

13:8-30 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 13:8-30 et seq.

Laws of 1974 Chapter 159

Bill No. A 532

Sponsor(s) Barbour & Kean

Date Introduced Pre-filed

Committee: Assembly Agriculture & Environment

Senate Energy, Agriculture & Environment

Amended during passage Yes Amendments during passage denoted by asterisks

Date of passage: Assembly March 18

Senate May 16

Date of approval Nov. 14

Following statements are attached if available:

Sponsor statement ~~Yes~~ No

Committee Statement: Assembly ~~Yes~~ No

Senate Yes

Fiscal Note Yes

Veto message ~~Yes~~ No

Message on signing Yes

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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10/4/76
FEB 1977

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 532

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblymen BARBOUR and KEAN

AN ACT establishing a State trails system consisting of scenic, recreation and connecting or side trails; providing for the designation, administration, regulation and acquisition of such trails and trail rights-of-way by the Department of Environmental Protection and providing penalties for violations.

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 "New Jersey
2 Trails System Act."

1 2. a. The Legislature hereby finds that in order to provide for
2 the ever-increasing outdoor recreation needs of an expanding
3 population, and in order to promote public access to, travel within,
4 and enjoyment and appreciation of the outdoor, natural and
5 remote areas of this State trails should be established both in
6 natural and scenic areas of New Jersey, and in and near the urban
7 areas of this State.

8 b. The Legislature, therefore, declares that it is the policy of this
9 State to provide the means for attaining these objectives by in-
10 stituting a Statewide system of recreation and scenic trails, by
11 designating the Appalachian trail as the initial component of that
12 system, and by prescribing the methods by which, and standards
13 according to which, additional components may be added to the
14 system.

1 3. As used in this act, unless the context clearly indicates
2 otherwise:

3 a. "Department" means the Department of Environmental
4 Protection.

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

5 b. "Commissioner" means the Commissioner of Environmental
6 Protection.

7 c. "Scenic easement" means a perpetual easement in land which
8 (1) is held for the benefit of the public (2) is specifically enforce-
9 able by its holder or beneficiary, and (3) limits or obligates the
10 holder of the servient estate, his heirs, and assigns with respect to
11 their use and management of activities conducted thereon, the
12 object of such limitations and obligations being the maintenance or
13 enhancement of the natural beauty of the land in question or of
14 areas affected by it.

15 d. "Scenic trail" means an extended trail so located as to pro-
16 vide for maximum outdoor recreation potential and for the con-
17 servation and enjoyment of the significant scenic, historic, natural
18 or cultural qualities of the areas through which such trails may
19 pass.

1 4. The State trails system shall be composed of the following
2 classes of trails:

3 a. State scenic trails, which will be extended trails so located as
4 to provide maximum potential for the appreciation of natural areas
5 and for the conservation and enjoyment of the significant scenic,
6 historic, natural, ecological, geological, or cultural qualities of the
7 areas through which such trails may pass. Each of these trails will
8 be limited exclusively to foot use, except that the use by horses or
9 nonmotorized bicycles may also be permitted on segments of
10 scenic trails where deemed appropriate by the department.

11 b. State recreation trails, which will provide a variety of out-
12 door recreation uses in or reasonably accessible to urban areas.
13 ***[**These trails may be of the following type: foot, horse, or non-
14 motorized bicycles.**]***

15 c. Connecting or side trails, which will provide additional points
16 of public access to State scenic or recreation trails or which will
17 provide connections between such trails. They shall be of the
18 nature of the trails they serve.

1 5. a. The department is hereby authorized, empowered, and
2 directed to establish a State trails system of recreation trails,
3 scenic trails and connecting or side trails in the State composed of
4 (1) the Appalachian trail, and (2) such other trails that are
5 established or designated from time to time by ***[**the Legislature
6 or**]*** the department under the provisions of this act.

7 b. The department, in consultation with appropriate Federal,
8 State, and local governmental agencies and public and private
9 organizations, shall establish a uniform marker for the trails
10 system, and shall coordinate the trails system with the National

11 trails system established under ***[the Federal National Trails**
 12 **System Act, Public Law 90-543, approved October 2, 1968]***
 13 **applicable provisions of Federal law**.

