

54:4-23.1 ET SEQ.

March 18, 1969

LEGISLATIVE HISTORY OF R.S. 54:4-23.1 et seq.
(Farmland Assessment Act)

- L. 1964, Chapter 48 - S303
 - April 13 - Introduced by Waddington and Dumont.
 - April 20 - Passed in Senate.
 - May 4 - Passed in Assembly.
 - May 4 - Approved, Chapter 48.
 - Not amended during passage.
 - No statement.

This implements the amendment to Article VIII, section 1, paragraph 1 of the state constitution, approved in referendum on November 5, 1963.

The following reports and hearings are applicable:

974.90 New Jersey. Legislature. Senate Committee
T235 on Revision and Amendment of Laws.
1963b
Public hearing on SCR16... held April 15, 1963.

974.90 New Jersey. Governor's Farmland Assessment
T235 Committee.
1963k Report dated March 20, 1963 Trenton, New Jersey.

[ENCLOSED -- 2 PAGES]

974.90 New Jersey. Governor's Farmland Assessment Committee.
T235 Report dated April 16, 1964.
1964J

[ENCLOSED -- 1 PAGE]

974.901 New Jersey. State Farmland Evaluation Advisory
T29 Committee.
Report pursuant to Chapter 48, Laws of 1964...
Farmland Assessment Act of 1964. Trenton, New Jersey
1964.

[CONTAINS NO LEGISLATIVE HISTORY OR RECOMMENDATIONS FOR CHANGE]

For newspaper articles see the folder New Jersey-Assessment (Farmland) 1961-1964 in the vertical file at the State Library.

see also:

JH/mau

Haines, M.G.
The Farmland Assessment amendment; its
application and administration.
974.905 42 New Jersey Municipalities 3 (Jan 1965)
M96

974.90 NEW JERSEY. LEGISLATURE. SENATE. REVENUE, FINANCE +
T235 APPROP. COMM.
1975j P.H. ON S935 + S1144... HELD NOV. 25, 1975.
STATEMENT BY ASST. SECY. OF AGRICULTURE, P. 15-18 [ENCLOSED]

RECEIVED

CHAPTER 48 LAWS OF N. J. 1964
APPROVED 5-11-64

SENATE, No. 303

STATE OF NEW JERSEY

INTRODUCED APRIL 13, 1964

By Senators WADDINGTON and DUMONT

(Without Reference)

AN ACT concerning the valuation, assessment and taxation of land actively devoted to agricultural or horticultural uses; defining such uses; providing for penalties and tax lien; supplementing Title 54 of the Revised Statutes; and making an appropriation.

1 WHEREAS, On November 5, 1963 an amended Article VIII, Section 1, paragraph 1 of the Constitution was duly adopted and became effective on
2 December 5, 1963; and
3

4 WHEREAS, By said amendment it was provided that the Legislature shall
5 enact laws to provide that the value of land, not less than 5 acres in
6 area, which is determined by the assessing officer of the taxing jurisdiction to be actively devoted to agricultural or horticultural use, and to
7 have been so devoted for at least 2 successive years immediately preceding the tax year in issue, shall for local tax purposes, on application
8 of the owner, be that value which such land has for agricultural or
9 horticultural use; and
10
11

12 WHEREAS, Said Constitutional Amendment further provided that any such
13 laws shall provide that when land which has been valued in this manner
14 for local tax purposes is applied to a use other than for agricultural or
15 horticultural it shall be subject to additional taxes as provided in said
16 amendment; and

17 WHEREAS, It was further provided by said amendment that such laws shall
18 provide for the equalization of assessments of land valued in accord-
19 ance with the said provisions of said amendment and for the assessment
20 and collection of any additional taxes levied thereupon and shall in-
21 clude such other provisions as shall be necessary to carry out the pro-
22 visions of said amendment; now, therefore,

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. This act shall be known and referred to by its short title, the "Farm-
2 land Assessment Act of 1964."

1 2. For general property tax purposes, the value of land, not less than
2 5 acres in area, which is actively devoted to agricultural or horticultural
3 use and which has been so devoted for at least the 2 successive years im-
4 mediately preceding the tax year in issue, shall, on application of the owner,
5 and approval thereof as hereinafter provided, be that value which such
6 land has for agricultural or horticultural use.

1 3. Land shall be deemed to be in agricultural use when devoted to the
2 production for sale of plants and animals useful to man, including but not
3 limited to: forages and sod crops; grains and feed crops; dairy animals
4 and dairy products; poultry and poultry products; livestock, including beef
5 cattle, sheep, swine, horses, ponies, mules or goats, including the breeding
6 and grazing of any or all of such animals; bees and apiary products; fur
7 animals; trees and forest products; or when devoted to and meeting the re-
8 quirements and qualifications for payments or other compensation pursuant
9 to a soil conservation program under an agreement with an agency of the
10 Federal Government.

1 4. Land shall be deemed to be in horticultural use when devoted to the
2 production for sale of fruits of all kinds, including grapes, nuts and berries;
3 vegetables; nursery, floral, ornamental and greenhouse products; or when de-
4 voted to and meeting the requirements and qualifications for payments or

5 other compensation pursuant to a soil conservation program under an agree-
6 ment with an agency of the Federal Government.

1 5. Land shall be deemed to be actively devoted to agricultural or horti-
2 cultural use when the gross sales of agricultural or horticultural products
3 produced thereon together with any payments received under a soil conser-
4 vation program have averaged at least \$500.00 per year during the 2-year
5 period immediately preceding the tax year in issue, or there is clear evidence
6 of anticipated yearly gross sales and such payments amounting to at least
7 \$500.00 within a reasonable period of time.

1 6. Land which is actively devoted to agricultural or horticultural use
2 shall be eligible for valuation, assessment and taxation as herein provided
3 when it meets the following qualifications:

4 (a) It has been so devoted for at least the 2 successive years immediately
5 preceding the tax year for which valuation under this act is requested;

6 (b) The area of such land is not less than 5 acres when measured in
7 accordance with the provisions of section 11 hereof; and

8 (c) Application by the owner of such land for valuation hereunder is
9 submitted on or before October 1 of the year immediately preceding the tax
10 year to the assessor of the taxing district in which such land is situated on
11 the form prescribed by the Director of the Division of Taxation.

