

**SENATE, No. 2222**

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**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

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INTRODUCED JUNE 16, 2014

**Sponsored by:**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Allows counties and municipalities to use open space trust funds for remediation of collapsed mine shafts and sinkholes on property owned by county or municipality.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT expanding the authorized uses of county and municipal  
2 open space trust funds, and amending and supplementing  
3 P.L.1997, c.24.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1997, c.24 (C.40:12-15.1) is amended to read  
9 as follows:

10 1. As used in P.L.1997, c.24 (C.40:12-15.1 et seq.):

11 "Acquisition" or "acquire" means the securing of a fee simple or  
12 a lesser interest in land, including but not limited to an easement  
13 restricting development, by gift, purchase, installment purchase  
14 agreement, devise, or condemnation.

15 "Blue Acres project" means any project to acquire, for recreation  
16 and conservation purposes, lands that have been damaged by, or  
17 may be prone to incurring damage caused by, storms or storm-  
18 related flooding, or that may buffer or protect other lands from such  
19 damage, and includes the demolition of structures on, the removal  
20 of debris from, and the restoration of those lands to a natural state  
21 or to a state useful for recreation and conservation purposes.

22 "Charitable conservancy" means a corporation or trust exempt  
23 from federal income taxation under paragraph (3) of subsection (c)  
24 of section 501 of the federal Internal Revenue Code of 1986 (26  
25 U.S.C. s.501(c)(3)), whose purposes include (1) acquisition and  
26 preservation of lands in a natural, scenic, or open condition, or (2)  
27 historic preservation of historic properties, structures, facilities,  
28 sites, areas, or objects, or the acquisition of such properties,  
29 structures, facilities, sites, areas, or objects for historic preservation  
30 purposes.

31 "County trust fund" means a "County Open Space, Recreation,  
32 Floodplain Protection, and Farmland and Historic Preservation  
33 Trust Fund" created pursuant to subsection c. of section 2 of  
34 P.L.1997, c.24 (C.40:12-15.2) or a "County Open Space,  
35 Recreation, Floodplain Protection, Farmland and Historic  
36 Preservation, and Mine Remediation Trust Fund" created pursuant  
37 to section 2 of P.L. , c. (C. ) (pending before the Legislature  
38 as this bill) .

39 "Development" means any improvement to land acquired for  
40 recreation and conservation purposes designed to expand and  
41 enhance its utilization for those purposes.

42 "Farmland" means land actively devoted to agricultural or  
43 horticultural use that is valued, assessed, and taxed pursuant to the  
44 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
45 seq.).

**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.

1 "Farmland preservation purposes" means the long-term  
2 preservation of farmland for agricultural or horticultural use.

3 "Historic preservation" means the performance of any work  
4 relating to the stabilization, repair, rehabilitation, renovation,  
5 restoration, improvement, protection, or preservation of an historic  
6 property, structure, facility, site, area, or object.

7 "Historic property, structure, facility, site, area, or object" means  
8 any property, structure, facility, site, area, or object approved for  
9 inclusion, or which meets the criteria for inclusion, in the New  
10 Jersey Register of Historic Places pursuant to P.L.1970, c.268  
11 (C.13:1B-15.128 et seq.).

12 "Land" or "lands" means real property, including improvements  
13 thereof or thereon, rights-of-way, water, lakes, riparian and other  
14 rights, easements, privileges and all other rights or interests of any  
15 kind or description in, relating to or connected with real property.

16 "Municipal trust fund" means a "Municipal Open Space,  
17 Recreation, Floodplain Protection, and Farmland and Historic  
18 Preservation Trust Fund" created pursuant to subsection c. of  
19 section 7 of P.L.1997, c.24 (C.40:12-15.7) or a "Municipal Open  
20 Space, Recreation, Floodplain Protection, Farmland and Historic  
21 Preservation, and Mine Remediation Trust Fund" created pursuant  
22 to section 3 of P.L. , c. (C. ) (pending before the Legislature  
23 as this bill).

24 "Public indoor recreation" means public recreation in enclosed  
25 structures or facilities, and includes but is not limited to swimming  
26 pools, basketball courts, and ice skating rinks open for public use.

