

Bill and Sponsors Statement identical to A3228

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: Yes 11-19-2001(Econ.

Gr.)

11-29-2001(Budget)

FLOOR AMENDMENT STATEMENTS:

Yes

LEGISLATIVE FISCAL ESTIMATE:

Yes

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

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HEARINGS:

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NEWSPAPER ARTICLES:

No

ASSEMBLY, No. 3228

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 22, 2001

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Modifies appraisal process for certain lands to be acquired for open space or farmland preservation purposes.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning appraisals of land to be acquired for recreation
2 and conservation purposes or farmland preservation purposes, and
3 amending P.L.1999, c.152.

4

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

7

8 1. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read
9 as follows:

10 26. a. Moneys appropriated from the Garden State Green Acres
11 Preservation Trust Fund to the Department of Environmental
12 Protection shall be used by the department to:

13 (1) Pay the cost of acquisition and development of lands by the
14 State for recreation and conservation purposes;

15 (2) Provide grants and loans to assist local government units to pay
16 the cost of acquisition and development of lands for recreation and
17 conservation purposes; and

18 (3) Provide grants to assist qualifying tax exempt nonprofit
19 organizations to pay the cost of acquisition and development of lands
20 for recreation and conservation purposes.

21 b. The expenditure and allocation of constitutionally dedicated
22 moneys for recreation and conservation purposes shall reflect the
23 geographic diversity of the State to the maximum extent practicable
24 and feasible.

25 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
26 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
27 pursuant thereto, to the contrary, the value of a pinelands development
28 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1
29 et seq.) and the pinelands comprehensive management plan adopted
30 pursuant thereto, shall be made utilizing a value to be determined by
31 either appraisal, regional averaging based upon appraisal data, or a
32 formula supported by appraisal data. The appraisal and appraisal data
33 shall consider as appropriate: land values in the pinelands regional
34 growth areas; land values in counties, municipalities, and other areas
35 reasonably contiguous to, but outside of, the pinelands area; and other
36 relevant factors as may be necessary to maintain the environmental,
37 ecological, and agricultural qualities of the pinelands area.

38 (2) No pinelands development credit allocated to a parcel of land
39 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands
40 comprehensive management plan adopted pursuant thereto that is
41 acquired or obtained in connection with the acquisition of the parcel
42 for recreation and conservation purposes by the State, a local
43 government unit, or a qualifying tax exempt nonprofit organization

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 using constitutionally dedicated moneys in whole or in part may be
2 conveyed in any manner. All such pinelands development credits shall
3 be retired permanently.

4 d. (1) (a) For State fiscal years 2000 through 2004 only, when the
5 department, a local government unit, or a qualifying tax exempt
6 nonprofit organization seeks to acquire lands for recreation and
7 conservation purposes using constitutionally dedicated moneys in
8 whole or in part, it shall conduct or cause to be conducted an appraisal
9 or appraisals of the value of the lands that shall be made using the land
10 use zoning of the lands [(a)] (i) in effect at the time of proposed
11 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
12 use zoning is still in effect at the time of proposed acquisition. The
13 higher of those two values shall be utilized by the department, a local
14 government unit, or a qualifying tax exempt nonprofit organization as
15 the basis for negotiation with the landowner with respect to the
16 acquisition price for the lands. The landowner shall be provided with
17 both values determined pursuant to this paragraph. A landowner may
18 waive any of the requirements of this paragraph and may agree to sell
19 the lands for less than the values determined pursuant to this
20 paragraph.

21 (b) After the date of enactment of P.L. , c. (now before the
22 Legislature as this bill) and through June 30, 2004, in determining the
23 two values required pursuant to subparagraph (a) of this paragraph,
24 the appraisal shall be made using not only the land use zoning but also
25 the Department of Environmental Protection wastewater, water quality
26 and watershed management rules and regulations and associated
27 requirements and standards applicable to the lands subject to the
28 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
29 effect on November 3, 1998 as if those rules and regulations and
30 associated requirements and standards are still in effect at the time of
31 proposed acquisition.

32 (2) The requirements of this subsection shall be in addition to any
33 other requirements of law, rule, or regulation not inconsistent
34 therewith.

35 (3) This subsection shall not:

36 (a) apply if the land use zoning of the lands at the time of proposed
37 acquisition [has] , and the Department of Environmental Protection
38 wastewater, water quality and watershed management rules and
39 regulations and associated requirements and standards applicable to
40 the lands at the time of proposed acquisition, have not changed since
41 November 3, 1998;

42 (b) apply in the case of lands to be acquired with federal moneys
43 in whole or in part;

44 (c) apply in the case of lands to be acquired in accordance with
45 subsection c. of this section;

46 (d) apply to projects funded using constitutionally dedicated

1 moneys appropriated pursuant to the annual appropriations act for
2 State fiscal year 2000 (P.L.1999, c.138); or

3 (e) alter any requirements to disclose information to a landowner
4 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
5 (C.20:3-1 et seq.).

6 e. Moneys appropriated from the fund may be used to match
7 grants, contributions, donations, or reimbursements from federal aid
8 programs or from other public or private sources established for the
9 same or similar purposes as the fund.

10 f. Moneys appropriated from the fund shall not be used by local
11 government units or qualifying tax exempt nonprofit organizations to
12 acquire lands that are already permanently preserved for recreation and
13 conservation purposes, as determined by the department.

14 g. Whenever lands are donated to the State by a public utility, as
15 defined pursuant to Title 48 of the Revised Statutes, for recreation and
16 conservation purposes, the commissioner may make and keep the lands
17 accessible to the public, unless the commissioner determines that
18 public accessibility would be detrimental to the lands or any natural
19 resources associated therewith.

20 h. Whenever the State acquires land for recreation and
21 conservation purposes, the agency in the Department of Environmental
22 Protection responsible for administering the land shall, within six
23 months after the date of acquisition, inspect the land for the presence
24 of any buildings or structures thereon which are or may be historic
25 properties and, within 60 days after completion of the inspection,
26 provide to the New Jersey Historic Preservation Office in the
27 department (1) a written notice of its findings, and (2) for any
28 buildings or structures which are or may be historic properties
29 discovered on the land, a request for determination of potential
30 eligibility for inclusion of the historic building or structure in the New
31 Jersey Register of Historic Places. Whenever such a building or
32 structure is discovered, a copy of the written notice provided to the
33 New Jersey Historic Preservation Office shall also be sent to the New
34 Jersey Historic Trust and to the county historical commission or
35 advisory committee, the county historical society, the local historic
36 preservation commission or advisory committee, and the local
37 historical society if any of those entities exist in the county or
38 municipality wherein the land is located.

39 i. (1) Commencing July 1, 2004 and until five years after the date
40 of enactment of P.L. , c. (now before the Legislature as this bill),
41 when the department, a local government unit, or a qualifying tax
42 exempt nonprofit organization seeks to acquire lands for recreation
43 and conservation purposes using constitutionally dedicated moneys in
44 whole or in part, it shall conduct or cause to be conducted an appraisal
45 or appraisals of the value of the lands that shall be made using the
46 Department of Environmental Protection wastewater, water quality

1 and watershed management rules and regulations and associated
2 requirements and standards applicable to the lands subject to the
3 appraisal (a) in effect at the time of proposed acquisition, and (b) in
4 effect on November 3, 1998 as if those rules and regulations and
5 associated requirements and standards are still in effect at the time of
6 proposed acquisition. The higher of those two values shall be utilized
7 by the department, a local government unit, or a qualifying tax exempt
8 nonprofit organization as the basis for negotiation with the landowner
9 with respect to the acquisition price for the lands. The landowner shall
10 be provided with both values determined pursuant to this paragraph.
11 A landowner may waive any of the requirements of this paragraph and
12 may agree to sell the lands for less than the values determined pursuant
13 to this paragraph.

14 (2) The requirements of this subsection shall be in addition to any
15 other requirements of law, rule, or regulation not inconsistent
16 therewith.

17 (3) This subsection shall not:

18 (a) apply if the Department of Environmental Protection
19 wastewater, water quality and watershed management rules and
20 regulations and associated requirements and standards applicable to
21 the lands at the time of proposed acquisition have not changed since
22 November 3, 1998;

23 (b) apply in the case of lands to be acquired with federal moneys
24 in whole or in part;

25 (c) apply in the case of lands to be acquired in accordance with
26 subsection c. of this section; or

27 (d) alter any requirements to disclose information to a landowner
28 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
29 (C.20:3-1 et seq.).

30 (cf: P.L.1999, c.152, s.26)

31

32 2. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read
33 as follows:

34 38. a. All acquisitions or grants made pursuant to section 37 of
35 this act shall be made with respect to farmland devoted to farmland
36 preservation under programs established by law.

37 b. The expenditure and allocation of constitutionally dedicated
38 moneys for farmland preservation purposes shall reflect the geographic
39 diversity of the State to the maximum extent practicable and feasible.

40 c. The committee shall implement the provisions of section 37 of
41 this act in accordance with the procedures and criteria established
42 pursuant to the "Agriculture Retention and Development Act,"
43 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by
44 this act.

45 d. The committee shall adopt the same or a substantially similar
46 method for determining, for the purposes of this act, the committee's

1 share of the cost of a development easement on farmland to be
2 acquired by a local government as that which is being used by the
3 committee on the date of enactment of this act for prior farmland
4 preservation funding programs.

5 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32
6 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant
7 thereto, to the contrary, whenever the value of a development
8 easement on farmland to be acquired using constitutionally dedicated
9 moneys in whole or in part is determined based upon the value of any
10 pinelands development credits allocated to the parcel pursuant to
11 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
12 management plan adopted pursuant thereto, the committee shall
13 determine the value of the development easement by:

14 (1) conducting a sufficient number of fair market value appraisals
15 as it deems appropriate to determine the value for farmland
16 preservation purposes of the pinelands development credits;

17 (2) considering development easement values in counties,
18 municipalities, and other areas (a) reasonably contiguous to, but
19 outside of, the pinelands area, which in the sole opinion of the
20 committee constitute reasonable development easement values in the
21 pinelands area for the purposes of this subsection, and (b) in the
22 pinelands area where pinelands development credits are or may be
23 utilized, which in the sole opinion of the committee constitute
24 reasonable development easement values in the pinelands area for the
25 purposes of this subsection;

26 (3) considering land values in the pinelands regional growth areas;

27 (4) considering the importance of preserving agricultural lands in
28 the pinelands area; and

29 (5) considering such other relevant factors as may be necessary to
30 increase participation in the farmland preservation program by owners
31 of agricultural lands located in the pinelands area.

32 f. No pinelands development credit that is acquired or obtained
33 in connection with the acquisition of a development easement on
34 farmland or fee simple title to farmland by the State, a local
35 government unit, or a qualifying tax exempt nonprofit organization
36 using constitutionally dedicated moneys in whole or in part may be
37 conveyed in any manner. All such pinelands development credits shall
38 be retired permanently.

39 g. (1) (a) For State fiscal years 2000 through 2004 only, when the
40 [department] committee, a local government unit, or a qualifying tax
41 exempt nonprofit organization seeks to acquire a development
42 easement on farmland or the fee simple title to farmland for farmland
43 preservation purposes using constitutionally dedicated moneys in
44 whole or in part, it shall conduct or cause to be conducted an appraisal
45 or appraisals of the value of the lands that shall be made using the land
46 use zoning of the lands [(a)] (i) in effect at the time of proposed

1 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
2 use zoning is still in effect at the time of proposed acquisition. The
3 higher of those two values shall be utilized by the [department]
4 committee, a local government unit, or a qualifying tax exempt
5 nonprofit organization as the basis for negotiation with the landowner
6 with respect to the acquisition price for the lands. The landowner shall
7 be provided with both values determined pursuant to this paragraph.
8 A landowner may waive any of the requirements of this paragraph and
9 may agree to sell the lands for less than the values determined pursuant
10 to this paragraph.

