SPONSOR: Sen. McDowell & Rep. D.E. Williams & Kowalko
Sens. Bushweller, Cloutier, Hall-Long, Katz, Marshall, McBride & Sorenson & Reps. Brady, Schooley, Mulrooney, Longhurst & Oberle

DELAWARE STATE SENATE
145th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 119

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO THE RENEWABLE ENERGY PORTFOLIO STANDARDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §354(a) of Title 26 of the Delaware Code by striking Schedule I where it appears after the words "solar photovoltaics as follows:" and replacing it with the following:

| **SCHEDULE I** | | |
|---|---|---|
| **Compliance Year (beginning June 1st)** | **Minimum Cumulative Percentage from Eligible Energy Resources** | **Minimum Cumulative Percentage from Solar Photovoltaics*** |
| 2010 | 5.00% | 0.018% |
| 2011 | 7.00% | 0.20% |
| 2012 | 8.50% | 0.40% |
| 2013 | 10.00% | 0.60% |
| 2014 | 11.50% | 0.80% |
| 2015 | 13.00% | 1.00% |
| 2016 | 14.50% | 1.25% |
| 2017 | 16.00% | 1.50% |
| 2018 | 17.50% | 1.75% |
| 2019 | 19.00% | 2.00% |
| 2020 | 20.00% | 2.25% |
| 2021 | 21.00% | 2.50% |
| 2022 | 22.00% | 2.75% |
| 2023 | 23.00% | 3.00% |
| 2024 | 24.00% | 3.25% |
| 2025 | 25.00% | 3.50% |

| * Minimum Percentage from Eligible Energy Resources Includes the Minimum Percentage from Solar Photovoltaics. |
|---|

Section 2. Amend §354(a) of Title 26 of the Delaware Code by striking the following language in its entirety:

"The State Energy Coordinator of the Delaware Energy Office shall have the authority to review the alternative compliance payments on an as needed or annual basis to determine reasonableness compared to market REC prices. The State Energy Coordinator of the Delaware Energy Office shall also have the authority to lower the alternative compliance payment by 10% in order to achieve reasonableness."

Section 3. Amend §358(d) of Title 26 of the Delaware Code by adding the following as subparagraph (4) to read as follows:

"The State Energy Coordinator shall have the authority to review the alternative compliance payment on an as needed or annual basis to determine reasonableness compared to market REC prices. Following an analysis conducted by the Delaware Energy Office, the State Energy Coordinator shall also have the authority to adjust the alternative compliance payment by 10% in order to achieve reasonableness."

Section 4. Amend §354(b) of Title 26 of the Delaware Code by adding after the word "resources" the following: "and solar photovoltaics".

Section 5. Amend §354(b) of Title 26 of the Delaware Code by substituting "2026" for "2020" and "2025" for "2019".

Section 6. Amend §354(c) of Title 26 of the Delaware Code by substituting "25% from Eligible Energy Resources" for "20%".

Section 7. Amend §354(d) of Title 26 of the Delaware Code by substituting "25%" for "20%" as it appears in the first sentence.

Section 8. Amend §354 of Title 26 of the Delaware Code by striking paragraph (e) in its entirety.

Section 9. Amend §354(f) of Title 26 of the Delaware Code by substituting "2026" for "2020".

Section 10. Amend §354(h) of Title 26 of the Delaware Code by adding after the word "credits" the following: "and solar renewable energy credits".

Section 11. Amend §354 of Title 26 of the Delaware Code by adding paragraphs (i) and (j) at the end thereof to read as follows:

"(i) The State Energy Coordinator in consultation with the Commission, may freeze the minimum cumulative solar photovoltaics requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 1% of the total retail cost of electricity for retail electricity

suppliers during the same compliance year. In the event of a freeze, the minimum cumulative percentage from solar photovoltaics shall remain at the percentage for the year in which the freeze is instituted. The freeze shall be lifted upon a finding by the Coordinator, in consultation with the Commission, that the total cost of compliance can reasonably be expected to be under the 1% threshold. The total cost of compliance shall include the costs associated with any ratepayer funded state solar rebate program, SREC purchases, and solar alternative compliance payments.

(j) The State Energy Coordinator in consultation with the Commission, may freeze the minimum cumulative Eligible Energy Resources requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 3% of the total retail cost of electricity for retail electricity suppliers during the same compliance year. In the event of a freeze, the minimum cumulative percentage from Eligible Energy Resources shall remain at the percentage for the year in which the freeze is instituted. The freeze shall be lifted upon a finding by the Coordinator, in consultation with the Commission, that the total cost of compliance can reasonably be expected to be under the 3% threshold. The total cost of compliance shall include the costs associated with any ratepayer funded state renewable energy rebate program, REC purchases, and alternative compliance payments."

