

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Law Raises Threshold for Farmland Tax Breaks," The Record, 4-16-13

"Christie Signs into Law Changes to NJ Farmland Assessment Program," Burlington County Times, 4-17-13

"Law Will Weed out 'Fake Farmers,'" South Jersey Times, 4-21-13

LAW/KR

P.L.2013, CHAPTER 43, *approved April 15, 2013*
Senate Committee Substitute (*Fourth Reprint*) for
Senate, No. 589

1 AN ACT concerning farmland assessment, amending and
2 supplementing P.L.1964, c.48, amending P.L.1999, c.278, and
3 repealing section 1 of P.L.1968, c.455 (C.54:4-23.13a).

4

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

7

8 1. a. (New section) ¹(1)¹ The ⁴Division of Taxation in the
9 Department of the Treasury, in consultation with the¹⁴ State Board
10 of Agriculture ¹and the Department of Agriculture ⁴]⁴ shall
11 develop ⁴], and adopt as rules and regulations pursuant to the
12 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
13 seq.)⁴ , ⁴ within one year after the date of enactment of
14 P.L. , c. (C. (pending before the Legislature as this bill),⁴
15 guidelines describing ¹[common] generally accepted¹ agricultural
16 and horticultural practices, which may be used by municipal tax
17 assessors, county assessors, county tax administrators, and other
18 appropriate local government officials to assist them in determining
19 whether land may be deemed to be in agricultural use, horticultural
20 use, or actively devoted to agricultural or horticultural use pursuant
21 to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-
22 23.1 et seq.). ⁴The Division of Taxation in the Department of the
23 Treasury shall review the guidelines, and, upon its approval thereof,
24 shall adopt them as rules and regulations pursuant to the
25 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
26 seq.).⁴ The guidelines shall be advisory, and need not be exhaustive
27 or comprehensive in terms of applicability, nor specifically tailored,
28 to each and every possible agricultural or horticultural practice or
29 use. The Director of the Division of Taxation shall distribute these
30 guidelines to all municipal tax assessors, county assessors, county
31 tax administrators, and other appropriate local government officials,
32 by including them, to the maximum extent possible, with other
33 information on real property taxation regularly distributed by the
34 division to such individuals.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 18, 2012.

² Senate floor amendments adopted June 21, 2012.

³ Assembly AAN committee amendments adopted September 27, 2012.

⁴ Assembly floor amendments adopted February 14, 2013.

1 ¹(2) Upon the request of a municipal tax assessor, county
2 assessor, county tax administrator, or other appropriate local
3 official, the Division of Taxation, in consultation with the State
4 Board of Agriculture and the Department of Agriculture, shall
5 provide advice ²[, in writing if requested,] ² to assist the municipal
6 tax assessor, county assessor, county tax administrator, or other
7 appropriate local official in determining whether or not a particular
8 parcel may qualify for valuation, assessment and taxation pursuant
9 to P.L.1964, c.48 based on the agricultural or horticultural activities
10 taking place on the parcel. ²[The written advice provided in
11 response to each such individual request shall be compiled by the
12 Division of Taxation and issued periodically, but at least annually,
13 as a supplement to the guidelines describing generally accepted
14 agricultural and horticultural practices developed and adopted
15 pursuant to this subsection.] ¹ ²

16 b. The Division of Taxation ¹[in the Department of the
17 Treasury] ¹, in conjunction with the Department of Agriculture,
18 shall ²[annually] ² offer, ²at such time intervals as may be
19 established by the Director of the Division of Taxation but at least
20 biennially, and ² free of charge, a ²[six-hour] ² continuing education
21 course to municipal tax assessors, county assessors, county tax
22 administrators, and other appropriate local government officials on
23 the guidelines developed and adopted pursuant to subsection a. of
24 this subsection and other issues concerning the valuation,
25 assessment and taxation of land pursuant to P.L.1964, c.48.

26 c. The State Board of Agriculture, the Department of
27 Agriculture, and the Department of Environmental Protection shall
28 consult with the New Jersey Forestry Association ¹[and] ²[,'] ² and ²
29 the New Jersey Division of the Society of American Foresters ²[',
30 and other interested forestry, farming, conservation, and
31 environmental organizations] ¹ ² on any issues pertaining to
32 woodland management or forest stewardship and P.L.1964, c.48.

33
34 2. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read
35 as follows:

36 5. a. Except as otherwise provided in subsection **[b.] d.** of this
37 section, land, five acres in area, shall be deemed to be actively
38 devoted to agricultural or horticultural use when the amount of the
39 gross sales of agricultural or horticultural products produced
40 thereon, any payments received under a soil conservation program,
41 fees received for breeding, raising or grazing any livestock, income
42 imputed to cropland pastured and permanent pasture land used for
43 grazing in the amount determined by the State Farmland Evaluation
44 ¹[Advisory] ¹ Committee created pursuant to section 20 of
45 P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding,
46 rehabilitating or training any livestock where the land under the

1 boarding, rehabilitating or training facilities is contiguous to land
 2 which otherwise qualifies for valuation, assessment and taxation
 3 under ²[this act] P.L.1964, c.48², have averaged at least [\$500.00]
 4 \$1,000 per year during the two-year period immediately preceding
 5 the tax year in issue, or there is clear evidence of anticipated yearly
 6 gross sales ²[and such] ², payments², fees, and imputed income²
 7 amounting to at least [\$500.00] \$1,000 within a reasonable period
 8 of time, or such amount as may be established by the State
 9 Farmland Evaluation¹[Advisory]¹ Committee pursuant to this
 10 section. In the case of woodland subject to a woodland
 11 management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-
 12 23.3), the amount shall be at least \$500, or such amount as may be
 13 established by the State Farmland Evaluation¹[Advisory]¹
 14 Committee pursuant to this section. Every three years¹, or sooner
 15 at the call of the Secretary of Agriculture or the Director of the
 16 Division of Taxation¹, the State Farmland Evaluation¹[Advisory]¹
 17 Committee shall review the minimum gross sales, payments, fees,
 18 and imputed income³requirements^{3 2}, and anticipated yearly gross
 19 sales, payments, fees, and imputed income³[²]³ requirements
 20 ³[of], established in³ this section for the first five acres, and may,
 21 by rule or regulation adopted pursuant to the "Administrative
 22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), raise the
 23 amounts of those minimums to such levels as the committee
 24 determines appropriate. Any increase made to the minimum gross
 25 sales, payments, fees, and imputed income³requirements^{3 2}, and
 26 anticipated yearly gross sales, payments, fees and imputed income
 27 ³[²]³ requirements^{3 3} for the first five acres as authorized pursuant
 28 to this section shall not be enforced until the third tax year
 29 following adoption of the increase.

30 In addition, where the land is more than five acres in area, it
 31 shall be deemed to be actively devoted to agricultural or
 32 horticultural use when the amount of the gross sales of agricultural or
 33 horticultural products produced on the area above five acres, any
 34 payments received under a soil conservation program, fees received
 35 for breeding, raising or grazing any livestock, income imputed to
 36 cropland pastured and permanent pasture land used for grazing in
 37 the amount determined by the State Farmland Evaluation
 38 ¹[Advisory]¹ Committee created pursuant to section 20 of
 39 P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding,
 40 rehabilitating or training any livestock where the land under the
 41 boarding, rehabilitating or training facilities is contiguous to land
 42 which otherwise qualifies for valuation, assessment and taxation
 43 under ²[this act] P.L.1964, c.48², have averaged at least \$5.00 per
 44 acre per year during the two-year period immediately preceding the
 45 tax year in issue, or there is clear evidence of anticipated yearly
 46 gross sales ²[and such] ², payments², fees, and imputed income²

1 amounting to an average of at least \$5.00 per year within a
2 reasonable period of time; except in the case of woodland and
3 wetland, where the minimum requirement shall be an average of
4 \$0.50 per acre on the area above five acres.

5 ¹In addition, in order for land to be deemed to be actively
6 devoted to agricultural or horticultural use, the activity and use
7 must be consistent with the guidelines ³describing generally
8 accepted agricultural and horticultural practices³ developed and
9 adopted ⁴[by the Division of Taxation]⁴ pursuant to subsection a.
10 of section 1 of P.L. , c. (C.) (pending before the Legislature
11 as this bill).¹

12 As used in this section, "livestock" shall not include dogs.

13 For the purposes of this section, the presence of an intervening
14 public thoroughfare shall not preclude a finding of contiguity.

15 b. ¹(1)¹ Land previously qualified as actively devoted to
16 agricultural or horticultural use under ²[the act] P.L.1964, c.48²
17 ³[;]³ but failing to meet the additional requirement on acreage
18 above five acres ¹[, or failing to meet any increase in the minimum
19 amount of gross sales, payments and fees received, and imputed
20 income established pursuant to subsection a. of this section,]^{1 3 3}
21 shall not be subject to the roll-back tax because of such
22 disqualification, but shall be treated as land for which an annual
23 application has not been submitted ^{3 3} provided that the land
24 remains in agricultural or horticultural use.

25 ¹(2) Land previously qualified as actively devoted to agricultural
26 or horticultural use under ²[the act] P.L.1964, c.48^{2 3}[;] ³ but
27 failing to meet any increase in the minimum amount of gross sales,
28 payments and fees received, and imputed income ³requirements^{3 2},
29 and anticipated yearly gross sales, payments, fees, and imputed
30 income ³requirements^{3 2} established pursuant to subsection a. of
31 this section, shall not be subject to the roll-back tax because of such
32 disqualification, but shall be treated as land for which an annual
33 application has not been submitted ^{3 3} provided that the land
34 remains in agricultural or horticultural use.

35 (3) Land qualified as actively devoted to agricultural or
36 horticultural use as of the day before the date of enactment of
37 P.L. , c. (C.) (pending before the Legislature as this bill) due
38 to the use of payments or other compensation received under a soil
39 conservation program agreement with any agency of the federal
40 government, but which payments or other compensation do not
41 meet the minimum amounts required pursuant to subsection a. of
42 this section as amended by P.L. , c. (C.) (pending before the
43 Legislature as this bill), shall continue to be deemed to be actively
44 devoted to agricultural or horticultural use for purposes of
45 valuation, assessment and taxation under P.L.1964, c.48 until the
46 end of the soil conservation program agreement period.¹

1 c. In determining the eligibility of land for valuation,
2 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et
3 seq.), the assessor of the taxing district in which the land is located
4 shall, upon request by the owner of the land, exempt the owner from
5 the income requirements of this section if the owner demonstrates
6 to the satisfaction of the assessor that the failure to meet the income
7 requirements was due to an injury, illness or death of the person
8 responsible for performing the activities which produce the income
9 necessary to meet the income eligibility requirement of this section.
10 The request of the owner shall be accompanied by a certificate of a
11 physician stating that the person was physically incapacitated or by
12 a certified copy of the death certificate, as the case may be. The
13 assessor may only grant an exemption once for a particular illness,
14 injury or death.

15 **[b.] d.** The gross sales, payments, ²fees, and² imputed income
16 ²**[, and fees]**² received pursuant to the requirements of this section
17 shall not apply to land that (1) is the subject of a forest stewardship
18 plan approved by the Department of Environmental Protection
19 pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully
20 implemented, and (2) otherwise qualifies under the "Farmland
21 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for
22 valuation, assessment and taxation as land in agricultural or
23 horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-
24 23.3).
25 (cf: P.L.2009, c.256, s.14)
26

27 ³3. Section 7 of P.L.1964, c.48 (C.54:4-23.7) is amended to read
28 as follows:

29 7. The assessor in valuing land which qualifies as land actively
30 devoted to agricultural or horticultural use under the tests
31 prescribed by **[this act]** P.L.1964, c.48 and the guidelines
32 describing generally accepted agricultural and horticultural
33 practices developed and adopted pursuant to subsection a. of section
34 1 of P.L. , c. (C.) (pending before the Legislature as this bill) ,
35 and as to which the owner thereof has made timely application for
36 valuation, assessment and taxation hereunder for the tax year in
37 issue, shall consider only those indicia of value which such land has
38 for agricultural or horticultural use. In addition to use of **[his]**
39 personal knowledge, judgment and experience as to the value of
40 land in agricultural or horticultural use, **[he]** the assessor shall, in
41 arriving at the value of such land, consider available evidence of
42 agricultural and horticultural capability derived from the soil survey
43 data at Rutgers, The State University, the National Co-operative
44 Soil Survey, **[and]** the recommendations of value of such land as
45 made by any county or **[State-wide]** Statewide committee which
46 may be established to assist the assessor , and the guidelines
47 describing generally accepted agricultural and horticultural

1 practices developed and adopted pursuant to subsection a. of section
2 1 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).³
4 (cf: P.L.1964, c.48, s.7)

5
6 ³[3.]⁴ Section 14 of P.L.1964, c.48 (C.54:4-23.14) is
7 amended to read as follows:

8 14. a. Application for valuation, assessment and taxation of land
9 in agricultural or horticultural use under ²[this act] P.L.1964, c.48²
10 shall be on a form prescribed by the Director of the Division of
11 Taxation in the Department of the Treasury ²[and approved by] , in
12 consultation with² the State Board of Agriculture, and provided for
13 the use of claimants by the governing bodies of the respective
14 taxing districts. The form of application shall provide for the
15 reporting of information pertinent to the provisions of Article VIII,
16 Section 1, paragraph 1(b) of the Constitution, as amended, and
17 ²[this act] P.L.1964, c.48². The form shall include a plain
18 language recitation and explanation of the guidelines describing
19 'generally accepted'¹ agricultural and horticultural practices
20 developed and adopted pursuant to subsection a. of section 1 of
21 P.L. , c. (C.) (pending before the Legislature as this bill) that
22 may be used by municipal tax assessors, county assessors, county
23 tax administrators, and other appropriate local government officials
24 to assist them in determining whether land may be deemed to be in
25 agricultural use, horticultural use, or actively devoted to agricultural
26 or horticultural use pursuant to the "Farmland Assessment Act of
27 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.). The applicant shall
28 include with the form of application, in a manner prescribed by the
29 director, proofs of sales of agricultural or horticultural products, and
30 of any other payments, fees, or ²imputed² income received from the
31 agricultural or horticultural use of the land, in the prior year, or
32 clear evidence of anticipated ²yearly² gross sales, payments, fees, or
33 ²[other] imputed² income, amounting to 'at least'¹ \$1,000 for the
34 first five acres, or in the case of woodland subject to a woodland
35 management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-
36 23.3) amounting to 'at least'¹ \$500 for the first five acres, or in
37 either case amounting to such sums as may be established by the
38 State Farmland Evaluation '¹[Advisory]'¹ Committee pursuant to
39 subsection a. of section 5 of P.L.1964, c.48 (C.54:4-23.5).

