

[First Reprint]

SENATE, No. 1050

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED JANUARY 30, 2014

Sponsored by:

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Senator CHRISTOPHER "KIP" BATEMAN

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Assemblywoman ALISON LITTELL MCHOSE

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Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

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Assemblywomen Simon, Spencer, Jasey, Assemblymen Diegnan,
Ciattarelli, DiMaio, Assemblywoman Schepisi and Assemblyman Eustace**

SYNOPSIS

Extends for five years expiration date of special appraisal process for Green Acres program and farmland preservation program for lands in Highlands Region; makes change to special appraisal process for certain farmers.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on June 5, 2014, with amendments.

(Sponsorship Updated As Of: 12/19/2014)

1 AN ACT concerning the Highlands region and ¹**【the expiration date**
2 of**】**¹ the special appraisal process for the acquisition of lands for
3 ¹recreation and conservation purposes and for¹ farmland
4 preservation purposes, and amending P.L.1999, c.152.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 ¹1. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to
10 read as follows:

11 26. a. Moneys appropriated from the Garden State Green Acres
12 Preservation Trust Fund to the Department of Environmental
13 Protection shall be used by the department to:

14 (1) Pay the cost of acquisition and development of lands by the
15 State for recreation and conservation purposes;

16 (2) Provide grants and loans to assist local government units to
17 pay the cost of acquisition and development of lands for recreation
18 and conservation purposes; and

19 (3) Provide grants to assist qualifying tax exempt nonprofit
20 organizations to pay the cost of acquisition and development of
21 lands for recreation and conservation purposes.

22 b. The expenditure and allocation of constitutionally dedicated
23 moneys for recreation and conservation purposes shall reflect the
24 geographic diversity of the State to the maximum extent practicable
25 and feasible.

26 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
27 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
28 pursuant thereto, to the contrary, the value of a pinelands
29 development credit, allocated to a parcel pursuant to P.L.1979,
30 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
31 management plan adopted pursuant thereto, shall be made utilizing
32 a value to be determined by either appraisal, regional averaging
33 based upon appraisal data, or a formula supported by appraisal data.
34 The appraisal and appraisal data shall consider as appropriate: land
35 values in the pinelands regional growth areas; land values in
36 counties, municipalities, and other areas reasonably contiguous to,
37 but outside of, the pinelands area; and other relevant factors as may
38 be necessary to maintain the environmental, ecological, and
39 agricultural qualities of the pinelands area.

40 (2) No pinelands development credit allocated to a parcel of
41 land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the
42 pinelands comprehensive management plan adopted pursuant
43 thereto that is acquired or obtained in connection with the
44 acquisition of the parcel for recreation and conservation purposes

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted June 5, 2014.

1 by the State, a local government unit, or a qualifying tax exempt
2 nonprofit organization using constitutionally dedicated moneys in
3 whole or in part may be conveyed in any manner. All such
4 pinelands development credits shall be retired permanently.

5 d. (Deleted by amendment, P.L.2010, c.70)

6 e. Moneys appropriated from the fund may be used to match
7 grants, contributions, donations, or reimbursements from federal aid
8 programs or from other public or private sources established for the
9 same or similar purposes as the fund.

10 f. Moneys appropriated from the fund shall not be used by
11 local government units or qualifying tax exempt nonprofit
12 organizations to acquire lands that are already permanently
13 preserved for recreation and conservation purposes, as determined
14 by the department.

15 g. Whenever lands are donated to the State by a public utility,
16 as defined pursuant to Title 48 of the Revised Statutes, for
17 recreation and conservation purposes, the commissioner may make
18 and keep the lands accessible to the public, unless the commissioner
19 determines that public accessibility would be detrimental to the
20 lands or any natural resources associated therewith.

