

ASSEMBLY, No. 2864

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Co-Sponsored by:

Assemblymen DePhillips, Wirths, Rooney and Assemblywoman Dunn

SYNOPSIS

Authorizes use of certain constitutionally dedicated CBT revenues for grants for prevention and remediation of harmful algal blooms.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/16/2020)

1 AN ACT concerning certain constitutionally dedicated corporation
2 business tax revenues, and amending P.L.1997, c.261 and
3 P.L.2016, c.12.

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

7
8 1. Section 4 of P.L.1997, c.261 (C.58:29-4) is amended to read
9 as follows:

10 4. The "Watershed Management Fund," hereinafter referred to
11 as the "fund," is hereby established as a nonlapsing, revolving fund
12 in the Department of Environmental Protection. The fund shall be
13 credited annually with **all monies appropriated** an amount equal
14 to five percent of the six percent of the revenue annually derived
15 from the tax imposed pursuant to the "Corporation Business Tax
16 Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and
17 supplemented, or any other State law of similar effect, dedicated to
18 paying or financing the cost of water quality point and nonpoint
19 source pollution monitoring, watershed based water resource
20 planning and management, and nonpoint source pollution
21 prevention projects, pursuant to the requirements of Article VIII,
22 Section II, paragraph 6, subparagraph (a) of the New Jersey
23 Constitution. Any interest that accrues on monies in the fund shall
24 be credited to the fund.
25 (cf: P.L.1997, c.261, s.4)

26
27 2. Section 5 of P.L.1997, c.261 (C.58:29-5) is amended to read
28 as follows:

29 5. Monies in the fund shall be used only for the following
30 purposes:

31 a. The development and adoption of a priority list of water
32 quality limited waterbodies pursuant to the requirements of section
33 303(d)(1)(A) of the Federal Act (33 U.S.C. s.1313);

34 b. The monitoring and assessment of all State waters pursuant
35 to the requirements of section 305(b) of the Federal Act (33 U.S.C.
36 s.1315);

37 c. The delineation of watershed management areas and stream
38 segments;

39 d. The identification of potential causes of the use impairment
40 or water quality standard violations related to waterbodies on the
41 priority list required pursuant to sections 303(d)(1)(A) and 305(b)
42 of the Federal Act by means of assessment of reliable data,
43 including, but not necessarily limited to, identification of point
44 sources, nonpoint sources, habitat degradation, and hydrologic
45 changes. This identification shall include a broad-based intensive

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 survey monitoring program that shall supplement the existing
2 chemical, biological and toxics-in-biota monitoring networks, and
3 that shall intensively sample watersheds or segments of watersheds
4 on a periodic basis and establish a detailed watershed-wide
5 assessment process. The number of monitoring sites within a
6 watershed shall be determined by existing water quality, land uses,
7 known and potential pollution sources, and the amount of available
8 historical data. The supplemental survey monitoring program, shall
9 be designed to provide:

10 (1) a detailed profile of water quality over specified time
11 periods;

12 (2) an identification and detailed profile of both point and
13 nonpoint pollution sources;

14 (3) a quantification of pollutant loadings and pollution impacts
15 on receiving waters from both point and nonpoint sources; and

16 (4) water quality modeling based upon amounts of point and
17 nonpoint sources of pollution and land use;

18 e. The development of total maximum daily loads and water
19 quality-based effluent limitations for water quality limited
20 waterbodies, as required pursuant to section 303(d)(1)(C) of the
21 Federal Act, and any rules or regulations adopted pursuant thereto;

22 f. The development and presentation of data on the
23 department's Geographic Information System (GIS);

24 g. The development and adoption of pollution prevention best
25 management practices to control point and nonpoint sources of
26 pollution;

27 h. The characterization of land use and land cover in each
28 watershed;

29 i. The development and adoption of a watershed management
30 plan;

31 j. The development and planning by the department of a
32 watershed management program and the integration of the
33 department's rules and regulations with the program; and

34 k. The development and implementation of a watershed
35 protection loan and grant program, as described pursuant to section
36 6 of this act.

37 l. The provision of grants to local governments to fund sewer
38 or stormwater infrastructure projects that reduce nonpoint source
39 pollution of the State's lakes and reservoirs, and help prevent
40 harmful algal blooms. The grant money may be used as matching
41 funds for the purpose of securing grants from other sources,
42 including State and federal grants.

