

SENATE, No. 2095

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JAMES W. HOLZAPFEL

District 10 (Ocean)

SYNOPSIS

“Barnegat Bay Protection Act”; establishes Barnegat Bay Protection Fund, dedicates portion of sales tax on fertilizer, authorizes special license plates, and provides for donations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning protection of the Barnegat Bay estuary
2 watershed, and amending P.L.1955, c.49 and supplementing
3 various parts of the statutory law.

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

7
8 1. (New section) Sections 1 through 7 of this act shall be
9 known and may be cited as the “Barnegat Bay Protection Act.”

10
11 2. (New section) The Legislature finds and declares that:

12 a. New Jersey’s Barnegat Bay estuary watershed is one of the
13 State’s most precious natural resources, and this shallow lagoonal
14 estuary is now significantly affected by an array of human impacts
15 that potentially threaten its ecological integrity;

16 b. The Barnegat Bay estuary watershed encompasses most of
17 the 33 municipalities in Ocean County and four municipalities in
18 Monmouth County, supports a population of over 500,000 people
19 that more than doubles during the summer season, and also provides
20 economic, ecological, aesthetic, and recreational benefits;

21 c. Eutrophication exists in the Barnegat Bay, caused in part by
22 nutrient loadings from nonpoint pollution sources and evidenced by
23 the decline of seagrass and hard clams and the increase of harmful
24 algae, drift algae, and other noxious species, and studies show that
25 increased development has caused pollutant loadings from nitrogen
26 and phosphorus to grow;

27 d. In order to preserve the Barnegat Bay estuary watershed,
28 help is urgently needed to protect the bay from pollution; and

29 e. It is therefore altogether fitting and proper for the State to
30 create a special fund dedicated to protecting the Barnegat Bay
31 estuary watershed, and support the fund by: (1) dedicating a
32 portion of sales tax revenues collected from the sale of fertilizer; (2)
33 authorizing special license plates; and (3) soliciting and accepting
34 donations, including at the time of application or renewal of a
35 license to operate a personal watercraft or power vessel and
36 registration or renewal of a vessel, and at the point of purchase of a
37 beach tag or beach badge.

38
39 3. (New section) a. There is created in the Department of the
40 Treasury a special non-lapsing fund to be known as the “Barnegat
41 Bay Protection Fund.” There shall be deposited in the fund:

42 (1) amounts collected from the retail sale of fertilizer pursuant
43 to section 4 of P.L. , c. (C.) (pending before the Legislature
44 as this bill);

45 (2) amounts collected from specialty license plate fees pursuant
46 to section 5 of P.L. , c. (C.) (pending before the Legislature
47 as this bill);

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.

1 (3) amounts collected from donations, at the time an application
2 is submitted or a fee is paid, for an operator's license of a personal
3 watercraft or power vessel, pursuant to section 6 of
4 P.L. , c. (C.) (pending before the Legislature as this bill);

5 (4) amounts collected from donations, at the time a fee is paid,
6 for the initial registration of a documented vessel and for each
7 renewal thereof, pursuant to section 7 of P.L. , c. (C.)
8 (pending before the Legislature as this bill);

9 (5) amounts collected from donations, received at the time of
10 registration of persons by a municipality for access to a beach and
11 bathing and recreational grounds, pursuant to subsection d. of
12 section 1 of P.L.1955, c.49 (C.40:61-22.20); and

13 (6) amounts received from donations collected pursuant to
14 subsection d. of this section.

15 b. Monies deposited in the fund shall be distributed, at the
16 discretion of the State Treasurer in consultation with the
17 Commissioner of Environmental Protection, and expended
18 exclusively for the purposes of preservation and remediation of the
19 Barnegat Bay estuary watershed, which may include a public
20 education campaign about the importance of protecting, and
21 measures and actions that can be taken to preserve, the Barnegat
22 Bay estuary watershed.

23 c. Prior to distribution, monies deposited in the fund shall be
24 held in interest-bearing accounts in public depositories as defined
25 pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be
26 invested or reinvested in such securities as are approved by the
27 State Treasurer. Interest or other income earned on monies
28 deposited in the fund, and any monies which may be appropriated
29 or otherwise become available for the purposes of the fund, shall be
30 credited to and deposited in the fund for use as set forth in
31 P.L. , c. (C.) (pending before the Legislature as this bill).

32 d. The Department of the Treasury, in consultation with the
33 Department of Environmental Protection, may solicit and accept
34 donations, by gift, bequest, or devise, from any person or entity, for
35 deposit into the Barnegat Bay Protection Fund.

