

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
SENATE SUBSTITUTE FOR
SENATE, No. 2186
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: DECEMBER 27, 2023

SUMMARY

Synopsis: Prohibits sale, distribution, import, export, or propagation of certain invasive species without permit from Department of Agriculture; establishes NJ Invasive Species Council.

Type of Impact: Annual State expenditure increase. Potential State revenue increase.

Agencies Affected: Department of Agriculture.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2 & Thereafter</u>
Annual State Expenditure Increase	\$667,500	\$480,000
Potential State Revenue Increase	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill would result in a State expenditure increase of \$667,500 in the first year of implementation and ongoing annual staffing costs of \$480,000 thereafter.
- The OLS notes its estimate is largely based on testimony at a December 2023 Senate Environment and Energy Committee meeting, in which a member of the State Board of Agriculture provided information on anticipated staffing and other costs necessary to meet the bill’s requirements.
- The OLS anticipates modest State revenue increases from any violations of the bill’s provisions. Violators may receive warnings for a first offense and face escalating civil penalties, reaching up to \$5,000 for the fourth and subsequent offenses.

BILL DESCRIPTION

This bill would prohibit the sale, offer for sale, distribution, importation, exportation, or other propagation of certain invasive plant species in the State, except under a valid permit issued by the

Department of Agriculture, and it would require the department to adopt rules and regulations establishing and implementing a permitting program to facilitate the safe sale, import, export, introduction, distribution, and propagation of regulated invasive species in the State. The bill would also establish, in the statutory law, with certain modifications, the New Jersey Invasive Species Council that was originally created by Executive Order No. 97 of 2004.

The bill would require the Department of Agriculture, within one year after the bill's effective date, to develop a list of the regulated invasive species that are subject to the bill's permitting requirements. Each year thereafter, the department would be required to update the departmental list, as necessary to designate new species as regulated invasive species for the bill's purposes. In order to designate a new plant species as a regulated invasive species, the department would be required to find that the species threatens, or has the potential to threaten, the ecological, cultural, historical, or infrastructure resources of, or human health in, the State. The department would not be authorized to designate a species as a regulated invasive species solely on the basis that it is non-native to New Jersey.

The bill also requires the department's rules and regulations to incorporate labeling requirements for regulated invasive species, permit application requirements, criteria for permit approval, and a fee schedule. The department would further be required, in consultation with the Invasive Species Council and other relevant entities, as deemed appropriate, to develop or provide physical and digital educational materials, for distribution to consumers at the point of sale. These materials are to identify the State's regulated invasive species, as well as the best propagation, cultivation, and management practices to be used in order to prevent the spread of a regulated invasive species, and, where applicable, alternative species that can be more safely propagated in the State.

A person who violates the bill's provisions would be subject to a warning for a first offense and a civil penalty of up to \$1,000 for a second offense, up to \$2,000 for a third offense, and up to \$5,000 for a fourth or subsequent offense. Any violator would be provided with a three-month period in which to remediate any violation before being subjected to an enhanced penalty for a subsequent offense under the substitute bill's provisions. The department would also be authorized to seek injunctive relief, as necessary to prevent an ongoing violation, and to seize and destroy any invasive plant species that forms a basis of a violation. The department would be required to conduct nursery inspections, in a manner and form similar to inspections for nursery stock conducted pursuant to law, to evaluate compliance with the bill's provisions.

The New Jersey Invasive Species Council, as established under the bill, would consist of a combination of ex-officio members from State agencies and public members appointed by the Governor. The council would be charged with examining and revising the 2009 New Jersey Strategic Management Plan for Invasive Species, prepared by the New Jersey Invasive Species Council pursuant to Executive Order No. 97 of 2004. The council would be required to submit the revised plan to the Governor and the Legislature no later than two years after the effective date of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

During the testimony on December 18, 2023 before the Senate Environment and Energy Committee, a member of the State Board of Agriculture of New Jersey indicated that as a result of the bill, the Department of Agriculture would require five horticulture inspectors with a starting salary of \$56,621 each. Additionally, the board member highlighted the need for one laptop per

inspector for fieldwork, costing \$2,500 each and totaling \$12,500, and five 4-wheel drive vehicles at \$35,000 each, totaling \$175,000.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill would result in a State expenditure increase of \$667,500 in the first year of implementation and ongoing annual staffing costs of \$480,000 thereafter.

The OLS notes its estimate is largely based on testimony at a December 18, 2023 Senate Environment and Energy Committee meeting, in which a member of the State Board of Agriculture provided information on anticipated staffing and other costs necessary to meet the bill's requirements, which task the Department of Agriculture with conducting nursery inspections to evaluate compliance with the bill's provisions. The State Board of Agriculture member testified that five horticulture inspectors would be necessary, each with a starting salary of \$56,621. Additionally, the estimated costs include one laptop per inspector for fieldwork, priced at \$2,500 per laptop and totaling \$12,500, and the acquisition of five 4-wheel drive vehicles at \$35,000 each for the inspections at nurseries, totaling \$175,000. The OLS notes that while laptops and vehicles will not be annual recurring costs, they may require replacement over time. The staffing costs, however, would constitute ongoing annual expenses. In addition to the \$56,621 anticipated starting salary, the OLS projects benefit costs for each horticulture inspector position, resulting in an estimated annual cost of \$96,000 per position and totaling \$480,000 for all five positions.

The OLS anticipates modest State revenue increases from any violations of the bill's provisions. Violators may receive warnings for a first offense and face escalating civil penalties, reaching up to \$5,000 for the fourth and subsequent offenses.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Neha Patel
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).