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SENATE, No. 3939

STATE OF NEW JERSEY

222nd LEGISLATURE

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SYNOPSIS

Permits dual-use solar energy projects to participate in community solar program.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 28, 2026, with amendments.

(Sponsorship Updated As Of: 6/30/2026)

AN ACT concerning the community solar energy program [2]and dual-use solar energy projects,[2] and amending P.L.2018, c.17 [2]and P.L.2021, c.170[2].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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:
[1]Senate SEN committee amendments adopted June 8, 2026.
[2]Senate SBA committee amendments adopted June 28, 2026.

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

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

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

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

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

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

(2) (a) establish a goal for the conditional registration of 225 megawatts of solar energy projects prior to June 1, 2024, with an additional 275 megawatts prior to June 1, 2024 if qualified applications exceed 225 megawatts, and an additional 250 megawatts prior to June 1, 2025 if qualified applications exceed 500 megawatts; and

(b) stipulate that the board shall open registration, by October 1, 2025, for 3,000 megawatts of solar energy projects in addition to the conditional registration goals already established pursuant to this paragraph. The board shall accept and approve registrations pursuant to this subparagraph until the earlier of December 31, 2029 or such time as the 3,000 megawatts of solar energy projects are completely registered. The board shall set SREC-II levels and guaranteed bill credit discount levels as appropriate to enable the complete registration of 3,000 megawatts of solar energy projects by December 31, 2029;

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) establish requirements and standards that provide for the auditing and enforcement of a solar energy project's compliance with the provisions of this section and the rules and regulations adopted pursuant thereto, including the project's compliance with commitments related to providing access to solar energy projects to low- and moderate-income customers and bill crediting; **[2]**[and]**[2]**

(17) allow, in a form and manner to be determined by the board, low- and moderate-income residential customers to self-attest to the customer's income as an acceptable income verification method for participation in a solar energy project**[2]**; and

(18) notwithstanding subsection d. of this section and paragraph (10) of this subsection, after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) allow the participation of dual-use solar energy projects with a maximum capacity of five megawatts that are approved by the board as part of the dual-use solar energy pilot program or the successor dual-use solar energy permanent program established by the board pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13), provided that the

board may specify certain categories or types of dual-use solar energy projects that are not eligible for participation in the community solar energy program[2].

g. [2](1) Only dual-use solar energy projects that apply after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) for participation in the dual-use solar energy pilot program or a successor dual-use solar energy permanent program established by the board pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) and are approved to participate in either program shall be eligible to participate in the permanent community solar energy program.

(2) A dual-use solar energy project participating in the community solar energy program shall be required to comply with all requirements of both the applicable dual-use solar energy program and the community solar energy program that are in effect at the time of the dual-use solar energy project's registration in the respective programs.

h. The board may, in its discretion, establish different incentive levels within the community solar energy program for different categories of solar energy projects based on project characteristics including, but not limited to, the project size and the pre-existing land use and land cover of the property on which the solar energy project is sited.

i.[2] As used in this section:

"Dual-use [1][or agrivoltaics solar facilities"] solar energy project"[1] means [1][energy generation facilities that produce electric power from solar photovoltaic panels located on unpreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production] the same as that term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13)[1].

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

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

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

[2][h. Notwithstanding the provisions of this section or any other law, rule, regulation, or order to the contrary, [1]a[1] dual-use [1][or agrivoltaics solar facilities] solar energy project[1] shall be eligible for participation in the community solar energy program and shall be admitted, upon registration, into the community solar market

segment of the small solar facilities incentive program established pursuant to section 3 of P.L.2021, c.169 (C.48:3-116).**]**[2]

(cf: P.L.2025, c.135, [1]**[**s.5**]** s.1[1])

[2]2. Section 1 of P.L.2021, c.170 (C.48:3-87.13) is amended to read as follows:

1. a. No later than 180 days after the date of enactment of P.L.2021, c.170 (C.48:3-87.13 et al.), the Board of Public Utilities, in consultation with the Secretary of Agriculture, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing a "Dual-Use Solar Energy Pilot Program" to permit the construction, installation, and operation of dual-use solar energy projects that are connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit and located on unpreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

b. The rules and regulations developed by the board, in consultation with the Secretary of Agriculture, for the Dual-Use Solar Energy Pilot Program shall establish:

(1) a 10 megawatt, as measured in direct current, capacity limit for each individual dual-use solar energy project;

(2) **[**annual**]** pilot program application period capacity targets, such that the total capacity of all dual-use solar energy projects approved under the pilot program shall not exceed 200 megawatts, as measured in direct current, for all dual-use solar energy projects approved under the pilot program, except as otherwise provided pursuant to subsection e. of this section;

(3) financial incentives available to dual-use solar energy projects approved pursuant to the pilot program, which financial incentives may be designed to stack with any incentives available in the board's other solar energy programs, provided that any financial incentives designed to stack are set at a level that takes into account both the additional costs associated with being a dual-use solar energy project and all the revenue streams available to the dual-use solar energy project in the board's other solar energy programs;

(4) a prohibition on siting a dual-use solar energy project on prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, unless the project is in association with a research study undertaken in coordination with a New Jersey public research institution of higher education, as approved by the board in consultation with the Secretary of Agriculture;

(5) a prohibition on siting a dual-use solar energy project on any of the following unless the board, in consultation with the Department of Environmental Protection and the Secretary of

