

4:1C-11 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 4:1C-11 et al. (Farmland Preservation—"Agriculture Retention and Development Act")

LAWS OF: 1983 CHAPTER: 32

Bill No.: S867

Sponsor(s): Zane

Date Introduced: Pre-filed

Committee: Assembly: Agriculture and Environment; Revenue, Finance & Appropriations

Senate: Natural Resources & Agriculture

Amended during passage: Yes // Senate committee substitute (OCR) enacted. Amendments during passage denoted by asterisks. Substituted for A1326 (not attached since identical to S867)

Date of Passage: Assembly: Nov. 29, 1982

Senate: June 21, 1982

Date of Approval: Jan. 26, 1983

Following statements are attached if available:

Sponsor statement: Yes // Also attached: Assembly amendments adopted 11-15-83 (with statement)

Committee statement: Assembly Yes // 11-4-82 & 7-1-82
Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: Yes //

Hearings: /// No

(over)

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974.90 Masucci, Nicholas
A278 Farmland preservation legislative package.
1981a Governor's Office of Policy and Planning.
May, 1981. Trenton, 1981.

974.90 New Jersey. Division on Rural Resources.
A278 Grassroots: an agriculture retention
1980a and development program for New Jersey.
Oct. 31, 1980. Trenton, 1980.

See newspaper clippings (attached) FROM NEWARK STAR-LEDGER:

- "FARMERS, STATE DISCUSS PRESERVATION BOND ISSUE" 1/10/82
- "FARMERS URGED TO HELP MOLD PRESERVATION" 1/21/82
- "GOVERNOR CLEARS AGRICULTURE PRESERVATION
PACKAGE TO COUNTER DEVELOPMENT" 1/27/83
- "BILLS SHAPED TO PRESERVE JERSEY FARMLAND
5/2/82

Chapter 32 Laws of 1983
Approved 1-26-83

[OFFICIAL COPY REPRINT]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 867

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1982

AN ACT concerning agricultural development and farmland preservation, providing for the establishment of county agriculture development boards, providing for the establishment of voluntary farmland preservation programs, authorizing the purchase of development easements and the funding of soil and water conservation projects on agricultural land, and making an appropriation.

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

1 1. This act shall be known and may be cited as the "Agriculture
2 Retention and Development Act."

1 2. The Legislature finds and declares that:

2 a. The strengthening of the agricultural industry and the preser-
3 vation of farmland are important to the present and future econ-
4 omy of the State and the welfare of the citizens of the State, and
5 that the Legislature and the people have demonstrated recognition
6 of this fact through their approval of the "Farmland Preservation
7 Bond Act of 1981," P. L. 1981, c. 276;

8 b. All State departments and agencies thereof should encourage
9 the maintenance of agricultural production and a positive agri-
10 cultural business climate;

11 c. It is necessary to authorize the establishment of State and
12 county organizations to coordinate the development of farmland
13 preservation programs within identified areas where agriculture
14 will be presumed the first priority use of the land and where cer-
15 tain financial, administrative and regulatory benefits will be made
16 available to those landowners who choose to participate, all as
17 hereinafter provided.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly amendment adopted November 15, 1982.**

1 3. As used in this act:

2 a. "Agricultural development areas" means areas identified by
3 a county agricultural development board pursuant to the provisions
4 of section 11 of this act and certified by the State Agriculture
5 Development Committee;

6 b. "Agricultural use" means the use of land for common farm-
7 site activities including but not limited to: production, harvesting,
8 storage, grading, packaging, processing and the wholesale and
9 retail marketing of crops, plants, animals and other related com-
10 modities and the use and application of techniques and methods of
11 soil preparation and management, fertilization, weed, disease and
12 pest control, disposal of farm waste, irrigation, drainage and water
13 management, and grazing;

14 c. "Board" means a county agriculture development board es-
15 tablished pursuant to section 7 or a subregional agricultural reten-
16 tion board established pursuant to section 10 of this act;

17 d. "Committee" means the State Agriculture Development
18 Committee established pursuant to section 4 of the "Right to Farm
19 Act," P. L. 198 , c. (C.) (now pending before the
20 Legislature as Senate Committee Substitute for Senate Bill No.
21 854);

22 e. "Cost" as used with respect to cost of development easements
23 or soil and water conservation projects, includes, in addition to
24 the usual connotations thereof, interest or discount on bonds; cost
25 of issuance of bonds; the cost of inspection, appraisal, legal, finan-
26 cial, and other professional services, estimates and advice; and the
27 cost of organizational, administrative and other work and services,
28 including salaries, supplies, equipment and materials necessary to
29 administer this act;

30 f. "Development easement" means an interest in land, less than
31 fee simple absolute title thereto, which enables the owner to develop
32 the land for any nonagricultural purpose as determined by the
33 provisions of this act and any relevant rules or regulations pro-
34 mulgated pursuant hereto;

35 g. "Development project" means any proposed construction or
36 capital improvement for nonagricultural purposes;

37 h. "Farmland preservation program" or "municipally approved
38 farmland preservation program" (hereinafter referred to as mu-
39 nicipally approved program) means any voluntary program, the
40 duration of which is at least 8 years, authorized by law enacted
41 subsequent to the effective date of the "Farmland Preservation
42 Bond Act of 1981," P. L. 1981, c. 276, which has as its principal
43 purpose the long term preservation of significant masses of reason-

44 ably contiguous agricultural land within agricultural development
 45 areas adopted pursuant to this act and the maintenance and support
 46 of increased agricultural production as the first priority use of
 47 that land. Any municipally approved program shall be established
 48 pursuant to section 14 of this act;

49 i. "Fund" means the "Farmland Preservation Fund" created
 50 pursuant to the "Farmland Preservation Bond Act of 1981," P. L.
 51 1981, c. 276;

52 j. "Governing body" means, in the case of a county, the board
 53 of chosen freeholders, and in the case of a municipality, the com-
 54 mission, council, board or body, by whatever name it may be
 55 known, having charge of the finances of the municipality;

56 k. "Secretary" means the Secretary of Agriculture;

57 l. "Soil and water conservation project" means any project de-
 58 signed for the control and prevention of soil erosion and sediment
 59 damages, the control of pollution on agricultural lands, the im-
 60 poundment, storage and management of water for agricultural
 61 purposes, or the improved management of land and soils to achieve
 62 maximum agricultural productivity;

63 m. "Soil conservation district" means a governmental subdivi-
 64 sion of this State organized in accordance with the provisions of
 65 R. S. 4:24-1 et seq.

1 4. The secretary shall use the sum of money appropriated by
 2 section 31 of this act, and any other sums as may be appropriated
 3 from time to time for like purposes, to assist the committee in
 4 administering the provisions of this act to make grants to assist
 5 boards or any other local units as authorized herein, to acquire
 6 development easements, and to make grants to land owners to fund
 7 soil and water conservation projects, on land devoted to farmland
 8 preservation programs within duly adopted agricultural develop-
 9 ment areas.

10 With respect to moneys to be utilized to make grants for soil and
 11 water conservation projects, the secretary shall not approve any
 12 grant unless it shall be for a project which is also part of a farm
 13 conservation plan approved by the local soil conservation district.

1 5. The committee may:

2 a. Adopt bylaws for the regulation of its affairs and the conduct
 3 of its business;

4 b. Adopt and use a seal and alter the same at its pleasure;

5 c. Sue and be sued;

6 d. Apply for, receive, and accept from any federal, State, or
 7 other public or private source, grants or loans for, or in aid of, the
 8 committee's authorized purposes;

9 e. Enter into any agreement or contract, execute any instrument,
10 and perform any act or thing necessary, convenient, or desirable
11 for the purposes of the committee or to carry out any power
12 expressly given in this act;

13 f. Adopt, pursuant to the "Administrative Procedure Act," P. L.
14 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary
15 to implement the provisions of this act;

16 g. Request assistance and avail itself of the services of the em-
17 ployees of any State, county or municipal department, board, com-
18 mission or agency as may be made available for these purposes.

1 6. The committee shall:

2 a. Establish guidelines and adopt criteria for identification of
3 agriculture lands suitable for inclusion in agricultural develop-
4 ment areas and farmland preservation programs to be developed
5 and adopted by a board applying for moneys from the fund;

6 b. Certify to the secretary that the board has approved the
7 agricultural development area and the farmland preservation pro-
8 gram within the area where matching grants from the fund shall
9 be expended;

10 c. Review State programs and plans and any other public or
11 private action which would adversely affect the continuation of
12 agriculture as a viable use of the land in agricultural development
13 areas and recommend any administrative action, executive orders
14 or legislative remedies which may be appropriate to lessen these
15 adverse affects;

16 d. Study, develop and recommend to the departments and agen-
17 cies of State government a program of recommended agricultural
18 management practices appropriate to agricultural development
19 areas, municipally approved program (provided that these prac-
20 tices shall not be more restrictive than for those areas not included
21 within municipally approved programs) and other farmland pres-
22 ervation programs, which program shall include but not necessarily
23 be limited to: air and water quality control; noise control; pesticide
24 control; fertilizer application; soil and water management prac-
25 tices; integrated pest management; and labor practices;

26 e. Review and approve, conditionally approve or disapprove all
27 applications for funds pursuant to the provisions of this act; and,

28 f. Generally act as an advocate for and promote the interests
29 of production agriculture and farmland retention within the ad-
30 ministrative processes of State government.

1 7. a. The governing body of any county may, by resolution duly
2 adopted, establish a public body under the name and style of "The
3 County Agriculture Development Board," with all or any signifi-

4 cant part of the name of the county inserted. Every board shall
5 consist of three non-voting members as follows: a representative
6 of the county planning board; a representative of the local soil
7 conservation district; and the county agent of the New Jersey
8 Cooperative Extension Service whose jurisdiction encompasses the
9 boundaries of the county; and seven voting members who shall be
10 residents of the county, four of whom shall be actively engaged in
11 farming, the majority of whom shall own a portion of the land they
12 farm, and three of whom shall represent the general public, ap-
13 pointed by the board of chosen freeholders, or, in the counties
14 operating under the county executive plan or county supervisor
15 plan pursuant to the provisions of the "Optional County
16 Charter Law," P. L. 1972, c. 154 (C. 40:41A-1 et seq.), by the
17 county executive, or the county supervisor, as the case may be,
18 with the advice and consent of the board of chosen freeholders.
19 With respect to the members actively engaged in farming, the
20 county board of agriculture shall recommend to the board of
21 chosen freeholders, the county executive or the county super-
22 visor, as appropriate, a list of potential candidates and their
23 alternates to be considered for each appointment.

24 b. Of the seven members first to be appointed, three shall be
25 appointed for terms of 2 years, two for terms of 3 years, and two
26 for terms of 4 years. Thereafter, all appointments shall be made
27 for terms of 4 years. Each of these members shall hold office for
28 the term of the appointment and until a successor shall have been
29 appointed and qualified. A member shall be eligible for reappoint-
30 ment for no more than two consecutive terms. Any vacancy in the
31 membership occurring other than by expiration of term shall be
32 filled in the same manner as the original appointment but for the
33 unexpired term only.

34 c. The board of chosen freeholders, county executive or county
35 supervisor, as appropriate, may appoint such other advisory mem-
36 bers to the board as they may deem appropriate.

37 d. Members of the board shall receive no compensation but the
38 appointed members may, subject to the limits of funds appropriated
39 or otherwise made available for these purposes, be reimbursed for
40 expenses actually incurred in attending meetings of the board and
41 in performance of their duties as members thereof.