1 6. a. The department may establish and designate recreation
 2 **and scenic** trails over lands administered by it **[and, by consent**
 3 of the landowner, over lands owned by the Federal Government,
 4 the State any local governmental agency, or any person upon find-
 5 ing that such trails (1) are reasonably accessible to urban areas, or
 6 (2) meet the criteria established in this act and such supple-
 7 mentary criteria as the department shall prescribe]**]***.

8 b. ***[Scenic trails shall be authorized and designated only by an**
 9 **act of the Legislature.]*** There is hereby established as the initial
 10 scenic trail the Appalachian trail, which shall be administered
 11 primarily as footpath by the department, provided however, that
 12 nothing herein contained shall be construed as amending, repealing
 13 or superseding the provisions of P. L. 1973, c. 54 (C. 13:8-29),
 14 except as specifically provided herein.

15 c. Connecting or side trails within park, forest, and other
 16 recreation areas or natural areas may be established, designated
 17 and marked as components of a recreation or scenic trail.

1 7. a. ***[Pursuant to section 5 of this act, the department shall**
 2 select the rights-of-way for scenic trails and shall publish notice
 3 thereof in the New Jersey Register.]* The selected route shall be
 4 compatible with the preservation or enhancement of the environ-
 5 ment it traverses, and the boundaries of the right-of-way shall be
 6 established in such a manner that they protect the scenic values of
 7 the trail.

8 b. In selecting rights-of-way, the department shall give full con-
 9 sideration to minimizing the adverse effects upon the adjacent
 10 landowner or user and his operation. Development and manage-
 11 ment of each segment of the trails system shall be designed to
 12 harmonize with and complement any established multiple-use plans
 13 for that specific area in order to insure continued maximum bene-
 14 fits from the land.

15 ***[c. In selecting rights-of-way, the department shall obtain the**
 16 **advice and assistance of the Federal, State, and local governments,**
 17 **private organizations and landowners and land users concerned.**
 18 **Furthermore, the Legislature encourages citizen participation in**
 19 **trail acquisition, construction, development and maintenance where**
 20 **such activities will not conflict with the purposes of this act. The**
 21 **location and width of rights-of-way across State lands under the**
 22 **jurisdiction of another State agency shall be by agreement between**
 23 **the head of that agency and the commissioner.]***

1 ***[8. a.** After publication of notice in the New Jersey Register, the
 2 department may relocate segments of a scenic trail right-of-way,
 3 with the concurrence of the head of the State agency having juris-
 4 diction over the lands involved, upon finding that the relocation is
 5 necessary to (1) preserve or enhance the values for which the
 6 trail was established, or (2) promote a sound land management
 7 program in accordance with established multiple-use principles;
 8 provided, however, that a substantial relocation of a scenic trail
 9 right-of-way shall be authorized by an act of the Legislature.

10 b. If the department permanently relocates the right-of-way and
 11 disposes of all title or interest in the land, the original owner, or
 12 his heirs or assigns, shall be offered, by notice given at the former
 13 owner's last known address, the right of first refusal at the fair
 14 market price.]*

1 ***[9. a.]** *8.* The department may use for trail purposes lands
 2 owned by the State, with the concurrence of the head of the admin-
 3 istering agency, and may acquire lands or interests in land by
 4 scenic easements, written cooperative agreement, **eminent*
 5 *domain,** donation, purchase with donated or appropriated funds,
 6 or exchange***[**, except that not more than 25 acres in any 1 mile
 7 may be acquired without the consent of the owner]*. Acquisition
 8 of land or interest shall be accomplished with all possible speed.

9 ***[b.** After notice of the selection of the right-of-way is published
 10 in the New Jersey Register, the department may enter into such
 11 agreements with landowners, local governments, private organiza-
 12 tions and individuals for the use of lands for trail purposes or may
 13 acquire such lands or interests therein by donation, purchase with
 14 donated or appropriated funds or exchange in accordance with
 15 subsection c. of this section. The lands involved in such rights-of-
 16 way may be acquired in fee simple if other methods of public
 17 control are not sufficient to assure their use for the purposes for
 18 which they are acquired.