40 In the case of land that is the subject of a forest stewardship plan
41 approved by the Department of Environmental Protection pursuant
42 to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully
43 implemented, and otherwise qualifies under the "Farmland
44 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for
45 valuation, assessment and taxation as land in agricultural or
46 horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-

1 23.3), no proofs required pursuant to this subsection of gross sales,
2 payments, ²fees, or² imputed income, ²【or fees】 or of clear
3 evidence of anticipated yearly gross sales, payments, fees, or
4 imputed income,² need be included with the form or otherwise
5 submitted. ¹However, the applicant shall include documentation
6 demonstrating implementation of the forest stewardship plan,
7 including documentation of scheduled activities, a forest inventory
8 and yield parameters to document forest productivity, and
9 inspections performed, in accordance with rules and regulations
10 adopted for the forest stewardship program by the Department of
11 Environmental Protection.¹

12 b. A certification by the landowner that the facts set forth in the
13 application are true may be prescribed by the director to be in lieu
14 of a sworn statement to that effect. Statements so certified shall be
15 considered as if made under oath and subject to the same penalties
16 as provided by law for perjury.

17 In addition, for a gross and intentional misrepresentation on the
18 application, the landowner shall be subject to a civil penalty of up
19 to \$5,000. Any such civil penalty may be imposed and collected by
20 the municipality, the county, or the State, with costs, in a summary
21 proceeding pursuant to the "Penalty Enforcement Law of 1999,"
22 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the
23 municipal court shall have jurisdiction to enforce the provisions of
24 the "Penalty Enforcement Law of 1999" in connection with this
25 subsection. One-half of any civil penalties so collected by a
26 municipality or county shall be dedicated and used by the
27 municipality or county in administering and enforcing the
28 provisions of the "Farmland Assessment Act of 1964," P.L.1964,
29 c.48 (C.54:4-23.1 et seq.) in the municipality or county. The
30 remaining one-half of any civil penalties so collected by a
31 municipality or county shall be paid by the municipality or county
32 to the State, and together with any civil penalties so collected
33 directly by the State, shall be dedicated and used by the Department
34 of Agriculture and the Division of Taxation in administering and
35 enforcing the provisions of P.L.1964, c.48.

36 c. Any landowner, except those who have submitted a
37 woodland management plan or a forest stewardship plan pursuant to
38 section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for
39 valuation, assessment and taxation pursuant to P.L.1964, c.48
40 (C.54:4-23.1 et seq.) for lands not previously qualified under ²【the
41 act】 P.L.1964, c.48² shall submit with the application a map of land
42 use classes and soil groups that conforms with standards established
43 by the Division of Taxation in consultation with the 【Secretary】
44 State Board of Agriculture.

45 d. For any landowner whose farm management unit is less than
46 ²【10】 seven² acres in size, the landowner shall submit with the
47 application form a narrative describing the agricultural or

1 horticultural uses on the farm management unit, the number of acres
2 that will be actively devoted to those uses, and a sketch of the
3 location on the farm management unit of those uses. For the
4 purposes of this subsection, “farm management unit” means a
5 parcel or parcels of land, whether contiguous or noncontiguous,
6 together with agricultural or horticultural buildings, structures and
7 facilities, producing agricultural or horticultural products, and
8 operated as a single enterprise.

9 e. The director, after consultation with the State Board of
10 Agriculture, shall include with each application a letter or other
11 document explaining any changes to the law, rules, regulations, and
12 guidelines on the valuation, assessment and taxation of land
13 pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) that have occurred
14 in the prior tax year and which shall be newly in effect in the tax
15 year for which the application is being submitted.

16 f. The director shall devise a form for the extension of filing
17 time for the valuation application, which form shall include the
18 name and address of the applicant, the reason for the extension, and
19 a space for the approval or rejection of the assessor.

20 (cf: P.L.2009, c.256, s.15)

21

22 ³[4.] 5.³ Section 20 of P.L.1964, c.48 (C.54:4-23.20) is
23 amended to read as follows:

24 20. ¹a. ¹ There is hereby created a State Farmland Evaluation
25 ¹[Advisory] ¹ Committee, the members of which shall be the
26 Director of the Division of Taxation; the Dean of the College of
27 Agriculture, Rutgers, The State University; ¹[and] ¹ the Secretary of
28 Agriculture ¹; a municipal tax assessor, county assessor, or county
29 tax administrator ³, who shall be ³ appointed by the Governor with
30 the advice and consent of the Senate; and a ³[member of the public
31 ²with knowledge of or experience with farming or agricultural or
32 horticultural practices, uses, or activities, who shall be ²] farmer
33 who is a current or former member of the State Board of
34 Agriculture, who shall be ³ appointed by the Governor with the
35 advice and consent of the Senate. Each appointed member shall
36 serve for a term of three years and may be appointed to successive
37 terms ¹.

38 ¹b. ¹ The committee shall meet from time to time on the call of
39 the Secretary of Agriculture ¹or the Director of the Division of
40 Taxation ¹ and annually determine and publish a range of values for
41 each of the several classifications of land in agricultural and
42 horticultural use in the various areas of the State. The ¹[primary
43 objective of the] ¹ committee shall ¹[be the determination of]
44 determine ¹ the ranges in fair value of such land based upon its
45 productive capabilities when devoted to agricultural or horticultural
46 uses. In making these annual determinations of value, the

1 committee shall consider available evidence of agricultural or
2 horticultural capability derived from the soil survey at Rutgers, The
3 State University, the National Co-operative Soil Survey, and such
4 other evidence of value of land devoted exclusively to agricultural
5 or horticultural uses as it may in its judgment deem pertinent. On
6 or before October 1 of each year, the committee shall make these
7 ranges of fair value available to the assessing authority in each of
8 the taxing districts in which land in agricultural and horticultural
9 use is located.

10 ¹c.¹ The committee shall also conduct the ¹[periodic]¹ review ¹,
11 required every three years, or sooner at the call of the Secretary of
12 Agriculture or the Director of the Division of Taxation,¹ of the
13 minimum gross sales, payments, fees, and imputed income
14 ³requirements^{3 2}, and anticipated yearly gross sales, payments, fees,
15 and imputed income ³[²]³ requirements ³,³ in order for land which
16 is actively devoted to agricultural or horticultural use to be eligible
17 for valuation, assessment and taxation under the provisions of
18 P.L.1964, c.48 (C.54:4-23.1 et seq.), as prescribed by section 5 of
19 P.L.1964, c.48 (C.54:4-23.5) ¹, and may raise the amounts of those
20 minimums to such levels as the committee determines appropriate
21 as authorized pursuant to section 5 of P.L.1964, c.48¹ .

22 ¹d.¹ Within one year after the date of enactment of
23 P.L. , c. (C.) (pending before the Legislature as this bill), and
24 every five years thereafter, the committee ²[, in consultation with
25 recognized Statewide tax assessor and tax administrator
26 organizations,]² shall review the application form or forms for
27 valuation, assessment and taxation of land in agricultural or
28 horticultural use pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.),
29 and provide any recommendations the committee may have thereon
30 to the Director of the Division of Taxation.

31 (cf: P.L.1964, c.48, s.20)

32

33 ³[5.]⁶.³ Section 1 of P.L.1999, c.278 (C.54:1-35.25b) is
34 amended to read as follows:

35 1. a. All tax assessor certificates issued prior to the effective
36 date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years
37 following that effective date and shall be renewed in accordance
38 with the procedure established in this section. All tax assessor
39 certificates issued on or after the effective date of P.L.1999, c.278
40 (C.54:1-35.25b et al.) shall expire five years after the issuance of
41 the certificate and shall be renewed in accordance with the
42 procedure established in this section.

43 (1) All tax assessor certificates shall be renewed upon
44 application, payment of the required renewal fee, and verification
45 that the applicant has met continuing education requirements, as set
46 forth in paragraph (2) and paragraph (3) of this subsection. After

1 the initial expiration of any tax assessor certificates following the
2 effective date of P.L.1999, c.278 (C.54:1-35.25b et al.), each
3 renewal period shall thereafter be for a period of three years. The
4 renewal date shall be 30 days prior to the expiration date of the tax
5 assessor certificate.

6 (2) Prior to the first renewal date of a tax assessor certificate
7 pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) every applicant
8 for renewal shall, on a form prescribed by the Director of the
9 Division of Taxation, furnish proof of having earned a total of at
10 least 50 continuing education credit hours over the prior five-year
11 period. Thereafter, prior to each succeeding renewal date of a tax
12 assessor certificate, every applicant for renewal shall, on a form
13 prescribed by the Director of the Division of Taxation, furnish
14 proof of having earned a total of at least 30 continuing education
15 credit hours over the prior three-year period. For the purposes of
16 this section, one continuing education credit hour means 50 minutes
17 of classroom or lecture time. After verifying that the applicant has
18 fulfilled the continuing education requirement and after receiving a
19 fee of not less than \$50 paid by the applicant to the order of the
20 Treasurer of the State of New Jersey, the Director of the Division of
21 Taxation shall renew the tax assessor certificate. The Director of
22 the Division of Taxation shall determine, by regulation, the
23 circumstances under which an extension of time to complete the
24 requirements for continuing education may be granted by the
25 director.

26 (3) Commencing January 1, ⁴[2017] 2018⁴, for any tax
27 assessor of a municipality ¹, and for any county assessor of a
28 county, ¹ in which one or more Class 3B (Farm Qualified) properties
29 subject to valuation, assessment and taxation pursuant to P.L.1964,
30 c.48 (C.54:4-23.1 et seq.) are located, ¹[or for any county
31 assessor,] ¹ prior to every renewal date of a tax assessor certificate
32 issued to that tax assessor pursuant to P.L.1999, c.278 (C.54:1-
33 35.25b et al.), the applicant for renewal shall, on a form prescribed
34 by the Director of the Division of Taxation, furnish proof of having
35 taken, at least once in the prior three years, the ²[six-hour]²
36 continuing education course concerning certain aspects of farmland
37 assessment required to be offered, free of charge, by the Division of
38 Taxation ¹[in the Department of the Treasury]¹, in conjunction
39 with the Department of Agriculture, pursuant to subsection b. of
40 section 1 of P.L. , c. (C.) (pending before the Legislature as
41 this bill).

42 b. There is established within the Division of Taxation in the
43 Department of the Treasury the Tax Assessor Continuing Education
44 Eligibility Board. The board shall consist of six members and be
45 comprised as follows: the Director of the Division of Taxation or
46 his designee, the President of the Association of Municipal
47 Assessors, and the President of the New Jersey Association of

1 County Tax Board Commissioners and County Tax Administrators
2 shall be permanent members. The Director of the Division of
3 Taxation and the President of the Association of Municipal
4 Assessors shall each appoint an additional member who shall serve
5 for a term of two years. The Director of Government Services at
6 Rutgers University shall serve ex officio. Any vacancy in the
7 membership of the board shall be filled for the unexpired term in
8 the manner provided by the original appointment. The first meeting
9 of the board shall be held at the call of the Director of the Division
10 of Taxation, and thereafter the board shall meet annually and shall
11 hold at least one additional meeting within each 12-month period.
12 The board shall establish the curriculum areas and the number of
13 hours in each curriculum area that an assessor shall complete in
14 order to renew certification.

15 c. When the holder of a tax assessor certificate has allowed the
16 certificate to lapse by failing to renew the certificate, a new
17 application and certificate shall be required. If application is made
18 within six months of the expiration of the certificate, then
19 application may be made in the same manner as a renewal, but with
20 an additional late renewal fee of \$50.

21 d. The Director of the Division of Taxation, in accordance with
22 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), shall adopt such regulations as are necessary to effectuate the
24 provisions of this section.

25 (cf: P.L.1999, c.278, s.1)

26

27 ³[6.] 7.³ Section 1 of P.L.1968, c.455 (C.54:4-23.13a) is
28 repealed.

29

30 ³[7.] 8.³ This act shall take effect immediately, except that it
31 shall be applicable to tax years commencing with tax year ⁴[2014]
32 2015⁴ .

33

34

35

36

37

Revises certain provisions of farmland assessment law.