42 e. The board shall meet as soon as may be practical following
43 the appointment of its members and shall elect a chairman from
44 among its members and establish procedures for the conduct of
45 regular and special meetings, provided that all meetings are con-
46 ducted in accordance with the provisions of the "Open Public Meet-

47 ings Act," P. L. 1975, c. 231 (C. 10:4-6 et seq.). The chairman
48 shall serve for a term of 1 year and may be reelected.

49 f. The chairman shall appoint three members actively engaged
50 in farming to serve with the representatives of the general public
51 for the purpose of mediating disputes pursuant to the provisions
52 of section 19 of this act.

53 g. Notwithstanding the provisions of subsections a. and b. of
54 this section, any public body established by the governing body
55 of any county prior to May 3, 1982 which was established to carry
56 out functions substantially similar to the functions of boards pur-
57 suant to this act and which proposes to apply for grants pursuant
58 hereto may carry out the functions authorized herein, provided
59 that within 5 years following the effective date of this act those
60 boards established prior to May 3, 1982 shall reorganize so that
61 the board reflects no more than a simple majority of members
62 actively engaged in farming or equal representation of the general
63 public and those actively engaged in farming.

1 8. Every board shall:

2 a. Develop and adopt, after public hearings, agricultural reten-
3 tion and development programs, which shall have as their princi-
4 pal purpose the long-term encouragement of the agricultural
5 business climate and the preservation of agricultural land in the
6 county;

7 b. Establish the minimum acreage of significant masses of
8 reasonably contiguous land required for the creation of a municipi-
9 pally approved program or other farmland preservation programs;

10 c. Establish minimum standards for the inclusion of land in a
11 municipally approved program or other farmland preservation
12 programs;

13 d. Review and approve, conditionally approve or disapprove
14 petitions for the formation of a municipally approved program or
15 other farmland preservation programs, and monitor the operations
15A thereof;

16 e. Review and approve, conditionally approve or disapprove,
17 prior to any applications to the committee, any request for financial
18 assistance authorized by this act;

19 f. Monitor and make appropriate recommendations to the com-
20 mittee and to county and municipal governing bodies and boards
21 with respect to resolutions, ordinances, regulations and develop-
22 ment approvals which would threaten the continued viability of
23 agricultural activities and farmland preservation programs within
24 agricultural development areas;

25 g. At the request of a municipality, require that any person

26 proposing any nonagricultural development in an agricultural
27 development area prepare and submit a statement as to the
28 potential impact the proposed development would have on agri-
29 cultural activities in the area.

1 9. Every board may:

2 a. Develop an educational and informational program concern-
3 ing farmland preservation techniques and recommended agricul-
4 tural management practices to advise and assist municipalities,
5 farmers and the general public with respect to the implementation
6 of these techniques;

7 b. Provide assistance to farm operators concerning permit appli-
8 cations and information regarding the regulatory practices of
9 State government agencies;

1 10. a. If any board of chosen freeholders has not created a board
2 within 1 year of the effective date of this act, the governing body
3 of any municipality located within that county may, singly or
4 jointly by parallel ordinance with other contiguous municipalities
5 within the county, establish a subregional agricultural retention
6 board which shall have the same responsibilities as a county board,
7 except that its jurisdiction shall not exceed the boundaries of the
8 municipality or municipalities establishing the board. Every sub-
9 regional agricultural retention board may receive State moneys
10 from the fund pursuant to the provisions of this act.

11 b. The members of a subregional agricultural retention board
12 shall be appointed in the same manner as a county board, except
13 that the planning board representative shall be from the municipal
14 planning board and the appointed members shall be residents of
15 the municipality. If two or more municipalities jointly create a
16 subregional board, the number of members thereof shall be multi-
17 plied by the number of municipalities involved.

18 c. If the governing body of the county creates a board subsequent
19 to the establishment of a sub-regional agricultural retention board,
20 the sub-regional body shall, within 90 days of the date of the crea-
21 tion of the board, be dissolved but may remain advisory to the
22 board. The board shall honor any contractual commitments of the
23 sub-regional agricultural retention board.

1 11. The board may, after public hearing, identify and recom-
2 mend an area as an agricultural development area, which recom-
3 mendation shall be forwarded to the county planning board. The
4 board shall document where agriculture shall be the preferred, but
5 not necessarily the exclusive, use of land if that area:

6 a. Encompasses productive agricultural lands which are cur-
7 rently in production or have a strong potential for future produc-
8 tion in agriculture **and in which agriculture is a permitted use*

8A *under the current municipal zoning ordinance or in which agri-*
 8B *culture is permitted as a nonconforming use**;

9 b. Is reasonably free of suburban and conflicting commercial
 10 development;

11 c. Comprises not greater than 90% of the agricultural land mass
 12 of the county;

13 d. Incorporates any other characteristics deemed appropriate by
 14 the board.

15 Approval of the agricultural development area by the board shall
 16 be in no way construed to authorize exclusive agricultural zoning or
 17 any zoning which would have the practical effect of exclusive agri-
 18 cultural zoning, nor shall the adoption be used by any tax official to
 19 alter the value of the land identified pursuant hereto or the assess-
 20 ment of taxes thereon.

1 12. a. Any public body or public utility which intends to exercise
 2 the power of eminent domain, pursuant to the provisions of the
 3 "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.),
 4 for the acquisition of land included in an agricultural development
 5 area, or which intends to advance a grant, loan, interest subsidy
 6 or other funds within an agricultural development area for the
 7 construction of dwellings, commercial or industrial facilities, trans-
 8 portation facilities, or water or sewer facilities to serve nonfarm
 9 structures, shall file a notice of intent with the board and the com-
 10 mittee, the provisions of any other law, rule or regulation to the
 11 contrary notwithstanding, 30 days prior to the initiation of this
 12 action. This notice shall contain a statement of the reasons for the
 13 acquisition and an evaluation of alternatives which would not in-
 14 clude action in the agricultural development area.

15 b. Within 30 days of the receipt of this notice of intent, the board
 16 and the committee shall review the proposed action to determine
 17 its effect upon the preservation and enhancement of agriculture
 18 in the agricultural development area, the municipally approved
 19 program, and upon overall State agricultural preservation and
 20 development policies. If the board or the committee finds that the
 21 proposed action would cause unreasonably adverse effects on the
 22 agricultural development area, or State agricultural preservation
 23 and development policies, the board or the committee may direct
 24 that no action be taken thereon for 60 days, during which time a
 25 public hearing shall be held by the board or the committee in the
 26 agricultural development area and a written report containing the
 27 recommendations of the board or the committee concerning the
 28 proposed acquisition or development project shall be made public.
 29 Notice of the hearing shall be afforded in accordance with the provi-
 30 sions of the "Open Public Meetings Act," P. L. 1975, c. 231 (C.
 30A 10:4-6 et seq.).

31 c. The secretary may, upon finding that the provisions of this
32 section have been violated, request the Attorney General to bring
33 an action to enjoin the acquisition or development project.

1 13. a. Any one or more owners of land which qualifies for differ-
2 ential property tax assessment pursuant to the "Farmland Assess-
3 ment Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1 et seq.), and
4 which is included in an agricultural development area, may petition
5 the board for the creation of a farmland preservation program.
6 The petition shall include a map of the boundaries of the proposed
7 farmland preservation program and any other information deemed
8 appropriate by the board.

9 b. Approval of the petition by the board and creation of the
10 farmland preservation program shall be signified by an agreement
11 between the board and the landowner to retain the land in
12 agricultural production for a minimum period of 8 years. The
13 agreement shall constitute a restrictive covenant and shall be filed
14 and recorded with the county clerk in the same manner as a deed.

1 14. a. Any one or more owners of land which qualifies for differ-
2 ential property tax assessment pursuant to the "Farmland Assess-
3 ment Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1 et seq.), and
4 which is included in an agricultural development area may petition
5 the board for the creation of a municipally approved program com-
6 prising that land provided that the owner or owners own at least the
7 minimum acreage established by the board. The petition shall
8 include a map of the boundaries of the municipally approved pro-
9 gram and any other information deemed appropriate by the board.

10 b. Upon receipt thereof, the board shall review this petition for
11 conformance with minimum eligibility criteria as established by
12 the committee and the board. If the board finds that the criteria
13 have been met, it shall immediately forward a copy of the petition
14 to the county planning board, the governing body of any munici-
15 pality wherein the proposed municipally approved program is
16 located, and to the planning board of each effected municipality.

17 c. Within 60 days of receipt of the petition, the municipal plan-
18 ning board shall review and report to the municipal governing
19 body the potential effect of the proposed municipally approved
20 program upon the planning policies and objectives of the munic-
21 ipality.

22 d. The municipal governing body shall, after public hearing and
23 within 120 days of receipt of the report, recommend to the board,
24 by ordinance duly adopted, that the municipally approved program
25 boundaries be approved, conditionally approved with proposed geo-
26 graphical modifications, or disapproved.

27 e. Upon receipt of a recommendation by the governing body to
28 approve the petition, the board shall forward the petition for the
29 creation of the municipally approved program and the municipal
30 ordinance approving the municipally approved program to the
31 county planning board. This action shall constitute creation of a
32 municipally approved program.

33 f. Upon receipt of a recommendation by the governing body to
34 conditionally approve the petition with proposed geographical
35 modifications, the board shall review the recommendation for con-
36 formance with minimum eligibility criteria. If the board finds that
37 the criteria have been met and that the proposed modifications
38 encourage agriculture retention and development to the greatest
39 practical extent, the petition shall be forwarded and adopted pur-
40 suant to subsection e. of this section.

41 g. Upon receipt of a recommendation by the governing body to
42 disapprove the petition, the board shall take no further action and
43 the proposed municipally approved program shall not be adopted.

44 h. If the governing body proposes modifications to the petition
45 which exclude any land from being included within a municipally
46 approved program, the owner thereof may request that the board
47 mediate on behalf of the landowner with the municipal governing
48 body prior to acting on the recommendation thereof. The land-
49 owner may request mediation by the committee with respect to any
50 action taken by the board.

51 i. If any municipal governing body fails to act on a petition to
52 create a municipally approved program within the time prescribed
53 in subsection d. of this section, the board or the landowner may
54 appeal to the committee to intervene, and the committee may
55 approve or disapprove a petition for the creation of a municipally
56 approved program pursuant to the provisions of this section.

57 j. The board shall advise owners of any land contiguous to the
58 proposed municipally approved program that a petition has been
59 received, solicit opinions concerning inclusion of this land and, if
60 the board deems appropriate, encourage the inclusion of the land in
61 the municipally approved program.

62 Any landowner not included in the municipally approved pro-
63 gram as initially created may, within 2 years following the creation
64 date, request inclusion, and upon review by the board and municipal
65 governing body, and a finding that this inclusion is warranted,
66 become part of the municipally approved program provided that the
67 landowner enters into an agreement pursuant to section 17 of this
68 act for the remaining duration of the municipally approved pro-
69 gram.

1 15. The creation of a municipally approved program shall be
2 documented in the following manner:

3 a. The petition in its final form shall be filed and recorded, in the
4 same manner as a deed, with the county clerk and shall be filed with
5 the municipal clerk;

6 b. The petition; the municipal ordinance of adoption and the
7 county resolution or ordinance of adoption, as the case may be, shall
8 be filed with the committee; and

9 c. The petition in its final form shall be filed with the municipal
10 tax assessor for the purposes of qualifying for the exemption from
11 property taxation on new farm structures and improvements within
12 the municipally approved program as authorized and provided in
13 the Constitution.

