

In The Matter Of:

*State of Delaware - 145th General Assembly
House of Representatives Debate*

*Senate Substitute No. 1 for Senate Bill No. 119
June 29, 2010*

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STATE OF DELAWARE

145th GENERAL ASSEMBLY

HOUSE OF REPRESENTATIVES DEBATE

SENATE SUBSTITUTE NO. 1 for SENATE BILL NO. 119

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TRANSCRIPT OF AN ELECTRONIC RECORDING

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1 THE SPEAKER: Representative
2 Schwartzkopf.

3 REPRESENTATIVE SCHWARTZKOPF:
4 Thank you, Mr. Speaker, staying on the agenda,
5 item No. 5, Senate Substitute 1 for Senate Bill
6 119. Defer to Representative D.E. Williams
7 again.

8 THE SPEAKER: Representative
9 Dennis Edward Williams.

10 REPRESENTATIVE D.E. WILLIAMS:
11 Thank you, Mr. Speaker. Could I have Senate
12 Substitute 1 for Senate Bill 119 read in for
13 the third and final time and brought before the
14 House for consideration?

15 THE SPEAKER: Mr. VanSant, please
16 read in Senate Substitute 1 for Senate Bill 119
17 by title.

18 MR. VANSANT: Mr. Speaker, Senate
19 Substitute No. 1 for Senate Bill No. 119,
20 sponsored by Senator McDowell and
21 Representative D.E. Williams and Representative
22 Kowalko and other senators and representatives,
23 An Act to Amend Title 26 of the Delaware Code
24 Relating to the Renewable Energy Portfolio



1 Standards.

2 Mr. Speaker, this constitutes the
3 third and final reading of Senate Substitute
4 No. 1 for Senate Bill No. 119 by title.

5 THE SPEAKER: Thank you,
6 Mr. VanSant.

7 Representative Dennis Edward
8 Williams, Senate Substitute 1 for Senate Bill
9 119 is before us, sir.

10 REPRESENTATIVE D.E. WILLIAMS:
11 Thank you, Mr. Speaker. This bill strengthens
12 Delaware's renewable portfolio standards first
13 passed in 2004 and revised in 2007 by extending
14 the required minimum percentage of renewable
15 solar and solar energy supply up to 25 percent
16 renewable energy by 2025, including 3.5 percent
17 of that from solar power by 2025.

18 What this bill also does is place
19 a new emphasis on local labor and manufacturing
20 by incentivizing renewable energy projects that
21 employ these resources and, and I think, very
22 importantly, what it adds that the prior
23 versions of this did not have is ratepayer
24 protection by introducing limits of cost



1 impacts on this.

2 If there are no questions, roll
3 call.

4 THE SPEAKER: Seeing none --
5 excuse me, Representative.

6 REPRESENTATIVE KOVACH: Thank
7 you, Mr. Speaker. Open dialogue with the
8 sponsor.

9 THE SPEAKER: Open dialogue with
10 the sponsor, Representative Kovach.

11 REPRESENTATIVE KOVACH: Thank
12 you, Mr. Speaker.

13 This bill moves us in a direction
14 as a state that (Inaudible) for moving into
15 renewable energy, which is commendable. But I
16 guess folks have expressed concerns about the
17 cost. And before we vote on this legislation,
18 I'd like to get some of that information on
19 potential societal costs and benefits on the
20 floor. So I could ask a few questions or do we
21 want to call Secretary O'Mara?

22 REPRESENTATIVE D.E. WILLIAMS:
23 Personal privilege to the floor for the
24 Secretary of DNREC.



1 THE SPEAKER: Would the Secretary
2 of DNREC please come forward, take the podium.
3 Please identify yourself. You're going to have
4 to hold the mic. We're having trouble with the
5 mic. Thank you, sir.

6 SECRETARY O'MARA: Collin O'Mara,
7 Secretary of Natural Resources and
8 Environmental Control.

9 THE SPEAKER: Open dialogue,
10 Representative.

11 REPRESENTATIVE KOVACH: Thank
12 you, Mr. Speaker. Open dialogue with the
13 Secretary.

14 Thank you, Mr. O'Mara, for coming
15 down. I appreciate the time you've put into
16 these energy bills. Most of them have
17 encouraged industry and renewable energy
18 development in Delaware. This bill, while it
19 has -- certainly has laudable goals, has folks
20 concerned, and their concern is mainly over how
21 the increase in requirements for energy
22 companies, the ramping up from the current
23 requirements to increase requirements to buy
24 our energy from renewable sources, which are



1 typically and currently much more expensive,
2 what's that going to do to their bottom line,
3 what's that going to do to their wallet, what's
4 that going to do to their energy bill?