SENATE, No. 589

STATE OF NEW JERSEY
215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator JENNIFER BECK

District 11 (Monmouth)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Revises certain provisions of farmland assessment law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning farmland assessment, amending and
2 supplementing P.L.1964, c.48, and repealing section 1 of
3 P.L.1968, c.455 (C.54:4-23.13a).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. For the purposes of sections 3 and 4 of
9 P.L.1964, c.48 (C.54:4-23.3 and C.54:4-23.4), and in addition to the
10 requirements and provisions prescribed by those sections, land shall
11 be deemed to be in agricultural use when devoted to the production
12 for sale of:

13 (1) dairy animals and dairy products, poultry and poultry
14 products, or livestock only if the land meets the minimum livestock
15 carrying capacity standard or minimum poultry carrying capacity
16 standard, as appropriate, for the animals;

17 (2) crops, only if the land meets the cropping intensity standard
18 for that crop; or

19 (3) honeybees, honeybee or apiary products, or pollen or nectar
20 for honeybees, only if the applicant submits at the time of
21 application for eligibility of the land for valuation, assessment and
22 taxation under P.L.1964, c.48 (C.54:4-23.1 et seq.) an annual site
23 specific commercial bee and rotational crop management plan
24 approved by the Department of Agriculture and implemented
25 throughout the tax year.

26 b. The Department of Agriculture shall adopt, pursuant to the
27 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
28 seq.), and within one year after the date of enactment of P.L. , c.
29 (C.) (pending before the Legislature as this bill), rules and
30 regulations (1) establishing, for the purposes of this section and
31 sections 3 and 4 of P.L.1964, c.48 (C.54:4-23.3 and C.54:4-23.4),
32 minimum livestock carrying capacity standards, minimum poultry
33 carrying capacity standards, and cropping intensity standards, and
34 (2) implementing the requirements of paragraph (3) of subsection a.
35 of this section.

36 c. The Division of Taxation in the Department of the Treasury,
37 in conjunction with the Department of Agriculture, shall annually
38 offer, free of charge, a six-hour continuing education course to
39 municipal tax assessors, county tax administrators, and other
40 appropriate local government officials on cropping intensity,
41 minimum livestock carrying capacities, and minimum poultry
42 carrying capacities for land actively devoted to agricultural or
43 horticultural use.

44 d. The State Board of Agriculture, the Department of

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 Agriculture, and the Department of Environmental Protection shall
2 consult with the New Jersey Forestry Association and the New
3 Jersey Division of the Society of American Foresters on any issues
4 pertaining to woodland management and the “Farmland Assessment
5 Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).
6

7 2. Section 4 of P.L.1964, c.48 (C.54:4-23.4) is amended to read
8 as follows:

9 4. Land shall be deemed to be in horticultural use when devoted
10 to the production for sale of fruits of all kinds, including grapes,
11 nuts and berries; vegetables; nursery, floral, ornamental and
12 greenhouse products; or when devoted to and meeting the
13 requirements and qualifications for payments or other compensation
14 pursuant to a soil conservation program under an agreement with an
15 agency of the Federal Government , provided that the land meets
16 the appropriate cropping intensity standard for the horticultural crop
17 as prescribed by the Department of Agriculture pursuant to section
18 1 of P.L. , c. (C.) (pending before the Legislature as this bill).
19 (cf: P.L.1964, c.48, s.4)
20

21 3. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read
22 as follows:

23 5. a. Land, five acres in area, shall be deemed to be actively
24 devoted to agricultural or horticultural use when the amount of the
25 gross sales of agricultural or horticultural products produced
26 thereon, any payments received under a soil conservation program,
27 fees received for breeding, raising or grazing any livestock, income
28 imputed to cropland pastured and permanent pasture land used for
29 grazing in the amount determined by the State Farmland Evaluation
30 Advisory Committee created pursuant to section 20 of P.L.1964,
31 c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating
32 or training any livestock where the land under the boarding,
33 rehabilitating or training facilities is contiguous to land which
34 otherwise qualifies for valuation, assessment and taxation under this
35 act, have averaged at least ~~【\$500.00】~~ \$1,000 per year during the
36 two-year period immediately preceding the tax year in issue, or
37 there is clear evidence of anticipated yearly gross sales and such
38 payments amounting to at least ~~【\$500.00】~~ \$1,000 within a
39 reasonable period of time. Every three years, the State Farmland
40 Evaluation Advisory Committee shall review the \$1,000 minimum
41 gross sales and payments requirement of this section, and may, by
42 rule or regulation adopted pursuant to the “Administrative
43 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), raise the
44 amount of that minimum to such level as the committee determines
45 appropriate.

46 In addition, where the land is more than five acres in area, it
47 shall be deemed to be actively devoted to agricultural or

1 horticultural use when the amount of the gross sales of agricultural
2 or horticultural products produced on the area above five acres, any
3 payments received under a soil conservation program, fees received
4 for breeding, raising or grazing any livestock, income imputed to
5 cropland pastured and permanent pasture land used for grazing in
6 the amount determined by the State Farmland Evaluation Advisory
7 Committee created pursuant to section 20 of P.L.1964, c.48
8 (C.54:4-23.20), and fees received for boarding, rehabilitating or
9 training any livestock where the land under the boarding,
10 rehabilitating or training facilities is contiguous to land which
11 otherwise qualifies for valuation, assessment and taxation under this
12 act, have averaged at least \$5.00 per acre per year during the two-
13 year period immediately preceding the tax year in issue, or there is
14 clear evidence of anticipated yearly gross sales and such payments
15 amounting to an average of at least \$5.00 per year within a
16 reasonable period of time; except in the case of woodland and
17 wetland, where the minimum requirement shall be an average of
18 \$0.50 per acre on the area above five acres.

19 As used in this section, "livestock" shall not include dogs.

20 For the purposes of this section, the presence of an intervening
21 public thoroughfare shall not preclude a finding of contiguity.

22 b. Land previously qualified as actively devoted to agricultural
23 or horticultural use under the act; but failing to meet the additional
24 requirement on acreage above five acres, or failing to meet the
25 increase in the minimum amount of gross sales, payments and fees
26 received, and imputed income required pursuant to subsection a. of
27 this section as amended by section 3 of P.L. , c. (C.) (pending
28 before the Legislature as this bill), shall not be subject to the roll-
29 back tax because of such disqualification, but shall be treated as
30 land for which an annual application has not been submitted.

31 c. In determining the eligibility of land for valuation, assessment
32 and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the
33 assessor of the taxing district in which the land is located shall,
34 upon request by the owner of the land, exempt the owner from the
35 income requirements of this section if the owner demonstrates to
36 the satisfaction of the assessor that the failure to meet the income
37 requirements was due to an injury, illness or death of the person
38 responsible for performing the activities which produce the income
39 necessary to meet the income eligibility requirement of this section.
40 The request of the owner shall be accompanied by a certificate of a
41 physician stating that the person was physically incapacitated or by
42 a certified copy of the death certificate, as the case may be. The
43 assessor may only grant an exemption once for a particular illness,
44 injury or death.

45 (cf: P.L.1995, c.276, s.2)

1 4. Section 8 of P.L.1964, c.48 (C.54:4-23.8) is amended to read
2 as follows:

3 8. When land which is in agricultural or horticultural use and is
4 being valued, assessed and taxed under the provisions of P.L.1964,
5 c.48 (C.54:4-23.1 et seq.), is applied to a use other than agricultural
6 or horticultural, it shall be subject to additional taxes, hereinafter
7 referred to as roll-back taxes, in an amount equal to the difference,
8 if any, between the taxes paid or payable on the basis of the
9 valuation and the assessment authorized hereunder and the taxes
10 that would have been paid or payable had the land been valued,
11 assessed and taxed as other land in the taxing district, in the current
12 tax year (the year of change in use) and in such of the two tax years
13 immediately preceding, in which the land was valued, assessed and
14 taxed as herein provided.

15 If the tax year in which a change in use of the land occurs, the
16 land was not valued, assessed and taxed under P.L.1964, c.48
17 (C.54:4-23.1 et seq.), then such land shall be subject to roll-back
18 taxes for such of the two tax years, immediately preceding, in which
19 the land was valued, assessed and taxed hereunder.

20 Notwithstanding the provisions of any law, rule, or regulation to
21 the contrary, land which is valued, assessed and taxed under the
22 provisions of P.L.1964, c.48 (C.54:4-23.1 et seq.) and is acquired
23 by the State, a local government unit, a qualifying tax exempt
24 nonprofit organization, or the Palisades Interstate Park Commission
25 for recreation and conservation purposes shall not be subject to roll-
26 back taxes. As used in this section, "acquired," "local government
27 unit," "qualifying tax exempt nonprofit organization," and
28 "recreation and conservation purposes" mean the same as those
29 terms are defined pursuant to section 3 of P.L.1999, c.152
30 (C.13:8C-3).

31 In determining the amounts of the roll-back taxes chargeable on
32 land which has undergone a change in use, the assessor shall for
33 each of the roll-back tax years involved, ascertain:

34 (a) The full and fair value of such land under the valuation
35 standard applicable to other land in the taxing district;

36 (b) The amount of the land assessment for the particular tax year
37 by multiplying such full and fair value by the county percentage
38 level, as determined by the county board of taxation in accordance
39 with section 3 of P.L.1960, c.51 (C.54:4-2.27);

40 (c) The amount of the additional assessment on the land for the
41 particular tax year by deducting the amount of the actual assessment
42 on the land for that year from the amount of the land assessment
43 determined under (b) hereof; and

44 (d) The amount of the roll-back tax for that tax year by
45 multiplying the amount of the additional assessment determined
46 under (c) hereof by the general property tax rate of the taxing
47 district applicable for that tax year.

1 Land previously qualified as actively devoted to agricultural or
2 horticultural use under P.L.1964, c.48 (C.54:4-23.1 et seq.), but
3 failing to meet the additional requirements of section 1 of P.L. , c.
4 (C.) (pending before the Legislature as this bill) or the additional
5 cropping intensity requirements for horticultural crops of section 4
6 of P.L.1964, c.48 (C.54:4-23.4) added by section 2 of P.L. , c.
7 (C.) (pending before the Legislature as this bill), shall not be
8 subject to the roll-back tax because of such disqualification, but
9 shall be treated as land for which an annual application has not been
10 submitted.

11 (cf: P.L.2001, c.312, s.2)

12

13 5. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to
14 read as follows:

15 14. a. Application for valuation, assessment and taxation of
16 land in agricultural or horticultural use under this act shall be on a
17 form prescribed by the Director of the Division of Taxation in the
18 Department of the Treasury, and provided for the use of claimants
19 by the governing bodies of the respective taxing districts. The form
20 of application shall provide for the reporting of information
21 pertinent to the provisions of Article VIII, Section 1, paragraph 1(b)
22 of the Constitution, as amended, and this act. The applicant shall
23 include with the form of application, in a manner prescribed by the
24 director, proofs of sales or clear evidence of anticipated gross sales
25 of agricultural or horticultural products, and of any other payments,
26 fees, or income received from the agricultural or horticultural use of
27 the land, in the prior year, amounting to at least \$1,000 for the first
28 five acres. A certification by the landowner that the facts set forth
29 in the application are true may be prescribed by the director to be in
30 lieu of a sworn statement to that effect. Statements so certified
31 shall be considered as if made under oath and subject to the same
32 penalties as provided by law for perjury. Any landowner, except
33 those who have submitted a woodland management plan pursuant to
34 section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for
35 valuation, assessment and taxation pursuant to P.L.1964, c.48
36 (C.54:4-23.1 et seq.) for lands not previously qualified under the act
37 shall submit with the application a map of land use classes and soil
38 groups that conforms with standards established by the Division of
39 Taxation in consultation with the Secretary of Agriculture.

40 b. The director shall devise a form for the extension of filing
41 time for the valuation application, which form shall include the
42 name and address of the applicant, the reason for the extension, and
43 a space for the approval or rejection of the assessor.

44 (cf: P.L.1995, c.276, s.7)

45

46 6. Section 20 of P.L.1964, c.48 (C.54:4-23.20) is amended to
47 read as follows:

1 20. There is hereby created a State Farmland Evaluation
2 Advisory Committee, the members of which shall be the Director
3 of the Division of Taxation; the Dean of the College of Agriculture,
4 Rutgers, The State University; and the Secretary of Agriculture.
5 The committee shall meet from time to time on the call of the
6 Secretary of Agriculture and annually determine and publish a
7 range of values for each of the several classifications of land in
8 agricultural and horticultural use in the various areas of the State.
9 The primary objective of the committee shall be the determination
10 of the ranges in fair value of such land based upon its productive
11 capabilities when devoted to agricultural or horticultural uses. In
12 making these annual determinations of value, the committee shall
13 consider available evidence of agricultural or horticultural
14 capability derived from the soil survey at Rutgers, The State
15 University, the National Co-operative Soil Survey, and such other
16 evidence of value of land devoted exclusively to agricultural or
17 horticultural uses as it may in its judgment deem pertinent. On or
18 before October 1 of each year, the committee shall make these
19 ranges of fair value available to the assessing authority in each of
20 the taxing districts in which land in agricultural and horticultural
21 use is located.

22 The committee shall also conduct the periodic review of the
23 minimum gross sales and payments requirement in order for land
24 which is actively devoted to agricultural or horticultural use to be
25 eligible for valuation, assessment and taxation under the provisions
26 of P.L.1964, c.48 (C.54:4-23.1 et seq.), as prescribed by section 5
27 of P.L.1964, c.48 (C.54:4-23.5).

28 Every five years, the committee shall review the application form
29 or forms for valuation, assessment and taxation of land in
30 agricultural or horticultural use pursuant to P.L.1964, c.48 (C.54:4-
31 23.1 et seq.), and provide any recommendations the committee may
32 have thereon to the Director of the Division of Taxation.

33 (cf: P.L.1964, c.48, s.20)

34

35 7. Section 1 of P.L.1999, c.278 (C.54:1-35.25b) is amended to
36 read as follows:

37 1. a. All tax assessor certificates issued prior to the effective
38 date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years
39 following that effective date and shall be renewed in accordance
40 with the procedure established in this section. All tax assessor
41 certificates issued on or after the effective date of P.L.1999, c.278
42 (C.54:1-35.25b et al.) shall expire five years after the issuance of
43 the certificate and shall be renewed in accordance with the
44 procedure established in this section.