Agriculture, grants a waiver based on unique factors that make the project consistent with the character of the specific parcel:

(a) land located within the preservation area of the pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (C.13:18A-11);

(b) land designated as forest area in the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

(c) land designated as freshwater wetlands, as defined pursuant to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands, as defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.); or

(d) land located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

(6) the requirement that the land on which the dual-use solar energy project is installed continues to be actively devoted to agricultural or horticultural use;

(7) the requirement that the project comply with all applicable federal, State, or local laws, rules, regulations, or ordinances;

(8) an application process for owners who wish to develop a dual-use solar energy project as part of the pilot program, including such fees or deposits as shall be determined by the board; and

(9) criteria, consistent with the provisions of paragraph (1) of subsection c. of this section, for evaluating and scoring proposed projects to determine which projects should be allowed to participate in the pilot program and be awarded incentives pursuant to paragraph (3) of this subsection.

c. (1) An owner proposing a dual-use solar energy project shall submit an application to the board before constructing, installing, or operating the project. The board shall consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the Dual-Use Solar Energy Pilot Program. In reviewing and making decisions on dual-use solar energy projects, the board and secretary shall give consideration to criteria including, but not limited to:

(a) proposals for monitoring the quality of agricultural or horticultural use of the land;

(b) the incentive level sought by the applicant;

(c) geographic location;

(d) interconnection planning;

(e) proposals for minimizing negative impacts to farmland;

(f) proposals to address decommissioning;

(g) proposals for addressing stormwater runoff and other environmental issues;

(h) technical feasibility;

(i) technical innovation;

(j) the quality of any research committed to during the evaluation period; and

(k) any other criteria as may be deemed advisable by the board.

The review shall also consider whether the selected projects are of varying sizes, and, collectively, involve diverse types of agricultural and horticultural production. The board, in consultation with the Secretary of Agriculture, shall, within 180 days after receipt, approve, disapprove, or approve with conditions an application submitted pursuant to this section.

(2) An owner who receives approval from the board pursuant to this section shall obtain all necessary permits and other approvals as may be required pursuant to federal, State, or local law, rule, regulation, or ordinance, prior to the construction of the dual-use solar energy project.

d. The Secretary of Agriculture may request that the board suspend or revoke an approval issued pursuant to this section for a violation of any term or condition of the approval or any provision of this section.

e. The Dual-Use Solar Energy Pilot Program shall continue for 36 months after the adoption of the rules and regulations required pursuant to subsection a. of this section, except that the board may extend the pilot program by no more than two additional 12-month periods if the board, in consultation with the Secretary of Agriculture, determines that such extensions are necessary to adequately evaluate the performance of the projects selected for construction as part of the Dual-Use Solar Energy Pilot Program. If the board extends the Dual-Use Solar Energy Pilot Program, it may increase the total capacity limit of all projects under the program by no more than 50 megawatts, as measured in direct current, per additional 12-month period.

f. Notwithstanding any law, ordinance, rule, or regulation to the contrary, a dual-use solar energy project approved pursuant to this section shall be a permitted use within every municipality.

g. No later than 36 months, or no later than 48 or 60 months if applicable due to extensions of the Dual-Use Solar Energy Pilot Program pursuant to subsection e. of this section, after adoption of the rules and regulations required pursuant to subsection a. of this section, the board, in consultation with the Secretary of Agriculture, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to convert the Dual-Use Solar Energy Pilot Program to a permanent program as part of the permanent successor to the solar incentive program established pursuant to P.L.2021, c.169 (C.48:3-114 et al.). The rules and regulations for the permanent program shall set forth standards for dual-use solar energy projects that take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy in New Jersey, and shall include, but not be limited to:

(1) a capacity limit for individual dual-use solar energy projects;

(2) ⟦a⟧ total ⟦annual⟧ capacity ⟦limit⟧ limits to be set on an annual or other periodic basis;

(3) provisions to protect New Jersey's prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, and provisions to protect the State's agricultural and horticultural diversity;

(4) standards for: installation and decommissioning techniques that minimize negative impacts to farmland, which may include the posting of a performance bond for decommissioning; impervious coverage; and water management, including, but not limited to, water recapture and filtration;

(5) provisions to ensure the continued active agricultural or horticultural use of land on which dual-use solar energy projects are installed;

(6) siting criteria and restrictions, which may differ from those established pursuant to section 6 of P.L.2021, c.169 (C.48:3-119) to the extent necessary to accomplish the purposes of the dual-use solar energy program; ⟦and⟧

(7) an application process, including such fees, escrows, or deposits as shall be determined by the board; and

(8) an incentive structure designed to support the development of dual-use solar energy projects in New Jersey, taking into account the benefits and costs to ratepayers and the State's electric transmission and distribution system, and the costs and revenue streams associated with different project types.

h. As used in this section:

"Dual-use solar energy project" means the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unpreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production.

"Owner" means the owner of the unpreserved farmland, the owner of the dual-use solar energy project, or a representative duly authorized to act on the owner's behalf.

"Preserved farmland" means the same as the term is defined in section 4 of P.L.2009, c.213 (C.54:4-23.3c).

"Unpreserved farmland" means any land that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.[2]

(cf: P.L.2021, c.170, s.1)

[2]⟦2.⟧ 3.[2] This act shall take effect immediately.