

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.



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

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. Notwithstanding the provisions of any other law, rule, or
8 regulation to the contrary, every State entity, when planting
9 vegetation for purposes of land management, reforestation, or
10 habitat restoration, shall plant, to the greatest extent practicable,
11 vegetation which is a native plant and ecologically appropriate plant
12 species to the area according to the best horticultural management
13 practices for the use of native plants and ecologically appropriate
14 plant species, as established by the Department of Environmental
15 Protection pursuant to section 2 of this act.

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

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

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

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

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

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

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

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

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

42
43 2. The Department of Environmental Protection, in
44 consultation with the Department of Agriculture and Rutgers, the
45 State University, shall develop criteria and a methodology for
46 evaluating plant species for the purposes of section 1 of this act,
47 with consideration of the source or provenance of the seed or plant,
48 when determining which plants may be considered native plants and

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

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

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

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

14

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

24

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

34

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

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

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

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

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

20 (3) any amendment, modification, or renewal of a contract,
21 which contract was entered into prior to the effective date of section
22 1 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), where compliance with P.L. , c. (C.) (pending before
24 the Legislature as this bill) would delay timely completion of a
25 project or involve an increase in the total moneys to be paid by the
26 State under that contract.

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

31

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

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STATEMENT

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

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

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

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

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

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

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

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

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

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

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

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

38 The bill would also direct:

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

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

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

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

6 The bill would:

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

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

16 (3) specify that the methodology and criteria established by the
17 DEP would allow for the inclusion in the designation of native
18 plants and ecologically appropriate plant species: native species
19 from or of an ecologically appropriate source or provenance,
20 heritage plants, and plants commonly referred to as varieties and
21 subspecies; and all of the particular species of vegetation identified
22 pursuant to subsection b. of section 1 of P.L.2017, c.41 (C.27:7-
23 42.1);

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

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