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SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED OCTOBER 6, 2008

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Assemblyman Moriarty, Assemblywomen Greenstein, Vainieri Huttle and
Assemblyman Diegnan**

SYNOPSIS

Establishes forest stewardship and forest certification programs in DEP;
establishes Forest Stewardship Incentive Fund.

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee
on May 11, 2009, with amendments.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning forest stewardship, supplementing Title 13 of
2 the Revised Statutes, amending and supplementing P.L.1964,
3 c.48, and amending P.L.2004, c.120 and P.L.2005, c.367.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. The Legislature finds and declares that
9 forest lands are critical to the environmental welfare of the State;
10 that forest lands help clean and refresh the air by filtering dust and
11 particulates; that forest lands absorb carbon dioxide and release
12 oxygen, helping to reduce global warming; that forest lands help
13 clean and protect the waters of the State, promote replenishment of
14 aquifers, stabilize soils, provide shade, and provide habitat essential
15 to sustaining New Jersey's native biodiversity, including habitat
16 critical for endangered and threatened species and species of special
17 concern; and that it is proper to consider the management of forests
18 in a sustainable manner as an agricultural or horticultural use which
19 yields public benefits.

20 b. The Legislature further finds and declares that forest lands are
21 critical to the social welfare of the State; that forest lands are a
22 necessary and important part of community and urban
23 environments, and are essential to the maintenance of quality of life
24 in the State; that forest lands afford outdoor recreational
25 opportunities and irreplaceable aesthetic benefits; and that forest
26 lands promote the health of the citizenry by contributing to the
27 availability of clean air and water.

28 c. The Legislature further finds and declares that forest lands
29 contribute to the economic well being of the State through increased
30 property values, ecotourism, business opportunities, and forest
31 products, and through helping to preserve New Jersey as a place
32 where both employers and skilled and talented employees choose to
33 reside.

34 d. The Legislature further finds and declares that forest lands are
35 an irreplaceable component of the environment worthy of
36 conservation and stewardship and that they must be nurtured to
37 guarantee sustained and improved yields of forest benefits; that the
38 State's publicly and ¹**[privately-owned]** privately owned¹ forest
39 lands are now seldom managed effectively due to a lack of
40 guidance, resources, and incentives for improved forest
41 stewardship; and that care and management of forest lands could be
42 enhanced through the establishment of a forest stewardship
43 program.

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 May 11, 2009.

1 e. The Legislature therefore determines that it is in the public
2 interest to establish a forest stewardship program to develop and
3 promote the long-term active management of the State's forest
4 resources in order to preserve and enhance those resources and
5 realize the benefits thereof.

6

7 2. (New section) As used in sections 1 through 8 of
8 P.L. , c. (C.) (pending before the Legislature as this bill):

9 "Department" means the Department of Environmental
10 Protection.

11 "Forest stewardship plan" means a plan prepared and
12 implemented by an owner of forest land, and approved by the
13 department, pursuant to section 3 of P.L. , c. (C.) (pending
14 before the Legislature as this bill).

15 "Local government unit" means a municipality, county, or other
16 political subdivision of the State, or any agency, board,
17 commission, utilities authority or other authority, or other entity
18 thereof.

19 "Owner" means an owner of forest land.

20 "Sustainability" means, with respect to forest land, having the
21 ability to: (1) maintain its ecological processes, biodiversity,
22 resource productivity, regeneration capacity, and vitality; and
23 promote forest health, preclude the spread of invasive non-native
24 species, maintain forest integrity and contiguity, preserve New
25 Jersey's native biodiversity, and protect endangered and threatened
26 species and species of special concern and the habitat that sustains
27 them; and (2) realize the potential to fulfill now and for future
28 generations, relevant ecological, environmental, economic, and
29 social functions, including but not limited to protection and
30 improvement of air quality and of water supply and water quality,
31 stabilization of soils, prevention and suppression of uncontrolled
32 wildfires, service of markets for forest products, provision of
33 recreational opportunities, and improvement of quality of life.

34 "Sustainable manner" means employing practices for the use and
35 care of forest land that promote sustainability and do not cause
36 damage to other ecosystems, and avoiding acts and omissions that
37 undermine sustainability.

38

39 3. (New section) a. The department shall establish a forest
40 stewardship program under which an owner, in conjunction with a
41 forester or other professional selected by the owner from a list of
42 foresters approved by the department, or from a list of other
43 professionals authorized by the department in consultation with the
44 forest stewardship advisory committee established pursuant to
45 section 8 of P.L. , c. (C.) (pending in the Legislature as this
46 bill), may prepare a forest stewardship plan for land, five acres or
47 greater in area, submit the plan to the department for approval, and

1 implement the plan as approved, or as subsequently amended with
2 the approval of the department.

3 A forest stewardship plan, at a minimum, shall:

4 (1) conform with the rules and regulations adopted pursuant to
5 section 8 of P.L. , c. (C.) (pending before the Legislature as
6 this bill) designed to ensure the sustainability of forest lands;

7 (2) list the owner's long term stewardship goals for the forest
8 land; and, for each year that the plan applies, list the activities to be
9 implemented that year, including the activities designed to ensure
10 the sustainability of the forest land as well as activities designed to
11 eliminate excessive and unnecessary cutting, and provide the
12 rationale for each activity listed; and

13 (3) establish the monitoring, recordkeeping, and reporting
14 necessary to document implementation of the forest stewardship
15 plan, including documentation of activities and inspections
16 performed.

17 Notwithstanding the provisions of section 6 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), a forest
19 stewardship plan submitted for land in the pinelands area shall
20 comply with the standards of the comprehensive management plan
21 for the pinelands area adopted pursuant to P.L.1979, c.111
22 (C.13:18A-1 et seq.).

23 b. The department may elect to inspect the forest land, prior to
24 determining whether to approve a forest stewardship plan, in order
25 to assess the appropriateness and sufficiency of the proposed plan.

26 After the department approves a forest stewardship plan, the
27 forest land shall be subject to inspection by the department during
28 one of the first three years following approval and at least once
29 every three years following the first inspection.

30 c. A forest stewardship plan shall be valid for a period of 10
31 years, unless sooner terminated by the owner or revoked by the
32 department. To continue, without interruption, participation in the
33 forest stewardship program, an owner shall prepare a new or revised
34 forest stewardship plan pursuant to subsection a. of this section and,
35 in accordance with procedures established by the department, obtain
36 the department's approval of the new or revised forest stewardship
37 plan prior to the expiration date of the current forest stewardship
38 plan.

39 d. A forest stewardship plan approved pursuant to this section
40 shall be considered to be a woodland management plan pursuant to
41 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
42 (C.54:4-23.3) when the approved forest stewardship plan is
43 submitted as part of an application for valuation, assessment and
44 taxation pursuant to the "Farmland Assessment Act of 1964,"
45 P.L.1964, c.48 (C.54:4-23.1 et seq.).

1 4. (New section) a. For the purposes of section 1 of P.L.2005,
2 c.367 (C.52:32-45), the department shall establish a forest
3 certification program under which the department may certify that
4 forest land is managed in a sustainable manner, provided that:

5 (1) the owner has obtained a forest stewardship plan approved by
6 the department pursuant to section 3 of P.L. , c. (C.)
7 (pending before the Legislature as this bill); and

8 (2) the owner and a forester or other professional selected by the
9 owner from a list of foresters approved by the department, or from a
10 list of other professionals authorized by the department in
11 consultation with the forest stewardship advisory committee
12 established pursuant to section 8 of P.L. , c. (C.) (pending in
13 the Legislature as this bill), has annually attested to full compliance
14 with the forest stewardship plan for at least two years.

15 b. Certification pursuant to subsection a. of this section, or
16 renewal thereof, shall be in accordance with procedures established
17 by the department and shall be valid for five years, except that the
18 department may withdraw certification if the department determines
19 that the owner has failed to maintain full implementation of the
20 forest stewardship plan. To maintain in good standing the
21 certification of forest land beyond the date that a forest stewardship
22 plan expires, the owner shall obtain the department's approval of a
23 new or revised forest stewardship plan pursuant to section 3 of
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 prior to the expiration date of the current forest stewardship plan.
26

27 5. (New section) a. There is established in the General Fund a
28 special nonlapsing fund, to be known as the "Forest Stewardship
29 Incentive Fund." Moneys in the fund shall be dedicated to:

30 (1) providing grants to persons for the purpose of developing
31 'and implementing' a forest stewardship plan pursuant to section 3
32 of P.L. , c. (C.) (pending before the Legislature as this bill);

33 (2) paying the costs of the department to develop, implement,
34 and administer the provisions of P.L. , c. (C.) (pending before
35 the Legislature as this bill); and

36 (3) providing for the stewardship and management of State
37 forests.

38 b. The fund shall be credited with:

39 (1) the amount allocated for programs that enhance the
40 stewardship and restoration of the State's forests pursuant to section
41 7 of P.L.2007, c.340 (C.26:2C-51) from the "Global Warming
42 Solutions Fund," established pursuant to section 6 of P.L.2007,
43 c.340 (C.26:2C-50);

44 (2) any other moneys as may be appropriated to the fund by the
45 Legislature or otherwise provided to the fund; and

46 (3) any return on the investment of moneys deposited in the fund.

1 c. In each State fiscal year, the amount credited to the Forest
2 Stewardship Incentive Fund shall be appropriated to the fund for the
3 purposes set forth in this section.

4 d. The department may award individual grants of up to \$1,500
5 from the fund to pay for the cost of developing a forest stewardship
6 plan pursuant to section 3 of P.L. , c. (C.) (pending before the
7 Legislature as this bill). If the cost of developing a forest
8 stewardship plan exceeds \$1,500, the department may also award 80
9 percent of the cost that exceeds \$1,500 to the owner, up to a
10 maximum grant of \$2,500. Grants from the fund may be made to
11 local government units, nonprofit organizations, and private owners
12 of forest land. Notwithstanding the provisions of this subsection to
13 the contrary, the amount of the grants prescribed by this subsection
14 may be adjusted annually by the department in direct proportion to
15 the increase in the Consumer Price Index for all urban consumers in
16 the New York City area as reported by the United States
17 Department of Labor.

18 ¹e. The department may award individual grants through a cost-
19 sharing program established pursuant to subsection c. of section 8
20 of P.L. , c. (C.) (pending before the Legislature as this bill)
21 to private owners who have obtained a forest stewardship plan
22 approved by the department pursuant to section 3 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill). The
24 department shall expend no more than \$150,000 in any State fiscal
25 year for grants awarded through the cost-sharing program.¹
26

27 6. (New section) No local government unit may enact, on or
28 after the date of enactment of P.L. , c. (C.) (pending before
29 the Legislature as this bill), any ordinance, rule, or resolution, as
30 appropriate, that conflicts with, prevents or impedes the
31 implementation of a forest stewardship plan approved pursuant to
32 section 3 of P.L. , c. (C.) (pending before the Legislature as
33 this bill) or impose a fee in excess of \$100 in any calendar year for
34 the cutting of trees on any land that is the subject of an approved
35 forest stewardship plan. The provisions of P.L. , c. (C.)
36 (pending before the Legislature as this bill) supersede any such
37 ordinance, rule, or resolution, as appropriate, enacted or adopted on
38 or prior to the date of enactment of P.L. , c. (C.) (pending
39 before the Legislature as this bill).

40
41 7. (New section) a. The department, utilizing guidance
42 provided by the United States Forest Service and in consultation
43 with the forest stewardship advisory committee established pursuant
44 to subsection ¹[c.] d.¹ of section 8 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), and with the benefit of public
46 comment, shall develop and establish forest sustainability criteria
47 and indicators appropriate to the circumstances encountered in New

1 Jersey, as a basis for monitoring, recording, and assessing the
2 extent, condition, and sustainability of all New Jersey forests,
3 whether publicly or privately owned. The department shall prepare
4 a report setting forth the findings and assessments based on these
5 forest sustainability criteria and indicators by February 1 of the
6 third year after the date of enactment of P.L. , c. (C.)
7 (pending before the Legislature as this bill), and every seven years
8 thereafter, which report shall include any recommendations for
9 legislative or administrative action. The Commissioner of
10 Environmental Protection shall transmit the report to the Governor
11 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
12 Legislature.

13 b. The department shall consider the findings and assessments
14 set forth in the forest sustainability criteria and indicators report
15 prepared pursuant to subsection a. of this section to determine how
16 to adapt the rules and regulations adopted pursuant to section 8 of
17 P.L. , c. (C.) (pending before the Legislature as this bill) to
18 ensure the sustainability of forest lands, to set priorities for the
19 management of State-owned forest lands, and to assist in
20 establishing priorities for the use of State funds for the acquisition
21 of forest lands.

22
23 8. (New section) The department shall adopt, pursuant to the
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
25 seq.), rules and regulations necessary for the implementation of P.L.
26 , c. (C.) (pending before the Legislature as this bill), including
27 rules and regulations:

28 a. setting forth policies, guidelines and best management
29 practices that establish standards designed to ensure the
30 sustainability of forest lands, which may be applicable to any
31 publicly and privately owned forest land;

32 b. establishing, in consultation with the forest stewardship
33 advisory committee established pursuant to subsection ‘[c.] d.’ of
34 this section, professional standards and requirements of persons in
35 addition to foresters on the list approved by the department,
36 authorized to prepare forest stewardship plans pursuant to section 3
37 of P.L. , c. (C.) (pending before the Legislature as this bill);
38 ‘[and]’

39 c. ‘establishing, in consultation with the forest stewardship
40 advisory committee established pursuant to subsection d. of this
41 section, a cost-sharing program modeled upon the federal forest
42 land enhancement program established pursuant to 16 U.S.C. s.2103
43 to provide individual grants to private owners to assist with a
44 portion of the costs associated with the implementation of forest
45 stewardship plans approved by the department pursuant to section 3
46 of P.L. , c. (C.) (pending before the Legislature as this bill);
47 and identifying eligibility criteria, establishing the reimbursement

1 rate, and developing a priority ranking system for grant
2 applications; and

3 d.¹ establishing a forest stewardship advisory committee,
4 consistent with the federal requirements for the establishment of a
5 State Forest Stewardship Coordinating Committee pursuant to 16
6 U.S.C. s.2113, to advise the department (1) on issues related to
7 forest stewardship and recommend programs, actions and standards,
8 including rules and regulations, policies, guidelines and best
9 management practices, for the conservation and stewardship of
10 forest lands, and (2) with respect to the standards and requirements
11 to be established pursuant to subsection b. of this section.