36 e. The State Treasurer, in consultation with the Commissioner
37 of Environmental Protection, shall annually submit a report on the
38 Barnegat Bay Protection Fund to the Legislature, pursuant to
39 section 2 of P.L.1991, c.164 (C.52:14-19.1). The annual report
40 shall include a list of all funds received by source in the prior fiscal
41 year, the uses of the fund in that fiscal year, and the projected
42 balance and possible uses of the monies in the fund in the upcoming
43 fiscal year.

44

45 4. (New section) On the effective date of P.L. , c. (C.)
46 (pending before the Legislature as this bill), and annually thereafter,
47 there shall be deposited into the Barnegat Bay Protection Fund,
48 established pursuant to section 3 of P.L. , c. (C.) (pending

1 before the Legislature as this bill), the sum of one percent of the tax
2 collected on the retail sale of fertilizer, annually collected pursuant
3 to the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-
4 1 et seq.).

5
6 5. (New section) a. The Chief Administrator of the New
7 Jersey Motor Vehicle Commission shall establish Protect Barnegat
8 Bay specialty license plates. Upon proper application, the chief
9 administrator shall issue Protect Barnegat Bay license plates for any
10 motor vehicle owned or leased and registered in the State. In
11 addition to the registration number and other markings or
12 identification otherwise prescribed by law, the Protect Barnegat Bay
13 license plate shall display appropriate words and an emblem
14 honoring Barnegat Bay. The chief administrator, in consultation
15 with the Commissioner of Environmental Protection, shall choose
16 the design, including an emblem and a color scheme, indicating
17 support for, and an interest in, funding the protection, preservation
18 and remediation of the Barnegat Bay estuary watershed.

19 b. Application for issuance of a Protect Barnegat Bay license
20 plate shall be made to the chief administrator on forms and in a
21 manner prescribed by the chief administrator. In order to be deemed
22 complete, an application shall be accompanied by a fee of \$50,
23 payable to the New Jersey Motor Vehicle Commission, which shall
24 be in addition to the fees otherwise prescribed by law for the
25 registration of motor vehicles. The chief administrator shall collect
26 annually, subsequent to the year of issuance of the Protect Barnegat
27 Bay license plate and in addition to the fees otherwise prescribed by
28 law for the registration of a motor vehicle, a \$10 fee for the license
29 plate which shall be forwarded to the State Treasurer for deposit
30 into the Barnegat Bay Protection Fund created pursuant to section 3
31 of P.L. , c. (C.) (pending before the Legislature as this bill).

32 c. The chief administrator shall notify eligible motorists of the
33 opportunity to obtain a Protect Barnegat Bay license plate by
34 including a notice with all motor vehicle registration renewals and
35 by posting appropriate posters or signs in all New Jersey Motor
36 Vehicle Commission facilities and offices. The notices, posters and
37 signs shall be designed by the commission.

38 d. The chief administrator annually shall certify to the State
39 Treasurer the average cost per license plate incurred in the
40 immediately preceding year by the New Jersey Motor Vehicle
41 Commission in producing, issuing, renewing and publicizing the
42 availability of the Protect Barnegat Bay license plates. The annual
43 certification of the average cost per license plate shall be approved
44 by the Joint Budget Oversight Committee, or its successor
45 committee.

46 e. The Chief Administrator of the New Jersey Motor Vehicle
47 Commission, the Commissioner of Environmental Protection and
48 the State Treasurer shall develop and enter into an interagency

1 memorandum of agreement setting forth the procedures to be
2 followed by the commission and the departments in carrying out
3 their respective responsibilities under this section.

4
5 6. (New section) At the time a fee is required to be paid for an
6 operator's license for a personal watercraft or for a power vessel,
7 pursuant to section 4 of P.L.1995, c.401 (C.12:7-73), on waters of
8 this State, the Chief Administrator of the New Jersey Motor Vehicle
9 Commission, or the chief administrator's representative, shall
10 inform the applicant that the applicant may make a donation to the
11 Barnegat Bay Protection Fund, established pursuant to section 3 of
12 P.L. , c. (C.) (pending before the Legislature as this bill), and
13 how that donation may be made. Any donation shall be paid to the
14 chief administrator and forwarded to the State Treasurer for deposit
15 into the Barnegat Bay Protection Fund. No applicant shall be
16 denied an operator's license for a personal watercraft or a power
17 vessel based on whether the person did or did not donate to the
18 fund.

19
20 7. (New section) At the time a fee is required to be paid for the
21 initial numbering of a vessel and for each renewal of the certificate
22 of number issued thereto, pursuant to section 12 of P.L.1962, c.73
23 (C.12:7-34.47), the Chief Administrator of the New Jersey Motor
24 Vehicle Commission, or the chief administrator's representative,
25 shall inform the applicant that the applicant may make a donation to
26 the Barnegat Bay Protection Fund, established pursuant to section 3
27 of P.L. , c. (C.) (pending before the Legislature as this bill),
28 and how that donation may be made. Any donation shall be paid to
29 the chief administrator and forwarded to the State Treasurer for
30 deposit into the Barnegat Bay Protection Fund. No applicant shall
31 be denied a certificate of number based on whether the person did
32 or did not donate to the fund.

