

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2920

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 24, 2019

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2920 with committee amendments.

This bill, as amended, establishes the funding allocations for the constitutional dedication of Corporation Business Tax (CBT) revenues for fiscal year 2020 and thereafter and revises the law concerning the State's open space, farmland, and historic preservation programs. In addition, this bill would appropriate \$500,000 from the "Preserve New Jersey Historic Preservation Fund" for the purpose of establishing an electronic database to track projects that receive funding for historic preservation purposes.

The constitutional dedication of CBT revenues for open space, farmland, and historic preservation pursuant to Article VIII, Section II, paragraph 6 of the State Constitution, approved by the voters of the State in November 2014, dedicates, for fiscal year 2020 and thereafter, six percent of CBT revenues for open space, farmland, and historic preservation, water programs, public and private site remediation, and underground storage tank programs. Specifically with regard to open space, farmland, and historic preservation, commencing July 1, 2019 (i.e., for State fiscal year 2020 and thereafter), of the six percent CBT dedication, the State Constitution dedicates annually 78 percent for the following purposes: (1) providing funding, including loans or grants, for the preservation, including acquisition, development, and stewardship, of lands for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage (i.e., Green Acres and Blue Acres); (2) providing funding, including loans or grants, for the preservation and stewardship of land for agricultural or horticultural use and production (i.e., farmland preservation); (3) providing funding, including loans or grants, for historic preservation; and (4) paying administrative costs associated with each of those efforts.

Current law, the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-43 et seq.), sets forth funding allocations for the constitutional dedication of CBT revenues for open space, farmland,

and historic preservation for State fiscal years 2017 through 2019. This bill supplements and amends the “Preserve New Jersey Act” in order to implement the CBT revenue dedication and the “Preserve New Jersey Act” for State fiscal year 2020 and beyond by establishing funding allocations for the State’s existing open space, farmland, and historic preservation programs based on the increase in dedicated CBT revenue available for these purposes beginning July 1, 2019.

Under this bill, for State fiscal year 2020 and thereafter, the above-described dedicated CBT revenues would be allocated as follows:

- (1) 62 percent for the acquisition and development of lands for public recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage;
- (2) 31 percent for farmland preservation purposes; and
- (3) seven percent for historic preservation purposes.

Beginning July 1, 2022, and annually thereafter, the bill directs the Garden State Preservation Trust (GSPT) to review the appropriations of constitutionally dedicated CBT moneys to, and the expenditures thereof by, the Department of Environmental Protection (DEP), State Agriculture Development Committee (SADC), and New Jersey Historic Trust (NJHT) for their respective programs. In conducting this review, the GSPT would: (1) evaluate the demonstrated need for funding for the acquisition or development of lands for recreation and conservation purposes, including Blue Acres projects, farmland preservation purposes, or historic preservation purposes based upon available projects, applicant demand, and past appropriations and expenditures for these purposes; and (2) hold a public hearing to solicit public input on appropriate funding allocations for the DEP, SADC, and NJHT for the upcoming fiscal year. If the GSPT determines, based on this review, that it would be appropriate to revise the program funding allocations, the GSPT would send written notice to the Chairperson of the Senate Environment and Energy Committee, the Assembly Agriculture and Natural Resources Committee, and the Assembly Environment and Solid Waste Committee, or their successors, of its findings and recommendations concerning future funding allocations for the Preserve New Jersey Green Acres Fund, the Preserve New Jersey Farmland Preservation Fund, or the Preserve New Jersey Historic Preservation Fund. A recommendation by the GSPT would not alter the program funding allocations unless authorized by the Legislature.

Of the funding allocated each year for recreation and conservation purposes pursuant to this bill: 60 percent would be used for State open space acquisition and development projects; 30 percent would be used for grants and loans to fund local

government open space acquisition and development projects; and 10 percent would be used for grants to fund open space acquisition and development projects undertaken by qualifying tax exempt nonprofit organizations.

The bill further provides that of the funding for State open space acquisition and development projects: 45 percent would be used for acquisition projects, including Blue Acres projects, and 55 percent would be used for development projects, rather than 50 percent each as provided by current law. Of the funding for State open space acquisition projects, a minimum of 10 percent would be allocated for Blue Acres projects.

Further, of the allocated funding for open space acquisition and development projects by local government units, up to 10 percent would be used to fund stewardship activities, rather than up to two percent as provided by current law.

The Blue Acres program is administered as a component of the DEP's Green Acres program. "Blue Acres" is the term used to refer to properties that have been damaged by storms or storm-related flooding, that appear likely to incur such damage, or that may buffer or protect other lands from such damage. Structures on a purchased property are demolished, the debris is removed, and the land is preserved as open space. Under this bill, the Blue Acres program would not receive a separate funding allocation but would continue to be administered as part of the overall funding allocation provided to the Green Acres program. The bill incorporates the purposes of the Preserve New Jersey Blue Acres Fund into the Preserve New Jersey Green Acres Fund, rather than having two separate funds providing moneys to the DEP's Green Acres program for the acquisition of lands for recreation and conservation purposes.