14 The documentation of the creation of the municipally approved
15 program as prescribed herein shall in no way be construed to con-
16 stitute or in any other way authorize exclusive agricultural zoning.

1 16. Notwithstanding the provisions of P. L. 1975, c. 291 (C.
2 40:55D-1 et seq.) or any other law, rule or regulation to the con-
3 trary, no municipality shall alter its zoning ordinance as it pertains
4 to land included within a municipally approved program in any
5 way so as to provide for exclusive agricultural zoning or zoning
6 which has the practical effect of exclusive agriculture zoning for a
7 period of 11 years from the date of the creation of the municipally
8 approved program, unless all landowners within that municipally
9 approved program who entered into an agreement pursuant to
10 the provisions of section 17 of this act agree to that alteration
11 by express written consent at the end of the minimum period re-
12 quired by section 17 of this act.

1 17. a. Landowners within a municipally approved program or
2 other farmland preservation program shall enter into an agree-
3 ment with the board, and the municipal governing body, if appro-
4 priate, to retain the land in agricultural production for a minimum
5 period of 8 years. The agreement shall constitute a restrictive
6 covenant and shall be filed with the municipal tax assessor and
7 recorded with the county clerk in the same manner as a deed.

8 b. The landowner shall be eligible to apply to the local soil con-
9 servation district and the board for a grant for a soil and water con-
10 servation project approved by the State Soil Conservation Com-
11 mittee and to the board to sell a development easement on the land
12 subject to the provisions of this act.

13 c. The landowner or farm operator as an agent for the landowner
14 may apply to the local soil conservation district and the board for
15 a grant for a soil and water conservation project approved by the

16 State Soil Conservation Committee on land included within a
17 municipally approved program or other farmland preservation
18 program and restricted by an agreement entered into pursuant to
18A subsection a. of this section.

19 d. Approval by the local soil conservation district and the board
20 for grants for soil and water conservation projects shall be con-
21 tingent upon a written agreement by the person who would receive
22 funds that the project shall be maintained for a specified period of
23 not less than 3 years, and shall be a component of a farm conserva-
24 tion plan approved by the local soil conservation district.

25 e. If the landowner applying for funds for a soil and water con-
26 servation project pursuant to this section provides 50% of those
27 funds without assistance from the county, the local soil conservation
28 district shall review, approve, conditionally approve or disapprove
29 the application. The committee shall certify that the land on which
30 the soil and water conservation project is to be conducted is part
31 of a municipally approved program or other farmland preservation
32 program and restricted by an agreement entered into pursuant to
33 the provisions of this section.

1 18. The provisions of any law to the contrary notwithstanding,
2 no public body shall exercise the power of eminent domain for the
3 acquisition of land in a municipally approved program, nor shall
4 any public body advance a grant, loan, interest subsidy or other
5 funds within a municipally approved program for the construction
6 of dwellings, commercial facilities, transportation facilities, or
7 water or sewer facilities to serve nonfarm structures unless the
8 Governor declares that the action is necessary for the public
9 health, safety and welfare and that there is no immediately appar-
10 ent feasible alternative. If the Governor so declares, the provisions
11 of section 12 of this act shall apply.

1 19. a. In all relevant actions filed subsequent to the effective
2 date of this act, there shall exist an irrebuttable presumption that
3 no agricultural operation, activity or structure which is conducted
4 or located within a municipally approved program and which
5 conforms to agricultural management practices approved by the
6 committee, and all relevant federal or State statutes or rules and
7 regulations adopted pursuant thereto and which does not pose a
8 direct threat to public health and safety shall constitute a public
9 or private nuisance, nor shall any such operation, activity or struc-
10 ture be deemed to otherwise invade or interfere with the use and
11 enjoyment of any other land or property.

12 b. In the event that any person wishes to file a complaint to
13 modify or enjoin an agricultural operation or activity under the

14 belief that the operation or activity violates the provisions of sub-
 15 section a. of this section, that person shall, 30 days prior to insti-
 16 tuting any action in a court of competent jurisdiction, petition the
 17 board to act as an informal mediator.

18 c. The board shall, in the course of its regular or special meetings
 19 but within 30 days of receipt of the petition, seek to facilitate the
 20 resolution of any dispute. No statement or expression of opinion
 21 made in the course of a meeting concerning the dispute shall be
 22 deemed admissible in any subsequent judicial proceeding thereon.

1 20. The provisions of any law, rule, regulation or ordinance to
 2 the contrary notwithstanding, agricultural activities on land in a
 3 municipally approved program shall be exempt from any emer-
 4 gency restrictions instituted on the use of water and energy sup-
 5 plies unless the Governor declares that the public safety and wel-
 6 fare requires otherwise.

1 21. a. The provisions of any law, rule, regulation or ordinance
 2 to the contrary notwithstanding, any criteria developed by a land
 3 grant college or a recognized organization of agricultural engineers
 4 and approved by the committee for farm structure design shall be
 5 the acceptable minimum construction standard for a farm structure
 6 located in a municipally approved program or other farmland
 7 preservation program.

8 b. The use by a farm owner or operator of a farm structure
 9 design approved pursuant to subsection a. of this section shall, the
 10 provisions of any law, rule, regulation or ordinance to the contrary
 11 notwithstanding, be exempt from any requirement concerning the
 12 seal of approval or fee of an architect or professional engineer.

1 22. a. The municipally approved program shall remain in effect
 2 for a minimum of 8 years, provided that a review of the practica-
 3 bility and feasibility of its continuation shall be conducted by the
 4 board and the municipal governing bodies within the year im-
 5 mediately preceding the termination date of the municipally ap-
 6 proved program.

7 b. If subsequent to notification by the board none of the parties
 8 to the agreement entered into pursuant to section 17 of this act
 9 notify the board within this 1 year period that they wish to termi-
 10 nate the municipally approved program, the municipally approved
 11 program shall continue in effect for another 8-year period and may
 12 continue for succeeding 8-year periods, provided that no notice
 13 of termination is received by the board during subsequent periods
 14 of review.

15 c. Termination of the municipally approved program at the end
 16 of any 8-year period shall occur following the receipt by the board

17 of any notice of termination. The municipal tax assessor shall be
18 notified by the board if the municipally approved program is termi-
19 nated.

20 d. Nothing in this section shall be construed to preclude the
21 reformation of a municipally approved program as initially created
22 pursuant to the provisions of this act.

23 e. Any landowner not included in a municipally approved pro-
24 gram may request inclusion at any time during the review con-
25 ducted pursuant to subsection a. of this section. If the board and
26 the municipal governing body find that this inclusion would promote
27 agricultural production, the inclusion shall be approved.

1 23. a. Withdrawal of land from the municipally approved pro-
2 gram, or other farmland preservation program prior to its termi-
3 nation date may occur in the case of death or incapacitating illness
4 of the owner or other serious hardship or bankruptcy, following
5 a public hearing conducted pursuant to the "Open Public Meetings
6 Act," P. L. 1975, c. 231 (C. 10:4-6 et seq.) and approval by the
7 board and in the case of a municipally approved program, the
8 municipal governing body at a regular or special meeting thereof.
9 The approval shall be documented by the filing with the county
10 clerk and county planning board, by the board and municipal
11 governing body, of a resolution or ordinance, as appropriate,
12 therefor. The local tax assessor shall also be notified by the board
13 of this withdrawal.

14 b. Following approval to withdraw from the municipally ap-
15 proved program, the affected landowner shall pay to the munic-
16 ipality, with interest at the rate imposed by the municipality for
17 nonpayment of taxes pursuant to R. S. 54:4-67, any taxes not paid
18 as a result of qualifying for the property tax exemption for new
19 farm structures or improvements in the municipally approved
20 program as authorized and provided in the Constitution, and shall
21 repay, on a pro rata basis as determined by the local soil conserva-
22 tion district, to the board or the committee, or both, as the case may
23 be, any remaining funds from grants for soil and water conserva-
24 tion projects provided pursuant to the provisions of this act, except
25 in the case of bankruptcy, death or incapacitating illness of the
26 owner, where no such payback of taxes or grants shall be required.

1 24. a. Any landowner applying to the board to sell a development
2 easement pursuant to section 17 of this act shall offer to sell
3 the development easement at a price which, in the opinion of the
4 landowner, represents a fair value of the development potential of
5 the land for nonagricultural purposes as determined in accordance
6 with the provisions of this act.

7 b. Any offer shall be reviewed and evaluated by the board and
 8 the committee in order to determine the suitability of the land for
 9 development easement purchase. Decisions regarding suitability
 10 shall be based on the following criteria:

11 (1) Priority consideration shall be given, in any one county,
 12 to offers with higher numerical values obtained by applying the
 13 following formula:

$$\frac{\text{nonagricultural development value}}{\text{nonagricultural development value}} - \frac{\text{agricultural value}}{\text{agricultural value}} - \frac{\text{landowner asking price}}{\text{landowner asking price}}$$

14 (2) The degree to which the purchase would encourage the sur-
 15 vivability of the municipally approved program in productive
 16 agriculture; and

17 (3) The degree of imminence of change of the land from produc-
 18 tive agriculture to nonagricultural use.

19 The board and the committee shall reject any offer for the sale
 20 of development easements which is unsuitable according to the
 21 above criteria and which has not been approved by the board and
 22 the municipality.

23 c. Two independent appraisals paid for by the board shall be
 24 conducted for each parcel of land so offered and deemed suitable.
 25 The appraisals shall be conducted by independent, professional
 26 appraisers selected by the board and the committee from among
 27 members of recognized organizations of real estate appraisers.
 28 The appraisals shall determine the current overall value of the
 29 parcel for nonagricultural purposes, as well as the current market
 30 value of the parcel for agricultural purposes. The difference
 31 between the two values shall represent an appraisal of the value of
 32 the development easement. If a development easement is purchased
 33 using moneys appropriated from the fund, the State shall provide
 34 50% of the cost of the appraisals conducted pursuant to this section.

35 d. Upon receiving the results of the appraisals, the board and
 36 the committee shall compare the appraised value and the landowner
 37 offer and, pursuant to the suitability criteria established in sub-
 38 section b. of this section:

39 (1) Approve the application to sell the development easement
 40 and rank the application in accordance with the criteria established
 41 in subsection b. of this section; or

42 (2) Disapprove the application, stating the reasons therefor.

43 e. Upon approval by the committee and the board, the secretary
 44 is authorized to provide the board, within the limits of funds
 45 appropriated therefor, an amount equal to 50% of the purchase

46 price of the development easement as determined pursuant to the
47 provisions of this section. The board shall match that amount and
48 accept the landowner's offer to sell the development easement. The
49 acceptance shall cite the specific terms, contingencies and conditions
50 of the purchase.

51 f. The landowner shall accept or reject the offer within 30 days
52 of receipt thereof. Any offer not accepted within that time shall
53 be deemed rejected.

54 g. Any landowner whose application to sell a development ease-
55 ment has been rejected for any reason other than insufficient funds
56 may not reapply to sell a development easement on the same land
57 within 2 years of the original application.

58 h. No development easement shall be purchased at a price greater
59 than the appraised value determined pursuant to subsection c. of
60 this section.