1 7. The assessor in valuing land which qualifies as land actively devoted
2 to agricultural or horticultural use under the tests prescribed by this act, and
3 as to which the owner thereof has made timely application for valuation, as-
4 sessment and taxation hereunder for the tax year in issue, shall consider
5 only those indicia of value which such land has for agricultural or horticul-
6 tural use. In addition to use of his personal knowledge, judgment and ex-
7 perience as to the value of land in agricultural or horticultural use, he shall,
8 in arriving at the value of such land, consider available evidence of agricul-
9 tural and horticultural capability derived from the soil survey data at
10 Rutgers, The State University, the National Co-operative Soil Survey, and
11 the recommendations of value of such land as made by any county or State-
12 wide committee which may be established to assist the assessor.

1 8. When land which is in agricultural or horticultural use and is being
2 valued, assessed and taxed under the provisions of this act, is applied to a
3 use other than agricultural or horticultural, it shall be subject to additional
4 taxes, hereinafter referred to as roll-back taxes, in an amount equal to the
5 difference, if any, between the taxes paid or payable on the basis of the
6 valuation and the assessment authorized hereunder and the taxes that would
7 have been paid or payable had the land been valued, assessed and taxed as
8 other land in the taxing district, in the current tax year (the year of change
9 in use) and in such of the 2 tax years immediately preceding, in which the
10 land was valued, assessed and taxed as herein provided.

11 If in the tax year in which a change in use of the land occurs, the land
12 was not valued, assessed and taxed under this act, then such land shall be
13 subject to roll-back taxes for such of the 2 tax years, immediately preceding,
14 in which the land was valued, assessed and taxed hereunder.

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

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

20 (b) The amount of the land assessment for the particular tax year by
21 multiplying such full and fair value by the average real property assess-
22 ment ratio of the taxing district, as determined by the county board of tax-
23 ation for the purposes of the county equalization table for such year, pur-
24 suant to sections 54:3-17 to 19 of the Revised Statutes;

25 (c) The amount of the additional assessment on the land for the par-
26 ticular tax year by deducting the amount of the actual assessment on the
27 land for that year from the amount of the land assessment determined under
28 (b) hereof; and

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

1 9. The assessment, collection, apportionment and payment over of the
2 roll-back taxes imposed by section 8, the attachment of the lien for such taxes,
3 and the right of a taxing district, owner or other interested party to review
4 any judgment of the county board of taxation affecting such roll-back taxes,
5 shall be governed by the procedures provided for the assessment and taxa-
6 tion of omitted property under chapter 413 of the laws of 1947. Such pro-
7 cedures shall apply to each tax year for which roll-back taxes may be im-
8 posed, notwithstanding the limitation prescribed in section 1 of said chapter
9 respecting the periods for which omitted property assessments may be
10 imposed.

1 10. The Director of the Division of Taxation in equalizing the value of
2 land assessed and taxed under this act for the purposes of State school
3 aid, and each county board of taxation in equalizing such land for the pur-
4 poses of determining the "apportionment valuation" under section 54:4-49
5 of the Revised Statutes, shall determine the true value of such land on the
6 basis of its agricultural or horticultural use. The director shall promulgate
7 rules and regulations to effectuate the purposes of this section.

1 11. In determining the total area of land actively devoted to agricul-
2 tural or horticultural use there shall be included the area of all land under
3 barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds,
4 streams, irrigation ditches and like facilities, but land under and such addi-
5 tional land as may be actually used in connection with the farmhouse shall
6 be excluded in determining such total area.

1 12. All structures, which are located on land in agricultural or horticul-
2 tural use and the farmhouse and the land on which the farmhouse is located,
3 together with the additional land used in connection therewith, shall be valued,
4 assessed and taxed by the same standards, methods and procedures as other
5 taxable structures and other land in the taxing district.

1 13. Eligibility of land for valuation, assessment and taxation under this
2 act shall be determined for each tax year separately. Application shall be
3 submitted by the owner to the assessor of the taxing district in which such

4 land is situated on or before October 1 of the year immediately preceding the
5 tax year for which such valuation, assessment and taxation are sought. An
6 application once filed with the assessor for the ensuing tax year may not be
7 withdrawn by the applicant after October 1 of the pretax year.

8 If a change in use of the land occurs between October 1 and December
9 31 of the pretax year, either the assessor or the county board of taxation
10 shall deny or nullify such application and, after examination and inquiry,
11 shall determine the full and fair value of said land under the valuation
12 standard applicable to other land in the taxing district and shall assess the
13 same according to such value. If, notwithstanding such change of use, the
14 land is valued, assessed and taxed under the provisions of this act in the
15 ensuing year, the assessor shall enter an assessment, as an added assessment
16 against such land, in the "Added Assessment List" for the particular year
17 involved in the manner prescribed in chapter 397 of the laws of 1941. The
18 amount of the added assessment shall be in an amount equal to the differ-
19 ence, if any, between the assessment imposed under this act and the assess-
20 ment which would have been imposed had the land been valued and assessed
21 as other land in the taxing district. The enforcement and collection of addi-
22 tional taxes resulting from any additional assessment so imposed shall be as
23 provided by said chapter. The additional assessment imposed under this sec-
24 tion shall not affect the roll-back taxes, if any, under section 8 of this act.

1 14. Application for valuation, assessment and taxation of land in agri-
2 cultural or horticultural use under this act shall be on a form prescribed by
3 the Director of the Division of Taxation, and provided for the use of claim-
4 ants by the governing bodies of the respective taxing districts. The form of
5 application shall provide for the reporting of information pertinent to the
6 provisions of Article VIII, Section 1, paragraph 1(b) of the Constitution, as
7 amended, and this act. A certification by the landowner that the facts set
8 forth in the application are true may be prescribed by the director to be in
9 lieu of a sworn statement to that effect. Statements so certified shall be
10 considered as if made under oath and subject to the same penalties as pro-
11 vided by law for perjury.

