

40:12-16

**LEGISLATIVE HISTORY CHECKLIST**  
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**NJSA:** 40:12-16

(Farmland  
preservation--permit  
counties to use  
taxes for  
aquisition)

**LAWS OF:** 1991

**CHAPTER:** 283

**Bill No:** A60

**Sponsor(s):** Schluter and Shim

**Date Introduced:** Pre-filed

**Committee: Assembly:** Conservation

**Senate:** Natural Resources

**Amended during passage:** Yes      Amendments during passage  
denoted by asterisks.

**Date of Passage: Assembly:** October 1, 1990

**Senate:** July 25, 1991

**Date of Approval:** September 18, 1991

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement: Assembly:** Yes

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

**KBG/SLJ**

[FIRST REPRINT]  
ASSEMBLY, No. 60

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen SCHLUTER, SHINN and Russo

1 AN ACT concerning farmland preservation by certain counties  
2 and amending P.L.1989, c.30.

3

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

6 1. The title of P.L.1989, c.30 is amended to read as follows:

7 AN ACT concerning open space and farmland preservation by  
8 certain counties, and supplementing Title 40 of the Revised  
9 Statutes.

10 (cf: P.L.1989, c.30)

11 2. Section 1 of P.L.1989, c.30 (C.40:12-16) is amended to read  
12 as follows:

13 1. The governing body of any county in which the voters of the  
14 county have approved, in a general or special election, a  
15 proposition authorizing the acquisition of lands for conservation  
16 as open space <sup>1</sup>[or] and/or<sup>1</sup> as farmland, may annually raise by  
17 taxation, including for purpose of debt service payments on  
18 indebtedness issued for the acquisition of open space <sup>1</sup>[or]  
19 and/or<sup>1</sup> farmland, a sum not to exceed the amount or rate set  
20 forth in the proposition approved by the voters, for the  
21 acquisition of land or water areas, and any existing improvements  
22 thereon, within the county for conservation as open space <sup>1</sup>[or]  
23 and/or<sup>1</sup> as<sup>1</sup> farmland. Amounts raised by taxation hereunder shall  
24 be deposited in a county open space and farmland preservation  
25 trust fund and shall be used exclusively for the acquisition of  
26 open space areas <sup>1</sup>[or] and/or<sup>1</sup> farmland. Selection of open space  
27 areas for acquisition shall be in accordance with a park,  
28 recreational and open space plan prepared and adopted by the  
29 county. Revenue to be expended for the acquisition of farmland  
30 may be expended pursuant to a farmland preservation plan  
31 prepared and adopted by the county or pursuant to the provisions  
32 of the "Agriculture Retention and Development Act," P.L.1983,  
33 c.32 (C.4:1C-11 et al.) or any other law adopted by the  
34 Legislature for the purpose of preserving farmland.

35 Whenever the county shall determine that it is necessary that  
36 any public utility facilities such as tracks, pipes, mains, conduits,  
37 cables, wires, towers, poles and other equipment and appliances  
38 of any public utility, as defined in R.S.48:2-13, which are now, or  
39 hereafter may be, located in, on, along, over or under any open

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:

<sup>1</sup> Assembly ANR committee amendments adopted September 13, 1990.

1 space area acquired by the county, should be removed from such  
2 area, the public utility owning or operating such facilities shall  
3 relocate or remove the same in accordance with the open space  
4 plan prepared and adopted by the county; except that the cost  
5 and expenses of such relocation or removal, including the cost of  
6 installing such facilities in a new location or new locations, and  
7 the cost of any lands, or any rights or interests in lands, and any  
8 other rights acquired to accomplish such relocation or removal,  
9 less the cost of any lands or any rights of the public utility paid  
10 to the public utility in connection with the relocation or removal  
11 of such property, shall be ascertained and paid by the county as a  
12 part of the cost of the acquisition. In case of any such relocation  
13 or removal of facilities, as aforesaid, the public utility owning or  
14 operating the same, its successors or assigns, may maintain and  
15 operate such facilities, with the necessary appurtenances, in the  
16 new location, for as long a period, and upon the same terms and  
17 conditions, as it had the right to maintain and operate such  
18 facilities in their former location.