21 h. Whenever the State acquires land for recreation and
22 conservation purposes, the agency in the Department of
23 Environmental Protection responsible for administering the land
24 shall, within six months after the date of acquisition, inspect the
25 land for the presence of any buildings or structures thereon which
26 are or may be historic properties and, within 60 days after
27 completion of the inspection, provide to the New Jersey Historic
28 Preservation Office in the department (1) a written notice of its
29 findings, and (2) for any buildings or structures which are or may
30 be historic properties discovered on the land, a request for
31 determination of potential eligibility for inclusion of the historic
32 building or structure in the New Jersey Register of Historic Places.
33 Whenever such a building or structure is discovered, a copy of the
34 written notice provided to the New Jersey Historic Preservation
35 Office shall also be sent to the New Jersey Historic Trust and to the
36 county historical commission or advisory committee, the county
37 historical society, the local historic preservation commission or
38 advisory committee, and the local historical society if any of those
39 entities exist in the county or municipality wherein the land is
40 located.

41 i. (Deleted by amendment, P.L.2010, c.70)

42 j. (1) Commencing on the date of enactment of P.L.2004, c.120
43 (C.13:20-1 et al.) and through June 30, **[2014]** 2019 for lands
44 located in the Highlands Region as defined pursuant to section 3 of
45 P.L.2004, c.120 (C.13:20-3), when the department, a local
46 government unit, or a qualifying tax exempt nonprofit organization
47 seeks to acquire lands for recreation and conservation purposes
48 using constitutionally dedicated moneys in whole or in part or

1 Green Acres bond act moneys in whole or in part, it shall conduct
2 or cause to be conducted an appraisal or appraisals of the value of
3 the lands that shall be made using (a) the land use zoning of the
4 lands, and any State environmental laws or Department of
5 Environmental Protection rules and regulations that may affect the
6 value of the lands, subject to the appraisal and in effect at the time
7 of proposed acquisition, and (b) the land use zoning of the lands,
8 and any State environmental laws or Department of Environmental
9 Protection rules and regulations that may affect the value of the
10 lands, subject to the appraisal and in effect on January 1, 2004. The
11 higher of those two values shall be utilized by the department, a
12 local government unit, or a qualifying tax exempt nonprofit
13 organization as the basis for negotiation with the landowner with
14 respect to the acquisition price for the lands. The landowner shall
15 be provided with both values determined pursuant to this paragraph.

16 A landowner may waive any of the requirements of this
17 paragraph and may agree to sell the lands for less than the values
18 determined pursuant to this paragraph.

19 The provisions of this paragraph shall be applicable only to lands
20 the owner of which at the time of proposed acquisition is the same
21 person who owned the lands on the date of enactment of P.L.2004,
22 c.120 (C.13:20-1 et al.) and who has owned the lands continuously
23 since that enactment date, or is an immediate family member of that
24 person.

25 (2) (Deleted by amendment, P.L.2010, c.70)

26 (3) The requirements of this subsection shall be in addition to
27 any other requirements of law, rule, or regulation not inconsistent
28 therewith.

29 (4) This subsection shall not:

30 (a) apply in the case of lands to be acquired with federal moneys
31 in whole or in part;

32 (b) (Deleted by amendment, P.L.2010, c.70); or

33 (c) alter any requirements to disclose information to a
34 landowner pursuant to the "Eminent Domain Act of 1971,"
35 P.L.1971, c.361 (C.20:3-1 et seq.).

36 (5) For the purposes of this subsection, "immediate family
37 member" means a spouse, child, parent, sibling, aunt, uncle, niece,
38 nephew, first cousin, grandparent, grandchild, father-in-law,
39 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,
40 stepbrother, stepsister, half brother, or half sister, whether the
41 individual is related by blood, marriage, or adoption.

42 k. The department shall adopt guidelines for the evaluation and
43 priority ranking process which shall be used in making decisions
44 concerning the acquisition of lands by the State for recreation and
45 conservation purposes using moneys from the Garden State Green
46 Acres Preservation Trust Fund and from any other source. The
47 guidelines shall be designed to provide, to the maximum extent
48 practicable and feasible, that such moneys are spent equitably

1 among the geographic areas of the State. The guidelines, and any
2 subsequent revisions thereto, shall be published in the New Jersey
3 Register. The adoption of the guidelines or of the revisions thereto,
4 shall not be subject to the requirements of the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6 1. In making decisions concerning the acquisition of lands by
7 the State for recreation and conservation purposes using moneys
8 from the Garden State Green Acres Preservation Trust Fund, in the
9 evaluation and priority ranking process the department shall accord
10 three times the weight to acquisitions of lands that would protect
11 water resources, and two times the weight to acquisitions of lands
12 that would protect flood-prone areas, as those criteria are compared
13 to the other criteria in the priority ranking process.