19 c. The department may accept title to any non-State property
 20 within the right-of-way and in exchange therefor it may, with the
 21 concurrence of the head of the administering agency, convey to the
 22 grantor of such property any State-owned property which it
 23 classifies as suitable for exchange or other disposal. The values of
 24 the properties so exchanged either shall be approximately equal or
 25 shall be equalized by the payment of cash to the grantor or to the
 26 department as the circumstances require.

27 d. Whenever the State makes a conveyance of land, it may
 28 reserve a right-of-way for trails to the extent the department deems
 29 necessary to carry out the purposes of this act.

30 e. The department may acquire property in the name of the State
 31 by the exercise of the power of eminent domain in the manner pro-
 32 vided in P. L. 1971, c. 361 (C. 20:3-1 et seq.) without the consent
 33 of the owner, where, in the judgment of the commissioner, all
 34 reasonable efforts to acquire such lands or interests therein by
 35 negotiation have failed, and in such cases it shall acquire only
 36 such title as, in the judgment of the commissioner, is reasonably
 37 necessary to provide passage across such lands; provided, however,
 38 that the power of eminent domain may not be utilized to acquire
 39 fee simple title or lesser interests to more than 25 acres in any
 40 1 mile and, when used, such authority shall be limited to the most
 41 direct or practicable connecting trail or right-of-way.】*

1 *【10. a. Upon the exercise of the power of eminent domain, the
 2 compensation to be paid thereunder shall be ascertained and paid
 3 in the manner provided in the Eminent Domain Act of 1971 (P. L.
 4 1971, c. 361, C. 20:3-1) insofar as the provisions thereof are
 5 applicable and not inconsistent with the provisions contained in
 6 this act. The commissioner may join in separate subdivisions in one
 7 petition or complaint the descriptions of any number of tracts or
 8 parcels of land or property to be condemned and the names of any
 9 number of owners and other parties who may have an interest
 10 therein and all such land or property included in said petition or
 11 complaint may be condemned in a single proceeding; provided, how-
 12 ever, that separate awards be made for each tract or parcel of land
 13 or property; and provided further, that each of said tracts or
 14 parcels of land or property lies wholly in or has a substantial part
 15 of its value lying wholly within the same county.

16 b. Upon the filing of such petition or complaint or at any time
 17 thereafter the commissioner may file with the clerk of the county in
 18 which such property is located and also with the Clerk of the
 19 Superior Court a declaration of taking, signed by the commis-
 20 sioner, declaring that possession of one or more of the tracts or
 21 parcels of land or property described in the petition or complaint
 22 is thereby being taken by and for the use of the State. The said
 23 declaration of taking shall be sufficient if it sets forth (1) a descrip-
 24 tion of each tract or parcel of land or property to be so taken
 25 sufficient for the identification thereof to which there shall be
 26 attached a plan or map thereof; (2) a statement of the estate or
 27 interest in the said land or property being taken; (3) a statement
 28 of the sum of money estimated by the commissioner to be just
 29 compensation for the taking of the estate or interest in each tract
 30 or parcel of land or property described in said declaration; and
 31 (4) that, in compliance with the provisions of this act, the com-

32 commissioner has established and is maintaining a trust fund as herein-
33 after provided.