45 (1) All tax assessor certificates shall be renewed upon
46 application, payment of the required renewal fee, and verification
47 that the applicant has met continuing education requirements, as set

1 forth in paragraph (2) and paragraph (3) of this subsection. After
2 the initial expiration of any tax assessor certificates following the
3 effective date of P.L.1999, c.278 (C.54:1-35.25b et al.), each
4 renewal period shall thereafter be for a period of three years. The
5 renewal date shall be 30 days prior to the expiration date of the tax
6 assessor certificate.

7 (2) Prior to the first renewal date of a tax assessor certificate
8 pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) every applicant
9 for renewal shall, on a form prescribed by the Director of the
10 Division of Taxation, furnish proof of having earned a total of at
11 least 50 continuing education credit hours over the prior five-year
12 period. Thereafter, prior to each succeeding renewal date of a tax
13 assessor certificate, every applicant for renewal shall, on a form
14 prescribed by the Director of the Division of Taxation, furnish
15 proof of having earned a total of at least 30 continuing education
16 credit hours over the prior three-year period. For the purposes of
17 this section, one continuing education credit hour means 50 minutes
18 of classroom or lecture time. After verifying that the applicant has
19 fulfilled the continuing education requirement and after receiving a
20 fee of not less than \$50 paid by the applicant to the order of the
21 Treasurer of the State of New Jersey, the Director of the Division of
22 Taxation shall renew the tax assessor certificate. The Director of
23 the Division of Taxation shall determine, by regulation, the
24 circumstances under which an extension of time to complete the
25 requirements for continuing education may be granted by the
26 director.

27 (3) Commencing January 1, 2014, for any tax assessor of a
28 municipality in which 20 or more Class 3B (Farm Qualified)
29 properties subject to valuation, assessment and taxation pursuant to
30 P.L.1964, c.48 (C.54:4-23.1 et seq.) are located, prior to every
31 renewal date of a tax assessor certificate issued to that tax assessor
32 pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) the applicant for
33 renewal shall, on a form prescribed by the Director of the Division
34 of Taxation, furnish proof of having taken, at least once in the prior
35 three years, the six-hour continuing education course concerning
36 certain aspects of farmland assessment required to be offered, free
37 of charge, by the Division of Taxation in the Department of the
38 Treasury, in conjunction with the Department of Agriculture,
39 pursuant to subsection c. of section 1 of P.L. , c. (C.)
40 (pending before the Legislature as this bill).

41 b. There is established within the Division of Taxation in the
42 Department of the Treasury the Tax Assessor Continuing Education
43 Eligibility Board. The board shall consist of six members and be
44 comprised as follows: the Director of the Division of Taxation or
45 his designee, the President of the Association of Municipal
46 Assessors, and the President of the New Jersey Association of
47 County Tax Board Commissioners and County Tax Administrators

1 shall be permanent members. The Director of the Division of
2 Taxation and the President of the Association of Municipal
3 Assessors shall each appoint an additional member who shall serve
4 for a term of two years. The Director of Government Services at
5 Rutgers University shall serve ex officio. Any vacancy in the
6 membership of the board shall be filled for the unexpired term in
7 the manner provided by the original appointment. The first meeting
8 of the board shall be held at the call of the Director of the Division
9 of Taxation, and thereafter the board shall meet annually and shall
10 hold at least one additional meeting within each 12-month period.
11 The board shall establish the curriculum areas and the number of
12 hours in each curriculum area that an assessor shall complete in
13 order to renew certification.

14 c. When the holder of a tax assessor certificate has allowed the
15 certificate to lapse by failing to renew the certificate, a new
16 application and certificate shall be required. If application is made
17 within six months of the expiration of the certificate, then
18 application may be made in the same manner as a renewal, but with
19 an additional late renewal fee of \$50.

20 d. The Director of the Division of Taxation, in accordance with
21 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), shall adopt such regulations as are necessary to effectuate the
23 provisions of this section.
24 (cf: P.L.1999, c.278, s.1)

25

26 8. Section 1 of P.L.1968, c.455 (C.54:4-23.13a) is repealed.

27

28 9. This act shall take effect immediately, except that sections 1,
29 2, and 4 of this act shall be applicable to tax years commencing
30 with tax year 2010.

31

32

33

STATEMENT

34

35 This bill would make various revisions to the "Farmland
36 Assessment Act of 1964" that would help ensure that its provisions
37 benefit true farmers and thereby help preserve and promote
38 agriculture as an industry and way of life in the Garden State to the
39 benefit of all citizens.

40 This bill would raise from \$500 to \$1,000 the minimum gross
41 sales and payments qualifying standard for farmland assessment on
42 the first five acres of land. The bill further would require the State
43 Farmland Evaluation Advisory Committee to review this minimum
44 every three years and authorize that committee to adopt regulations
45 to raise the amount of that minimum to a level the committee
46 determines appropriate after completing each such review. That
47 committee would also be required every five years to generally

1 review the farmland assessment form and to make recommendations
2 thereon to the Director of the Division of Taxation. The bill would
3 also provide that income imputed to land used for grazing would be
4 income imputed to cropland pastured as well as permanent pasture
5 land used for grazing.

6 The bill also would require farmland assessment applicants to
7 include with the application proofs of sales or clear evidence of
8 anticipated gross sales of agricultural or horticultural products, and
9 of any other payments, fees, or income received from the
10 agricultural or horticultural use of the land, in the prior year,
11 amounting to at least \$1,000 for the first five acres.

12 The bill also would provide that, starting with tax year 2010, in
13 addition to the requirements and provisions of current law, land
14 would be deemed to be in agricultural or horticultural use for
15 farmland assessment purposes when devoted to the production for
16 sale of:

17 (1) dairy animals and dairy products, poultry and poultry
18 products, or livestock only if the land meets the minimum livestock
19 carrying capacity standard or minimum poultry carrying capacity
20 standard, as appropriate, for the animals, as those standards are to
21 be defined in regulations to be adopted within one year by the
22 Department of Agriculture;

23 (2) crops, only if the land meets the cropping intensity standard
24 for that crop, as those standards are to be defined in regulations to
25 be adopted within one year by the Department of Agriculture; or

26 (3) honeybees, honeybee or apiary products, or pollen or nectar
27 for honeybees, only if the applicant submits an annual site specific
28 commercial bee and rotational crop management plan approved by
29 the Department of Agriculture and implemented throughout the tax
30 year.

31 Because this bill establishes new and more stringent standards to
32 qualify for farmland assessment, landowners who previously met
33 the farmland assessment standards under the current law but cannot
34 or do not meet the new standards will not be required to pay the
35 roll-back tax at the time of that disqualification provided they do
36 not abandon the agricultural use. However, because at that point
37 the property would no longer be farmland assessed under the new
38 standards, the landowner will then, and thereafter, be required to
39 pay the full property taxes on the land just as any other property
40 taxpayer who does not own farmland must do.

41 The bill further would provide that starting January 1, 2014, for
42 any tax assessor of a municipality in which 20 or more Class 3B
43 (Farm Qualified) properties (that is, properties that are farmland
44 assessed) are located, the tax assessor, as a condition of relicensing,
45 must provide proof of having taken, at least once in the prior three
46 years, the six-hour continuing education course concerning certain
47 aspects of farmland assessment required under the bill to be offered,

1 free of charge, by the Division of Taxation in the Department of the
2 Treasury, in conjunction with the Department of Agriculture.

3 The bill would further require the State Board of Agriculture, the
4 Department of Agriculture, and the Department of Environmental
5 Protection to consult with the New Jersey Forestry Association and
6 the New Jersey Division of the Society of American Foresters on
7 any issues pertaining to woodland management and farmland
8 assessment.

9 Lastly, the bill would repeal section 1 of P.L.1968, c.455
10 (C.54:4-23.13a) concerning the timely submittal of certain farmland
11 assessment applications because it is no longer applicable.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 589**

STATE OF NEW JERSEY

DATED: MAY 17, 2012

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 589.

This committee substitute makes various revisions to the “Farmland Assessment Act of 1964.”

The committee substitute raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500, nor to land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment. The committee substitute would also provide that income imputed to land used for grazing would be income imputed to cropland pastured as well as permanent pasture land used for grazing.

The committee substitute requires the State Farmland Evaluation Advisory Committee (SFEAC) to review these minimums every three years and authorizes it to adopt regulations to raise the amount of those minimums to levels the committee determines appropriate after completing each such review.

The committee substitute also amends current law to provide that the farmland assessment application form would: (1) have to be approved by the State Board of Agriculture; (2) include a plain language recitation and explanation of the guidelines describing common agricultural and horticultural practices which are to be developed and adopted pursuant to the committee substitute; and (3) have to be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or other income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case such sums as may be established by the SFEAC.

The committee substitute requires the Director of the Division of Taxation in the Department of the Treasury to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The committee substitute would require a landowner whose farm management unit is less than 10 acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The SFEAC would be required every five years to generally review the farmland assessment application form and to make recommendations thereon to the Director of the Division of Taxation.

The committee substitute establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application, provides that such penalties collected by a municipality or county be divided equally between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the "Farmland Assessment Act of 1964."

Because this committee substitute establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the current law but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The committee substitute requires the State Board of Agriculture to develop and adopt advisory guidelines describing common agricultural and horticultural practices which are to be distributed to, and which may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964." The committee substitute would require the Division of Taxation, in conjunction with the Department of Agriculture, to annually provide a six-hour, free of charge, continuing education course, to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines.

The committee substitute provides that starting January 1, 2017, for any tax assessor of a municipality in which one or more Class 3B (Farm Qualified) properties (that is, properties that are farmland

assessed) are located, or for any county assessor, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, the six-hour continuing education course concerning certain aspects of farmland assessment required under the committee substitute to be offered, free of charge, by the Division of Taxation, in conjunction with the Department of Agriculture.

The committee substitute further requires the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with the New Jersey Forestry Association and the New Jersey Division of the Society of American Foresters on any issues pertaining to woodland management or forest stewardship, and farmland assessment.

The committee substitute is applicable to tax years commencing with tax year 2014.

Lastly, the committee substitute repeals section 1 of P.L.1968, c.455 (C.54:4-23.13a) concerning the timely submittal of certain farmland assessment applications, because it is no longer applicable.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 589**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 589 (SCS), with committee amendments.

This bill makes various revisions to the “Farmland Assessment Act of 1964.”

As amended, the bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500, nor to land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment. The bill would also provide that income imputed to land used for grazing would be income imputed to cropland pastured as well as permanent pasture land used for grazing. In addition, the bill, as amended by the committee, provides that in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use also must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the bill (described below).

The bill, as amended, renames the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee (SFEC), requires the SFEC to review the minimum gross sales and payments standards every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation, and authorizes it to adopt regulations to raise the amount of those minimums to levels the committee determines appropriate after completing each such review. The bill, as amended, also adds two members to the current three-member SFEC: a municipal tax assessor, county assessor, or county tax administrator; and a member of the public. Both new members would be appointed by the Governor with the advice and consent of the Senate and serve three-year terms (with the ability to serve successive terms).

The bill also amends current law to provide that the farmland assessment application form would: (1) have to be approved by the State Board of Agriculture; (2) include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices which are to be developed and adopted pursuant to the bill; and (3) have to be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or other income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case such sums as may be established by the SFEC as authorized under the bill. The bill, as amended, also requires applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program.

The bill requires the Director of the Division of Taxation to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The bill would require a landowner whose farm management unit is less than 10 acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The SFEC would be required every five years to generally review the farmland assessment application form and to make recommendations thereon to the Director of the Division of Taxation.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application, provides that such penalties collected by a municipality or county be divided equally between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the "Farmland Assessment Act of 1964."

Because this bill establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the current law but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

Subsection a. of section 1 of the bill, as amended, requires the Division of Taxation, in consultation with the State Board of

Agriculture and the Department of Agriculture, to develop and adopt advisory guidelines describing generally accepted agricultural and horticultural practices which are to be distributed to, and which may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964." The bill, as amended, would allow tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, about particular farmland assessment applications and issues, and to ask for that advice in writing if desired. Written advice given on these applications and issues eventually would be incorporated into the guidelines document made available to all assessors.

The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to annually provide a six-hour, free of charge, continuing education course, to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines.

The bill provides that, starting January 1, 2017 for any tax assessor of a municipality or county in which one or more Class 3B (Farm Qualified) properties (that is, properties that are farmland assessed) are located, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, the six-hour continuing education course concerning certain aspects of farmland assessment required under the bill to be offered, free of charge, by the Division of Taxation, in conjunction with the Department of Agriculture.

The bill, as amended, further requires the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with the New Jersey Forestry Association, the New Jersey Division of the Society of American Foresters, and other interested forestry, farming, conservation, and environmental organizations on any issues pertaining to woodland management or forest stewardship, and farmland assessment.

The bill, as amended, allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

The bill is applicable to tax years commencing with tax year 2014.

Lastly, the bill repeals section 1 of P.L.1968, c.455 (C.54:4-23.13a) concerning the timely submittal of certain farmland assessment applications, because it is no longer applicable.

COMMITTEE AMENDMENTS:

The amendments would:

(1) Require the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt the guidelines describing generally accepted agricultural and horticultural practices for purposes of advising tax assessors on farmland assessment applications and issues. The committee substitute provided instead that the guidelines would have been developed and adopted by the State Board of Agriculture.

(2) Allow tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, about particular farmland assessment applications and issues, and to ask for that advice in writing if desired. Written advice given on these applications and issues periodically would be incorporated into the guidelines document made available to all assessors.