1 15. Continuance of valuation, assessment and taxation under this act
2 shall depend upon continuance of the land in agricultural or horticultural
3 use and compliance with the other requirements of this act and not upon con-
4 tinuance in the same owner of title to the land. Liability to the roll-back tax
5 shall attach when a change in use of the land occurs but not when a change
6 in ownership of the title takes place if the new owner continues the land in
7 agricultural or horticultural use, under the conditions prescribed in this act.

1 16. Separation or split off of a part of the land which is being valued,
2 assessed and taxed under this act, either by conveyance or other action of
3 the owner of such land, for a use other than agricultural or horticultural,
4 shall subject the land so separated to liability for the roll-back taxes ap-
5 plicable thereto, but shall not impair the right of the remaining land to
6 continuance of valuation, assessment and taxation hereunder, provided it
7 meets the 5-acre minimum requirement and such other conditions of this act
8 as may be applicable.

1 17. The taking of land which is being valued, assessed and taxed under
2 this act by right of eminent domain shall not subject the land so taken to the
3 roll-back taxes herein imposed.

1 18. Where contiguous land in agricultural or horticultural use in one
2 ownership is located in more than one taxing district, compliance with the
3 5-acre minimum area requirement shall be determined on the basis of the
4 total area of such land and not the area which is located in the particular
5 taxing district.

1 19. The factual details to be shown on the assessor's tax list and du-
2 plicate with respect to land which is being valued, assessed and taxed under
3 this act shall be the same as those set forth by the assessor with respect to
4 other taxable property in the taxing district.

1 20. There is hereby created a State Farmland Evaluation Advisory
2 Committee, the members of which shall be the Director of the Division of
3 Taxation; the Dean of the College of Agriculture, Rutgers, The State Uni-
4 versity; and the Secretary of Agriculture. The committee shall meet from

5 time to time on the call of the Secretary of Agriculture and annually de-
6 termine and publish a range of values for each of the several classifications
7 of land in agricultural and horticultural use in the various areas of the State.
8 The primary objective of the committee shall be the determination of the
9 ranges in fair value of such land based upon its productive capabilities when
10 devoted to agricultural or horticultural uses. In making these annual de-
11 terminations of value, the committee shall consider available evidence of agri-
12 cultural or horticultural capability derived from the soil survey at Rutgers,
13 The State University, the National Co-operative Soil Survey, and such other
14 evidence of value of land devoted exclusively to agricultural or horticultural
15 uses as it may in its judgment deem pertinent. On or before October 1 of
16 each year, the committee shall make these ranges of fair value available to
17 the assessing authority in each of the taxing districts in which land in agri-
18 cultural and horticultural use is located.

1 21. The director is empowered to promulgate such rules and regulations
2 and to prescribe such forms as he shall deem necessary to effectuate the pur-
3 poses of this act.

1 22. If any clause, sentence, subdivision, paragraph, section or part of
2 this act be adjudged by any court of competent jurisdiction to be invalid,
3 such judgment shall not affect, impair or invalidate the remainder thereof,
4 but shall be confined in its operation to the clause, sentence, subdivision, para-
5 graph, section or part thereof directly involved in the controversy in which
6 said judgment shall have been rendered.

1 23. The sum of \$50,000.00 is hereby appropriated to the Division of
2 Taxation in the Department of the Treasury for the administration of
3 this act for the period beginning on the effective date of this act and end-
4 ing June 30, 1965, in addition to such other sums as may be appropriated
5 to said division.

1 24. The tax year 1965 shall be deemed to be the first tax year to which the
2 provisions of this act shall apply, and this act shall apply to the tax year
3 1965 and subsequent tax years.

1 25. This act shall take effect immediately.

6 1963

March 20, 1963

Honorable Richard J. Hughes
Governor of New Jersey
State House
Trenton, New Jersey

Report

Dear Governor,

New Jersey, Governor's

This will confirm the oral report given to you by your [↑]Farm Land Assessment Committee on Friday, March 15, 1963.

The Committee held a number of meetings, reviewed steps taken and the experience in other states, explored a variety of proposals for New Jersey and agreed unanimously on the recommendations which were presented to you.

In the development of its recommendations on the problem of farm land assessments the Committee gave careful consideration to: (a) the desirability of continuing the family farm in New Jersey and the farmer's problem; (b) the interests of the municipalities and the problems of the assessors; and, finally, (c) the interests of all the people of New Jersey in maintaining "open" space, the beauty of our countryside and in the availability of agricultural products fresh from the farm.

The recommendations of the Committee are:

1. A bill be introduced in the Legislature on March 18 proposing a change in the constitution to require the Legislature to enact laws to provide that land actively devoted to agriculture or horticulture be assessed at values on this use only;
2. That such land must have been actively devoted to agricultural or horticultural use for at least the two preceding years and must consist of at least 5 acres;
3. That the owner of such land must apply to the assessor for the farm land assessment;
4. That to give protection to the municipality against pure speculation there be included a tax deferral or recapture feature of two years at the time of a change in use of the land. This recapture feature would be predicated on the difference in assessment at the new use and the farm use;
5. That implementing legislation be developed as rapidly as possible in order to have answers to the questions which will be raised both by the legislature and by the public at large;

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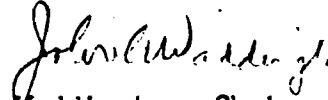
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6. That the Governor and the Administration seriously consider undertaking a broader and more comprehensive study of the problems of maintaining "open" or "breathing" space in New Jersey. This Committee, aware of the exigency of time and the compass of its existence, recognizes that assessment is an important but not the only factor warranting study. The use of zoning, of easements and other techniques should be looked at in the context of not only farm land, but of forest lands, water sheds and recreational areas;
7. Finally, the Committee having completed its assigned function, will be most happy to continue in existence, if you wish, and give advice and counsel in the preparation of the implementing legislation.