43 (cf: P.L.1997, c.261, s.5)

44
45 3. Section 6 of P.L.2016, c.12 (C.13:8C-48) is amended to read
46 as follows:

47 6. a. The State Treasurer shall establish a fund to be known as
48 the "Preserve New Jersey Green Acres Fund" and shall deposit into

1 the fund all moneys received pursuant to paragraph (1) of
2 subsection a. of section 5 of P.L.2016, c.12 (C.13:8C-47),
3 paragraph (1) of subsection a. of section 1 of P.L.2019, c.136
4 (C.13:8C-47.1), and any other moneys appropriated by law for
5 deposit into the fund.

6 Moneys in the fund shall be invested in permitted investments or
7 shall be held in interest-bearing accounts in those depositories as
8 the State Treasurer may select, and may be invested and reinvested
9 in permitted investments or as other trust funds in the custody of the
10 State Treasurer in the manner provided by law. All interest or other
11 income or earnings derived from the investment or reinvestment of
12 moneys in the fund shall be credited to the fund. Moneys derived
13 from the payment of principal and interest on the loans to local
14 government units authorized by P.L.2016, c.12 (C.13:8C-43 et seq.)
15 shall also be held in the fund.

16 b. Of the amount deposited in State fiscal year 2017 through
17 and including State fiscal year 2019 into the Preserve New Jersey
18 Green Acres Fund pursuant to paragraph (1) of subsection a. of
19 section 5 of P.L.2016, c.12 (C.13:8C-47):

20 (1) 55 percent shall be allocated for the purpose of paying the
21 cost of acquisition and development of lands by the State for
22 recreation and conservation purposes, and the amount provided
23 pursuant to this paragraph shall be allocated as follows:

24 (a) 50 percent shall be allocated for the purpose of paying the
25 cost of acquisition of lands by the State for recreation and
26 conservation purposes; and

27 (b) 50 percent shall be allocated for the purpose of paying the
28 cost of development of lands by the State for recreation and
29 conservation purposes, and of the amount provided pursuant to this
30 subparagraph:

31 (i) up to 22 percent shall be allocated for the purpose of paying
32 the cost for stewardship activities undertaken on lands administered
33 by the Division of Fish and Wildlife in the department; and

34 (ii) up to 22 percent shall be allocated for the purpose of paying
35 the cost for stewardship activities undertaken on lands administered
36 by the Division of Parks and Forestry in the department;

37 (2) 38 percent shall be allocated for the purposes of providing
38 grants and loans to assist local government units to pay the cost of
39 acquisition and development of lands for recreation and
40 conservation purposes, and of this amount, up to two percent shall
41 be allocated for stewardship activities undertaken by local
42 government units; and

43 (3) seven percent shall be allocated for the purposes of
44 providing grants to assist qualifying tax exempt nonprofit
45 organizations to pay the cost of acquisition and development of
46 lands for recreation and conservation purposes, and of this amount,
47 11 percent shall be allocated for stewardship activities undertaken
48 by qualifying tax exempt nonprofit organizations.

1 c. Any repayments of the principal and interest on loans issued
2 to local government units for the acquisition or development of
3 lands for recreation and conservation purposes using
4 constitutionally dedicated CBT moneys shall be deposited into the
5 Preserve New Jersey Green Acres Fund, and shall be specifically
6 dedicated for the issuance of additional grants and loans in the same
7 manner as provided in subsections a. and b. of section 27 of
8 P.L.1999, c.152 (C.13:8C-27) and this section.

9 d. (1) The moneys in the fund are specifically dedicated and
10 shall be used for the same purposes and according to the same
11 criteria and provisions as those set forth in section 26 of P.L.1999,
12 c.152 (C.13:8C-26), and as provided pursuant to P.L.2016, c.12
13 (C.13:8C-43 et seq.) and this section.

14 (2) Grants and loans issued to local government units and grants
15 issued to qualifying tax exempt nonprofit organizations using
16 constitutionally dedicated CBT moneys for the acquisition and
17 development of lands for recreation and conservation purposes shall
18 be subject to the same provisions as those prescribed in section 27
19 of P.L.1999, c.152 (C.13:8C-27), except as otherwise provided in
20 section 10 of P.L.2016, c.12 (C.13:8C-52).

21 (3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-
22 43 et seq.) or P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary,
23 projects of the Palisades Interstate Park Commission established
24 pursuant to P.L.1980, c.104 (C.32:14-1.1 et seq.) for the acquisition
25 or development of land for recreation and conservation purposes in
26 New Jersey shall be considered State projects for the purposes of
27 eligibility for funding pursuant to the provisions of P.L.2016, c.12
28 (C.13:8C-43 et seq.).

