

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2714

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 28, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2714, with committee amendments.

This bill, as amended, would authorize commercial farms that are located on preserved farmland, and that produce agricultural or horticultural products worth \$10,000 or more annually, to hold special occasion events, subject to certain conditions.

The bill would establish various restrictions on the special occasion events. For example, under section 2 of the bill, a special occasion event: (1) may not interfere with the use of the preserved farmland for agricultural or horticultural production; (2) may not cause a significant and direct negative impact to any surrounding properties; (3) must be designed to protect the agricultural resources of the land and ensure that the land can be readily returned to productive agricultural or horticultural use after the event; (4) may not violate any applicable State and local laws, regulations, resolutions, and ordinances including those concerning alcohol, food safety, litter, noise, solid waste, traffic, and the protection of public health and safety; and (5) may not involve the construction of any new structures or water or sewer utilities on the preserved farmland.

Under the bill, a farm that produces agricultural or horticultural products worth between \$10,000 and \$100,000 annually may hold up to a maximum of 15 special occasion events per calendar year, of which two may have 250 guests or more in attendance. A farm that produces agricultural or horticultural products worth \$100,000 or more annually may hold up to a maximum of 26 special occasion events per calendar year, of which six may have 250 guests or more in attendance.

The bill would require the owner or operator of the commercial farm to apply to the grantee of the farm, i.e. the entity to which the development rights of the farm have been transferred, for approval prior to holding a special occasion event. In cases where the grantee is also the owner of the preserved farmland, the owner would apply to the State Agriculture Development Committee (SADC) for approval. The bill directs grantees to develop an application process for this purpose. Furthermore, the bill imposes certain minimum requirements on this application. For example, it requires the application to allow

the grantee or the SADC as applicable, to determine the value of agricultural goods produced by the farm, the number of special occasion events already held on the farm that year, and the area of the preserved farmland to be used for the special occasion event. The bill would authorize a grantee or the SADC, as applicable, upon the effective date of the bill, and prior to the adoption by the SADC of rules and regulations pursuant to section 6 of the bill, to accept applications under the bill and approve applications for special occasion events that comply with the provisions of the bill. Upon the adoption of rules and regulations by the SADC under the bill, applications and approvals would also be required to comply with those rules and regulations.

The bill would also allow the SADC and the appropriate grantee to inspect a commercial farm that has received approval for a special occasion event, without prior notice, in order to verify that it is in compliance with the bill's provisions. In addition, the bill would allow the SADC or the grantee, upon reasonable cause, to order an audit of a farm to verify that it is in compliance with the bill's provisions.

Under the bill, an owner or operator of a commercial farm who violates the bill's provisions would be subject to a civil administrative penalty of up to \$2,500 for the first offense, up to \$10,000 for the second offense, or up to \$25,000 for a third and subsequent offense. In addition, an owner or operator who repeatedly violates the bill's provisions would be prohibited from holding special occasion events on the preserved farm for a period of time that increases along with the number of violations.

Finally, the bill would require the SADC to submit an annual report to the Governor and the Legislature that includes the number of special occasion events held that year, the number of audits conducted, the amount of penalties collected, and a description of any problems associated with the holding of special occasion events reported by municipalities, county agriculture development boards (county boards), and nonprofit organizations that are grantees. The bill would require the SADC to adopt rules and regulations to implement the provisions of the bill.

COMMITTEE AMENDMENTS:

The committee amendments:

- (1) eliminate the use of a cross reference in the definition of “preserved farmland”;
- (2) allow the extension of electric service to preserved farmland for the purpose of holding special occasion events;
- (3) require that the SADC, rather than the grantee, approve an application for a special occasion event on preserved farmland when the grantee is also the owner of the preserved farmland;

(4) require the grantee to provide a copy of its approval of a special occasion event to the SADC and to the county board in the county in which the preserved farmland is located;

(5) change one of the entities authorized to conduct inspections from the county board to the grantee;

(6) authorize inspections during special occasion events as well as during normal business hours;

(7) change incorrect references from “applicable board” to grantee;

(8) authorize only the SADC, and not a county board, to establish a list of independent certified public accountants approved for the purposes of conducting an audit under the bill and to approve the certified public accountant that conducts an audit;

(9) authorize a grantee or the SADC as applicable, upon the effective date of the bill, and prior to the adoption by the SADC of rules and regulations pursuant to section 6 of the bill, to accept applications under the bill and approve applications for special occasion events that comply with the provisions of the bill. Upon the adoption of rules and regulations by the SADC under the bill, approvals would also be required to comply with those rules and regulations; and

(10) make other clarifying and technical amendments.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill may result in a marginal increase in State, county, and municipal expenditures. The bill imposes additional administrative tasks on the State Agriculture Development Committee (SADC), county agriculture development boards (CADB), and certain counties and municipalities. For example, the bill requires the SADC to review certain applications for holding special occasion events, to compile and submit reports to the Governor and the Legislature, and to adopt rules and regulations to implement the bill's provisions. The latter administrative burden will likely be mitigated by the fact that the SADC has adopted rules to implement a similar program, namely the pilot program to allow special occasion events at wineries on preserved farmland. The bill also provides for the SADC to enforce the bill's provisions. However, the amount of money or personnel utilized for enforcement is discretionary, and may vary from year to year.

The bill requires counties and municipalities that hold the development rights of preserved farmland to develop an application process by which persons can apply to hold special occasion events, to review applications that they receive, and to forward information about the applications annually to the SADC. These tasks can likely be subsumed within existing staff by some counties and municipalities, although those in which there are many farms that have been preserved

may need to hire additional personnel to review the applications. Finally, to the extent that the special occasion events authorized by the bill would require local enforcement of municipal ordinances, there may be a marginal increase in municipal expenditures. There may also be marginal recurring revenue gains from the civil administrative penalties associated with the bill.