14 m. The department, pursuant to the "Administrative Procedure
15 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
16 regulations that establish standards and requirements regulating any
17 activity on lands acquired by the State for recreation and
18 conservation purposes using constitutionally dedicated moneys to
19 assure that the activity on those lands does not diminish the
20 protection of surface water or groundwater resources.

21 Any rules and regulations adopted pursuant to this subsection
22 shall not apply to activities on lands acquired prior to the adoption
23 of the rules and regulations.

24 n. (1) The department, within three months after the date of the
25 first meeting of the Highlands Water Protection and Planning
26 Council established pursuant to section 4 of P.L.2004, c.120
27 (C.13:20-4), shall consult with and solicit recommendations from
28 the council concerning land preservation strategies and acquisition
29 plans in the Highlands Region as defined in section 3 of P.L.2004,
30 c.120 (C.13:20-3).

31 The council's recommendations shall also address strategies and
32 plans concerning establishment by the department of a methodology
33 for prioritizing the acquisition of land in the Highlands preservation
34 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for
35 recreation and conservation purposes using moneys from the
36 Garden State Green Acres Preservation Trust Fund, especially with
37 respect to (a) any land that has declined substantially in value due
38 to the implementation of the "Highlands Water Protection and
39 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and (b) any major
40 Highlands development, as defined in section 3 of P.L.2004, c.120
41 (C.13:20-3), that would have qualified for an exemption pursuant to
42 paragraph (3) of subsection a. of section 30 of P.L.2004, c.120
43 (C.13:20-28) but for the lack of a necessary State permit as
44 specified in subparagraph (b) or (c), as appropriate, of paragraph (3)
45 of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28), and
46 for which an application for such a permit had been submitted to the
47 Department of Environmental Protection and deemed by the
48 department to be complete for review on or before March 29, 2004.

1 The recommendations may also include a listing of specific parcels
2 in the Highlands preservation area that the council is aware of that
3 meet the criteria of subparagraph (a) or (b) of this paragraph and for
4 that reason should be considered by the department as a priority for
5 acquisition, but any such list shall remain confidential
6 notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.)
7 or any other law to the contrary.

8 (2) In making decisions concerning applications for funding
9 submitted by municipalities in the Highlands planning area, as
10 defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or
11 develop lands for recreation and conservation purposes using
12 moneys from the Garden State Green Acres Preservation Trust
13 Fund, in the evaluation and priority ranking process the department
14 shall accord a higher weight to any application submitted by a
15 municipality in the Highlands planning area that has amended its
16 development regulations in accordance with section 13 of P.L.2004,
17 c.120 (C.13:20-13) to establish one or more receiving zones for the
18 transfer of development potential from the Highlands preservation
19 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
20 that which is accorded to comparable applications submitted by
21 other municipalities in the Highlands planning area that have not
22 made such amendments to their development regulations.

23 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
24 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
25 the sum spent by the department in each of those fiscal years for the
26 acquisition of lands by the State for recreation and conservation
27 purposes using moneys from the Garden State Green Acres
28 Preservation Trust Fund in each county of the State shall be not
29 less, and may be greater if additional sums become available, than
30 the average annual sum spent by the department therefor in each
31 such county, respectively, for State fiscal years 2002 through 2004,
32 provided there is sufficient and appropriate lands within the county
33 to be so acquired by the State for such purposes.¹

34 (cf: P.L.2010, c.70, s.2)

35

36 ¹**[1.] 2.**¹ Section 38 of P.L.1999, c.152 (C.13:8C-38) is
37 amended to read as follows:

38 38. a. All acquisitions or grants made pursuant to section 37 of
39 P.L.1999, c.152 (C.13:8C-37) shall be made with respect to
40 farmland devoted to farmland preservation under programs
41 established by law.

42 b. The expenditure and allocation of constitutionally dedicated
43 moneys for farmland preservation purposes shall reflect the
44 geographic diversity of the State to the maximum extent practicable
45 and feasible.

46 c. The committee shall implement the provisions of section 37
47 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures
48 and criteria established pursuant to the "Agriculture Retention and

1 Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as
2 provided otherwise by this act.