61 i. The appraisals conducted pursuant to this section or the fair
62 market value of land restricted to agricultural use shall not be used
63 to increase the assessment and taxation of agricultural land pur-
64 suant to the "Farmland Assessment Act of 1964," P. L. 1964, c. 48
65 (C. 54:4-23.1 et seq.).

1 25. a. No development easement purchased pursuant to the
2 provisions of this act shall be sold, given, transferred or otherwise
3 conveyed in any manner.

4 b. Upon the purchase of the development easement by the board,
5 the landowner shall cause a statement containing the conditions of
6 the conveyance and the terms of the restrictions on the use and
7 development of the land to be attached to and recorded with the
8 deed of the land in the same manner as the deed was originally
9 recorded. These restrictions and conditions shall state that any
10 development for nonagricultural purposes is expressly prohibited,
11 shall run with the land and shall be binding upon the landowner
12 and every successor in interest thereto.

13 c. At the time of settlement of the purchase of a development
14 easement, the landowner and the board may agree upon and
15 establish a schedule of payment which provides that the landowner
16 may receive consideration for the easement in a lump sum, or in
17 installments over a period of up to 10 years from the date of
18 settlement, provided that:

19 (1) If a schedule of installments is agreed upon, the State
20 Comptroller shall retain in the fund an amount of money sufficient
21 to pay the landowner pursuant to the schedule.

22 (2) The landowner shall receive, annually, interest on any
23 unpaid balance remaining after the date of settlement. The interest
24 shall accrue at a rate established in the installment contract.

1 26. The committee or the board is authorized to institute, in the
2 name of the State, any proceedings intended to enforce the condi-
3 tions or restrictions on the use and development of land on which
4 a development easement has been purchased pursuant to this act.

1 27. Any person or organization acquiring a development ease-
2 ment, by purchase, gift or otherwise, may apply to sell that devel-
3 opment easement to the board, provided that the land on which the
4 development easement was acquired shall be subject to the condi-
5 tions and provisions of this act and that the board and the
6 committee make a determination to purchase the development
7 easement in the manner prescribed in section 24 of this act.

1 28. If a person wishes to donate all or a portion of the value of
2 the development easement to the board, the value of the donation
3 shall be appraised pursuant to the provisions of section 24 of this
4 act. For the purpose of qualifying for State funds, pursuant to the
5 provisions of this act, the county may make up the difference
6 between the appraised value of the donation and 50% of the total
7 appraised value of the easement.

1 29. Nothing herein contained shall be construed to prohibit the
2 creation of a municipally approved program or other farmland
3 preservation program, the purchase of development easements, or
4 the extension of any other benefit herein provided on land, and to
5 owners thereof, in the pinelands area as defined pursuant to
6 section 3 fo P. L. 1979, c. 111 (C. 13:18A-3).

1 30. The Senate Natural Resources and Agriculture Committee
2 and the Assembly Agriculture and Environment Committee are
3 designated as the Joint Legislative Oversight Committee on Agri-
4 cultural Retention and Development. The duties and responsibili-
5 ties of the joint oversight committee shall be as follows:

6 a. To monitor the operation of the committee and its efforts to
7 retain farmland in productive agricultural use and to recommend
8 to the committee any rule, regulation, guideline, or revision thereto
9 which it deems necessary to effectuate the purposes and provisions
10 of this act.

11 b. To review and evaluate the implementation of development
12 easement purchases on agricultural land;

13 c. To review and evaluate all relevant existing and proposed
14 statutes, rules, regulations and ordinances, so as to determine their
15 individual effect upon the conduct of agricultural activities in this
16 State; and,

17 d. To recommend to the Legislature any legislation which it
18 deems necessary in order to effectuate the purposes of this act.

1 31. There is appropriated to the Department of Agriculture from

2 the fund the sum of \$10,000,000.00, or so much thereof as may be
3 necessary, in order to defray the cost of acquisition of development
4 easements and the funding of soil and water conservation projects
5 in accordance with the provisions of this act. Any portion of this
6 sum which is not expended for these purposes within 2 years of
7 the effective date of this act shall revert to the fund to be used,
8 subject to appropriation, in accordance with the provisions of the
9 "Farmland Preservation Bond Act of 1981," P. L. 1981, c. 276.

1 32. This act shall take effect immediately, but shall remain inop-
2 erative until the "Right to Farm Act," P. L. 198 , c. (C.
3) (now pending before the Legislature as Senate Bill
4 No. 854 Scs) is enacted and becomes effective.

SENATE, No. 867

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Senator ZANE

AN ACT concerning agricultural development and farmland preservation, establishing the State Agriculture Development Committee, providing for the establishment of county agriculture development boards, providing for the establishment of voluntary agricultural districts, authorizing the purchase of development easements and the funding of soil and water conservation projects on agricultural land, and making an appropriation.

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

1 1. This act shall be known and may be cited as the "Agriculture
2 Retention and Development Act."

1 2. The Legislature finds and declares that:

2 a. The strengthening of the agricultural industry and the preser-
3 vation of farmland are important to the present and future econ-
4 omy of the State and the welfare of the citizens of the State, and
5 that the Legislature and the people have demonstrated recognition
6 of this fact through their approval of the "Farmland Preservation
7 Bond Act of 1981," P. L. 1981, c. 276;

8 b. All State departments and agencies thereof should encourage
9 the maintenance of agricultural production and a positive agri-
10 cultural business climate;

11 c. It is necessary to authorize the establishment of State and
12 county organizations to coordinate the development of farmland
13 preservation programs within clearly delineated areas where agri-
14 culture will be presumed the first priority use of the land and
15 where certain financial, administrative and regulatory benefits will

16 be made available to those landowners who choose to participate,
17 all as hereinafter provided.

1 3. As used in this act:

2 a. "Agricultural development areas" mean areas delineated and
3 adopted by a county agriculture development board pursuant to
4 the provisions of section 11 of this act and certified by the State
5 Agriculture Development Committee;

6 b. "Agricultural use" means the use of land for common farm-
7 site activities including but not limited to: production, harvesting,
8 storage, grading, packaging, processing and the wholesale and
9 retail marketing of crops, plants, animals and other related com-
10 modities and the use and application of techniques and methods of
11 soil preparation and management, fertilization, weed, disease and
12 pest control, disposal of farm waste, irrigation, drainage and water
13 management, and grazing;

14 c. "Board" means a county agriculture development board
15 authorized pursuant to section 8 of this act;

16 d. "Committee" means the State Agriculture Development
17 Committee established pursuant to section 5 of this act;

18 e. "Cost" as used with respect to cost of development easements
19 or soil and water conservation projects, includes, in addition to
20 the usual connotations thereof, interest or discount on bonds; cost
21 of issuance of bonds; the cost of inspection, appraisal, legal, finan-
22 cial, and other professional services, estimates and advice; and the
23 cost of organizational, administrative and other work and services,
24 including salaries, supplies, equipment and materials necessary to
25 administer this act;

26 f. "Development easement" means an interest in land, less than
27 fee simple absolute title thereto, which enables the owner to develop
28 the land for any nonagricultural purpose as determined by the
29 provisions of this act and any relevant rules or regulations pro-
30 mulgated pursuant hereto;

31 g. "Development project" means any proposed construction or
32 capital improvement for nonagricultural purposes;

33 h. "District" means a voluntary agricultural district comprised
34 of a significant mass of reasonably contiguous agricultural land
35 which, upon the initiation of the owners of the land, is committed
36 exclusively to agricultural production for a period of not less than
37 8 years pursuant to section 13 of this act;

38 i. "Farmland preservation program" means any program, the
39 duration of which is at least 8 years, authorized by law enacted
40 subsequent to the effective date of the "Farmland Preservation
41 Bond Act of 1981," P. L. 1981, c. 276, which has at its principal

42 purpose the long term preservation of significant masses of reason-
43 ably contiguous agricultural land within agricultural development
44 areas adopted pursuant to this act and the maintenance and support
45 of increased agricultural production as the first priority use of
46 that land;

47 j. "Fund" means the "Farmland Preservation Fund" created
48 pursuant to the "Farmland Preservation Bond Act of 1981," P. L.
49 1981, c. 276;

50 k. "Governing body" means, in the case of a county, the board
51 of chosen freeholders, and in the case of a municipality, the com-
52 mission, council, board or body, by whatever name it may be
53 known, having charge of the finances of the municipality;

54 l. "Secretary" means the Secretary of Agriculture;

55 m. "Soil and water conservation project" means any project
56 designed for the control and prevention of soil erosion and sediment
57 damages, the control of nonpoint source pollution on agricultural
58 lands, the impoundment, storage and management of water for
59 agricultural purposes, or the improved management of land and
60 soils to achieve maximum agricultural productivity.

1 4. The secretary shall use the sum of money appropriated by
2 section 28 of this act, and any other sums as may be appropriated
3 from time to time for like purposes, to make grants to assist
4 boards or any other local units as authorized herein, to acquire
5 development easements, and to make grants to land owners to fund
6 soil and water conservation projects, on land devoted to farmland
7 preservation programs within duly adopted agricultural develop-
8 ment areas.

9 With respect to monies to be utilized to make grants for soil and
10 water conservation projects, the secretary shall not approve any
11 grant unless it shall be for a project which is also part of a farm
12 conservation plan approved by the local soil conservation district.

1 5. a. There is established in the Executive Branch of the State
2 Government a public body corporate and politic, with corporate
3 succession, to be known as the State Agriculture Development
4 Committee. For the purpose of complying with the provisions of
5 Article V, Section IV, paragraph 1 of the New Jersey Constitution,
6 the committee is allocated within the Department of Agriculture,
7 but, notwithstanding that allocation, the committee shall be in-
8 dependent of any supervision or control by the department or by
9 the secretary or any officer or employee thereof, except as otherwise
10 expressly provided in this act. The committee shall constitute an
11 instrumentality of the State exercising public and essential govern-
12 mental functions, and the exercise by the committee of the powers

13 conferred by this or any other act shall be held to be an essential
14 governmental function of the State.

15 b. The committee shall consist of 11 members, five of whom shall
16 be the Secretary of Agriculture, who shall serve as chairman, the
17 Commissioner of Environmental Protection, the Commissioner of
18 Community Affairs, the State Treasurer and the Dean of Cook
19 College, Rutgers University, or their designees, who shall serve
20 ex officio, and six citizens of the State, to be appointed by the
21 Governor with the advice and consent of the Senate, four of whom
22 shall be actively engaged in farming and own the majority of the
23 land that they farm, and two of whom shall represent the general
24 public. With respect to the members actively engaged in farming,
25 the State Board of Agriculture shall recommend to the Governor a
26 list of potential candidates to be considered for each appointment.

27 c. Of the six members first to be appointed, two shall be appointed
28 for terms of 2 years, two for terms of 3 years and two for terms of
29 4 years. Thereafter, all appointments shall be made for terms of
30 4 years. Each of these members shall hold office for the term of the
31 appointment and until a successor shall have been appointed and
32 qualified. A member shall be eligible for reappointment for no more
33 than two consecutive terms. Any vacancy in the membership
34 occurring other than by expiration of term shall be filled in the same
35 manner as the original appointment but for the unexpired term
36 only.

37 d. Members of the committee shall receive no compensation but
38 the appointed members may, subject to the limits of funds appro-
39 priated or otherwise made available for these purposes, be reim-
40 bursed for expenses actually incurred in attending meetings of the
41 committee and in performance of their duties as members thereof.