12

13 9. (New section) As used in this section and section 10 of
14 P.L. , c. (C.) (pending before the Legislature as this bill):

15 “Forest stewardship plan” means a plan prepared and
16 implemented by an owner of forest land, and approved by the
17 Department of Environmental Protection, pursuant to section 3 of
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 “Owner” means an owner of forest land.

20 “Woodland management plan” means a plan prepared and
21 implemented by an owner of forest land or woodland pursuant to
22 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
23 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

24

25 10. (New section) a. Notwithstanding any provision of the
26 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
27 seq.), or any rule or regulation adopted pursuant thereto, to the
28 contrary, an owner who annually submits an application pursuant to
29 subsection c. of section 3 of P.L.1964, c.48 (C.54:4-23.3) may
30 provide a forest stewardship plan or a woodland management plan
31 to accompany the application.

32 b. When a forest stewardship plan is submitted with an
33 application pursuant to subsection a. of this section, the forest land
34 shall not be deemed to be actively devoted to agricultural or
35 horticultural use for the two successive years immediately
36 preceding the tax year in issue if the forest stewardship plan has
37 expired during those two years and a new forest stewardship plan
38 has not been approved prior to the expiration date of the current
39 forest stewardship plan.

40 c. In the case where a forest stewardship plan was approved
41 more than two years preceding the tax year in issue, the forest land
42 shall be deemed to be actively devoted to agricultural or
43 horticultural use and to have been so devoted for at least the two
44 successive years immediately preceding the tax year in issue if the
45 owner has implemented in full the approved forest stewardship plan
46 for at least the two successive years immediately preceding the tax
47 year in issue.

1 d. In the case where a forest stewardship plan was approved less
2 than two years preceding the tax year in issue, the forest land shall
3 be deemed to be actively devoted to agricultural or horticultural use
4 and to have been so devoted for at least two successive years
5 immediately preceding the tax year in issue if:

6 (1) the owner has implemented in full the forest stewardship plan
7 once it was approved; and

8 (2) for at least the remaining portion of the two-year period
9 immediately preceding the tax year in issue, prior to the approval of
10 the forest stewardship plan, the forest land qualifies, pursuant to
11 sections 5 and 6 of the "Farmland Assessment Act of 1964,"
12 P.L.1964, c.48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have
13 been actively devoted to agricultural or horticultural use.
14 Additionally, if the land was devoted exclusively to the production
15 for sale of tree and forest products, other than Christmas trees, and
16 is not appurtenant woodland, the owner must have established a
17 woodland management plan more than two years preceding the tax
18 year in issue and complied with that plan until such time as a forest
19 stewardship plan was approved pursuant to section 3 of
20 P.L. , c. (C.) (pending before the Legislature as this bill).

21 e. The Department of Environmental Protection, in consultation
22 with the Department of Agriculture and the Department of the
23 Treasury, shall adopt, pursuant to the "Administrative Procedure
24 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
25 regulations necessary for the implementation of this section.

26
27 11. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to
28 read as follows:

29 30. a. The following are exempt from the provisions of this act,
30 the regional master plan, any rules or regulations adopted by the
31 Department of Environmental Protection pursuant to this act, or any
32 amendments to a master plan, development regulations, or other
33 regulations adopted by a local government unit to specifically
34 conform them with the regional master plan:

35 (1) the construction of a single family dwelling, for an
36 individual's own use or the use of an immediate family member, on
37 a lot owned by the individual on the date of enactment of this act or
38 on a lot for which the individual has on or before May 17, 2004
39 entered into a binding contract of sale to purchase that lot;

40 (2) the construction of a single family dwelling on a lot in
41 existence on the date of enactment of this act, provided that the
42 construction does not result in the ultimate disturbance of one acre
43 or more of land or a cumulative increase in impervious surface by
44 one-quarter acre or more;

45 (3) a major Highlands development that received on or before
46 March 29, 2004:

1 (a) one of the following approvals pursuant to the "Municipal
2 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

3 (i) preliminary or final site plan approval;

4 (ii) final municipal building or construction permit;

5 (iii) minor subdivision approval where no subsequent site plan
6 approval is required;

7 (iv) final subdivision approval where no subsequent site plan
8 approval is required; or

9 (v) preliminary subdivision approval where no subsequent site
10 plan approval is required; and

11 (b) at least one of the following permits from the Department of
12 Environmental Protection, if applicable to the proposed major
13 Highlands development:

14 (i) a permit or certification pursuant to the "Water Supply
15 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

16 (ii) a water extension permit or other approval or authorization
17 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224
18 (C.58:12A-1 et seq.);

19 (iii) a certification or other approval or authorization issued
20 pursuant to the "The Realty Improvement Sewerage and Facilities
21 Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

22 (iv) a treatment works approval pursuant to the "Water Pollution
23 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

24 (c) one of the following permits from the Department of
25 Environmental Protection, if applicable to the proposed major
26 Highlands development, and if the proposed major Highlands
27 development does not require one of the permits listed in
28 subparagraphs (i) through (iv) of subparagraph (b) of this
29 paragraph:

30 (i) a permit or other approval or authorization issued pursuant to
31 the "Freshwater Wetlands Protection Act," P.L.1987, c.156
32 (C.13:9B-1 et seq.); or

33 (ii) a permit or other approval or authorization issued pursuant to
34 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-
35 50 et seq.).

36 The exemption provided in this paragraph shall apply only to the
37 land area and the scope of the major Highlands development
38 addressed by the qualifying approvals pursuant to subparagraphs (a)
39 and (b), or (c) if applicable, of this paragraph, shall expire if any of
40 those qualifying approvals expire, and shall expire if construction
41 beyond site preparation does not commence within three years after
42 the date of enactment of this act;

43 (4) the reconstruction of any building or structure for any reason
44 within 125% of the footprint of the lawfully existing impervious
45 surfaces on the site, provided that the reconstruction does not
46 increase the lawfully existing impervious surface by one-quarter
47 acre or more. This exemption shall not apply to the reconstruction

- 1 of any agricultural or horticultural building or structure for a non-
2 agricultural or non-horticultural use;
- 3 (5) any improvement to a single family dwelling in existence on
4 the date of enactment of this act, including but not limited to an
5 addition, garage, shed, driveway, porch, deck, patio, swimming
6 pool, or septic system;
- 7 (6) any improvement, for non-residential purposes, to a place of
8 worship owned by a nonprofit entity, society or association, or
9 association organized primarily for religious purposes, or a public
10 or private school, or a hospital, in existence on the date of
11 enactment of this act, including but not limited to new structures, an
12 addition to an existing building or structure, a site improvement, or
13 a sanitary facility;
- 14 (7) an activity conducted in accordance with an approved
15 woodland management plan pursuant to section 3 of P.L.1964, c.48
16 (C.54:4-23.3) or a forest stewardship plan approved pursuant to
17 section 3 of P.L. , c. (C.) (pending before the Legislature as this
18 bill), or the normal harvesting of forest products in accordance with
19 a forest management plan or forest stewardship plan approved by
20 the State Forester;
- 21 (8) the construction or extension of trails with non-impervious
22 surfaces on publicly owned lands or on privately owned lands
23 where a conservation or recreational use easement has been
24 established;
- 25 (9) the routine maintenance and operations, rehabilitation,
26 preservation, reconstruction, or repair of transportation or
27 infrastructure systems by a State entity or local government unit,
28 provided that the activity is consistent with the goals and purposes
29 of this act and does not result in the construction of any new
30 through-capacity travel lanes;
- 31 (10) the construction of transportation safety projects and bicycle
32 and pedestrian facilities by a State entity or local government unit,
33 provided that the activity does not result in the construction of any
34 new through-capacity travel lanes;
- 35 (11) the routine maintenance and operations, rehabilitation,
36 preservation, reconstruction, repair, or upgrade of public utility
37 lines, rights of way, or systems, by a public utility, provided that the
38 activity is consistent with the goals and purposes of this act;
- 39 (12) the reactivation of rail lines and rail beds existing on the
40 date of enactment of this act;
- 41 (13) the construction of a public infrastructure project approved
42 by public referendum prior to January 1, 2005 or a capital project
43 approved by public referendum prior to January 1, 2005;
- 44 (14) the mining, quarrying, or production of ready mix concrete,
45 bituminous concrete, or Class B recycling materials occurring or
46 which are permitted to occur on any mine, mine site, or construction
47 materials facility existing on June 7, 2004;

1 (15) the remediation of any contaminated site pursuant to
2 P.L.1993, c.139 (C.58:10B-1 et seq.);

3 (16) any lands of a federal military installation existing on the
4 date of enactment of this act that lie within the Highlands Region;
5 and

6 (17) a major Highlands development located within an area
7 designated as Planning Area 1 (Metropolitan), or Planning Area 2
8 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-
9 196 et seq.) as of March 29, 2004, that on or before March 29, 2004
10 has been the subject of a settlement agreement and stipulation of
11 dismissal filed in the Superior Court, or a builder's remedy issued
12 by the Superior Court, to satisfy the constitutional requirement to
13 provide for the fulfillment of the fair share obligation of the
14 municipality in which the development is located. The exemption
15 provided pursuant to this paragraph shall expire if construction
16 beyond site preparation does not commence within three years after
17 receiving all final approvals required pursuant to the "Municipal
18 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

19 b. The exemptions provided in subsection a. of this section shall
20 not be construed to alter or obviate the requirements of any other
21 applicable State or local laws, rules, regulations, development
22 regulations, or ordinances.

23 c. Nothing in this act shall be construed to alter the funding
24 allocation formulas established pursuant to the "Garden State
25 Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

26 d. Nothing in this act shall be construed to repeal, reduce, or
27 otherwise modify the obligation of counties, municipalities, and
28 other municipal and public agencies of the State to pay property
29 taxes on lands used for the purpose and for the protection of a
30 public water supply, without regard to any buildings or other
31 improvements thereon, pursuant to R.S.54:4-3.3.

32 (cf: P.L.2004, c.120, s.30)

33
34 12. Section 1 of P.L.2005, c.367 (C.52:32-45) is amended to
35 read as follows:

36 1. a. Notwithstanding the provisions of any other law to the
37 contrary, the Director of the Division of Purchase and Property in
38 the Department of the Treasury, the Director of the Division of
39 Property Management and Construction in the Department of the
40 Treasury, or any State agency having authority to contract for the
41 purchase of goods or services, shall whenever possible give
42 preference to wood or paper products derived from sustainably
43 managed forests or procurement systems when entering into or
44 renewing a contract for the purchase of such goods or related
45 services. Any preference provided pursuant to this subsection may
46 not supersede any preference given to recycled paper and paper
47 products pursuant to P.L.1987, c. 102 (C.13:1E-99.11 et seq.).

1 In preparing the specifications for any contract for the purchase
2 of goods and services the Director of the Division of Purchase and
3 Property, the Director of the Division of Property Management and
4 Construction, or any State agency having authority to contract for
5 the purchase of goods or services shall include in the invitation to
6 bid, where relevant, a statement that any response to the invitation
7 that proposes or calls for the use of wood or paper products derived
8 from sustainably managed forests or procurement systems shall
9 receive preference whenever possible.

10 b. The provisions of subsection a. of this section shall not apply:

11 (1) To any binding contractual obligations for the purchase of
12 goods or services entered into prior to the effective date of [this
13 act] P.L.2005, c.367 (C.52:32-45 et seq.) ;

14 (2) To bid packages advertised and made available to the public,
15 or to any competitive and sealed bids received by the State, prior to
16 the effective date of [this act] P.L.2005, c.367 (C.52:32-45 et seq.);
17 or

18 (3) To any amendment, modification, or renewal of a contract,
19 which contract was entered into prior to the effective date of [this
20 act] P.L.2005, c.367 (C.52:32-45 et seq.) where the application
21 would delay timely completion of a project or involve an increase in
22 the total moneys to be paid by the State under that contract.

23 c. For the purposes of [this act] P.L.2005, c.367 (C.52:32-45 et
24 seq.) , "derived from sustainably managed forests or procurement
25 systems" means the source of the wood or paper product is a forest
26 or system for procuring wood or paper products that is certified by
27 the Department of Environmental Protection under the forest
28 certification program established pursuant to section 4 of
29 P.L. , c. (C.) (pending before the Legislature as this bill) or
30 by an independent third party using one or more of the following
31 certification programs or standards:

32 (1) The Sustainable Forestry Initiative program;

33 (2) The American Forest Foundation American Tree Farm
34 System program;

35 (3) The sustainable forest management system standards of the
36 Canadian Standards Association;

37 (4) The Forest Stewardship Council certification program;

38 (5) The Pan-European forest certification system;

39 (6) The Finnish Forest Certification System;

40 (7) The United Kingdom Woodland Assurance Standard;

41 (8) The International Organization for Standardization (ISO)
42 standard 14001; or

43 (9) Any other certification program or standard that the State
44 Treasurer or the Commissioner of Environmental Protection
45 determines may be used to certify that wood or paper products are
46 derived from sustainably managed forests or procurement systems.

