ASSEMBLY, No. 3224

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Establishes certain requirements for a State entity planting vegetation in certain circumstances; provides for preferences for NJ businesses providing such vegetation.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning native vegetation and supplementing Title 4 and Title 52 of the Revised Statutes.

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

1. a. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, every State entity, when planting vegetation for purposes of land management, reforestation, or habitat restoration, shall plant, to the greatest extent practicable, vegetation which is a native plant and ecologically appropriate plant species to the area according to the best horticultural management practices for the use of native plants and ecologically appropriate plant species, as established by the Department of Environmental Protection pursuant to section 2 of this act.

b. The provisions of this section shall not apply to:

(1) planting or replacement of annual flowers and plants, sod or turf grass, or plants or trees producing fruits or vegetables or otherwise used for or in food, such as basil, garlic, onion, or other plants producing spices;

(2) any planting of vegetation in an arboretum or laboratory owned or operated by a State entity;

(3) planting of vegetation for educational, experimental, or scientific purposes, as approved by the Department of Environmental Protection;

(4) planting or replacement of vegetation for general landscaping, construction, and maintenance work which does not involve land management, reforestation, or habitat restoration;

(5) any site remediation or brownfield development project that receives federal funding;

(6) any project restricted for public safety reasons from planting certain vegetation within a certain proximity of an airport or aviation facility pursuant to any advisory circular, rule, or regulation of the Federal Aviation Administration; or

(7) any planting of vegetation by the Department of Transportation, the New Jersey Turnpike Authority, or the South Jersey Transportation Authority which is subject to the requirements and provisions of P.L.2017, c.41 (C.27:7-42.1 et al.).

c. As used in this section, "State entity" means a department, agency, or office of State government, including a State university or college, or an authority created by the State.

2. The Department of Environmental Protection, in consultation with the Department of Agriculture and Rutgers, the State University, shall develop criteria and a methodology for evaluating plant species for the purposes of section 1 of this act, with consideration of the source or provenance of the seed or plant, when determining which plants may be considered native plants and

ecologically appropriate plant species to an area. The methodology and criteria shall allow for inclusion in the designation of native plants and ecologically appropriate plant species:

a. native species from or of an ecologically appropriate source or provenance, heritage plants, and plants commonly referred to as varieties and subspecies; and

b. all of the particular species of vegetation identified pursuant to subsection b. of section 1 of P.L.2017, c.41 (C.27:7-42.1).

The Department of Environmental Protection, in consultation with the Department of Agriculture and Rutgers, the State University, shall establish best horticultural management practices for the use of native plants and ecologically appropriate plant species.

3. The Department of Agriculture shall compile and maintain with annual updates a list of certified nurseries, licensed plant dealers, and any other nursery or plant dealers that are subject to annual inspection by the department, and shall make this list available to the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, and each State agency or entity having authority to contract for the purchase of goods or services.

4. The Department of Community Affairs shall compile and maintain with annual updates a list of licensed landscape architects and licensed and certified construction contracting professionals, and shall make this list available to the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, and each State agency or entity having authority to contract for landscape architectural or construction services.

5. a. Notwithstanding the provisions of any other law to the contrary, the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, and any State agency having authority to contract for the purchase of goods or services shall, when purchasing and planting vegetation and whenever possible, give preference to nurseries, plant dealers, and landscape design or construction contracting professionals on the lists established and maintained by the Department of Agriculture pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the Department of Community Affairs pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

In preparing the specifications for any contract for the purchase of goods and services, the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services shall include in the invitation to bid, where relevant, a statement that any response from a nursery, plant dealer, or landscape design or construction contracting professional on the lists established and maintained by the Department of Agriculture or the Department of Community Affairs, as applicable, shall receive preference whenever possible.

b. The provisions of subsection a. of this section shall not apply to:

(1) any binding contractual obligation for the purchase of goods or services entered into prior to the effective date of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) any bid package advertised and made available to the public, or any competitive and sealed bid received by the State, prior to the effective date of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(3) any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), where compliance with P.L. , c. (C.) (pending before the Legislature as this bill) would delay timely completion of a project or involve an increase in the total moneys to be paid by the State under that contract.

c. The State Treasurer, in consultation with the Secretary of Agriculture, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this section.