(3) Add interested forestry, farming, conservation, and environmental organizations to those organizations required to be consulted by the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection on issues pertaining to woodland management, forest stewardship, and farmland assessment.

(4) Provide that, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the bill.

(5) Allow for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

(6) Require applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program.

(7) Rename the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee.

(8) Add two members to the current three-member State Farmland Evaluation Committee, both of whom would be appointed by the Governor with the advice and consent of the Senate and serve three-year terms (with the ability to serve successive terms). The two new members would be: a municipal tax assessor, county assessor, or county tax administrator; and a member of the public.

(9) Authorize the State Farmland Evaluation Committee to meet not only every three years for the purpose of reviewing, and raising if the committee determines it to be appropriate, the farmland assessment minimum monetary thresholds, but also at the call of the Secretary of Agriculture or the Director of the Division of Taxation.

(10) Make various clarifying and technical amendments.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State may incur additional costs. However, it is possible that some of these potential costs could be offset from the provision in the bill which establishes a civil penalty of up to \$5,000 for gross and intentional misrepresentation on an application, the revenue from which is to be equally divided between local government and the State to be used for administering the "Farmland Assessment Act of 1964." The OLS also notes that it is likely that property tax revenues of municipalities and counties would increase since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 589**

with Senate Floor Amendments
(Proposed by Senator BECK)

ADOPTED: JUNE 21, 2012

These floor amendments:

1) delete the requirement for the Division of Taxation to provide advice in writing at the request of a municipal tax assessor, county assessor, county tax administrator, or other appropriate local official, and delete the language that would have required the Division of Taxation to compile any such written advice it provided in response to a request and issue that written advice as a supplement to the guidelines required to be developed pursuant to the bill;

2) provide that the continuing education course required to be offered by the Division of Taxation, in conjunction with the Department of Agriculture, would be offered at such time intervals as may be established by the Director of the Division of Taxation but at least biennially, rather than annually, and delete the requirement that it be a six-hour course;

3) delete the requirement for the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with other interested forestry, farming, conservation, and environmental organizations on issues pertaining to woodland management, forest stewardship, and farmland assessment;

4) require the State Farmland Evaluation Committee to review evidence of anticipated yearly gross sales, payments, fees, and imputed income when reviewing the minimum gross sales, payments, fees, and imputed income requirements when determining whether the amounts of those minimums should be increased;

5) clarify that land that previously qualified for farmland assessment but failing to meet any increase in the minimum amount of gross sales, payments, fees, and imputed income received, or anticipated yearly gross sales, payments, fees, and imputed income, would not be subject to the roll-back tax because of such disqualification, but would be treated as land for which an annual application has not been submitted provided that the land remains in agricultural or horticultural use;

6) provide that the application for farmland assessment would be on a form prescribed by the Director of the Division of Taxation in consultation with the State Board of Agriculture, rather than on a form

prescribed by the Director and approved by the State Board of Agriculture;

7) change the requirement for a landowner whose farm management unit is less than 10 acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses, to apply to landowners whose farm management unit is less than seven acres;

8) require that the member of the public to be appointed by the Governor, with the advice and consent of the Senate, to the State Farmland Evaluation Committee have knowledge of or experience with farming or agricultural or horticultural practices, uses, or activities;

9) delete the requirement for the State Farmland Evaluation Committee to consult with recognized Statewide tax assessor and tax administrator organizations when reviewing the application form for farmland assessment; and

10) make technical amendments.

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 589
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JUNE 28, 2012

SUMMARY

- Synopsis:** Revises certain provisions of farmland assessment law.
- Type of Impact:** Increased State cost partially offset by fines; increased local revenue.
- Agencies Affected:** Department of Agriculture, Department of the Treasury, and Department of Environmental Protection.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|------------------------------------|----------------------|----------------------|
| State Cost | Indeterminate – See comments below | | |
| State Revenue | Indeterminate – See comments below | | |
| Local Revenue | Indeterminate – See comments below | | |

- The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State.
- The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.
- The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide, free of charge, a continuing education course explaining farmland assessment guidelines to municipal and county tax assessors, county tax administrators, and other local government officials.

BILL DESCRIPTION

Second Reprint of the Senate Committee Substitute for Senate Bill No. 589 of 2012 makes various revisions to the “Farmland Assessment Act of 1964.” The bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500, nor to land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment. The bill requires the State Farmland Evaluation Committee to review these minimums every three years or sooner, and authorizes it to adopt regulations to raise the amount of those minimums to levels the committee determines appropriate. The bill also provides that income imputed to land used for grazing would be income imputed to cropland pastured as well as permanent pasture land used for grazing.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected are to be divided equally between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the “Farmland Assessment Act of 1964.”

The bill establishes new and more stringent standards to qualify for farmland assessment. Landowners who previously met the farmland assessment standards under the current law, but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification, provided the land remains in agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner would then be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill requires the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices which are to be distributed to, and which may be used by, municipal and county tax assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” The division, after consultation with the State Board of Agriculture, is required to include with each farmland assessment application, a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The bill would require a landowner whose farm management unit is less than seven acres in size, to submit with the application form a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The division, in conjunction with the Department of Agriculture, is also required to offer at such time intervals as may be established by the division but at least biennially, and free of charge, a continuing education course to municipal and county tax assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill requires that starting January 1, 2017, for any municipal and county tax assessor in which farmland assessed properties are located, the assessor as a condition of relicensing must provide proof of having taken at least once in the prior three years the continuing education course.

The bill further requires the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with the New Jersey Forestry Association

and the New Jersey Division of the Society of American Foresters on any issues pertaining to woodland management or forest stewardship. The bill also allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

This bill would be applicable to tax years commencing with tax year 2014.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State. The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected would be divided equally between the municipality or county and the State, and the penalty revenue collected would be dedicated to administering and enforcing the “Farmland Assessment Act of 1964.”

The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Joseph A. Hroncich
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 589

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 27, 2012

The Assembly Agriculture and Natural Resources Committee favorably reports, and with committee amendments, the Senate Committee Substitute (2R) for Senate No. 589.

This bill, as amended by the committee, makes various revisions to the “Farmland Assessment Act of 1964.”

The bill, as amended, raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to:

- 1) woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500; nor
- 2) land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment.

The bill, as amended, would also provide that income imputed to land used for grazing would be income imputed to cropland being used as pasture from time to time, as well as permanent pasture land used for grazing.

In addition, subsection a. of section 1 of the bill, as amended, requires the Division of Taxation in the Department of the Treasury, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices for purposes of advising tax assessors on farmland assessment applications and issues. This provision specifies that these guidelines are advisory, are to be distributed to, and may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may

be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” Furthermore, the bill, as amended, would allow tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, about particular farmland assessment applications and issues.

The bill, as amended, requires the Division of Taxation, in conjunction with the Department of Agriculture, also to provide a continuing education course to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill, as amended, requires the course to be provided at time intervals established by the division but at least biennially and free of charge.

The bill, as amended, provides that, starting January 1, 2017 for any tax assessor of a municipality or county in which one or more Class 3B (Farm Qualified) properties (that is, properties that are farmland assessed) are located, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, this continuing education course concerning certain aspects of farmland assessment.

As amended, the bill:

- 1) renames the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee (SFEC);
- 2) requires the SFEC to review the minimum gross sales and payments standards for the first five acres every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation; and
- 3) authorizes the SFEC to adopt regulations to raise the amount of those minimums for the first five acres to levels the committee determines appropriate after completing each such review.

The bill, as amended, also expands the membership of the SFEC to five members. Its membership would be:

- 1) the Director of the Division of Taxation, the Dean of the College of Agriculture at Rutgers, The State University, and the Secretary of Agriculture, as provided in current law; and
- 2) two additional members – a municipal tax assessor, county assessor, or county tax administrator, appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of Agriculture, also appointed by the Governor with the advice and consent of the Senate.

Each appointed member would serve for a term of three years and may be appointed to successive terms.

As amended, the bill also amends current law to provide that the farmland assessment application form would:

- 1) be prescribed by the Division of Taxation in consultation with the State Board of Agriculture;

2) include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices which are to be developed and adopted pursuant to the bill; and

3) have to be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or imputed income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or imputed income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case, such sums as may be established by the SFEC as authorized under the bill as amended.

The bill, as amended, also requires applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program.

The bill, as amended, further provides that, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the bill.

The bill, as amended, requires the Director of the Division of Taxation to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The bill, as amended, would require a landowner whose farm management unit is less than seven acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The SFEC would be required every five years to generally review the farmland assessment application form and to make recommendations thereon to the Director of the Division of Taxation.

The bill, as amended, establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application, provides that such penalties collected by a municipality or county be equally divided between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the "Farmland Assessment Act of 1964."

Because this bill, as amended, establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the current law but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under

the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill, as amended, allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

The bill, as amended, is applicable to tax years commencing with tax year 2014. Lastly, the bill repeals section 1 of P.L.1968, c.455 (C.54:4-23.13a) concerning the timely submittal of certain farmland assessment applications, because it is no longer applicable.

As amended and reported by the committee, the bill is identical to the Assembly Committee Substitute for Assembly Bill No. 3090 as reported by the Assembly Agriculture and Natural Resources Committee on September 27, 2012.

COMMITTEE AMENDMENTS

The committee amendments:

- 1) clarify the SFEC member with agricultural and horticultural expertise would be a farmer and a current or former member of the State Agriculture Board; and
- 2) make technical and clarifying amendments.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 589

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2013

The Assembly Appropriations Committee reports favorably Senate Bill No. 589 (SCS 3R).

This bill makes various revisions to the “Farmland Assessment Act of 1964.”

FARMLAND ASSESSMENT STANDARDS

The bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change will not apply to:

- 1) woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500; or
- 2) land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment.

The bill also provides that income imputed to land used for grazing will be income imputed to cropland being used as pasture from time to time, as well as permanent pasture land used for grazing.

Because this bill establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the current law but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

FARMLAND ASSESSMENT GUIDELINES

Subsection a. of section 1 of the bill requires the Division of Taxation in the Department of the Treasury, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices for purposes of advising tax assessors on farmland assessment applications and issues. This provision specifies that these guidelines are advisory, are to be distributed to, and may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” Furthermore, the bill allows tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, about particular farmland assessment applications and issues.

ASSESSOR CONTINUING EDUCATION

The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide a continuing education course to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill requires the course to be provided at time intervals established by the division but at least biennially and free of charge.

The bill provides that, starting January 1, 2017 for any tax assessor of a municipality or county in which one or more Class 3B (Farm Qualified) properties (that is, properties that are farmland assessed) are located, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, this continuing education course concerning certain aspects of farmland assessment.

STATE FARMLAND EVALUATION COMMITTEE

The bill:

- 1) renames the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee (SFEC);
- 2) requires the SFEC to review the minimum gross sales and payments standards for the first five acres every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation; and
- 3) authorizes the SFEC to adopt regulations to raise the amount of those minimums for the first five acres to levels the committee determines appropriate after completing each such review.

The bill also expands the membership of the SFEC to five members. Its membership will be:

1) the Director of the Division of Taxation, the Dean of the College of Agriculture at Rutgers, The State University, and the Secretary of Agriculture, as provided in current law; and

2) two additional members – a municipal tax assessor, county assessor, or county tax administrator, appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of Agriculture, also appointed by the Governor with the advice and consent of the Senate.

Each appointed member will serve for a term of three years and may be appointed to successive terms.

FARMLAND ASSESSMENT APPLICATION

The bill amends current law to provide that the farmland assessment application form will:

1) be prescribed by the Division of Taxation in consultation with the State Board of Agriculture;

2) include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices which are to be developed and adopted pursuant to the bill; and

3) have to be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or imputed income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or imputed income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case, such sums as may be established by the SFEC as authorized under the bill.

The bill also requires applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program.

The bill further provides that, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the bill.

The bill requires the Director of the Division of Taxation to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted.

The bill requires a landowner whose farm management unit is less than seven acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses.

The bill requires the SFEC to generally review the farmland assessment application form every five years and to make recommendations thereon to the Director of the Division of Taxation.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application, provides that such penalties collected by a municipality or county be equally divided between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the “Farmland Assessment Act of 1964.”

The bill repeals section 1 of P.L.1968, c.455 (C.54:4-23.13a) concerning the timely submittal of certain farmland assessment applications, because it is no longer applicable.

The bill is applicable to tax years commencing with tax year 2014.

As reported, this bill is identical to Assembly Bill No.3090 (ACS), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State will incur additional costs. However, it is assumed that some of these costs will be partially offset from civil penalties paid to the State.

The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts, as some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

The OLS notes further that the bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide, free of charge, a continuing education course explaining farmland assessment guidelines to municipal and county tax assessors, county tax administrators, and other local government officials.

LEGISLATIVE FISCAL ESTIMATE
 [Third Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 589
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: FEBRUARY 11, 2013

SUMMARY

- Synopsis:** Revises certain provisions of farmland assessment law.
- Type of Impact:** Increased State cost partially offset by fines; increased local revenue.
- Agencies Affected:** Department of Agriculture, Department of the Treasury, and Department of Environmental Protection.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|------------------------------------|----------------------|----------------------|
| State Cost | Indeterminate – See comments below | | |
| State Revenue | Indeterminate – See comments below | | |
| Local Revenue | Indeterminate – See comments below | | |

- The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State.
- The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.
- The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide, free of charge, a continuing education course explaining farmland assessment guidelines to municipal and county tax assessors, county tax administrators, and other local government officials.

