

ASSEMBLY, No. 5576

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:

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District 18 (Middlesex)

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SYNOPSIS

Allows value of SREC-IIs to be included in cost-benefit calculations under energy savings improvement programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/15/2026)

1 AN ACT concerning energy savings improvement programs and
2 amending P.L.2009, c.4.

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

6
7 1. Section 1 of P.L.2009, c.4 (C.18A:18A-4.6) is amended to
8 read as follows:

9 1. a. (1) A board of education, as defined in N.J.S.18A:18A-2,
10 may implement an energy savings improvement program in the
11 manner provided by this section whenever it determines that the
12 savings generated from reduced energy use from the program will
13 be sufficient to cover the cost of the program's energy conservation
14 measures as set forth in an energy savings plan. Under such a
15 program, a board of education may enter into an energy savings
16 services contract with an energy services company to implement the
17 program or the board may authorize separate contracts to implement
18 the program. The provisions of N.J.S.18A:18A-1 et seq. shall apply
19 to any contracts awarded pursuant to this section to the extent that
20 the provisions of such law are not inconsistent with any provision
21 of this section.

22 (2) A board of education facility alteration required to properly
23 implement other energy efficiency or energy conservation
24 measures, or both, may be included as part of an energy savings
25 services contract, in which case, notwithstanding any other
26 provision of law, rule, regulation, or order to the contrary, the
27 facility alteration may be undertaken or supervised by the energy
28 services company performing the energy savings services contract
29 if:

30 (a) the total cost of the improvement does not exceed 15 percent
31 of the total cost of the work to be performed under the energy
32 savings services contract; and

33 (b) (i) the improvement is necessary to conform to a law, rule, or
34 regulation, or order, or (ii) an analysis within an approved proposal,
35 or the board of education, at the time of the award of the proposal,
36 demonstrates that there is an economic advantage to the board of
37 education implementing the improvement as part of the energy
38 savings services contract, and the savings rationale for the
39 improvement is documented and supported by reasonable
40 justification.

41 b. (1) To be eligible to enter into an energy savings services
42 contract, an energy services company shall be a commercial entity
43 that is qualified to provide energy savings services in accordance
44 with the provisions of this section. A board of education may
45 determine to enter into an energy savings services contract either

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

Matter underlined thus is new matter.

1 through public advertising for bids and the receipt of bids therefor
2 or through competitive contracting in lieu of public bidding in the
3 manner provided by sections 45 through 49 of P.L.1999, c.440
4 (C.18A:18A-4.1 et seq.).

5 (2) (a) Public works activities performed under an energy
6 savings improvement program shall be subject to all requirements
7 regarding public bidding, bid security, performance guarantees,
8 insurance and other public contracting requirements that are
9 applicable to public works contracts, to the extent not inconsistent
10 with this section. A general contractor, energy services company
11 serving as general contractor, or any subcontractor hired for the
12 furnishing of plumbing and gas fitting and all kindred work, and of
13 steam and hot water heating and ventilating apparatus, steam power
14 plants and kindred work, and electrical work, structural steel and
15 ornamental iron work, shall be classified by the Division of
16 Property Management and Construction in the Department of the
17 Treasury in order to perform public works activities under an
18 energy savings improvement program.

19 (b) Individuals or organizations performing energy audits,
20 acting as commissioning agents, or conducting verification of
21 energy savings plans, implementation of energy conservation
22 measures, or verifying guarantees shall be prequalified by the
23 Division of Property Management and Construction in the
24 Department of the Treasury to perform their work under an energy
25 savings improvement program.

26 (3) (a) An energy services company may be designated as the
27 general contractor for improvements to be made pursuant to an
28 energy savings plan, provided that the hiring of subcontractors that
29 are required to be classified pursuant to subparagraph (a) of
30 paragraph (2) of this subsection shall be performed in accordance
31 with the procedures and requirements set forth pursuant to the
32 public bidding requirements of the board of education. A contract
33 with an energy savings company shall include, but not be limited to:
34 preparation of an energy savings plan; the responsibilities of the
35 parties for project schedules, installations, performance and quality,
36 payment of subcontractors, project completion, commissioning,
37 savings implementation; a requirement that the savings to be
38 achieved by energy conservation measures be verified upon
39 commissioning of the improvements; allocation of State and federal
40 rebates and tax credits; and any other provisions deemed necessary
41 by the parties.