27 "Recreation and conservation purposes" means the use of lands  
28 for parks, open space, natural areas, ecological and biological study,  
29 forests, water reserves, wildlife preserves, fishing, hunting,  
30 camping, boating, winter sports, or similar uses for either public  
31 outdoor recreation or conservation of natural resources, or both, or  
32 the use of lands for public indoor recreation.

33 (cf: P.L.2011, c.173, s.1)

34

35 2. (New section) a. (1) Notwithstanding any provision of  
36 P.L.1997, c.24 (C.40:12-15.1 et seq.) to the contrary, the governing  
37 body of a county whose voters, prior to the effective date of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill), approved a  
39 proposition pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for  
40 any of the purposes enumerated in paragraph (1) of subsection a. of  
41 section 2 of P.L.1997, c.24 (C.40:12-15.2) may adopt an ordinance  
42 to use monies in the "County Open Space, Recreation, Floodplain  
43 Protection, and Farmland and Historic Preservation Trust Fund,"  
44 created pursuant to subsection c. of section 2 of P.L.1997, c.24  
45 (C.40:12-15.2), for the additional purpose of the remediation of  
46 collapsed mine shafts and sinkholes on property owned by the  
47 county.

- 1       (2) Prior to the adoption of an ordinance pursuant to paragraph  
2 (1) of this subsection, the governing body of the county shall  
3 conduct at least one public hearing thereon at least 45 days before  
4 the governing body may adopt the ordinance. In addition to any  
5 other applicable requirements of law, rule, or regulation, the  
6 governing body shall provide notice of the public hearing required  
7 pursuant to this subsection, at least 30 days before the date of the  
8 hearing, in the following manner:
- 9       (a) by mailing or otherwise providing a written copy of the  
10 notice to: the county clerk; the municipal clerk of each  
11 municipality within the county; any person who has made a request  
12 in writing to receive such notices; the Commissioner of  
13 Environmental Protection; and the Secretary of Agriculture; and
- 14       (b) by publishing the notice in a daily or weekly newspaper of  
15 general circulation in the county and each municipality in the  
16 county.
- 17       (3) The notice required pursuant to paragraph (2) of this  
18 subsection shall include:
- 19       (a) a general description of the county's plans for the  
20 remediation of collapsed mine shafts and sinkholes on property  
21 owned by the county and the location of any lands anticipated to be  
22 affected;
- 23       (b) an estimate of the anticipated cost of the remediation of the  
24 collapsed mine shafts or sinkholes;
- 25       (c) a description of the anticipated impact of the use of funds for  
26 the remediation of collapsed mine shafts and sinkholes on property  
27 owned by the county will have on each of the plans prepared and  
28 adopted by the county pursuant to subsection d. of section 2 of  
29 P.L.1997, c.24;
- 30       (d) the date, time, and place of the public hearing;
- 31       (e) instructions detailing the manner in which the public may  
32 submit written comments to the governing body of the county on or  
33 before the date of the public hearing; and
- 34       (f) the name and address of the person designated by the  
35 governing body of the county to receive the written comments and  
36 contact for additional information.
- 37       b. Upon adoption of an ordinance pursuant to subsection a. of  
38 this section, the county trust fund created for the purposes of  
39 P.L.1997, c.24 shall be dissolved and any monies therein shall be  
40 deposited into a "County Open Space, Recreation, Floodplain  
41 Protection, Farmland and Historic Preservation, and Mine  
42 Remediation Trust Fund" to be created and utilized for the purposes  
43 authorized pursuant to section 2 of P.L.1997, c.24 and for the  
44 remediation of collapsed mine shafts and sinkholes on property  
45 owned by the county.
- 46       c. Upon adoption of an ordinance pursuant to subsection a. of  
47 this section, the governing body of the county shall provide a copy

1 of the adopted ordinance to the Commissioner of Environmental  
2 Protection and the Secretary of Agriculture.

3 d. A county shall not expend more than \$100,000 for any  
4 proposed project or use related to the remediation of a collapsed  
5 mine shaft or sinkhole pursuant to an ordinance adopted pursuant to  
6 subsection a. of this section unless the governing body of the county  
7 first conducts a public hearing on the proposed project or use and  
8 adopts an ordinance authorizing the specific expenditure.