34 c. Upon the filing of the said declaration, the commissioner shall
35 deposit with the Clerk of the Superior Court the amount of the
36 estimated compensation stated in said declaration. In addition to
37 the said deposits with the Clerk of the Superior Court the com-
38 missioner all times shall maintain a special trust fund on deposit
39 with a bank or trust company doing business in the State in an
40 account at least equal to the aggregate amount deposited with the
41 Clerk of the Superior Court as estimated compensation for all
42 property described in declarations of taking with respect to which
43 the compensation has not been finally determined and paid to the
44 persons entitled thereto or into court. Said trust fund shall consist
45 of cash or securities readily convertible into cash constituting legal
46 investment for trust funds under the laws of the State. Said trust
47 fund shall be held solely to secure and may be applied to the pay-
48 ment of just compensation for the land or other property described
49 in such declarations of taking. The commissioner shall be en-
50 titled to withdraw from said trust fund from time to time so much
51 as may then be in excess of twice the aggregate of the amount
52 deposited with the Clerk of the Superior Court as estimated com-
53 pensation for all property described in declarations of taking with
54 respect to which the compensation has not been finally determined
55 and paid to the persons entitled thereto or into court.

56 d. Upon the filing of the said declaration as aforesaid and de-
57 positing with the Clerk of the Superior Court the amount of the
58 estimated compensation stated in said declaration, the commis-
59 sioner without other process or proceedings, shall be entitled to
60 the exclusive possession and use of each tract of land or property
61 described in said declaration and may forthwith enter into and take
62 possession of said land or property, it being the intent of this
63 provision that the proceedings for compensation or any other pro-
64 ceedings relating to the taking of said land or interest therein or
65 other property shall not delay the taking of possession thereof and
66 the use thereof by the commissioner for the purpose or purposes
67 for which the commissioner is authorized by law to acquire or
68 condemn such land or other property or interest therein.

69 e. The commissioner shall cause notice of the filing of said
70 declaration and the making of said deposit to be served upon each
71 party in interest named in the petition residing in the State, either
72 personally or by leaving a copy thereof at his residence, if known,
73 and upon each party in interest residing out of the State, by mail-
74 ing a copy thereof to him at his residence, if known. In the event

75 that the residence of any such party or the name of such party is
76 unknown, such notice shall be published at least once in a news-
77 paper published or circulating in the county or counties in which
78 the land is located. Such service, mailing or publication shall be
79 made within 10 days after filing such declaration. Upon the
80 application of any party in interest and after notice to other
81 parties in interest, including the authority, any judge of the
82 superior court assigned to sit for said county may order that the
83 money deposited with the Clerk of the Superior Court or any part
84 thereof be paid forthwith to the person or persons entitled thereto
85 for or on account of the just compensation to be awarded in said
86 proceeding; provided, that each such person shall have filed with
87 the Clerk of the Superior Court a consent in writing that, in the
88 event the award in the condemnation proceeding shall be less than
89 the amount deposited, the court, after notice as herein provided
90 and hearing, may determine his liability, if any, for the return of
91 such difference or any part thereof and enter judgment therefor.
92 If the amount of the award as finally determined shall exceed the
93 amount so deposited, the person or persons to whom the award is
94 payable shall be entitled to recover from the commissioner the
95 difference between the amount of the deposit and the amount of the
96 award, with interest at the then legal rate from the date of making
97 the deposit. If the amount of the award shall be less than the
98 amount so deposited, the Clerk of the Superior Court shall return
99 the difference between the amount of the award and the deposit
100 to the commissioner unless the amount of the deposit or any part
101 thereof shall have theretofore been distributed, in which event the
102 court, on petition of the commissioner and notice to all persons
103 interested in the award and affording them an opportunity to be
104 heard, shall enter judgment in favor of the commissioner for such
105 difference against the party or parties liable for the return thereof.
106 The commissioner shall cause notice of the date fixed for such hear-
107 ing to be served upon each party thereto residing in the State
108 either personally or by leaving a copy thereof at his residence, if
109 known, and upon each party residing out of the State by mailing
110 a copy to him at his residence, if known. In the event that the
111 residence of any party or the name of such party is unknown, such
112 notice shall be published at least once in a newspaper published or
113 circulating in the county or counties in which the land is located.
114 Such service, mailing or publication shall be made at least 15 days
115 before the date fixed for such hearing.