At our meeting on March 15, I'm afraid I didn't adequately express the appreciation of the rest of us on the Committee for the help and cooperation of the various "experts" connected with the State Government--Mr. Kingsley, Dr. Arnold, Mr. Hart, Dr. Luke, Mr. Alampi, Mr. Goldberg and members of their staffs.

Finally, Governor, we were most pleased that you accepted our recommendations and pledged your full support to the proposed constitutional amendment. I'm sure I can speak for each member of the Committee in telling you we deeply appreciate your help and support.

Sincerely,



John A. Waddington, Chairman
Governor's Farm Land Assessment Committee

JAW:rec

CC: Members of Governor's Farm Land Assessment Committee

April 16, 1964

Hon. Richard J. Hughes
Governor of New Jersey
State House
Trenton, New Jersey

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NEW JERSEY STATE LIBRARY

Report

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185 W. State Street
Trenton, N. J.

Dear Governor:

This will confirm the oral report given to you by several members of your Farm Land Assessment Committee on Monday, April 13.

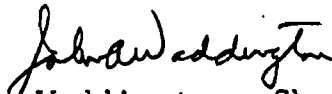
The Committee worked diligently and in most part agreed unanimously on the provisions of the bill introduced on April 13 as Senate 303. This bill, of course, implements the constitutional amendment on the assessment of farm land. The Committee is also agreed on the general provisions to be included in an additional bill which appears necessary to conform other chapters to the provisions of Senate 303.

I will not lengthen this letter by recounting the specifics of Senate 303. I can state on behalf of the Committee that we feel the provisions are fair and equitable and provide reasonable and just solutions to the several problems involved.

On behalf of the Committee, I wish to express our sincere appreciation to you for your deep interest and support of the principles involved and your wholehearted and warm efforts on behalf of the Committee and the bill it has proposed. I feel I should reiterate our appreciation for the very real help and cooperation of the various specialists from the State Government -- Mr. Kingsley, Dr. Arnold, Mr. Hart, Mr. Glazier, Dr. Luke, Mr. Alampi, Mr. Goldberg, and members of their staffs.

In conclusion, as Chairman, I can state without equivocation that your Farm Land Assessment Committee is one of the finest and most hard working committees on which it has been my pleasure to serve. I believe the Committee as a whole felt it was a useful and rewarding experience. We thank you for forming the Committee and for our appointments as members.

Very truly yours,



John A. Waddington, Chairman
Governor's Farm Land Assessment
Committee

JAW/pmr

New Jersey

CC: Members of Governor's Farm Land Assessment Committee,

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N.J. LEGIS. SEN. REV., FIN. & APPROV. COMM.
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of everything has increased. Is there any reason why the \$500 threshold should remain the same?

MR. WEST: Well, it is a criteria, and that's all it is, and that is all it is intended to be. It depends on the type of the farming operation. It is most unrealistic in some instances, and it is very realistic in others.

We only put that as a constitutional change originally to indicate that it was a viable farm operation. It really is not very meaningful whether that were \$500 or \$700 or \$300. At least it has to be a viable farm operation - and on the first five acres it is \$500 plus \$5 additional for every acre over five, which was changed three or four years ago. If there is to be any change at all, it might be this area that you would consider changing not the \$500 initial fee. If the situation demands, you might change the rate per acre.

If I might add, and I don't have this in my statement, if the concern for introducing this bill by Senator Fay was to avoid speculative interests taking advantage of the Farmland Assessment Law, which I presume probably is his reasoning, we did have introduced in the Assembly this past session by Assemblyman Perskie, Assembly Bill 1842, which we feel is a practical way of resolving some of the - perhaps - unfair speculative interests. It is a ten-year conveyance tax. The bill was released from Committee with some amendments that we cannot support, and that is the reason that we have not moved for the passage of this in the Assembly.

Massachusetts has written this into their Farmland Assessment Law which went into effect this past year. Many other states are looking at it now hoping to incorporate it into their law. If this is a concern of your Committee, I would appreciate your taking a look at Assembly Bill 1842. We think that is a practical approach to resolving some of these concerns that are in all probability real.

SENATOR MERLINO: That is Assembly Bill 1842?

MR. WEST: Yes.

SENATOR MERLINO: That wouldn't go hand in hand with Assemblyman Perskie's 1875, would it?

MR. WEST: No.

SENATOR MERLINO: That is his income tax bill.

MR. WEST: No, that does not go in with his income tax bill, and we did not oppose or favor that one either.

SENATOR MERLINO: Thank you very much. Mr. Kenny.

W I L L I A M E. K E N N Y: Senator Merlino, Senator Dwyer,

I AM WILLIAM E. KENNY, ASSISTANT SECRETARY OF AGRICULTURE,

NEW JERSEY DEPARTMENT OF AGRICULTURE, SPEAKING FOR SECRETARY

PHILLIP ALAMPI. MAY I FIRST EXPRESS APPRECIATION FOR THIS

OPPORTUNITY TO PARTICIPATE IN YOUR DELIBERATIONS CONCERNING

AMENDMENTS TO THE FARMLAND ASSESSMENT ACT. BE ASSURED THE

DEPARTMENT OF AGRICULTURE WILL ATTEMPT TO PROVIDE WHATEVER

INFORMATION YOU DEEM NECESSARY IN YOUR DELIBERATIONS ON THIS

ISSUE.

IN DEFERENCE TO TIME, MY COMMENTS WILL BE LIMITED TO (1) A BRIEF REVIEW OF THOSE FACTORS THAT LED TO ADOPTION OF THE FARMLAND ASSESSMENT ACT OF 1964, AND (2) THE DEPARTMENT'S ROLE IN THE ADMINISTRATION OF THE ACT.