42 e. The committee shall meet at the call of the chairman as soon
43 as may be practical following appointment of its members and shall
44 establish procedures for the conduct of regular and special meet-
45 ings, provided that all meetings are conducted in accordance with
46 the provisions of the "Open Public Meetings Act," P. L. 1975, c. 231
47 (C. 10:4-6 et seq.).

1 6. The committee may:

2 a. Adopt bylaws for the regulation of its affairs and the conduct
3 of its business;

4 b. Adopt and use a seal and alter the same at its pleasure;

5 c. Sue and be sued;

6 d. Apply for, receive, and accept from any federal, State, or
7 other public or private source, grants or loans for, or in aid of, the
8 committee's authorized purposes;

9 e. Enter into any agreement or contract, execute any instrument,
10 and perform any act or thing necessary, convenient, or desirable
11 for the purposes of the committee or to carry out any power
12 expressly given in this act;

13 f. Adopt, pursuant to the "Administrative Procedure Act," P. L.
14 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary
15 to implement the provisions of this act;

16 g. Request assistance and avail itself of the services of the em-
17 ployees of any State, county or municipal department, board, com-
18 mission or agency as may be made available for these purposes;

19 h. Employ an executive director, real estate counselors, land use
20 planning professionals, agricultural economists, practicing farmers,
21 and any other consultants and employees as may be required in the
22 judgment of the committee to carry out the purposes of this act, and
23 to fix and pay their compensation from funds available to the com-
24 mittee therefor, all without regard to the provisions of Title 11,
25 Civil Service, of the Revised Statutes.

1 7. The committee shall:

2 a. Establish guidelines and adopt criteria for identification of
3 agricultural lands suitable for inclusion in agricultural develop-
4 ment areas and farmland preservation programs to be developed
4A and adopted by any board;

5 b. Certify to the secretary that every board and county planning
6 board have duly adopted an agricultural development area and the
7 farmland preservation program within the area where matching
8 grants from the fund shall be expended;

9 c. Review State programs and plans and any other public or
10 private action which would adversely affect the continuation of
11 agriculture as a viable use of the land in agricultural development
12 areas and recommend any administrative action, executive orders
13 or legislative remedies which may be appropriate to lessen these
14 adverse affects;

15 d. Study, develop and recommend to the departments and agen-
16 cies of State government a program of recommended agricultural
17 management practices appropriate to agricultural development
18 areas, districts and other farmland preservation programs, which
19 program shall include but not necessarily be limited to: air and
20 water quality control; noise control, pesticide control; fertilizer
21 application; soil and water management practices; integrated pest
22 management; and labor practices;

23 e. Review and approve, conditionally approve or disapprove all
24 applications for funds pursuant to the provisions of this act; and,

25 f. Generally act as an advocate for and promote the interests

26 of production agriculture and farmland retention within the ad-
 27 ministrative processes of State government.

1 8. a. The governing body of any county may, by resolution duly
 2 adopted, create a public body under the name and style of "The
 3 County Agriculture Development Board,"
 4 with all or any significant part of the name of the county inserted.
 5 Every board shall consist of nine voting members as follows: a
 6 representative of the county planning board; a representative of
 7 the local soil conservation district;; a member of the New Jersey
 8 Cooperative Extension Service whose jurisdiction encompasses the
 9 boundaries of the county; and six residents of the county, three of
 10 whom shall be actively engaged in farming and three of whom shall
 11 represent the general public, appointed by the board of chosen
 12 freeholders, or, in the counties operating under the county execu-
 13 tive plan or county supervisor plan pursuant to the provisions of
 14 the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A-1
 15 et seq.), by the county executive, or the county supervisor, as the
 16 case may be, with the advice and consent of the board of chosen
 17 freeholders. With respect to the members actively engaged in
 18 farming, the county board of agriculture shall recommend to the
 19 board of chosen freeholders, the county executive or the county
 20 supervisor, as appropriate, a list of potential candidates to be
 21 considered for each appointment.

22 b. Of the six members first to be appointed, two shall be appointed
 23 for terms of 2 years, two for terms of 3 years, and two for terms of
 24 4 years. Thereafter, all appointments shall be made for terms of 4
 25 years. Each of these members shall hold office for the term of the
 26 appointment and until a successor shall have been appointed and
 27 qualified. A member shall be eligible for reappointment for no
 28 more than two consecutive terms. Any vacancy in the membership
 29 occurring other than by expiration of term shall be filled in the
 30 same manner as the original appointment but for the unexpired
 31 term only.

32 c. The board of chosen freeholders, county executive or county
 33 supervisor, as appropriate, may appoint such other advisory mem-
 34 bers to the board as they may deem appropriate.

35 d. Members of the board shall receive no compensation but the
 36 appointed members may, subject to the limits of funds appropriated
 37 or otherwise made available for these purposes, be reimbursed for
 38 expenses actually incurred in attending meetings of the board and
 39 in performance of their duties as members thereof.

40 e. The board shall meet as soon as may be practical following
 41 the appointment of its members and shall elect a chairman from
 42 among its members and establish procedures for the conduct of

43 regular and special meetings, provided that all meetings are con-
44 ducted in accordance with the provisions of the "Open Public Meet-
45 ings Act," P. L. 1975, c. 231 (C. 10:4-6 et seq.). The chairman
46 shall serve for a term of 1 year and may be reelected.

47 f. Any public body established by the governing body of any
48 county prior to November 23, 1981 which was established to carry
49 out functions substantially similar to those granted boards by this
50 act and which proposes to apply for grants pursuant hereto shall
51 reorganize as necessary to comply with the provisions of this act.
52 In the case of such a reorganization, the number of members ap-
53 pointed by the board of chosen freeholders may exceed that pre-
54 scribed by this section if the number of members actively engaged
55 in farming equals the number appointed from the general public.

1 9. Every board shall:

2 a. Develop and adopt, after public hearings, an agricultural
3 retention and development program, which shall have as its
3A principal purposes the long-term encouragement of the agricultural
4 business climate and the preservation of agricultural land in the
5 county;

6 b. Establish the minimum acreage of significant masses of
7 reasonably contiguous land required for the creation of a district;

8 c. Establish minimum standards for the inclusion of land in
9 districts;

10 d. Develop an educational and informational program concerning
11 farmland preservation techniques and recommended agricultural
12 management practices to advise and assist municipalities, farmers
13 and the general public with respect to the implementation of these
14 techniques and practices;

15 e. Provide assistance to farm operators concerning permit appli-
16 cations and information regarding the regulatory practices of
17 State government agencies;

18 f. Review and approve, conditionally approve or disapprove
19 petitions for the formation of districts or other farmland preser-
20 vation programs, and monitor the operations thereof;

21 g. Review and approve, conditionally approve or disapprove,
22 prior to any applications to the committee, any request for financial
23 assistance authorized by this act;

24 h. Monitor and make appropriate recommendations to the com-
25 mittee and to county and municipal governing bodies and boards
26 with respect to resolutions, ordinances, regulations and develop-
27 ment approvals which would threaten the continued viability of
28 agricultural activities and farmland preservation programs within
29 agricultural development areas.

30 i. Certify that municipal rules and regulations concerning farm
 31 management on land included in a district or other farmland
 32 preservation program and restricted by an agreement entered into
 33 pursuant to section 15 of this act have been modified to permit
 34 the appropriate management practices recommended pursuant to
 35 subsection d. of section 7 of this act.

36 j. At the request of a municipality, require that any person
 37 proposing any nonagricultural development in an agricultural
 38 development area prepare and submit a statement as to the
 39 potential impact the proposed development would have on agri-
 40 cultural activities in the area.

1 10. a. If any board of chosen freeholders has not created a board
 2 within 180 days of the effective date of this act, the governing body
 3 of any municipality located within that county may, singly or
 4 jointly by parallel ordinance with other contiguous municipalities
 5 within the county, establish a subregional agricultural retention
 6 board which shall have the same responsibilities as a county board,
 7 except that its jurisdiction shall not exceed the boundaries of the
 8 municipality or municipalities establishing the board. Every sub-
 9 regional agricultural retention board may receive State monies
 10 from the fund pursuant to the provisions of this act.

11 b. The members of a subregional agricultural retention board
 12 shall be appointed in the same manner as a county board, except that
 13 the planning board representative shall be from the municipal
 14 planning board and the appointed members shall be residents of
 15 the municipality. If two or more municipalities jointly create a
 16 subregional board, the number of members thereof shall be multi-
 17 plied by the number of municipalities involved.

1 11. The board may, after public hearing, delineate and adopt
 2 an area as an agricultural development area, to be adopted as
 3 part of the county master plan, where agriculture shall be the
 4 preferred but not necessarily the exclusive use of land if that area:

5 a. Encompasses productive agricultural lands which are cur-
 6 rently in production or have a strong potential for future pro-
 7 duction in agriculture;

8 b. Is reasonably free of suburban and conflicting commercial
 9 development;

10 c. Comprises not greater than 90% of the agricultural and
 11 undeveloped land mass of the county; and,

12 shall be appointed in the same manner as a county board, except that
 13 by the committee.

1 12. a. Any public body or public utility which intends to exercise
2 the power of eminent domain, pursuant to the provisions of the
3 "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.),
4 for the acquisition of land included in an agricultural development
5 area, or which intends to advance a grant, loan, interest subsidy
6 or other funds within an agricultural development area for the
7 construction of dwellings, commercial or industrial facilities, or
8 water or sewer facilities to serve nonfarm structures, shall file a
9 notice of intent with the board and the committee, the provisions
10 of any other law, rule or regulation to the contrary notwithstanding,
11 30 days prior to the initiation of this action. This notice shall
12 contain a statement of the reasons for the acquisition and an
13 evaluation of alternatives which would not include action in the
14 agricultural development area.

15 b. Within 30 days of the receipt of this notice of intent, the board
16 and the committee shall review the proposed action to determine
17 its effect upon the preservation and enhancement of agriculture
18 in the agricultural development area, the district, and upon overall
19 State agricultural preservation and development policies. If the
20 board or the committee finds that the proposed action would cause
21 unreasonably adverse effects on the agricultural development area,
22 or State agricultural preservation and development policies, the
23 board or the committee may direct that no action be taken thereon
24 for 60 days, during which time a public hearing shall be held by
25 the board or the committee in the agricultural development area
26 and a written report containing the recommendations of the board
27 or the committee concerning the proposed acquisition or develop-
28 ment project shall be made public. Notice of the hearing shall
29 be afforded in accordance with the provisions of the "Open Public
30 Meeting Act," P. L. 1975, c. 231 (C. 10:4-6 et seq.).

31 c. The secretary may, upon finding that the provisions of this
32 section have been violated, request the Attorney General to bring
33 an action to enjoin the acquisition or development project.

1 13. a. Any one or more owners of land which qualifies for differ-
2 ential property tax assessment pursuant to the "Farmland Assess-
3 ment Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1 et seq.), and
4 which is included in an agricultural development area may petition
5 the board for the creation of an agricultural district comprising
6 that land provided that the owner or owners own at least the
7 minimum acreage established by the board. The petition shall
8 include a map of the boundaries of the proposed district and any
9 other information deemed appropriate by the board.

10 b. Upon receipt thereof, the board shall review this petition for
11 conformance with minimum eligibility criteria as established by
12 the committee and the board. If the board finds that the criteria
13 have been met, it shall immediately forward a copy of the petition
14 to the county planning board, the governing body of any municipi-
15 pality wherein the proposed district is located, and to the planning
16 board of each effected municipality.