Section 12. Amend §356 of Title 26 of the Delaware Code by adding new paragraphs (d) and (e) to read as follows:

"(d) A retail electricity supplier shall receive an additional 10% credit toward meeting the renewable energy portfolio standards established pursuant to this subchapter for solar or wind energy installations sited in Delaware provided that a minimum of 50% of the cost of renewable energy equipment, inclusive of mounting components, are manufactured in Delaware.

(e) A retail electricity supplier shall receive an additional 10% credit toward meeting the renewable energy portfolio standards established pursuant to this subchapter for solar or wind energy installations sited in Delaware provided that the facility is constructed and/or installed with a minimum of 75% in-state workforce."

Section 13. Amend § 358(a) of Title 26 of the Delaware Code by inserting "and SREC" after "REC" and inserting "and SRECs" after "issuing RECs" and "of RECs".

Section 14. Amend §358(e) of Title 26 of the Delaware Code by substituting "$400" for "$250".

Section 15. Amend §358(e) of Title 26 of the Delaware Code by striking the following language in its entirety:

"The Delaware Energy Office may set the Solar Alternative Compliance Payments at an amount higher than, but not more than 20% higher than, the estimated competitive market cost of an SREC, determined by the quarterly weighted average cost of meeting the requirement through purchase of an SREC."

Section 16. Amend §358(e) of Title 26 of the Delaware Code by substituting "$400" for "$250".

Section 17. Amend §358(e)(1) of Title 26 of the Delaware Code by substituting "$400" for "$250" and "$450" for "$300".

Section 18. Amend §358(e)(2) of Title 26 of the Delaware Code by substituting "$450" for "$300" and "$500" for "$350".

Section 19. Amend §358(e) of Title 26 of the Delaware Code by adding a new subparagraph (3) to read as follows:

"(3) The State Energy Coordinator shall have the authority to review the Solar Alternative Compliance Payment on an as needed or annual basis to determine reasonableness compared to market-based SREC prices. Following an analysis conducted by the Delaware Energy Office, the State Energy Coordinator shall also have the authority to adjust the Solar Alternative Compliance Payment by 20% in order to achieve reasonableness, but not higher than 20% of the competitive market cost of an SREC, determined by the quarterly weighted average cost of meeting the requirement through purchase of an SREC as analyzed by the Delaware Energy Office."

Section 20. Amend §362 of Title 26 of the Delaware Code by designating the existing paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

"(b) For regulated utilities, the Commission shall further adopt rules and regulations to specify the procedures for freezing the minimum cumulative solar photovoltaic requirement as authorized under §354(i) and (j), and for adjusting the alternative compliance payment and solar alternative compliance payment as authorized under §358(d)(4) and (e)(3)."

Section 21. Strike §363 of Title 26 of the Delaware Code in its entirety and replace it with a new section, to read as follows:

"§363 Special provisions for municipal electric companies and rural electric cooperatives.

(a) Any municipal electric company and any rural electric cooperative may elect to exempt itself from the requirements of this subchapter, if it develops and implements a comparable program to the Renewable Energy Portfolio Standards for its ratepayers beginning in 2013.

(b) In the event that a municipal electric company or rural electric cooperative elects to exempt itself from the requirements of this subchapter, it shall submit a plan at the beginning of 2013 to its Local Regulatory Authority, the Delaware General Assembly, and the Delaware Energy Office detailing its approach to achieve a level of renewable energy penetration in its service territory, and shall submit an annual compliance report to its Local Regulatory Authority, the Delaware General Assembly, and the Delaware Energy Office detailing its progress towards yearly targets.

(c) The Board of Directors for a rural electric cooperative or Local Regulatory Authority of a municipal

electric company shall base renewable energy portfolio standard decisions on the need, value and feasibility of the renewable energy resources pertaining to the economic and environmental well being of their members. The Board of Directors for a rural electric cooperative or Local Regulatory Authority of a municipal electric company shall continue to evaluate all renewable energy resources including but not limited to: wind, biomass, hydroelectric and solar and submit an annual report to the General Assembly and their membership as to their determination.