47 (cf: P.L.2005, c.367, s.1)

1 13. Section 3 of P.L.1964, c.48 (C.54:4-23.3) is amended to read
2 as follows:

3 3. Land shall be deemed to be in agricultural use when devoted
4 to the production for sale of plants and animals useful to man,
5 including but not limited to: forages and sod crops; grains and feed
6 crops; dairy animals and dairy products; poultry and poultry
7 products; livestock, including beef cattle, sheep, swine, horses,
8 ponies, mules or goats, including the breeding, boarding, raising,
9 rehabilitating, training or grazing of any or all of such animals ,
10 except that "livestock" shall not include dogs; bees and apiary
11 products; fur animals; trees and forest products; or when devoted to
12 and meeting the requirements and qualifications for payments or
13 other compensation pursuant to a soil conservation program under
14 an agreement with an agency of the federal government, except that
15 land which is devoted exclusively to the production for sale of tree
16 and forest products, other than Christmas trees, or devoted as
17 sustainable forestland, and is not appurtenant woodland, shall not
18 be deemed to be in agricultural use unless the landowner fulfills the
19 following additional conditions:

20 a. The landowner establishes and complies with the provisions
21 of a forest stewardship plan for this land, approved by the
22 Department of Environmental Protection pursuant to section 3 of
23 P.L. , c. (C.) (pending before the Legislature as this bill), or a
24 woodland management plan for this land, prepared in accordance
25 with policies, guidelines and practices approved by the Division of
26 Parks and Forestry in the Department of Environmental Protection,
27 in consultation with the Department of Agriculture and the Dean of
28 Cook College at Rutgers, The State University, which policies,
29 guidelines and practices are designed to eliminate excessive and
30 unnecessary cutting;

31 b. The landowner, and a forester from a list of foresters
32 approved by the Department of Environmental Protection or other
33 professional from a list of other professionals authorized by the
34 department in consultation with the forest stewardship advisory
35 committee established pursuant to section 8 of P.L. , c. (C.)
36 (pending in the Legislature as this bill), annually attest to
37 compliance with subsection a. of this section; and

38 c. The landowner annually submits an application, as prescribed
39 in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the assessor,
40 accompanied by a copy of the plan established pursuant to
41 subsection a. of this section; written documentation of compliance
42 with subsection b. of this section; a supplementary woodland data
43 form setting forth woodland management actions taken in the pre-
44 tax year, the type and quantity of tree and forest products sold, and
45 the amount of income received or anticipated for same; a map of the
46 land showing the location of the activity and the soil group classes
47 of the land; and other pertinent information required by the Director

1 of the Division of Taxation as part of the application for valuation,
2 assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-23.1
3 et seq.). The landowner shall, at the same time, submit to the
4 Commissioner of the Department of Environmental Protection an
5 exact copy of the application and accompanying information
6 submitted to the assessor pursuant to this subsection. For the
7 purposes of this amendatory and supplementary act, "appurtenant
8 woodland" means a wooded piece of property which is contiguous
9 to, part of, or beneficial to a tract of land, which tract of land has a
10 minimum area of at least five acres devoted to agricultural or
11 horticultural uses other than the production for sale of trees and
12 forest products, exclusive of Christmas trees, to which tract of land
13 the woodland is supportive and subordinate.
14 (cf: P.L.1995, c.276, s.1)

15

16 14. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read
17 as follows:

18 5. **【Land】** a. Except as otherwise provided in subsection b. of
19 this section, land, five acres in area, shall be deemed to be actively
20 devoted to agricultural or horticultural use when the amount of the
21 gross sales of agricultural or horticultural products produced
22 thereon, any payments received under a soil conservation program,
23 fees received for breeding, raising or grazing any livestock, income
24 imputed to land used for grazing in the amount determined by the
25 State Farmland Evaluation Advisory Committee created pursuant to
26 section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for
27 boarding, rehabilitating or training any livestock where the land
28 under the boarding, rehabilitating or training facilities is contiguous
29 to land which otherwise qualifies for valuation, assessment and
30 taxation under this act, have averaged at least \$500.00 per year
31 during the two-year period immediately preceding the tax year in
32 issue, or there is clear evidence of anticipated yearly gross sales and
33 such payments amounting to at least \$500.00 within a reasonable
34 period of time.

35 In addition, where the land is more than five acres in area, it
36 shall be deemed to be actively devoted to agricultural or
37 horticultural use when the amount of the gross sales of agricultural
38 or horticultural products produced on the area above five acres, any
39 payments received under a soil conservation program, fees received
40 for breeding, raising or grazing any livestock, income imputed to
41 land used for grazing in the amount determined by the State
42 Farmland Evaluation Advisory Committee created pursuant to
43 section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for
44 boarding, rehabilitating or training any livestock where the land
45 under the boarding, rehabilitating or training facilities is contiguous
46 to land which otherwise qualifies for valuation, assessment and
47 taxation under this act, have averaged at least \$5.00 per acre per

1 year during the two-year period immediately preceding the tax year
2 in issue, or there is clear evidence of anticipated yearly gross sales
3 and such payments amounting to an average of at least \$5.00 per
4 year within a reasonable period of time; except in the case of
5 woodland and wetland, where the minimum requirement shall be an
6 average of \$0.50 per acre on the area above five acres.

7 As used in this section, "livestock" shall not include dogs.

8 For the purposes of this section, the presence of an intervening
9 public thoroughfare shall not preclude a finding of contiguity.

10 Land previously qualified as actively devoted to agricultural or
11 horticultural use under the act; but failing to meet the additional
12 requirement on acreage above five acres shall not be subject to the
13 roll-back tax because of such disqualification, but shall be treated as
14 land for which an annual application has not been submitted.

15 In determining the eligibility of land for valuation, assessment
16 and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the
17 assessor of the taxing district in which the land is located shall,
18 upon request by the owner of the land, exempt the owner from the
19 income requirements of this section if the owner demonstrates to
20 the satisfaction of the assessor that the failure to meet the income
21 requirements was due to an injury, illness or death of the person
22 responsible for performing the activities which produce the income
23 necessary to meet the income eligibility requirement of this section.
24 The request of the owner shall be accompanied by a certificate of a
25 physician stating that the person was physically incapacitated or by
26 a certified copy of the death certificate, as the case may be. The
27 assessor may only grant an exemption once for a particular illness,
28 injury or death.

29 b. The gross sales, payments, imputed income, and fees received
30 requirements of this section shall not apply to land that (1) is the
31 subject of a forest stewardship plan approved by the Department of
32 Environmental Protection pursuant to section 3 of P.L. _____,
33 c. (C.) (pending before the Legislature as this bill) which is
34 fully implemented, and (2) otherwise qualifies under the "Farmland
35 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for
36 valuation, assessment and taxation as land in agricultural or
37 horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-
38 23.3).

39 (cf: P.L.1995, c.276, s.2)

40
41 15. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to
42 read as follows:

43 14. Application for valuation, assessment and taxation of land in
44 agricultural or horticultural use under this act shall be on a form
45 prescribed by the Director of the Division of Taxation in the
46 Department of the Treasury, and provided for the use of claimants
47 by the governing bodies of the respective taxing districts. The form

1 of application shall provide for the reporting of information
2 pertinent to the provisions of Article VIII, Section 1, paragraph 1(b)
3 of the Constitution, as amended, and this act. A certification by the
4 landowner that the facts set forth in the application are true may be
5 prescribed by the director to be in lieu of a sworn statement to that
6 effect. Statements so certified shall be considered as if made under
7 oath and subject to the same penalties as provided by law for
8 perjury. Any landowner, except those who have submitted a
9 woodland management plan or a forest stewardship plan pursuant to
10 section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for
11 valuation, assessment and taxation pursuant to P.L.1964, c.48
12 (C.54:4-23.1 et seq.) for lands not previously qualified under the act
13 shall submit with the application a map of land use classes and soil
14 groups that conforms with standards established by the Division of
15 Taxation in consultation with the Secretary of Agriculture. The
16 director shall devise a form for the extension of filing time for the
17 valuation application, which form shall include the name and
18 address of the applicant, the reason for the extension, and a space
19 for the approval or rejection of the assessor.

20 (cf: P.L.1995, c.276, s.7)

21

22 16. This act shall take effect one year following the date of
23 enactment, but the Commissioner of Environmental Protection may
24 take such anticipatory administrative action in advance thereof as
25 shall be necessary for the implementation of this act.

SENATE, No. 713

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Establishes forest stewardship and forest certification program in DEP; limits liability of certain landowners who allow sport or recreational activities on their lands for a fee.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning forest stewardship, supplementing Title 13 of
2 the Revised Statutes and P.L.1964, c.48 (C.54:4-23.1 et seq.), and
3 amending P.L.1968, c.73 and P.L.2005, c.367.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. The Legislature finds and declares that
9 forest lands are critical to the environmental welfare of the State;
10 that forest lands help clean and refresh the air by filtering dust and
11 particulates; that forest lands absorb carbon dioxide and release
12 oxygen, helping to reduce global warming; that forest lands help
13 clean and protect the waters of the State, promote replenishment of
14 aquifers, stabilize soils, provide shade, and provide habitat essential
15 to sustaining New Jersey's native biodiversity, including habitat
16 critical for endangered and threatened species and species of special
17 concern; and that it is proper to consider the management of forests
18 in a sustainable manner as an agricultural or horticultural use which
19 yields public benefits.

20 b. The Legislature further finds and declares that forest lands are
21 critical to the social welfare of the State; that forest lands are a
22 necessary and important part of community and urban
23 environments, and are essential to the maintenance of quality of life
24 in the State; that forest lands afford outdoor recreational
25 opportunities and irreplaceable aesthetic benefits; and that forest
26 lands promote the health of the citizenry by contributing to the
27 availability of clean air and water.

28 c. The Legislature further finds and declares that forest lands
29 contribute to the economic well being of the State through increased
30 property values, ecotourism, business opportunities, and forest
31 products, and through helping to preserve New Jersey as a place
32 where both employers and skilled and talented employees choose to
33 reside.

34 d. The Legislature further finds and declares that forest lands are
35 an irreplaceable component of the environment worthy of
36 conservation and stewardship and that they must be nurtured to
37 guarantee sustained and improved yields of forest benefits; that the
38 State's privately-owned forest lands are now seldom managed
39 effectively due to a lack of guidance, resources, and incentives for
40 improved forest stewardship; and that care and management of
41 forest lands could be enhanced through the establishment of a forest
42 stewardship program.

43 e. The Legislature therefore determines that it is in the public
44 interest to establish a forest stewardship program to develop and
45 promote the long-term active management of the State's forest

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 resources in order to preserve and enhance those resources and
2 realize the benefits thereof.

3

4 2. (New section) As used in sections 1 through 8 of
5 P.L. , c. (C.) (pending before the Legislature as this bill):

6 “Department” means the Department of Environmental
7 Protection.

8 “Forest stewardship plan” means a plan prepared and
9 implemented by an owner of forest land, and approved by the
10 department pursuant to section 3 of P.L. , c. (C.) (pending
11 before the Legislature as this bill).

12 “Local government unit” means a municipality, county, or other
13 political subdivision of the State, or any agency, board,
14 commission, utilities authority or other authority, or other entity
15 thereof.

16 “Owner” means an owner of forest land.

17 “Sustainability” means, with respect to forest land, having the
18 ability to: (1) maintain its ecological processes, biodiversity,
19 resource productivity, regeneration capacity, and vitality; and
20 promote forest health, preclude the spread of invasive non-native
21 species, maintain forest integrity and contiguity, preserve New
22 Jersey’s native biodiversity, and protect endangered and threatened
23 species and species of special concern and the habitat that sustains
24 them; and (2) realize the potential to fulfill now and for future
25 generations, relevant ecological, environmental, economic, and
26 social functions, including but not limited to protection and
27 improvement of air quality and of water supply and water quality,
28 stabilization of soils, prevention and suppression of uncontrolled
29 wildfires, service of markets for forest products, provision of
30 recreational opportunities, and improvement of quality of life.

31 “Sustainable manner” means employing practices for the use and
32 care of forest land that promote sustainability and do not cause
33 damage to other ecosystems, and avoiding acts and omissions that
34 undermine sustainability.

35

36 3. (New section) a. The department shall establish a forest
37 stewardship program under which an owner, in conjunction with a
38 forester, natural resources manager, or ecological restoration
39 consultant selected by the owner from a list of such professionals
40 approved by the department, may prepare a forest stewardship plan
41 for land, five acres or greater in area, submit the plan to the
42 department for approval, and implement the plan as approved, or as
43 subsequently amended with the approval of the department.

44 A forest stewardship plan, at a minimum, shall:

45 (1) conform with the rules and regulations adopted pursuant to
46 section 8 of P.L. , c. (C.) (pending before the Legislature as
47 this bill) designed to ensure the sustainability of forest lands;

1 (2) list the owner's long term stewardship goals for the forest
2 land; and, for each year that the plan applies, list the activities to be
3 implemented that year, including the activities designed to ensure
4 the sustainability of the forest land as well as activities designed to
5 eliminate excessive and unnecessary cutting, and provide the
6 rationale for each activity listed; and

7 (3) establish the monitoring, recordkeeping, and reporting
8 necessary to document implementation of the forest stewardship
9 plan, including documentation of activities and inspections
10 performed.

11 b. The department may elect to inspect the forest land, prior to
12 determining whether to approve a forest stewardship plan, in order
13 to assess the appropriateness and sufficiency of the proposed plan.

14 After the department approves a forest stewardship plan, the
15 forest land shall be subject to inspection by the department during
16 one of the first three years following approval and at least once
17 every three years following the first inspection.

18 c. A forest stewardship plan shall be valid for a period of 10
19 years, unless sooner terminated by the owner or revoked by the
20 department. To continue, without interruption, participation in the
21 forest stewardship program, an owner shall prepare a new or revised
22 forest stewardship plan pursuant to subsection a. of this section and,
23 in accordance with procedures established by the department, obtain
24 the department's approval of the new or revised forest stewardship
25 plan prior to the expiration date of the current forest stewardship
26 plan.