19 As used in this act:

20 "Acquisition" means the securing of a fee simple absolute or a  
21 lesser interest in land or water areas, including easements  
22 restricting development, by gift, purchase, devise or  
23 condemnation.

24 "Farmland" means land <sup>1</sup>[identified as prime, unique, or of  
25 Statewide importance according to criteria adopted by the New  
26 Jersey State Soil Conservation Committee, and land of local  
27 importance as identified by local agricultural preservation  
28 agencies established by law and in cooperation with local soil  
29 conservation districts, and which qualifies for lower property  
30 tax,] actively devoted to agricultural or horticultural use that is  
31 valued, assessed and taxed<sup>1</sup> pursuant to the "Farmland  
32 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.)  
33 <sup>1</sup>[and any other land on the farm which is necessary to  
34 accommodate farm practices as determined by the Department  
35 of Agriculture]<sup>1</sup> .

36 "Open space" means land or water areas to be retained in a  
37 largely natural or undeveloped state, for purposes of, among  
38 other things, providing parkland or green spaces, protecting  
39 ecologically sensitive areas, preserving flora and wildlife, or  
40 protecting or preserving areas of scenic, historic and cultural  
41 value, while at the same time affording, whenever practicable,  
42 public outdoor recreational opportunities for the county's  
43 residents. "Open space" may include a recreational area such as  
44 a golf course if the acquisition subserves the objective of this act  
45 of protecting a largely undeveloped area from future  
46 development.

47 (cf: P.L.1989, c.30, s.1)

48 3. Section 2 of P.L.1989, c.30 (C.40:12-17) is amended to read  
49 as follows:

50 2. Land or water areas, and any improvements thereon,

1 acquired pursuant to this act shall be held in a county open space  
2 and farmland preservation trust and shall be used exclusively for  
3 purposes authorized under this act. Upon a finding that the  
4 purposes of this act might otherwise be better served or that an  
5 open space <sup>1[or]</sup> and/or<sup>1</sup> farmland area is required for another  
6 public use, which finding shall be set forth in a resolution adopted  
7 by the governing body of the county, the governing body may  
8 convey, through sale, exchange or other disposition, title to, or a  
9 lesser interest in, an open space <sup>1[or]</sup> and/or<sup>1</sup> farmland area  
10 acquired under this act and described in the resolution, provided  
11 the governing body shall replace any open space <sup>1[or]</sup> and/or<sup>1</sup>  
12 farmland conveyed under this section by land or water areas at  
13 least equal in size to the open space <sup>1[or]</sup> and/or<sup>1</sup> farmland area  
14 conveyed, and any monies derived from the conveyance shall be  
15 deposited in the county open space and farmland preservation  
16 trust fund for use in the acquisition of open space <sup>1[or]</sup> and/or<sup>1</sup>  
17 farmland. Conveyance shall be made in accordance with the  
18 "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et  
19 seq.). In the event of conveyance by exchange, the land or water  
20 area to be transferred to the county open space and farmland  
21 preservation trust shall be at least equal in value to that of the  
22 property conveyed from the trust.

23 (cf: P.L.1989, c.30, s.2)

24 4. Section 3 of P.L.1989, c.30 (C.40:12-18) is amended to read  
25 as follow:

26 3. Amounts raised by taxation for the acquisition of open  
27 space <sup>1[or]</sup> and/or<sup>1</sup> farmland pursuant to this act shall be  
28 apportioned by the county board of taxation among the  
29 municipalities within the county in accordance with R.S.54:4-49.  
30 The amounts so apportioned shall be assessed, levied and  
31 collected in the same manner and at the same time as other  
32 county taxes. The tax collected hereunder shall be referred to as  
33 the "County Open Space and Farmland Preservation Trust Fund  
34 Tax".