(d) In the event that a municipal electric company or rural electric cooperative elects to exempt itself, it shall either contribute to the Green Energy Fund at levels commensurate with other retail electricity suppliers or create an independent, self-administered fund separate from the Green Energy Fund to be used in support of energy efficiency technologies, renewable energy technologies, or demand side management programs, into which it shall make payments of at least $0.178 for each megawatt-hour it sells, transmits, or distributes in this State.

(e) The total cost of compliance with this section shall include the costs associated with any ratepayer funded renewable energy rebate programs, REC and SREC purchases, or other costs incurred in meeting renewable energy programs.

(f) The total cost of complying with Eligible Energy Resources shall not exceed 3% of the total cost of the purchased power of the utility for any calendar year.

(g) The total cost of complying with the solar photovoltaic program shall not exceed 1% of the total cost of the purchased power of the affected utility for any calendar year.

(h) At no time during any calendar year shall the total cost of compliance with this section result in an increase of an average consumer's monthly bill in excess of 4%.

(i) The Board of Directors of a rural electric cooperative and the Local Regulatory Authority of a municipal electric company may approve an increase in the limit on the cost of compliance, as specified in (f) and (g) above.

(j) In pursuit of their renewable energy goals, a municipal electric company or rural electric cooperative shall receive all appropriate multiple credits for specific energy sources, as established under §356 and §357 and sited in Delaware for the life of contracts for renewable energy credits."

Section 22. Amend §360 of Title 26 of the Delaware Code by adding new paragraph (d) to read as follows:

"(d) The Renewable Energy Taskforce shall be formed for the purpose of making recommendations about the establishment of trading mechanisms and other structures to support the growth of renewable energy markets in Delaware.

(1) The Taskforce shall comprise the following appointments:

a. Four appointments by the Secretary of DNREC, which shall include one representative from the renewable energy research and development industry, one representative from the local renewable energy manufacturing industry, and one representative from an environmental advocacy organization;

b. One appointment by the Commission;

c. One appointment by Delmarva Power & Light;

d. One appointment by the Delaware Electric Cooperative;

e. One appointment by municipal electric companies;

f. One appointment by the Sustainable Energy Utility;

g. One appointment by the Delaware Public Advocate; and

h. One appointment by the Delaware Solar Energy Coalition.

(2) The Taskforce shall be charged with making recommendations about and reporting on the following and matters related thereto:

a. Establishing balanced markets mechanisms for REC and SREC trading;

b. Establishing REC and SREC aggregation mechanisms and other devices to encourage the deployment of renewable, distributed renewable, and solar energy technologies in Delaware with the least impact on retail electricity suppliers, municipal electric companies and rural electric cooperatives;

c. After an analysis by the Taskforce, the annual progress towards achieving the minimum cumulative percentages for all renewable energy resources including, but not limited to, solar and other eligible energy resources and making appropriate recommendations based upon deliberate and factual analysis and study;

d. Minimizing the cost for complying with any portion of this subchapter based upon deliberate and factual analysis and study;

e. Establishing revenue certainty for appropriate investment in renewable energy technologies, Including, but not limited to, consideration of long-term contracts and auction mechanisms;

f. Establishing mechanisms to maximize in-state renewable energy generation and local manufacturing; and

g. Ensuring that residential, commercial, and utility scale photovoltaic and solar thermal systems of various sizes are financially viable and cost-effective investments in Delaware.

(3) The Taskforce shall be formed within 90 days of the effective date of this Act and be staffed by the

Delaware Energy Office. The Taskforce shall make recommendations to the Commission, the Secretary of DNREC, the Board of Directors for rural electric cooperatives, and the pertinent Local Regulatory Authorities on the abovementioned subjects for their consideration. Upon making these recommendations, the Commission, DNREC, the Board of Directors for rural electric cooperatives, or the pertinent Local Regulatory Authorities, as appropriate, shall promulgate rules and regulations, or adopt policies, based on the Taskforce findings."

## SYNOPSIS

This act will further strengthen Delaware's Renewable Energy Portfolio Standards by increasing and extending the required minimum percentage of renewable energy supply. The amendments included in this act will provide stability for the development of renewable energy markets in the State of Delaware. The act will also incentivize renewable energy projects that employ Delaware labor and locally manufactured products. The act also provides consumer protections by limiting any rate impacts. Finally, the act provides for municipal electric companies and rural electric cooperatives to have equitable participation in Delaware's Renewable Energy Portfolio Standards and create greater opportunity for renewable energy technologies to reach market parity for the benefit of all Delaware ratepayers.

Author: Senator McDowell