

SENATE, No. 530

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Clarifies law concerning circumstances in which members of Pinelands Commission may vote.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the voting ability of members of the Pinelands
2 Commission, and amending P.L.1979, c.111.

3

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

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7 1. Section 16 of P.L.1979, c.111 (C.13:18A-17) is amended to
8 read as follows:

9 16. a. (1) No [member,] officer, employee, or agent of the
10 commission shall take any official action on any matter in which
11 [he] the officer, employee, or agent of the commission has a direct
12 or indirect financial interest **;** provided, however, that the **].**

13 (2) No member of the commission shall take any official action
14 on any matter in which the member has a personal interest. A
15 member of the commission shall be deemed to have a personal
16 interest in any matter within the meaning of this section if, by
17 reason of participation in the matter, the member has reason to
18 believe that they, or a member of their immediate family, will
19 derive a direct monetary gain or suffer a direct monetary loss. No
20 member of the commission shall be deemed to have a personal
21 interest in any matter within the meaning of this section if, by
22 reason of participation in the matter, no benefit or detriment could
23 reasonably be expected to accrue to the member, or a member of
24 their immediate family, as a member of a business, profession,
25 occupation, or group, to any greater extent than any such benefit or
26 detriment could reasonably be expected to accrue to any other
27 member of such business, profession, occupation, or group.

28 (3) The ownership of, or tenancy in, one's own private residence
29 shall not be considered a financial or personal interest for the
30 purposes of this section **;** and provided further, however, that
31 nothing in this section shall be construed so as to prohibit any such
32 member from participating in the preparation and approval of the
33 comprehensive management plan;**].**

34 b. Any commission action taken or approval granted in
35 violation of this section is voidable **;****].**

36 c. Any person who shall willfully violate any provision of this
37 section shall forfeit his office or employment and shall be guilty of
38 a **[misdemeanor]** crime of the fourth degree and be punished by a
39 fine of not more than **[\$7,500.00]** \$7,500 or by imprisonment for
40 not more than 18 months, or both such fine and imprisonment.

41 (cf: P.L.1979, c.111, s.16)

42

43 2. This act shall take effect immediately.

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.

STATEMENT

This bill clarifies when a member of the Pinelands Commission has a personal interest in a matter facing the commission and therefore must recuse themselves from participating in the matter. The bill provides that a Pinelands Commission member would not be deemed to have a personal interest in a matter if, by reason of participation in the matter, no benefit or detriment could reasonably be expected to accrue to the member, or a member of their immediate family, as a member of a business, profession, occupation, or group, to any greater extent than any benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation, or group.

This bill is in response to advice issued by the State Ethics Commission on February 10, 2009, in response to a request by the Pinelands Commission for advice regarding the circumstances in which commission members must recuse themselves from participating in discussions and votes concerning amendments to the pinelands comprehensive management plan. The issue and request for advice arose in the context of a review by the Pinelands Commission of its regulations governing the Pinelands Development Credit Program. As a result of the issued advice, and its interpretation and implementation since its issuance, certain members of the Pinelands Commission have been required to recuse themselves from voting on important matters before the Pinelands Commission.

It is the sponsor's belief that the issued advice and its subsequent interpretation and implementation have significantly, unnecessarily, and improperly hampered participation on the Pinelands Commission of members who represent the agricultural industry. Agriculture is an important industry in the pinelands area. The Pinelands Protection Act specifically provides that "membership of the entire commission shall include residents of the pinelands area who represent economic activities, such as agriculture, in the area, as well as residents of the State who represent conservation interests." By interpreting the ethics provision currently in the Pinelands Protection Act in such a narrow manner as it did in the advice it gave to the Pinelands Commission, the State Ethics Commission and others have effectively negated the statutory mandate that the commission membership include those who represent economic activities, "such as agriculture," in the pinelands area. A commission member who is a farmer cannot properly and fully represent the agricultural industry if that member is wrongly prohibited from voting on agricultural issues before the Pinelands Commission.