11 (b) After the date of enactment of P.L. , c. (now before the
12 Legislature as this bill) and through June 30, 2004, in determining the
13 two values required pursuant to subparagraph (a) of this paragraph,
14 the appraisal shall be made using not only the land use zoning but also
15 the Department of Environmental Protection wastewater, water quality
16 and watershed management rules and regulations and associated
17 requirements and standards applicable to the lands subject to the
18 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
19 effect on November 3, 1998 as if those rules and regulations and
20 associated requirements and standards are still in effect at the time of
21 proposed acquisition.

22 (2) The requirements of this subsection shall be in addition to any
23 other requirements of law, rule, or regulation not inconsistent
24 therewith.

25 (3) This subsection shall not:

26 (a) apply if the land use zoning of the lands at the time of proposed
27 acquisition [has] , and the Department of Environmental Protection
28 wastewater, water quality and watershed management rules and
29 regulations and associated requirements and standards applicable to
30 the lands at the time of proposed acquisition, have not changed since
31 November 3, 1998;

32 (b) apply in the case of lands to be acquired with federal moneys
33 in whole or in part;

34 (c) apply in the case of lands to be acquired in accordance with
35 subsection e. of this section;

36 (d) apply to projects funded using constitutionally dedicated
37 moneys appropriated pursuant to the annual appropriations act for
38 State fiscal year 2000 (P.L.1999, c.138); or

39 (e) alter any requirements to disclose information to a landowner
40 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
41 (C.20:3-1 et seq.).

42 h. Any farmland for which a development easement or fee simple
43 title has been acquired pursuant to section 37 of this act shall be
44 entitled to the benefits conferred by the "Right to Farm Act,"
45 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and
46 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

1 i. (1) Commencing July 1, 2004 and until five years after the date
2 of enactment of P.L. , c. (now before the Legislature as this bill),
3 when the committee, a local government unit, or a qualifying tax
4 exempt nonprofit organization seeks to acquire a development
5 easement on farmland or the fee simple title to farmland for farmland
6 preservation purposes using constitutionally dedicated moneys in
7 whole or in part, it shall conduct or cause to be conducted an appraisal
8 or appraisals of the value of the lands that shall be made using the
9 Department of Environmental Protection wastewater, water quality
10 and watershed management rules and regulations and associated
11 requirements and standards applicable to the lands subject to the
12 appraisal (a) in effect at the time of proposed acquisition, and (b) in
13 effect on November 3, 1998 as if those rules and regulations and
14 associated requirements and standards are still in effect at the time of
15 proposed acquisition. The higher of those two values shall be utilized
16 by the committee, a local government unit, or a qualifying tax exempt
17 nonprofit organization as the basis for negotiation with the landowner
18 with respect to the acquisition price for the lands. The landowner shall
19 be provided with both values determined pursuant to this paragraph.
20 A landowner may waive any of the requirements of this paragraph and
21 may agree to sell the lands for less than the values determined pursuant
22 to this paragraph.

23 (2) The requirements of this subsection shall be in addition to any
24 other requirements of law, rule, or regulation not inconsistent
25 therewith.

26 (3) This subsection shall not:

27 (a) apply if the Department of Environmental Protection
28 wastewater, water quality and watershed management rules and
29 regulations and associated requirements and standards applicable to
30 the lands at the time of proposed acquisition have not changed since
31 November 3, 1998;

32 (b) apply in the case of lands to be acquired with federal moneys
33 in whole or in part;

34 (c) apply in the case of lands to be acquired in accordance with
35 subsection e. of this section; or

36 (d) alter any requirements to disclose information to a landowner
37 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
38 (C.20:3-1 et seq.).

39 (cf: P.L.1999, c.152, s.38)

40

41 3. This act shall take effect immediately.

42

43

STATEMENT

44

45 This bill would provide that, for the next five years, when the
46 Department of Environmental Protection (DEP), the State Agriculture

1 Development Committee, a local government unit, or a qualifying tax
2 exempt nonprofit organization seeks to acquire lands, or any interest
3 therein, for open space or farmland preservation purposes through the
4 Garden State Preservation Trust, it shall conduct or cause to be
5 conducted an appraisal or appraisals of the value of the lands to be
6 made using the DEP wastewater, water quality and watershed
7 management rules and regulations and associated requirements and
8 standards applicable to the lands, or any interest therein, subject to the
9 appraisal (1) in effect at the time of proposed acquisition, and (2) in
10 effect on November 3, 1998 as if those rules and regulations and
11 associated requirements and standards are still in effect at the time of
12 proposed acquisition. The higher of those two values would be
13 utilized by the State, a local government unit, or a qualifying tax
14 exempt nonprofit organization as the basis for negotiation with the
15 landowner with respect to the acquisition price for the lands or any
16 interest therein.

17 The bill would also provide that until such time as similar provisions
18 currently in the Garden State Preservation Act (GSPTA) regarding
19 appraisals made using the land use zoning in effect on November 3,
20 1998 expire on July 1, 2004, both those provisions and the provisions
21 established in this bill would apply.

22 Recent adoption by the DEP of certain wastewater, water quality
23 and watershed management rules that would require environmental
24 studies and certain approvals for developments with six or more
25 residential septic systems could negatively impact agricultural land
26 values to a significant degree. Under the former rule, the threshold for
27 triggering a higher and more complex review and approval process
28 was 50 residential units with septic systems. Land values directly
29 influence the agricultural economy. If they are reduced, it affects a
30 farmer's access to capital for farming and other purposes because the
31 land's development value serves as the collateral for the loan. The
32 reduction of anticipated land value, whether actual or perceived, could
33 also have a negative effect on participation by farmers in the State's
34 farmland preservation program.

35 In order to reduce the economic impact of the new DEP regulations
36 (and of any similar regulations which may be adopted in the future) on
37 agriculture and the agricultural community, as well as the potential
38 negative impact on the success of the farmland preservation program
39 itself, this bill would direct those public and private entities receiving
40 monies from the Garden State Preservation Trust, when making
41 appraisals of land for preservation, to use the regulatory framework
42 for wastewater, water quality and watershed management that was in
43 effect when the constitutional amendment authorizing and funding the
44 Statewide effort to preserve a million acres of open space and
45 farmland was approved on November 3, 1998. In doing so, it would
46 follow similar considerations regarding potential future land use

1 zoning changes that were incorporated into the GSPTA at the time it
2 was enacted in June 1999. This policy will ensure that landowners
3 receive full and fair value for their property rather than suffering
4 financial losses due to after-the-fact changes in regulations governing
5 land development in the State.

6 The use of the wastewater, water quality and watershed
7 management regulations in effect on November 3, 1998 when the
8 constitutional amendment was approved by the voters might result in
9 appraisals more favorable to agricultural and other landowners.
10 Consequently, the purposes of the Garden State Preservation Trust in
11 maximizing applications for participation in the public policy goal of
12 preserving one million acres of open space in New Jersey will be better
13 served.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3228

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2001

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments Assembly Bill No. 3228.

This bill would provide that, for the next five years, when the Department of Environmental Protection (DEP), the State Agriculture Development Committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands, or any interest therein, for open space or farmland preservation purposes through the Garden State Preservation Trust, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands to be made using the DEP wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands, or any interest therein, subject to the appraisal (1) in effect at the time of proposed acquisition, and (2) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values would be utilized by the State, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands or any interest therein.

The bill would also provide that until such time as similar provisions currently in the Garden State Preservation Act (GSPTA) regarding appraisals made using the land use zoning in effect on November 3, 1998 expire on July 1, 2004, both those provisions and the provisions established in this bill would apply.

The committee adopted amendments to provide that the bill's provisions would also apply to open space preservation projects funded in whole or in part from Green Acres bond acts. The committee also adopted technical amendments to the bill.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3228
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JANUARY 10, 2002

SUMMARY

Synopsis: Modifies appraisal process for certain lands to be acquired for open space or farmland preservation purposes.

Type of Impact: Expenditure increase **per acre** from the Garden State Preservation Trust Fund.

Agencies Affected: None

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No impact on overall annual spending		

- ! The bill requires that, for a five-year period, two land appraisals be conducted for acreage considered for acquisition under the State open space and farmland preservation programs; the higher of the two appraisals would be utilized.
- ! The bill's intention is to reduce the impact of new State septic tank review regulations on the land value of potential open space preservation applicants, particularly farmers.
- ! The Open Space program is funded through dedicated State monies and bond funds administered by the Garden State Preservation Trust.
- ! The Office of Legislative Services estimates that the bill will have no fiscal impact on the amount of State funds annually dedicated for open space and farmland preservation.

BILL DESCRIPTION

Assembly Bill No. 3228 of 2001 provides that, for a five year period, when the Department of Environmental Protection (DEP), the State Agriculture Development Committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for open space or farmland preservation purposes through the Garden State Preservation Trust, two land appraisals would be conducted using the DEP wastewater, water quality and watershed management rules and regulations applicable to such lands. The first appraisal would be reflective of DEP rules in effect at the time of the proposed acquisition, while the second appraisal would be reflective of these rules when they were in effect on November 3, 1998. The

higher of those two values would be utilized as the basis for negotiation with the landowner with respect to the acquisition price for the lands.

The bill also provides that until such time as similar provisions currently in the Garden State Preservation Act regarding appraisals made using the land use zoning in effect on November 3, 1998 expire on July 1, 2004, both those provisions and the provisions established in this bill would apply.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that while the bill may affect the price per acre of land eligible for State open space funding, it will not significantly affect the overall amount of money allotted or spent annually from the Garden State Preservation Trust Fund because the annual appropriation and expenditure of these funds are constitutionally mandated. The bill essentially encourages greater participation in the Open Space program by enabling potential applicants to apply the higher of two land appraisals during negotiations with open space sponsors.

This bill was introduced in response to the recent adoption by the DEP of certain wastewater, water quality and watershed management rules that would require environmental studies and certain approvals for developments with six or more residential septic systems. It was believed that this policy could negatively impact agricultural land values to a significant degree. Under the former rule, the threshold for triggering a higher and more complex review and approval process was 50 residential units with septic systems.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

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

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

ASSEMBLY, No. 3228

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 22, 2001

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

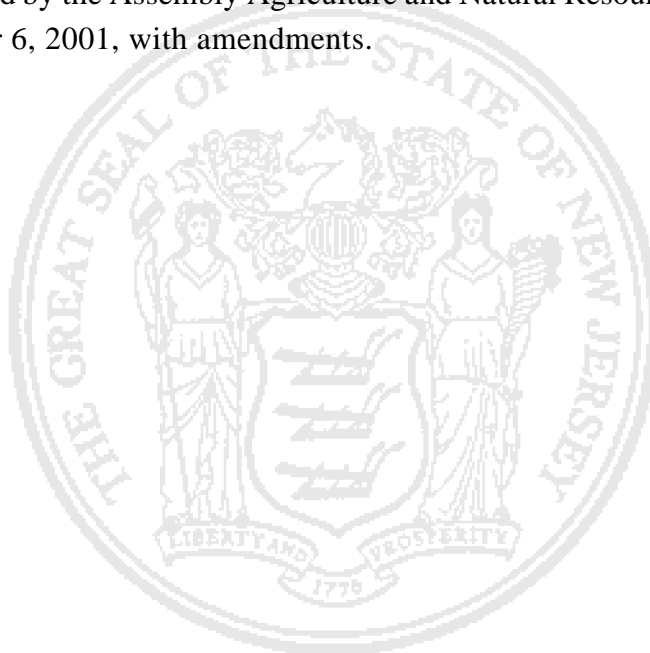
Senators Schluter, Cafiero and Zane

SYNOPSIS

Modifies appraisal process for certain lands to be acquired for open space or farmland preservation purposes.