17 c. Within 60 days of receipt of the petition, the municipal plan-
18 ning board shall review and report to the municipal governing
19 body the potential effect of the proposed district upon the planning
20 policies and objectives of the municipality.

21 d. The municipal governing body shall, after public hearing and
22 within 120 days of receipt of the report, recommend to the board,
23 by ordinance duly adopted, that the district boundaries be approved,
24 conditionally approved with proposed geographical modifications,
25 or disapproved.

26 e. Upon receipt of a recommendation by the governing body to
27 approve the petition, the board shall forward the petition for the
28 creation of the district and the municipal ordinance approving the
29 district to the county planning board which shall adopt the district
30 as part of the county master plan. This action shall constitute
31 district creation.

32 f. Upon receipt of a recommendation by the governing body to
33 conditionally approve the petition with proposed geographical
34 modifications, the board shall review the recommendation for con-
35 formance with minimum eligibility criteria. If the board finds that
36 the criteria have been met and that the proposed modifications
37 encourage agriculture retention and development to the greatest
38 practical extent, the petition shall be forwarded and adopted pur-
39 suant to subsection e. of this section.

40 g. Upon receipt of a recommendation by the governing body to
41 disapprove the petition, the board shall take no further action and
42 the proposed district shall not be adopted.

43 h. If the governing body proposes modifications to the petition
44 which exclude any land from being included within a district, the
45 owner thereof may request that the board mediate on the behalf
46 of the landowner with the municipal governing body prior to acting
47 on the recommendation thereof. The landowner may request media-
48 tion by the committee with respect to any action taken by the board.

49 i. If any municipal governing body fails to act on a petition to
50 create a district within the time prescribed in subsection d. of this
51 section, the board or the landowner may appeal to the committee to

52 intervene, and the committee may approve or disapprove a petition
53 for the creation of a district pursuant to the provisions of this
54 section.

55 j. The board shall advise owners of any land contiguous to the
56 proposed district that a petition has been received, solicit opinions
57 concerning inclusion of this land and, if the board deems appro-
58 priate, encourage the inclusion of the land in the district.

59 Any landowner not included in the district as initially created
60 may, within 2 years following the creation date, request inclusion,
61 and upon review by the board and municipal governing body, and
62 a finding that this inclusion is warranted, become part of the district
63 provided that the landowner enters into an agreement pursuant to
64 section 15 of this act for the remaining duration of the district.

1 14. The creation of a district shall be documented in the follow-
2 ing manner:

3 a. The petition in its final form shall be filed and recorded, in the
4 same manner as a deed, with the county clerk and shall be filed with
5 the municipal clerk;

6 b. The petition; the municipal ordinance of adoption and the
7 county resolution or ordinance of adoption, as the case may be, shall
8 be filed with the committee; and

9 c. The petition in its final form shall be filed with the municipal
10 tax assessor for the purposes of qualifying for the exemption from
11 property taxation on new farm structures and improvements within
12 the district as authorized and provided in the Constitution.

1 15. a. Landowners within a district or other farmland preserva-
2 tion program shall enter into an agreement with the board, and the
3 municipal governing body if appropriate, to retain the land in
4 agricultural production for a minimum period of 8 years. The
5 agreement shall constitute a restrictive covenant and shall be filed
6 with the municipal tax assessor and recorded with the county clerk
7 in the same manner as a deed.

8 b. The landowner shall be eligible to apply to the local soil con-
9 servation district and the board for a grant for a soil and water con-
10 servation project approved by the State Soil Conservation Com-
11 mittee and to the board to sell a development easement on the land
12 subject to the provisions of this act.

13 c. Any farm operator may apply to the local soil conservation
14 district and the board for a grant for a soil and water conservation
15 project approved by the State Soil Conservation Committee on land
16 included within a district or other farmland preservation program
17 and restricted by an agreement entered into pursuant to subsec-
18 tion a. of this section.

19 d. Approval by the local soil conservation district and the board
20 for grants for soil and water conservation projects shall be con-
21 tingent upon a written agreement by the person who would receive
22 funds that the project shall be maintained for a specified period of
23 not less than 3 years, and shall be a component of a farm conserva-
24 tion plan approved by the local soil conservation district.

25 e. If the landowner applying for funds for a soil and water con-
26 servation project pursuant to this section provides 50% of those
27 funds without assistance from the county, the local soil conservation
28 district shall review, approve, conditionally approve or disapprove
29 the application. The committee shall certify that the land on which
30 the soil and water conservation project is to be conducted is part
31 of a district or other farmland preservation program and restricted
32 by an agreement entered into pursuant to the provisions of this
33 section.

1 16. Any land within the district which qualifies for differential
2 property tax assessment pursuant to the "Farmland Assessment
3 Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1 et seq.) shall be assessed
4 at a value no greater than the value listed in the most recently
5 published report of the State Farmland Evaluation Advisory Com-
6 mittee established pursuant to section 20 of the "Farmland Assess-
7 ment Act of 1964" (P. L. 1964, c. 48; C. 54:4-23.20), with respect
8 to soil group and use-class of agricultural land in each respective
9 county.

1 17. The provisions of any law to the contrary notwithstanding,
2 no public body shall exercise the power of eminent domain for the
3 acquisition of land in a district, nor shall any public body advance
4 a grant, loan, interest subsidy or other funds within a district for
5 the construction of dwellings, commercial facilities, or water or
6 sewer facilities to serve non-farm structures unless the Governor
7 declares that the action is necessary for the public health, safety
8 and welfare and that there is no immediately apparent feasible
9 alternative. If the Governor so declares, the provisions of section
10 12 of this act shall apply.

1 18. a. No agricultural operation, activity or structure within a
2 district or other farmland preservation program which conforms to
3 recommended agricultural management practices approved by the
4 committee and all relevant federal or State statutes or rules and
5 regulations adopted pursuant thereto and which does not pose a
6 direct threat to public health and safety shall be deemed a nuisance,
7 public or private, nor shall any such operation, activity or structure
8 be deemed to otherwise invade or interfere with the use and enjoy-
9 ment of any other land or property.

10 b. In the event that any person wishes to file a complaint to
11 modify or enjoin an agricultural operation or activity under the
12 belief that the operation or activity violates the provisions of sub-
13 section a. of this section, that person shall, 30 days prior to institut-
14 ing any action in a court of competent jurisdiction, petition the
15 board to act as an informal mediator.

16 c. The board shall, in the course of its regular or special meetings
17 but within 30 days of receipt of the petition, seek to facilitate the
18 resolution of any dispute. No statement or expression of opinion
19 made in the course of a meeting concerning the dispute shall be
20 deemed admissible in any subsequent judicial proceeding thereon.

1 19. a. The provisions of any law, rule, regulation or ordinance
2 to the contrary notwithstanding, any criteria developed by a land
3 grant college or a recognized organization of agricultural engineers
4 and approved by the committee for farm structure design shall be
5 the acceptable minimum construction standard for a farm structure
6 located in a district or other farmland preservation program.

7 b. The use by a farm owner or operator of a farm structure
8 design approved pursuant to subsection a. of this section shall, the
9 provisions of any law, rule, regulation or ordinance to the contrary
10 notwithstanding, be exempt from any requirement concerning the
11 seal of approval or fee of an architect or professional engineer.

1 20. a. The district shall remain in effect fo ra minimum of
2 8 years, provided that a review of the practicability and feasibility
3 of its continuation shall be conducted by the board and the municipi-
4 pal governing bodies within the year immediately preceding the
5 termination date of the district.

6 b. If subsequent to notification by the board none of the parties
7 to the agreement entered into pursuant to section 15 of this act
8 notify the board within this 1 year period that they wish to termi-
9 nate the district, the district shall continue in effect for another
10 8 year period and may continue for succeeding 8 year periods,
11 provided that no notice of termination is received by the board
12 during subsequent periods of review.

13 c. Termination of the district at the end of any 8 year period
14 shall occur following the receipt by the board of any notice of
15 termination. The municipal tax assessor shall be notified by the
16 board if the district is terminated.

17 d. Nothing in this section shall be construed to preclude the
18 reformation of a district as initially created pursuant to the provi-
19 sions of this act.

20 e. Any landowner not included in a district may request inclusion
21 at any time during the review conducted pursuant to subsection a.

22 of this section. If the board and the municipal governing body find
 23 that this inclusion would promote agricultural production, the
 24 inclusion shall be approved.

1 21. a. Withdrawal of land from the district or other farmland
 2 preservation program prior to its termination date may occur in
 3 the case of death or incapacitating illness of the owner or other
 4 serious hardship, following a public hearing conducted pursuant to
 5 the "Open Public Meetings Act," P. L. 1975, c. 231 (C. 10:4-6
 6 et seq.) and approval by the board and the municipal governing
 7 body at a regular or special meeting thereof. The approval shall be
 8 documented by the filing with the county clerk and county planning
 9 board, by the board and municipal governing body, of a resolution
 10 or ordinance, as appropriate, therefor. The local tax assessor shall
 11 also be notified by the board of this withdrawal.

12 b. Following approval to withdraw from the district, the affected
 13 landowner shall pay to the municipality, with interest at the rate
 14 imposed by the municipality for nonpayment of taxes pursuant to
 15 R. S. 54:4-67, any taxes not paid as a result of qualifying for the
 16 property tax exemption for new farm structures or improvements
 17 in the district as authorized and provided in the Constitution, and
 18 shall repay to the board or the committee, or both, as the case
 19 may be, grants for soil and water conservation projects provided
 20 pursuant to the provisions of this act, except in the case of death
 21 or incapacitating illness of the owner, where no such payback of
 22 taxes or grants shall be required.

1 22. a. Any landowner applying to the board to sell a develop-
 2 ment easement pursuant to section 15 of this act shall offer to sell
 3 the development easement at a price which, in the opinion of the
 4 landowner, represents a fair value of the development potential of
 5 the land for nonagricultural purposes as determined in accordance
 6 with the provisions of this act.

7 b. Any offer shall be reviewed and evaluated by the board and
 8 the committee in order to determine the suitability of the land for
 9 development easement purchase. Decisions regarding suitability
 10 shall be based on the following criteria:

11 (1) Priority consideration shall be given, in any one county,
 12 to offers with higher numerical values obtained by applying the
 13 following formula:

14 nonagricultural	agricultural	landowner
15 development value	— value	— asking price;
16 nonagricultural	agricultural	
17 development value	— value	

18 (2) The degree to which the purchase would encourage the sur-
19 vivability of the district in productive agriculture; and

20 (3) The degree of imminence of change of the land from produc-
21 tive agriculture to nonagricultural use.

22 The board and the committee shall reject any offer for the sale
23 of development easements which is unsuitable according to the
24 above criteria and which has not been approved by the board.

25 c. Two independent appraisals paid for by the board shall be
26 conducted for each parcel of land so offered and deemed suitable.
27 The appraisals shall be conducted by independent, professional
28 appraisers selected by the board and the committee from among
29 members of recognized organizations of real estate appraisers.
30 The appraisals shall determine the current overall value of the
31 parcel for nonagricultural purposes, as well as the current market
32 value of the parcel for agricultural purposes. The difference
33 between the two values shall represent an appraisal of the value of
34 the development easement. If a development easement is purchased
35 using moneys appropriated from the fund, the State shall provide
36 50% of the cost of the appraisals conducted pursuant to this section.