29 e. Moneys in the fund shall not be expended except in
30 accordance with appropriations from the fund made by law. Any
31 act appropriating moneys from the Preserve New Jersey Green
32 Acres Fund shall identify any particular project or projects to be
33 funded by the moneys, and any expenditure for a project for which
34 the location is not identified by municipality and county in the
35 appropriation shall require the approval of the Joint Budget
36 Oversight Committee, or its successor, except as permitted
37 otherwise in accordance with the same exceptions as those specified
38 in paragraph (2) of subsection a. of section 23 of P.L.1999, c.152
39 (C.13:8C-23).

40 f. Unexpended moneys due to project withdrawals,
41 cancellations, or cost savings shall be returned to the fund.

42 g. Of the amount authorized pursuant to this section, not more
43 than five percent shall be utilized for organizational, administrative
44 and other work and services, including salaries, equipment and
45 materials necessary to administer the applicable provisions of
46 P.L.2016, c.12 (C.13:8C-43 et seq.).

47 h. To the end that municipalities may not suffer a loss of taxes
48 by reason of the acquisition and ownership by the State of lands in

1 fee simple for recreation and conservation purposes, or the
2 acquisition and ownership by qualifying tax exempt nonprofit
3 organizations of lands in fee simple for recreation and conservation
4 purposes that become certified as exempt from property taxes
5 pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws,
6 the State shall make payments annually in the same manner as
7 payments are made pursuant to section 29 of P.L.1999, c.152
8 (C.13:8C-29).

9 i. The State shall not use the power of eminent domain in any
10 manner for the acquisition of lands by the State for recreation and
11 conservation purposes using constitutionally dedicated CBT
12 moneys in whole or in part unless a concurrent resolution approving
13 that use is approved by both Houses of the Legislature; except that,
14 without the need for such a concurrent resolution, the State may use
15 the power of eminent domain to the extent necessary to establish a
16 value for lands to be acquired from a willing seller by the State for
17 recreation and conservation purposes using constitutionally
18 dedicated CBT moneys in whole or in part.

19 j. Of the amount deposited in each State fiscal year
20 commencing in State fiscal year 2020 and annually thereafter into
21 the Preserve New Jersey Green Acres Fund pursuant to paragraph
22 (1) of subsection a. of section 1 of P.L.2019, c.136 (C.13:8C-47.1):

23 (1) 60 percent shall be allocated for the purpose of paying the
24 cost of acquisition and development of lands by the State for
25 recreation and conservation purposes, and the amount provided
26 pursuant to this paragraph shall be allocated as follows:

27 (a) 45 percent shall be allocated for the purpose of paying the
28 cost of acquisition of lands by the State for recreation and
29 conservation purposes, and of this amount, a minimum of 10
30 percent shall be allocated for Blue Acres projects; and

31 (b) 55 percent shall be allocated for the purpose of paying the
32 cost of development of lands by the State for recreation and
33 conservation purposes, and of the amount provided pursuant to this
34 subparagraph:

35 (i) up to 22 percent shall be allocated for the purpose of paying
36 the cost for stewardship activities undertaken on lands administered
37 by the Division of Fish and Wildlife in the department; and

38 (ii) up to 22 percent shall be allocated for the purpose of paying
39 the cost for stewardship activities undertaken on lands administered
40 by the Division of Parks and Forestry in the department;

41 (2) 30 percent shall be allocated for the purposes of providing
42 grants and loans to assist local government units to pay the cost of
43 acquisition and development of lands for recreation and
44 conservation purposes, including Blue Acres projects, and of this
45 amount **[.]** :

46 (a) up to 20 percent shall be allocated for the provision of grants
47 to local government units to fund 100 percent of the costs of
48 projects undertaken for the management and maintenance of lakes

1 and reservoirs with the aim of preventing or mitigating harmful
2 algal blooms, which grant funds may be used as matching funds for
3 the purpose of securing grants from other sources, including State
4 and federal grants; and

5 (b) up to 10 percent shall be allocated for stewardship activities
6 undertaken by local government units , in addition to the projects
7 eligible for funding pursuant to subparagraph (a) of this paragraph ;
8 and

9 (3) 10 percent shall be allocated for the purposes of providing
10 grants to assist qualifying tax exempt nonprofit organizations to pay
11 the cost of acquisition and development of lands for recreation and
12 conservation purposes, including Blue Acres projects, and of this
13 amount, 11 percent shall be allocated for stewardship activities
14 undertaken by qualifying tax exempt nonprofit organizations.