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee on December 6, 2001, with amendments.



(Sponsorship Updated As Of: 12/18/2001)

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29 et seq.) and the pinelands comprehensive management plan adopted
30 pursuant thereto, shall be made utilizing a value to be determined by
31 either appraisal, regional averaging based upon appraisal data, or a
32 formula supported by appraisal data. The appraisal and appraisal data
33 shall consider as appropriate: land values in the pinelands regional
34 growth areas; land values in counties, municipalities, and other areas
35 reasonably contiguous to, but outside of, the pinelands area; and other
36 relevant factors as may be necessary to maintain the environmental,
37 ecological, and agricultural qualities of the pinelands area.

38 (2) No pinelands development credit allocated to a parcel of land
39 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands
40 comprehensive management plan adopted pursuant thereto that is
41 acquired or obtained in connection with the acquisition of the parcel
42 for recreation and conservation purposes by the State, a local

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted December 6, 2001.

1 government unit, or a qualifying tax exempt nonprofit organization
2 using constitutionally dedicated moneys in whole or in part may be
3 conveyed in any manner. All such pinelands development credits shall
4 be retired permanently.

5 d. (1) (a) For State fiscal years 2000 through 2004 only, when the
6 department, a local government unit, or a qualifying tax exempt
7 nonprofit organization seeks to acquire lands for recreation and
8 conservation purposes using constitutionally dedicated moneys in
9 whole or in part ¹or Green Acres bond act moneys in whole or in
10 part¹, it shall conduct or cause to be conducted an appraisal or
11 appraisals of the value of the lands that shall be made using the land
12 use zoning of the lands [(a)] (i) in effect at the time of proposed
13 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
14 use zoning is still in effect at the time of proposed acquisition. The
15 higher of those two values shall be utilized by the department, a local
16 government unit, or a qualifying tax exempt nonprofit organization as
17 the basis for negotiation with the landowner with respect to the
18 acquisition price for the lands. The landowner shall be provided with
19 both values determined pursuant to this ¹[paragraph] subparagraph¹.

20 A landowner may waive any of the requirements of this paragraph
21 and may agree to sell the lands for less than the values determined
22 pursuant to this paragraph.

23 (b) After the date of enactment of P.L. , c. (now before the
24 Legislature as this bill) and through June 30, 2004, in determining the
25 two values required pursuant to subparagraph (a) of this paragraph,
26 the appraisal shall be made using not only the land use zoning but also
27 the Department of Environmental Protection wastewater, water quality
28 and watershed management rules and regulations and associated
29 requirements and standards applicable to the lands subject to the
30 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
31 effect on November 3, 1998 as if those rules and regulations and
32 associated requirements and standards are still in effect at the time of
33 proposed acquisition.

34 (2) The requirements of this subsection shall be in addition to any
35 other requirements of law, rule, or regulation not inconsistent
36 therewith.

37 (3) This subsection shall not:

38 (a) apply if the land use zoning of the lands at the time of proposed
39 acquisition [has], and the Department of Environmental Protection
40 wastewater, water quality and watershed management rules and
41 regulations and associated requirements and standards applicable to
42 the lands at the time of proposed acquisition, have not changed since
43 November 3, 1998;

44 (b) apply in the case of lands to be acquired with federal moneys
45 in whole or in part;

46 (c) apply in the case of lands to be acquired in accordance with

1 subsection c. of this section;

2 (d) apply to projects funded using constitutionally dedicated
3 moneys appropriated pursuant to the annual appropriations act for
4 State fiscal year 2000 (P.L.1999, c.138); or

5 (e) alter any requirements to disclose information to a landowner
6 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
7 (C.20:3-1 et seq.).

8 e. Moneys appropriated from the fund may be used to match
9 grants, contributions, donations, or reimbursements from federal aid
10 programs or from other public or private sources established for the
11 same or similar purposes as the fund.

12 f. Moneys appropriated from the fund shall not be used by local
13 government units or qualifying tax exempt nonprofit organizations to
14 acquire lands that are already permanently preserved for recreation and
15 conservation purposes, as determined by the department.

16 g. Whenever lands are donated to the State by a public utility, as
17 defined pursuant to Title 48 of the Revised Statutes, for recreation and
18 conservation purposes, the commissioner may make and keep the lands
19 accessible to the public, unless the commissioner determines that
20 public accessibility would be detrimental to the lands or any natural
21 resources associated therewith.

22 h. Whenever the State acquires land for recreation and conservation
23 purposes, the agency in the Department of Environmental Protection
24 responsible for administering the land shall, within six months after the
25 date of acquisition, inspect the land for the presence of any buildings
26 or structures thereon which are or may be historic properties and,
27 within 60 days after completion of the inspection, provide to the New
28 Jersey Historic Preservation Office in the department (1) a written
29 notice of its findings, and (2) for any buildings or structures which are
30 or may be historic properties discovered on the land, a request for
31 determination of potential eligibility for inclusion of the historic
32 building or structure in the New Jersey Register of Historic Places.
33 Whenever such a building or structure is discovered, a copy of the
34 written notice provided to the New Jersey Historic Preservation Office
35 shall also be sent to the New Jersey Historic Trust and to the county
36 historical commission or advisory committee, the county historical
37 society, the local historic preservation commission or advisory
38 committee, and the local historical society if any of those entities exist
39 in the county or municipality wherein the land is located.

40 i. (1) Commencing July 1, 2004 and until five years after the date
41 of enactment of P.L. , c. (now before the Legislature as this bill),
42 when the department, a local government unit, or a qualifying tax
43 exempt nonprofit organization seeks to acquire lands for recreation
44 and conservation purposes using constitutionally dedicated moneys in
45 whole or in part ¹or Green Acres bond act moneys in whole or in
46 part¹, it shall conduct or cause to be conducted an appraisal or

1 appraisals of the value of the lands that shall be made using the
2 Department of Environmental Protection wastewater, water quality
3 and watershed management rules and regulations and associated
4 requirements and standards applicable to the lands subject to the
5 appraisal (a) in effect at the time of proposed acquisition, and (b) in
6 effect on November 3, 1998 as if those rules and regulations and
7 associated requirements and standards are still in effect at the time of
8 proposed acquisition. The higher of those two values shall be utilized
9 by the department, a local government unit, or a qualifying tax exempt
10 nonprofit organization as the basis for negotiation with the landowner
11 with respect to the acquisition price for the lands. The landowner shall
12 be provided with both values determined pursuant to this paragraph.
13 A landowner may waive any of the requirements of this paragraph and
14 may agree to sell the lands for less than the values determined pursuant
15 to this paragraph.

16 (2) The requirements of this subsection shall be in addition to any
17 other requirements of law, rule, or regulation not inconsistent
18 therewith.

19 (3) This subsection shall not:

20 (a) apply if the Department of Environmental Protection
21 wastewater, water quality and watershed management rules and
22 regulations and associated requirements and standards applicable to
23 the lands at the time of proposed acquisition have not changed since
24 November 3, 1998;

25 (b) apply in the case of lands to be acquired with federal moneys
26 in whole or in part;

27 (c) apply in the case of lands to be acquired in accordance with
28 subsection c. of this section; or

29 (d) alter any requirements to disclose information to a landowner
30 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
31 (C.20:3-1 et seq.).

32 (cf: P.L.1999, c.152, s.26)

33

34 2. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read
35 as follows:

36 38. a. All acquisitions or grants made pursuant to section 37 of
37 this act shall be made with respect to farmland devoted to farmland
38 preservation under programs established by law.

39 b. The expenditure and allocation of constitutionally dedicated
40 moneys for farmland preservation purposes shall reflect the geographic
41 diversity of the State to the maximum extent practicable and feasible.

42 c. The committee shall implement the provisions of section 37 of
43 this act in accordance with the procedures and criteria established
44 pursuant to the "Agriculture Retention and Development Act,"
45 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by
46 this act.

1 d. The committee shall adopt the same or a substantially similar
2 method for determining, for the purposes of this act, the committee's
3 share of the cost of a development easement on farmland to be
4 acquired by a local government as that which is being used by the
5 committee on the date of enactment of this act for prior farmland
6 preservation funding programs.

7 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32
8 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant
9 thereto, to the contrary, whenever the value of a development
10 easement on farmland to be acquired using constitutionally dedicated
11 moneys in whole or in part is determined based upon the value of any
12 pinelands development credits allocated to the parcel pursuant to
13 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
14 management plan adopted pursuant thereto, the committee shall
15 determine the value of the development easement by:

16 (1) conducting a sufficient number of fair market value appraisals
17 as it deems appropriate to determine the value for farmland
18 preservation purposes of the pinelands development credits;

19 (2) considering development easement values in counties,
20 municipalities, and other areas (a) reasonably contiguous to, but
21 outside of, the pinelands area, which in the sole opinion of the
22 committee constitute reasonable development easement values in the
23 pinelands area for the purposes of this subsection, and (b) in the
24 pinelands area where pinelands development credits are or may be
25 utilized, which in the sole opinion of the committee constitute
26 reasonable development easement values in the pinelands area for the
27 purposes of this subsection;

28 (3) considering land values in the pinelands regional growth areas;

29 (4) considering the importance of preserving agricultural lands in
30 the pinelands area; and

31 (5) considering such other relevant factors as may be necessary to
32 increase participation in the farmland preservation program by owners
33 of agricultural lands located in the pinelands area.

34 f. No pinelands development credit that is acquired or obtained in
35 connection with the acquisition of a development easement on
36 farmland or fee simple title to farmland by the State, a local
37 government unit, or a qualifying tax exempt nonprofit organization
38 using constitutionally dedicated moneys in whole or in part may be
39 conveyed in any manner. All such pinelands development credits shall
40 be retired permanently.

41 g. (1) (a) For State fiscal years 2000 through 2004 only, when the
42 [department] committee, a local government unit, or a qualifying tax
43 exempt nonprofit organization seeks to acquire a development
44 easement on farmland or the fee simple title to farmland for farmland
45 preservation purposes using constitutionally dedicated moneys in
46 whole or in part, it shall conduct or cause to be conducted an appraisal

1 or appraisals of the value of the lands that shall be made using the land
2 use zoning of the lands [(a)] (i) in effect at the time of proposed
3 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
4 use zoning is still in effect at the time of proposed acquisition. The
5 higher of those two values shall be utilized by the [department]
6 committee, a local government unit, or a qualifying tax exempt
7 nonprofit organization as the basis for negotiation with the landowner
8 with respect to the acquisition price for the lands. The landowner shall
9 be provided with both values determined pursuant to this
10 ¹[paragraph] subparagraph¹ .

11 A landowner may waive any of the requirements of this paragraph
12 and may agree to sell the lands for less than the values determined
13 pursuant to this paragraph.

14 (b) After the date of enactment of P.L. , c. (now before the
15 Legislature as this bill) and through June 30, 2004, in determining the
16 two values required pursuant to subparagraph (a) of this paragraph,
17 the appraisal shall be made using not only the land use zoning but also
18 the Department of Environmental Protection wastewater, water quality
19 and watershed management rules and regulations and associated
20 requirements and standards applicable to the lands subject to the
21 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
22 effect on November 3, 1998 as if those rules and regulations and
23 associated requirements and standards are still in effect at the time of
24 proposed acquisition.

25 (2) The requirements of this subsection shall be in addition to any
26 other requirements of law, rule, or regulation not inconsistent
27 therewith.