27 d. A forest stewardship plan approved pursuant to this section
28 shall be considered to be a woodland management plan pursuant to
29 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
30 (C.54:4-23.3) when the approved forest stewardship plan is
31 submitted as part of an application for valuation, assessment and
32 taxation pursuant to the "Farmland Assessment Act of 1964,"
33 P.L.1964, c.48 (C.54:4-23.1 et seq.).
34

35 4. (New section) a. For the purposes of section 1 of P.L.2005,
36 c.367 (C.52:32-45), the department shall establish a forest
37 certification program under which the department may certify that
38 forest land is managed in a sustainable manner, provided that:

39 (1) the owner has obtained a forest stewardship plan approved
40 by the department pursuant to section 3 of P.L. , c. (C.)
41 (pending before the Legislature as this bill); and

42 (2) the owner and a forester, natural resources manager, or
43 ecological restoration consultant selected by the owner from a list
44 of such professionals approved by the department, has annually
45 attested to full compliance with the forest stewardship plan for at
46 least two years.

1 b. Certification pursuant to subsection a. of this section, or
2 renewal thereof, shall be in accordance with procedures established
3 by the department and shall be valid for five years, except that the
4 department may withdraw certification if the department determines
5 that the owner has failed to maintain full implementation of the
6 forest stewardship plan. To maintain in good standing the
7 certification of forest land beyond the date that a forest stewardship
8 plan expires, the owner shall obtain the department's approval of a
9 new or revised forest stewardship plan pursuant to section 3 of
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 prior to the expiration date of the current forest stewardship plan.
12

13 5. (New section) The department shall establish and administer
14 a cost share incentive program, to be known as the New Jersey
15 Forest Stewardship Incentive Program, if funds are appropriated or
16 otherwise made available for the support and funding of such a
17 program. Under the program, the department may award grants to
18 the extent funding is available to local government units, non-profit
19 organizations, and private owners of forest land to help subsidize
20 the costs of implementing stewardship activities described in
21 approved forest stewardship plans prepared pursuant to section 3 of
22 P.L. , c. (C.) (pending before the Legislature as this bill).
23

24 6. (New section) No local government unit may enact, on or
25 after the date of enactment of P.L. , c. (C.) (pending before
26 the Legislature as this bill), any ordinance, rule, or resolution, as
27 appropriate, that conflicts with, prevents or impedes the
28 implementation of a forest stewardship plan approved pursuant to
29 section 3 of P.L. , c. (C.) (pending before the Legislature as
30 this bill) or impose a fee in excess of \$100 in any calendar year for
31 the cutting of trees on any land that is the subject of an approved
32 forest stewardship plan. The provisions of P.L. , c. (C.)
33 (pending before the Legislature as this bill) supersede any
34 ordinance, rule, or resolution, as appropriate, enacted or adopted on
35 or prior to the date of enactment of P.L. , c. (C.) (pending
36 before the Legislature as this bill).
37

38 7. (New section) a. The department, utilizing guidance
39 provided by the United States Forest Service and in consultation
40 with the forest stewardship advisory committee established pursuant
41 to subsection b. of section 8 of P.L. , c. (C.) (pending
42 before the Legislature as this bill), and with the benefit of public
43 comment, shall develop and establish forest sustainability criteria
44 and indicators appropriate to the circumstances encountered in New
45 Jersey, as a basis for monitoring, recording, and assessing the
46 extent, condition, and sustainability of all New Jersey forests,
47 whether publicly or privately owned. The department shall prepare

1 a report setting forth the findings and assessments based on these
2 forest sustainability criteria and indicators by February 1 of the
3 third year after the date of enactment of P.L. , c. (C.)
4 (pending before the Legislature as this bill), and every seven years
5 thereafter, which report shall include any recommendations for
6 legislative or administrative action. The Commissioner of
7 Environmental Protection shall transmit the report to the Governor
8 and, pursuant to section 2 of P.L.1991, c.164 (C.54:14-19.1), to the
9 Legislature.

10 b. The department shall consider the findings and assessments
11 set forth in the forest sustainability criteria and indicators report
12 prepared pursuant to subsection a. of this section to determine how
13 to adapt the rules and regulations established pursuant to section 8
14 of P.L. , c. (C.) (pending before the Legislature as this bill)
15 to ensure the sustainability of forest lands, to set priorities for
16 management of State-owned forest lands and for the New Jersey
17 Forest Stewardship Incentive Program, and to assist in establishing
18 priorities for the use of State funds for the acquisition of forest
19 lands.

20
21 8. (New section) The department shall adopt, pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), rules and regulations necessary for the implementation of
24 P.L. , c. (C.) (pending before the Legislature as this bill),
25 including rules and regulations:

26 a. setting forth policies, guidelines and best management
27 practices that establish standards designed to ensure the
28 sustainability of forest lands. These policies, guidelines and best
29 management practices may be applicable to any privately owned
30 forest land;

31 b. establishing a forest stewardship advisory committee,
32 consistent with the federal requirements for the establishment of a
33 State Forest Stewardship Coordinating Committee pursuant to 16
34 U.S.C. s.2113, to advise the department on issues related to forest
35 stewardship and recommend programs, actions and standards,
36 including rules and regulations, policies, guidelines and best
37 management practices, for the conservation and stewardship of
38 forest lands; and

39 c. establishing a fee schedule, at a rate sufficient to cover the
40 department's costs for administering the program established
41 pursuant to P.L. , c. (C.) (pending before the Legislature as
42 this bill), for the following activities:

43 (1) the review of forest stewardship plans submitted pursuant to
44 section 3 of P.L. , c. (C.) (pending before the Legislature as
45 this bill), and for the review of woodland management plans
46 submitted for the approval of the department pursuant to the
47 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et

1 seq.) and section 10 of P.L. , c. (C.) (pending before the
2 Legislature as this bill);

3 (2) on-site inspections conducted by the department pursuant to
4 subsection b. of section 3 of P.L. , c. (C.) (pending before
5 the Legislature as this bill) or section 2 of P.L.1986, c.201 (C.54:4-
6 23.3a);

7 (3) annual determinations of compliance, pursuant to subsections
8 b. and c. of section 2 of P.L.1986, c.201 (C.54:4-23.3a), of
9 applications for valuation, assessment and taxation of forest land as
10 land that is actively devoted to agricultural or horticultural use; and

11 (4) the certification pursuant to section 4 of P.L. , c. (C.)
12 (pending before the Legislature as this bill) that forest lands are
13 being managed in a sustainable manner.

14

15 9. (New section) As used in this section and section 10 of
16 P.L. , c. (C.) (pending before the Legislature as this bill):

17 "Department" means the Department of Environmental
18 Protection.

19 "Forest stewardship plan" means a plan prepared and
20 implemented by an owner of forest land, and approved by the
21 department pursuant to section 3 of P.L. , c. (C.) (pending
22 before the Legislature as this bill).

23 "Owner" means an owner of forest land.

24 "Sustainability" means, with respect to forest land, having the
25 ability to: (1) maintain its ecological processes, biodiversity,
26 resource productivity, regeneration capacity, and vitality; and
27 promote forest health, preclude the spread of invasive non-native
28 species, maintain forest integrity and contiguity, preserve New
29 Jersey's native biodiversity, and protect endangered and threatened
30 species and species of special concern and the habitat that sustains
31 them; and (2) realize the potential to fulfill now and for future
32 generations, relevant ecological, environmental, economic, and
33 social functions, including but not limited to protection and
34 improvement of air quality and of water supply and water quality,
35 stabilization of soils, prevention and suppression of uncontrolled
36 wildfires, service of markets for forest products, provision of
37 recreational opportunities, and improvement of quality of life.

38 "Woodland management plan" means a plan prepared and
39 implemented by an owner of forest land or woodland pursuant to
40 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
41 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

42

43 10. (New section) a. Notwithstanding any provision of the
44 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
45 seq.), or any rule or regulation adopted pursuant thereto, to the
46 contrary, a woodland management plan prepared on or after January
47 1, 2009 pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) shall

1 comply with the requirements for a forest stewardship plan pursuant
2 to section 3 of P.L. , c. (C.) (pending before the Legislature
3 as this bill).

4 b. An owner who annually submits an application pursuant to
5 subsection c. of section 3 of the "Farmland Assessment Act of
6 1964," P.L.1964, c.48 (C.54:4-23.3) may provide a forest
7 stewardship plan, approved by the Department of Environmental
8 Protection pursuant to section 3 of P.L. , c. (C.) (pending
9 before the Legislature as this bill), as the woodland management
10 plan that accompanies the application.

11 c. For the purposes of Article 8, Section 1, paragraph 1,
12 subparagraph (b) of the State Constitution, and notwithstanding
13 section 5 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
14 (C.54:4-23.5) or any other provision of that act or any rule or
15 regulation adopted pursuant thereto, to the contrary, if an
16 application for valuation, assessment and taxation as land in
17 agricultural or horticultural use is accompanied by a forest
18 stewardship plan pursuant to subsection a. of this section, the forest
19 land shall be deemed to be actively devoted to agricultural or
20 horticultural use if the owner has prepared and obtained the
21 approval of the forest stewardship plan pursuant to section 3 of
22 P.L. , c. (C.) (pending before the Legislature as this bill)
23 and implements the forest stewardship plan in full.

24 d. For forest land to qualify under the "Farmland Assessment
25 Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation,
26 assessment and taxation as land in agricultural or horticultural use,
27 the forest land shall be actively devoted to agricultural or
28 horticultural use and shall have been so devoted for at least the two
29 successive years immediately preceding the tax year in issue. If a
30 forest stewardship plan is submitted with an application as the
31 woodland management plan pursuant to subsection a. of this
32 section, this requirement shall be deemed to be met if the provisions
33 of subsections e. or f. of this section are satisfied.

34 e. In the case where a forest stewardship plan was approved
35 more than two years preceding the tax year in issue, the forest land
36 shall be deemed to be actively devoted to agricultural or
37 horticultural use and to have been so devoted for at least the two
38 successive years immediately preceding the tax year in issue if the
39 owner has implemented in full the approved forest stewardship plan
40 for at least the two successive years immediately preceding the tax
41 year in issue.

42 f. In the case where a forest stewardship plan was approved less
43 than two years preceding the tax year in issue, the forest land shall
44 be deemed to be actively devoted to agricultural or horticultural use
45 and to have been so devoted for at least two successive years
46 immediately preceding the tax year in issue if:

1 (1) the owner has implemented in full the forest stewardship plan
2 once it was approved; and

3 (2) for at least the remaining portion of the two-year period
4 immediately preceding the tax year in issue, prior to the approval of
5 the forest stewardship plan, the forest land qualifies, pursuant to
6 sections 5 and 6 of the "Farmland Assessment Act of 1964,"
7 P.L.1964, c.48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have
8 been actively devoted to agricultural or horticultural use.
9 Additionally, if the land was devoted exclusively to the production
10 for sale of tree and forest products, other than Christmas trees, and
11 is not appurtenant woodland, the owner must have established a
12 woodland management plan more than two years preceding the tax
13 year in issue and complied with that plan until such time as a forest
14 stewardship plan was approved pursuant to section 3 of
15 P.L. , c. (C.) (pending before the Legislature as this bill).

16 g. Notwithstanding the provisions of subsection c. of this
17 section, when a forest stewardship plan is submitted with an
18 application as the woodland management plan pursuant to
19 subsection a. of this section, the forest land shall not be deemed to
20 be actively devoted to agricultural or horticultural use for the two
21 successive years immediately preceding the tax year in issue if the
22 forest stewardship plan has expired during those two years and a
23 new forest stewardship plan has not been approved prior to the
24 expiration date of the current forest stewardship plan.

25 h. Except as provided in this section, the provisions of the
26 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
27 seq.), other than the provisions of section 5 of P.L.1964, c.48
28 (C.54:4-23.5), shall apply to an application submitted pursuant to
29 subsection b. of this section with a forest stewardship plan as a
30 woodland management plan.

31 i. The Department of Environmental Protection, in consultation
32 with the Department of Agriculture and the Department of the
33 Treasury, shall adopt, pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
35 regulations necessary for the implementation of this section.

36
37 11. Section 3 of P.L.1968, c.73 (C.2A:42A-4) is amended to
38 read as follows:

39 3. This act shall not limit the liability which would otherwise
40 exist:

41 a. For willful or malicious failure to guard, or to warn against, a
42 dangerous condition, use, structure or activity; or

43 b. For injury suffered in any case where permission to engage in
44 sport or recreational activity on the premises was granted for a
45 consideration other than (1) the consideration, if any, paid to the
46 landowner by the State, or (2) the consideration paid to a landowner
47 with an approved forest stewardship plan prepared pursuant to

1 section 3 of P.L. , c. (C.) (pending before the Legislature as
2 this bill), provided that the owner is fully implementing the forest
3 stewardship plan and the use of the forest land for the sport or
4 recreational activity is consistent with the sustainability of the
5 forest land and is specified in the forest stewardship plan ; or

6 c. For injury caused, by acts of persons to whom permission to
7 engage in sport or recreational activity was granted, to other
8 persons as to whom the person granting permission, or the owner,
9 lessee or occupant of the premises, owes a duty to keep the
10 premises safe or to warn of danger.

11 (cf: P.L.1968, c.73, s.3)

12

13 12. Section 1 of P.L.2005, c.367 (C.52:32-45) is amended to
14 read as follows:

15 1. a. Notwithstanding the provisions of any other law to the
16 contrary, the Director of the Division of Purchase and Property in
17 the Department of the Treasury, the Director of the Division of
18 Property Management and Construction in the Department of the
19 Treasury, or any State agency having authority to contract for the
20 purchase of goods or services, shall whenever possible give
21 preference to wood or paper products derived from sustainably
22 managed forests or procurement systems when entering into or
23 renewing a contract for the purchase of such goods or related
24 services. Any preference provided pursuant to this subsection may
25 not supersede any preference given to recycled paper and paper
26 products pursuant to P.L.1987, c. 102 (C.13:1E-99.11 et seq.).