WHY FARMLAND ASSESSMENT

DURING THE 1950's AND EARLY 1960's, URBANIZATION IMPACTED UPON THE GARDEN STATE. VAST AREAS OF OPEN LAND WERE NEEDED TO ACCOMMODATE INDUSTRIAL, COMMERCIAL, AND RESIDENTIAL DEVELOPMENT. SINCE FARMS WERE USUALLY LARGE TRACTS OF CLEARED LAND, THOSE SITUATED ON THE FRINGE OF URBAN AREAS BECAME INITIAL TARGETS FOR DEVELOPMENT. HOWEVER, LEAP-FROG GROWTH PATTERNS EVENTUALLY OCCURRED SO THAT MOST FARMLAND WAS CONSIDERED PRIME FOR ANY DEVELOPMENT ACTIVITY.

THAT DEVELOPMENT WAS ACCOMPANIED BY DEMANDS FOR NEW GOVERNMENT SERVICES TO BE FINANCED BY REAL ESTATE TAXES. SINCE ALL REAL ESTATE TAXES WERE AD VALOREM, THOSE CONTINUING FARM OPERATIONS WERE CONFRONTED WITH SPIRALING TAXES AS LAND VALUES APPRECIATED WITH DEVELOPMENT PRESSURES. ULTIMATELY, NEW JERSEY FARMERS WERE PAYING THE HIGHEST PROPERTY TAX IN THE NATION.

SINCE FARM PRODUCTS ARE SOLD IN COMPETITION WITH ALL PRODUCTION AREAS, THE REAL ESTATE TAX WAS A DISPROPORTIONATE COST FACTOR FOR NEW JERSEY PRODUCERS. FINDING IT EXTREMELY DIFFICULT TO COMPETE WITH OTHER PRODUCTION AREAS ON THE ONE HAND WHILE SUBJECT TO AN ATTRACTIVE OFFER FOR THE FARM PROPERTY ON THE OTHER, MANY FARMERS

HAD LITTLE CHOICE BUT TO TERMINATE OPERATIONS. AS FARM TAXES ROSE FASTER THAN FARM INCOME, FARMLAND SHIFTED TO OTHER USES AT THE RATE OF 50-60 THOUSAND ACRES ANNUALLY. IN MANY INSTANCES, AGRICULTURAL LAND WAS PREMATURELY SET ASIDE FOR OTHER USES ALTHOUGH THERE WAS NO IMMEDIATE NEED FOR SUCH USE.

WITH THE RAPID SHIFT OF LAND USE, THERE WAS CONCERN THAT NEW JERSEY WOULD BECOME THE FIRST ASPHALT STATE. TO ABATE THE LOSS OF FARMLAND, THE 1962 LEGISLATURE CALLED FOR FARMLAND TO BE ASSESSED ON THE BASIS OF ITS PRODUCTIVITY IN AGRICULTURE RATHER THAN ITS VALUE FOR OTHER USE. HOWEVER, THAT LEGISLATION WAS DECLARED UNCONSTITUTIONAL SINCE THE STATE CONSTITUTION REQUIRED THAT ALL REAL PROPERTY BE ASSESSED ACCORDING TO THE SAME STANDARD OF VALUE REGARDLESS OF OWNERSHIP.

FOLLOWING THAT DECISION, A CONSTITUTIONAL AMENDMENT WAS SUBMITTED TO THE ELECTORATE IN 1963, APPROVED BY A VOTE MARGIN OF TWO AND ONE HALF TO ONE, AND THE FARMLAND ASSESSMENT ACT OF 1964 WAS SUBSEQUENTLY ADOPTED. SINCE 1964, THE ANNUAL SHIFT OF FARMLAND TO OTHER USES HAS AVERAGED ^{SOME} 20,000 ACRES. IT SHOULD ALSO BE NOTED THAT DURING THIS PERIOD FARM REAL ESTATE TAXES INCREASED MORE THAN 100% (15.1 TO 33.1 MILLION) WHILE QUALIFIED LAND TAXES PER ACRE INCREASED ONLY 21%.

ADMINISTRATION

THE FARMLAND ASSESSMENT ACT CITES THE ASSESSED VALUE OF QUALIFIED LANDS SHALL BE BASED UPON THOSE INDICIA OF VALUE WHICH SUCH LANDS

HAVE FOR AGRICULTURAL OR HORTICULTURAL USE. THE ACT ALSO ESTABLISHED THE STATE FARMLAND EVALUATION ADVISORY COMMITTEE WHICH IS RESPONSIBLE FOR ANNUALLY DETERMINING AND PUBLISHING A RANGE OF FAIR VALUES FOR EACH OF SEVERAL CLASSIFICATIONS OF LAND IN AGRICULTURAL AND HORTICULTURAL USE. THIS INDICIA IS A REFERENCE FOR TAX ASSESSORS IN DETERMINING ASSESSED VALUATIONS -- EXHIBIT #1. (Appendix, page 11X)

IN BRIEF, THE COMMITTEE CALCULATES PRODUCTIVITY VALUE OF THE LAND BASED UPON SOIL TYPE, USE, LOCATION, AND AGRICULTURAL INCOME EXPERIENCE.

SUMMARY

AGRICULTURE IN AN URBAN ENVIRONMENT IS SUBJECT TO MANY OPERATING PROBLEMS. AGRICULTURE IN AN URBAN ENVIRONMENT WHICH EMPHASIZES PROPERTY TAXES IS SUBJECT TO INTENSE ECONOMIC PRESSURES. IN THE ABSENCE OF A PUBLIC POLICY THAT RECOGNIZES THE OVERALL ECONOMIC AND ENVIRONMENTAL SIGNIFICANCE OF AGRICULTURE, IT IS DOUBTFUL THAT A CONSIDERABLE PORTION OF THE FARM INDUSTRY CAN SURVIVE. PROPERTY TAXES ARE A MOST SIGNIFICANT COST ITEM TO FARMERS.

PRIOR TO THE FARMLAND ASSESSMENT ACT, NEW JERSEY WAS LOSING 3 FARMS EACH DAY. THE CURRENT LOSS IS ONE FARM EVERY OTHER DAY. AT THIS RATE, WE COULD LOSE ALL OUR FARMS IN 43 YEARS. ANY CHANGE IN THE PROPERTY TAX STRUCTURE CAN HAVE VERY SERIOUS REPERCUSSIONS TO THE STATE'S AGRICULTURAL ECONOMY AND TO THE QUALITY OF LIFE IN NEW JERSEY. THIS IS AN ISSUE THAT DEMANDS THOUGHTFUL CONSIDERATION.