6. Section 1 of this act shall take effect 18 months after the date of enactment and the remainder of this act shall take effect immediately.

STATEMENT

This bill would require every State entity, when planting vegetation for the purposes of land management, reforestation, or habitat restoration, to plant, to the greatest extent practicable, vegetation which is a native plant and ecologically appropriate plant species to the area. Such planting would be conducted according to the best horticultural management practices for the use of native plants and ecologically appropriate plant species established by the Department of Environmental Protection (DEP), in consultation with the Department of Agriculture and Rutgers, the State University, under the bill.

The bill specifies that the requirement for State entities to plant native and ecologically appropriate plant species would not apply to:

(1) planting or replacement of annual flowers and plants, sod or turf grass, or plants or trees producing fruits or vegetables or otherwise used for or in food;

(2) any planting of vegetation in an arboretum or laboratory owned or operated by a State entity;

(3) planting of vegetation for educational, experimental, or scientific purposes, as approved by the DEP;

(4) planting or replacement of vegetation for general landscaping, construction, and maintenance work which does not involve land management, reforestation, or habitat restoration;

(5) any site remediation or brownfield development project that receives federal funding;

(6) any project restricted for public safety reasons from planting certain vegetation within a certain proximity of an airport or aviation facility pursuant to any advisory circular, rule, or regulation of the Federal Aviation Administration; or

(7) any planting of vegetation by the Department of Transportation, the New Jersey Turnpike Authority, or the South Jersey Transportation Authority.

The bill would require the DEP, in consultation with the Department of Agriculture and Rutgers, the State University, to develop criteria and a methodology for evaluating plant species, with consideration of the source or provenance of the seed or plant, when determining which plants may be considered native plants and ecologically appropriate plant species to an area. The methodology and criteria would allow for the inclusion in the designation of native and ecologically appropriate plant species:

(1) native species with the ecologically appropriate source or provenance, heritage plants, and plants commonly referred to as varieties or subspecies; and

(2) all of the particular species of vegetation identified pursuant to subsection b. of section 1 of P.L.2017, c.41 (C.27:7-42.1), which concerns the planting of native plants by various State transportation agencies.

The bill would also direct:

(1) the Department of Agriculture to compile and maintain with annual updates a list of certified nurseries, licensed plant dealers, and any other nursery or plant dealers that are annually inspected by the department;

(2) the Department of Community Affairs to compile and maintain with annual updates a list of licensed landscape architects and licensed and certified construction contracting professionals; and

(3) the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of

Property Management and Construction in the Department of the Treasury, and any State agency having authority to contract for the purchase of goods or services to give priority to purchasing goods and services or contracting for services from the businesses on the lists.

The bill would:

(1) designate the DEP as the lead agency for developing the criteria and methodology for designating native plants and ecologically appropriate plant species and for establishing the best horticultural management practices for the use of native plants and ecologically appropriate plant species;

(2) specify that, in developing its criteria and methodology for designative native plants and ecologically appropriate plant species, the DEP would be required to consider the source or provenance of the seed or plant;

(3) specify that the methodology and criteria established by the DEP would allow for the inclusion in the designation of native plants and ecologically appropriate plant species: native species from or of an ecologically appropriate source or provenance, heritage plants, and plants commonly referred to as varieties and subspecies; and all of the particular species of vegetation identified pursuant to subsection b. of section 1 of P.L.2017, c.41 (C.27:7-42.1);

(4) specify that the requirement to plant native and ecologically appropriate plant species would not apply to any planting of vegetation by the Department of Transportation, the New Jersey Turnpike Authority, or the South Jersey Transportation Authority; and

(5) specify that a State agency seeking an exemption from the bill’s requirements for the planting of vegetation for education, experimental, or scientific purposes must obtain the approval of the DEP.