BILL DESCRIPTION

The Third Reprint of the Senate Committee Substitute for Senate Bill No. 589 of 2012 makes various revisions to the “Farmland Assessment Act of 1964.” The bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500, nor to land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment. The bill requires the State Farmland Evaluation Committee to review these minimums every three years or sooner, and authorizes it to adopt regulations to raise the amount of those minimums to levels the committee determines appropriate. The bill also provides that income imputed to land used for grazing would be income imputed to cropland pastured as well as permanent pasture land used for grazing.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected are to be divided equally between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the “Farmland Assessment Act of 1964.”

The bill establishes new and more stringent standards to qualify for farmland assessment. Landowners who previously met the farmland assessment standards under the current law, but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification, provided the land remains in agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner would then be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill requires the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices which are to be distributed to, and which may be used by, municipal and county tax assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” The division, after consultation with the State Board of Agriculture, is required to include with each farmland assessment application, a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The bill would require a landowner whose farm management unit is less than seven acres in size, to submit with the application form a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The division, in conjunction with the Department of Agriculture, is also required to offer at such time intervals as may be established by the division but at least biennially, and free of charge, a continuing education course to municipal and county tax assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill requires that starting January 1, 2017, for any municipal and county tax assessor in which farmland assessed properties are located, the assessor as a condition of relicensing must provide proof of having taken at least once in the prior three years the continuing education course.

The bill further requires the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with the New Jersey Forestry Association

and the New Jersey Division of the Society of American Foresters on any issues pertaining to woodland management or forest stewardship. The bill also allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

This bill would be applicable to tax years commencing with tax year 2014.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State. The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected would be divided equally between the municipality or county and the State, and the penalty revenue collected would be dedicated to administering and enforcing the “Farmland Assessment Act of 1964.”

The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

Section: Environment, Agriculture, Energy and Natural Resources

Analyst: Joseph A. Hroncich
Associate Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 589**

with Assembly Floor Amendments
(Proposed by Assemblyman SINGLETON)

ADOPTED: FEBRUARY 14, 2013

These floor amendments would:

(1) require the State Board of Agriculture and the Department of Agriculture to develop the farmland assessment guidelines within one year after enactment of the bill into law;

(2) require the Division of Taxation to review the guidelines, and, upon its approval thereof, adopt them as rules and regulations;

(3) change the date from January 1, 2017 to January 1, 2018 with respect to implementation of the provision in the bill concerning tax assessors furnishing proof of having taken the farmland assessment continuing education course required by the bill; and

(4) provide that the bill, although it would take effect immediately, would be applicable to tax years commencing with tax year 2015 rather than tax year 2014.

LEGISLATIVE FISCAL ESTIMATE
 [Fourth Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 589
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: FEBRUARY 28, 2013

SUMMARY

- Synopsis:** Revises certain provisions of farmland assessment law.
- Type of Impact:** Increased State cost partially offset by fines; increased local revenue.
- Agencies Affected:** Department of Agriculture, Department of the Treasury, and Department of Environmental Protection.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|------------------------------------|----------------------|----------------------|
| State Cost | Indeterminate – See comments below | | |
| State Revenue | Indeterminate – See comments below | | |
| Local Revenue | Indeterminate – See comments below | | |

- The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State.
- The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.
- The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide, free of charge, a continuing education course explaining farmland assessment guidelines to municipal and county tax assessors, county tax administrators, and other local government officials.

BILL DESCRIPTION

The Fourth Reprint of the Senate Committee Substitute for Senate Bill No. 589 of 2012 makes various revisions to the “Farmland Assessment Act of 1964.” The bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500, nor to land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment. The bill requires the State Farmland Evaluation Committee to review these minimums every three years or sooner, and authorizes it to adopt regulations to raise the amount of those minimums to levels the committee determines appropriate. The bill also provides that income imputed to land used for grazing would be income imputed to cropland pastured as well as permanent pasture land used for grazing.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected are to be divided equally between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the “Farmland Assessment Act of 1964.”

The bill establishes new and more stringent standards to qualify for farmland assessment. Landowners who previously met the farmland assessment standards under the current law, but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification, provided the land remains in agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner would then be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill requires the State Board of Agriculture and the Department of Agriculture, to develop guidelines describing generally accepted agricultural and horticultural practices which are to be distributed to, and which may be used by, municipal and county tax assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” The Division of Taxation, after consultation with the State Board of Agriculture, is required to include with each farmland assessment application, a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The bill would require a landowner whose farm management unit is less than seven acres in size, to submit with the application form a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The division, in conjunction with the Department of Agriculture, is also required to offer at such time intervals as may be established by the division but at least biennially, and free of charge, a continuing education course to municipal and county tax assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill requires that starting January 1, 2018, for any municipal and county tax assessor in which farmland assessed properties are located, the assessor as a condition of relicensing must provide proof of having taken at least once in the prior three years the continuing education course.

The bill further requires the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with the New Jersey Forestry Association

and the New Jersey Division of the Society of American Foresters on any issues pertaining to woodland management or forest stewardship. The bill also allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

This bill would be applicable to tax years commencing with tax year 2015.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State. The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected would be divided equally between the municipality or county and the State, and the penalty revenue collected would be dedicated to administering and enforcing the “Farmland Assessment Act of 1964.”

The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Joseph A. Hroncich
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3090

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 14, 2012

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Hunterdon and Mercer)

Assemblyman GILBERT "WHIP" L. WILSON

District 5 (Camden and Gloucester)

SYNOPSIS

Revises certain provisions of farmland assessment law, and includes annual automatic inflation adjustment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/28/2012)

A3090 SINGLETON, BURZICHELLI

2

1 AN ACT concerning farmland assessment, amending and
2 supplementing P.L.1964, c.48, amending P.L.1999, c.278, and
3 repealing section 1 of P.L.1968, c.455 (C.54:4-23.13a).

4

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

7

8 1. a. (New section) The State Board of Agriculture shall
9 develop, and adopt as rules and regulations pursuant to the
10 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
11 seq.), guidelines describing common agricultural and horticultural
12 practices, which may be used by municipal tax assessors, county
13 assessors, county tax administrators, and other appropriate local
14 government officials to assist them in determining whether land
15 may be deemed to be in agricultural use, horticultural use, or
16 actively devoted to agricultural or horticultural use pursuant to the
17 “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et
18 seq.). The guidelines shall be advisory, and need not be exhaustive
19 or comprehensive in terms of applicability, nor specifically tailored,
20 to each and every possible agricultural or horticultural practice or
21 use. The Director of the Division of Taxation shall distribute these
22 guidelines to all municipal tax assessors, county assessors, county
23 tax administrators, and other appropriate local government officials,
24 by including them, to the maximum extent possible, with other
25 information on real property taxation regularly distributed by the
26 division to such individuals.

27 b. The Division of Taxation in the Department of the Treasury,
28 in conjunction with the Department of Agriculture, shall annually
29 offer, free of charge, a six-hour continuing education course to
30 municipal tax assessors, county assessors, county tax
31 administrators, and other appropriate local government officials on
32 the guidelines developed and adopted pursuant to subsection a. of
33 this subsection and other issues concerning the valuation,
34 assessment and taxation of land pursuant to P.L.1964, c.48.

35 c. The State Board of Agriculture, the Department of
36 Agriculture, and the Department of Environmental Protection shall
37 consult with the New Jersey Forestry Association and the New
38 Jersey Division of the Society of American Foresters on any issues
39 pertaining to woodland management or forest stewardship and
40 P.L.1964, c.48.

41

42 2. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read
43 as follows:

44 5. a. Except as otherwise provided in subsection **[b.]** d. of this
45 section, land, five acres in area, shall be deemed to be actively

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.

A3090 SINGLETON, BURZICHELLI

1 devoted to agricultural or horticultural use when the amount of the
2 gross sales of agricultural or horticultural products produced
3 thereon, any payments received under a soil conservation program,
4 fees received for breeding, raising or grazing any livestock, income
5 imputed to cropland pastured and permanent pasture land used for
6 grazing in the amount determined by the State Farmland Evaluation
7 Advisory Committee created pursuant to section 20 of P.L.1964,
8 c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating
9 or training any livestock where the land under the boarding,
10 rehabilitating or training facilities is contiguous to land which
11 otherwise qualifies for valuation, assessment and taxation under this
12 act, have averaged at least ~~【\$500.00】~~ \$1,000 per year during the
13 two-year period immediately preceding the tax year in issue, or
14 there is clear evidence of anticipated yearly gross sales and such
15 payments amounting to at least ~~【\$500.00】~~ \$1,000 within a
16 reasonable period of time, or such amount as may be established by
17 the Director of the Division of Taxation in the Department of the
18 Treasury, or by the State Farmland Evaluation Advisory
19 Committee, pursuant to this section. In the case of woodland
20 subject to a woodland management plan pursuant to section 3 of
21 P.L.1964, c.48 (C.54:4-23.3), the amount shall be at least \$500, or
22 such amount as may be established by the Director of the Division
23 of Taxation, or by the State Farmland Evaluation Advisory
24 Committee, pursuant to this section.

25 The Director of the Division of Taxation shall annually adjust
26 the minimum gross sales, payments, fees, and imputed income
27 requirements of this section for the first five acres in direct
28 proportion to the increase in the Consumer Price Index for all urban
29 consumers in the New York City area as reported by the United
30 States Department of Labor. In addition, every three years, the
31 State Farmland Evaluation Advisory Committee shall review the
32 minimum gross sales, payments, fees, and imputed income
33 requirements of this section for the first five acres, and may, by rule
34 or regulation adopted pursuant to the “Administrative Procedure
35 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), raise the amounts of
36 those minimums to such levels as the committee determines
37 appropriate. Any increase made to the minimum gross sales,
38 payments, fees, and imputed income requirements for the first five
39 acres as authorized pursuant to this section shall not be enforced
40 until the third tax year following adoption of the increase.

41 In addition, where the land is more than five acres in area, it
42 shall be deemed to be actively devoted to agricultural or
43 horticultural use when the amount of the gross sales of agricultural
44 or horticultural products produced on the area above five acres, any
45 payments received under a soil conservation program, fees received
46 for breeding, raising or grazing any livestock, income imputed to
47 cropland pastured and permanent pasture land used for grazing in
48 the amount determined by the State Farmland Evaluation Advisory

A3090 SINGLETON, BURZICHELLI

4

1 Committee created pursuant to section 20 of P.L.1964, c.48
2 (C.54:4-23.20), and fees received for boarding, rehabilitating or
3 training any livestock where the land under the boarding,
4 rehabilitating or training facilities is contiguous to land which
5 otherwise qualifies for valuation, assessment and taxation under this
6 act, have averaged at least \$5.00 per acre per year during the two-
7 year period immediately preceding the tax year in issue, or there is
8 clear evidence of anticipated yearly gross sales and such payments
9 amounting to an average of at least \$5.00 per year within a
10 reasonable period of time; except in the case of woodland and
11 wetland, where the minimum requirement shall be an average of
12 \$0.50 per acre on the area above five acres.

13 As used in this section, "livestock" shall not include dogs.

14 For the purposes of this section, the presence of an intervening
15 public thoroughfare shall not preclude a finding of contiguity.

16 b. Land previously qualified as actively devoted to agricultural
17 or horticultural use under the act; but failing to meet the additional
18 requirement on acreage above five acres , or failing to meet any
19 increase in the minimum amount of gross sales, payments and fees
20 received, and imputed income established pursuant to subsection a.
21 of this section, shall not be subject to the roll-back tax because of
22 such disqualification, but shall be treated as land for which an
23 annual application has not been submitted provided that the land
24 remains in agricultural or horticultural use.

25 c. In determining the eligibility of land for valuation,
26 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et
27 seq.), the assessor of the taxing district in which the land is located
28 shall, upon request by the owner of the land, exempt the owner from
29 the income requirements of this section if the owner demonstrates
30 to the satisfaction of the assessor that the failure to meet the income
31 requirements was due to an injury, illness or death of the person
32 responsible for performing the activities which produce the income
33 necessary to meet the income eligibility requirement of this section.
34 The request of the owner shall be accompanied by a certificate of a
35 physician stating that the person was physically incapacitated or by
36 a certified copy of the death certificate, as the case may be. The
37 assessor may only grant an exemption once for a particular illness,
38 injury or death.

39 **[b.]** d. The gross sales, payments, imputed income, and fees
40 received pursuant to the requirements of this section shall not apply
41 to land that (1) is the subject of a forest stewardship plan approved
42 by the Department of Environmental Protection pursuant to section
43 3 of P.L.2009, c.256 (C.13:1L-31) which is fully implemented, and
44 (2) otherwise qualifies under the "Farmland Assessment Act of
45 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation,
46 assessment and taxation as land in agricultural or horticultural use
47 pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).

48 (cf: P.L.2009, c.256, s.14)

1 3. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to
2 read as follows:

3 14. a. Application for valuation, assessment and taxation of land
4 in agricultural or horticultural use under this act shall be on a form
5 prescribed by the Director of the Division of Taxation in the
6 Department of the Treasury and approved by the State Board of
7 Agriculture, and provided for the use of claimants by the governing
8 bodies of the respective taxing districts. The form of application
9 shall provide for the reporting of information pertinent to the
10 provisions of Article VIII, Section 1, paragraph 1(b) of the
11 Constitution, as amended, and this act. The form shall include a
12 plain language recitation and explanation of the guidelines
13 describing agricultural and horticultural practices developed and
14 adopted pursuant to subsection a. of section 1 of P.L. , c. (C.)
15 (pending before the Legislature as this bill) that may be used by
16 municipal tax assessors, county assessors, county tax
17 administrators, and other appropriate local government officials to
18 assist them in determining whether land may be deemed to be in
19 agricultural use, horticultural use, or actively devoted to agricultural
20 or horticultural use pursuant to the "Farmland Assessment Act of
21 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.). The applicant shall
22 include with the form of application, in a manner prescribed by the
23 director, proofs of sales of agricultural or horticultural products, and
24 of any other payments, fees, or income received from the
25 agricultural or horticultural use of the land, in the prior year, or
26 clear evidence of anticipated gross sales, payments, fees, or other
27 income, amounting to \$1,000 for the first five acres, or in the case
28 of woodland subject to a woodland management plan pursuant to
29 section 3 of P.L.1964, c.48 (C.54:4-23.3) amounting to \$500 for the
30 first five acres, or in either case amounting to such sums as may be
31 established by the Director of the Division of Taxation or the State
32 Farmland Evaluation Advisory Committee pursuant to subsection a.
33 of section 5 of P.L.1964, c.48 (C.54:4-23.5).