28 (3) This subsection shall not:

29 (a) apply if the land use zoning of the lands at the time of proposed
30 acquisition [has] , and the Department of Environmental Protection
31 wastewater, water quality and watershed management rules and
32 regulations and associated requirements and standards applicable to
33 the lands at the time of proposed acquisition, have not changed since
34 November 3, 1998;

35 (b) apply in the case of lands to be acquired with federal moneys
36 in whole or in part;

37 (c) apply in the case of lands to be acquired in accordance with
38 subsection e. of this section;

39 (d) apply to projects funded using constitutionally dedicated
40 moneys appropriated pursuant to the annual appropriations act for
41 State fiscal year 2000 (P.L.1999, c.138); or

42 (e) alter any requirements to disclose information to a landowner
43 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
44 (C.20:3-1 et seq.).

45 h. Any farmland for which a development easement or fee simple
46 title has been acquired pursuant to section 37 of this act shall be

1 entitled to the benefits conferred by the "Right to Farm Act,"
2 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and
3 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

4 i. (1) Commencing July 1, 2004 and until five years after the date
5 of enactment of P.L. , c. (now before the Legislature as this bill),
6 when the committee, a local government unit, or a qualifying tax
7 exempt nonprofit organization seeks to acquire a development
8 easement on farmland or the fee simple title to farmland for farmland
9 preservation purposes using constitutionally dedicated moneys in
10 whole or in part, it shall conduct or cause to be conducted an appraisal
11 or appraisals of the value of the lands that shall be made using the
12 Department of Environmental Protection wastewater, water quality
13 and watershed management rules and regulations and associated
14 requirements and standards applicable to the lands subject to the
15 appraisal (a) in effect at the time of proposed acquisition, and (b) in
16 effect on November 3, 1998 as if those rules and regulations and
17 associated requirements and standards are still in effect at the time of
18 proposed acquisition. The higher of those two values shall be utilized
19 by the committee, a local government unit, or a qualifying tax exempt
20 nonprofit organization as the basis for negotiation with the landowner
21 with respect to the acquisition price for the lands. The landowner shall
22 be provided with both values determined pursuant to this paragraph.
23 A landowner may waive any of the requirements of this paragraph and
24 may agree to sell the lands for less than the values determined pursuant
25 to this paragraph.

26 (2) The requirements of this subsection shall be in addition to any
27 other requirements of law, rule, or regulation not inconsistent
28 therewith.

29 (3) This subsection shall not:

30 (a) apply if the Department of Environmental Protection
31 wastewater, water quality and watershed management rules and
32 regulations and associated requirements and standards applicable to
33 the lands at the time of proposed acquisition have not changed since
34 November 3, 1998;

35 (b) apply in the case of lands to be acquired with federal moneys
36 in whole or in part;

37 (c) apply in the case of lands to be acquired in accordance with
38 subsection e. of this section; or

39 (d) alter any requirements to disclose information to a landowner
40 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
41 (C.20:3-1 et seq.).

42 (cf: P.L.1999, c.152, s.38)

43

44 3. This act shall take effect immediately.

SENATE, No. 2174

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 26, 2001

Sponsored by:

Senator WILLIAM E. SCHLUTER

District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

Senators Cafiero and Zane

SYNOPSIS

Modifies appraisal process for certain lands to be acquired for open space or farmland preservation purposes.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning appraisals of land to be acquired for recreation
2 and conservation purposes or farmland preservation purposes, and
3 amending P.L.1999, c.152.

4

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

7

8 1. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read
9 as follows:

10 26. a. Moneys appropriated from the Garden State Green Acres
11 Preservation Trust Fund to the Department of Environmental
12 Protection shall be used by the department to:

13 (1) Pay the cost of acquisition and development of lands by the
14 State for recreation and conservation purposes;

15 (2) Provide grants and loans to assist local government units to pay
16 the cost of acquisition and development of lands for recreation and
17 conservation purposes; and

18 (3) Provide grants to assist qualifying tax exempt nonprofit
19 organizations to pay the cost of acquisition and development of lands
20 for recreation and conservation purposes.

21 b. The expenditure and allocation of constitutionally dedicated
22 moneys for recreation and conservation purposes shall reflect the
23 geographic diversity of the State to the maximum extent practicable
24 and feasible.

25 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
26 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
27 pursuant thereto, to the contrary, the value of a pinelands development
28 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1
29 et seq.) and the pinelands comprehensive management plan adopted
30 pursuant thereto, shall be made utilizing a value to be determined by
31 either appraisal, regional averaging based upon appraisal data, or a
32 formula supported by appraisal data. The appraisal and appraisal data
33 shall consider as appropriate: land values in the pinelands regional
34 growth areas; land values in counties, municipalities, and other areas
35 reasonably contiguous to, but outside of, the pinelands area; and other
36 relevant factors as may be necessary to maintain the environmental,
37 ecological, and agricultural qualities of the pinelands area.

38 (2) No pinelands development credit allocated to a parcel of land
39 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands
40 comprehensive management plan adopted pursuant thereto that is
41 acquired or obtained in connection with the acquisition of the parcel
42 for recreation and conservation purposes by the State, a local
43 government unit, or a qualifying tax exempt nonprofit organization

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 using constitutionally dedicated moneys in whole or in part may be
2 conveyed in any manner. All such pinelands development credits shall
3 be retired permanently.

4 d. (1) (a) For State fiscal years 2000 through 2004 only, when the
5 department, a local government unit, or a qualifying tax exempt
6 nonprofit organization seeks to acquire lands for recreation and
7 conservation purposes using constitutionally dedicated moneys in
8 whole or in part, it shall conduct or cause to be conducted an appraisal
9 or appraisals of the value of the lands that shall be made using the land
10 use zoning of the lands [(a)] (i) in effect at the time of proposed
11 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
12 use zoning is still in effect at the time of proposed acquisition. The
13 higher of those two values shall be utilized by the department, a local
14 government unit, or a qualifying tax exempt nonprofit organization as
15 the basis for negotiation with the landowner with respect to the
16 acquisition price for the lands. The landowner shall be provided with
17 both values determined pursuant to this paragraph. A landowner may
18 waive any of the requirements of this paragraph and may agree to sell
19 the lands for less than the values determined pursuant to this
20 paragraph.

21 (b) After the date of enactment of P.L. , c. (now before the
22 Legislature as this bill) and through June 30, 2004, in determining the
23 two values required pursuant to subparagraph (a) of this paragraph,
24 the appraisal shall be made using not only the land use zoning but also
25 the Department of Environmental Protection wastewater, water quality
26 and watershed management rules and regulations and associated
27 requirements and standards applicable to the lands subject to the
28 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
29 effect on November 3, 1998 as if those rules and regulations and
30 associated requirements and standards are still in effect at the time of
31 proposed acquisition.

32 (2) The requirements of this subsection shall be in addition to any
33 other requirements of law, rule, or regulation not inconsistent
34 therewith.

35 (3) This subsection shall not:

36 (a) apply if the land use zoning of the lands at the time of proposed
37 acquisition [has], and the Department of Environmental Protection
38 wastewater, water quality and watershed management rules and
39 regulations and associated requirements and standards applicable to
40 the lands at the time of proposed acquisition, have not changed since
41 November 3, 1998;

42 (b) apply in the case of lands to be acquired with federal moneys
43 in whole or in part;

44 (c) apply in the case of lands to be acquired in accordance with
45 subsection c. of this section;

46 (d) apply to projects funded using constitutionally dedicated

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- 1 moneys appropriated pursuant to the annual appropriations act for
2 State fiscal year 2000 (P.L.1999, c.138); or
- 3 (e) alter any requirements to disclose information to a landowner
4 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
5 (C.20:3-1 et seq.).
- 6 e. Moneys appropriated from the fund may be used to match
7 grants, contributions, donations, or reimbursements from federal aid
8 programs or from other public or private sources established for the
9 same or similar purposes as the fund.
- 10 f. Moneys appropriated from the fund shall not be used by local
11 government units or qualifying tax exempt nonprofit organizations to
12 acquire lands that are already permanently preserved for recreation and
13 conservation purposes, as determined by the department.
- 14 g. Whenever lands are donated to the State by a public utility, as
15 defined pursuant to Title 48 of the Revised Statutes, for recreation and
16 conservation purposes, the commissioner may make and keep the lands
17 accessible to the public, unless the commissioner determines that
18 public accessibility would be detrimental to the lands or any natural
19 resources associated therewith.
- 20 h. Whenever the State acquires land for recreation and conservation
21 purposes, the agency in the Department of Environmental Protection
22 responsible for administering the land shall, within six months after the
23 date of acquisition, inspect the land for the presence of any buildings
24 or structures thereon which are or may be historic properties and,
25 within 60 days after completion of the inspection, provide to the New
26 Jersey Historic Preservation Office in the department (1) a written
27 notice of its findings, and (2) for any buildings or structures which are
28 or may be historic properties discovered on the land, a request for
29 determination of potential eligibility for inclusion of the historic
30 building or structure in the New Jersey Register of Historic Places.
31 Whenever such a building or structure is discovered, a copy of the
32 written notice provided to the New Jersey Historic Preservation Office
33 shall also be sent to the New Jersey Historic Trust and to the county
34 historical commission or advisory committee, the county historical
35 society, the local historic preservation commission or advisory
36 committee, and the local historical society if any of those entities exist
37 in the county or municipality wherein the land is located.
- 38 i. (1) Commencing July 1, 2004 and until five years after the date
39 of enactment of P.L. , c. (now before the Legislature as this bill),
40 when the department, a local government unit, or a qualifying tax
41 exempt nonprofit organization seeks to acquire lands for recreation
42 and conservation purposes using constitutionally dedicated moneys in
43 whole or in part, it shall conduct or cause to be conducted an appraisal
44 or appraisals of the value of the lands that shall be made using the
45 Department of Environmental Protection wastewater, water quality
46 and watershed management rules and regulations and associated

1 requirements and standards applicable to the lands subject to the
2 appraisal (a) in effect at the time of proposed acquisition, and (b) in
3 effect on November 3, 1998 as if those rules and regulations and
4 associated requirements and standards are still in effect at the time of
5 proposed acquisition. The higher of those two values shall be utilized
6 by the department, a local government unit, or a qualifying tax exempt
7 nonprofit organization as the basis for negotiation with the landowner
8 with respect to the acquisition price for the lands. The landowner shall
9 be provided with both values determined pursuant to this paragraph.
10 A landowner may waive any of the requirements of this paragraph and
11 may agree to sell the lands for less than the values determined pursuant
12 to this paragraph.

13 (2) The requirements of this subsection shall be in addition to any
14 other requirements of law, rule, or regulation not inconsistent
15 therewith.

16 (3) This subsection shall not:

17 (a) apply if the Department of Environmental Protection
18 wastewater, water quality and watershed management rules and
19 regulations and associated requirements and standards applicable to
20 the lands at the time of proposed acquisition have not changed since
21 November 3, 1998;

22 (b) apply in the case of lands to be acquired with federal moneys
23 in whole or in part;

24 (c) apply in the case of lands to be acquired in accordance with
25 subsection c. of this section; or

26 (d) alter any requirements to disclose information to a landowner
27 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
28 (C.20:3-1 et seq.).

29 (cf: P.L.1999, c.152, s.26)

30

31 2. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read
32 as follows:

33 38. a. All acquisitions or grants made pursuant to section 37 of
34 this act shall be made with respect to farmland devoted to farmland
35 preservation under programs established by law.

36 b. The expenditure and allocation of constitutionally dedicated
37 moneys for farmland preservation purposes shall reflect the geographic
38 diversity of the State to the maximum extent practicable and feasible.

39 c. The committee shall implement the provisions of section 37 of
40 this act in accordance with the procedures and criteria established
41 pursuant to the "Agriculture Retention and Development Act,"
42 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by
43 this act.