15 k. (1) In addition to the purposes set forth in subsection d. of this
16 section, moneys in the Preserve New Jersey Green Acres Fund may
17 be applied for the purposes of providing moneys to:

18 (a) meet the Blue Acres costs to the State for the acquisition of
19 lands for a Blue Acres project; or

20 (b) provide grants, pursuant to the provisions of paragraph (2) of
21 this subsection, to assist a qualifying tax exempt nonprofit
22 organization in meeting the Blue Acres costs for the acquisition of
23 lands for a Blue Acres project.

24 (2) A grant by the State for lands to be acquired by a qualifying
25 tax exempt nonprofit organization for a Blue Acres project may
26 include up to 50 percent of the Blue Acres cost of acquisition of the
27 lands by the qualifying tax exempt nonprofit organization.

28 (a) A qualifying tax exempt nonprofit organization shall not use
29 as its matching share of the Blue Acres cost of acquisition of lands
30 for a Blue Acres project any constitutionally dedicated moneys, as
31 defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3), or
32 any grant moneys obtained from a Green Acres bond act.

33 (b) To qualify to receive a grant from the Preserve New Jersey
34 Blue Acres Fund, the board of directors or governing body of the
35 applying tax exempt nonprofit organization shall:

36 (i) demonstrate to the commissioner that the organization
37 qualifies as a charitable conservancy for the purposes of P.L.1979,
38 c.378 (C.13:8B-1 et seq.);

39 (ii) demonstrate that the organization has the resources to match
40 the grant requested;

41 (iii) agree to make and keep the lands accessible to the public,
42 unless the commissioner determines that public accessibility would
43 be detrimental to the lands or any natural resources associated
44 therewith;

45 (iv) agree not to convey the lands except to the federal
46 government, the State, a local government unit, or another
47 qualifying tax exempt nonprofit organization, for recreation and
48 conservation purposes; and

1 (v) agree to execute and donate to the State at no charge a
2 conservation restriction pursuant to P.L.1979, c.378 (C.13:8B-1 et
3 seq.) on the lands to be acquired with the grant.

4 l. In addition to any other reporting requirements required by
5 law, the department shall annually send a written report to the
6 Chairperson of the Senate Environment and Energy Committee, the
7 Assembly Agriculture and Natural Resources Committee, and the
8 Assembly Environment and Solid Waste Committee, or their
9 successors, identifying the projects funded with moneys pursuant to
10 subparagraph (b) of paragraph (1) of subsection j. of this section.
11 This report shall: (1) identify the project type, location, and cost for
12 each development project; and (2) identify the stewardship
13 activities, including the location and cost for each stewardship
14 activity, undertaken on lands administered by the Division of Fish
15 and Wildlife and Division of Parks and Forestry pursuant to
16 subparagraph (b) of paragraph (1) of subsection j. of this section.

17 (cf: P.L.2019, c.136, s.3)

18
19 4. This act shall take effect immediately.
20
21

22 STATEMENT

23
24 This bill would authorize the use of constitutionally dedicated
25 corporation business tax (CBT) revenues to provide grants to local
26 governments to fund sewer or stormwater infrastructure projects
27 that reduce nonpoint source pollution of the State's lakes and
28 reservoirs, and help prevent harmful algal blooms. The bill would
29 allow monies from the "Watershed Management Fund," which was
30 established by the "Watershed Protection and Management Act of
31 1997," P.L.1997, c.261 (C.58:29-1 et seq.), to be used to fund the
32 grants. The bill also clarifies that the "Watershed Management
33 Fund" would serve as the repository for the 0.3 percent of annual
34 CBT revenues that are constitutionally dedicated to paying or
35 financing the cost of water quality point and nonpoint source
36 pollution monitoring, watershed based water resource planning and
37 management, and nonpoint source pollution prevention projects.

38 The bill would also amend the "Preserve New Jersey Act" to
39 authorize a portion of CBT revenues—namely those dedicated to
40 the provision of grants and loans to assist local government units to
41 pay the cost of acquisition and development of lands for recreation
42 and conservation purposes—to be used to provide grants to local
43 government units to fund 100 percent of the costs of projects
44 undertaken for the management and maintenance of lakes and
45 reservoirs with the aim of preventing or mitigating harmful algal
46 blooms. The amount authorized is approximately 0.17 percent of
47 annual CBT revenues.

1 Finally, the bill provides that both kinds of grants can be used as
2 matching funds by local government units for the purpose of
3 obtaining other grants, including State or federal grants.