SENATE, No. 442

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator STEVEN V. OROHO
District 24 (Morris, Sussex and Warren)

SYNOPSIS

Allocates $10 million of constitutionally dedicated CBT revenues to DEP for certain lake management activities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the use of constitutionally dedicated corporation business tax revenues by the State for certain recreation and conservation purposes and amending P.L.2016, c.12.

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

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

6. a. The State Treasurer shall establish a fund to be known as the "Preserve New Jersey Green Acres Fund" and shall deposit into the fund all moneys received pursuant to paragraph (1) of subsection a. of section 5 of P.L.2016, c.12 (C.13:8C-47), paragraph (1) of subsection a. of section 1 of P.L.2019, c.136 (C.13:8C-47.1), and any other moneys appropriated by law for deposit into the fund.

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

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

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

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

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

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

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 <u>thus</u> is new matter.

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

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

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

c. Any 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 using constitutionally dedicated CBT moneys shall be deposited into the Preserve New Jersey Green Acres Fund, and shall be specifically dedicated for the issuance of additional grants and loans in the same manner as provided in subsections a. and b. of section 27 of P.L.1999, c.152 (C.13:8C-27) and this section.

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

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

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

e. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Green Acres Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which

the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor, except as permitted otherwise in accordance with the same exceptions as those specified in paragraph (2) of subsection a. of section 23 of P.L.1999, c.152 (C.13:8C-23).

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

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

h. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes, or the acquisition and ownership by qualifying tax exempt nonprofit organizations of lands in fee simple for recreation and conservation purposes that become certified as exempt from property taxes pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c.152 (C.13:8C-29).

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

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

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

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

(b) 55 percent shall be allocated for the purpose of paying the cost of development of lands by the State for recreation and

conservation purposes, and of the amount provided pursuant to this subparagraph:

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

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

(iii) commencing in State fiscal year 2021 and annually thereafter, a minimum of $10,000,000 shall be allocated for paying the cost of development of lands by the State for recreation and conservation purposes, including stewardship activities, undertaken for the management and maintenance of lakes on lands administered by the Division of Fish and Wildlife or the Division of Parks and Forestry in the department;

(2) 30 percent shall be allocated for the purposes of providing grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes, including Blue Acres projects, and of this amount, up to 10 percent shall be allocated for stewardship activities undertaken by local government units; and

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

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

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

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

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

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

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

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

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

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

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

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

l. In addition to any other reporting requirements required by law, the department shall annually send a written report 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, identifying the projects funded with moneys pursuant to subparagraph (b) of paragraph (1) of subsection j. of this section. This report shall: (1) identify the project type, location, and cost for each development project; and (2) identify the stewardship activities, including the location and cost for each stewardship activity, undertaken on lands administered by the Division of Fish and Wildlife and Division of Parks and Forestry pursuant to subparagraph (b) of paragraph (1) of subsection j. of this section.

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

2. This act shall take effect immediately.

STATEMENT

This bill would allocate $10 million annually from constitutionally dedicated corporation business tax (CBT) revenues for development, including stewardship activities, undertaken for the management and maintenance of lakes on lands administered by the Division of Fish and Wildlife or the Division of Parks and Forestry in the Department of Environmental Protection (DEP).

The funding in this bill is provided from constitutionally dedicated corporation business tax (CBT) revenues pursuant to Article VIII, Section II, paragraph 6 of the State Constitution, approved by the voters of the State in November 2014. The "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-43 et seq.) implements the constitutional dedication of CBT revenues for open

space, farmland, and historic preservation. The act provides that a certain amount of the portion of dedicated CBT revenues allocated each year for the Green Acres program is to be used for: the acquisition of lands for open space, including Blue Acres projects, and development projects, including stewardship activities, on State lands administered by the DEP's Division of Fish and Wildlife and Division of Parks and Forestry; grants and loans to fund local government open space acquisition and development projects; and grants to nonprofit entities to acquire or develop lands for recreation and conservation purposes. The "Preserve New Jersey Green Acres Fund" was established by section 6 of the "Preserve New Jersey Act."

This bill would specify that $10 million of the amount allocated for development of lands by the State for recreation and conservation purposes be allocated for the management and maintenance of lakes on lands administered by the Division of Fish and Wildlife or the Division of Parks and Forestry.

"Stewardship activity" is defined in the act as an activity, which is beyond routine operations and maintenance, undertaken to repair or restore lands acquired or developed for recreation and conservation purposes for the purpose of enhancing or protecting those lands for recreation and conservation purposes.