44 d. The committee shall adopt the same or a substantially similar
45 method for determining, for the purposes of this act, the committee's
46 share of the cost of a development easement on farmland to be

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6

1 acquired by a local government as that which is being used by the
2 committee on the date of enactment of this act for prior farmland
3 preservation funding programs.

4 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32
5 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant
6 thereto, to the contrary, whenever the value of a development
7 easement on farmland to be acquired using constitutionally dedicated
8 moneys in whole or in part is determined based upon the value of any
9 pinelands development credits allocated to the parcel pursuant to
10 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
11 management plan adopted pursuant thereto, the committee shall
12 determine the value of the development easement by:

13 (1) conducting a sufficient number of fair market value appraisals
14 as it deems appropriate to determine the value for farmland
15 preservation purposes of the pinelands development credits;

16 (2) considering development easement values in counties,
17 municipalities, and other areas (a) reasonably contiguous to, but
18 outside of, the pinelands area, which in the sole opinion of the
19 committee constitute reasonable development easement values in the
20 pinelands area for the purposes of this subsection, and (b) in the
21 pinelands area where pinelands development credits are or may be
22 utilized, which in the sole opinion of the committee constitute
23 reasonable development easement values in the pinelands area for the
24 purposes of this subsection;

25 (3) considering land values in the pinelands regional growth areas;

26 (4) considering the importance of preserving agricultural lands in
27 the pinelands area; and

28 (5) considering such other relevant factors as may be necessary to
29 increase participation in the farmland preservation program by owners
30 of agricultural lands located in the pinelands area.

31 f. No pinelands development credit that is acquired or obtained in
32 connection with the acquisition of a development easement on
33 farmland or fee simple title to farmland by the State, a local
34 government unit, or a qualifying tax exempt nonprofit organization
35 using constitutionally dedicated moneys in whole or in part may be
36 conveyed in any manner. All such pinelands development credits shall
37 be retired permanently.

38 g. (1) ~~(a)~~ For State fiscal years 2000 through 2004 only, when the
39 ~~[department] committee~~, a local government unit, or a qualifying tax
40 exempt nonprofit organization seeks to acquire a development
41 easement on farmland or the fee simple title to farmland for farmland
42 preservation purposes using constitutionally dedicated moneys in
43 whole or in part, it shall conduct or cause to be conducted an appraisal
44 or appraisals of the value of the lands that shall be made using the land
45 use zoning of the lands ~~[(a)] (i)~~ in effect at the time of proposed
46 acquisition, and ~~[(b)] (ii)~~ in effect on November 3, 1998 as if that land

1 use zoning is still in effect at the time of proposed acquisition. The
2 higher of those two values shall be utilized by the [department]
3 committee, a local government unit, or a qualifying tax exempt
4 nonprofit organization as the basis for negotiation with the landowner
5 with respect to the acquisition price for the lands. The landowner shall
6 be provided with both values determined pursuant to this paragraph.
7 A landowner may waive any of the requirements of this paragraph and
8 may agree to sell the lands for less than the values determined pursuant
9 to this paragraph.

10 (b) After the date of enactment of P.L. , c. (now before the
11 Legislature as this bill) and through June 30, 2004, in determining the
12 two values required pursuant to subparagraph (a) of this paragraph,
13 the appraisal shall be made using not only the land use zoning but also
14 the Department of Environmental Protection wastewater, water quality
15 and watershed management rules and regulations and associated
16 requirements and standards applicable to the lands subject to the
17 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
18 effect on November 3, 1998 as if those rules and regulations and
19 associated requirements and standards are still in effect at the time of
20 proposed acquisition.

21 (2) The requirements of this subsection shall be in addition to any
22 other requirements of law, rule, or regulation not inconsistent
23 therewith.

24 (3) This subsection shall not:

25 (a) apply if the land use zoning of the lands at the time of proposed
26 acquisition [has] , and the Department of Environmental Protection
27 wastewater, water quality and watershed management rules and
28 regulations and associated requirements and standards applicable to
29 the lands at the time of proposed acquisition, have not changed since
30 November 3, 1998;

31 (b) apply in the case of lands to be acquired with federal moneys
32 in whole or in part;

33 (c) apply in the case of lands to be acquired in accordance with
34 subsection e. of this section;

35 (d) apply to projects funded using constitutionally dedicated
36 moneys appropriated pursuant to the annual appropriations act for
37 State fiscal year 2000 (P.L.1999, c.138); or

38 (e) alter any requirements to disclose information to a landowner
39 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
40 (C.20:3-1 et seq.).

41 h. Any farmland for which a development easement or fee simple
42 title has been acquired pursuant to section 37 of this act shall be
43 entitled to the benefits conferred by the "Right to Farm Act,"
44 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and
45 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

46 i. (1) Commencing July 1, 2004 and until five years after the date

1 of enactment of P.L. , c. (now before the Legislature as this bill),
2 when the committee, a local government unit, or a qualifying tax
3 exempt nonprofit organization seeks to acquire a development
4 easement on farmland or the fee simple title to farmland for farmland
5 preservation purposes using constitutionally dedicated moneys in
6 whole or in part, it shall conduct or cause to be conducted an appraisal
7 or appraisals of the value of the lands that shall be made using the
8 Department of Environmental Protection wastewater, water quality
9 and watershed management rules and regulations and associated
10 requirements and standards applicable to the lands subject to the
11 appraisal (a) in effect at the time of proposed acquisition, and (b) in
12 effect on November 3, 1998 as if those rules and regulations and
13 associated requirements and standards are still in effect at the time of
14 proposed acquisition. The higher of those two values shall be utilized
15 by the committee, a local government unit, or a qualifying tax exempt
16 nonprofit organization as the basis for negotiation with the landowner
17 with respect to the acquisition price for the lands. The landowner shall
18 be provided with both values determined pursuant to this paragraph.
19 A landowner may waive any of the requirements of this paragraph and
20 may agree to sell the lands for less than the values determined pursuant
21 to this paragraph.

22 (2) The requirements of this subsection shall be in addition to any
23 other requirements of law, rule, or regulation not inconsistent
24 therewith.

25 (3) This subsection shall not:

26 (a) apply if the Department of Environmental Protection
27 wastewater, water quality and watershed management rules and
28 regulations and associated requirements and standards applicable to
29 the lands at the time of proposed acquisition have not changed since
30 November 3, 1998;

31 (b) apply in the case of lands to be acquired with federal moneys
32 in whole or in part;

33 (c) apply in the case of lands to be acquired in accordance with
34 subsection e. of this section; or

35 (d) alter any requirements to disclose information to a landowner
36 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
37 (C.20:3-1 et seq.).

38 (cf: P.L.1999, c.152, s.38)

39

40 3. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill would provide that, for the next five years, when the
46 Department of Environmental Protection (DEP), the State Agriculture

1 Development Committee, a local government unit, or a qualifying tax
2 exempt nonprofit organization seeks to acquire lands, or any interest
3 therein, for open space or farmland preservation purposes through the
4 Garden State Preservation Trust, it shall conduct or cause to be
5 conducted an appraisal or appraisals of the value of the lands to be
6 made using the DEP wastewater, water quality and watershed
7 management rules and regulations and associated requirements and
8 standards applicable to the lands, or any interest therein, subject to the
9 appraisal (1) in effect at the time of proposed acquisition, and (2) in
10 effect on November 3, 1998 as if those rules and regulations and
11 associated requirements and standards are still in effect at the time of
12 proposed acquisition. The higher of those two values would be
13 utilized by the State, a local government unit, or a qualifying tax
14 exempt nonprofit organization as the basis for negotiation with the
15 landowner with respect to the acquisition price for the lands or any
16 interest therein.

17 The bill would also provide that until such time as similar provisions
18 currently in the Garden State Preservation Act (GSPTA) regarding
19 appraisals made using the land use zoning in effect on November 3,
20 1998 expire on July 1, 2004, both those provisions and the provisions
21 established in this bill would apply.

22 Recent adoption by the DEP of certain wastewater, water quality
23 and watershed management rules that would require environmental
24 studies and certain approvals for developments with six or more
25 residential septic systems could negatively impact agricultural land
26 values to a significant degree. Under the former rule, the threshold for
27 triggering a higher and more complex review and approval process
28 was 50 residential units with septic systems. Land values directly
29 influence the agricultural economy. If they are reduced, it affects a
30 farmer's access to capital for farming and other purposes because the
31 land's development value serves as the collateral for the loan. The
32 reduction of anticipated land value, whether actual or perceived, could
33 also have a negative effect on participation by farmers in the State's
34 farmland preservation program.

35 In order to reduce the economic impact of the new DEP regulations
36 (and of any similar regulations which may be adopted in the future) on
37 agriculture and the agricultural community, as well as the potential
38 negative impact on the success of the farmland preservation program
39 itself, this bill would direct those public and private entities receiving
40 monies from the Garden State Preservation Trust, when making
41 appraisals of land for preservation, to use the regulatory framework
42 for wastewater, water quality and watershed management that was in
43 effect when the constitutional amendment authorizing and funding the
44 Statewide effort to preserve a million acres of open space and
45 farmland was approved on November 3, 1998. In doing so, it would
46 follow similar considerations regarding potential future land use

S2174 SCHLUTER

10

1 zoning changes that were incorporated into the GSPTA at the time it
2 was enacted in June 1999. This policy will ensure that landowners
3 receive full and fair value for their property rather than suffering
4 financial losses due to after-the-fact changes in regulations governing
5 land development in the State.

6 The use of the wastewater, water quality and watershed
7 management regulations in effect on November 3, 1998 when the
8 constitutional amendment was approved by the voters might result in
9 appraisals more favorable to agricultural and other landowners.
10 Consequently, the purposes of the Garden State Preservation Trust in
11 maximizing applications for participation in the public policy goal of
12 preserving one million acres of open space in New Jersey will be better
13 served.

SENATE ECONOMIC GROWTH, AGRICULTURE AND
TOURISM COMMITTEE

STATEMENT TO

SENATE, No. 2174

STATE OF NEW JERSEY

DATED: NOVEMBER 19, 2001

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 2174.

This bill would provide that, for the next five years, when the Department of Environmental Protection (DEP), the State Agriculture Development Committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands, or any interest therein, for open space or farmland preservation purposes through the Garden State Preservation Trust, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands to be made using the DEP wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands, or any interest therein, subject to the appraisal (1) in effect at the time of proposed acquisition, and (2) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values would be utilized by the State, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands or any interest therein.

The bill would also provide that until such time as similar provisions currently in the Garden State Preservation Act (GSPTA) regarding appraisals made using the land use zoning in effect on November 3, 1998 expire on July 1, 2004, both those provisions and the provisions established in this bill would apply.

STATEMENT TO

[First Reprint]

SENATE, No. 2174

with Senate Floor Amendments
(Proposed By Senator SCHLUTER)

ADOPTED: DECEMBER 6, 2001

These amendments would provide that the bill would also apply to open space preservation projects funded in whole or in part from Green Acres bond acts, and would make the bill identical to Assembly Bill No. 3228 (1R) of 2001.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2174

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 2001

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2174.

This bill would provide that, for the next five years, when the Department of Environmental Protection (DEP), the State Agriculture Development Committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands, or any interest therein, for open space or farmland preservation purposes through the Garden State Preservation Trust, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands to be made using the DEP wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands, or any interest therein, subject to the appraisal (1) in effect at the time of proposed acquisition, and (2) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values would be utilized by the State, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands or any interest therein.

The bill would also provide that until such time as similar provisions currently in the Garden State Preservation Act (GSPTA) regarding appraisals made using the land use zoning in effect on November 3, 1998 expire on July 1, 2004, both those provisions and the provisions established in this bill would apply.