33
34 8. Section 1 of P.L.1955, c.49 (C.40:61-22.20) is amended to
35 read as follows:

36 1. a. The governing body of any municipality bordering on the
37 Atlantic Ocean, tidal water bays or rivers which owns or shall
38 acquire, by any deed of dedication or otherwise, lands bordering on
39 the ocean, tidal water bays or rivers, or easement rights therein, for
40 a place of resort for public health and recreation and for other
41 public purposes shall have the exclusive control, government and
42 care thereof and of any boardwalk, bathing and recreational
43 facilities, safeguards and equipment, now or hereafter constructed
44 or provided thereon, and may, by ordinance, make and enforce rules
45 and regulations for the government and policing of such lands,
46 boardwalk, bathing facilities, safeguards and equipment; provided,
47 that such power of control, government, care and policing shall not
48 be construed in any manner to exclude or interfere with the

1 operation of any State law or authority with respect to such lands,
2 property and facilities. Any such municipality may, in order to
3 provide funds to improve, maintain and police the same and to
4 protect the same from erosion, encroachment and damage by sea or
5 otherwise, and to provide facilities and safeguards for public
6 bathing and recreation, including the employment of lifeguards, by
7 ordinance, make and enforce rules and regulations for the
8 government, use, maintenance and policing thereof and provide for
9 the charging and collecting of reasonable fees for the registration of
10 persons using said lands and bathing facilities, for access to the
11 beach and bathing and recreational grounds so provided and for the
12 use of the bathing and recreational facilities, but no such fees shall
13 be charged or collected from children under the age of 12 years.

14 b. A municipality may by ordinance provide that no fees, or
15 reduced fees, shall be charged to:

16 (1) persons 65 or more years of age;

17 (2) persons who meet the disability criteria for disability
18 benefits under Title II of the federal Social Security Act
19 (42 U.S.C. s.401 et seq.);

20 (3) persons in active military service in any of the Armed Forces
21 of the United States and to their spouse or dependent children over
22 the age of 12 years;

23 (4) persons who are active members of the New Jersey National
24 Guard who have completed Initial Active Duty Training and to their
25 spouse or dependent children over the age of 12 years. As used in
26 this paragraph, "Initial Active Duty Training" means Basic Military
27 Training, for members of the New Jersey Air National Guard, and
28 Basic Combat Training and Advanced Individual Training, for
29 members of the New Jersey Army National Guard;

30 (5) persons who have served in any of the Armed Forces of the
31 United States and who were discharged or released therefrom under
32 conditions other than dishonorable and who either have served at
33 least 90 days in active duty or have been discharged or released
34 from active duty by reason of a service-incurred injury or disability.
35 The Adjutant General of the New Jersey Department of Military
36 and Veterans' Affairs shall promulgate rules and regulations
37 pertaining to veteran eligibility under this paragraph; and

38 (6) persons holding a driver's license or identification card with
39 a Gold Star Family designation issued pursuant to section 1 of
40 P.L.2013, c.165 (C.39:3-10f6) or section 2 of P.L.1980, c.47
41 (C.39:3-29.3), respectively.

42 c. A municipality providing for no fees or reduced fees
43 pursuant to paragraph (3), (4), (5), or (6) of subsection b. of this
44 section shall track, in a manner deemed appropriate by the
45 governing body of the municipality, the number of persons who
46 qualify under the provisions of those paragraphs.

47 d. A person who qualifies for free access to beaches and
48 bathing and recreational grounds and free use of bathing and

1 recreational facilities pursuant to paragraph (3), (4), (5), or (6) of
2 subsection b. of this section may, in lieu of obtaining and presenting
3 a municipal beach tag or similar admission pass to gain such access
4 and use, present a valid military identification card, form DD-214
5 or similar document, or State driver's license or identification card
6 indicating that the holder is a veteran of the Armed Forces of the
7 United States or a Gold Star Family member.

8 e. (1) Any municipality charging and collecting reasonable
9 fees for the purposes set forth in this section may provide for a
10 person to donate to the Barnegat Bay Protection Fund, established
11 pursuant to section 3 of P.L. , c. (C.) (pending before the
12 Legislature as this bill), at the time the fee is collected. Upon
13 request, a receipt shall be provided to a person donating to the fund
14 pursuant to this paragraph on a form prescribed and distributed to
15 the municipality by the Commissioner of Environmental Protection,
16 in consultation with the State Treasurer.