The Farmland Assessment Amendment *Its Application and Administration**

By MARRIOTT G. HAINES, SMA, CAE,
Supervisor of Assessments, City of Vineland

The subject that I have been requested to discuss with you today, deals with a constitutional amendment approved by the electorate of this State at the general election held in November, 1963. This amendment is commonly referred to as the "Farmland Assessment Amendment" and was implemented by legislation enacted May 11, when the "Farmland Assessment Act of 1964", known as Chapter 48, Laws of 1964, became effective.

Chapter 51, Laws of 1960, as originally approved, provided for the assessment of farmland on a basis of its agriculture use. However, the second Switz case decision, declared that section of this now famous tax law unconstitutional and because of a severance clause, only the farmland section was invalidated. As a result of this decision, under the provision of our 1947 Constitution, farmland would continue to be assessed at its true value rather than its farm use value.

Those persons and groups interested in the plight of our farmers and the acres of farmland being taken out of such use annually, immediately started a campaign to amend our State constitution to overcome this court decision. This action resulted in the amendment and implementing legislation which will become effective for the tax year 1965. Under this legislation, the Director of the Division of Taxation was authorized to promulgate rules and regulations and to prescribe such forms as deemed necessary to implement this new law. An attempt will be made to explain these latter items as interpreted by an Assessor who was raised on a farm in Burlington County and has 600 farms to assess in the City of Vineland.

Eligibility For Assessment

In order for an Assessor to apply this "Farmland Assessment Act" to any land in agricultural or horticultural use, an application must be filed with him, by the owner thereof on or before October 1, each year. He need not be the actual operator of the farm. This application must be made on the form prescribed by the Director of the Division of Taxation which was available in each Assessor's office throughout the State in time to meet the deadline. It is known as Form FA-1, must be filed annually on or before October

*Delivered before the General Session on Taxation at the League's recent Conference in Atlantic City.

New Jersey Municipalities, January 1965



MR. HAINES

1 of the pretax year and signed by the owner of the land.

To be eligible for assessment as farmland, such land must have been actively devoted to agricultural or horticultural use for at least two successive years immediately preceding the tax year such assessment is requested. In other words, in order to be eligible for such consideration for 1965, the land under consideration must have been actively devoted to farm use during 1963 and 1964.

The area of such land must not be less than five acres. In computing this area, the land under farm buildings, such as barns, silos, poultry coops, greenhouses and like structures, lakes, dams, streams, ponds and irrigation facilities shall be included. However, the land occupied by the farmhouse, lawn, garden, swimming pool, tennis court, or like purpose must be excluded in determining the total area.

This will confront some assessors with a problem. Many farmers utilize a part of the farmhouse for their farm operations, particularly a poultry farmer who has his egg room in the basement of his dwelling. Most of these farms have small areas. If they fall in the category of about five acres and the land is eliminated as stated above, then they would be ineligible for consideration, notwithstanding the fact that some of the land eliminated could be construed as being used for agricultural purposes.

If a farmer owns separate parcels of farmland that are contiguous in a single ownership and located in the same taxing district, having an aggregate area of at least five acres, even though it might be separated by a public right of way, the minimum area requirement will be deemed to have been met. Just to carry the area requirements one step further, it can be stated that where contiguous farmland in one ownership is located in more than one taxing district, compliance with the five acre minimum will be determined on the basis of the total area and not the taxing district in which it is located.

In situations where the farmer owns two or more parcels of land in the same taxing district that are not contiguous, a separate application is required for each parcel. Furthermore, the area of such separate parcels cannot be totaled to meet the five acre eligibility requirement.

The due date for filing with the assessor on the prescribed application form is on or before October 1 of the pretax year. In other words, to be eligible for consideration for the tax year 1965, the application should have been filed with the assessor of the taxing district in which the farmland is located on or before October 1, 1964. It must be renewed annually.

Once an application has been filed with the assessor it cannot be withdrawn after October 1 of the pretax year.

The application must state that the land will continue to be actively devoted to agricultural use from the date of the application to the end of the ensuing tax year. There will be many instances when this condition will bear close scrutiny by the assessors, which leads to the next point.

Each assessor may at any time require the submission of such additional proof as he shall deem necessary to

establish the right of the applicant to a farmland assessment. This proof can cover ownership, area, use, gross sales of farm products or any other information to substantiate the owner's application. The owner is also required to inform the assessor immediately whenever any land which is being assessed under this act has had a change in use.

Assessor's Evaluation

How shall the assessor value this land? It must be valued according to its use as farmland, if the owner has applied for this preferential consideration. Its present true value, either as a potential commercial or industrial site or possible location for a development shall not be used.

While the assessor may consider various sources of information to aid him in determining its agricultural value such as soil survey data at Rutgers, the National Cooperative Soil Survey and recommendations of state wide committees as authorized by this act, the final determination if its value is made by the assessor himself. In doing this, he should use his personal knowledge, judgment and experience in appraising farmland.

The land on which the farmhouse, lawns, gardens, swimming pools or tennis courts are located is to be appraised at its true value, the same as all other such land in the taxing district. Farmland values are not to be applied to these areas as they are deemed more valuable.

All structures on both farmland and excluded areas mentioned above are to be appraised and assessed by the same standards, methods and procedures as all other taxable buildings in the taxing district.

We are hearing a new tax term in connection with both this act and Chapter 51. I am referring to "Taxable Value." It is defined in the regulations as follows: "The taxable or assessed value of land qualifying for farmland assessment under the act shall be such percentage of its value in agricultural or horticultural use, determined under the act, as corresponds to the percentage of true value established by the county Board of Taxation for the assessment of real property generally." In other words, if the County Board has established a percentage level of 50% and the farmland to be assessed is valued at \$5,000, its taxable value is \$2,500.

Land that does not qualify as farmland shall be appraised and assessed at its true value the same as all other real property in the taxing district.