42 (b) All workers performing public works activities for
43 subcontractors awarded contracts by an energy services company
44 pursuant to this section shall be paid prevailing wages in
45 accordance with the "New Jersey Prevailing Wage Act," P.L.1963,
46 c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with
47 the provisions of "The Public Works Contractor Registration Act,"
48 P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately

1 classified as contractors by the Division of Property Management
2 and Construction shall be eligible to be awarded a contract as a
3 subcontractor of an energy services company under this section for
4 performing public works activities pursuant to regulations adopted
5 by the Division of Property Management and Construction.

6 (c) In order to expedite communications with an energy services
7 company and facilitate the implementation of an energy savings
8 improvement program, a board of education may designate or
9 appoint an employee of the board of education with decision-
10 making authority to coordinate with the energy services company
11 and to address issues associated with the implementation of an
12 energy savings improvement program as they arise, provided that
13 any decision requiring a change order shall be made only upon the
14 approval of the board of education.

15 (4) Except as provided in paragraph (5) of this subsection, a
16 subsidiary or wholly-owned or partially-owned affiliate of the
17 energy services company shall not be an eligible contractor or
18 subcontractor under an energy savings services contract.

19 (5) When the energy services company is the manufacturer of
20 direct digital control systems and contracts with the board of
21 education to provide a guaranteed energy savings option pursuant to
22 subsection f. of this section, the specification of such direct digital
23 control systems may be treated as proprietary goods and if so
24 treated, the bid specification shall set forth an allowance price for
25 its supply by the energy services company which shall be used by
26 all bidders in the public bidding process. Direct digital controls
27 shall be open protocol format and shall meet the interoperability
28 guidelines established by the American Society of Heating,
29 Refrigerating and Air-Conditioning Engineers. Each contract to be
30 entered into pursuant to this section between a board of education
31 and an energy services company that is the manufacturer of direct
32 digital control systems where such direct digital control systems are
33 treated as proprietary goods as part of the contract, shall first be
34 reviewed and approved by the Board of Public Utilities for the
35 purpose of affirming the reasonableness of such allowance price. If
36 the board does not disapprove of the contract within 14 days of
37 receipt thereof, the contract shall be deemed approved.

38 c. An energy savings improvement program may be financed
39 through a lease-purchase agreement or through the issuance of
40 energy savings obligations pursuant to this subsection.

41 (1) An energy savings improvement program may be financed
42 through a lease-purchase agreement between a board of education
43 and an energy services company or other public or private entity.
44 Under a lease-purchase agreement, ownership of the energy savings
45 equipment or improved facilities shall pass to the board of
46 education when all lease payments have been made.
47 Notwithstanding the provisions of section 46 of P.L.1999, c.440
48 (C.18A:18A-4.2) or any other law to the contrary, the duration of

1 such a lease-purchase agreement shall not exceed 15 years, except
2 that the duration of a lease purchase agreement for a combined heat
3 and power or cogeneration project shall not exceed 20 years. For
4 the purposes of this paragraph, the duration of the repayment term
5 of a lease-purchase agreement shall commence on the date upon
6 which construction and installation of the energy savings
7 equipment, "combined heat and power facility" or "cogeneration
8 facility," as those terms are defined pursuant to section 3 of
9 P.L.1999, c.23 (C.48:3-51), or other energy conservation measures
10 undertaken pursuant to the energy savings plan, have been
11 completed.

12 (2) Any lease-purchase agreement entered into pursuant to this
13 subsection may contain: a clause making it subject to the
14 availability and appropriation annually of sufficient funds as may
15 be required to meet the extended obligation; and a non-substitution
16 clause maintaining that if the agreement is terminated for non-
17 appropriation, the board of education may not replace the leased
18 equipment or facilities with equipment or facilities that perform the
19 same or similar functions.