27 In preparing the specifications for any contract for the purchase
28 of goods and services the Director of the Division of Purchase and
29 Property, the Director of the Division of Property Management and
30 Construction, or any State agency having authority to contract for
31 the purchase of goods or services shall include in the invitation to
32 bid, where relevant, a statement that any response to the invitation
33 that proposes or calls for the use of wood or paper products derived
34 from sustainably managed forests or procurement systems shall
35 receive preference whenever possible.

36 b. The provisions of subsection a. of this section shall not apply:

37 (1) To any binding contractual obligations for the purchase of
38 goods or services entered into prior to the effective date of **[this**
39 **act]** P.L.2005, c.367 (C.52:32-45 et seq.) ;

40 (2) To bid packages advertised and made available to the public,
41 or to any competitive and sealed bids received by the State, prior to
42 the effective date of **[this act]** P.L.2005, c.367 (C.52:32-45 et seq.);
43 or

44 (3) To any amendment, modification, or renewal of a contract,
45 which contract was entered into prior to the effective date of **[this**
46 **act]** P.L.2005, c.367 (C.52:32-45 et seq.) where the application

1 would delay timely completion of a project or involve an increase in
2 the total moneys to be paid by the State under that contract.

3 c. For the purposes of **[this act]** P.L.2005, c.367 (C.52:32-45 et
4 seq.) , "derived from sustainably managed forests or procurement
5 systems" means the source of the wood or paper product is a forest
6 or system for procuring wood or paper products that is certified by
7 the Department of Environmental Protection under the forest
8 certification program established pursuant to section 4 of
9 P.L. , c. (C.) (pending before the Legislature as this bill) or
10 by an independent third party using one or more of the following
11 certification programs or standards:

12 (1) The Sustainable Forestry Initiative program;

13 (2) The American Forest Foundation American Tree Farm
14 System program;

15 (3) The sustainable forest management system standards of the
16 Canadian Standards Association;

17 (4) The Forest Stewardship Council certification program;

18 (5) The Pan-European forest certification system;

19 (6) The Finnish Forest Certification System;

20 (7) The United Kingdom Woodland Assurance Standard;

21 (8) The International Organization for Standardization (ISO)
22 standard 14001; or

23 (9) Any other certification program or standard that the State
24 Treasurer or the Commissioner of Environmental Protection
25 determines may be used to certify that wood or paper products are
26 derived from sustainably managed forests or procurement systems.

27 (cf: P.L.2005, c.367, s.1)

28

29 13. This act shall take effect on the first day of the seventh
30 month following enactment, but the Commissioner of
31 Environmental Protection may take such anticipatory administrative
32 action in advance thereof as shall be necessary for the
33 implementation of this act.

34

35

36

STATEMENT

37

38 This bill directs the Department of Environmental Protection
39 (DEP) to establish a forest stewardship program for owners of
40 forest land who prepare forest stewardship plans for land five acres
41 or greater. Forest stewardship plans, to be approved by the DEP,
42 would, at a minimum: be required to conform with the rules and
43 regulations, policies, guidelines and best management practices
44 designed to ensure the sustainability of forest lands to be adopted
45 by the DEP pursuant to the bill; list the owner's long term
46 stewardship goals for the forest land; and, for each year that the
47 forest stewardship plan applies, list the activities to be implemented

1 that year, including those activities designed to ensure the
2 sustainability of the forest land, and provide the rationale for each
3 activity listed. Approved plans would be valid for ten years.

4 The bill directs the DEP to establish a forest certification
5 program under which it may certify that forest land is managed in a
6 sustainable manner. The bill amends P.L.2005, c.367 (C.52:32-45
7 et seq.) concerning the certification of wood or paper products from
8 sustainably managed forests or procurement systems to include
9 products certified under this new program.

10 The bill directs the DEP to establish a cost share incentive
11 program, to be known as the New Jersey Forest Stewardship
12 Incentive Program, if funds are appropriated or otherwise made
13 available for the support and funding of such a program. Under the
14 program, to the extent funding is available, the DEP would award
15 grants to local government units, non-profit organizations, and
16 private owners of forest land to help subsidize their costs in
17 implementing stewardship activities listed in approved forest
18 stewardship plans.

19 This bill directs the DEP, in consultation with the forest
20 stewardship advisory council to be established by the DEP in
21 accordance with rules and regulations to be adopted pursuant to the
22 bill, and using guidance provided by the United States Forest
23 Service, to develop and establish forest sustainability criteria and
24 indicators specific to New Jersey and compatible with national
25 standards, in order to record, assess, and monitor the sustainability,
26 condition, and extent of New Jersey forests. The bill requires the
27 DEP to prepare a report every seven years based on these forest
28 sustainability criteria and indicators, with the first report required
29 by February 1st of the third year following the date of enactment of
30 the bill into law.

31 The bill authorizes the DEP to adopt rules and regulations to: set
32 forth policies, guidelines and best management practices that
33 establish standards designed to ensure the sustainability of forest
34 lands; establish a forest stewardship advisory council; establish a
35 fee schedule for the review of forest stewardship plans, woodland
36 management plans, on-site inspections, annual determinations of
37 compliance of applications for farmland assessment, and for
38 certification that forest lands are being managed in a sustainable
39 manner; and for the implementation of this bill.

40 The bill further provides that no local government unit may
41 enact, on or after the date of enactment of this bill into law, any
42 ordinance, rule, or resolution, as appropriate, that conflicts with,
43 prevents or impedes the implementation of a forest stewardship plan
44 or impose a fee in excess of \$100 in any calendar year for the
45 cutting of trees on any land that is the subject of an approved forest
46 stewardship plan. In addition, the provisions of the bill would
47 supersede any ordinance, rule, or resolution, as appropriate, enacted
48 or adopted on or prior to the date of enactment of the bill into law.

S713 B. SMITH

13

1 This bill expands the current farmland assessment program under
2 the "Farmland Assessment Act of 1964" to provide differential
3 property tax assessment to owners of forest land who implement an
4 approved forest stewardship plan. This bill requires,
5 notwithstanding any provision of the "Farmland Assessment Act of
6 1964," or any rule or regulation adopted pursuant thereto, to the
7 contrary, that a woodland management plan prepared on or after
8 January 1, 2009 must conform with the requirements for a forest
9 stewardship plan, as set forth in the bill. This bill provides that an
10 owner of forest land who has established and is complying with a
11 forest stewardship plan shall not be required to meet the income
12 threshold requirements of the "Farmland Assessment Act of 1964"
13 for that woodland.

14 Lastly, this bill amends P.L.1968, c.73 (C.2A:42A-2 et seq.),
15 commonly known as the "Landowner's Liability Act," which
16 provides general liability protection under certain circumstances to
17 landowners (as well as lessees and occupants of the lands) who
18 grant permission for individuals to enter upon their lands to engage
19 in certain statutorily defined sport and recreational activities,
20 including but not limited to hunting, fishing, and trapping.
21 However, current law withdraws that protection when the
22 permission is granted in exchange for the payment of consideration,
23 such as, for example, a fee or pursuant to a lease agreement. This
24 bill would remove this statutorily-induced inhibition on those lands
25 where the landowner is implementing an approved forest
26 stewardship plan and the use of the forest land for the sport or
27 recreational activity is consistent with the sustainability of the
28 forest land and is specified in the forest stewardship plan.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 713**

STATE OF NEW JERSEY

DATED: OCTOBER 6, 2008

The Senate Environment Committee favorably reports a committee substitute for Senate Bill No.713.

This committee substitute directs the Department of Environmental Protection (DEP) to establish a forest stewardship program for owners of forest land who prepare forest stewardship plans for land five acres or greater. Forest stewardship plans, to be approved by the DEP, would, at a minimum: be required to conform with the rules and regulations, policies, guidelines and best management practices designed to ensure the sustainability of forest lands to be adopted by the DEP pursuant to the bill; list the owner's long term stewardship goals for the forest land; and, for each year that the forest stewardship plan applies, list the activities to be implemented that year, including those activities designed to ensure the sustainability of the forest land, and provide the rationale for each activity listed. Approved plans would be valid for 10 years. The bill requires that forest stewardship plans submitted for land in the pinelands area must be consistent with the standards in the comprehensive management plan for the pinelands area.

The committee substitute also would direct the DEP to establish a forest certification program under which it may certify that forest land is managed in a sustainable manner. The bill amends P.L.2005, c.367 (C.52:32-45 et seq.) concerning the certification of wood or paper products from sustainably managed forests or procurement systems to include products certified under this new program.

This committee substitute expands the current farmland assessment program under the "Farmland Assessment Act of 1964" to provide differential property tax assessment to owners of forest land who implement an approved forest stewardship plan. An owner of forest land who submits and implements an approved forest stewardship plan would not be required to meet the income threshold requirements of the "Farmland Assessment Act of 1964" for that woodland.

The bill establishes the "Forest Stewardship Incentive Fund" which would be funded by monies currently allocated for programs that enhance the stewardship and restoration of the State's forests from the "Global Warming Solutions Fund" created pursuant to section 6 of

P.L.2007, c.340 (C..26:2C-50). The committee substitute authorizes monies in the fund to be used for providing grants for the development of forest stewardship plans, paying the costs of the department to develop, implement and administer the provisions of the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to the owner of forest land for up to \$1,500 to pay for the cost of developing a forest stewardship plan. If the cost of developing a forest stewardship plan exceeds \$1,500, the department may also award 80 percent of the cost that exceeds \$1,500 to the owner, up to a maximum grant of \$2,500.

This committee substitute directs the DEP, in consultation with the forest stewardship advisory council to be established by the DEP in accordance with rules and regulations to be adopted pursuant to the bill, and using guidance provided by the United States Forest Service, to develop and establish forest sustainability criteria and indicators specific to New Jersey and compatible with national standards, in order to record, assess, and monitor the sustainability, condition, and extent of New Jersey forests. The bill requires the DEP to prepare a report every seven years based on these forest sustainability criteria and indicators, with the first report required by February 1st of the third year following the date of enactment of the bill into law.

The bill authorizes the DEP to adopt rules and regulations to: set forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands; establish a forest stewardship advisory council; and implement the bill.

The committee substitute further provides that no local government unit may enact, on or after the date of enactment of this bill into law, any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan or impose a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. In addition, the provisions of the bill would supersede any such ordinance, rule, or resolution, as appropriate, enacted or adopted on or prior to the date of enactment of the bill into law.

Finally, the committee substitute provides that activities conducted pursuant to a forest stewardship plan are exempt from the provisions of the "Highlands Water Protection and Planning Act." Current law already exempts activities conducted pursuant to a woodland management plan from that act.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 713**

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 713 (SCS).

The substitute bill directs the Department of Environmental Protection (DEP) to establish a forest stewardship program to promote sustainable management of the State's forest resources. The forest stewardship program that is created by this SCS has five conceptual components: (1) The administration and authorization of forest stewardship plans; (2) The extension of a differential property tax assessment through the "Farmland Assessment Act of 1964" to forest land managed under a DEP approved forest stewardship plan; (3) The creation of a Forest Stewardship Incentive Fund; (4) The establishment of a DEP sustainably managed forest land certification and the preferred status of products derived from certified land for State contracting purposes; and (5) The enumeration of certain administrative apparatuses and procedures, including but not limited to, an advisory committee, reporting requirements and promulgation of regulation.

(1) Forest Stewardship Plans

Under the bill, owners of five acres or more of forest land may prepare a forest stewardship plan for submission to the DEP. To be approved by the DEP, a forest stewardship plan must: enumerate the owner's long term stewardship goals for the forest land; provide a list and rationale for the activities to be implemented in each year of the plan; conform to the rules and regulations adopted by DEP pursuant to the bill to ensure the sustainability of forest lands; and establish documentation protocol for the implementation of the forest stewardship plan. Forest stewardship plans submitted for land in the pinelands area must be consistent with the standards in the comprehensive management plan for such areas.

The DEP may elect to inspect forest land prior to approval of a forest stewardship plan. Upon approval of the plan, the forest land is subject to DEP inspection during one of the immediately succeeding three years and at least once every three years following the first post-approval inspection. Approved forest stewardship plans are valid for

10 years, unless sooner terminated or revoked. Procedure for seeking new or revised forest stewardship plans is to be established by the DEP.

(2) Differential Property Tax Assessment

The bill also provides that Forest land owners who implement a DEP approved forest stewardship plan can qualify for a differential property tax assessment, as agricultural use, under the "Farmland Assessment Act of 1964." In applying for the differential property tax assessment, Forest land owners are not required to meet the current income threshold requirements for woodlands under the "Farmland Assessment Act of 1964" or submit a map of land use classes and soil groups with their application for a differential property tax assessment.

(3) Forest Stewardship Incentive Fund

The bill establishes the "Forest Stewardship Incentive Fund," which is to be used for providing grants for the development of forest stewardship plans, paying the costs incurred by DEP from implementing and administering the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to a forest land owner in an amount of up to \$1,500 to pay for the cost of developing a forest stewardship plan. If an owner's costs exceed \$1,500, the department may award an owner 80 percent of the costs which exceed \$1,500 to the owner, up to a maximum grant of \$2,500. The bill authorizes the fund to be credited with: amounts allocated for the stewardship and restoration of State forests in the "Global Warming Solutions Fund"; amounts otherwise appropriated to the "Forest Stewardship Incentive Fund"; and any return on investment on deposits in the "Forest Stewardship Incentive Fund."

(4) Sustainably Managed Forest Certification

The bill also directs the DEP to establish a sustainably managed forest certification program. The bill amends provisions concerning preference in State contracts for wood or paper products from sustainably managed forests or procurement systems to include products produced from land with a sustainably managed forest certification. To acquire such a certification, a forest land owner must: have a DEP approved forest stewardship plan; and an annual attestation from the owner and a forester or DEP authorized professional confirming compliance with the approved forest stewardship plan. Certifications are valid for five years.

(5) Advisory Council, Reporting and Regulation

The bill directs the DEP, in consultation with the forest stewardship advisory council which is to be established by the DEP pursuant to this bill, and using guidance provided by the United States Forest Service, to develop and establish forest sustainability criteria and indicators specific to New Jersey and compatible with national

standards, in order to record, assess, and monitor the sustainability, condition, and extent of New Jersey forests. The DEP must prepare a report every seven years based on the forest sustainability criteria and indicators, with the first report due by February 1st of the third year following the date of enactment of the bill.