34 In the case of land that is the subject of a forest stewardship plan
35 approved by the Department of Environmental Protection pursuant
36 to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully
37 implemented, and otherwise qualifies under the "Farmland
38 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for
39 valuation, assessment and taxation as land in agricultural or
40 horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-
41 23.3), no proofs required pursuant to this subsection of gross sales,
42 payments, imputed income, or fees need be included with the form
43 or otherwise submitted.

44 b. A certification by the landowner that the facts set forth in the
45 application are true may be prescribed by the director to be in lieu
46 of a sworn statement to that effect. Statements so certified shall be
47 considered as if made under oath and subject to the same penalties
48 as provided by law for perjury.

1 In addition, for a gross and intentional misrepresentation on the
2 application, the landowner shall be subject to a civil penalty of up
3 to \$5,000. Any such civil penalty may be imposed and collected by
4 the municipality, the county, or the State, with costs, in a summary
5 proceeding pursuant to the "Penalty Enforcement Law of 1999,"
6 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the
7 municipal court shall have jurisdiction to enforce the provisions of
8 the "Penalty Enforcement Law of 1999" in connection with this
9 subsection. One-half of any civil penalties so collected by a
10 municipality or county shall be dedicated and used by the
11 municipality or county in administering and enforcing the
12 provisions of the "Farmland Assessment Act of 1964," P.L.1964,
13 c.48 (C.54:4-23.1 et seq.) in the municipality or county. The
14 remaining one-half of any civil penalties so collected by a
15 municipality or county shall be paid by the municipality or county
16 to the State, and together with any civil penalties so collected
17 directly by the State, shall be dedicated and used by the Department
18 of Agriculture and the Division of Taxation in administering and
19 enforcing the provisions of P.L.1964, c.48.

20 c. Any landowner, except those who have submitted a
21 woodland management plan or a forest stewardship plan pursuant to
22 section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for
23 valuation, assessment and taxation pursuant to P.L.1964, c.48
24 (C.54:4-23.1 et seq.) for lands not previously qualified under the act
25 shall submit with the application a map of land use classes and soil
26 groups that conforms with standards established by the Division of
27 Taxation in consultation with the [Secretary] State Board of
28 Agriculture.

29 d. For any landowner whose farm management unit is less than
30 10 acres in size, the landowner shall submit with the application
31 form a narrative describing the agricultural or horticultural uses on
32 the farm management unit, the number of acres that will be actively
33 devoted to those uses, and a sketch of the location on the farm
34 management unit of those uses. For the purposes of this subsection,
35 "farm management unit" means a parcel or parcels of land, whether
36 contiguous or noncontiguous, together with agricultural or
37 horticultural buildings, structures and facilities, producing
38 agricultural or horticultural products, and operated as a single
39 enterprise.

40 e. The director, after consultation with the State Board of
41 Agriculture, shall include with each application a letter or other
42 document explaining any changes to the law, rules, regulations, and
43 guidelines on the valuation, assessment and taxation of land
44 pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) that have occurred
45 in the prior tax year and which shall be newly in effect in the tax
46 year for which the application is being submitted.

47 f. The director shall devise a form for the extension of filing
48 time for the valuation application, which form shall include the

A3090 SINGLETON, BURZICHELLI

7

1 name and address of the applicant, the reason for the extension, and
2 a space for the approval or rejection of the assessor.

3 (cf: P.L.2009, c.256, s.15)

4

5 4. Section 20 of P.L.1964, c.48 (C.54:4-23.20) is amended to
6 read as follows:

7 20. There is hereby created a State Farmland Evaluation
8 Advisory Committee, the members of which shall be the Director of
9 the Division of Taxation; the Dean of the College of Agriculture,
10 Rutgers, The State University; and the Secretary of Agriculture. The
11 committee shall meet from time to time on the call of the Secretary
12 of Agriculture and annually determine and publish a range of
13 values for each of the several classifications of land in agricultural
14 and horticultural use in the various areas of the State. The primary
15 objective of the committee shall be the determination of the ranges
16 in fair value of such land based upon its productive capabilities
17 when devoted to agricultural or horticultural uses. In making these
18 annual determinations of value, the committee shall consider
19 available evidence of agricultural or horticultural capability
20 derived from the soil survey at Rutgers, The State University, the
21 National Co-operative Soil Survey, and such other evidence of
22 value of land devoted exclusively to agricultural or horticultural
23 uses as it may in its judgment deem pertinent. On or before
24 October 1 of each year, the committee shall make these ranges of
25 fair value available to the assessing authority in each of the taxing
26 districts in which land in agricultural and horticultural use is
27 located.

28 The committee shall also conduct the periodic review of the
29 minimum gross sales, payments, fees, and imputed income
30 requirements in order for land which is actively devoted to
31 agricultural or horticultural use to be eligible for valuation,
32 assessment and taxation under the provisions of P.L.1964, c.48
33 (C.54:4-23.1 et seq.), as prescribed by section 5 of P.L.1964, c.48
34 (C.54:4-23.5).

35 Within one year after the date of enactment of P.L. , c. (C.)
36 (pending before the Legislature as this bill), and every five years
37 thereafter, the committee, in consultation with recognized Statewide
38 tax assessor and tax administrator organizations, shall review the
39 application form or forms for valuation, assessment and taxation of
40 land in agricultural or horticultural use pursuant to P.L.1964, c.48
41 (C.54:4-23.1 et seq.), and provide any recommendations the
42 committee may have thereon to the Director of the Division of
43 Taxation.

44 (cf: P.L.1964, c.48, s.20)

45

46 5. Section 1 of P.L.1999, c.278 (C.54:1-35.25b) is amended to
47 read as follows:

1 1. a. All tax assessor certificates issued prior to the effective
2 date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years
3 following that effective date and shall be renewed in accordance
4 with the procedure established in this section. All tax assessor
5 certificates issued on or after the effective date of P.L.1999, c.278
6 (C.54:1-35.25b et al.) shall expire five years after the issuance of
7 the certificate and shall be renewed in accordance with the
8 procedure established in this section.

9 (1) All tax assessor certificates shall be renewed upon
10 application, payment of the required renewal fee, and verification
11 that the applicant has met continuing education requirements, as set
12 forth in paragraph (2) and paragraph (3) of this subsection. After
13 the initial expiration of any tax assessor certificates following the
14 effective date of P.L.1999, c.278 (C.54:1-35.25b et al.), each
15 renewal period shall thereafter be for a period of three years. The
16 renewal date shall be 30 days prior to the expiration date of the tax
17 assessor certificate.

18 (2) Prior to the first renewal date of a tax assessor certificate
19 pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) every applicant
20 for renewal shall, on a form prescribed by the Director of the
21 Division of Taxation, furnish proof of having earned a total of at
22 least 50 continuing education credit hours over the prior five-year
23 period. Thereafter, prior to each succeeding renewal date of a tax
24 assessor certificate, every applicant for renewal shall, on a form
25 prescribed by the Director of the Division of Taxation, furnish
26 proof of having earned a total of at least 30 continuing education
27 credit hours over the prior three-year period. For the purposes of
28 this section, one continuing education credit hour means 50 minutes
29 of classroom or lecture time. After verifying that the applicant has
30 fulfilled the continuing education requirement and after receiving a
31 fee of not less than \$50 paid by the applicant to the order of the
32 Treasurer of the State of New Jersey, the Director of the Division of
33 Taxation shall renew the tax assessor certificate. The Director of
34 the Division of Taxation shall determine, by regulation, the
35 circumstances under which an extension of time to complete the
36 requirements for continuing education may be granted by the
37 director.

38 (3) Commencing January 1, 2017, for any tax assessor of a
39 municipality in which one or more Class 3B (Farm Qualified)
40 properties subject to valuation, assessment and taxation pursuant to
41 P.L.1964, c.48 (C.54:4-23.1 et seq.) are located, or for any county
42 assessor, prior to every renewal date of a tax assessor certificate
43 issued to that tax assessor pursuant to P.L.1999, c.278 (C.54:1-
44 35.25b et al.), the applicant for renewal shall, on a form prescribed
45 by the Director of the Division of Taxation, furnish proof of having
46 taken, at least once in the prior three years, the six-hour continuing
47 education course concerning certain aspects of farmland assessment
48 required to be offered, free of charge, by the Division of Taxation in

A3090 SINGLETON, BURZICHELLI

9

1 the Department of the Treasury, in conjunction with the Department
2 of Agriculture, pursuant to subsection b. of section 1 of P.L. _____,
3 c. (C. _____) (pending before the Legislature as this bill).

4 b. There is established within the Division of Taxation in the
5 Department of the Treasury the Tax Assessor Continuing Education
6 Eligibility Board. The board shall consist of six members and be
7 comprised as follows: the Director of the Division of Taxation or
8 his designee, the President of the Association of Municipal
9 Assessors, and the President of the New Jersey Association of
10 County Tax Board Commissioners and County Tax Administrators
11 shall be permanent members. The Director of the Division of
12 Taxation and the President of the Association of Municipal
13 Assessors shall each appoint an additional member who shall serve
14 for a term of two years. The Director of Government Services at
15 Rutgers University shall serve ex officio. Any vacancy in the
16 membership of the board shall be filled for the unexpired term in
17 the manner provided by the original appointment. The first meeting
18 of the board shall be held at the call of the Director of the Division
19 of Taxation, and thereafter the board shall meet annually and shall
20 hold at least one additional meeting within each 12-month period.
21 The board shall establish the curriculum areas and the number of
22 hours in each curriculum area that an assessor shall complete in
23 order to renew certification.

24 c. When the holder of a tax assessor certificate has allowed the
25 certificate to lapse by failing to renew the certificate, a new
26 application and certificate shall be required. If application is made
27 within six months of the expiration of the certificate, then
28 application may be made in the same manner as a renewal, but with
29 an additional late renewal fee of \$50.

30 d. The Director of the Division of Taxation, in accordance with
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), shall adopt such regulations as are necessary to effectuate the
33 provisions of this section.

34 (cf: P.L.1999, c.278, s.1)

35

36 6. Section 1 of P.L.1968, c.455 (C.54:4-23.13a) is repealed.

37

38 7. This act shall take effect immediately, except that it shall be
39 applicable to tax years commencing with tax year 2014.

40

41

42

STATEMENT

43

44 This bill makes various revisions to the "Farmland Assessment
45 Act of 1964."

46 The bill raises from \$500 to \$1,000 the minimum gross sales and
47 payments standard for typical agricultural or horticultural lands to
48 qualify for farmland assessment on the first five acres of land. This

1 change would not apply to woodland managed under a woodland
2 management plan, which would continue as under current law to
3 qualify for farmland assessment with minimum gross sales and
4 payments of \$500, nor to land subject to a forest stewardship plan,
5 which under current law has no minimum income qualifying
6 standard for farmland assessment. The bill would also provide that
7 income imputed to land used for grazing would be income imputed
8 to cropland pastured as well as permanent pasture land used for
9 grazing.

10 However, the bill requires the Director of the Division of
11 Taxation in the Department of the Treasury to annually adjust the
12 minimum gross sales, payments, fees, and imputed income
13 requirements for the first five acres, as established by this bill, in
14 direct proportion to the increase in the Consumer Price Index for all
15 urban consumers in the New York City area as reported by the
16 United States Department of Labor. In addition, the bill requires
17 the State Farmland Evaluation Advisory Committee (SFEAC) to
18 review, every three years, the minimum gross sales, payments, fees,
19 and imputed income requirements for the first five acres, and
20 authorizes that committee to adopt regulations to raise the amount
21 of those minimums to levels the SFEAC determines appropriate
22 after completing each such review.

23 The bill also amends current law to provide that the farmland
24 assessment application form would: (1) have to be approved by the
25 State Board of Agriculture; (2) include a plain language recitation
26 and explanation of the guidelines describing common agricultural
27 and horticultural practices which are to be developed and adopted
28 pursuant to the bill; and (3) have to be submitted with proofs of
29 sales of agricultural or horticultural products, and of any other
30 payments, fees, or income received from the agricultural or
31 horticultural use of the land, in the prior year, or clear evidence of
32 anticipated gross sales, payments, fees, or other income, amounting
33 to the minimum sum of \$1,000 for standard farmland, \$500 for
34 managed woodland, or in either case such sums as may be
35 established by (1) the Director of the Division of Taxation through
36 the automatic inflation adjuster described above, or (2) the SFEAC
37 as provided in the bill.

38 The bill requires the Director of the Division of Taxation in the
39 Department of the Treasury to include with each farmland
40 assessment application a letter or other document explaining any
41 changes to the law, rules, regulations, and guidelines on farmland
42 assessment that have occurred in the prior tax year and which would
43 be newly in effect in the tax year for which the application is being
44 submitted. The bill would require a landowner whose farm
45 management unit is less than 10 acres in size to submit a narrative
46 and a sketch relating to the agricultural or horticultural uses on the
47 farm management unit, including information on the number of
48 acres that will be actively devoted to such uses. The SFEAC would

1 be required every five years to generally review the farmland
2 assessment application form and to make recommendations thereon
3 to the Director of the Division of Taxation.

