3-51).

16 "Electric power supplier" means the same as that term is defined  
17 in section 3 of P.L.1999, c.23 (C.48:3-51).

18 "Electric public utility" means a public utility, as that term is  
19 defined in R.S.48:2-13, that transmits and distributes electricity to  
20 end users within the State.

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

23 "Gas supplier" means the same as that term is defined in section  
24 3 of P.L.1999, c.23 (C.48:3-51).

25 "Retail choice" means the same as that term is defined in section  
26 3 of P.L.1999, c.23 (C.48:3-51).

27

28 3. a. Notwithstanding the provisions of the "Electric Discount  
29 and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.), or  
30 any other law, rule, regulation, or order to the contrary, an electric  
31 public utility may own and operate electric generation facilities.

32 b. An electric public utility that does not own and operate  
33 electric generation facilities, and is only engaged in the business of  
34 electricity transmission and distribution, shall continue to be subject  
35 to the provisions of the "Electric Discount and Energy Competition  
36 Act," P.L.1999, c.23 (C.48:3-49 et al.).

37 c. An electric public utility that elects to own and operate  
38 electric generation facilities pursuant to subsection a. of this section  
39 shall file with the board an updated schedule of tariffs for approval,  
40 which schedule shall reflect any necessary changes to the electric  
41 public utility's rates as a result of the utility's decision to own and  
42 operate electric generation facilities, which changes shall include,  
43 but not be limited to, the bundling of the electric public utility's  
44 rates.

45 d. Upon the board's approval of the updated schedule of tariffs  
46 submitted by an electric public utility pursuant to subsection c. of  
47 this section, no customer of the electric public utility shall be

1 permitted to exercise retail choice through an electric power  
2 supplier.

3

4 4. a. Notwithstanding the provisions of the “Electric Discount  
5 and Energy Competition Act,” P.L.1999, c.23 (C.48:3-49 et al.), or  
6 any other law, rule, regulation, or order to the contrary, a gas public  
7 utility may elect to discontinue retail choice for its residential  
8 customers.

9 b. A gas public utility that elects to maintain retail choice for  
10 its residential customers shall continue to be subject to the  
11 provisions of the “Electric Discount and Energy Competition Act,”  
12 P.L.1999, c.23 (C.48:3-49 et al.).

13 c. A gas public utility that elects to discontinue retail choice  
14 for its residential customers pursuant to subsection a. of this section  
15 shall file with the board an updated schedule of tariffs for approval,  
16 which schedule shall reflect any necessary changes to the gas public  
17 utility’s rates as a result of the utility’s decision to discontinue retail  
18 choice for its residential customers, which changes shall include,  
19 but not be limited to, the bundling of the gas public utility’s rates  
20 for residential customers.

21 d. Upon the board’s approval of the updated schedule of tariffs  
22 submitted by a gas public utility pursuant to subsection c. of this  
23 section, no residential customer of the gas public utility shall be  
24 permitted to exercise retail choice through a gas supplier.

25

26 5. As used in sections 6 through 12 of P.L. ,  
27 c. (C. through C. ) (pending before the Legislature as  
28 this bill):

29 “Board” means the New Jersey Board of Public Utilities.

30 “Certificate” means a certificate of public convenience and  
31 necessity issued pursuant to section 6.

32 “Construction” means on-site work to install any permanent  
33 equipment or structure for any electric facility but does not include  
34 the installation of environmental monitoring equipment or any work  
35 related thereto.

36 “Electric facility” means: (1) any electric power generating unit  
37 or combination of units at a single site with a combined production  
38 of 100 megawatts or more and any facilities appurtenant thereto; or  
39 (2) any electric generating units added to an existing electric  
40 generating facility which will increase its installed capacity by 25  
41 percent or by more than 100 megawatts, whichever is smaller.

42 “Electric public utility” means a public utility, as that term is  
43 defined in R.S.48:2-13, that transmits and distributes electricity to  
44 end users within the State.

45

46 6. Prior to constructing an electric facility, an electric public  
47 utility shall obtain a certificate from the board. No agency of the  
48 State, or any county or municipal government, shall issue any

1 license or permit required for the construction or substantial  
2 expansion of an electric facility prior to the issuance of a certificate  
3 by the board.