The bill also authorizes the DEP to adopt rules and regulations to: set forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands; establish a forest stewardship advisory council; and implement the bill.

The bill also provides that no local government unit may enact, on or after the date of enactment, any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan or imposes a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. Additionally, the bill extends the exemption under the "Highlands Water Protection and Planning Act" for activities conducted pursuant to a woodland management plan to include activities carried out pursuant to a forest stewardship plans.

The bill takes effect one year from the date of enactment, but enables the Commissioner of Environmental Protection to take anticipatory administrative action.

FISCAL IMPACT:

According to the OLS Fiscal Estimate for the SCS, the estimated administrative costs for the original bill, which appear to be valid for the new version of the bill (SCS), would total \$342,800, \$350,600 and \$360,000 respectively over the first three years of the program. Approximately \$4.6 million *could* be available annually to support the programs created under the bill. The \$4.6 million would be derived via emission allowance purchases under the "Global Warming Response Act" and credited to the "Forest Stewardship Incentive Fund." However, this estimate of available funding is based on two assumptions: New Jersey will sell each of the 23 tons of emissions allocated to it by the Regional Greenhouse Gas Initiative; and each allocated ton will be purchased at a price of \$2. Both of these assumptions are not failsafe.

Additionally, it is not known how available funding would be budgeted by the DEP for program costs, grants and forest management.

With regard to potential municipal impact, the differential property tax assessment afforded under the bill for forest lands managed under a forest stewardship plan may reduce municipal property tax collections. The extent and likelihood of such a reduction is unknown.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 713

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 11, 2009

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments the Senate Committee Substitute for Senate Bill No. 713.

The Senate committee substitute, as amended, directs the Department of Environmental Protection (DEP) to establish a forest stewardship program to promote sustainable management of the State's forest resources. The forest stewardship program created by the Senate committee substitute, as amended, has five conceptual components:

- 1) The administration and authorization of forest stewardship plans;
- 2) The extension of a differential property tax assessment through the "Farmland Assessment Act of 1964" to forest land managed under a DEP approved forest stewardship plan;
- 3) The creation of a Forest Stewardship Incentive Fund;
- 4) The establishment of a DEP sustainably managed forest land certification and the preferred status of products derived from certified land for State contracting purposes; and
- 5) The enumeration of certain administrative apparatuses and procedures, including but not limited to, an advisory committee, reporting requirements and promulgation of regulations.

These components of the proposed forest stewardship program are described below.

Forest Stewardship Plans

Under the Senate committee substitute, as amended, owners of five acres or more of forest land may prepare a forest stewardship plan for submission to the DEP. To be approved by the DEP, a forest stewardship plan must:

- 1) enumerate the owner's long term stewardship goals for the forest land;
- 2) provide a list and rationale for the activities to be implemented

in each year of the plan;

3) conform to the rules and regulations adopted by DEP pursuant to the Senate committee substitute, as amended, to ensure the sustainability of forest lands; and

4) establish documentation protocol for the implementation of the forest stewardship plan.

Forest stewardship plans submitted for land in the pinelands area must be consistent with the standards in the comprehensive management plan for such areas.

The DEP may elect to inspect forest land prior to approval of a forest stewardship plan. Upon approval of the plan, the forest land is subject to DEP inspection during one of the immediately succeeding three years and at least once every three years following the first post-approval inspection. Approved forest stewardship plans are valid for 10 years, unless sooner terminated or revoked. Procedure for seeking new or revised forest stewardship plans is to be established by the DEP.

Differential Property Tax Assessment

The Senate committee substitute, as amended, also provides that forest land owners who implement a DEP approved forest stewardship plan can qualify for a differential property tax assessment, as agricultural use, under the "Farmland Assessment Act of 1964." In applying for the differential property tax assessment, forest land owners are not required to meet the current income threshold requirements for woodlands under the "Farmland Assessment Act of 1964" or submit a map of land use classes and soil groups with their application for a differential property tax assessment.

Forest Stewardship Incentive Fund

The Senate committee substitute, as amended, establishes the "Forest Stewardship Incentive Fund," which is to be used for providing grants for the development and implementation of forest stewardship plans, paying the costs incurred by DEP from implementing and administering the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to a forest land owner in an amount of up to \$1,500 to pay for the cost of developing a forest stewardship plan. If an owner's costs exceed \$1,500, the department may award an owner 80 percent of the costs which exceed \$1,500 to the owner, up to a maximum grant of \$2,500. The Senate committee substitute, as amended, authorizes the fund to be credited with: amounts allocated for the stewardship and restoration of State forests in the "Global Warming Solutions Fund"; amounts otherwise appropriated to the "Forest Stewardship Incentive Fund"; and any return on investment on deposits in the "Forest Stewardship Incentive Fund."

The Senate committee substitute, as amended, also establishes a cost-sharing program modeled upon the federal forest land

enhancement program established pursuant to 16 U.S.C. s.2103 to provide individual grants to private owners to assist with a portion of the costs associated with the implementation of forest stewardship plans approved by the DEP. The DEP is authorized to award individual grants through the program, totaling up to \$150,000 in any State fiscal year. The forest stewardship advisory committee established under the bill is to be consulted when establishing this program.

Sustainably Managed Forest Certification

The Senate committee substitute, as amended, also directs the DEP to establish a sustainably managed forest certification program. The Senate committee substitute, as amended, amends provisions concerning preference in State contracts for wood or paper products from sustainably managed forests or procurement systems to include products produced from land with a sustainably managed forest certification. To acquire such a certification, a forest land owner must have: a DEP approved forest stewardship plan; and an annual attestation from the owner and a forester or DEP authorized professional confirming compliance with the approved forest stewardship plan. Certifications are valid for five years.

Advisory Committee, Reporting and Regulation

The Senate committee substitute, as amended, directs the DEP, in consultation with the forest stewardship advisory committee which is to be established by the DEP pursuant to this Senate committee substitute, as amended, and using guidance provided by the United States Forest Service, to develop and establish forest sustainability criteria and indicators specific to New Jersey and compatible with national standards, in order to record, assess, and monitor the sustainability, condition, and extent of New Jersey forests. The DEP must prepare a report every seven years based on the forest sustainability criteria and indicators, with the first report due by February 1st of the third year following the date of enactment of the Senate committee substitute, as amended.

The Senate committee substitute, as amended, also authorizes the DEP to adopt rules and regulations to: set forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands; establish a forest stewardship advisory committee; and implement the Senate committee substitute, as amended.

The Senate committee substitute, as amended, also provides that no local government unit may enact, on or after the date of enactment, any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan or imposes a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. Additionally, the Senate committee substitute, as amended,

extends the exemption under the "Highlands Water Protection and Planning Act" for activities conducted pursuant to a woodland management plan to include activities carried out pursuant to a forest stewardship plans.

The Senate committee substitute, as amended, takes effect one year from the date of enactment, but enables the Commissioner of Environmental Protection to take anticipatory administrative action.

As reported by the committee, the Senate Committee Substitute for Senate Bill No. 713 with the committee amendments is identical to Assembly Bill No. 3239 as also amended and reported by the committee.

COMMITTEE AMENDMENTS

The committee amendments:

- 1) establish a cost-sharing program for forest stewardship of privately owned forests modeled on federal programs;
- 2) authorize the Department of Environmental Protection to award grants under this program;
- 3) cap the total annual amount of grants awarded under the cost-sharing program at \$150,000; and
- 4) make technical and clarifying amendments.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 713**

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Appropriations Committee reports favorably Senate Bill No. 713 (SCS/1R).

The bill directs the Department of Environmental Protection (DEP) to establish a forest stewardship program to promote sustainable management of the State's forest resources. The forest stewardship program created by this bill has five conceptual components:

- 1) The administration and authorization of forest stewardship plans;
- 2) The extension of a differential property tax assessment through the "Farmland Assessment Act of 1964" to forest land managed under a DEP approved forest stewardship plan;
- 3) The creation of a Forest Stewardship Incentive Fund;
- 4) The establishment of a DEP sustainably managed forest land certification and the preferred status of products derived from certified land for State contracting purposes; and
- 5) The enumeration of certain administrative apparatuses and procedures, including but not limited to, an advisory committee, reporting requirements and promulgation of regulations.

These components of the proposed forest stewardship program are described below.

Forest Stewardship Plans

Under this bill owners of five acres or more of forest land may prepare a forest stewardship plan for submission to the DEP. To be approved by the DEP, a forest stewardship plan must:

- 1) enumerate the owner's long term stewardship goals for the forest land;
- 2) provide a list and rationale for the activities to be implemented in each year of the plan;
- 3) conform to the rules and regulations adopted by DEP pursuant to this bill to ensure the sustainability of forest lands; and
- 4) establish documentation protocol for the implementation of the

forest stewardship plan.

Forest stewardship plans submitted for land in the pinelands area must be consistent with the standards in the comprehensive management plan for such areas.

The DEP may elect to inspect forest land prior to approval of a forest stewardship plan. Upon approval of the plan, the forest land is subject to DEP inspection during one of the immediately succeeding three years and at least once every three years following the first post-approval inspection. Approved forest stewardship plans are valid for 10 years, unless sooner terminated or revoked. Procedure for seeking new or revised forest stewardship plans is to be established by the DEP.

Differential Property Tax Assessment

The bill also provides that forest land owners who implement a DEP approved forest stewardship plan can qualify for a differential property tax assessment, as agricultural use, under the "Farmland Assessment Act of 1964." In applying for the differential property tax assessment, forest land owners are not required to meet the current income threshold requirements for woodlands under the "Farmland Assessment Act of 1964" or submit a map of land use classes and soil groups with their application for a differential property tax assessment.

Forest Stewardship Incentive Fund

The bill establishes the "Forest Stewardship Incentive Fund," which is to be used for providing grants for the development and implementation of forest stewardship plans, paying the costs incurred by DEP from implementing and administering the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to a forest land owner in an amount of up to \$1,500 to pay for the cost of developing a forest stewardship plan. If an owner's costs exceed \$1,500, the department may award an owner 80 percent of the costs which exceed \$1,500, up to a maximum grant of \$2,500. The DEP may annually adjust these prescribed limitations in proportion to increases in the Consumer Price Index for all urban consumers in the New York City area as reported by the U.S. Department of Labor. The bill authorizes the fund to be credited with: amounts allocated for the stewardship and restoration of State forests in the "Global Warming Solutions Fund"; amounts otherwise appropriated to the "Forest Stewardship Incentive Fund"; and any return on investment on deposits in the "Forest Stewardship Incentive Fund."

The bill also establishes a cost-sharing program, modeled upon the federal forest land enhancement program established pursuant to 16 U.S.C. s.2103, to provide individual grants to private owners to assist with a portion of the costs associated with the implementation of forest stewardship plans approved by the DEP. The DEP is authorized to award individual grants through the program, totaling up to \$150,000

in any State fiscal year. The forest stewardship advisory committee established under the bill is to be consulted when establishing this program.

Sustainably Managed Forest Certification

The bill also directs the DEP to establish a sustainably managed forest certification program. The bill amends provisions concerning preference in State contracts for wood or paper products from sustainably managed forests or procurement systems to include products produced from land with a sustainably managed forest certification. To acquire such a certification, a forest land owner must have: a DEP approved forest stewardship plan; and an annual attestation from the owner and a forester or DEP authorized professional confirming compliance with the approved forest stewardship plan. Certifications are valid for five years.

Advisory Committee, Reporting and Regulation

The bill directs the DEP, in consultation with the forest stewardship advisory committee, which is to be established by the DEP pursuant to this bill, and using guidance provided by the United States Forest Service, to develop and establish forest sustainability criteria and indicators specific to New Jersey in order to record, assess, and monitor the sustainability, condition, and extent of New Jersey forests. The DEP must prepare a report every seven years with findings based on the forest sustainability criteria and indicators, with the first report due by February 1st of the third year following the date of enactment of the bill.

The bill also authorizes the DEP to adopt rules and regulations to: set forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands; establish a forest stewardship advisory committee; and implement the bill. Additionally, the bill authorizes the DEP to adopt rules and regulation, in consultation with the Department of Agriculture and Department of the Treasury, for implementing the application process for the differential property tax assessment under the "Farmland Assessment Act of 1964" for forest land maintained in accordance with a DEP approved forest stewardship plan.

The bill also provides that no local government unit may enact, on or after the date of enactment, any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan or imposes a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. Additionally, the bill extends the exemption under the "Highlands Water Protection and Planning Act" for activities conducted pursuant to a woodland management plan to include activities carried out pursuant to a forest stewardship plans.

The bill takes effect one year from the date of enactment, but

enables the Commissioner of Environmental Protection to take anticipatory administrative action.

This bill is identical to Assembly Bill No. 3239 (1R), as also reported by the committee.

FISCAL IMPACT:

According to the OLS Fiscal Estimate prepared for this bill, program costs will be covered under the annual allocation received from the Global Warming Solutions Fund, which is estimated at \$5.9 million for FY 2010. This amount is based on a DEP projection of \$64 million in greenhouse gas emission allowances being purchased in FY 2010 and deposited into the Global Warming Solutions Fund. Pursuant to section 7 of P.L.2007, c.340, which implements the policies of the “Global Warming Response Act” (P.L.2007, c.112), 10 percent (after administrative costs) of annual revenues generated from emission allowance purchases must be allocated to support programs that enhance the stewardship and restoration of the State’s forests and tidal marshes.

During State Budget hearings before the Legislature in April, 2009, the DEP projected a \$5.9 million allocation for these purposes during FY 2010. The OLS notes that the FY 2010 projection reflects only one year and annual allocations in subsequent years may vary greatly from year to year, depending on the price of allowances sold at any given time. It should also be noted that the estimated revenue level assumes that all available allowances will be purchased at one price, which may or may not be the case.