5 SECRETARY O'MARA: Thank you,
6 Representative Kovach, for the question.

7 The current RPS that we have has
8 very similar goals, 20 percent by 2020 and a 2
9 percent solar carve-out by 2020. Those numbers
10 are still preserved in this bill.

11 What we're trying to do is make
12 sure there's price protections in place where
13 there currently are none. And we believe,
14 based on our estimation, that the -- on the
15 high-end estimate that the ratepayer impact
16 will be no more than about 50 cents a month
17 per, per residence. And that's the high-end
18 estimate, assuming costs don't continue to come
19 down as we've seen them move in the last two
20 years. And so we believe there will be very
21 minimal impact.

22 But most importantly, by having a
23 circuit breaker, if you will, an actual price
24 control, whereby if the, if the ratepayer



1 impacts exceed a certain amount, that the
2 entire program freezes in place, we can ensure
3 ratepayers that there won't be any adverse
4 impacts from this legislation.

5 REPRESENTATIVE KOVACH: Thank
6 you, Mr. Secretary.

7 Following up with that question,
8 I guess the concern is that currently, energy
9 from renewable sources, solar, photovoltaic, is
10 more expensive on the average and conceivably
11 significantly more expensive currently than
12 other, you know, coal-based, petroleum-based,
13 fossil fuel-based sources. What -- through
14 this legislation, how are you going to, you
15 know, protect the consumer when you increase
16 the requirement to buy from more expensive
17 sources? What consumer protections are in
18 place to make sure that we're not going to be
19 facing these increased costs?

20 SECRETARY O'MARA: Right. The --
21 so right now there are no price protections in
22 place under current law in the State of
23 Delaware. So this does add, as I mentioned,
24 the circuit breaker that does freeze the



1 program if there are adverse rate impacts.

2 Secondly, that we are not talking
3 about a massive injection of renewable energy
4 beginning in year one. It really is phased in
5 over time, so -- and the goal is that if we are
6 going to have slightly more expensive power,
7 that it's limited in the quantity so it doesn't
8 have rate impacts. Point 2 percent of the
9 entire, entire mix, even if those few kilowatts
10 are actually -- kilowatt hours are a little
11 more expensive, blended across the entire
12 average has very little impact, and at the same
13 time, there are massive job benefits from the
14 legislation.

15 The other, the other piece, this
16 is part of a broader energy strategy for the
17 state, which also includes a very aggressive
18 energy efficiency campaign, which we'll be
19 rolling out in the coming months, and we
20 believe that we can help people save more money
21 and save more energy than any additional rate
22 impacts. And so it's really part of a pairing
23 between additional energy conservation, help
24 people reduce bills, and then also renewable



1 energy which stabilizes costs in the long run,
2 provides environmental benefits and much
3 greater job benefits than the fossil fuels that
4 we currently have in our midst.

5 REPRESENTATIVE KOVACH: So
6 coupled with the -- some of the pieces of
7 legislation that are floating around the House,
8 one of which being net metering which allows an
9 increase over 100 percent of anticipated
10 current usage, how does that -- how does a net
11 metering bill fit in with this legislation
12 to -- you know, what does that do to our
13 businesses, to our alternative energy sources?

14 SECRETARY O'MARA: Right, so in
15 that meeting legislation that we just approved.
16 That you all just approved, really provides
17 opportunities for the -- for individual
18 businesses, particularly farms, in some cases
19 businesses that have multiple meters to produce
20 all of their power from renewable, renewable
21 sources.

22 And so what -- when you put the
23 two bills together, where if you have
24 individuals that want to stabilize their cost



1 by having a very fixed amount, a fixed cost for
2 their solar energy, for example, compared to
3 the variability of fossil fuel prices, what
4 we're doing with this legislation in 119 is
5 creating a steady demand for the utilities and
6 others that actually buy the attributes, the
7 renewable energy credits that are necessary to
8 fulfill their standards under this, so we're
9 creating a market in which there is a demand
10 that the utility is going to meet, and then
11 also putting easy financing mechanisms in
12 place, such as a net metering bill, to allow
13 customers, businesses, farms, to easily take
14 advantage of those opportunities. So really
15 they are a marrying of the, of the two
16 programs.

17 REPRESENTATIVE KOVACH: We're,
18 we're settings -- and this legislation sets
19 some lofty goals for renewable percentages.
20 What, what's our, I guess, current percentage
21 of renewables throughout the state?

22 SECRETARY O'MARA: We're hovering
23 right around a little less than 5 percent right
24 now, which is in line with the current goals.



1 The schedule that you see in the document on
2 the first page of the bill in the minimum --
3 the first to the second column, if you will, is
4 exactly the same as it currently is under law.
5 We're not proposing to change that at all, and
6 so the goal is really to focus on some of the
7 other distributed solutions like, like solar.