4  
5 7. a. At least one year prior to the formal application for a  
6 certificate, pursuant to section 6 of P.L. , c. (C. ) (pending  
7 before the Legislature as this bill), an electric public utility seeking  
8 to construct an electric facility shall submit a notice of intent to the  
9 board in a form and manner specified by the board. The early  
10 assessment stage of the certificate process shall begin once the  
11 board has received the electric public utility's notice of intent.  
12 During the early assessment stage, the board shall hold public  
13 hearings in the area served by the electric public utility to:

14 (1) solicit the views of concerned individuals and groups on the  
15 proposed electric facility;

16 (2) provide advice to the electric public utility on the proposed  
17 electric facility and on relevant alternative ways of meeting  
18 projected electricity demand, which ways shall minimize rate  
19 increases, reduce any adverse environmental impact of the proposed  
20 electric facility, and address other objections to the proposed  
21 electric facility; and

22 (3) develop a comprehensive view of how the proposed electric  
23 facility and any suggested alternatives to the electric facility will  
24 affect the long-range energy plans and economic development of  
25 the State and otherwise promote the public interest.

26 b. Notice of each public hearing, required pursuant to  
27 subsection a. of this section, shall be published in:

28 (1) a newspaper of general circulation in the region where the  
29 hearing is to be held; and

30 (2) any other newspapers of general circulation that the board  
31 deems appropriate to reach the greatest possible number of affected  
32 people.

33 c. During the early assessment stage, the board shall publish, in  
34 a manner designed to reach the maximum number of affected  
35 people, interim reports on the progress of its analysis of the  
36 proposed electric facility. No later than nine months after receiving  
37 a notice of intent, the board shall publish a comprehensive report  
38 presenting its preliminary assessment concerning the proposed  
39 electric facility. The report shall address the major concerns  
40 expressed during the early assessment stage and compare the  
41 proposed electric facility with feasible alternatives to the electric  
42 facility.

43  
44 8. a. An electric public utility shall apply to the board for a  
45 certificate, pursuant to section 6 of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill), in a manner and form to be  
47 determined by the board. The application shall include any  
48 information that the board deems necessary for its review of an

1 application pursuant to section 10 of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill). The board may charge and  
3 collect a nonrefundable application fee of no more than \$250,000  
4 for the filing, processing, and review of an application for a  
5 certificate. This fee shall also cover the costs of the board's review  
6 of applications for a certificate renewal.

7 b. Upon receipt of a completed application, the board shall  
8 forward a copy of the application to other appropriate State  
9 departments, agencies, and instrumentalities for their review. These  
10 departments, agencies, and instrumentalities shall provide adequate  
11 mechanisms for full consideration of the application and for  
12 developing recommendations based on the application. A  
13 department, agency, or instrumentality shall forward its  
14 recommendations to the board and the electric public utility within  
15 120 days of receiving a copy of the application. Recommendations  
16 concerning certificates shall be governed and based upon the  
17 principles and criteria set forth in section 9 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill).

19

20 9. The board shall only issue a certificate if it determines that  
21 the proposed electric facility is necessary to meet the projected need  
22 for electricity in the area to be served and that no more efficient,  
23 economical, or environmentally-sound alternative is available. The  
24 board shall make these determinations only if it finds that:

25 a. Denying a certificate would adversely affect the future  
26 adequacy, reliability, or efficiency of the electricity supply to the  
27 electric public utility's customers or to the people of New Jersey,  
28 taking into account:

29 (1) the accuracy of the electric public utility's demand forecast  
30 for the level of electricity that would be supplied by the proposed  
31 electric facility;

32 (2) the effect of existing or prospective State and federal  
33 conservation programs;

34 (3) the effect of promotional practices of the electric public  
35 utility, which may have given rise to the demand for the electric  
36 facility;

37 (4) the ability of current and planned electric facilities, which do  
38 not require a certificate and to which the electric public utility has  
39 access, to meet future demand; and

40 (5) the effect of the proposed electric facility in making efficient  
41 use of resources;