The OLS further notes that it does not have sufficient data or input from the DEP to estimate how available funding would ultimately be budgeted between grants, program costs, forest management and tidal marsh restoration.

Lastly, the bill’s farmland assessment provisions may reduce municipal property tax collections by exempting farmland, approved under a forest stewardship plan, from meeting current income threshold requirements to qualify for farmland assessment benefits.

FISCAL NOTE
SENATE, No. 713
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: JULY 15, 2008

SUMMARY

- Synopsis:** Establishes forest stewardship and forest certification program in DEP; limits liability of certain landowners who allow sport or recreational activities on their lands for a fee.
- Type of Impact:** No net impact on the General Fund for program costs. Decrease in General Fund for grant costs, pending future appropriations.
- Agencies Affected:** Department of Environmental Protection

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$342,800	\$350,600	\$360,000
State Revenue	\$367,500	\$367,500	\$367,500

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The bill directs the Department of Environmental Protection (DEP) to establish a forest stewardship program for owners of forest land that are five acres or greater. An advisory council is also created to develop forest sustainability criteria specific to New Jersey.
- The bill directs the DEP to establish a Forest Stewardship Incentive Program to award matching grants to local government units, non-profit organizations, and private owners of forest land to help subsidize their costs in implementing stewardship plans. No funding is included in the bill for this purpose.
- The DEP is authorized to establish a fee schedule to cover the administrative costs of managing the program.

BILL DESCRIPTION

Senate Bill No. 713 of 2008 directs the DEP to establish a forest stewardship program for owners of forest land who prepare forest stewardship plans for land five acres or greater. Forest stewardship plans would be subject to DEP approval and be valid for 10 years. The plans would be designed to ensure the sustainability of forest lands and be required to conform with all rules

and regulations, policies, guidelines and best management practices adopted by the DEP pursuant to the bill.

The bill also directs the DEP to establish a forest certification program under which it may certify that forest land is managed in a sustainable manner. It further directs the DEP to establish a New Jersey Forest Stewardship Incentive Program to award matching grants to local government units, non-profit organizations, and private owners of forest land to help subsidize their costs in implementing stewardship activities listed in approved forest stewardship plans. Program funding would be dependent on future appropriations by the Legislature or from other available funding sources.

The bill establishes a forest stewardship advisory council to develop, in consultation with the DEP, forest sustainability criteria and indicators specific to New Jersey and compatible with national standards. The DEP is also required to prepare a report every seven years based on these forest sustainability criteria and indicators.

The bill authorizes the DEP to establish a fee schedule to cover its costs for administering the provisions of the bill. The bill expands the current farmland assessment program to provide differential property tax assessment to owners of forest land who implement an approved forest stewardship plan. Last, it amends the "Landowner's Liability Act," which provides general liability protection under certain circumstances to landowners who allow individuals to enter their lands to engage in certain statutorily defined sport and recreational activities.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The DEP estimates that it will incur administrative costs totaling \$342,800, \$350,600 and \$360,000 respectively over the first three years of the program. The department's estimates are based on the salary costs of three State Foresters, two clerical employees and related operating expenses. The department estimates that 1,200 compliance inspections, 300 stewardship plan reviews, and 4,350 plan applications would be conducted or processed annually by the State Foresters under the bill. Fees charged for these services are estimated at \$367,500 annually. The Office of Management and Budget concurs with the DEP estimates.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the DEP estimates and notes that they were submitted with the assumption that the incentive grant program would be funded in the future from as yet unknown funding sources. The DEP also did not indicate the level of grant funding required to sustain the program. The OLS further notes that the bill's farmland assessment amendments may reduce municipal tax collections by exempting farmland, approved under a forest stewardship plan, from meeting current income threshold requirements.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 713
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: OCTOBER 29, 2008

SUMMARY

Synopsis: Establishes forest stewardship and forest certification programs in DEP; establishes Forest Stewardship Incentive Fund.

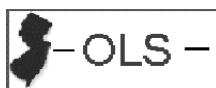
Type of Impact: No impact on State Funds. Program funding provided by statutory dedication from the Global Warming Solutions Fund.

Agencies Affected: Department of Environmental Protection

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None - See comments below		

- The committee substitute directs the Department of Environmental Protection (DEP) to establish a forest stewardship program for owners of forest lands that are five acres or greater. Forest stewardship plans would be designed to ensure the sustainability of forest lands.
- The committee substitute creates a forest certification program and a forest stewardship advisory council charged with developing forest sustainability criteria specific to New Jersey.
- The DEP is directed to establish a Forest Stewardship Incentive Fund, to be supported by monies already allocated for this purpose from the Global Warming Solutions Fund, for the purpose of providing grants to help applicants develop forest stewardship plans, supporting the DEP’s program budget, and financing the stewardship and management of State forests.
- The Office of Legislative Services (OLS) estimates that approximately \$4.6 million could be available annually to support the objectives of the committee substitute. However, the eventual allocation of funds between grants, program costs and forest management cannot be determined at this time.



BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 713 of 2008 directs the DEP to establish a forest stewardship program for owners of forest land who prepare forest stewardship plans for land five acres or greater. Forest stewardship plans would be subject to DEP approval and be valid for 10 years. The plans would be designed to ensure the sustainability of forest lands and be required to conform with all rules and regulations, policies, guidelines and best management practices adopted by the DEP pursuant to the committee substitute.

The committee substitute also directs the DEP to establish a forest certification program under which it may certify that forest land is managed in a sustainable manner. It further directs the DEP to establish a Forest Stewardship Incentive Fund, to be funded by monies allocated for programs that enhance the stewardship and restoration of the State's forests, from the Global Warming Solutions Fund created pursuant to section 6 of P.L.2007, c.340 (C..26:2C-50). The committee substitute authorizes monies in the Incentive Fund to be used for providing grants for the development of forest stewardship plans, paying the costs of the department to develop, implement and administer the provisions of the committee substitute, and providing for the stewardship and management of State forests. Grants from the fund may be made to the owner of forest land for up to \$1,500 to pay for the cost of developing a forest stewardship plan. If the cost of developing a forest stewardship plan exceeds \$1,500, the department may also award 80 percent of the cost that exceeds \$1,500 to the owner, up to a maximum grant of \$2,500.

The committee substitute establishes a forest stewardship advisory council to develop, in consultation with the DEP, forest sustainability criteria and indicators specific to New Jersey and compatible with national standards. The DEP is also required to prepare a report every seven years based on these forest sustainability criteria and indicators.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although no fiscal note information was submitted by the DEP for the committee substitute, it did provide fiscal note information on the bill as originally introduced. This information is presented here for background and comparative purposes. Relative to the original bill, the DEP estimated that it would incur administrative costs totaling \$342,800, \$350,600 and \$360,000 respectively over the first three years of the program. The department's estimates were based on the salary costs of three State Foresters, two clerical employees and related operating expenses. The department estimated that 1,200 compliance inspections, 300 stewardship plan reviews, and 4,350 plan applications would be conducted or processed annually by the State Foresters. Fees charged for these services, which are not required under the committee substitute, were estimated at \$367,500 annually.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurred with the DEP estimates for the original bill, and still finds the administrative cost estimates valid for the committee substitute. **However, now that the revenue amounts from the original bill no longer apply, the OLS estimates that approximately \$4.6 million could be available annually from the Global Warming Solutions Fund to implement the provisions of the committee substitute.** This estimate is based on a projection of \$46 million in emission allowances being purchased annually and

deposited into the Global Warming Solutions Fund. Pursuant to section 7 of P.L.2007, c.340, which implements the policies of the “Global Warming Response Act” (P.L.2007, c.112), 10 percent, or \$4.6 million, of the annual revenue generated from emission allowance purchases is allocated to support programs that enhance the stewardship and restoration of the State’s forests and tidal marshes.

It should be noted that this projection reflects only one scenario, in which 23 million tons of emissions, the figure calculated by the Regional Greenhouse Gas Initiative as the yearly emissions budget cap for New Jersey, were sold at \$2 per ton. This estimate, however, can vary greatly, depending on the price of allowances sold at any given time. It should also be remembered that the estimated revenue level assumes that all available allowances will be purchased at one price, which may or may not be the case.

The OLS also notes that it does not have sufficient data or input from the DEP to estimate how available funding would ultimately be budgeted between grants, program costs, forest management and tidal marsh restoration. Lastly, the OLS notes that the committee substitute’s farmland assessment amendments may reduce municipal property tax collections by exempting farmland, approved under a forest stewardship plan, from meeting current income threshold requirements to qualify for farmland assessment benefits.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 713
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: JUNE 24, 2009

SUMMARY

- Synopsis:** Establishes forest stewardship and forest certification programs in DEP; establishes Forest Stewardship Incentive Fund.
- Type of Impact:** No impact on State Funds. Program funding provided by statutory dedication from the Global Warming Solutions Fund.
- Agencies Affected:** Department of Environmental Protection

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None-See comments below		

- The committee substitute directs the Department of Environmental Protection (DEP) to establish a forest stewardship program for owners of forest lands that are five acres or greater. Forest stewardship plans would be designed to ensure the sustainability of forest lands.
- The committee substitute creates a forest certification program and a forest stewardship advisory council charged with developing forest sustainability criteria specific to New Jersey.
- The DEP is directed to establish a Forest Stewardship Incentive Fund, to be supported by monies allocated for forest programs from the Global Warming Solutions Fund. This fund would provide full and cost-sharing grants to applicants developing forest stewardship plans, support the DEP's program budget, and finance the management of State forests.
- The Office of Legislative Services (OLS) estimates that \$5.9 million could be available in FY 2010 to support the objectives of the committee substitute. Annual estimates beyond FY 2010 could vary significantly, depending on market factors. Also, the allocation of funds between grants, program costs and forest management cannot be determined at this time.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 713 (1R) of 2008 directs the DEP to establish a forest stewardship program for owners of forest land who prepare forest stewardship plans for land five acres or greater. Forest stewardship plans would be subject to DEP approval and be valid for 10 years. The plans would be designed to ensure the sustainability of forest lands and be required to conform with all rules and regulations, policies, guidelines and best management practices adopted by the DEP pursuant to the committee substitute.

The committee substitute also directs the DEP to establish a forest certification program under which it may certify that forest land is managed in a sustainable manner. It further directs the DEP to establish a Forest Stewardship Incentive Fund, to be funded by monies allocated for programs that enhance the stewardship and restoration of the State's forests, from the Global Warming Solutions Fund created pursuant to section 6 of P.L.2007, c.340 (C..26:2C-50). The Incentive Fund is to be used for providing full and cost-sharing grants for the development of forest stewardship plans, paying the costs of the department to develop, implement and administer the provisions of the committee substitute, and providing for the stewardship and management of State forests. Grants from the fund may be made to the owner of forest land for up to \$1,500 to pay for the cost of developing a forest stewardship plan. If the cost of developing a forest stewardship plan exceeds \$1,500, the department may also award 80 percent of the cost that exceeds \$1,500 to the owner, up to a maximum grant of \$2,500. The committee substitute also limits the total amount allocated annually for cost-sharing grants to \$150,000.

The committee substitute establishes a forest stewardship advisory council to develop, in consultation with the DEP, forest sustainability criteria and indicators specific to New Jersey and compatible with national standards. It also addresses forest stewardship plans as they relate to benefits received under farmland assessment rules. Last, the DEP is required to prepare a report every seven years based on these forest sustainability criteria and indicators.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although no fiscal note information was submitted by the DEP for the committee substitute, it did provide fiscal note information on the bill as originally introduced. This information is presented here for background and comparative purposes. Relative to the original bill, the DEP estimated that it would incur administrative costs totaling \$342,800, \$350,600 and \$360,000 respectively over the first three years of the program. The department's estimates were based on the salary costs of three State Foresters, two clerical employees and related operating expenses. The department estimated that 1,200 compliance inspections, 300 stewardship plan reviews, and 4,350 plan applications would be conducted or processed annually by the State Foresters. Fees charged for these services, which are not required under the committee substitute, were estimated at \$367,500 annually.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurred with the DEP estimates for the original bill, and still finds the administrative cost estimates valid for the committee substitute. Since program fees are not required under the committee substitute, program costs will be covered under the annual

allocation received from the Global Warming Solutions Fund, which is estimated at \$5.9 million for FY 2010. This amount is based on a DEP projection of \$64 million in greenhouse gas emission allowances being purchased in FY 2010 and deposited into the Global Warming Solutions Fund. Pursuant to section 7 of P.L.2007, c.340, which implements the policies of the “Global Warming Response Act” (P.L.2007, c.112), 10 percent (after administrative costs) of annual revenues generated from emission allowance purchases must be allocated to support programs that enhance the stewardship and restoration of the State’s forests and tidal marshes. During State Budget hearings before the Legislature in April, 2009, the DEP projected a \$5.9 million allocation for these purposes during FY 2010.

The OLS notes that the FY 2010 projection reflects only one year and therefore can vary greatly from year to year, depending on the price of allowances sold at any given time. It should also be remembered that the estimated revenue level assumes that all available allowances will be purchased at one price, which may or may not be the case.

The OLS further notes that it does not have sufficient data or input from the DEP to estimate how available funding would ultimately be budgeted between grants, program costs, forest management and tidal marsh restoration. Last, the committee substitute’s farmland assessment provisions may reduce municipal property tax collections by exempting farmland, approved under a forest stewardship plan, from meeting current income threshold requirements to qualify for farmland assessment benefits.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

ASSEMBLY, No. 3239

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 6, 2008

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblymen Albano and Milam

SYNOPSIS

Establishes forest stewardship and forest certification program in DEP; limits liability of certain landowners who allow sport or recreational activities on their lands for a fee.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2009)

1 AN ACT concerning forest stewardship, supplementing Title 13 of
2 the Revised Statutes and P.L.1964, c.48 (C.54:4-23.1 et seq.), and
3 amending P.L.1968, c.73 and P.L.2005, c.367.