Recent adoption by the DEP of certain wastewater, water quality and watershed management rules that would require environmental studies and certain approvals for developments with six or more residential septic systems could negatively impact agricultural land values to a significant degree. Under the former rule, the threshold for triggering a higher and more complex review and approval process was 50 residential units with septic systems. Land values directly influence the agricultural economy. If they are reduced, it affects a farmer's access to capital for farming and other purposes because the land's development value serves as the collateral for the loan. The

reduction of anticipated land value, whether actual or perceived, could also have a negative effect on participation by farmers in the State's farmland preservation program.

In order to reduce the economic impact of the new DEP regulations (and of any similar regulations which may be adopted in the future) on agriculture and the agricultural community, as well as the potential negative impact on the success of the farmland preservation program itself, this bill would direct those public and private entities receiving monies from the Garden State Preservation Trust, when making appraisals of land for preservation, to use the regulatory framework for wastewater, water quality and watershed management that was in effect when the constitutional amendment authorizing and funding the Statewide effort to preserve a million acres of open space and farmland was approved on November 3, 1998. In doing so, it would follow similar considerations regarding potential future land use zoning changes that were incorporated into the GSPTA at the time it was enacted in June 1999.

COMMITTEE AMENDMENTS

Technical committee amendments to the bill correct two internal references.

FISCAL IMPACT

The Office of Legislative Services (OLS) estimates that while the bill may affect the price per acre of land eligible for State open space funding, it will not significantly affect the overall amount of money allotted or spent annually from the Garden State Preservation Trust Fund because the annual appropriation and expenditure of these funds are constitutionally mandated. The bill essentially encourages greater participation in the Open Space program by enabling potential applicants to apply the higher of two land appraisals during negotiations with open space sponsors. It should be noted, however that the use of higher appraisal values will tend to reduce the number of acres that, at a given overall funding level, could be preserved under the open space program.

[First Reprint]

SENATE, No. 2174

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 26, 2001

Sponsored by:

Senator WILLIAM E. SCHLUTER

District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

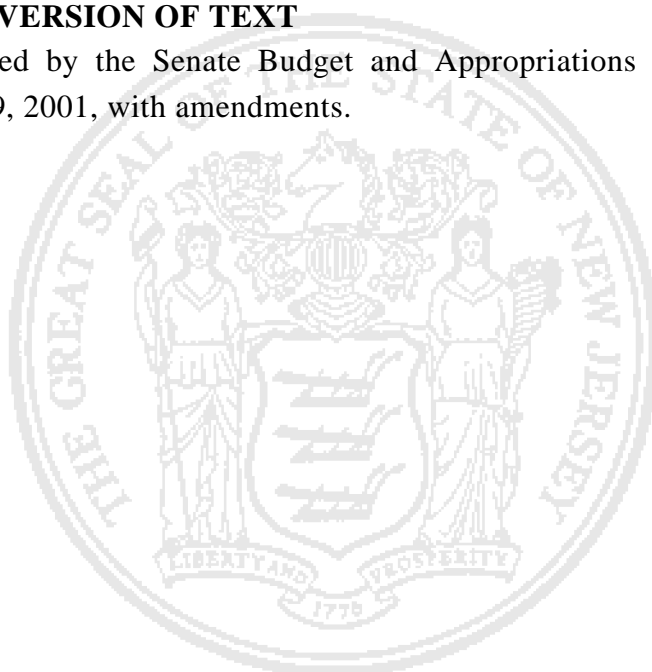
Senators Cafiero and Zane

SYNOPSIS

Modifies appraisal process for certain lands to be acquired for open space or farmland preservation purposes.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on November 29, 2001, with amendments.



1 AN ACT concerning appraisals of land to be acquired for recreation
2 and conservation purposes or farmland preservation purposes, and
3 amending P.L.1999, c.152.

4

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

7

8 1. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read
9 as follows:

10 26. a. Moneys appropriated from the Garden State Green Acres
11 Preservation Trust Fund to the Department of Environmental
12 Protection shall be used by the department to:

13 (1) Pay the cost of acquisition and development of lands by the
14 State for recreation and conservation purposes;

15 (2) Provide grants and loans to assist local government units to pay
16 the cost of acquisition and development of lands for recreation and
17 conservation purposes; and

18 (3) Provide grants to assist qualifying tax exempt nonprofit
19 organizations to pay the cost of acquisition and development of lands
20 for recreation and conservation purposes.

21 b. The expenditure and allocation of constitutionally dedicated
22 moneys for recreation and conservation purposes shall reflect the
23 geographic diversity of the State to the maximum extent practicable
24 and feasible.

25 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
26 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
27 pursuant thereto, to the contrary, the value of a pinelands development
28 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1
29 et seq.) and the pinelands comprehensive management plan adopted
30 pursuant thereto, shall be made utilizing a value to be determined by
31 either appraisal, regional averaging based upon appraisal data, or a
32 formula supported by appraisal data. The appraisal and appraisal data
33 shall consider as appropriate: land values in the pinelands regional
34 growth areas; land values in counties, municipalities, and other areas
35 reasonably contiguous to, but outside of, the pinelands area; and other
36 relevant factors as may be necessary to maintain the environmental,
37 ecological, and agricultural qualities of the pinelands area.

38 (2) No pinelands development credit allocated to a parcel of land
39 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands
40 comprehensive management plan adopted pursuant thereto that is
41 acquired or obtained in connection with the acquisition of the parcel
42 for recreation and conservation purposes by the State, a local

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted November 29, 2001.

1 government unit, or a qualifying tax exempt nonprofit organization
2 using constitutionally dedicated moneys in whole or in part may be
3 conveyed in any manner. All such pinelands development credits shall
4 be retired permanently.

5 d. (1) (a) For State fiscal years 2000 through 2004 only, when the
6 department, a local government unit, or a qualifying tax exempt
7 nonprofit organization seeks to acquire lands for recreation and
8 conservation purposes using constitutionally dedicated moneys in
9 whole or in part, it shall conduct or cause to be conducted an appraisal
10 or appraisals of the value of the lands that shall be made using the land
11 use zoning of the lands [(a)] (i) in effect at the time of proposed
12 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
13 use zoning is still in effect at the time of proposed acquisition. The
14 higher of those two values shall be utilized by the department, a local
15 government unit, or a qualifying tax exempt nonprofit organization as
16 the basis for negotiation with the landowner with respect to the
17 acquisition price for the lands. The landowner shall be provided with
18 both values determined pursuant to this ¹[paragraph] subparagraph¹.

19 A landowner may waive any of the requirements of this paragraph
20 and may agree to sell the lands for less than the values determined
21 pursuant to this paragraph.

22 (b) After the date of enactment of P.L. , c. (now before the
23 Legislature as this bill) and through June 30, 2004, in determining the
24 two values required pursuant to subparagraph (a) of this paragraph,
25 the appraisal shall be made using not only the land use zoning but also
26 the Department of Environmental Protection wastewater, water quality
27 and watershed management rules and regulations and associated
28 requirements and standards applicable to the lands subject to the
29 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
30 effect on November 3, 1998 as if those rules and regulations and
31 associated requirements and standards are still in effect at the time of
32 proposed acquisition.

33 (2) The requirements of this subsection shall be in addition to any
34 other requirements of law, rule, or regulation not inconsistent
35 therewith.

36 (3) This subsection shall not:

37 (a) apply if the land use zoning of the lands at the time of proposed
38 acquisition [has], and the Department of Environmental Protection
39 wastewater, water quality and watershed management rules and
40 regulations and associated requirements and standards applicable to
41 the lands at the time of proposed acquisition, have not changed since
42 November 3, 1998;

43 (b) apply in the case of lands to be acquired with federal moneys
44 in whole or in part;

45 (c) apply in the case of lands to be acquired in accordance with
46 subsection c. of this section;

1 (d) apply to projects funded using constitutionally dedicated
2 moneys appropriated pursuant to the annual appropriations act for
3 State fiscal year 2000 (P.L.1999, c.138); or

4 (e) alter any requirements to disclose information to a landowner
5 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
6 (C.20:3-1 et seq.).

7 e. Moneys appropriated from the fund may be used to match
8 grants, contributions, donations, or reimbursements from federal aid
9 programs or from other public or private sources established for the
10 same or similar purposes as the fund.

11 f. Moneys appropriated from the fund shall not be used by local
12 government units or qualifying tax exempt nonprofit organizations to
13 acquire lands that are already permanently preserved for recreation and
14 conservation purposes, as determined by the department.

15 g. Whenever lands are donated to the State by a public utility, as
16 defined pursuant to Title 48 of the Revised Statutes, for recreation and
17 conservation purposes, the commissioner may make and keep the lands
18 accessible to the public, unless the commissioner determines that
19 public accessibility would be detrimental to the lands or any natural
20 resources associated therewith.

21 h. Whenever the State acquires land for recreation and
22 conservation purposes, the agency in the Department of Environmental
23 Protection responsible for administering the land shall, within six
24 months after the date of acquisition, inspect the land for the presence
25 of any buildings or structures thereon which are or may be historic
26 properties and, within 60 days after completion of the inspection,
27 provide to the New Jersey Historic Preservation Office in the
28 department (1) a written notice of its findings, and (2) for any
29 buildings or structures which are or may be historic properties
30 discovered on the land, a request for determination of potential
31 eligibility for inclusion of the historic building or structure in the New
32 Jersey Register of Historic Places. Whenever such a building or
33 structure is discovered, a copy of the written notice provided to the
34 New Jersey Historic Preservation Office shall also be sent to the New
35 Jersey Historic Trust and to the county historical commission or
36 advisory committee, the county historical society, the local historic
37 preservation commission or advisory committee, and the local
38 historical society if any of those entities exist in the county or
39 municipality wherein the land is located.

40 i. (1) Commencing July 1, 2004 and until five years after the date
41 of enactment of P.L. , c. (now before the Legislature as this bill),
42 when the department, a local government unit, or a qualifying tax
43 exempt nonprofit organization seeks to acquire lands for recreation
44 and conservation purposes using constitutionally dedicated moneys in
45 whole or in part, it shall conduct or cause to be conducted an appraisal
46 or appraisals of the value of the lands that shall be made using the

1 Department of Environmental Protection wastewater, water quality
2 and watershed management rules and regulations and associated
3 requirements and standards applicable to the lands subject to the
4 appraisal (a) in effect at the time of proposed acquisition, and (b) in
5 effect on November 3, 1998 as if those rules and regulations and
6 associated requirements and standards are still in effect at the time of
7 proposed acquisition. The higher of those two values shall be utilized
8 by the department, a local government unit, or a qualifying tax exempt
9 nonprofit organization as the basis for negotiation with the landowner
10 with respect to the acquisition price for the lands. The landowner shall
11 be provided with both values determined pursuant to this paragraph.
12 A landowner may waive any of the requirements of this paragraph and
13 may agree to sell the lands for less than the values determined pursuant
14 to this paragraph.

15 (2) The requirements of this subsection shall be in addition to any
16 other requirements of law, rule, or regulation not inconsistent
17 therewith.

18 (3) This subsection shall not:

19 (a) apply if the Department of Environmental Protection
20 wastewater, water quality and watershed management rules and
21 regulations and associated requirements and standards applicable to
22 the lands at the time of proposed acquisition have not changed since
23 November 3, 1998;

24 (b) apply in the case of lands to be acquired with federal moneys
25 in whole or in part;

26 (c) apply in the case of lands to be acquired in accordance with
27 subsection c. of this section; or

28 (d) alter any requirements to disclose information to a landowner
29 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
30 (C.20:3-1 et seq.).

