

ASSEMBLY, No. 5660

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman JAMES J. KENNEDY

District 22 (Middlesex, Somerset and Union)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires permit and compensatory reforestation plan for development projects that result in deforestation; establishes grant program for reforestation activities by private landowners; establishes "State Compensatory Reforestation Fund."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2021)

1 AN ACT concerning deforestation caused by development and
2 supplementing Title 13 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. The Department of Environmental Protection shall
8 establish a program to require a permit and the approval of a
9 compensatory reforestation plan for any development greater than
10 five acres in size that would result in deforestation, except that this
11 requirement shall not apply to a State entity subject to the
12 requirements of PL.1993, c.106 (C.13:1L-14.1 et seq.). The
13 development of an area greater than five acres in size that would
14 result in deforestation shall require permit approval from the
15 department pursuant to this section. The department shall issue a
16 permit pursuant to this section only to a person that prepares and
17 implements a compensatory reforestation plan approved by the
18 department pursuant to this section and any rules and regulations
19 adopted pursuant thereto. The requirements of this section shall be
20 in addition to any other permits, approvals, or other authorizations
21 required by law, and the department may consolidate the
22 requirements of this section into the permitting requirement of other
23 regulatory programs administered by the department.

24 b. A compensatory reforestation plan required pursuant to this
25 section shall establish a goal of no net loss of forested area in the
26 State, using the Tree Replacement Factor set forth in paragraph (7)
27 of subsection b. of section 2 of P.L.1993, c.106 (C.13:1L-14.2). A
28 compensatory reforestation plan shall include, at a minimum:

29 (1) the area of forested land that would be deforested by the
30 development;

31 (2) the proposed site of the compensatory reforestation;

32 (3) the estimated cost of the compensatory reforestation;

33 (4) the entity responsible for carrying out the compensatory
34 reforestation, if applicable;

35 (5) the amount to be deposited in the "State Compensatory
36 Reforestation Fund" created pursuant to section 2 of this act, if
37 applicable; and

38 (6) any other information required by the department, as
39 specified in rules and regulations adopted pursuant to section 3 of
40 this act.

41 c. A compensatory reforestation plan approved and implemented
42 pursuant to this act shall:

43 (1) occur on the same property as the deforestation, whenever
44 practicable. Otherwise, the reforestation shall be carried out in the
45 same municipality as the site of the deforestation, whenever
46 practicable. In no case shall the reforestation occur outside the
47 State;

48 (2) use trees purchased from a nursery located in the State,
49 whenever practicable;

1 (3) utilize species based upon the approved planting plan and
2 subject to the standards established by the American Association of
3 Nurserymen. Diversity in species composition shall be required to
4 reduce the risk of widespread loss of trees to single insect and
5 disease infestation and, therefore, similar species shall not exceed
6 30 percent of the total planting;

7 (4) utilize species listed as native to New Jersey on the United
8 State's Department of Agriculture's PLANTS Database;

9 (5) consider the effects of climate change when selecting
10 species; and

11 (6) meet any other requirements established by the department
12 in rules and regulations adopted pursuant to section 3 of this act.

13 d. A person may meet the compensatory reforestation
14 requirements of this section by implementing a compensatory
15 reforestation plan approved by the department, contracting with a
16 third party to implement a compensatory reforestation plan
17 approved by the department, or by depositing an amount sufficient
18 to cover the costs of implementation of a compensatory
19 reforestation plan, as determined by the department, into the "State
20 Compensatory Reforestation Fund" created pursuant to section 2 of
21 this act.

22 e. No later than 120 days after receipt of a compensatory
23 reforestation plan, the department shall make a determination to
24 approve the plan as submitted, approve the plan with conditions, or
25 disapprove the plan. If the plan is disapproved, the department
26 shall inform the applicant of the reasons for the disapproval. The
27 applicant shall have 30 days thereafter to submit a revised
28 compensatory reforestation plan to the department. If the
29 department does not provide notice of its determination within 120
30 days after its receipt of a plan or a revised plan, the plan shall be
31 deemed to have been approved, and the applicant shall proceed to
32 implement the plan.

33 f. Commencing on the first day of the third month after the
34 effective date of the rules and regulations adopted by the
35 department pursuant to section 3 of this section, no project that
36 would result in development greater than five acres in size that
37 would result in deforestation shall be commenced without the
38 approval of a permit together with:

39 (1) an approved compensatory reforestation plan; or

40 (2) the deposit of an amount sufficient to cover the costs of
41 implementation of a compensatory the reforestation plan, as
42 determined by the department, into the "State Compensatory
43 Reforestation Fund" created pursuant to section 2 of this act.