42 b. The consequences of issuing the certificate outweigh the  
43 consequences of denying the certificate, taking into account:

44 (1) the relationship of the proposed electric facility to overall  
45 State energy needs as determined by New Jersey's energy master  
46 plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-  
47 14);

1 (2) the role of the proposed electric facility in inducing future  
2 development; and

3 (3) the socially beneficial uses of the output of the proposed  
4 electric facility, including its uses to protect or enhance  
5 environmental quality;

6 c. There is not a more reasonable and prudent alternative to the  
7 proposed electric facility, taking into account:

8 (1) the appropriateness of the size, type, and timing of the  
9 proposed electric facility compared to those of reasonable  
10 alternatives;

11 (2) the cost of the proposed electric facility and the cost of  
12 electricity to be supplied by the proposed electric facility compared  
13 to the costs of reasonable alternatives and the cost of electricity that  
14 would be supplied by reasonable alternatives;

15 (3) the impact of the proposed electric facility upon the social,  
16 economic, and health environments compared to the impact on  
17 those environments of reasonable alternatives; and

18 (4) the expected reliability of the proposed electric facility  
19 compared to the expected reliability of reasonable alternatives; and

20 d. The design, construction, and operation of the proposed  
21 electric facility would comply with all relevant State and federal  
22 laws, rules, regulations, and policies.

23

24 10. a. Upon receipt of a completed application for a certificate,  
25 the board shall transmit the application and all supporting  
26 documents, including the board's early assessment report, to the  
27 Office of Administrative Law, which shall conduct a hearing on the  
28 application pursuant to the provisions of P.L.1978, c.67 (C.52:14F-  
29 1 et al.). This hearing shall be an adjudicatory proceeding and shall  
30 be conducted as a contested case pursuant to the "Administrative  
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Intervention  
32 in this hearing by any other person shall be as provided in the  
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
34 seq.).

35 b. Notwithstanding the provisions of the "Administrative  
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
37 contrary, within six months of receiving the decision of the  
38 presiding administrative law judge, the board shall approve,  
39 conditionally approve, or deny the application. The board shall  
40 base its decision on the criteria set forth in section 9 of P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill) and shall  
42 support its decision with a written report. The report shall address  
43 the issues raised and arguments advanced in:

44 (1) the materials and information compiled during the early  
45 assessment stage pursuant to subsection a. of section 7 of P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill);

1 (2) the board's preliminary assessment report pursuant to  
2 subsection c. of section 7 of P.L. , c. (C. ) (pending before  
3 the Legislature as this bill);

4 (3) the recommendations developed by State departments,  
5 agencies, and instrumentalities pursuant to subsection b. of section  
6 8 of P.L. , c. (C. ) (pending before the Legislature as this  
7 bill);

8 (4) the analyses of outside consultants retained by the board;

9 (5) the record of the adjudicatory proceeding conducted by the  
10 administrative law judge pursuant to subsection a. of this section;  
11 and

12 (6) the written decision of the presiding administrative law  
13 judge.

14 c. In the case of a conditional approval of an application, the  
15 board shall provide the electric public utility with a clear statement  
16 of the conditions to be met for approval, including any  
17 modifications to the proposed electric facility.

18 d. Notwithstanding any law, rule, or regulation to the contrary,  
19 the board's action on an application shall be considered the final  
20 agency action thereon for the purposes of the "Administrative  
21 Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), and shall be  
22 subject only to judicial review as provided in the Rules of Court.

23

24 11. A certificate shall be valid for three years and shall be  
25 eligible for renewal subject to approval by the board. If an  
26 application for certificate renewal is denied, the electric public  
27 utility holding the certificate may:

28 a. continue the project; or

29 b. terminate or alter the project under terms and conditions  
30 established by the board that equitably balance the interests of the  
31 stockholders, the ratepayers, and the electric public utility.

32

33 12. Within 90 days of the effective date of P.L. , c. (C. )  
34 (pending before the Legislature as this bill), the board shall adopt  
35 rules and regulations, pursuant to the "Administrative Procedure  
36 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary to  
37 implement the provisions of sections 6 through 12 of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill).