3 d. The committee shall adopt the same or a substantially
4 similar method for determining, for the purposes of this act, the
5 committee's share of the cost of a development easement on
6 farmland to be acquired by a local government as that which is
7 being used by the committee on the date of enactment of this act for
8 prior farmland preservation funding programs.

9 e. Notwithstanding the provisions of section 24 of P.L.1983,
10 c.32 (C.4:1C-31) or this act, or any rule or regulation adopted
11 pursuant thereto, to the contrary, whenever the value of a
12 development easement on farmland to be acquired using
13 constitutionally dedicated moneys in whole or in part is determined
14 based upon the value of any pinelands development credits
15 allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et
16 seq.) and the pinelands comprehensive management plan adopted
17 pursuant thereto, the committee shall determine the value of the
18 development easement by:

19 (1) conducting a sufficient number of fair market value
20 appraisals as it deems appropriate to determine the value for
21 farmland preservation purposes of the pinelands development
22 credits;

23 (2) considering development easement values in counties,
24 municipalities, and other areas (a) reasonably contiguous to, but
25 outside of, the pinelands area, which in the sole opinion of the
26 committee constitute reasonable development easement values in
27 the pinelands area for the purposes of this subsection, and (b) in the
28 pinelands area where pinelands development credits are or may be
29 utilized, which in the sole opinion of the committee constitute
30 reasonable development easement values in the pinelands area for
31 the purposes of this subsection;

32 (3) considering land values in the pinelands regional growth
33 areas;

34 (4) considering the importance of preserving agricultural lands
35 in the pinelands area; and

36 (5) considering such other relevant factors as may be necessary
37 to increase participation in the farmland preservation program by
38 owners of agricultural lands located in the pinelands area.

39 f. No pinelands development credit that is acquired or obtained
40 in connection with the acquisition of a development easement on
41 farmland or fee simple title to farmland by the State, a local
42 government unit, or a qualifying tax exempt nonprofit organization
43 using constitutionally dedicated moneys in whole or in part may be
44 conveyed in any manner. All such pinelands development credits
45 shall be retired permanently.

46 g. (Deleted by amendment, P.L.2010, c.70)

47 h. Any farmland for which a development easement or fee
48 simple title has been acquired pursuant to section 37 of P.L.1999,

1 c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the
2 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the
3 "Agriculture Retention and Development Act," P.L.1983, c.32
4 (C.4:1C-11 et al.).

5 i. (Deleted by amendment, P.L.2010, c.70)

6 j. (1) Commencing on the date of enactment of P.L.2004, c.120
7 (C.13:20-1 et al.) and through June 30, **[2014]** 2019 for lands
8 located in the Highlands Region as defined pursuant to section 3 of
9 P.L.2004, c.120 (C.13:20-3), when the committee, a local
10 government unit, or a qualifying tax exempt nonprofit organization
11 seeks to acquire a development easement on farmland or the fee
12 simple title to farmland for farmland preservation purposes using
13 constitutionally dedicated moneys in whole or in part or Green
14 Acres bond act moneys in whole or in part, it shall conduct or cause
15 to be conducted an appraisal or appraisals of the value of the lands
16 that shall be made using (a) the land use zoning of the lands, and
17 any State environmental laws or Department of Environmental
18 Protection rules and regulations that may affect the value of the
19 lands, subject to the appraisal and in effect at the time of proposed
20 acquisition, and (b) the land use zoning of the lands, and any State
21 environmental laws or Department of Environmental Protection
22 rules and regulations that may affect the value of the lands, subject
23 to the appraisal and in effect on January 1, 2004. The higher of
24 those two values shall be utilized by the committee, a local
25 government unit, or a qualifying tax exempt nonprofit organization
26 as the basis for negotiation with the landowner with respect to the
27 acquisition price for the lands. The landowner shall be provided
28 with both values determined pursuant to this paragraph.

29 A landowner may waive any of the requirements of this
30 paragraph and may agree to sell the lands for less than the values
31 determined pursuant to this paragraph.