44 g. The Department of Environmental Protection shall have the
45 authority to enforce the provisions of this section. The Superior
46 Court shall have jurisdiction to enforce the provisions of the
47 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
48 et seq.), in connection with this section. The department may
49 institute a civil action for injunctive relief to enforce this section

1 and to prohibit and prevent a violation of this section, and the court
2 may proceed in the action in a summary manner.

3 h. As used in this section:

4 "Deforestation" means the removal of all trees from a contiguous
5 area greater than one-half acre in size with a tree density greater
6 than 204 mature trees per acre.

7 "Department" means the Department of Environmental
8 Protection.

9 "Development" means the same as that term is defined in section
10 3.1 of P.L.1975, c.291 (C.40:55D-4).

11 "Division" means the Division of Parks and Forestry in the
12 Department of Environmental Protection.

13

14 2. a. There is established in the Department of Environmental
15 Protection a special, nonlapsing fund to be known as the "State
16 Compensatory Reforestation Fund." Monies in the fund shall be
17 used by the department only to: (1) fund reforestation efforts,
18 including the reforestation of lands owned by the State or a local
19 government unit; or (2) to provide grants to private landowners to
20 subsidize the costs of tree plantings pursuant to section 3 of this act.
21 The fund shall be credited with:

22 (1) compensatory reforestation payments collected from
23 developers pursuant to this act;

24 (2) any other moneys appropriated by the Legislature or
25 otherwise made available to the department for the purposes of this
26 act; and

27 (3) any interest earnings or other investment income earned or
28 received on the moneys in the fund.

29 b. The department may establish other such reserves or
30 subaccounts which, in the department's discretion, are necessary or
31 desirable to carry out the purposes of this act, within the limits of
32 funds appropriated or otherwise made available to the department
33 for its purposes.

34

35 3. The Department of Environmental Protection shall develop
36 and administer a grant program to subsidize the costs of private
37 landowners who plant trees on their property. The department shall
38 develop an application method and criteria by which to award a
39 grant. In no case shall a grant be awarded or used to fund the
40 implementation of a compensatory reforestation plan pursuant to
41 this act. The department shall use moneys in the "State
42 Compensatory Reforestation Fund," created pursuant to section 2 of
43 this act, for the issuance of grants pursuant to this section.

44

45 4. The Commissioner of Environmental Protection shall adopt
46 rules and regulations, pursuant to the "Administrative Procedure
47 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to
48 implement the provisions of this act.

1 5. This act shall take effect immediately.

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STATEMENT

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6 This bill would require development projects larger than five
7 acres in size that would result in deforestation to include the
8 implementation of a compensatory reforestation plan, in the form of
9 tree plantings or moneys deposited into the "State Compensatory
10 Reforestation Fund," (fund), a special, nonlapsing fund in the
11 Department of Environmental Protection (DEP) that would be
12 established by the bill. The bill would also direct the DEP to create
13 a program that would subsidize the costs of tree plantings for
14 private landowners, using moneys from the fund.

15 Specifically, under the bill, the DEP would be required to create
16 a new permitting program to review compensatory reforestation
17 plans submitted by persons seeking to carry out development
18 projects larger than five acres in size that would result in
19 deforestation. The bill defines "deforestation" as the removal of all
20 trees from a contiguous area greater than one-half acre in size with
21 a tree density greater than 204 mature trees per acre. The new
22 permit would be required beginning three months after the DEP
23 adopts rules and regulations to implement the bill.

24 The bill would establish various requirements for a
25 compensatory reforestation plan, as enumerated in subsection b. of
26 section 1 of the bill, including that the plan establish a goal of no
27 net loss of State forested area resulting from the development. The
28 bill would also establish various requirements for the compensatory
29 replanting, as enumerated in subsection c. of section 1 of the bill,
30 including that the replanting be carried out on the same property as
31 the deforestation, whenever practicable, and in the same
32 municipality, whenever practicable.

33 A person would be authorized to meet the compensatory
34 reforestation requirements of the bill by implementing the
35 reforestation plan, contracting with a third party to implement the
36 reforestation plan, or by depositing an amount sufficient to cover
37 the costs of the reforestation, as determined by the department, into
38 the fund.

39 The bill would also direct the DEP to develop and administer a
40 grant program to subsidize the costs of private landowners who
41 plant trees on their property. The DEP would use moneys in the
42 fund to issue the grants. The bill would specify that grants could
43 not be awarded or used to fund the implementation of a
44 compensatory reforestation plan.