17 (2) Any municipality charging and collecting reasonable fees for
18 the purposes set forth in this section shall forward, annually, any
19 donations received by the municipality pursuant to paragraph (1) of
20 this subsection to the State Treasurer, to be deposited in the
21 Barnegat Bay Protection Fund established pursuant to section 3 of
22 P.L. , c. .

23 (3) No person shall be denied from purchasing a registration
24 pursuant to this section based on whether the person did or did not
25 donate to the fund.

26 (cf: P.L.2017, c.175, s.8)

27
28 9. This act shall take effect immediately, except that section 4
29 thereof shall take effect on July 1 next following the date of
30 enactment, and section 5 thereof shall take effect on the first day of
31 the seventh month after the date of enactment. The State Treasurer,
32 the Chief Administrator of the New Jersey Motor Vehicle
33 Commission, and the Commissioner of Environmental Protection may
34 take such anticipatory administrative action in advance thereof as shall
35 be necessary for the implementation of this act.

36 37 38 STATEMENT

39
40 This bill, to be known as the "Barnegat Bay Protection Act,"
41 would establish the "Barnegat Bay Protection Fund" to support and
42 help protect, preserve, and remediate the Barnegat Bay estuary and
43 its watershed. The fund would be supported through: (1) dedication
44 of a portion of the sales tax on fertilizer; (2) authorization of special
45 Protect Barnegat Bay license plates; and (3) donations, including
46 those that may be at the time of application or renewal of a license
47 to operate a personal watercraft or power vessel and registration or
48 renewal of a vessel, and at the time a beach badge or tag fee is

1 collected anywhere in the State. Monies in the fund would be used
2 exclusively for the purposes of preservation and remediation of the
3 Barnegat Bay estuary watershed, which may include a public
4 education campaign about the importance of protecting the
5 Barnegat Bay and measures and actions that can be taken to
6 preserve it.

7 Section 3 of the bill establishes the Barnegat Bay Protection
8 Fund, a special non-lapsing fund in the Department of the Treasury.
9 Monies deposited into the fund would include the amounts collected
10 from specialty license plate fees, donations at the time of boat
11 registration or renewal, the dedication of 1% of the sales tax on
12 fertilizer, and donations at the point of purchase of a beach
13 registration fee (i.e., a beach badge or beach tag), or other donations
14 made to the fund. Monies deposited are to be distributed, at the
15 discretion of the State Treasurer in consultation with the
16 Commissioner of Environmental Protection, and expended
17 exclusively for the purposes of the preservation and remediation of
18 the Barnegat Bay estuary watershed. The State Treasurer, in
19 consultation with the Commissioner of Environmental Protection,
20 would annually submit to the Legislature a report on the fund,
21 concerning the monies received and spent.

22 The bill authorizes the solicitation and acceptance of donations,
23 by gift, bequest, or devise, from any person or entity, for deposit
24 into the "Barnegat Bay Protection Fund." The bill also provides
25 that 1% of the sales and use tax collected only on the retail sale of
26 fertilizer would be deposited into the fund.

27 The bill would authorize a Protect Barnegat Bay license plate,
28 which would indicate support for, and an interest in, funding the
29 protection, preservation and remediation of the Barnegat Bay
30 estuary watershed. The design of the license plate would be chosen
31 by the Chief Administrator of the New Jersey Motor Vehicle
32 Commission (MVC) in consultation with the Commissioner of
33 Environmental Protection. There would be a \$50 initial fee in
34 addition to the registration fees required by law, and in addition to
35 the renewal fees required by law, a \$10 annual renewal fee, which
36 would be deposited into the Barnegat Bay Protection Fund.

37 At the time the fee is paid for a license to operate a personal
38 watercraft or power vessel, or for the registration or renewal of a
39 certificate of number (registration) for a vessel, the Chief
40 Administrator of the MVC, or the chief administrator's
41 representative, would inform an applicant that they may make a
42 donation to the Barnegat Bay Protection Fund and how that
43 donation may be made. A donation would be paid to the chief
44 administrator and forwarded to the State Treasurer for deposit into
45 the Barnegat Bay Protection Fund. An applicant could not be
46 denied an operator's license or a certificate of registration based on
47 whether the person did or did not donate to the fund.

1 Finally, the bill provides that, for any municipality charging and
2 collecting a beach badge or beach tag fee, the municipality may
3 provide an opportunity for a person purchasing a badge or tag to
4 donate to the Barnegat Bay Protection Fund at the time the fee is
5 collected. Any monies collected from donations made at the point
6 of purchase of a beach badge or tag would be forwarded to the State
7 Treasurer to be deposited into the fund. A municipality would be
8 prohibited from denying the purchase of a beach badge or tag based
9 on whether a person did or did not donate to the fund.