116 Whenever under P. L. 1971, c. 361 the amount of the award may
117 be paid into court, payment may be made into the Superior Court

118 and may be distributed according to law. The commissioner shall
 119 not abandon any condemnation proceeding subsequent to the date
 120 upon which he has taken possession of the land or property as
 121 herein provided.]*

1 ***[11. a.]*** *9.* Within the external boundaries of the right-of-
 2 way, the natural vegetation shall be kept undisturbed except for
 3 any clearing required for construction of the trail, occasional
 4 vistas, or trail-use facilities. The department shall make every
 5 effort to avoid any use of the right-of-way that is incompatible with
 6 the purposes for which the trails were established. Development
 7 and management of each segment of the State trails system shall be
 8 designed to harmonize with and complement any established
 9 multiple-use plans for that specific area in order to insure continual
 10 maximum benefits from the land. Other uses along the trail which
 11 will not substantially interfere with the nature and purposes of the
 12 trail may be permitted by the department.

13 ***[b.]*** State scenic trails shall be managed in such a way as to
 14 maintain their natural and scenic quality. ***[Toward this end they**
 15 shall be supplemented by support facilities only on that part of a
 16 trail which is in a State park or other developed recreation area,
 17 provided, however, that primitive camping facilities already in
 18 existence on trails incorporated into the system shall be permitted
 19 to remain and be maintained. No open wood fires shall be per-
 20 mitted on State scenic trails except in areas with support facilities
 21 specifically designed for such purpose. Reasonable efforts shall be
 22 made to provide sufficient access opportunities to such trails, and
 23 activities incompatible with the purposes for which such trails were
 24 established shall be prohibited.

25 c. The use of motorized vehicles by the general public along any
 26 scenic trail shall be prohibited except as follows:

27 (1) The owner of private land included in the trails system by
 28 cooperative agreement of the landowner may use motorized
 29 vehicles on or across such trails or adjacent lands for purposes in-
 30 cident to the ownership and management of the land from time to
 31 time in accordance with regulations adopted by the department.

32 (2) The department may adopt regulations authorizing the use
 33 of motorized vehicles to meet emergencies or to enable adjacent
 34 landowners or land users to have reasonable access to their lands
 35 or timber rights.]*

1 ***[12. a.** The department, in consultation with appropriate
 2 governmental agencies and public and private organizations, shall
 3 establish a uniform marker, including thereon an appropriate and
 4 distinctive symbol for each recreation and scenic trail.

5 b. Where the trails cross lands administered by the State such
6 markers shall be erected at appropriate points along the trails and
7 maintained by the State agency administering the land in
8 accordance with standards established by the department and
9 where trails cross other lands, in accordance with written coopera-
10 tive agreements, the department shall provide such uniform
11 markers to cooperating agencies and shall require such agencies
12 to erect and maintain them in accordance with the standards
13 established.】*

1 *【13.】* *10.* a. The department shall provide for the develop-
2 ment and maintenance of trails established under this act and shall
3 cooperate with and encourage other State agencies to operate,
4 develop and maintain portions of such trails which are located in
5 areas administered by such agencies.

6 b. When deemed to be in the public interest, the department may
7 enter into written cooperative agreements with local governments,
8 landowners, private organizations or individuals to operate,
9 develop and maintain any portion of a **recreation or** scenic trail.

1 *【14.】* *11.* The department shall make studies for the purpose
2 of determining the feasibility and desirability of designating addi-
3 tional trails as **recreation or** scenic trails. *【Such studies shall
4 be made in consultation with Federal, State and local governments,
5 public and private organizations and landowners and land users
6 concerned. When completed, such studies shall be the basis of
7 appropriate proposals for additional scenic trails which shall be
8 submitted from time to time to the Governor and to the Legisla-
9 ture.】*

1 *【15.】* The use of motorized vehicles by the general public within
2 the right-of-way of any State scenic or recreation trails shall be
3 prohibited, and nothing in this act shall be construed as authorizing
4 the use of motorized vehicles in these rights-of-way; provided, how-
5 ever, that the department shall establish regulations which shall
6 authorize the use of motorized vehicles when such vehicles are re-
7 quired to meet emergencies where life or health is at risk, or to
8 enable present or adjacent landowners or land users to have reason-
9 able access to their lands or timber rights.】*

1 *【16.】* *12.* The department shall review all formal declara-
2 tions of railroad right-of-way abandonments by the Interstate Com-
3 merce Commission **or other Federal agencies**, for possible in-
4 clusion into the State trails system.

