

**In The Matter Of:**

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

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*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

June 29, 2010

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.)

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CERTIFICATE

STATE OF DELAWARE )  
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I, Julie H. Parrack, Registered  
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IN WITNESS WHEREOF, I have  
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December, 2013.



Julie H. Parrack, RMR-CRR



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