32 The provisions of this paragraph shall be applicable only to lands
33 the owner of which at the time of proposed acquisition is the same
34 person who owned the lands on the date of enactment of P.L.2004,
35 c.120 (C.13:20-1 et al.) and who has owned the lands continuously
36 since that enactment date, is an immediate family member of that
37 person ¹**[**, or is a farmer as defined by the committee¹**]**.

38 (2) (Deleted by amendment, P.L.2010, c.70)

39 (3) The requirements of this subsection shall be in addition to
40 any other requirements of law, rule, or regulation not inconsistent
41 therewith.

42 (4) This subsection shall not:

43 (a) apply in the case of lands to be acquired with federal moneys
44 in whole or in part;

45 (b) (Deleted by amendment, P.L.2010, c.70); or

46 (c) alter any requirements to disclose information to a
47 landowner pursuant to the "Eminent Domain Act of 1971,"
48 P.L.1971, c.361 (C.20:3-1 et seq.).

1 (5) For the purposes of this subsection, "immediate family
2 member" means a spouse, child, parent, sibling, aunt, uncle, niece,
3 nephew, first cousin, grandparent, grandchild, father-in-law,
4 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,
5 stepbrother, stepsister, half brother, or half sister, whether the
6 individual is related by blood, marriage, or adoption.

7 k. The committee and the Department of Environmental
8 Protection, pursuant to the "Administrative Procedure Act,"
9 P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and
10 regulations that establish standards and requirements regulating any
11 improvement on lands acquired by the State for farmland
12 preservation purposes using constitutionally dedicated moneys to
13 assure that any improvement does not diminish the protection of
14 surface water or groundwater resources.

15 Any rules and regulations adopted pursuant to this subsection
16 shall not apply to improvements on lands acquired prior to the
17 adoption of the rules and regulations.

18 l. (1) The committee, within three months after the date of the
19 first meeting of the Highlands Water Protection and Planning
20 Council established pursuant to section 4 of P.L.2004, c.120
21 (C.13:20-4), shall consult with and solicit recommendations from
22 the council concerning farmland preservation strategies and
23 acquisition plans in the Highlands Region as defined in section 3 of
24 P.L.2004, c.120 (C.13:20-3).

25 The council's recommendations shall also address strategies and
26 plans concerning establishment by the committee of a methodology
27 for prioritizing the acquisition of development easements and fee
28 simple titles to farmland in the Highlands preservation area, as
29 defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland
30 preservation purposes using moneys from the Garden State
31 Farmland Preservation Trust Fund, especially with respect to
32 farmland that has declined substantially in value due to the
33 implementation of the "Highlands Water Protection and Planning
34 Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations
35 may also include a listing of specific parcels in the Highlands
36 preservation area that the council is aware of that have experienced
37 a substantial decline in value and for that reason should be
38 considered by the committee as a priority for acquisition, but any
39 such list shall remain confidential notwithstanding any provision of
40 P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

41 (2) In prioritizing applications for funding submitted by local
42 government units in the Highlands planning area, as defined in
43 section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development
44 easements on farmland in the Highlands planning area using
45 moneys from the Garden State Farmland Preservation Trust Fund,
46 the committee shall accord a higher weight to any application
47 submitted by a local government unit to preserve farmland in a
48 municipality in the Highlands planning area that has amended its

1 development regulations in accordance with section 13 of P.L.2004,
2 c.120 (C.13:20-13) to establish one or more receiving zones for the
3 transfer of development potential from the Highlands preservation
4 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
5 that which is accorded to comparable applications submitted by
6 other local government units to preserve farmland in municipalities
7 in the Highlands planning area that have not made such
8 amendments to their development regulations.

9 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
10 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
11 the sum spent by the committee in each of those fiscal years for the
12 acquisition by the committee of development easements and fee
13 simple titles to farmland for farmland preservation purposes using
14 moneys from the Garden State Farmland Preservation Trust Fund in
15 each county of the State shall be not less, and may be greater if
16 additional sums become available, than the average annual sum
17 spent by the department therefor in each such county, respectively,
18 for State fiscal years 2002 through 2004, provided there is sufficient
19 and appropriate farmland within the county to be so acquired by the
20 committee for such purposes.

21 (cf: P.L.2010, c.70, s.3)

22

23 ¹[2.] 3.¹ This act shall take effect immediately.