

CHAPTER 256

AN ACT establishing the New Jersey State Parks and Open Space Foundation, and supplementing Title 13 of the Revised Statutes.

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

C.13:1L-8.1 Definitions.

1. As used in this act:

“Commissioner” means the Commissioner of Environmental Protection.

“County and municipal parks and open space” means parks, forests, historic sites, natural areas, wildlife management areas, and any other lands, waters, and facilities owned or administered by a county or a municipality, or an agency thereof, for recreation and conservation purposes.

“Department” means the Department of Environmental Protection.

“Foundation” means the New Jersey State Parks and Open Space Foundation established pursuant to section 2 of this act.

“Qualifying tax exempt nonprofit organization” means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to section 27 P.L.1999, c.152 (C.13:8C-27).

“State parks and open space” means State parks, forests, historic sites, natural areas, wildlife management areas, and any other lands, waters, and facilities owned or administered by the department for recreation and conservation purposes.

C.13:1L-8.2 "New Jersey State Parks and Open Space Foundation" established.

2. a. There is established a nonprofit, educational, and charitable organization to be known as the New Jersey State Parks and Open Space Foundation. The foundation shall be devoted to the raising of funds to be used for (1) improvements to natural or artificial assets, including the planning, design, construction, installation, renovation, repair, or restoration thereof, which are designed to expand and enhance the utilization of State parks and open space, and county and municipal parks and open space, for recreation and conservation purposes and the equitable access thereto; and (2) activities, beyond the routine operations of State parks and open space, or county and municipal parks and open space, which are intended to enhance public programming and recreational and educational offerings, restore or maintain public accessibility to the natural resources of the State, or support operation and maintenance activities attendant thereto. Funds raised by the foundation shall be supplementary to State and federal funds received by the department for these purposes.

b. The foundation shall be incorporated as a New Jersey nonprofit corporation pursuant to N.J.S.15A:1-1 et seq., and shall be organized and operated in such manner as to be eligible under applicable federal law for tax-exempt status and for the receipt of tax-deductible contributions. The foundation shall be a separate and independent entity from the State and any State department, and shall have all of the rights and powers of a corporation organized under N.J.S.15A:1-1 et seq.

c. The department may provide financial assistance and the services of employees of the department as may be required to form and incorporate the foundation within the limits of funds appropriated to the department or otherwise made available to the department for these purposes. Once the foundation is incorporated, the foundation may apply for grants-in-aid from any department or instrumentality of the State as may be necessary to supplement other funding raised by or otherwise made available to the foundation.

C.13:1L-8.3 Board of directors, New Jersey State Parks and Open Space Foundation.

3. a. The New Jersey State Parks and Open Space Foundation shall be governed by a board of directors, which shall consist of 12 members, as follows:

(1) the Commissioner of Environmental Protection, or the commissioner's designee, who shall serve as a nonvoting, ex officio member;

(2) the Secretary of State, or the secretary's designee, who shall serve as a nonvoting, ex officio member;

(3) the State Treasurer, or the treasurer's designee, who shall serve as a nonvoting, ex officio member;

(4) the chairperson of the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4), or the chairperson's designee, who shall serve ex officio;

(5) six members of the public, appointed by the Governor, with the advice and consent of the Senate, who shall have expertise in open space preservation, recreational development, natural lands management, or fundraising. Of the public members appointed pursuant to this paragraph, at least three members shall represent nonprofit organizations having open space preservation or environmental education as their corporate purpose, and two members shall have experience advancing the causes of equity or environmental justice;

(6) one member of the public appointed by the President of the Senate; and

(7) one member of the public appointed by the Speaker of the General Assembly.

b. All public members of the board of directors shall be residents of the State and shall be selected to provide diverse geographic representation across the State. No person holding elective public office shall be eligible to be a member of the board of directors.

c. Of the public members first appointed pursuant to paragraph (5) of subsection a. of this section, one shall be appointed to a term of one year, two shall be appointed to a term of two years, two shall be appointed to a term of three years, and one shall be appointed to term of four years. The public members appointed pursuant to paragraphs (6) and (7) of subsection a. of this section shall be appointed to terms of three years. Following the expiration of the original terms, the public members shall serve for a term of four years and shall be eligible for reappointment. Any vacancy shall be filled in the same manner as the original appointment, for the unexpired term. A public member may continue to serve until a successor is appointed.

d. No member of the board of directors shall engage in any business transaction or professional activity for profit with the foundation or the department.

e. Members of the board of directors shall serve without compensation, but shall be entitled to reimbursement for necessary and reasonable expenses incurred in the performance of their duties.

f. The board of directors shall be authorized, within the limits of its own funds, to employ an executive director and professional, technical, and administrative personnel. Employees of the foundation shall not be construed to be employees of the State of New Jersey. The board shall also be authorized to contract for such professional and administrative services as it shall deem necessary.

g. Upon the incorporation of the foundation and the establishment of the first board of directors, the board shall adopt bylaws setting forth the structure, officers, powers, and duties of the foundation and a code of ethics for the avoidance of conflicts of interest.

h. The commissioner shall serve as the chairperson of the board. The members shall annually elect one of the public members as vice chairperson, and shall select a secretary and a treasurer, who need not be members of the foundation. The same person may be elected to serve as both secretary and treasurer.

i. Five members of the board of directors shall constitute a quorum, and action may be taken, and motions and resolutions adopted at any meeting thereof by the affirmative vote of a majority of the appointed membership of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the board. The board shall meet at the call of the chairperson, but not less than quarterly, or upon the request of any four members of the board of directors. The foundation shall in all respects comply with the provisions of the “Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.).