35 (cf: P.L.1989, c.30, s.3)

36 5. Section 4 of P.L.1989, c.30 (C.40:12-19) is amended to read  
37 as follows:

38 4. The governing body of the county shall annually appropriate  
39 such amounts as it may deem necessary for the care, custody,  
40 policing and maintenance of, including improvements to, open  
41 space, which amounts shall be in addition to any monies deposited  
42 in the county open space and farmland preservation trust fund.  
43 The governing body of the county shall have full control of the  
44 open space and may adopt a resolution providing for suitable  
45 rules, regulations and bylaws for their use, provide for the  
46 enforcement thereof, and, when appropriate, charge and collect  
47 reasonable fees for use of the open space or for activities  
48 conducted thereon.

49 (cf: P.L.1989, c.30, s.4)

50 6. This act shall take effect immediately and shall

1 retrospectively apply to any county whose voters have approved a  
2 proposition to acquire open space within two years of the  
3 effective date of P.L.1989, c.30.

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NATURAL RESOURCES

7

8 Authorizes counties to raise by taxation revenue for the  
9 acquisition of farmland.

1 retrospectively apply to any county whose voters have approved a  
2 proposition to acquire open space within two years of the  
3 effective date of P.L.1989, c.30.

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## STATEMENT

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8 This bill would authorize counties to raise revenue by  
9 increasing its property tax levy in order to acquire farmland. A  
10 county may exercise this taxation power when the voters of a  
11 county approve by referendum an annual sum to be expended.  
12 Under current law this revenue may only be expended for open  
13 space areas. This bill would allow the revenue to additionally be  
14 expended for farmland. Expenditures may be pursuant to a  
15 county farmland preservation plan or pursuant to a State  
16 farmland preservation law. The bill also clarifies that the  
17 counties may acquire development easements with the revenue  
18 raised.

19 The bill would apply retrospectively so that counties that have  
20 approved referendum to expend revenue for open space would  
21 additionally be allowed to expend the revenue for farmland  
22 without the need to go back to the voters for additional  
23 authorization.

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## NATURAL RESOURCES

27

28 Authorizes counties to raise by taxation revenue for the  
29 acquisition of farmland.

ASSEMBLY CONSERVATION AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 60**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 13, 1990

The Assembly Conservation and Natural Resources Committee favorably reports Assembly Bill No. 60 with Assembly committee amendments.

This bill would authorize counties to raise revenue by increasing their property tax levies in order to acquire farmland. A county may exercise this taxation power when the voters of the county approve by referendum an annual sum to be expended. Under current law such revenue may be raised and expended for open space areas. This bill would clarify the law to indicate that such revenue may also be expended for farmland. Expenditures may be pursuant to a county farmland preservation plan or pursuant to a State farmland preservation law. The bill would also clarify that the counties may acquire development easements with the revenue raised.

The bill would apply retrospectively so that counties that have approved referendums to expend revenue for open space would also be able to expend revenue for farmland without the need to go back to the voters for additional authorization.

The committee amended the bill to simplify the definition for "farmland" and to clarify that the revenue raised may be used for acquisition of open space "and/or" farmland.

The Department of Agriculture and the New Jersey Recreation and Parks Association testified in support of the bill as amended.

This bill was pre-filed for introduction in the 1990 session pending technical review, which has been performed.

SENATE NATURAL RESOURCES AND  
AGRICULTURE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**ASSEMBLY, No. 60**

**STATE OF NEW JERSEY**

DATED: DECEMBER 6, 1990

The Senate Natural Resources and Agriculture Committee favorably reports Assembly Bill No. 60 (1R).

This bill would authorize counties to raise revenue by increasing their property tax levies in order to acquire farmland. A county may exercise this taxation power when the voters of the county approve by referendum an annual sum to be expended. Under current law such revenue may be raised and expended for open space areas. This bill would clarify the law to indicate that such revenue may also be expended for farmland. Expenditures may be pursuant to a county farmland preservation plan or pursuant to a State farmland preservation law. The bill would also clarify that the counties may acquire development easements with the revenue raised.

The bill would apply retrospectively so that counties that have approved referendums to expend revenue for open space would also be able to expend revenue for farmland without the need to go back to the voters for additional authorization.