

54:4-3.63 et seq.

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:4-3.63 et seq.

Laws of 1974 Chapter 167

Bill No. S 1297

Sponsor(s) Martindell, Russo & Merlino

Date Introduced July 8

Committee: Assembly Taxation

Senate Revenue, Finance & Appropriations

Amended during passage Yes ~~XX~~ Amendments during passage denoted by asterisks

Date of passage: Assembly October 21

Senate September 30

Date of approval December 9

Following statements are attached if available:

Sponsor statement Yes ~~XX~~

Committee Statement: Assembly ~~XX~~ No

Senate Yes ~~XX~~

Fiscal Note Yes ~~XX~~

Veto message ~~XX~~ No

Message on signing Yes ~~XX~~

Following were printed:

Reports ~~XX~~ No

Hearings ~~XX~~ No

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CHAPTER 167 LAWS OF N. J. 1974
APPROVED 12-9-74

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SENATE, No. 1297

STATE OF NEW JERSEY

INTRODUCED JULY 8, 1974

By Senators MARTINDELL, RUSSO and MERLINO

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning exemption from taxation of real property owned by certain nonprofit corporations and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

1. 1. The Legislature hereby finds and declares that natural open
2 space areas for public recreation and conservation purposes are
3 rapidly diminishing; that public funds for the acquisition and
4 maintenance of public open space should be supplemented by
5 private individuals and conservation organizations; and **that** it is
6 therefore **[,]** in the public interest to encourage the dedication of
7 privately-owned open space to public use and enjoyment as pro-
8 vided for in this act.

1. 2. All lands and the improvements thereon actually and ex-
2 clusively used for conservation or recreation purposes, owned and
3 maintained or operated for the benefit of the public by a nonprofit
4 corporation or organization organized under the laws of this or
5 any State of the United States authorized to carry out the pur-
6 poses on account of which the exemption is claimed and which is
7 qualified for exemption from Federal Income Tax under Section
8 501 (c) (3) of the Internal Revenue Code shall be exempt from
9 taxation; provided, however, that the Commissioner of the De-
10 partment of Environmental Protection certifies that the real prop-
11 erty and the property owner are qualified under the terms of
12 this act.

1. 3. Each owner of real property claiming the tax exemption
2 provided by this act shall file the original and one copy of its
3 initial application for certification with the Commissioner of the
4 Department of Environmental Protection on or before August 1
5 of the pretax year on such forms as the commissioner shall
6 prescribe. Such application shall include, but not be limited to,

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

7 the following information: the taxing district in which the real
8 property is located, the block and lot number of the property, a
9 physical description of the land and improvements, a plan for the
10 use and preservation of the property, a statement of the uses which
11 may be made of the property by the public, and a statement of
12 the terms under which the public may gain access to and enjoy
13 the use of such lands. The application shall be accompanied by
14 documentation to establish the organization and purposes of the
15 property owner and its entitlement to exemption from Federal
16 income tax under Section 501 (c) (3) of the Internal Revenue Code.

1 4. The Commissioner of the Department of Environmental
2 Protection may certify that the real property is maintained or
3 operated for the benefit of the public only if he finds*, *after a public*
4 *hearing on the application has been held,** that the real property
5 for which an application for tax exemption is made is open to all
6 on an equal basis and that a tax exemption for such property
7 would be in the public interest. Restrictions on the use of such
8 real property by the public may be permitted if the commissioner
9 finds that they are necessary for proper maintenance and im-
10 provement of the property or that significant natural features
11 of the land may be adversely affected by unrestricted access. The
12 commissioner may authorize that reasonable charges may be made
13 for entrance onto or use of such real property. The commissioner
14 may consult with the Natural Areas Council in making a deter-
15 mination as to whether the granting of a certificate for the real
16 property covered by the application would serve the public interest.

1 5. The Commissioner of the Department of Environmental Pro-
2 tection shall on or before September 15 of the pretax year certify
3 that a property owner and the real property for which an exemption
4 is claimed are qualified under the terms of this act and that a tax
5 exemption would be in the public interest. The commissioner shall
6 forthwith deliver such certification to the property owner and the
7 tax assessor of the taxing district in which the real property is
8 located.

1 6. The tax exemption established by this act shall be granted
2 or revoked pursuant to the provisions of P. L. 1951, c. 135
3 (C. 54:4-4.4), except as otherwise provided herein.

1 7. When real property which is exempted under the provisions of
2 this act is applied to a use other than for conservation or recreation
3 purposes, it shall be subject to taxes, hereinafter referred to as
4 roll-back taxes, in an amount equal to the taxes which would have
5 been payable on such property had it not been exempt, in the cur-
6 rent tax year (the year of sale or change in use) and in each of the

7 2 tax years immediately preceding in which the real property was
8 exempt, with interest compounded at 8% annually; provided,
9 however, that no such roll-back taxes shall be payable when the
10 property is sold, leased, donated or otherwise conveyed to a public
11 agency, nonprofit corporation or organization, *~~or where the pro-~~
12 ceeds of any sale or conveyance are invested within 1 year of the
13 date of said sale or conveyance in property which is certified as
14 qualified for exemption from taxation as provided herein]*.

1 8. The Commissioner of the Department of Environmental Pro-
2 tection in consultation with the Director of the Division of Taxation
3 shall have the power to adopt, amend and repeal administrative
4 rules to effectuate the purposes of this act.