37 d. Upon receiving the results of the appraisals, the board and
38 the committee shall compare the appraised value and the landowner
39 offer and, pursuant to the suitability criteria established in sub-
40 section b. of this section:

41 (1) Approve the application to sell the development easement
42 and rank the application in accordance with the criteria established
43 in subsection b. of this section; or

44 (2) Disapprove the application, stating the reasons therefor.

45 e. Upon approval by the committee and the board, the secretary
46 is authorized to provide the board, within the limits of funds
47 appropriated therefor, an amount equal to 50% of the purchase
48 price of the development easement as determined pursuant to the
49 provisions of this section. The board shall match that amount and
50 accept the landowner's offer to sell the development easement. The
51 acceptance shall cite the specific terms, contingencies and conditions
52 of the purchase.

53 f. The landowner shall accept or reject the offer within 30 days
54 of receipt thereof. Any offer not accepted within that time shall
55 be deemed rejected.

56 g. Any landowner whose application to sell a development ease-
57 ment has been rejected for any reason other than insufficient funds
58 may not reapply to sell a development easement on the same land
59 within 2 years of the original application.

60 h. No development easement shall be purchased at a price greater
61 than the appraised value determined pursuant to subsection c. of
62 this section.

63 i. The appraisals conducted pursuant to this section shall not be
64 used to increase the assessment and taxation of agricultural land
65 pursuant to the "Farmland Assessment Act of 1964," P. L. 1964,
66 c. 48 (C. 54:4-23.1 et seq.).

1 23. a. No development easement purchased pursuant to the
2 provisions of this act shall be sold, given, transferred or otherwise
3 conveyed in any manner.

4 b. Upon the purchase of the development easement by the board,
5 the landowner shall cause a statement containing the conditions of
6 the conveyance and the terms of the restrictions on the use and
7 development of the land to be attached to and recorded with the
8 deed of the land in the same manner as the deed was originally
9 recorded. These restrictions and conditions shall state that any
10 development for nonagricultural purposes is expressly prohibited,
11 shall run with the land and shall be binding upon the landowner
12 and every successor in interest thereto.

13 c. At the time of settlement of the purchase of a development
14 easement, the landowner and the board may agree upon and
15 establish a schedule of payment which provides that the landowner
16 may receive consideration for the easement in a lump sum, or in
17 installments over a period of up to 10 years from the date of
18 settlement, provided that:

19 (1) If a schedule of installments is agreed upon, the State
20 Comptroller shall retain in the fund an amount of money sufficient
21 to pay the landowner pursuant to the schedule.

22 (2) The landowner shall receive, annually, interest on any
23 unpaid balance remaining after the date of settlement. The interest
24 shall accrue at a rate established in the installment contract.

1 24. The committee or the board is authorized to institute, in the
2 name of the State, any proceedings intended to enforce the condi-
3 tions or restrictions on the use and development of land on which
4 a development easement has been purchased pursuant to this act.

1 25. Any person or organization acquiring a development ease-
2 ment, by purchase, gift or otherwise, may apply to sell that devel-
3 opment easement to the board, provided that the land on which the
4 development easement was acquired shall be subject to the condi-
5 tions and provisions of this act and that the board and the
6 committee make a determination to purchase the development
7 easement in the manner prescribed in section 22 of this act.

1 26. If a person wishes to donate 50% of the value of the develop-
 2 ment easement to the board, the value of the donation shall repre-
 3 sent the county share for the purpose of qualifying for State funds
 4 pursuant to the provisions of this act.

1 27. The Senate Natural Resources and Agriculture Committee
 2 and the Assembly Agriculture and Environment Committee are
 3 designated as the Joint Legislative Oversight Committee on Agri-
 4 cultural Retention and Development. The duties and responsibili-
 5 ties of the joint oversight committee shall be as follows:

6 a. To monitor the operation of the committee and its efforts to
 7 retain farmland in productive agricultural use and to recommend
 8 to the committee any rule, regulation, guideline, or revision thereto
 9 which it deems necessary to effectuate the purposes and provisions
 10 of this act.

11 b. To review and evaluate the implementation of development
 12 easement purchases on agricultural land;

13 c. To review and evaluate all relevant existing and proposed
 14 statutes, rules, regulations and ordinances, so as to determine their
 15 individual effect upon the conduct of agricultural activities in this
 16 State; and,

17 d. To recommend to the Legislature any legislation which it
 18 deems necessary in order to effectuate the purposes of this act.

1 28. There is appropriated to the Department of Agriculture from
 2 the fund the sum of \$10,000,000.00, or so much thereof as may be
 3 necessary, in order to defray the cost of acquisition of development
 4 easements and the funding of soil and water conservation projects
 5 in accordance with the provisions of this act. Any portion of this
 6 sum which is not expended for these purposes within 2 years of
 7 the effective date of this act shall revert to the fund to be used,
 8 subject to appropriation, in accordance with the provisions of the
 9 "Farmland Preservation Bond Act of 1981," P. L. 1981, c. 276.

1 29. This act shall take effect immediately.

Sponsors

STATEMENT

The purpose of this bill is to provide for the implementation of the "Farmland Preservation Bond Act of 1981." To this end, the bill authorizes the establishment of State and county organizations to coordinate the development of farmland preservation programs and administer voluntary agricultural districts within clearly delineated areas where agriculture will be presumed the first priority use of the land and where development easements will be purchased, soil and water conservation projects will be funded and certain

other financial and regulatory benefits will be made available to those landowners who choose to participate.

The State Agriculture Development Committee consists of 11 members—the Secretary of Agriculture, Commissioners of Environmental Protection and Community Affairs, the State Treasurer, President of Cook College, all ex-officio, as well as four farmer members and two nonfarmer members appointed by the Governor with the advice and consent of the Senate. The State committee will establish guidelines for the identification of agricultural development areas and farmland preservation programs. It will also pass upon all applications for State matching funds, monitor actions which may adversely affect agriculture and make recommendations to lessen such effects, develop a program of recommended agricultural practices, and generally promote agricultural interests within State government.

Each county may create a County Agriculture Development Board consisting of nine voting members—a county planning board, a local soil conservation district representative and a member of the New Jersey Cooperative Extension Service, all ex-officio, and six members appointed by the county freeholders or executive, as the case may be, three of whom must be farmers and three nonfarmers. The county may also appoint advisory members if it wishes to do so. If a county does not create a board, municipalities within a county may create their own boards, singly or jointly.

The board shall develop an agricultural retention and development program, establish the standards required for agricultural districts, including minimum acreage, pass on applications for the creation of districts, the certification of farmland preservation programs, and the disbursement of State funds, and perform an oversight and informational function vis-a-vis agriculture, farmers and local government. They also serve a mediating function in nuisance disputes involving farm operations that are part of a farmland preservation program.

The bill calls for the expenditure of funds on a 50% matching basis for the purchase of development easements or soil conservation projects within an agricultural district or other farmland preservation program that has been established in an agricultural development area. It also places certain restrictions and provides certain benefits to farmers within certain areas.

All of the activities, restrictions, and the like dealt with in this bill must take place in agricultural development areas. The specific criteria for the classification of such areas is left to the

boards and committee. The bill does require, however, that such areas must encompass lands which are currently in production or have a strong potential for future agricultural production and which are reasonably free of suburban and conflicting commercial development. No more than 90% of the agricultural and undeveloped land mass of a county may be in an agricultural development area.

Designation of land as an agricultural development area has the following consequences. First, it enables the board and municipalities to include the land in a district or other farmland preservation program. In addition, within such areas there is a mandatory committee review procedure whenever any exercise of eminent domain or any public grant, loan, or interest subsidy for the construction of dwellings, industrial facilities, water and sewer facilities that are not designed to serve farm structures is proposed. The committee shall make nonbinding recommendations following public hearings.

A farmland preservation program is defined as any program which has as its principal purpose the long-term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas and the maintenance and support of increased agricultural production as the first priority use of that land. Beyond this definition, more explicit standards will be established by the committee and the boards. All landowners involved in such a program must enter into an agreement with the board, and with the municipal governing body, if appropriate, to retain the land in agricultural production for a minimum period of 8 years.

An agricultural district is one type of farmland preservation program. Such districts will be established only upon approval of the board and municipal governing body. Each county board will set a minimum acreage required for the creation of a district. Only farmers who have voluntarily petitioned to join a district may be included within the district. Upon the approval of a petition for a district, the district shall be entered on the County Master Plan. The district shall last for 8 years. If no notice of a desire to terminate participation is received from a landowner at the end of that time, the district is automatically renewed. If notice is received from a participating landowner, the district terminates, but a new district with revised boundaries that encompass those who wish to remain in a district may be formed. The board is directed to encourage farmers contiguous to proposed districts to join those

districts, when appropriate, and within 2 years of the formation of a district other landowners may petition the board and municipal governing body for inclusion.

Other farmland preservation programs may be approved by the board and committee alone, without municipal approval. Under any farmland preservation program, withdrawal prior to the expiration of the 8-year period may occur in the case of death, incapacitating illness of the owner or other serious hardship. Withdrawal entails the payback of tax benefits and soil and water conservation grants, except in the case of death or incapacitating illness, for which no payback shall be required.

The establishment of a farmland preservation program provides the following benefits: eligibility for State matching funds for a development easement purchase or soil conservation project; ability to invoke the "right-to-farm" clause which provides that practices which conform to recommended agricultural practices and all federal and State laws and regulations may not be deemed nuisances—all complaints filed against an agricultural district in a farmland preservation district shall first be the subject of non-binding informal mediation conducted by the board within 30 days of the date when intent to file is stated; exemption from any requirement of a seal of approval by an architect or professional engineer if a farm structure meets criteria developed by a land grant college or a recognized organization of agricultural engineers and approved by the committee.

The establishment of the districting form of farmland preservation program provides the following additional benefits: eligibility for the exclusion of new farm structures and improvements from municipal tax assessment (if the constitutional amendment which would achieve this result is passed by the Legislature and the voters); the prohibition of any eminent domain or grants, loan, interest subsidies, or other funds for the construction of dwellings, commercial facilities, or water or sewer facilities to serve nonfarm structures, except in cases where the Governor has certified that the project is necessary for the public safety, health, or welfare, and there are no immediately evident feasible alternatives (in such cases, the review procedures generally applicable to agricultural development areas apply); and a guarantee that the valuation of their land will not exceed values recommended by the State Farmland Evaluation Assessment Committee. At present, those guidelines are only advisory—most municipalities assess at a rate equal to or below the value recommended therein. However, a few assess

at a higher value. This bill would not permit this within a district.

Development easements may be purchased only on land located within farmland preservation programs. The board and committee shall evaluate applications based on the following criteria: a bidding system is established whereby those farmers whose asking price is farthest below the nonagricultural development value, as ascertained via two appraisals, have first priority for easement purchases to be made; and in cases where a particular plot of land would solidify the survivability of the district in productive agriculture or where the change of the land to nonagricultural use is imminent, the priority established by the bidding system may be overridden.

There is a provision that the assessment performed pursuant to the application for an easement may not be used to increase a landowner's assessment for tax purposes.

Applications for funds for soil and water conservation projects will go to the board and local soil conservation district. All proposed plans must be approved by State Soil Conservation Committee before any funds may be awarded. Moreover, the landowner must make a commitment to maintain the project for a minimum of 3 years. If the landowner is providing 50% of the cost of the soil and water conservation project, the local soil conservation district may approve the application upon the certification by the board that the land is in a farmland preservation program.