An Example

Just how are we to record all these taxable values on the tax list? I have prepared an example (see example I) which you may follow to illustrate my point. Let us assume that this is a

(Farmland Assessment Examples)

Example I

Example of a 115 acre farm located in a county that has adopted a 50% assessment ratio.

It has been appraised and assessed in accordance with the Farmland Assessment Amendment as follows:

Homesite	Land	1 Acre	\$ 2,000
Class I	Farmland	50 Acres @ \$500	25,000
Class II	Farmland	35 Acres @ 350	12,250
Class III	Farmland	25 Acres @ 125	3,125
Class IV	Farmland	4 Acres @ 10	40

Total appraised value of land	\$42,415
Appraised value of all improvements	30,500

Total appraised value of Farm	\$72,915
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It would appear on the 1965 Tax List as follows:

Line No.	Taxable values			Net
	Acres	Land	Improvements	
1. (Homesite)	1	1000	15,250	16,250
2. (Farmland)	114	20200		20,200

Example II

This farm, that had been assessed under the Farmland Assessment Act for 1965, 1966 and 1967, had a change in use in 1967. The Assessor, in carrying out the four steps in computing the roll-back taxes, determined that this land is actually worth \$2,000 per acre.

The computation is as follows:

Step I	114 Acres @ \$2,000	\$228,000
Step II	\$228,000 x 50% Assessment Ratio gives us a Taxable Value of	\$114,000
Step III	Subtract original taxable value	20,200
	Amount subject to Roll-back taxes for years 1965, 1966 and 1967	\$ 93,800

The General Tax Rate for the municipality in which this farm is located, is as follows:

	1965	\$5.00	
	1966	5.20	
	1967	5.10	
Step IV	The Roll-back taxes are computed as follows:		
	1965	\$93,800 x \$5.00	\$ 4,690.00
	1966	93,800 x 5.20	4,877.60
	1967	93,800 x 5.10	4,783.80

Total Roll-back taxes due on 114 acres for 1965, 1966 and 1967	\$14,351.40
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115 acre farm, located in a county that has adopted a 50% ratio. The dwelling and lawn area, including a swimming pool occupy 1 acre. This farm has been appraised in accordance with the farmland act as follows.

Land 1 acre homesite \$2,000. Class I land 50 acres @ \$500=\$25,000; Class II land 35 acres @ \$350=\$12,250; Class III land 25 acres @ \$125=\$3,125. Class IV land 4 acres @ \$10=\$40; Total appraised value of land \$42,415. The total appraised value of all buildings is \$30,500. Total farm appraisal \$72,915.00.

Under the farmland assessment act this farm will be assessed as follows: Land 1 acre Homesite \$1,000; Improvements \$15,250. Net taxable value \$16,250. Land 114 acres \$20,200. Net taxable value \$20,200. You will note that this farm assessment now takes up two lines on the tax list under this act, whereas, it formerly was shown only on one line. This farm owner will now receive two tax bills where he formerly received one. You probably are asking, why the changes? The answer is, the statute and regulations require it in order for the assessor to

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comply with this new law and also to compute the roll-back which will be explained a little later. As you can readily see, this means additional work for your assessor and collector, plus some added expense to the municipality.

You have heard me mention that in order for farmland to receive this special consideration it must be actively devoted to agricultural or horticultural use. Just what does this mean? Land shall be deemed to be actively devoted to agricultural or horticultural use, when the gross sales of products produced thereon together with any payments received under a soil conservation program have averaged at least \$500. per year during the two year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales of \$500. within a reasonable period of time. In other words, this land produces crops for market, (either retail or wholesale); cover crops are grown on a rotation program; pastures are grazed by animals whose products are marketed at retail or wholesale; requirements are met for payments under the soil bank program or an equivalent or devoted to woodland appurtenant to farmland and reasonably required to support it in such use.

In some instances the applicant may be required to submit proof that his land will produce products averaging annual sales of \$500., for example; if he owns a young orchard, a new asparagus bed or a new berry patch.

"Roll-Back Taxes"

We have another function in this farmland act that is new to us in the assessment administration here in New Jersey. I am referring to what is called "roll-back taxes." It can be defined as the difference between the taxes being levied on farmland under this act and those levied on similar land at its true value. It is an additional tax levied when qualified land has a change in use and hereafter will be referred to as roll-back taxes.

The liability for roll-back taxes is created at the time a change in use of the farmland assessed under this act occurs, regardless of ownership.

Land qualified under this act can change ownership without losing its qualification. Its use is what we must concern ourselves with at all times.

Just how does the assessor compute these roll-back taxes? There are four steps that must be taken. First, the assessor has to ascertain the full and fair value of such land under the same standard of value as all land in the taxing district. Second, he must determine the taxable value by multiplying such value by the assessment ratio established by the County Board of Taxation. Third, he must subtract the amount originally assessed under this act from the amount determined

by the second step. The fourth step is to multiply the net figure just computed by the general tax rate of the taxing district applicable for each of the tax years involved. This shall be the year in which the change in use takes place and in such of the two tax years immediately preceding in which the land was assessed under this act. For example, land has qualified and is assessed under this act for 1965 and 1966 and 1967. A change in use occurs in 1967. This land would be subject to roll-back taxes for 1965, 1966, and 1967.

Let's take another example (see example II). Land that was assessed at its true value in 1965 qualifies and is assessed under this act for 1966 and 1967. A change in use occurs in 1967. This land would be subject to roll-back taxes for 1966 and 1967, but not 1965.

Your attention is again directed to the example previously used. Let us assume that a change in use occurred in 1967. The assessor in carrying out the first step has ascertained that this farm is worth \$2,000 per acre. 114 acres @ \$2,000. would give us a total value of \$228,000.

His next step would be to multiply this value by the 50% ratio. This would give us a taxable value of \$114,000. Next he would subtract the amount of the original assessment, under this act, of \$20,200 from the taxable value of \$114,000. This leaves \$93,800 which is the amount that would be subject to roll-back taxes for the years 1965, 1966 and 1967.

Assuming that the general tax rate for these years is: 1965—\$5.00; 1966—\$5.20 and 1967—\$5.10, the roll-back taxes for each of these years on the 114 acres would be computed as follows:

Multiplying the \$93,800 by the 1965 general tax rate of \$5.00 would give us \$4,690 as the amount of roll-back taxes due for the year 1965. The 1966 rate of \$5.20 would yield \$4,877.60 for that year and 1967, with a rate of \$5.10 would result in \$4,783.80, for a total roll-back for these three years of \$14,351.40 on the 114 acres.

Please note that roll-back taxes apply only when land that has been assessed under this act has a change in use. There is a limit from the standpoint of time of three years, the year in which the change in use occurs, plus the previous two years, provided that the land was assessed in accordance with this act all three years. If a change in use occurred during a year in which the land was not assessed under this act but had been so assessed during the previous two years, then it would be subject to roll-back taxes for those two years.

Roll-back taxes are assessed in accordance with the procedures provided by the omitted property tax statutes. In other words, the assessor furnishes

his County Board of Taxation with the necessary information after giving the owner of the land due notice. They render the judgment of the assessment. If it is rendered before October 1 the roll-back taxes become due and payable November 1 of that year. If judgment is rendered between October 1 and before December 31, then the roll-back taxes would be due the following year on November 1.

If you have had any experience with the present omitted assessment law of this state, you are aware of the fact that it involves a lot of work. The assessor would like to see it

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amended to the point where it could be applied along the same line as our present added assessment law. Such a change would greatly aid us in the administration of these new roll-back taxes.

You are probably asking, who pays these roll-back taxes? What happens if they are not paid? The answers are as follows: Roll-back taxes are levied on the land. If not paid, they become a lien upon the land from January 1 of the year in which judgment is rendered by the County Board. It is up to the owner of the land to see that such taxes are paid.

Incidentally, the owner or other interested parties have a right to review any judgment affecting roll-back taxes under the same procedure set up for omitted assessments, including appeals. The limitation prescribed in the omitted assessment law regarding the review of judgments, etc., does not apply to roll-back taxes. In the case of these taxes, the procedures apply to each year for which they are imposed.

Effect of Change in Use

When land that is being assessed under this act is applied to a use other than agricultural, it becomes subject to roll-back taxes. If this change occurs between October 1 and December 31 of the pretax year, any application pending for assessment under this act can be denied or nullified by either the assessor or County Board of Taxation, as the case may be and the land in question assessed at the same standard of value applicable to other land in the taxing district. The assessor would deny the application if he learns of the change before filing his tax list on January 10. If the assessor is unaware of the change the County Tax Board, can, upon hearing of same, void the application and change the assessment.

If, notwithstanding such a change, the land is assessed under the act for the ensuing tax year, the assessor will enter the assessment as an added assessment. The amount will be the difference between the two values involved and shall not be prorated. As stated above, this procedure is followed when the change in use occurs between October 1 and December 31. It does not affect the imposition of any roll-back taxes that might be applicable.

How will the application of this act affect the equalization of land for state school aid and county tax apportionment? If will have no adverse effect. The Director of the Division of Taxation will determine the true value of land assessed under this Act and equalize it on the basis of its agricultural use. The County Board of Taxation will use the same approach in apportioning county taxes.

A new category will be established in the sales-ratio analysis, in that

farmland shall be classified according to the manner in which it has been assessed. Separate ratios will be determined for each classification, except that the residential ratio shall also include farmland assessed under this act. All true values and assessment ratios will be determined in accordance with established sales-ratio procedures.

The continuance of farmland assessment under this Act depends upon the continuance of the land in agricultural or horticultural use and not its ownership. Conversely, liability for roll-back taxes does not accrue when a change in ownership occurs, if the new owner continues to farm the land.

A separation or a split-off from lands assessed under this act for a change in use, shall subject the land so separated to roll-back taxes. However, it will not impair the remaining land from being assessed under this act, if it still meets all the requirements. On the other hand, the taking of land assessed under this Act by eminent domain shall not subject such land to roll-back taxes.

Another Feature

There is one other feature of this Act that should be mentioned. It creates a State Farmland Evaluation Committee, the members of which are the Secretary of Agriculture; the Dean of the College of Agriculture, Rutgers —The State University; and the Director of the Division of Taxation. The primary objective of this committee is the determination of ranges of farmland use values based upon its productive capabilities, for each of the several classifications of farmland in New Jersey. These ranges of values are to be made available to the assessors annually on or before October 1. While these values are not binding upon the assessor, under Section 7 of this Act, he is required to consider them in determining the value of farmland assessed under this Act.

This committee has held several meetings and has just about completed its task for this year. The studies made and the values developed by it represent many hours of arduous work and while it did not make the October 1 deadline this year, it is believed every assessor will have these suggested values in land in ample time to con-

sider them when processing the applications filed for the tax year of 1965.

In concluding this presentation, there is one final point to be brought to your attention. This farmland assessment act is a departure from the single standard of value concept of assessing that has been in effect in the garden state for years. Will it work?

Will it accomplish what its proponents claimed at the time they were campaigning for it throughout the state last year? Only time will tell. Mr. G. Raymond Wood, Director of the Southern New Jersey Development Council, speaking at their annual meeting in Glassboro in September, predicted that New Jersey will have a growth pattern twice the national average during the next ten years. Acre after acre of farmland is being diverted to other use up and down this fair state whether we like it or not and regardless of any legislation that has or may be enacted into law.

For example, land in my taxing district that produced sweet potatoes last year has streets cut through, utilities installed and dwellings under construction this year. While we might enact more tax legislation into law and make more work for the assessor, we cannot hold up progress. Due to our location on the Eastern seaboard, we will continue to grow. Values will go up and so will taxes as demands for municipal services increase. New Jersey has always been a property tax state. It is doubtful if this situation will be changed in the foreseeable future. ■

New Jersey has 21 counties, 53 cities, 21 towns, 256 boroughs, 235 townships and two villages.

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