39

40 13. As used in sections 14 through 17 of P.L. ,  
41 c. (C. through C. ) (pending before the Legislature as  
42 this bill):

43 "Board" means the New Jersey Board of Public Utilities.

44 "Electric public utility" means a public utility, as that term is  
45 defined in R.S.48:2-13, that transmits and distributes electricity to  
46 end users within the State.

1        14. Upon any request by an electric public utility for a rate  
2 increase to recover costs in excess of \$10 million attributable to an  
3 accident, including any accident occurring prior to the effective date  
4 of P.L. , c. (C. ) (pending before the Legislature as this  
5 bill), at an electric generating or transmission facility in which the  
6 electric public utility has a full or partial interest, the board shall  
7 conduct a separate hearing, or series of hearings, to investigate all  
8 circumstances related to the accident and to make a finding of fault,  
9 if any, related to the accident. The hearing shall not act to bar an  
10 application by an electric public utility for a rate increase to recover  
11 any increase in costs that is determined by the board to be totally  
12 unrelated to the accident. For the purposes of this determination,  
13 fault shall be assigned to any party whose negligent actions or  
14 omissions either contributed substantially to causing the accident or  
15 failed to mitigate its severity.

16

17        15. a. In fixing just and reasonable rates pursuant to Title 48 of  
18 the Revised Statutes, the board shall not authorize an electric public  
19 utility determined to be at fault, pursuant to section 14 of P.L. ,  
20 c. (C. ) (pending before the Legislature as this bill), to  
21 recover from its ratepayers any fault-related repair, cleanup,  
22 additional incremental costs for purchased power, or damage costs  
23 resulting from an accident at an electric generating or transmission  
24 facility, except as provided in subsection b. of this section.

25        b. (1) Once fault has been determined and the costs related to  
26 that fault, which the electric public utility may not recover from its  
27 ratepayers, have been established, the board shall consider whether  
28 and, if so, to what extent to permit the electric public utility to  
29 mitigate denied fault costs through the following:

30        (a) the undertaking of a program under electric public utility  
31 sponsorship to assist consumers in realizing the maximum feasible  
32 benefits of energy conservation, which shall include at a minimum:

33        (i) direct electric public utility investment in renewable energy,  
34 energy conservation, and energy efficiency improvement programs;

35        (ii) the lending of funds without interest for at least five years to  
36 customers for their investment in renewable energy, energy  
37 conservation, and energy efficiency improvement measures;

38        (iii) assistance to consumers whose homes are heated by electric  
39 resistance heating systems to convert to alternate systems; or

40        (iv) any combination of the above; or

41        (b) other mitigating measures as approved by the board.

42        (2) In determining the appropriate mitigation measures which,  
43 taken together, shall constitute the appropriate remedy, the board  
44 shall not authorize an electric public utility to mitigate costs, in  
45 whole or in part, by sponsoring any energy conservation program  
46 that has not been approved by the State agency or department that  
47 the Governor, within 60 days of the effective date of P.L. ,



1 c. (C. ) (pending before the Legislature as this bill),  
2 designates as appropriate.

3 c. The board shall not approve any mitigating measures that  
4 would jeopardize the electric public utility's ability to provide safe,  
5 adequate, and proper service. The board may authorize the electric  
6 public utility to recover, as an operating expense, that portion of the  
7 cost of the mitigating measures that the board determines to be  
8 necessary to the electric public utility's ability to provide safe,  
9 adequate, and proper service. The board shall support its  
10 determination with a written report containing findings of fact and  
11 conclusions of law and a concise and explicit statement of the  
12 underlying facts supporting the determination.

13 d. Nothing in this section shall impair the board's power to  
14 authorize interim relief necessary to enable the electric public utility  
15 to continue to provide safe, adequate, and proper service. Interim  
16 relief authorized during the pendency of the hearing may be  
17 recognized as an offset to the final determination made by the board  
18 of the conclusion of the hearing.