31 (cf: P.L.1999, c.152, s.26)

32

33 2. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read
34 as follows:

35 38. a. All acquisitions or grants made pursuant to section 37 of
36 this act shall be made with respect to farmland devoted to farmland
37 preservation under programs established by law.

38 b. The expenditure and allocation of constitutionally dedicated
39 moneys for farmland preservation purposes shall reflect the geographic
40 diversity of the State to the maximum extent practicable and feasible.

41 c. The committee shall implement the provisions of section 37 of
42 this act in accordance with the procedures and criteria established
43 pursuant to the "Agriculture Retention and Development Act,"
44 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by
45 this act.

46 d. The committee shall adopt the same or a substantially similar

1 method for determining, for the purposes of this act, the committee's
2 share of the cost of a development easement on farmland to be
3 acquired by a local government as that which is being used by the
4 committee on the date of enactment of this act for prior farmland
5 preservation funding programs.

6 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32
7 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant
8 thereto, to the contrary, whenever the value of a development
9 easement on farmland to be acquired using constitutionally dedicated
10 moneys in whole or in part is determined based upon the value of any
11 pinelands development credits allocated to the parcel pursuant to
12 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
13 management plan adopted pursuant thereto, the committee shall
14 determine the value of the development easement by:

15 (1) conducting a sufficient number of fair market value appraisals
16 as it deems appropriate to determine the value for farmland
17 preservation purposes of the pinelands development credits;

18 (2) considering development easement values in counties,
19 municipalities, and other areas (a) reasonably contiguous to, but
20 outside of, the pinelands area, which in the sole opinion of the
21 committee constitute reasonable development easement values in the
22 pinelands area for the purposes of this subsection, and (b) in the
23 pinelands area where pinelands development credits are or may be
24 utilized, which in the sole opinion of the committee constitute
25 reasonable development easement values in the pinelands area for the
26 purposes of this subsection;

27 (3) considering land values in the pinelands regional growth areas;

28 (4) considering the importance of preserving agricultural lands in
29 the pinelands area; and

30 (5) considering such other relevant factors as may be necessary to
31 increase participation in the farmland preservation program by owners
32 of agricultural lands located in the pinelands area.

33 f. No pinelands development credit that is acquired or obtained in
34 connection with the acquisition of a development easement on
35 farmland or fee simple title to farmland by the State, a local
36 government unit, or a qualifying tax exempt nonprofit organization
37 using constitutionally dedicated moneys in whole or in part may be
38 conveyed in any manner. All such pinelands development credits shall
39 be retired permanently.

40 g. (1) (a) For State fiscal years 2000 through 2004 only, when the
41 [department] committee, a local government unit, or a qualifying tax
42 exempt nonprofit organization seeks to acquire a development
43 easement on farmland or the fee simple title to farmland for farmland
44 preservation purposes using constitutionally dedicated moneys in
45 whole or in part, it shall conduct or cause to be conducted an appraisal
46 or appraisals of the value of the lands that shall be made using the land

1 use zoning of the lands [(a)] (i) in effect at the time of proposed
2 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
3 use zoning is still in effect at the time of proposed acquisition. The
4 higher of those two values shall be utilized by the [department]
5 committee, a local government unit, or a qualifying tax exempt
6 nonprofit organization as the basis for negotiation with the landowner
7 with respect to the acquisition price for the lands. The landowner shall
8 be provided with both values determined pursuant to this
9 ¹[paragraph] subparagraph¹.

10 A landowner may waive any of the requirements of this paragraph
11 and may agree to sell the lands for less than the values determined
12 pursuant to this paragraph.

13 (b) After the date of enactment of P.L. , c. (now before the
14 Legislature as this bill) and through June 30, 2004, in determining the
15 two values required pursuant to subparagraph (a) of this paragraph,
16 the appraisal shall be made using not only the land use zoning but also
17 the Department of Environmental Protection wastewater, water quality
18 and watershed management rules and regulations and associated
19 requirements and standards applicable to the lands subject to the
20 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
21 effect on November 3, 1998 as if those rules and regulations and
22 associated requirements and standards are still in effect at the time of
23 proposed acquisition.

24 (2) The requirements of this subsection shall be in addition to any
25 other requirements of law, rule, or regulation not inconsistent
26 therewith.

27 (3) This subsection shall not:

28 (a) apply if the land use zoning of the lands at the time of proposed
29 acquisition [has] , and the Department of Environmental Protection
30 wastewater, water quality and watershed management rules and
31 regulations and associated requirements and standards applicable to
32 the lands at the time of proposed acquisition, have not changed since
33 November 3, 1998;

34 (b) apply in the case of lands to be acquired with federal moneys
35 in whole or in part;

36 (c) apply in the case of lands to be acquired in accordance with
37 subsection e. of this section;

38 (d) apply to projects funded using constitutionally dedicated
39 moneys appropriated pursuant to the annual appropriations act for
40 State fiscal year 2000 (P.L.1999, c.138); or

41 (e) alter any requirements to disclose information to a landowner
42 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
43 (C.20:3-1 et seq.).

44 h. Any farmland for which a development easement or fee simple
45 title has been acquired pursuant to section 37 of this act shall be
46 entitled to the benefits conferred by the "Right to Farm Act,"

1 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and
2 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

3 i. (1) Commencing July 1, 2004 and until five years after the date
4 of enactment of P.L. , c. (now before the Legislature as this bill),
5 when the committee, a local government unit, or a qualifying tax
6 exempt nonprofit organization seeks to acquire a development
7 easement on farmland or the fee simple title to farmland for farmland
8 preservation purposes using constitutionally dedicated moneys in
9 whole or in part, it shall conduct or cause to be conducted an appraisal
10 or appraisals of the value of the lands that shall be made using the
11 Department of Environmental Protection wastewater, water quality
12 and watershed management rules and regulations and associated
13 requirements and standards applicable to the lands subject to the
14 appraisal (a) in effect at the time of proposed acquisition, and (b) in
15 effect on November 3, 1998 as if those rules and regulations and
16 associated requirements and standards are still in effect at the time of
17 proposed acquisition. The higher of those two values shall be utilized
18 by the committee, a local government unit, or a qualifying tax exempt
19 nonprofit organization as the basis for negotiation with the landowner
20 with respect to the acquisition price for the lands. The landowner shall
21 be provided with both values determined pursuant to this paragraph.
22 A landowner may waive any of the requirements of this paragraph and
23 may agree to sell the lands for less than the values determined pursuant
24 to this paragraph.

25 (2) The requirements of this subsection shall be in addition to any
26 other requirements of law, rule, or regulation not inconsistent
27 therewith.

28 (3) This subsection shall not:

29 (a) apply if the Department of Environmental Protection
30 wastewater, water quality and watershed management rules and
31 regulations and associated requirements and standards applicable to
32 the lands at the time of proposed acquisition have not changed since
33 November 3, 1998;

34 (b) apply in the case of lands to be acquired with federal moneys
35 in whole or in part;

36 (c) apply in the case of lands to be acquired in accordance with
37 subsection e. of this section; or

38 (d) alter any requirements to disclose information to a landowner
39 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
40 (C.20:3-1 et seq.).

41 (cf: P.L.1999, c.152, s.38)

42

43 3. This act shall take effect immediately.

P.L. 2001, CHAPTER 315, *approved January 3, 2002*
Assembly, No. 3228 (*First Reprint*)

1 **AN ACT** concerning appraisals of land to be acquired for recreation
2 and conservation purposes or farmland preservation purposes, and
3 amending P.L.1999, c.152.

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

7
8 1. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read
9 as follows:

10 26. a. Moneys appropriated from the Garden State Green Acres
11 Preservation Trust Fund to the Department of Environmental
12 Protection shall be used by the department to:

13 (1) Pay the cost of acquisition and development of lands by the
14 State for recreation and conservation purposes;

15 (2) Provide grants and loans to assist local government units to pay
16 the cost of acquisition and development of lands for recreation and
17 conservation purposes; and

18 (3) Provide grants to assist qualifying tax exempt nonprofit
19 organizations to pay the cost of acquisition and development of lands
20 for recreation and conservation purposes.

21 b. The expenditure and allocation of constitutionally dedicated
22 moneys for recreation and conservation purposes shall reflect the
23 geographic diversity of the State to the maximum extent practicable
24 and feasible.

25 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
26 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
27 pursuant thereto, to the contrary, the value of a pinelands development
28 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1
29 et seq.) and the pinelands comprehensive management plan adopted
30 pursuant thereto, shall be made utilizing a value to be determined by
31 either appraisal, regional averaging based upon appraisal data, or a
32 formula supported by appraisal data. The appraisal and appraisal data
33 shall consider as appropriate: land values in the pinelands regional
34 growth areas; land values in counties, municipalities, and other areas
35 reasonably contiguous to, but outside of, the pinelands area; and other
36 relevant factors as may be necessary to maintain the environmental,
37 ecological, and agricultural qualities of the pinelands area.

38 (2) No pinelands development credit allocated to a parcel of land
39 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands
40 comprehensive management plan adopted pursuant thereto that is

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted December 6, 2001.

1 acquired or obtained in connection with the acquisition of the parcel
2 for recreation and conservation purposes by the State, a local
3 government unit, or a qualifying tax exempt nonprofit organization
4 using constitutionally dedicated moneys in whole or in part may be
5 conveyed in any manner. All such pinelands development credits shall
6 be retired permanently.

7 d. (1) (a) For State fiscal years 2000 through 2004 only, when the
8 department, a local government unit, or a qualifying tax exempt
9 nonprofit organization seeks to acquire lands for recreation and
10 conservation purposes using constitutionally dedicated moneys in
11 whole or in part ¹or Green Acres bond act moneys in whole or in
12 part¹, it shall conduct or cause to be conducted an appraisal or
13 appraisals of the value of the lands that shall be made using the land
14 use zoning of the lands [(a)] (i) in effect at the time of proposed
15 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
16 use zoning is still in effect at the time of proposed acquisition. The
17 higher of those two values shall be utilized by the department, a local
18 government unit, or a qualifying tax exempt nonprofit organization as
19 the basis for negotiation with the landowner with respect to the
20 acquisition price for the lands. The landowner shall be provided with
21 both values determined pursuant to this ¹[paragraph] subparagraph¹.

22 A landowner may waive any of the requirements of this paragraph
23 and may agree to sell the lands for less than the values determined
24 pursuant to this paragraph.

25 (b) After the date of enactment of P.L. , c. (now before the
26 Legislature as this bill) and through June 30, 2004, in determining the
27 two values required pursuant to subparagraph (a) of this paragraph,
28 the appraisal shall be made using not only the land use zoning but also
29 the Department of Environmental Protection wastewater, water quality
30 and watershed management rules and regulations and associated
31 requirements and standards applicable to the lands subject to the
32 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
33 effect on November 3, 1998 as if those rules and regulations and
34 associated requirements and standards are still in effect at the time of
35 proposed acquisition.

36 (2) The requirements of this subsection shall be in addition to any
37 other requirements of law, rule, or regulation not inconsistent
38 therewith.

