

4:1C-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 4:1C-1 et al.

("Right to Farm Act"—coordinate State policies affecting agriculture)

LAWS OF: 1983

CHAPTER: 31

Bill No.: S854

Sponsor(s): Zane and others

Date Introduced: Pre-filed

Committee: Assembly: Agriculture and Environment

Senate: Natural Resources and Agriculture

Amended during passage: /// No Senate Committee Substitute enacted

Date of Passage: Assembly: Nov. 29, 1982

Senate: June 21, 1982

Date of Approval: Jan. 26, 1983

Following statements are attached if available:

| | | | |
|-------------------------|----------|-----|----|
| Sponsor statement: | | Yes | // |
| Committee statement: | Assembly | /// | No |
| | Senate | Yes | // |
| Fiscal Note: | | /// | No |
| Veto Message: | | /// | No |
| Message on Signing: | | Yes | // |
| Following were printed: | | | |
| Reports: | | Yes | // |
| Hearings: | | /// | No |

974.90 Masucci, Nicholas
A278 Farmland preservation legislative
1981a package. Governor's Office of Policy
and Planning. May, 1981. Trenton, 1980.

(over)

DEPOSITORY COPY
Do Not Remove From Library

007 1983

974.90
A278
1980

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

Newspaper clippings—see Legislative history of L.1983, c.32

CHAPTER 31
APPROVED 1-26-83

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 854
STATE OF NEW JERSEY

ADOPTED JUNE 14, 1982

AN ACT concerning agriculture and supplementing Title 4 of the Revised Statutes.

- 1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*
- 1 1. This act shall be known and may be cited as the "Right to
2 Farm Act."
- 1 2. The Legislature finds and declares that:
- 2 a. The retention of agricultural activities would serve the best
3 interest of all citizens of this State by insuring the numerous social,
4 economic and environmental benefits which accrue from one of the
5 largest industries in the Garden State;
- 6 b. Several factors have combined to create a situation wherein
7 the regulations of various State agencies and the ordinances of
8 individual municipalities may unnecessarily constrain essential
9 farm practices;
- 10 c. It is necessary to establish a systematic and continuing effort
11 to examine the effect of governmental regulation on the agricul-
12 tural industry;
- 13 d. All State departments and agencies thereof should encourage
14 the maintenance of agricultural production and a positive agri-
15 cultural business climate;
- 16 e. It is the express intention of this act to establish as the policy
17 of this State the protection of commercial farm operations from
18 nuisance action where recognized methods and techniques of agri-
19 cultural production are applied while, at the same time, acknowl-
20 edging the need to provide a proper balance among the varied and
21 sometimes conflicting interests of all lawful activities in New
22 Jersey.

1 3. As used in this act:

2 a. "Commercial farm" means any place producing agricultural
3 or horticultural products worth \$2,500.00 or more annually;

4 b. "Committee" means the State Agriculture Develop-
5 ment Committee established pursuant to section 4 of this act;

1 4. a. In order that the State's regulatory action with respect to
2 agricultural activities may be undertaken with a more complete
3 understanding of the needs and difficulties of agriculture, there is
4 established in the Executive Branch of the State Government a
5 public body corporate and politic, with corporate succession, to be
6 known as the State Agriculture Development Committee. For the
7 purpose of complying with the provisions of Article V, Section IV,
8 paragraph 1 of the New Jersey Constitution, the committee is allo-
9 cated within the Department of Agriculture, but, notwithstanding
10 that allocation, the committee shall be independent of any super-
11 vision or control by the State Board of Agriculture, by the depart-
12 ment or by the secretary or any officer or employee thereof, except
13 as otherwise expressly provided in this act. The committee shall
14 constitute an instrumentality of the State exercising public and
15 essential governmental functions, and the exercise by the commit-
16 tee of the powers conferred by this or any other act shall be held
17 to be an essential governmental function of the State.

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

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

39: same manner as the original appointment but for the unexpired
40 term only.

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

46: e. The committee shall meet at the call of the chairman as soon
47 as may be practical following appointment of its members and shall
48 establish procedures for the conduct of regular and special meet-
49 ings, including procedures for the notification of departments of
50 State regulating the activities of commercial agriculture, provided
51 that all meetings are conducted in accordance with the provisions
52 of the "Open Public Meetings Act," P. L. 1975, c. 231 (C. 10:4-6
53 et seq.).

54: f. A true copy of the minutes of every meeting of the committee
55 shall be prepared and forthwith delivered to the Governor. No
56 action taken at such meeting by the commission shall have force
57 or effect until 15 days, exclusive of Saturdays, Sundays and public
58 holidays, after such copy of the minutes shall have been so deliv-
59 ered. If, in said 15-day period, the Governor returns such copy of
60 the minutes with a veto of any action taken by the commission at
61 such meeting, such action shall be null and void and of no force
62 and effect.

63: g. The department shall provide any personnel that may be
64 required as staff for the committee.

1 5. The committee shall:

2 a. Consider any matter relating to the improvement of farm
3 management practices;

4 b. Review and evaluate the proposed rules, regulations and
5 guidelines of any State agency in terms of feasibility, effect and
6 conformance with the intentions and provisions of this act;

7 c. Study, develop and recommend to the appropriate State
8 departments and agencies thereof a program of agricultural
9 management practices which shall include, but not necessarily be
10 limited to: air and water quality control; noise control; pesticide
11 control; fertilizer application; integrated pest management; and
12 labor practices;

13 d. Upon a finding of conflict between the regulatory practices of
14 any State instrumentality and the agricultural management prac-
15 tices recommended by the committee, commence a period of nego-
16 tiation not to exceed 120 days with the State instrumentality in an
17 effort to reach a resolution of the conflict during which period the

18 State instrumentality shall inform the committee of the reasons
19 for accepting, conditionally accepting or rejecting the committee's
20 recommendations and submit a schedule for implementing all or a
21 portion of the committee's recommendations.

22 e. Within 1 year of the effective date of this act and at least
23 annually thereafter, recommend to the Governor, the Legislature
24 and the appropriate State departments and agencies thereof any
25 actions which should be taken that recognize the need to provide
26 a proper balance among the varied and sometimes conflicting
27 interests of all lawful activities in the State; minimize unnecessary
28 constraints on essential agricultural activities; and, are consistent
29 with the promotion of the public health, safety and welfare.

1 6. The owner or operator of a commercial farm which meets the
2 eligibility criteria for differential property taxation pursuant to
3 the "Farmland Assessment Act of 1964" P. L. 1964, c. 48 (C.
4 54:4-23.1 et seq.) and the operation of which conforms to agri-
5 cultural management practices recommended by the committee and
6 all relevant federal or State statutes or rules and regulations
7 adopted pursuant thereto and which does not pose a direct threat
8 to public health and safety may:

9 a. Produce agricultural and horticultural crops, trees and forest
10 products, livestock, and poultry and other commodities as described
11 in the Standard Industrial Classification for agriculture, forestry,
12 fishing and trapping;

13 b. Process and package the agricultural output of the commer-
14 cial farm;

15 c. Provide for the wholesale and retail marketing of the agri-
16 cultural output of the commercial farm, and related products that
17 contribute to farm income, including the construction of building
18 and parking areas in conformance with municipal standards;

19 d. Replenish soil nutrients;

20 e. Control pests, predators and diseases of plants and animals;

21 f. Clear woodlands using open burning and other techniques,
22 install and maintain vegetative and terrain alterations and other
23 physical facilities for water and soil conservation and surface
24 water control in wetland areas; and,

25 g. Conduct on-site disposal of organic agricultural wastes.

1 7. In all relevant actions filed subsequent to the effective date
2 of this act, there shall exist a rebuttable presumption that no com-
3 mercial agricultural operation, activity or structure which con-
4 forms to agricultural management practices recommended by the
5 committee, and all relevant federal or State statutes or rules and
6 regulations adopted pursuant thereto and which does not pose a

7 direct threat to public health and safety shall constitute a public or
8 private nuisance, nor shall any such operation, activity or structure
9 be deemed to otherwise invade or interfere with the use and enjoy-
10 ment of any other land or property.

1 8. This act shall take effect immediately.

SENATE, No. 854

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Senators ZANE, HIRKALA, DUMONT and VREELAND

AN ACT concerning agriculture and supplementing Title 4 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Best Agri-
2 cultural Management Practices Act."

1 2. The Legislature finds and declares that:

2 a. The retention of agricultural activities would serve the best
3 interest of all citizens of this State by insuring the numerous social,
4 economic and environmental benefits which accrue from the third
5 largest industry in the Garden State;

6 b. Several factors have combined to create a situation wherein
7 the regulations of various State agencies and the ordinances of
8 individual municipalities may unnecessarily constrain essential
9 farm practices;

10 c. It is necessary to establish a systematic and continuing effort
11 to examine the effect of governmental regulation on the agricultural
12 industry;

13 d. It is the express intention of this act to provide for the estab-
14 lishment of general practices considered necessary for best agri-
15 cultural management, while minimizing any constraints on essential
16 agricultural activities, and while recognizing the need to provide a
17 proper balance among the varied and sometimes conflicting interests
18 of all lawful activities in New Jersey.

1 3. As used in this act:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

2 a. "Advisory council" means the Advisory Council on Best
3 Agricultural Management Practices established pursuant to section
4 4 of this act.

5 b. "Departments" means the Department of Agriculture, the
6 Department of Environmental Protection, the Department of Labor
7 and Industry and the Department of Community Affairs.

8 c. "Project" means any activity to be undertaken by a farmer
9 with respect to agricultural operations which requires the appli-
10 cation for a permit or certification from any State department or
11 agency regulating that activity.

1 4. a. In order that the State's regulatory action with respect to
2 agricultural activities may be undertaken with a more complete
3 understanding of the needs and difficulties of agriculture, there is
4 created in the Division of Rural Resources in the Department of
5 Agriculture an Advisory Council on Best Agricultural Management
6 Practices. The council shall consist of 15 members, six of whom
7 shall be the Secretary of Agriculture, the Commissioner of En-
8 vironmental Protection, the Commissioner of Labor, the Commis-
9 sioner of Community Affairs, the Dean of Cook College, Rutgers
10 University, and a representative of the Soil Conservation Districts
11 to be designated by the State Soil Conservation Committee, or
12 their designees, who shall serve ex officio; and nine citizens of the
13 State, to be appointed by the Governor, with the advice and consent
14 of the Senate, five of whom shall be actively engaged in farming,
15 and four of whom shall represent the general public. The Governor
16 shall designate a chairman and vice chairman of the council from
17 among the public members, and these officers shall serve at the
18 pleasure of the Governor.

19 b. Of the nine members first to be appointed, four shall be ap-
20 pointed for terms of 2 years, three for terms of 3 years and two for
21 terms of 4 years. Thereafter all appointments shall be made for
22 terms of 4 years. Each appointed member shall hold office for the
23 term of his appointment and upon the expiration thereof, the office
24 shall remain vacant until his successor is appointed and qualified.
25 A member shall be eligible for reappointment. Any vacancy in the
26 membership occurring other than by expiration of term shall be
27 filled in the same manner as the original appointment but for the
27A unexpired term only.

28 c. Members of the council shall serve without compensation but
29 may, subject to the limits of funds appropriated or otherwise made
30 available for such purposes, be reimbursed for expenses actually
31 incurred in attending meetings of the council and in performance
32 of their duties as members thereof.

1 5. The advisory council shall:

2 a. Request from the Secretary of Agriculture, the Director of the
3 Division of Rural Resources, the Agricultural Experiment Station
4 and the Cooperative Extension Service at Cook College, Rutgers
4A University such information concerning farm management prac-
4B tices as it may deem necessary;

5 b. Consider any matter relating to the improvement of farm
6 management practices:

7 c. Review and evaluate the proposed rules, regulations and
8 guidelines of any State agency in terms of feasibility, effect and
9 conformance with the intentions and provisions of this act;

10 d. Study, develop and recommend to the departments a program
11 of best agricultural management practices which shall include, but
12 not necessarily be limited to: air and water quality control; noise
13 control; pesticide control; fertilizer application; integrated pest
14 management; and labor practices;

15 e. In cooperation and consultation with the Office of Farm Ser-
16 vices, established pursuant to section 6 of this act, develop an
17 educational and informational program to aid those engaged in
18 agriculture activities in conforming with all existing laws, rules and
19 regulation which affect farm practices;

20 f. Within 1 year of the effective date of this act and annually
21 thereafter, recommend to the Governor, the Legislature and the
22 departments appropriate actions which should be taken that:
23 recognize the need to provide a proper balance among the varied
24 and sometimes conflicting interests of all lawful activities in the
25 State; minimize unnecessary constraints on essential agricultural
26 activities; and, are consistent with the promotion of the public
27 health, safety and welfare; and,

28 g. Publish, within 1 year of the effective date of this act the best
29 management practices and the educational and informational pro-
30 grams developed pursuant to this section. These programs shall be
31 updated annually and made available in printed form to the public
32 at a cost not to exceed that of reproduction.

1 6. In order to facilitate the coordination of the State's regulatory
2 action and expedite the project application process there is
3 established in the Department of Agriculture the Office of Farm
4 Services.

1 7. The Office of Farm Services shall:

2 a. Designate, for each project, an expediter who shall advise the
3 applicant of State permits and certifications necessary for the
4 project:

5 b. Coordinate contacts with relevant agencies reviewing permits
6 and certificates for the project;

7 c. Discuss with State departments and agencies the feasibility of
8 consolidating hearings, documents or other matters pertinent to the
9 project; and,

10 d. Notify the advisory council of problems or delays experienced
11 in the application and review process and suggest alternatives which
12 would mitigate these problems or delays.

1 8. The provisions of any law to the contrary notwithstanding, no
2 county or municipality shall enforce any restriction concerning farm
3 structures or farming practices in a manner which is more restric-
4 tive than Federal or State statutes or rules or regulations adopted
5 pursuant thereto.

1 9. This act shall take effect immediately.

STATEMENT

The principal purpose of this bill is to promote, to the greatest extent practicable and feasible, the continuation of agriculture in the State of New Jersey while recognizing the potential conflicts among all lawful activities in the State. To this end the bill provides for the establishment of the Advisory Council on Best Agricultural Management Practices.

The purpose of the Advisory Council is to aid in the coordination of State policies which affect the agricultural industry in a manner which will mitigate unnecessary constraints on essential farming practices.

The bill establishes the Office of Farm Services, in the Department of Agriculture, for the purpose of advising the farmer as to the necessary permits or certification required for certain agricultural activities and to aid in expediting the application and review process for any such permit or certificate.

The bill further provides that no local government may regulate agricultural activities in a manner more stringent than federal or State statute or departmental rule.

112 78
1981

SENATE NATURAL RESOURCES AND AGRICULTURE
COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 854

STATE OF NEW JERSEY

DATED: JUNE 14, 1982

The principal purpose of this bill is to promote, to the greatest extent practicable and feasible, the continuation of agriculture in the State of New Jersey while recognizing the potential conflicts among all lawful activities in the State. To this end, the bill provides for the establishment of the State Agriculture Development Committee.

The purpose of the committee is to aid in the coordination of State policies which affect the agricultural industry in a manner which will mitigate unnecessary constraints on essential farming practices by recommending to appropriate State departments a program of agriculture management practices which, if consistent with relevant federal and State law, and nonthreatening to the public health and safety, would afford the farmer protection against municipal regulations and private nuisance suits.

The bill further establishes a 120-day period of negotiation during which time the committee and State instrumentalities regulating agriculture in a manner inconsistent with recommended agriculture management practices would seek to negotiate a mutually agreeable solution to the conflict.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: KATHERINE BROKAW

WEDNESDAY, JANUARY 26, 1983

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

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

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

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

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

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

-more-

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

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

#####