19

20 16. a. The board shall not authorize an electric public utility to  
21 include as an operating expense, pursuant to subsection a. of section  
22 15 of P.L. , c. (C. ) (pending before the Legislature as this  
23 bill), any greater percentage of the repair, cleanup, or damage costs  
24 resulting from an accident at an electric generating or transmission  
25 facility than its percentage of ownership in the facility.

26 b. The board shall authorize as an operating expense, without  
27 regard to fault, such costs as the board certifies are appropriate to  
28 contribute to any national cost-sharing formula enacted by federal  
29 law or any voluntary cost-sharing plan approved by the board, to  
30 the extent that the board certifies that these costs are reasonable and  
31 fairly apportioned and that other affected states and electric public  
32 utilities are committed to meeting their fair shares; except that the  
33 authorization of costs as certified by the board shall not absolve the  
34 electric public utility from any assessment of fault and its obligation  
35 under the remedy imposed by the board.

36

37 17. In determining fault as provided in section 14 of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill), the board  
39 shall consider any credible, fair, and public assessments rendered  
40 by any special presidential commissions or other federal agencies  
41 charged with the responsibility of regulating the subject activity.  
42 These assessments shall be accepted by the board into evidence  
43 under the doctrine of official notice, pursuant to the "Administrative  
44 Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), as long as  
45 they are relevant. Parties shall not be precluded from presenting  
46 additional evidence relevant to the fault determination.

47

48 18. This act shall take effect immediately.

## STATEMENT

1  
2  
3 This bill establishes a framework for the restructuring of the  
4 electric and gas public utility industries in New Jersey.

5  
6 *Restructuring the Electric Public Utility Industry*

7 This bill permits electric public utilities to own and operate  
8 electric generation facilities but requires any electric public utility  
9 that does not elect to own and operate electric generation facilities  
10 to comply with the provisions of the “Electric Discount and Energy  
11 Competition Act” (EDECA). Under the bill, an electric public  
12 utility that elects to own and operate electric generation facilities is  
13 to file an updated schedule of tariffs with the Board of Public  
14 Utilities (board) for approval, which schedule is to reflect any  
15 necessary changes to the electric public utility’s rates as a result of  
16 the electric public utility’s decision to own and operate electric  
17 generation facilities. Once the board has approved the updated  
18 schedule of tariffs, the bill prohibits any customer of that electric  
19 public utility from exercising retail choice through an electric  
20 power supplier.

21  
22 *Restructuring the Gas Public Utility Industry*

23 This bill permits gas public utilities to discontinue retail choice  
24 for its residential customers. However, the bill provides that any  
25 gas public utility that does not elect to discontinue retail choice for  
26 its residential customers is to comply with the provisions of  
27 EDECA. Under the bill, a gas public utility that elects to  
28 discontinue retail choice for its residential customers is to file an  
29 updated schedule of tariffs with the board for approval, which  
30 schedule is to reflect any necessary changes to the gas public  
31 utility’s rates as a result of the gas public utility’s decision to  
32 discontinue retail choice for its residential customers. Once the  
33 board has approved the updated schedule of tariffs, the bill prohibits  
34 any customer of that gas public utility from exercising retail choice  
35 through a gas supplier.

36  
37 *Electric Facility Needs Assessment*

38 This bill requires an electric public utility to obtain a certificate  
39 of public convenience and necessity (certificate) from the board  
40 prior to constructing an electric facility. Specifically, under the bill,  
41 one year prior to submitting a formal application for a certificate, an  
42 electric public utility is to submit a notice of intent to the board,  
43 which notice, once received, is to mark the beginning of the early  
44 assessment stage of the certificate process. After receiving the  
45 notice, the board is to hold public hearings in the area served by the  
46 electric public utility to: (1) solicit feedback from the public; (2)  
47 provide advice to the electric public utility regarding certain aspects  
48 of the proposed facility; and (3) analyze how the proposed electric

1 facility will impact the State and serve the public interest. In the  
2 early assessment stage, the board is to publish interim reports on the  
3 progress of its analysis of the proposed electric facility. Moreover,  
4 no later than nine months after receiving the notice of intent, the  
5 board is to publish a comprehensive report addressing any major  
6 concerns regarding the proposed electric facility that were raised  
7 during the early assessment stage and comparing the proposed  
8 electric facility with feasible alternatives.