20 (3) A board of education may arrange for incurring energy
21 savings obligations to finance an energy savings improvement
22 program. Energy savings obligations may be funded through
23 appropriations for utility services in the annual budget of the board
24 and may be issued as refunding bonds pursuant to P.L.1969, c.130
25 (C.18A:24-61.1 et seq.), including the issuance of bond anticipation
26 notes as may be necessary, provided that all such bonds and notes
27 mature within the periods authorized for such energy savings
28 obligations. Energy savings obligations may be issued either
29 through the board of education or another public agency authorized
30 to undertake financing on behalf of the board.

31 (4) Lease-purchase agreements and energy savings obligations
32 shall not be used to finance maintenance, guarantees, or verification
33 of guarantees of energy conservation measures. Lease-purchase
34 agreements and energy savings obligations may be used to finance
35 the cost of an energy audit or the cost of verification of energy
36 savings as part of adopting an energy savings plan.
37 Notwithstanding any law to the contrary, lease-purchase agreements
38 and energy savings certificates shall not be excepted from any
39 budget or tax levy limitation otherwise provided by law. Maturity
40 schedules of lease-purchase agreements or energy savings
41 obligations shall not exceed the estimated average useful life of the
42 energy conservation measures.

43 d. (1) The energy audit component of an energy savings
44 improvement program shall be conducted either by the board of
45 education or by a qualified third party retained by the board for that
46 purpose. It shall not be conducted by an energy services company
47 subsequently hired to develop an energy savings improvement
48 program. The energy audit shall identify the current energy use of

1 any or all facilities and energy conservation measures that can be
2 implemented in which the energy savings and energy efficiency
3 could be realized and maximized.

4 (2) To implement an energy savings improvement program, a
5 board of education shall develop an energy savings plan that
6 consists of one or more energy conservation measures. The plan
7 shall:

8 (a) contain the results of an energy audit;

9 (b) describe the energy conservation measures that will
10 comprise the program;

11 (c) estimate greenhouse gas reductions resulting from those
12 energy savings;

13 (d) identify all design and compliance issues that require the
14 professional services of an architect or engineer and identify who
15 will provide these services;

16 (e) include an assessment of risks involved in the successful
17 implementation of the plan;

18 (f) identify the eligibility for, and costs and revenues associated
19 with the PJM Independent System Operator for demand response
20 and curtailable service activities;

21 (g) include schedules showing calculations of all costs of
22 implementing the proposed energy conservation measures and the
23 projected energy savings;

24 (h) identify maintenance requirements necessary to ensure
25 continued energy savings, and describe how they will be fulfilled;
26 and

27 (i) if developed by an energy services company, a description
28 of, and cost estimates of an energy savings guarantee.

29 All professionals providing engineering services under the plan
30 shall have errors and omissions insurance.

31 (3) Prior to the adoption of the plan by the governing body, the
32 board of education shall contract with a qualified third party to
33 verify the projected energy savings to be realized from the proposed
34 program have been calculated as required by subsection e. of this
35 section.

36 (4) Upon adoption, the plan shall be submitted to the Board of
37 Public Utilities, which shall post it on the Internet on a public
38 webpage maintained for such purpose. If the board of education
39 maintains its own website, it shall also post the plan on that site.
40 The Board of Public Utilities may require periodic reporting
41 concerning the implementation of the plan.

42 (5) Verification by a qualified third party shall be required when
43 energy conservation measures are placed in service or
44 commissioned, to ensure the savings projected in the energy savings
45 plan shall be achieved.

46 (6) Energy-related capital improvements that do not reduce
47 energy usage may be included in an energy savings improvement
48 program but the cost of such improvements shall not be financed as

1 a lease-purchase or through energy savings obligations authorized
2 by subsection c. of this section. Nothing herein is intended to
3 prevent financing of such capital improvements through otherwise
4 authorized means.

5 (7) A qualified third party when required by this subsection may
6 include an employee of the board of education who is properly
7 trained and qualified to perform such work.