9 (1) A public hearing required pursuant to this subsection shall  
10 be held at least 45 days before the governing body may adopt the  
11 ordinance. In addition to any other applicable requirements of law,  
12 rule, or regulation, the governing body shall provide notice of the  
13 public hearing required pursuant to this subsection, at least 30 days  
14 before the date of the hearing, in the following manner:

15 (a) by mailing or otherwise providing a written copy of the  
16 notice to: the county clerk; the municipal clerk of each  
17 municipality within the county; any person who has made a request  
18 in writing to receive such notices; the Commissioner of  
19 Environmental Protection; and the Secretary of Agriculture; and

20 (b) by publishing the notice in a daily or weekly newspaper of  
21 general circulation in the county and each municipality in which the  
22 collapsed mine hole or sinkhole is located.

23 (2) The notice required pursuant to paragraph (1) of this  
24 subsection shall include:

25 (a) a general description of the location of the land or lands to  
26 be affected, the proposed remediation for the collapsed mine shaft  
27 or sinkhole, and the estimated cost of the proposed project;

28 (b) a schedule setting forth the anticipated commencement and  
29 completion date for the proposed project;

30 (c) the date, time, and place of the public hearing;

31 (d) instructions detailing the manner in which the public may  
32 submit written comments to the governing body of the county on or  
33 before the date of the public hearing; and

34 (e) the name and address of the person designated by the  
35 governing body of the county to receive the written comments and  
36 contact for additional information.

37 e. In no case shall a county increase the amount or rate of the  
38 levy previously approved by the voters pursuant to P.L.1997, c.24  
39 without submitting a proposition to the voters amending or  
40 supplementing the proposition previously submitted, approved, and  
41 implemented pursuant to section 2 of P.L.1997, c.24.

42

43 3. (New section) a. (1) Notwithstanding any provision of  
44 P.L.1997, c.24 (C.40:12-15.1 et seq.) to the contrary, the governing  
45 body of a municipality whose voters, prior to the effective date of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 approved a proposition pursuant to P.L.1997, c.24 (C.40:12-15.1 et  
48 seq.) for any of the purposes enumerated in paragraph (1) of

1 subsection a. of section 7 of P.L.1997, c.24 (C.40:12-15.7) may  
2 adopt an ordinance to use monies in the “Municipal Open Space,  
3 Recreation, Floodplain Protection, and Farmland and Historic  
4 Preservation Trust Fund,” created pursuant to subsection c. of  
5 section 7 of P.L.1997, c.24 (C.40:12-15.7), for the additional  
6 purpose of the remediation of collapsed mine shafts and sinkholes  
7 on property owned by the municipality.

8 (2) Prior to the adoption of a ordinance pursuant to paragraph  
9 (1) of this subsection, the governing body of the municipality shall  
10 conduct at least one public hearing thereon at least 45 days before  
11 the governing body may adopt the ordinance. In addition to any  
12 other applicable requirements of law, rule, or regulation, the  
13 governing body shall provide notice of the public hearing required  
14 pursuant to this subsection, at least 30 days before the date of the  
15 hearing, in the following manner:

16 (a) by mailing or otherwise providing a written copy of the  
17 notice to: the municipal clerk; any person who has made a request  
18 in writing to receive such notices; the Commissioner of  
19 Environmental Protection; and the Secretary of Agriculture; and

20 (b) by publishing the notice in a daily or weekly newspaper of  
21 general circulation in the municipality and in the county.

22 (3) The notice required pursuant to paragraph (2) of this  
23 subsection shall include:

24 (a) a general description of the municipality’s plans for the  
25 remediation of collapsed mine shafts and sinkholes on property  
26 owned by the municipality and the location of any lands anticipated  
27 to be affected;

28 (b) an estimate of the aggregate amount of monies anticipated to  
29 be necessary for the remediation of the collapsed mine shafts or  
30 sinkholes;

31 (c) a description of the anticipated impact of the use of funds for  
32 the remediation of collapsed mine shafts and sinkholes on property  
33 owned by the municipality will have on any of the purposes  
34 enumerated in paragraph (1) of subsection a. of section 7 of  
35 P.L.1997, c.24 (C.40:12-15.7) previously approved by the voters of  
36 the municipality;

37 (d) the date, time, and place of the public hearing;

38 (e) instructions detailing the manner in which the public may  
39 submit written comments to the governing body of the municipality  
40 on or before the date of the public hearing; and

41 (f) the name and address of the person designated by the  
42 governing body of the municipality to receive the written comments  
43 and contact for additional information.