9 Under the bill, a certificate application is to include any  
10 information that the board deems necessary. The bill requires the  
11 board, while reviewing the application based on certain criteria  
12 outlined in the bill, to determine whether a proposed electric facility  
13 is necessary to meet the projected need for electricity in the area  
14 served by the electric public utility and that no more efficient,  
15 economical, or environmentally-sound alternative exists. In  
16 addition, the bill authorizes the board to charge and collect a  
17 nonrefundable application fee of no more than \$250,000 for the  
18 filing, processing, and review of a certificate application and for the  
19 board's review of certificate renewal applications.

20 Once the board receives a completed application, the board is to  
21 forward a copy of the application to other appropriate State  
22 departments, agencies, and instrumentalities (State entities) for  
23 additional review. These State entities are to develop and forward  
24 recommendations on the application to the board and the electric  
25 public utility within 120 days of receiving a copy of the application.  
26 The State entities are to base their recommendations on the same  
27 criteria used by the board in the board's review of the application.

28 Upon receiving a completed application, the board is to also  
29 transmit the application and all supporting documents, including the  
30 board's comprehensive report from the early assessment stage, to  
31 the Office of Administrative Law, which is to conduct a hearing on  
32 the application pursuant to the provisions of current law. Within six  
33 months of receiving a decision from the presiding administrative  
34 law judge, the board shall approve, conditionally approve, or deny  
35 the application and support its determination with a written report  
36 that is to address certain matters regarding the proposed electric  
37 facility. If the board conditionally approves the application, the bill  
38 requires the board to provide the electric public utility with a clear  
39 statement of conditions to be met for approval.

40 Under the bill, a certificate is to be valid for three years and  
41 eligible for renewal subject to the board's review. If a certificate  
42 renewal application is denied, the electric public utility holding the  
43 certificate may either: (1) continue the project; or (2) terminate or  
44 alter the project under terms and conditions established by the  
45 board.

1 *Electric Public Utility Accident Fault Determination*

2 Under the bill, if an electric public utility files for a rate increase  
3 to recover costs in excess of \$10 million attributable to an accident  
4 at an electric generating or transmission facility in which the  
5 electric public utility has a full or partial interest, the board is to  
6 conduct a hearing or series of hearings to investigate all  
7 circumstances related to the accident and to determine fault, if any,  
8 related to the accident. The bill stipulates that fault is to be  
9 assigned to any party whose negligent actions or omissions either  
10 contributed substantially to causing the accident or failed to  
11 mitigate its severity. Under the bill, in determining fault, the board  
12 is to consider any credible, fair, and public assessments rendered by  
13 certain, appropriate federal entities.

14 The bill prohibits the board from authorizing an electric public  
15 utility that is determined by the board to be at fault to recover any  
16 fault-related repair costs, cleanup costs, additional incremental costs  
17 for purchased power, or damage costs resulting from an accident at  
18 an electric generating or transmission facility. However, the bill  
19 does require the board to consider whether and, if so, to what extent  
20 an electric public utility is permitted to mitigate denied fault costs  
21 through certain measures outlined in the bill. The bill establishes  
22 various restrictions for these cost mitigation measures but clarifies  
23 that nothing in the bill is to prevent the board from granting interim  
24 relief necessary to enable the electric public utility to provide safe,  
25 adequate, and proper service.

26 In addition, the bill prohibits the board from authorizing an  
27 electric public utility to include, as an operating expense, any  
28 percentage of the repair, cleanup, or damage costs resulting from an  
29 accident at an electric generating or transmission facility greater  
30 than the electric public utility's percentage of ownership in the  
31 generating or transmission facility. The board is required to  
32 authorize as an operating expense, regardless of fault, any cost that  
33 the board certifies as appropriate to contribute to national cost-  
34 sharing formulas under federal law or voluntary cost-sharing plans  
35 under certain circumstances outlined in the bill. However, the bill  
36 provides that the authorization to recover these costs does not  
37 absolve the electric public utility from any assessment of fault or its  
38 obligation under the remedy imposed by the board.