8 e. (1) (a) The calculation of energy savings for the purposes of
9 determining that the energy savings resulting from the program will
10 be sufficient to cover the cost of the program's energy conservation
11 measures, as provided in subsection a. of this section, shall involve
12 determination of the dollar amount saved through implementation
13 of an energy savings improvement program using the guidelines of
14 the International Performance Measurement and Verification
15 Protocol or other protocols approved by the Board of Public
16 Utilities and standards adopted by the Board of Public Utilities
17 pursuant to this section. The calculation shall include all applicable
18 State and federal rebates and tax credits, but shall not include the
19 cost of an energy audit and the cost of verifying energy savings.
20 The calculation shall also include the current value of a SREC-II, as
21 defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51). The
22 calculation shall state which party has made application for rebates
23 and credits and how these applications translate into energy savings.

24 (b) During the procurement phase of an energy savings
25 improvement program, an energy services company's proposal
26 submitted in response to a request for proposal shall not include a
27 savings calculation that assumes, includes, or references capital cost
28 avoidance savings, the current or projected value of a "solar
29 renewable energy certificate," as defined pursuant to section 3 of
30 P.L.1999, c.23 (C.48:3-51), or other environmental or similar
31 attributes or benefits of whatever nature that derive from the
32 generation of renewable energy to the exception of SREC-IIs, and
33 any costs or discounts associated with maintenance services, an
34 energy savings guarantee, or third party verification of energy
35 conservation measures and energy savings. The calculation of
36 energy savings shall utilize and specifically reference as a
37 benchmark the actual demand and energy components of the public
38 utility tariff rate applicable to the board of education then in effect,
39 and not a blended rate that aggregates, combines, or restates in any
40 manner the distinct demand and energy components of the public
41 utility tariff rate into a single combined or restated tariff rate. If an
42 energy services company submits a proposal to a board of education
43 that does not calculate projected energy savings in the manner
44 required by this subsection, such proposal shall be rejected by the
45 board of education.

46 (2) For the purposes of this section, the Board of Public Utilities
47 shall adopt standards and uniform values for interest rates and
48 escalation of labor, electricity, oil, and gas, as well as standards for

1 presenting these costs in a life cycle and net present value format,
2 standards for the presentation of obligations for carbon reductions,
3 and other standards that the board may determine necessary.

4 f. (1) When an energy services company is awarded an energy
5 savings services contract, it shall offer the board of education the
6 option to purchase, for an additional amount, an energy savings
7 guarantee. The guarantee, if accepted by a separate vote of the
8 board of education, shall insure that the energy savings resulting
9 from the energy savings improvement program, determined
10 periodically over the duration of the guarantee, will be sufficient to
11 defray all payments required to be made pursuant to the lease-
12 purchase agreement or energy savings obligation, and if the savings
13 are not sufficient, the energy services company will reimburse the
14 board for any additional amounts. Annual costs of a guarantee shall
15 not be financed or included as costs in an energy savings plan but
16 shall be fully disclosed in an energy savings plan.

17 (2) When a guaranteed energy savings option is purchased, the
18 contract shall require a qualified third party to verify the energy
19 savings at intervals established by the parties.

20 (3) When an energy services company is awarded an energy
21 savings services contract to provide or perform goods or services
22 for the purpose of enabling a board of education to conserve energy
23 through energy efficiency equipment, including a "combined heat
24 and power facility" as that term is defined pursuant to section 3 of
25 P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract
26 shall extend for a term of up to 15 years for energy efficiency
27 projects, and for up to 20 years for a combined heat and power
28 facility after construction completion. If a board of education shall
29 elect to contract with an energy services company for an energy
30 savings guarantee in connection with a contract awarded pursuant to
31 this section, such guarantee may extend for a term of up to 15 years
32 for energy efficiency projects, or up to 20 years for a combined heat
33 and power facility after construction completion.

34 g. As used in this section:

35 "direct digital control systems" means the devices and
36 computerized control equipment that contain software and computer
37 interfaces that perform the logic that control a building's heating,
38 ventilating, and air conditioning system. Direct digital controls
39 shall be open protocol format and shall meet the interoperability
40 guidelines established by the American Society of Heating,
41 Refrigerating and Air-Conditioning Engineers;

42 "energy conservation measure" means an improvement that
43 results in reduced energy use, including, but not limited to,
44 installation of energy efficient equipment; demand response
45 equipment; combined heat and power systems; facilities for the
46 production of renewable energy; water conservation measures,
47 fixtures or facilities; building envelope improvements that are part