j. Members of the board and officers and employees of the foundation shall not be liable in an action for damages to any person for any action taken or recommendation made within the scope of their employment as a member, officer, or employee, if the action or recommendation was taken or made without malice. The members of the board shall be indemnified and their defense of any action provided for in the same manner and to the same extent as employees of the State under the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq., with respect to actions or omissions in the scope of their employment.

k. The foundation may convene committees to administer the work of the foundation as it may deem appropriate, including for the consideration of specific fundraising strategies. The foundation shall convene committees dedicated to the solicitation and administration of funds for Liberty State Park, Island Beach State Park, and other specific State parks, or to open space, initiatives, or projects deemed appropriate by the board, and may solicit and accept specifically dedicated donations, which shall be subject to separate and distinct accounting.

C.13:1L-8.4 Powers, functions, New Jersey State Parks and Open Space Foundation.

4. The New Jersey State Parks and Open Space Foundation shall have the power:

a. to sue and be sued in its own name;

b. to adopt a seal and alter the same at pleasure;

c. to adopt bylaws for the regulation of its affairs and the conduct of its business;

d. to maintain an office or offices at such a place or places within the State as it may designate;

e. to appoint such officers, who need not be members of the foundation, in addition to a secretary and a treasurer, as the foundation deems advisable, and to employ such other employees and agents as may be necessary or desirable in its judgment, to fix their compensation, and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

f. to apply for and accept any grant of money from the federal government, which might be or may become available for programs in furtherance of its statutory goals, to subscribe to and comply with any rule or regulation made by the federal government with respect to the application of such a grant, and to enter into and perform any contract or agreement with respect to the application of such a grant;

g. to make, enter into, and perform all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

h. to cooperate with and assist, insofar as practicable, any agency of the State or any of its political subdivisions, and any private agency or person in furtherance of the purposes of the foundation; and

i. to do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

C.13:1L-8.5 Powers, funds, New Jersey State Parks and Open Space Foundation.

5. a. The New Jersey State Parks and Open Space Foundation shall have the following powers, in particular:

(1) to solicit and accept monetary donations, gifts, grants, devises, bequests, legacies, endowments, personal property, or services from any public or private sources, and, unless otherwise specified by the person making such a donation, gift, grant, devise, legacy, bequest, or endowment, to invest or reinvest the same in whole or in part in accordance with the provisions of subsection c. of this section; and

(2) to apply all moneys, assets, property, or other things of value it may receive incident to its operation or pursuant to the general purposes of the foundation.

b. (1) All funds received by the foundation, other than those necessary to pay for the expenses of the foundation, shall be used exclusively for: (a) improvements to natural or artificial assets, including the planning, design, construction, installation, renovation, repair, or restoration thereof, which are designed to expand and enhance the utilization of State parks and open space, and county and municipal parks and open space, for recreation and conservation purposes and the equitable access thereto; and (b) activities, beyond the routine operations of State parks and open space, or county and municipal parks and open space, which are intended to enhance public programming and recreational and educational offerings, restore or maintain public accessibility to the natural resources of the State, or support operation and maintenance activities attendant thereto.

(2) The foundation shall develop an open and transparent process governing the solicitation of funding and the method by which funding shall be made available to the department for the purposes set forth in this act. The process shall ensure that any attribution or recognition for a donation is minimal and equal regardless of the size of a donation. Except as otherwise provided in subsection k. of section 3 of this act, all funding shall be made available to the department for use, consistent with paragraph (1) of this subsection, in the areas of greatest need, as determined by the department in its sole discretion.

c. All monetary donations or other financial contributions received by the foundation shall be invested and reinvested by the foundation in such obligations, securities, or other permitted investments as the board shall deem prudent, to the same extent that trust funds in the custody of the State Treasurer are invested and reinvested, and in a manner that is consistent with the purposes and provisions of this act and with other State and federal law. All interest or other income or earnings derived from the investment or reinvestment of moneys by the foundation shall be credited to the foundation to be used in accordance with the provisions of this act.

C.13:1L-8.6 New Jersey State Parks and Open Space Foundation, real property.

6. The foundation shall not have the authority to accept real property and shall direct all offers of real property to the department.

C.13:1L-8.7 New Jersey State Parks and Open Space Foundation, expenses, payable, funds raised by the foundation; representation.

7. All expenses incurred by the foundation shall be payable from funds raised by the foundation, and no liability or obligation, in tort or contract, shall be incurred by the State for the operation of the foundation. The foundation shall obtain private counsel, and shall not be represented by the Attorney General or indemnified by the State of New Jersey.

C.13:1L-8.8 New Jersey State Parks and Open Space Foundation, audit, books, accounts.

8. a. The foundation shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The cost thereof shall be considered an expense of the foundation, and a copy thereof shall be filed with the Director of the Division of Budget and Accounting in the Department of the Treasury.

b. The foundation shall prepare and annually submit a report to the Governor, the commissioner, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, documenting the foundation's activities during the preceding year, together with any recommendations or requests the foundation deems appropriate to further the purposes of the foundation. The report shall include a complete operating and financial statement covering the operations during the year, a specific short range financing plan for the upcoming year, and a long range financing plan for the next five years.

Within 10 days after the report is submitted to the commissioner pursuant to this subsection, the commissioner shall post a copy of the report on the department's Internet website.

9. This act shall take effect immediately.

Approved January 12, 2024.