8 But between systems that are in
9 state as well as contracts that are signed for
10 wind projects in adjacent states, Delmarva's
11 mix is right around 4 or 5 percent. The co-op
12 has actually done a great job with recent
13 acquisitions of landfill gas contracts as well
14 as wind contracts in other states at prices
15 that are equally competitive to any fossil
16 fuel, and they're hovering somewhere between 10
17 and 12 percent and they're planning on
18 expanding as well.

19 And so we've seen both Delmarva,
20 the co-op and the munis diversify their fuel
21 mix significantly in the last few years, and
22 this mirrors some of that, some of that work.

23 REPRESENTATIVE KOVACH: As far --
24 previous, the previous legislation that you



1 mentioned, it did -- it included our power-
2 generating companies but excluded
3 municipalities and the co-op. This legislation
4 seeks to include those sources of electricity.
5 What's -- I guess what's the effect of that and
6 how is that going to affect these non-
7 traditional sources of power? What's it going
8 to do to those folks' rates?

9 SECRETARY O'MARA: The price
10 protections that we discussed earlier are
11 embedded also in the, in the special language
12 that is carved out for the munis and the, and
13 the co-op. Unlike the previous legislation
14 that allowed basically a full exemption, what
15 this legislation proposes is that the munis and
16 the co-op have a, basically a comparable
17 program that will begin in a few years, because
18 giving them time to get up to, up to speed
19 with, you know, compared to Delmarva that has
20 had a requirement for several years, as well as
21 giving them the flexibility for how to achieve
22 those targets, and we believe that the munis
23 and the co-ops have their own unique governing
24 structure, they do have kind of different,



1 different structures in terms of their business
2 models. And so giving them the flexibility,
3 they still need to achieve a similar, similar
4 performance level, but giving them the
5 flexibility to do so, and as I mentioned, they
6 do the ratepayer protections that we negotiated
7 both with the co-op and DEMEC to make sure that
8 everyone was comfortable with the language that
9 you have before you.

10 REPRESENTATIVE KOVACH: Okay.
11 You mentioned a number of 1 percent. Are you
12 telling me that if rates go up more than 1
13 percent as a result of this legislation, can
14 you -- is that correct, am I understanding
15 correct that the rates go up more than 1
16 percent, what happens?

17 SECRETARY O'MARA: So under the
18 legislation, if the -- as soon as there's a 1
19 percent impact from the solar portion of the
20 bill, the, the target level freezes in place
21 for that entire calendar year and then starts
22 up again after it. You'll never have more than
23 a 1 percent impact in any given year for the
24 solar, for the solar portion of the, of -- the



1 solar requirements as written in the
2 legislation.

3 And that is actually much more
4 stringent and much more -- has much greater
5 ratepayer protection than New Jersey and
6 Maryland, both of which have a 2 percent
7 carve-out, because we believe that we need to
8 protect ratepayers during this tough economic
9 time.

10 REPRESENTATIVE KOVACH: I've
11 heard discussion of comparing the costs of
12 alternate energy with the cost of the fossil
13 fuel-based sources. A lot of times you can get
14 those fossil fuel-based sources cheaper, but
15 then other times demand peaks and the prices
16 peak. What, what would this legislation do in
17 terms of providing price stability in those
18 markets?

19 SECRETARY O'MARA: Right. Do
20 have to say, I feel a little bit like this is
21 my first bill as well, the number of questions.
22 But the one thing -- a little funny, isn't it?
23 I need, I need my jersey on.

24 THE SPEAKER: Mr. Secretary, you



1 want some water? Are you all right? You need
2 a chair? You okay? Thank you, sir.

3 SECRETARY O'MARA: Thank you,
4 sir.

5 One thing, one thing that --
6 bring on the gloves. One thing that it does do
7 is that fossil fuel, fossil fuel prices,
8 because of global markets and kind of the
9 differences in demand, tend to be much -- have
10 much more variability than renewable resources.
11 So where Bluewater Wind in the negotiation that
12 all of you approved a few years ago will have a
13 fairly stable rate for the entire 25 years,
14 solar similar, landfill gas the same.

15 And so what this does is that it
16 provides a stable price point for 25 percent of
17 our energy supply within 15 years. And so you
18 have that stability, while you still have
19 fluctuations in the natural gas and coal
20 markets, I mean we'll provide some additional,
21 some additional stability. And when you
22 combine that with the ratepayer protections, we
23 believe that's a good fit to make sure there
24 are not adverse impacts but we still grow these



1 new industries and jobs in Delaware.