44 b. Upon adoption of an ordinance pursuant to subsection a. of  
45 this section, the municipal trust fund created for the purposes of  
46 P.L.1997, c.24 shall be dissolved and any monies therein shall be  
47 deposited into a “Municipal Open Space, Recreation, Floodplain  
48 Protection, Farmland and Historic Preservation, and Mine

1 Remediation Trust Fund” to be created and utilized for the purposes  
2 authorized pursuant to section 2 of P.L.1997, c.24 and for the  
3 remediation of collapsed mine shafts and sinkholes on property  
4 owned by the municipality.

5 c. Upon adoption of an ordinance pursuant to subsection a. of  
6 this section, the governing body of the municipality shall provide a  
7 copy of the adopted ordinance to the Commissioner of  
8 Environmental Protection and the Secretary of Agriculture.

9 d. A municipality shall not expend more than \$100,000 for any  
10 proposed project or use related to the remediation of a collapsed  
11 mine shaft or sinkhole pursuant to an ordinance adopted pursuant to  
12 subsection a. of this section unless the governing body of the  
13 municipality first conducts a public hearing on the proposed project  
14 or use and adopts an ordinance authorizing the specific expenditure.

15 (1) A public hearing required pursuant to this subsection shall  
16 be held at least 45 days before the governing body may adopt the  
17 ordinance. In addition to any other applicable requirements of law,  
18 rule, or regulation, the governing body shall provide notice of the  
19 public hearing required pursuant to this subsection, at least 30 days  
20 before the date of the hearing, in the following manner:

21 (a) by mailing or otherwise providing a written copy of the  
22 notice to: the municipal clerk; any person who has made a request  
23 in writing to receive such notices; the Commissioner of  
24 Environmental Protection; and the Secretary of Agriculture; and

25 (b) by publishing the notice in a daily or weekly newspaper of  
26 general circulation in the municipality and in the county.

27 (2) The notice required pursuant to paragraph (1) of this  
28 subsection shall include:

29 (a) a general description of the location of the land or lands to  
30 be affected, the proposed remediation for the collapsed mine shaft  
31 or sinkhole, and the estimated cost of the proposed project;

32 (b) a schedule setting forth the anticipated commencement and  
33 completion date for the proposed project;

34 (c) the date, time, and place of the public hearing;

35 (d) instructions detailing the manner in which the public may  
36 submit written comments to the governing body of the municipality  
37 on or before the date of the public hearing; and

38 (e) the name and address of the person designated by the  
39 governing body of the municipality to receive the written comments  
40 and contact for additional information.

41 e. In no case shall a municipality increase the amount or rate of  
42 the levy previously approved by the voters pursuant to P.L.1997,  
43 c.24 without submitting a proposition to the voters amending or  
44 supplementing the proposition previously submitted, approved, and  
45 implemented pursuant to section 7 of P.L.1997, c.24.

46

47 4. This act shall take effect immediately.

1 STATEMENT

2

3 This bill would allow a county or municipality to use monies in  
4 their “open space trust fund” for the remediation of collapsed mine  
5 shafts and sinkholes on property owned by the county or  
6 municipality.

7 Under current law, counties are authorized to establish “County  
8 Open Space, Recreation, Floodplain Protection, and Farmland and  
9 Historic Preservation Trust Funds” and municipalities are  
10 authorized to establish “Municipal Open Space, Recreation,  
11 Floodplain Protection, and Farmland and Historic Preservation  
12 Trust Funds.” These funds are often referred to as “open space trust  
13 funds.” This bill would expand this authorization to allow counties  
14 and municipalities to use the monies in such funds for the additional  
15 purpose of remediation of collapsed mine shafts and sinkholes on  
16 property owned by the county or municipality.

17 Under this bill, a county or municipality would not be required to  
18 obtain voter approval to use funds in their open space trust fund for  
19 the remediation of collapsed mine shafts and sinkholes; however,  
20 the county or municipality would be required to adopt a resolution  
21 or ordinance, as appropriate, prior to doing so, and comply with  
22 public notice requirements contained in the bill.