1 of an energy savings improvement program; and related control
2 systems for each of the foregoing;

3 "energy related capital improvement" means a capital
4 improvement that uses energy but does not result in a reduction of
5 energy use;

6 "energy saving obligation" means a bond, note or other
7 agreement evidencing the obligation to repay borrowed funds
8 incurred in order to finance energy saving improvements;

9 "energy savings" means a measured reduction in fuel, energy,
10 operating or maintenance costs resulting from the implementation
11 of one or more energy conservation measures services when
12 compared with an established baseline of previous fuel, energy,
13 operating or maintenance costs, including, but not limited to, future
14 capital replacement expenditures avoided as a result of equipment
15 installed or services performed as part of an energy savings plan;

16 "energy savings improvement program" means an initiative of a
17 board of education to implement energy conservation measures in
18 existing facilities, provided that the value of the energy savings
19 resulting from the program will be sufficient to cover the cost of the
20 program's energy conservation measures;

21 "energy savings plan" means the document that describes the
22 actions to be taken to implement the energy savings improvement
23 program;

24 "energy savings services contract" means a contract with an
25 energy savings company to develop an energy savings plan, prepare
26 bid specifications, manage the performance, provision,
27 construction, and installation of energy conservation measures by
28 subcontractors, to offer a guarantee of energy savings derived from
29 the implementation of an energy savings plan, and may include a
30 provision to manage the bidding process;

31 "energy services company" means a commercial entity that is
32 qualified to develop and implement an energy savings plan in
33 accordance with the provisions of this section;

34 "public works activities" means any work subject to the
35 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

36 "water conservation measure" means an alteration to a facility or
37 equipment that reduces water consumption, maximizes the
38 efficiency of water use, or reduces water loss.

39 h. (1) The Director of the Division of Local Government
40 Services in the Department of Community Affairs, the State
41 Treasurer, and the Board of Public Utilities may take such action as
42 is deemed necessary and consistent with the intent of this section to
43 implement its provisions.

44 (2) The Director of the Division of Local Government Services
45 in the Department of Community Affairs, the State Treasurer and
46 the Board of Public Utilities may adopt implementation guidelines
47 or directives, and adopt such administrative rules, pursuant to the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), as are necessary for the implementation of those agencies'
2 respective responsibilities under this section, except that
3 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et
4 seq.) to the contrary, the Director of the Division of Local
5 Government Services in the Department of Community Affairs, the
6 State Treasurer, and the Board of Public Utilities may adopt,
7 immediately upon filing with the Office of Administrative Law,
8 such rules and regulations as deemed necessary to implement the
9 provisions of this act which shall be effective for a period not to
10 exceed 12 months and shall thereafter be amended, adopted or re-
11 adopted in accordance with the provisions of P.L.1968, c.410
12 (C.52:14B-1 et seq.).
13 (cf: P.L.2012, c.55, s.1)

14
15 2. This act shall take effect immediately.
16
17

18 STATEMENT 19

20 This bill makes changes to the statute authorizing the “board of
21 education,” which includes the board of education of any local
22 school district, consolidated school district, regional school district,
23 county vocational school and any other board of education or other
24 similar body other than the State Board of Education, the
25 Commission on Higher Education or the Presidents' Council,
26 established and operating under the provisions of Title 18A of the
27 New Jersey Statutes and having authority to make purchases and to
28 enter into contracts for the provision or performance of goods or
29 services, and the board of trustees of a charter school established
30 under P.L.1995, c.426 (C.18A:36A-1 et seq.) to participate in an
31 energy savings improvement program (ESIP) under the provisions
32 of P.L.2009, c.4 (C.18A:18A-4.6 et al.).

33 Specifically, the bill provides that SREC-IIs, as defined pursuant
34 to section 3 of P.L.1999, c.23 (C.48:3-51), will be included as part
35 of the calculation for determining whether the energy savings
36 resulting from an ESIP will be sufficient to cover the cost of the
37 ESIP's energy conservation measures. SRECs are prevented from
38 being included in the calculation for determining energy savings as
39 SRECs value fluctuated based on the supply and demand. The
40 successor to the SREC program, the SREC-II program, provides a
41 fixed price for its certificate.