39 (3) This subsection shall not:

40 (a) apply if the land use zoning of the lands at the time of proposed
41 acquisition [has], and the Department of Environmental Protection
42 wastewater, water quality and watershed management rules and
43 regulations and associated requirements and standards applicable to
44 the lands at the time of proposed acquisition, have not changed since
45 November 3, 1998;

46 (b) apply in the case of lands to be acquired with federal moneys

- 1 in whole or in part;
- 2 (c) apply in the case of lands to be acquired in accordance with
3 subsection c. of this section;
- 4 (d) apply to projects funded using constitutionally dedicated
5 moneys appropriated pursuant to the annual appropriations act for
6 State fiscal year 2000 (P.L.1999, c.138); or
- 7 (e) alter any requirements to disclose information to a landowner
8 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
9 (C.20:3-1 et seq.).
- 10 e. Moneys appropriated from the fund may be used to match
11 grants, contributions, donations, or reimbursements from federal aid
12 programs or from other public or private sources established for the
13 same or similar purposes as the fund.
- 14 f. Moneys appropriated from the fund shall not be used by local
15 government units or qualifying tax exempt nonprofit organizations to
16 acquire lands that are already permanently preserved for recreation and
17 conservation purposes, as determined by the department.
- 18 g. Whenever lands are donated to the State by a public utility, as
19 defined pursuant to Title 48 of the Revised Statutes, for recreation and
20 conservation purposes, the commissioner may make and keep the lands
21 accessible to the public, unless the commissioner determines that
22 public accessibility would be detrimental to the lands or any natural
23 resources associated therewith.
- 24 h. Whenever the State acquires land for recreation and conservation
25 purposes, the agency in the Department of Environmental Protection
26 responsible for administering the land shall, within six months after the
27 date of acquisition, inspect the land for the presence of any buildings
28 or structures thereon which are or may be historic properties and,
29 within 60 days after completion of the inspection, provide to the New
30 Jersey Historic Preservation Office in the department (1) a written
31 notice of its findings, and (2) for any buildings or structures which are
32 or may be historic properties discovered on the land, a request for
33 determination of potential eligibility for inclusion of the historic
34 building or structure in the New Jersey Register of Historic Places.
35 Whenever such a building or structure is discovered, a copy of the
36 written notice provided to the New Jersey Historic Preservation Office
37 shall also be sent to the New Jersey Historic Trust and to the county
38 historical commission or advisory committee, the county historical
39 society, the local historic preservation commission or advisory
40 committee, and the local historical society if any of those entities exist
41 in the county or municipality wherein the land is located.
- 42 i. (1) Commencing July 1, 2004 and until five years after the date
43 of enactment of P.L. , c. (now before the Legislature as this bill),
44 when the department, a local government unit, or a qualifying tax
45 exempt nonprofit organization seeks to acquire lands for recreation
46 and conservation purposes using constitutionally dedicated moneys in

1 whole or in part ¹or Green Acres bond act moneys in whole or in
2 part¹, it shall conduct or cause to be conducted an appraisal or
3 appraisals of the value of the lands that shall be made using the
4 Department of Environmental Protection wastewater, water quality
5 and watershed management rules and regulations and associated
6 requirements and standards applicable to the lands subject to the
7 appraisal (a) in effect at the time of proposed acquisition, and (b) in
8 effect on November 3, 1998 as if those rules and regulations and
9 associated requirements and standards are still in effect at the time of
10 proposed acquisition. The higher of those two values shall be utilized
11 by the department, a local government unit, or a qualifying tax exempt
12 nonprofit organization as the basis for negotiation with the landowner
13 with respect to the acquisition price for the lands. The landowner shall
14 be provided with both values determined pursuant to this paragraph.
15 A landowner may waive any of the requirements of this paragraph and
16 may agree to sell the lands for less than the values determined pursuant
17 to this paragraph.

18 (2) The requirements of this subsection shall be in addition to any
19 other requirements of law, rule, or regulation not inconsistent
20 therewith.

21 (3) This subsection shall not:

22 (a) apply if the Department of Environmental Protection
23 wastewater, water quality and watershed management rules and
24 regulations and associated requirements and standards applicable to
25 the lands at the time of proposed acquisition have not changed since
26 November 3, 1998;

27 (b) apply in the case of lands to be acquired with federal moneys
28 in whole or in part;

29 (c) apply in the case of lands to be acquired in accordance with
30 subsection c. of this section; or

31 (d) alter any requirements to disclose information to a landowner
32 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
33 (C.20:3-1 et seq.).

34 (cf: P.L.1999, c.152, s.26)

35

36 2. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read
37 as follows:

38 38. a. All acquisitions or grants made pursuant to section 37 of
39 this act shall be made with respect to farmland devoted to farmland
40 preservation under programs established by law.

41 b. The expenditure and allocation of constitutionally dedicated
42 moneys for farmland preservation purposes shall reflect the geographic
43 diversity of the State to the maximum extent practicable and feasible.

44 c. The committee shall implement the provisions of section 37 of
45 this act in accordance with the procedures and criteria established
46 pursuant to the "Agriculture Retention and Development Act,"

1 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by
2 this act.

3 d. The committee shall adopt the same or a substantially similar
4 method for determining, for the purposes of this act, the committee's
5 share of the cost of a development easement on farmland to be
6 acquired by a local government as that which is being used by the
7 committee on the date of enactment of this act for prior farmland
8 preservation funding programs.

9 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32
10 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant
11 thereto, to the contrary, whenever the value of a development
12 easement on farmland to be acquired using constitutionally dedicated
13 moneys in whole or in part is determined based upon the value of any
14 pinelands development credits allocated to the parcel pursuant to
15 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
16 management plan adopted pursuant thereto, the committee shall
17 determine the value of the development easement by:

18 (1) conducting a sufficient number of fair market value appraisals
19 as it deems appropriate to determine the value for farmland
20 preservation purposes of the pinelands development credits;

21 (2) considering development easement values in counties,
22 municipalities, and other areas (a) reasonably contiguous to, but
23 outside of, the pinelands area, which in the sole opinion of the
24 committee constitute reasonable development easement values in the
25 pinelands area for the purposes of this subsection, and (b) in the
26 pinelands area where pinelands development credits are or may be
27 utilized, which in the sole opinion of the committee constitute
28 reasonable development easement values in the pinelands area for the
29 purposes of this subsection;

30 (3) considering land values in the pinelands regional growth areas;

31 (4) considering the importance of preserving agricultural lands in
32 the pinelands area; and

33 (5) considering such other relevant factors as may be necessary to
34 increase participation in the farmland preservation program by owners
35 of agricultural lands located in the pinelands area.

36 f. No pinelands development credit that is acquired or obtained in
37 connection with the acquisition of a development easement on
38 farmland or fee simple title to farmland by the State, a local
39 government unit, or a qualifying tax exempt nonprofit organization
40 using constitutionally dedicated moneys in whole or in part may be
41 conveyed in any manner. All such pinelands development credits shall
42 be retired permanently.

43 g. (1) (a) For State fiscal years 2000 through 2004 only, when the
44 **[department]** committee, a local government unit, or a qualifying tax
45 exempt nonprofit organization seeks to acquire a development
46 easement on farmland or the fee simple title to farmland for farmland

1 preservation purposes using constitutionally dedicated moneys in
2 whole or in part, it shall conduct or cause to be conducted an appraisal
3 or appraisals of the value of the lands that shall be made using the land
4 use zoning of the lands [(a)] (i) in effect at the time of proposed
5 acquisition, and [(b)] (ii) in effect on November 3, 1998 as if that land
6 use zoning is still in effect at the time of proposed acquisition. The
7 higher of those two values shall be utilized by the [department]
8 committee, a local government unit, or a qualifying tax exempt
9 nonprofit organization as the basis for negotiation with the landowner
10 with respect to the acquisition price for the lands. The landowner shall
11 be provided with both values determined pursuant to this
12 ¹[paragraph] subparagraph¹.

13 A landowner may waive any of the requirements of this paragraph
14 and may agree to sell the lands for less than the values determined
15 pursuant to this paragraph.

16 (b) After the date of enactment of P.L. , c. (now before the
17 Legislature as this bill) and through June 30, 2004, in determining the
18 two values required pursuant to subparagraph (a) of this paragraph,
19 the appraisal shall be made using not only the land use zoning but also
20 the Department of Environmental Protection wastewater, water quality
21 and watershed management rules and regulations and associated
22 requirements and standards applicable to the lands subject to the
23 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
24 effect on November 3, 1998 as if those rules and regulations and
25 associated requirements and standards are still in effect at the time of
26 proposed acquisition.

27 (2) The requirements of this subsection shall be in addition to any
28 other requirements of law, rule, or regulation not inconsistent
29 therewith.

30 (3) This subsection shall not:

31 (a) apply if the land use zoning of the lands at the time of proposed
32 acquisition [has] , and the Department of Environmental Protection
33 wastewater, water quality and watershed management rules and
34 regulations and associated requirements and standards applicable to
35 the lands at the time of proposed acquisition, have not changed since
36 November 3, 1998;

37 (b) apply in the case of lands to be acquired with federal moneys
38 in whole or in part;

39 (c) apply in the case of lands to be acquired in accordance with
40 subsection e. of this section;

41 (d) apply to projects funded using constitutionally dedicated
42 moneys appropriated pursuant to the annual appropriations act for
43 State fiscal year 2000 (P.L.1999, c.138); or

44 (e) alter any requirements to disclose information to a landowner
45 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
46 (C.20:3-1 et seq.).

1 h. Any farmland for which a development easement or fee simple
2 title has been acquired pursuant to section 37 of this act shall be
3 entitled to the benefits conferred by the "Right to Farm Act,"
4 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and
5 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

6 i. (1) Commencing July 1, 2004 and until five years after the date
7 of enactment of P.L. , c. (now before the Legislature as this bill),
8 when the committee, a local government unit, or a qualifying tax
9 exempt nonprofit organization seeks to acquire a development
10 easement on farmland or the fee simple title to farmland for farmland
11 preservation purposes using constitutionally dedicated moneys in
12 whole or in part, it shall conduct or cause to be conducted an appraisal
13 or appraisals of the value of the lands that shall be made using the
14 Department of Environmental Protection wastewater, water quality
15 and watershed management rules and regulations and associated
16 requirements and standards applicable to the lands subject to the
17 appraisal (a) in effect at the time of proposed acquisition, and (b) in
18 effect on November 3, 1998 as if those rules and regulations and
19 associated requirements and standards are still in effect at the time of
20 proposed acquisition. The higher of those two values shall be utilized
21 by the committee, a local government unit, or a qualifying tax exempt
22 nonprofit organization as the basis for negotiation with the landowner
23 with respect to the acquisition price for the lands. The landowner shall
24 be provided with both values determined pursuant to this paragraph.
25 A landowner may waive any of the requirements of this paragraph and
26 may agree to sell the lands for less than the values determined pursuant
27 to this paragraph.

28 (2) The requirements of this subsection shall be in addition to any
29 other requirements of law, rule, or regulation not inconsistent
30 therewith.

31 (3) This subsection shall not:

32 (a) apply if the Department of Environmental Protection
33 wastewater, water quality and watershed management rules and
34 regulations and associated requirements and standards applicable to
35 the lands at the time of proposed acquisition have not changed since
36 November 3, 1998;

37 (b) apply in the case of lands to be acquired with federal moneys
38 in whole or in part;

39 (c) apply in the case of lands to be acquired in accordance with
40 subsection e. of this section; or

41 (d) alter any requirements to disclose information to a landowner
42 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361
43 (C.20:3-1 et seq.).

44 (cf: P.L.1999, c.152, s.38)

45
46 3. This act shall take effect immediately.

1

2

3 Modifies appraisal process for certain lands to be acquired for open
4 space or farmland preservation purposes.

CHAPTER 315

AN ACT concerning appraisals of land to be acquired for recreation and conservation purposes or farmland preservation purposes, and amending P.L.1999, c.152.

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

1. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

C.13:8C-26 Allocation of funds appropriated; conditions.

26. a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c.310 (C.13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d. (1) (a) For State fiscal years 2000 through 2004 only, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and

watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

2. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of this act shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of this act in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (1) (a) For State fiscal years 2000 through 2004 only, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition.

The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of this act shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

3. This act shall take effect immediately.

Approved January 3, 2002.