1 9. If the provisions of any section or clause of this act or any
2 administrative rule or order adopted hereunder or the application
3 thereof to any person shall be judged invalid by a court of com-
4 petent jurisdiction, such order or judgment shall be confined in its
5 operation to the controversy in which it was rendered, and shall
6 not affect or invalidate the remainder of any provision of any
7 section or clause of this act or any administrative rule or order
8 adopted hereunder or the application of any part thereof to any
9 person or circumstance and to this end, the provisions of each
10 section and clause of this act and administrative rule or order are
11 hereby declared to be severable.

1 10. This act shall take effect immediately.

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8 exempt, with interest compounded at 8% annually; provided,
9 however, that no such roll-back taxes shall be payable when the
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7 section or clause of this act or any administrative rule or order
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9 person or circumstance and to this end, the provisions of each
10 section and clause of this act and administrative rule or order are
11 hereby declared to be severable.

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STATEMENT

This bill provides for tax exemption for lands and improvements which are devoted to open space uses. It will make it possible for private organizations to retain open space for public use.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1297

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1974

Senate Bill No. 1297 would provide exemption from the taxation of real property owned by qualifying conservation and other nonprofit groups, where such real property is maintained and operated for the benefit of the public.

To qualify for the exemption, an organization must first qualify for exemption from Federal Income Tax under Section 501 (c) (3) of the Internal Revenue Code and be organized for the purpose of acquiring land for conservation and recreation purposes under the laws of New Jersey, any other State, or the United States. The Commissioner of the Department of Environmental Protection must find, on the basis of a prescribed application, and after public hearing, that the organization qualifies for exemption under the terms of the act and that exemption from taxation is in the public interest.

The bill contains a rollback tax feature. In the event exempted real property is put to a use other than for conservation or recreation purposes, it shall be subject to taxes in an amount equal to the taxes which would have been payable in the current year and each of the 2 preceding years together with interest compounded at 8% annually. This rollback feature is not operative where the exempted real estate is conveyed, in any degree, to a public agency, nonprofit corporation or organization.

Administration of this act is put on the Commissioner of Environmental Protection, with rules and regulations for implementation to be developed in consultation with the Director of the Division of Taxation.

In providing this exemption from real property taxes, private organization will be encouraged to further invest in open space and make it available for public use.

Senate Bill No. 1297 has no impact on State revenue or expenditure. The bill does affect local property taxes. As indicated in the preliminary fiscal note the first year loss, assuming all qualified organizations apply for and receive the exemption, will be approximately \$150,000.00.

The loss will be a continuing one, increasing with increases in land value, and as more land is purchased and subsequently qualified for the exemption.

In amending the bill the committee has added a requirement that a public hearing be held on an application for an exemption before the exemption is extended. Further, the rollback tax feature in the bill is amended to strike the original provision that such rollback taxes would not apply where the proceeds of any sale or conveyance are invested within 1 year in property which subsequently qualifies for the exemption. Thus, if exempted land is sold or otherwise conveyed to other than a public agency, nonprofit corporation or organization, the rollback tax provision will apply.

FISCAL NOTE TO
SENATE, No. 1297

STATE OF NEW JERSEY

DATED: SEPTEMBER 18, 1974

Senate Bill No. 1297 provides for tax exemption for certain non-profit corporations for lands and improvements which are devoted to open space uses.

While State funds would not be affected by enactment of this legislation, certain properties paying taxes in various districts would no longer be required to pay these taxes. Based on assessed valuations and taxes paid in 1973, the Office of Fiscal Affairs estimates that the taxes that would no longer be collected on the exempted properties would total about \$150,000.00 annually. This estimate is based on information and materials supplied by the conservation groups involved.

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

DECEMBER 9, 1974

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law Monday two bills designed to preserve open spaces and to make them available for public use.

One bill, S-1209, sponsored by Senator Anne C. Martindell, D-Mercer, appropriates \$7,974,635 from the 1971 Green Acres bond issue for the acquisition of lands by the state for recreation and conservation purposes.

The other bill, S-1297, also sponsored by Senator Martindell, provides an exemption from property taxes for facilities used for public recreation and conservation by certain organizations that are exempt from federal taxes.

"These bills will help protect the environment in an orderly and logical way," said Byrne. "In the most densely populated state in the country, we have an obligation to preserve open spaces."

The Governor noted that the Green Acres appropriation completes the expenditures authorized by the 1971 bond issue. Voters approved a new \$200 million Green Acres bond issue last month.

Among the projects tentatively planned under the final 1971 allocation are additions to Liberty Park (Jersey City), \$3 million; Berkshire Valley Fish and Game Area, \$1 million; additions to Turkey Swamp Park (Monmouth County), \$1 million; the Appalachian Trail System, \$1.5 million, and the Wild and Scenic River System, \$800,000.

PROPERTY OF
THE FEDERAL BUREAU OF INVESTIGATION

The other measure is designed to encourage private conservation organizations to retain open space for public use.

The bill authorizes the state commissioner of environmental protection to certify that the property is eligible for local property tax exemption if he finds it would be in the public interest and if the property is open to all on an equal basis. The commissioner is required to hold a public hearing on all applications for tax exemption.

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