1 *【17.】* *13.* The commissioner may adopt and promulgate pur-
2 suant to law, rules and regulations governing the use, protection,

3 management, development and administration of the trails system
4 and such other rules and regulations as he deems necessary to
5 effectuate the purposes of this act.

1 ***[18.]*** *14.* Any person violating any provision of this act or
2 any rule or regulation promulgated thereunder shall be liable to a
3 penalty of not more than ***[\$500.00** or imprisonment for a term not
4 exceeding 60 days or both]* *\$50.00 to be collected in a summary
5 proceeding pursuant to the Penalty Enforcement Law (N. J. S.
6 2A:58-1 et seq.)*.

1 ***[19.]*** *15.* The commissioner may use any sum hereafter
2 appropriated by any act from the proceeds of the sale of bonds
3 under the New Jersey Green Acres Land Acquisition Act of 1971,
4 P. L. 1971, c. 419 (C. 13:8A-19 et seq.), and such other sums as may
5 be appropriated for like purposes for the acquisition of lands or
6 interests therein for the purposes of this act.

1 ***[20.]*** *16.* This act shall take effect immediately.

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STATE OF NEW JERSEY

SENATE ENERGY, AGRICULTURE AND
ENVIRONMENT COMMITTEE

STATEMENT TO
ASSEMBLY, No. No. 532

STATE OF NEW JERSEY

DATED: APRIL 29, 1974

This bill establishes a State trails system composed of scenic trails designated by the Legislature, recreation trails designated by the Department of Environmental Protection and connecting or side trails. The Appalachian trail is designated the first scenic trail.

The department may designate recreation trails over lands administered by it and, by consent of the land owner, over lands owned by any public or private person upon finding that such trails (1) are reasonably accessible to urban areas, or (2) meet the criteria established in or pursuant to this act.

The department shall select the right-of-way for scenic trails and shall publish notice thereof in the New Jersey Register. The selected route shall be compatible with the preservation or enhancement of the environment it traverses, and the boundaries of the right-of-way shall be established in such a manner that they protect the scenic values of the trail.

FISCAL NOTE TO
ASSEMBLY, No. 532

STATE OF NEW JERSEY

DATED: SEPTEMBER 10, 1974

The Official Copy Reprint of Assembly Bill No. 532 is an act establishing a State trails system consisting of scenic, recreation and connecting side trails. It also provides for the designation, administration, regulation and acquisition of such trails and trail rights-of-way by the Department of Environmental Protection.

The Department of Environmental Protection states that the cost estimate of this legislation is based on variable development costs determined by terrain, etc.; type trail—i.e. hiking, equestrian, bicycle, etc., and acquisition costs. Average trail development costs vary between \$2,500.00 and \$10,000.00 per mile. Bicycle trails can cost much more.

The fiscal note is based on an estimate of costs rather than actual cost information.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

NOVEMBER 14, 1974

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DEPT. CAMPBELL

Governor Brendan Byrne signed into law Thursday a bill establishing a state system of scenic and recreational trails.

The bill, A-532, sponsored by Assemblyman George H. Barbour, D-Burlington, authorizes the state Department of Environmental Protection to administer the system of trails.

The measure designates the Appalachian Trail as the first trail, and empowers the department to designate others. The department also would be responsible for the acquisition and regulation of the trails.

Byrne pointed out that the selected routes must be compatible with the preservation or enhancement of the environment, and that the boundaries of the rights of way will be established in a manner that protects the scenic values of the trails.

The measure provides for the department to establish a uniform marker for the trails and to coordinate the system with the national system.

The Governor also announced he has signed into law A-193, sponsored by Assemblyman Richard J. Codey, D-Essex, which permits a court, upon application, to allow a reasonable attorney's fee in any judgment obtained by a tenant against a landlord for the return of rental security.

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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION