ASSEMBLY, No. 4461



STATE OF NEW JERSEY

218th LEGISLATURE



INTRODUCED SEPTEMBER 17, 2018

Sponsored by:

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

SYNOPSIS

Requires DEP to take certain actions before sale or lease of certain State-owned lands.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning the sale or lease of certain State-owned lands, amending and supplementing P.L.1993, c.38, and amending P.L.1983, c.324.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1993, c.38 (C.13:1D-51) is amended to read as follows:

1. As used in **[**sections 1 through 7 of this amendatory and supplementary act**]** P.L.1993, c.38 (C.13:1D-51 et seq.) :

"Commissioner" means the Commissioner of **[**the Department of**]** Environmental Protection.

"Convey" means to sell, exchange, lease for a term of 25 years or more, grant, or agree to sell, exchange, lease for a term of 25 years or more, or grant, in an amount greater than one acre.

"Department" means the Department of Environmental Protection, or any agency, division, or office thereof.

"Green Acres funds" means any funds made available for the acquisition or development of lands by the State for recreation and conservation purposes pursuant to: P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; **[**and**]** P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119; and P.L.2009, c.117; or any similar act for such purposes that may be enacted, or any such funds administered pursuant to P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et seq.), **[**and**]** P.L.1975, c.155 (C.13:8A-35 et seq.), P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12 (C.13:8C-43 et seq.), or any similar act for such purposes that may be enacted.

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

"Minor conveyance" means a conveyance or proposed conveyance of lands acquired or developed by the State with Green Acres funds, or acquired or developed by the State in any other manner and administered by the department, which lands shall be greater than one acre but less than five acres in size and valued at less than $50,000, and which conveyance or proposed conveyance under law requires the approval of the State House Commission established pursuant to R.S.52:20-1 et seq.

"Recreation and conservation purposes" means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

(cf: P.L.1993, c.38, s.1)

2. (New section) a. Notwithstanding the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.), and any rules and regulations adopted pursuant thereto, to the contrary, whenever the department intends to convey lands acquired or developed by the State with Green Acres funds, or acquired or developed by the State in any other manner and administered by the Department of Environmental Protection, or any agency of the department, prior to obtaining State House Commission approval pursuant to the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.), the department shall first offer the municipality in which the lands are located the right of first refusal to acquire the lands for recreation and conservation purposes. If the governing body of the municipality in which the lands are located elects not to exercise the right to acquire the lands, the department shall offer the county in which the lands are located the right to acquire the lands for recreation and conservation purposes.

b. The State House Commission shall not approve a conveyance pursuant to the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) to a private entity unless both the municipality and county in which the lands are located have elected not to exercise the right to acquire the lands pursuant to subsection a. of this section, and written documentation of the municipality’s and county’s decisions are provided by the commissioner to the State House Commission.

c. Any lands acquired by a municipality or county pursuant to subsection a. of this section shall not be conveyed, disposed of, or diverted to use for any purpose other than recreation and conservation purposes without the approval of the commissioner and the State House Commission, in accordance with the requirements of P.L.1993, c.38 (C.13:1D-51 et seq.) and any other applicable law.

3. Section 6 of P.L.1983, c. 324 (C.13:1L-6) is amended to read as follows:

6. a. Notwithstanding any other law, rule , or regulation to the contrary, the department shall have the authority to grant such rights or privileges to individuals or corporations for the construction, operation , and maintenance for private profit of any facility, utility , or device upon the State parks and forests, lands , and waters as the department shall find necessary and proper for the use and enjoyment of the lands by the public , provided however, the department shall obtain the approval of the governing body in which the lands are located before granting any rights or privileges to an individual or corporation pursuant to this subsection for the construction, operation, and maintenance for private profit of any facility, utility, or device not in existence on the date of enactment of P.L. , c. (pending before the Legislature as this bill) . Such rights and privileges shall include, but not be limited to, concessions, franchises, licenses, permits , and other rights and privileges deemed by the department to be appropriate in the utilization of the lands for the public benefit. The grant or award of such rights or privileges shall be made in the name of the State of New Jersey and executed by the department, at such price and upon such terms and conditions as shall be fixed by the department.

b. The department shall have the authority to acquire rights and privileges in lands owned by individuals or corporations where the department deems it necessary or useful, for the proper implementation of the provisions of this amendatory and supplementary act, that an interest in such lands be acquired. Such rights and privileges shall include, but not be limited to, leases, licenses, concessions, franchises , and permits. Any rights or privileges acquired hereunder and the considerations therefor shall be subject to terms and conditions fixed by the department.

(cf: P.L.1983, c.324, s.6)

4. This act shall take effect immediately.

STATEMENT

This bill would require the Department of Environmental Protection (DEP) to take certain actions before sale or lease of certain State-owned lands.

This bill would revise the procedures, requirements, and other provisions established by P.L.1993, c.38 (C.13:1D-51 et seq.) (commonly referred to as the "Ogden-Rooney process") that must be followed before lands, including structures thereon, acquired or developed by the State with Green Acres funds, or acquired or developed by the State in any other manner and administered by the Department of Environmental Protection (DEP), or any agency of the department, may be conveyed.

Under current law, the Ogden-Rooney process is required to be followed all types of sales and exchanges and for leases for terms of 25 years or more. The Ogden-Rooney process involves, among other things, the preparation and submission of a report identifying the reasons for, and all advantages and disadvantages and benefits and detriments of, the proposed conveyance, assessing the environmental and recreational impact of that proposed conveyance, and assessing the environmental and economic value of the lands proposed to be conveyed under both their current and proposed uses. In addition, the law requires, for the purpose of determining the amount of consideration to be paid or transferred to the State in exchange for conveying lands acquired or developed by the State with Green Acres funds, or acquired or developed by the State in any other manner and administered by the DEP, the value of the lands be based upon their intended use upon conveyance or upon their highest and best use, whichever would provide to the State the greatest value in return.

Under this bill, prior to obtaining State House Commission approval for a conveyance of lands pursuant to the Ogden-Rooney process, the DEP would be required to give the municipality in which the lands are located the right of first refusal, and if the governing body of the municipality in which the lands are located elects not to exercise the right to acquire the lands, the department would offer the county in which the lands are located the right to acquire the lands for recreation and conservation purposes. The State House Commission would be prohibited from approving a conveyance of land to a private entity unless both the municipality and county in which the lands are located have elected not to exercise the right to acquire the lands, and written documentation of those decisions is provided by the DEP Commissioner to the State House Commission.

In addition, this bill would amend the “State Park and Forestry Resources Act,” P.L.1983, c. 324 (C.13:1L-1 et seq.), which, in part, allows the DEP to enter agreements with private entities for the construction, operation, and maintenance for private profit of any facility, utility, or device in State parks and forests as the DEP finds proper for the use and enjoyment of the lands by the public. This bill would to require the DEP obtain the approval of the governing body in which the lands are located before entering into any such agreement with a private entity for the construction, operation, and maintenance for private profit of any facility, utility, or device not in existence on the date this bill is enacted into law.

While this bill would apply to all lands, including structures thereon, acquired or developed by the State with Green Acres funds, or acquired or developed by the State in any other manner and administered by the DEP, this bill is of particular importance for the protection of Liberty State Park. Liberty State Park is an oasis in the middle of metropolitan northern New Jersey. With the Manhattan skyline, the Statue of Liberty, and Ellis Island as a spectacular backdrop, Liberty State Park is one of the State's most dramatic parks. It encompasses 1,212 acres, of which approximately 300 acres is currently open to the public. Unfortunately, this urban oasis has been the subject of a number of development proposals in recent years, including a Request for Proposals issued by the DEP, that, if allowed, would seriously jeopardize this incredible natural resource.