With regard to farmland preservation, the bill amends current law to provide that, for State fiscal year 2020 and thereafter, of the moneys allocated for farmland preservation, up to four percent may be used for stewardship activities on preserved farmland, rather than up to three percent under current law. The bill also amends the definition of stewardship activity for the purposes of the farmland preservation program to include projects that improve the resiliency of farmland soils.

With regard to historic preservation, the bill amends current law to provide that the DEP would be eligible for grants from the Preserve New Jersey Historic Preservation Fund for State-owned historic properties. In addition, the bill would authorize the appropriation to the NJHT of \$500,000 from the Preserve New Jersey Historic Preservation Fund for the purpose of establishing an electronic database to track projects that receive funding for historic preservation purposes. The bill would also make this appropriation for fiscal year 2020.

The bill amends current law to require that the DEP, SADC, and NJHT, each submit to the GSPT, at least once every fiscal year, projects recommended to receive funding under the bill. Under current law, the programs are required to submit project recommendations at least once every two years.

The bill would also amend and supplement current law to allow repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes from the Preserve New Jersey Green Acres Fund, the Garden State Green Acres Preservation Trust Fund, or any Green Acres bond fund to be used to provide additional grants or loans to local government units, rather than only loans as provided in current law.

Lastly, the bill would authorize the DEP to adopt rules and regulations establishing a fee schedule for the review of applications to convey, dispose of, or divert of lands acquired, developed, or held for recreation and conservation purposes to a purpose other than recreation and conservation purposes. The bill also adds a section establishing penalties for an unauthorized conveyance, disposal, or diversion of lands acquired, developed, or held for recreation and conservation purposes.

The committee amendments to the bill:

(1) amend section 1 of the bill to delete the language that would have established a new procedure for the GSPT to reallocate certain funds after conducting a review of prior appropriations, and add language requiring the GSPT to review the appropriations of constitutionally dedicated CBT moneys to, and the expenditures thereof by, the DEP, the SADC, and the NJHT for their respective programs and make a recommendation to the Legislature as to whether it is appropriate to revise the program allocations;

(2) provide that of the amount allocated to be used for State open space acquisition and development projects, 45 percent would be for acquisition projects and 55 percent would be for development projects, rather than 50 percent each, and provide that of the funding for State open space acquisition projects, a minimum of 10 percent would be allocated for Blue Acres projects;

(3) change the allocations for recreation and conservation purposes to decrease from 34 percent to 30 percent the amount to be used for grants and loans to fund local government open space acquisition and development projects, and increase from six percent to 10 percent the amount to be used for grants to fund open space acquisition and development projects undertaken by qualifying tax exempt nonprofit organizations;

(4) increase the amount of funding to be allocated for stewardship activities for recreation and conservation purposes by local government units from up to two percent to up to 10 percent;

(5) provide that of the moneys allocated for farmland preservation, for State fiscal year 2020 and thereafter, up to four percent may be used for stewardship activities on preserved farmland, rather than up to three percent under current law, and amend the definition of stewardship activity for the purposes of the farmland preservation program to include projects that improve the resiliency of farmland soils;

(6) allow repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes from the Preserve New Jersey Green Acres Fund, the Garden State Green Acres Preservation Trust Fund, or any Green Acres bond fund to be used to provide additional grants or loans to local government units, rather than only loans;

(7) amend current law to provide that the DEP would be eligible to receive grants from the Preserve New Jersey Historic Preservation Fund for historic properties owned by the DEP;

(8) delete the requirement in the bill that would have required, of the amount deposited annually into the Preserve New Jersey Historic Preservation Fund, a minimum of 50 percent to be allocated for Level II capital preservation grants;

(9) amend current law to require the DEP, SADC, and NJHT, each, to submit project recommendations for funding to the GSPT at least once every fiscal year, rather than at least once every two years;

(10) authorize the DEP to adopt rules and regulations establishing a fee schedule for the review of applications to convey, dispose of, or divert of lands acquired, developed, or held for recreation and conservation purposes to a purpose other than recreation and conservation purposes, and add a new section establishing penalties for an unauthorized conveyance, disposal, or diversion of lands acquired, developed, or held for recreation and conservation;

(11) require the DEP to annually send a written report to the Chairpersons of the Senate Environment and Energy Committee, the Assembly Agriculture and Natural Resources Committee, and the Assembly Environment and Solid Waste Committee identifying the projects funded with moneys allocated for the purpose of paying the cost of development of lands by the State for recreation and conservation purposes, including stewardship activities;

(12) authorize the use of up to \$500,000 from the Preserve New Jersey Historic Preservation Fund for the purpose of establishing an electronic database to track projects that receive funding for historic preservation purposes, and add a new section 10 to the bill appropriating \$500,000 to the NJHT for this purpose; and

(13) revise the effective date of the bill to provide that section 10 of the bill would take effect upon enactment of the bill into law or on July 1, 2019, whichever is later.