The ultimate decisions as to the amount of State matching funds used for easement purchases and soil conservation projects is left to the State Agriculture Development Committee.

The bill appropriates \$10,000,000.00 to carry out the provisions of the act.

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 867

STATE OF NEW JERSEY

DATED: NOVEMBER 4, 1982

The Assembly Revenue, Finance and Appropriations Committee, being a committee of second reference for further fiscal study and report on this bill pursuant to the Rules of the General Assembly, reviewed this bill from the viewpoint of appropriateness and compliance with the "Farmland Preservation Bond Act of 1981" (P. L. 1981, c. 276). The committee finds no conflict with the provisions of that act.

This committee finds the Senate Natural Resources and Agriculture Committee statement to this bill an adequate and concise explanation of this bill and concurs with that statement except to note for the record:

- The appropriation of \$10 million from the "Farmland Preservation Fund" is from a \$50 million total authorization;
- The restriction in the bond act creating the fund permits up to 50% State matching for soil and water conservation programs and purchase of development easements, with this bill establishing a 50% State match;
- The appropriation of \$10 million from the fund is not allocated as between development easements and soil and water conservation programs, but is available for both purposes with the program administrators making the allocation;
- Any portion of the appropriation not expended within two years will revert to the fund and be available for future appropriation. It is not anticipated that expenditure means an actual payment only, but includes an encumbrance of sums required for soil and water conservation projects or development easements as may be required pursuant to longer term payment arrangements specifically authorized in the bill; and
- The bill remains inoperative until the "Right to Farm Act" is enacted and becomes effective.

While the committee recognizes that this bill has been carefully scrutinized by the first reference committees, and has been passed by the Senate, significant concern was expressed to the committee by the

League of Municipalities as to the potential violation of the "home rule" principle particularly with regard to land use and zoning decisions. While specific amendments were not submitted, the committee permitted a discussion of this concern, hearing from the League, the Secretary of Agriculture and the sponsor. No specific problem was defined in terms of the bill provisions and therefore there was no committee resolution of the issue. The committee recommends that the issue be resolved by conference among the parties involved and will support any amendments agreed to by the parties as floor amendments to the bill.

Further concern was expressed by some committee members that a potential for conflict with migrant labor laws exists. No specific provisions of the bill were identified in this regard and the committee takes the position that there is no committee interpretation of the bill to give substance to this concern and further it is the intent of the committee that no such interpretation of this bill be made upon adoption.

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 867

STATE OF NEW JERSEY

DATED: JULY 1, 1982

The Senate committee statement for Senate Committee Substitute for Senate Bill No. 867 adequately explains the provisions of the bill.

The Assembly Agriculture and Environment Committee in reporting this bill believed that the bill did not preclude, and it would be highly recommended, that the Chairman of the State Agriculture Development Committee appoint an advisory committee for the purposes of providing the committee with additional information on improving agriculture in the State.

SENATE NATURAL RESOURCES AND AGRICULTURE
COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 867

STATE OF NEW JERSEY

DATED: JUNE 17, 1982

The purpose of this bill is to provide for the implementation of the "Farmland Preservation Bond Act of 1981." To this end, the bill directs the State Agriculture Development Committee, established pursuant to the "Right to Farm Act," now pending before the Legislature as Senate Committee Substitute for Senate Bill No. 854, to establish guidelines for the identification of agriculture development areas and voluntary farmland preservation programs. The committee must also approve or disapprove the expenditure of matching funds from the bond act.

The bill authorizes the establishment of County Agriculture Development Boards for the purposes of developing farmland preservation programs, serving a mediating function on nuisance complaints resulting from farm operations within those programs, and approving or disapproving the expenditure of matching funds within preservation programs.

A farmland preservation program, or municipally approved program, is defined as any voluntary program which has as its principal purpose the long-term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas and the maintenance and support of increased agricultural production as the first priority use of that land, wherein farmers voluntarily commit their land to agriculture for a period of 8 years in return for certain financial and regulatory benefits, as well as the right to sell development easements.

All farmland preservation programs require an 8 year commitment in return for any benefits, but only the creation of a municipally approved program specifically requires the prior approval of the municipality.

Development easements may be purchased only on land located within farmland preservation programs and only after approval by the municipality. The board and committee shall evaluate applications through the use of a bidding system whereby those farmers whose asking price

is farthest below the nonagricultural development value, as ascertained via two appraisals, would have first priority for easement purchases to be made. In cases where a particular plot of land would solidify the survivability of the district in productive agriculture or where the change of the land to nonagricultural use is imminent, the priority established by the bidding system may be overridden.

The bill appropriates \$10 million from the Farmland Preservation Fund.

The following schematic outline details the specific provisions of the bill.

I. State Agriculture Development Committee

A. Duties

1. Establish guidelines and adopt criteria for identification of farmland to be included in agricultural development areas and farmland preservation programs.

2. Certify to Secretary of Agriculture that agricultural development areas have been identified and farmland preservation programs have been adopted for purpose of qualifying for matching grants.

3. Recommend changes to administrative procedures and regulations which unnecessarily restrict agriculture.

4. Recommend program of agricultural management practices.

5. Approve applications for funds.

6. Act as advocate for agriculture.

II. County Agriculture Development Board

A. Composition—10 members (seven voting)

1. Representative of County Planning Board (nonvoting).

2. Representative of Local Soil Conservation District (nonvoting).

3. County Agent (nonvoting).

4. Four residents of county, appointed by Board of Chosen Freeholders, actively engaged in agriculture (voting).

5. Three residents of county, appointed by Board of Chosen Freeholders, general public (voting).

B. Powers and Duties

1. Adopt agricultural retention and development program.

2. Establish minimum acreage for farmland preservation programs.

3. Establish minimum standards for inclusion of land in farmland preservation programs.

4. Approve or disapprove petitions for formation of farmland preservation programs.

5. Approve or disapprove applications for financial assistance.

6. Monitor and recommend appropriate actions concerning regulations, ordinances, resolutions and development approvals which would threaten agriculture.

7. At request of municipality, require a statement of impact on agriculture of any development proposal.

8. Develop educational and informational program concerning recommended agricultural management practices.

9. Assist farm operators in permit application and concerning regulatory practices of State agencies.

III. Creation of Subregional Agricultural Retention Board

A. May occur only when no county board created.

B. Composition—Same as county board (planning board representative shall be of municipality).

IV. Agricultural Development Area

A. Identified by county board.

B. Effects

1. Municipally approved programs and other farmland preservation programs to be implemented in the area.

2. Eminent domain and infrastructure investment action reviewed by board and committee prior to initiation of such action.

V. Municipally approved programs

A. Proposed by landowners, approved by municipality and board.

B. Landowner promises to keep land in agricultural use for 8 years (the promise is a restrictive covenant in the deed).

C. Effects

1. Eligible for development easement purchase and soil and water conservation funds.

2. Eminent domain and infrastructure investment for nonagricultural purposes shall not be exercised unless Governor declares action is necessary for public health and safety.

3. Right-to-farm: irrefutable presumption for farmer in nuisance actions if farmer conforms to recommended agricultural management practices and board will serve as mediator prior to any nuisance suit.

4. Farm structure design compatible with criteria developed by land grant college or recognized organization of agricultural engineers shall be acceptable minimum construction standard; waiver of seal of approval and fee of architect or professional engineer.

VI. Farmland Preservation Program

A. Proposed by landowner, approved by the board.

B. Landowner promises to keep land in agricultural use for 8 years (the promise is a restrictive covenant in the deed).

C. Effects

1. Eligible for development easement purchase and soil and water conservation funds.

2. Farm structure design compatible with criteria developed by land

grant college or recognized organization of agricultural engineers shall be acceptable minimum construction standards; waiver of seal of approval and architect or professional engineer seal.

VII. Termination of municipally approved program

A. End of 8 year period if any of the parties to agreement notifies board of their wish to terminate.

B. Municipally approved program will continue if none of the parties notifies the board.

C. Withdrawal prior to termination date allowed for death, bankruptcy, incapacitating illness of the owner or other serious hardship.

D. Withdrawal for serious hardship requires payback of soil and water conservation project money.

VIII. Easement Purchase

A. Offer by landowner.

B. Two independent appraisals.

C. County Board and State Committee determine if offer meets criteria.

D. Board ranks offers accepted and applies for matching funds from State.

E. Landowner may accept or reject.

F. Effects

1. Easement cannot be sold, given, transferred or otherwise conveyed.

2. Development for nonagricultural purposes is expressly prohibited.

3. Easement runs with the land and binding upon the landowner and every successor in interest thereto.

G. Development easement acquired by other organizations or persons may sell or donate to board.

H. Donation to board—the value of the donations of 50% shall represent the county share.

IX. Senate Natural Resources and Agriculture Committee and Assembly Agriculture and Environment Committee designated as Joint Oversight Committee.

X. Ten million dollar appropriation.

M.H.

ADOPTED

to

NOV 15 1982 Senate Bill No. 867 Scs C.C.

Amend:

Proposed by Assemblyman Zimmer
11/15/82

Page	Sec.	Line
7	11	8

After "agriculture" insert "and in which agriculture is a permitted use under the current municipal zoning ordinance or in which agriculture is permitted as a ~~non-conforming use~~ *nonconforming*"

STATEMENT

The purpose of this amendment is to clarify the legislative intent that agriculture development areas would only include those lands in which agriculture is a permitted use under the municipal zoning ordinance or in which agriculture is permitted as a non-conforming use, thereby clarifying that the designation of those areas would be consistent with the "Municipal Land Use Law" P.L. 1975, c. 291 (C.40:55D-1 et seq.).

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: KATHERINE BROKAW

WEDNESDAY, JANUARY 26, 1983

Governor Thomas H. Kean today signed the Agriculture Retention Act and the Right to Farm Act at the State Agricultural Convention in Cherry Hill.

S-867, the Agriculture Retention and Development Act, was sponsored by Senator Raymond Zane (D-Gloucester), and Assemblyman Richard Zimmer (R-Hunterdon); it is the enabling legislation for the Farmland Preservation Bond Issue, and appropriates \$10,000,000 from that bond act.

The bill allows the State Agriculture Development Committee to set up guidelines for designating agricultural development areas and farmland preservation programs. It also gives counties the power to create county development boards to set up programs for soil conservation and to distribute State funds for those programs.

S-854, the Right to Farm Act, was sponsored by Senator Raymond Zane. It establishes the State Agriculture Development Committee and allows the committee to coordinate State policies on agricultural management. It will protect farmers who meet state and federal requirements from nuisance suits which arise from standard agricultural practices.

The audience of farmers at the Convention gave Governor Kean a standing ovation after he signed the bills. Before signing them, Governor Kean recalled that he had promised to give the two bills top priority in 1982, when he spoke at the convention last year in his first major speech after his inauguration. The Governor noted that agriculture is one of the State's biggest industries.

"Every year the pressure to develop farmland is heavier. Every year, New Jersey seems to lose a few more farms," said Governor Kean.

-more-

"If we want to keep New Jersey green, we've got to keep a balance between reasonable, necessary development and the preservation of good farmland."

The two bills will give New Jersey's farmers a way to voice their concerns about policies which affect their operations, as well as providing for a cohesive approach to agricultural policies in the State.

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