2 REPRESENTATIVE KOVACH: Thank
3 you, Mr. Speaker. Thank you, Mr. Secretary.

4 THE SPEAKER: Representative
5 Kowalko.

6 REPRESENTATIVE KOWALKO: Yes.
7 Open dialogue with the witness?

8 THE SPEAKER: Open dialogue.

9 REPRESENTATIVE KOWALKO: Yeah,
10 and I know there is always a concern about cost
11 comparisons. But wouldn't you agree,
12 Mr. Secretary, that the cost stability can only
13 be guaranteed when there is no, no fuel to be
14 burnt and no commodity to be consumed, and
15 that's the only way you can guarantee a stable
16 price?

17 SECRETARY O'MARA: That is
18 correct.

19 REPRESENTATIVE KOWALKO: And that
20 renewables offer that, and quite frankly, the
21 cost comparison may become soon outdated when
22 you have a -- instead of such as carbon
23 taxation put on the normal fossil fuel
24 generation capacities, that's going to drive



1 that price up, it's only an economic reality,
2 and that this can stay stable because it does
3 not have that kind of penalty enforced upon it?

4 SECRETARY O'MARA: Yes.

5 REPRESENTATIVE KOWALKO: Thank
6 you.

7 THE SPEAKER: Any other questions
8 of the Secretary? Representative Briggs-King.

9 REPRESENTATIVE BRIGGS-KING: Yes,
10 thank you, Mr. Speaker.

11 I have a question for you, and
12 that's regarding, I think this very similar
13 legislation was passed in California a few
14 years ago. Are you familiar with that? Okay.
15 Can you give us a status report on what's
16 actually happened in California since 2007, as
17 far as that goes?

18 SECRETARY O'MARA: Yes. So
19 California does have a similar approach. The
20 goals are slightly more ambitious, and they
21 have, they have actually struggled in some ways
22 to meet some of their targets. The one area
23 that they failed in -- actually two areas, and
24 I was actually involved in, in the legislation



1 a little bit when I was there.

2 They did not put the consumer
3 protections in place that we're talking about,
4 so there have been adverse impacts there
5 because they did not take that step. And the
6 second thing is they did not put enough
7 incentives in for local jobs and local
8 manufacturing, and many of the panels that are
9 being put up in California are actually coming
10 in from overseas. And so we're trying to
11 correct those two mistakes and learn from
12 their, learn from their -- the problems that
13 they've had there so we don't replicate their
14 mistakes.

15 REPRESENTATIVE BRIGGS-KING:

16 Okay, thank you. Because there was just a
17 concern, I know the report was released
18 sometime in May that was alluding to that, and
19 my thing was if we know that California was a
20 leader in this and they've had problems, then
21 we shouldn't compound here in Delaware by doing
22 those things that have been done in California,
23 because there was a hope that it was going to
24 create jobs, and instead of creating jobs, it's



1 actually had a little bit of a negative effect
2 there. So, but thank you.

3 THE SPEAKER: Any other questions
4 for the Secretary? Representative Dennis E.,
5 sir, you've got a question for the secretary?

6 REPRESENTATIVE D.E. WILLIAMS:
7 Just a comment that, would you also agree that
8 solar industry, since we're talking about cost
9 containment, is probably a classic example of
10 economies of scale as they grow that the cost
11 will become level?

12 SECRETARY O'MARA: Yes. And I
13 think one of the great opportunities on the
14 economic development side for the State of
15 Delaware is that there are several companies,
16 many of them are here and have spoken to many
17 of you, both in the, the manufacturing of
18 panels themselves and the technologies that go
19 into them, as well as the apparatus that are
20 used to install them as well as the installers
21 themselves.

22 We have over 200 individuals
23 involved in the solar industry right now. We
24 believe we could easily double that number with



1 this legislation, and then hopefully quadruple
2 it in the coming years as a result of this.

3 THE SPEAKER: Any other questions
4 for the Secretary?

5 Thank you, Mr. Secretary.

6 Representative Dennis E.
7 Williams.

8 REPRESENTATIVE D.E. WILLIAMS:
9 Thank you. Roll call, please.

10 THE SPEAKER: Mr. Chief Clerk,
11 please call the roll on Senate Substitute 1 for
12 Senate Bill 119.

13 (Roll call.)

14 THE SPEAKER: Please announce
15 roll call.

16 THE CLERK: Mr. Speaker, the roll
17 call reveals 28 yes, seven no, six absent.

18 THE SPEAKER: Having received a
19 constitution majority, Senate Substitute No. 1
20 for Senate Bill 119 is declared passed the
21 House.

22 (Conclusion.)

23

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CERTIFICATE

STATE OF DELAWARE)
)
NEW CASTLE COUNTY)

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Julie H. Parrack, RMR-CRR



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