4 The bill establishes a civil penalty of up to \$5,000 for a gross and
5 intentional misrepresentation on an application, provides that such
6 penalties collected by a municipality or county be divided equally
7 between the municipality or county and the State, and dedicates the
8 penalty revenue collected to administering and enforcing the
9 “Farmland Assessment Act of 1964.”

10 Because this bill establishes new and more stringent standards to
11 qualify for farmland assessment, landowners who previously met
12 the farmland assessment standards under the current law but cannot
13 or do not meet the new standards will not be required to pay the
14 roll-back tax at the time of that disqualification provided they do
15 not abandon the agricultural or horticultural use. However, because
16 at that point the property would no longer be farmland assessed
17 under the new standards, the landowner will then, and thereafter, be
18 required to pay the full property taxes on the land just as any other
19 property taxpayer who does not own farmland must do.

20 The bill requires the State Board of Agriculture to develop and
21 adopt advisory guidelines describing common agricultural and
22 horticultural practices which are to be distributed to, and which may
23 be used by, municipal tax assessors, county assessors, county tax
24 administrators, and other appropriate local government officials to
25 assist them in determining whether land may be deemed to be in
26 agricultural use, horticultural use, or actively devoted to agricultural
27 or horticultural use pursuant to the “Farmland Assessment Act of
28 1964.” The bill would require the Division of Taxation, in
29 conjunction with the Department of Agriculture, to annually
30 provide a six-hour, free of charge, continuing education course, to
31 municipal tax assessors, county assessors, county tax
32 administrators, and other appropriate local government officials
33 explaining the guidelines.

34 The bill provides that starting January 1, 2017, for any tax
35 assessor of a municipality in which one or more Class 3B (Farm
36 Qualified) properties (that is, properties that are farmland assessed)
37 are located, or for any county assessor, the tax assessor, as a
38 condition of relicensing, must provide proof of having taken, at
39 least once in the prior three years, the six-hour continuing education
40 course concerning certain aspects of farmland assessment required
41 under the bill to be offered, free of charge, by the Division of
42 Taxation, in conjunction with the Department of Agriculture.

43 The bill further requires the State Board of Agriculture, the
44 Department of Agriculture, and the Department of Environmental
45 Protection to consult with the New Jersey Forestry Association and
46 the New Jersey Division of the Society of American Foresters on
47 any issues pertaining to woodland management or forest
48 stewardship, and farmland assessment.

A3090 SINGLETON, BURZICHELLI

12

1 The bill is applicable to tax years commencing with tax year
2 2014.

3 Lastly, the bill repeals section 1 of P.L.1968, c.455 (C.54:4-
4 23.13a) concerning the timely submittal of certain farmland
5 assessment applications, because it is no longer applicable.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3090

STATE OF NEW JERSEY

DATED: SEPTEMBER 27, 2012

The Assembly Agriculture and Natural Resources Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 3090.

This committee substitute makes various revisions to the “Farmland Assessment Act of 1964.”

The committee substitute raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to:

- 1) woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500; nor
- 2) land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment.

The committee substitute would also provide that income imputed to land used for grazing would be income imputed to cropland being used as pasture from time to time, as well as permanent pasture land used for grazing.

In addition, subsection a. of section 1 of the committee substitute requires the Division of Taxation in the Department of the Treasury, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices for purposes of advising tax assessors on farmland assessment applications and issues. This provision specifies that these guidelines are advisory, are to be distributed to, and may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” Furthermore, the committee substitute would allow tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the

Department of Agriculture, about particular farmland assessment applications and issues.

The committee substitute requires the Division of Taxation, in conjunction with the Department of Agriculture, to also provide a continuing education course to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The committee substitute requires the course to be provided at time intervals established by the division but at least biennially and free of charge.

The committee substitute provides that, starting January 1, 2017 for any tax assessor of a municipality or county in which one or more Class 3B (Farm Qualified) properties (that is, properties that are farmland assessed) are located, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, this continuing education course concerning certain aspects of farmland assessment.

The committee substitute:

1) renames the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee (SFEC);

2) requires the SFEC to review the minimum gross sales and payments standards for the first five acres every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation; and

3) authorizes the SFEC to adopt regulations to raise the amount of those minimums for the first five acres to levels the committee determines appropriate after completing each such review.

The committee substitute also expands the membership of the SFEC to five members. Its membership would be:

1) the Director of the Division of Taxation, the Dean of the College of Agriculture at Rutgers, The State University, and the Secretary of Agriculture, as provided in current law; and

2) two additional members – a municipal tax assessor, county assessor, or county tax administrator, appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of Agriculture, also appointed by the Governor with the advice and consent of the Senate.

Each appointed member would serve for a term of three years and may be appointed to successive terms.

The committee substitute amends current law to provide that the farmland assessment application form would:

1) be prescribed by the Division of Taxation in consultation with the State Board of Agriculture;

2) include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices which are to be developed and adopted pursuant to the committee substitute; and

3) have to be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or imputed income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or imputed income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case, such sums as may be established by the SFEC as authorized under the committee substitute.

The committee substitute also requires applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program.

The committee substitute further provides that, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the bill.

The committee substitute requires the Director of the Division of Taxation to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The committee substitute would require a landowner whose farm management unit is less than seven acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The SFEC would be required every five years to generally review the farmland assessment application form and to make recommendations thereon to the Director of the Division of Taxation.

The committee substitute establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application, provides that such penalties collected by a municipality or county be equally divided between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the "Farmland Assessment Act of 1964."

Because this committee substitute establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the current law but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The committee substitute allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

The committee substitute is applicable to tax years commencing with tax year 2014. Lastly, the committee substitute repeals section 1 of P.L.1968, c.455 (C.54:4-23.13a) concerning the timely submittal of certain farmland assessment applications, because it is no longer applicable.

As reported, the Assembly Committee Substitute for Assembly Bill No. 3090 is identical to the Senate Committee Substitute (2R) for Senate No. 589 as amended and reported by the Assembly Agriculture and Natural Resources Committee on September 27, 2012.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3090

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2013

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3090 (ACS).

This bill makes various revisions to the “Farmland Assessment Act of 1964.”

FARMLAND ASSESSMENT STANDARDS

The bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change will not apply to:

- 1) woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500; or
- 2) land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment.

The bill also provides that income imputed to land used for grazing will be income imputed to cropland being used as pasture from time to time, as well as permanent pasture land used for grazing.

Because this bill establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the current law but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

FARMLAND ASSESSMENT GUIDELINES

Subsection a. of section 1 of the bill requires the Division of Taxation in the Department of the Treasury, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices for purposes of advising tax assessors on farmland assessment applications and issues. This provision specifies that these guidelines are advisory, are to be distributed to, and may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964." Furthermore, the bill allows tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, about particular farmland assessment applications and issues.

ASSESSOR CONTINUING EDUCATION

The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide a continuing education course to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill requires the course to be provided at time intervals established by the division but at least biennially and free of charge.

The bill provides that, starting January 1, 2017 for any tax assessor of a municipality or county in which one or more Class 3B (Farm Qualified) properties (that is, properties that are farmland assessed) are located, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, this continuing education course concerning certain aspects of farmland assessment.

STATE FARMLAND EVALUATION COMMITTEE

The bill:

1) renames the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee (SFEC);

2) requires the SFEC to review the minimum gross sales and payments standards for the first five acres every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation; and

3) authorizes the SFEC to adopt regulations to raise the amount of those minimums for the first five acres to levels the committee determines appropriate after completing each such review.

The bill also expands the membership of the SFEC to five members. Its membership will be:

1) the Director of the Division of Taxation, the Dean of the College of Agriculture at Rutgers, The State University, and the Secretary of Agriculture, as provided in current law; and

2) two additional members – a municipal tax assessor, county assessor, or county tax administrator, appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of Agriculture, also appointed by the Governor with the advice and consent of the Senate.

Each appointed member will serve for a term of three years and may be appointed to successive terms.

FARMLAND ASSESSMENT APPLICATION

The bill amends current law to provide that the farmland assessment application form will:

1) be prescribed by the Division of Taxation in consultation with the State Board of Agriculture;

2) include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices which are to be developed and adopted pursuant to the bill; and

3) have to be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or imputed income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or imputed income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case, such sums as may be established by the SFEC as authorized under the bill.

The bill also requires applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program.

The bill further provides that, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the bill.

The bill requires the Director of the Division of Taxation to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted.

The bill requires a landowner whose farm management unit is less than seven acres in size to submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses.

The bill requires the SFEC to generally review the farmland assessment application form every five years and to make recommendations thereon to the Director of the Division of Taxation.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application, provides that such penalties collected by a municipality or county be equally divided between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the “Farmland Assessment Act of 1964.”

The bill repeals section 1 of P.L.1968, c.455 (C.54:4-23.13a) concerning the timely submittal of certain farmland assessment applications, because it is no longer applicable.

The bill is applicable to tax years commencing with tax year 2014.

As reported, this bill is identical to the Senate Bill No. 589 (SCS) (3R) as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State will incur additional costs. However, it is assumed that some of these costs will be partially offset from civil penalties paid to the State.

The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts, as some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

The OLS notes further that the bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide, free of charge, a continuing education course explaining farmland assessment guidelines to municipal and county tax assessors, county tax administrators, and other local government officials.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3090
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: FEBRUARY 11, 2013

SUMMARY

- Synopsis:** Revises certain provisions of farmland assessment law.
- Type of Impact:** Increased State cost partially offset by fines; increased local revenue.
- Agencies Affected:** Department of Agriculture, Department of the Treasury, and Department of Environmental Protection.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|------------------------------------|----------------------|----------------------|
| State Cost | Indeterminate – See comments below | | |
| State Revenue | Indeterminate – See comments below | | |
| Local Revenue | Indeterminate – See comments below | | |

- The Office of Legislative Services (OLS) estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State.
- The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.
- The bill requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide, free of charge, a continuing education course explaining farmland assessment guidelines to municipal and county tax assessors, county tax administrators, and other local government officials.

BILL DESCRIPTION

The Assembly Committee Substitute for Assembly Bill No. 3090 of 2012 makes various revisions to the “Farmland Assessment Act of 1964.” The bill raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. This change would not apply to woodland managed under a woodland management plan, which would continue as under current law to qualify for farmland assessment with minimum gross sales and payments of \$500, nor to land subject to a forest stewardship plan, which under current law has no minimum income qualifying standard for farmland assessment. The bill requires the State Farmland Evaluation Committee to review these minimums every three years or sooner, and authorizes it to adopt regulations to raise the amount of those minimums to levels the committee determines appropriate. The bill also provides that income imputed to land used for grazing would be income imputed to cropland pastured as well as permanent pasture land used for grazing.

The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected are to be divided equally between the municipality or county and the State, and dedicates the penalty revenue collected to administering and enforcing the “Farmland Assessment Act of 1964.”

The bill establishes new and more stringent standards to qualify for farmland assessment. Landowners who previously met the farmland assessment standards under the current law, but cannot or do not meet the new standards will not be required to pay the roll-back tax at the time of that disqualification, provided the land remains in agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner would then be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do.

The bill requires the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, to develop and adopt guidelines describing generally accepted agricultural and horticultural practices which are to be distributed to, and which may be used by, municipal and county tax assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964.” The division, after consultation with the State Board of Agriculture, is required to include with each farmland assessment application, a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. The bill would require a landowner whose farm management unit is less than seven acres in size, to submit with the application form a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. The division, in conjunction with the Department of Agriculture, is also required to offer at such time intervals as may be established by the division but at least biennially, and free of charge, a continuing education course to municipal and county tax assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The bill requires that starting January 1, 2017, for any municipal and county tax assessor in which farmland assessed properties are located, the assessor as a condition of relicensing must provide proof of having taken at least once in the prior three years the continuing education course.

The bill further requires the State Board of Agriculture, the Department of Agriculture, and the Department of Environmental Protection to consult with the New Jersey Forestry Association

and the New Jersey Division of the Society of American Foresters on any issues pertaining to woodland management or forest stewardship. The bill also allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm.

This bill would be applicable to tax years commencing with tax year 2014.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that based on the additional regulatory, educational, informational and review requirements in the bill relating to farmland assessment applications, the State would incur additional costs. However, it is assumed that some of these costs would be partially offset from civil penalties paid to the State. The bill establishes a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an application to qualify for farmland assessment. The penalties collected would be divided equally between the municipality or county and the State, and the penalty revenue collected would be dedicated to administering and enforcing the “Farmland Assessment Act of 1964.”

The OLS notes that it is likely that property tax revenues of some municipalities and counties would increase by varying amounts since some properties currently assessed as farmland would not qualify based on the new, more stringent standards under the bill, and therefore would be subject to full property taxes.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Joseph A. Hroncich
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3090**

with Assembly Floor Amendments
(Proposed by Assemblyman SINGLETON)

ADOPTED: FEBRUARY 14, 2013

These floor amendments would:

(1) require the State Board of Agriculture and the Department of Agriculture to develop the farmland assessment guidelines within one year after enactment of the bill into law;

(2) require the Division of Taxation to review the guidelines, and, upon its approval thereof, adopt them as rules and regulations;

(3) change the date from January 1, 2017 to January 1, 2018 with respect to implementation of the provision in the bill concerning tax assessors furnishing proof of having taken the farmland assessment continuing education course required by the bill; and

(4) provide that the bill, although it would take effect immediately, would be applicable to tax years commencing with tax year 2015 rather than tax year 2014.