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

7
8 1. (New section) a. The Legislature finds and declares that
9 forest lands are critical to the environmental welfare of the State;
10 that forest lands help clean and refresh the air by filtering dust and
11 particulates; that forest lands absorb carbon dioxide and release
12 oxygen, helping to reduce global warming; that forest lands help
13 clean and protect the waters of the State, promote replenishment of
14 aquifers, stabilize soils, provide shade, and provide habitat essential
15 to sustaining New Jersey's native biodiversity, including habitat
16 critical for endangered and threatened species and species of special
17 concern; and that it is proper to consider the management of forests
18 in a sustainable manner as an agricultural or horticultural use which
19 yields public benefits.

20 b. The Legislature further finds and declares that forest lands
21 are critical to the social welfare of the State; that forest lands are a
22 necessary and important part of community and urban
23 environments, and are essential to the maintenance of quality of life
24 in the State; that forest lands afford outdoor recreational
25 opportunities and irreplaceable aesthetic benefits; and that forest
26 lands promote the health of the citizenry by contributing to the
27 availability of clean air and water.

28 c. The Legislature further finds and declares that forest lands
29 contribute to the economic well being of the State through increased
30 property values, ecotourism, business opportunities, and forest
31 products, and through helping to preserve New Jersey as a place
32 where both employers and skilled and talented employees choose to
33 reside.

34 d. The Legislature further finds and declares that forest lands
35 are an irreplaceable component of the environment worthy of
36 conservation and stewardship and that they must be nurtured to
37 guarantee sustained and improved yields of forest benefits; that the
38 State's privately-owned forest lands are now seldom managed
39 effectively due to a lack of guidance, resources, and incentives for
40 improved forest stewardship; and that care and management of
41 forest lands could be enhanced through the establishment of a forest
42 stewardship program.

43 e. The Legislature therefore determines that it is in the public
44 interest to establish a forest stewardship program to develop and
45 promote the long-term active management of the State's forest

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 resources in order to preserve and enhance those resources and
2 realize the benefits thereof.

3

4 2. (New section) As used in sections 1 through 8 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill):

6 “Department” means the Department of Environmental
7 Protection.

8 “Forest stewardship plan” means a plan prepared and
9 implemented by an owner of forest land, and approved by the
10 department pursuant to section 3 of P.L. , c. (C.) (pending
11 before the Legislature as this bill).

12 “Local government unit” means a municipality, county, or other
13 political subdivision of the State, or any agency, board,
14 commission, utilities authority or other authority, or other entity
15 thereof.

16 “Owner” means an owner of forest land.

17 “Sustainability” means, with respect to forest land, having the
18 ability to: (1) maintain its ecological processes, biodiversity,
19 resource productivity, regeneration capacity, and vitality; and
20 promote forest health, preclude the spread of invasive non-native
21 species, maintain forest integrity and contiguity, preserve New
22 Jersey’s native biodiversity, and protect endangered and threatened
23 species and species of special concern and the habitat that sustains
24 them; and (2) realize the potential to fulfill now and for future
25 generations, relevant ecological, environmental, economic, and
26 social functions, including but not limited to protection and
27 improvement of air quality and of water supply and water quality,
28 stabilization of soils, prevention and suppression of uncontrolled
29 wildfires, service of markets for forest products, provision of
30 recreational opportunities, and improvement of quality of life.

31 “Sustainable manner” means employing practices for the use and
32 care of forest land that promote sustainability and do not cause
33 damage to other ecosystems, and avoiding acts and omissions that
34 undermine sustainability.

35

36 3. (New section) a. The department shall establish a forest
37 stewardship program under which an owner, in conjunction with a
38 forester, natural resources manager, or ecological restoration
39 consultant selected by the owner from a list of such professionals
40 approved by the department, may prepare a forest stewardship plan
41 for land, five acres or greater in area, submit the plan to the
42 department for approval, and implement the plan as approved, or as
43 subsequently amended with the approval of the department.

44 A forest stewardship plan, at a minimum, shall:

45 (1) conform with the rules and regulations adopted pursuant to
46 section 8 of P.L. , c. (C.) (pending before the Legislature as
47 this bill) designed to ensure the sustainability of forest lands;

1 (2) list the owner's long term stewardship goals for the forest
2 land; and, for each year that the plan applies, list the activities to be
3 implemented that year, including the activities designed to ensure
4 the sustainability of the forest land as well as activities designed to
5 eliminate excessive and unnecessary cutting, and provide the
6 rationale for each activity listed; and

7 (3) establish the monitoring, recordkeeping, and reporting
8 necessary to document implementation of the forest stewardship
9 plan, including documentation of activities and inspections
10 performed.

11 b. The department may elect to inspect the forest land, prior to
12 determining whether to approve a forest stewardship plan, in order
13 to assess the appropriateness and sufficiency of the proposed plan.

14 After the department approves a forest stewardship plan, the
15 forest land shall be subject to inspection by the department during
16 one of the first three years following approval and at least once
17 every three years following the first inspection.

18 c. A forest stewardship plan shall be valid for a period of 10
19 years, unless sooner terminated by the owner or revoked by the
20 department. To continue, without interruption, participation in the
21 forest stewardship program, an owner shall prepare a new or revised
22 forest stewardship plan pursuant to subsection a. of this section and,
23 in accordance with procedures established by the department, obtain
24 the department's approval of the new or revised forest stewardship
25 plan prior to the expiration date of the current forest stewardship
26 plan.

27 d. A forest stewardship plan approved pursuant to this section
28 shall be considered to be a woodland management plan pursuant to
29 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
30 (C.54:4-23.3) when the approved forest stewardship plan is
31 submitted as part of an application for valuation, assessment and
32 taxation pursuant to the "Farmland Assessment Act of 1964,"
33 P.L.1964, c.48 (C.54:4-23.1 et seq.).
34

35 4. (New section) a. For the purposes of section 1 of P.L.2005,
36 c.367 (C.52:32-45), the department shall establish a forest
37 certification program under which the department may certify that
38 forest land is managed in a sustainable manner, provided that:

39 (1) the owner has obtained a forest stewardship plan approved
40 by the department pursuant to section 3 of P.L. , c. (C.)
41 (pending before the Legislature as this bill); and

42 (2) the owner and a forester, natural resources manager, or
43 ecological restoration consultant selected by the owner from a list
44 of such professionals approved by the department, has annually
45 attested to full compliance with the forest stewardship plan for at
46 least two years.

47 b. Certification pursuant to subsection a. of this section, or
48 renewal thereof, shall be in accordance with procedures established

1 by the department and shall be valid for five years, except that the
2 department may withdraw certification if the department determines
3 that the owner has failed to maintain full implementation of the
4 forest stewardship plan. To maintain in good standing the
5 certification of forest land beyond the date that a forest stewardship
6 plan expires, the owner shall obtain the department's approval of a
7 new or revised forest stewardship plan pursuant to section 3 of
8 P.L. , c. (C.) (pending before the Legislature as this bill)
9 prior to the expiration date of the current forest stewardship plan.

10
11 5. (New section) The department shall establish and administer
12 a cost share incentive program, to be known as the New Jersey
13 Forest Stewardship Incentive Program, if funds are appropriated or
14 otherwise made available for the support and funding of such a
15 program. Under the program, the department may award grants to
16 the extent funding is available to local government units, non-profit
17 organizations, and private owners of forest land to help subsidize
18 the costs of implementing stewardship activities described in
19 approved forest stewardship plans prepared pursuant to section 3 of
20 P.L. , c. (C.) (pending before the Legislature as this bill).

21
22 6. (New section) No local government unit may enact, on or
23 after the date of enactment of P.L. , c. (C.) (pending before
24 the Legislature as this bill), any ordinance, rule, or resolution, as
25 appropriate, that conflicts with, prevents or impedes the
26 implementation of a forest stewardship plan approved pursuant to
27 section 3 of P.L. , c. (C.) (pending before the Legislature as
28 this bill) or impose a fee in excess of \$100 in any calendar year for
29 the cutting of trees on any land that is the subject of an approved
30 forest stewardship plan. The provisions of P.L. , c. (C.)
31 (pending before the Legislature as this bill) supersede any
32 ordinance, rule, or resolution, as appropriate, enacted or adopted on
33 or prior to the date of enactment of P.L. , c. (C.) (pending
34 before the Legislature as this bill).

35
36 7. (New section) a. The department, utilizing guidance
37 provided by the United States Forest Service and in consultation
38 with the forest stewardship advisory committee established pursuant
39 to subsection b. of section 8 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), and with the benefit of public comment,
41 shall develop and establish forest sustainability criteria and
42 indicators appropriate to the circumstances encountered in New
43 Jersey, as a basis for monitoring, recording, and assessing the
44 extent, condition, and sustainability of all New Jersey forests,
45 whether publicly or privately owned. The department shall prepare
46 a report setting forth the findings and assessments based on these
47 forest sustainability criteria and indicators by February 1 of the
48 third year after the date of enactment of P.L. , c. (C.)

1 (pending before the Legislature as this bill), and every seven years
2 thereafter, which report shall include any recommendations for
3 legislative or administrative action. The Commissioner of
4 Environmental Protection shall transmit the report to the Governor
5 and, pursuant to section 2 of P.L.1991, c.164 (C.54:14-19.1), to the
6 Legislature.

7 b. The department shall consider the findings and assessments
8 set forth in the forest sustainability criteria and indicators report
9 prepared pursuant to subsection a. of this section to determine how
10 to adapt the rules and regulations established pursuant to section 8
11 of P.L. , c. (C.) (pending before the Legislature as this bill)
12 to ensure the sustainability of forest lands, to set priorities for
13 management of State-owned forest lands and for the New Jersey
14 Forest Stewardship Incentive Program, and to assist in establishing
15 priorities for the use of State funds for the acquisition of forest
16 lands.

17
18 8. (New section) The department shall adopt, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), rules and regulations necessary for the implementation of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 including rules and regulations:

23 a. setting forth policies, guidelines and best management
24 practices that establish standards designed to ensure the
25 sustainability of forest lands. These policies, guidelines and best
26 management practices may be applicable to any privately owned
27 forest land;

28 b. establishing a forest stewardship advisory committee,
29 consistent with the federal requirements for the establishment of a
30 State Forest Stewardship Coordinating Committee pursuant to 16
31 U.S.C. s.2113, to advise the department on issues related to forest
32 stewardship and recommend programs, actions and standards,
33 including rules and regulations, policies, guidelines and best
34 management practices, for the conservation and stewardship of
35 forest lands; and

36 c. establishing a fee schedule, at a rate sufficient to cover the
37 department's costs for administering the program established
38 pursuant to P.L. , c. (C.) (pending before the Legislature as
39 this bill), for the following activities:

40 (1) the review of forest stewardship plans submitted pursuant to
41 section 3 of P.L. , c. (C.) (pending before the Legislature as
42 this bill), and for the review of woodland management plans
43 submitted for the approval of the department pursuant to the
44 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
45 seq.) and section 10 of P.L. , c. (C.) (pending before the
46 Legislature as this bill);

47 (2) on-site inspections conducted by the department pursuant to
48 subsection b. of section 3 of P.L. , c. (C.) (pending before

1 the Legislature as this bill) or section 2 of P.L.1986, c.201 (C.54:4-
2 23.3a);

3 (3) annual determinations of compliance, pursuant to subsections
4 b. and c. of section 2 of P.L.1986, c.201 (C.54:4-23.3a), of
5 applications for valuation, assessment and taxation of forest land as
6 land that is actively devoted to agricultural or horticultural use; and

7 (4) the certification pursuant to section 4 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) that forest lands are
9 being managed in a sustainable manner.

10

11 9. (New section) As used in this section and section 10 of
12 P.L. , c. (C.) (pending before the Legislature as this bill):

13 "Department" means the Department of Environmental
14 Protection.

15 "Forest stewardship plan" means a plan prepared and
16 implemented by an owner of forest land, and approved by the
17 department pursuant to section 3 of P.L. , c. (C.) (pending
18 before the Legislature as this bill).

19 "Owner" means an owner of forest land.

20 "Sustainability" means, with respect to forest land, having the
21 ability to: (1) maintain its ecological processes, biodiversity,
22 resource productivity, regeneration capacity, and vitality; and
23 promote forest health, preclude the spread of invasive non-native
24 species, maintain forest integrity and contiguity, preserve New
25 Jersey's native biodiversity, and protect endangered and threatened
26 species and species of special concern and the habitat that sustains
27 them; and (2) realize the potential to fulfill now and for future
28 generations, relevant ecological, environmental, economic, and
29 social functions, including but not limited to protection and
30 improvement of air quality and of water supply and water quality,
31 stabilization of soils, prevention and suppression of uncontrolled
32 wildfires, service of markets for forest products, provision of
33 recreational opportunities, and improvement of quality of life.

34 "Woodland management plan" means a plan prepared and
35 implemented by an owner of forest land or woodland pursuant to
36 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
37 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

38

39 10. (New section) a. Notwithstanding any provision of the
40 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
41 seq.), or any rule or regulation adopted pursuant thereto, to the
42 contrary, a woodland management plan prepared on or after January
43 1, 2009 pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) shall
44 comply with the requirements for a forest stewardship plan pursuant
45 to section 3 of P.L. , c. (C.) (pending before the Legislature
46 as this bill).

47 b. An owner who annually submits an application pursuant to
48 subsection c. of section 3 of the "Farmland Assessment Act of

1 1964," P.L.1964, c.48 (C.54:4-23.3) may provide a forest
2 stewardship plan, approved by the Department of Environmental
3 Protection pursuant to section 3 of P.L. , c. (C.) (pending
4 before the Legislature as this bill), as the woodland management
5 plan that accompanies the application.

6 c. For the purposes of Article 8, Section 1, paragraph 1,
7 subparagraph (b) of the State Constitution, and notwithstanding
8 section 5 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
9 (C.54:4-23.5) or any other provision of that act or any rule or
10 regulation adopted pursuant thereto, to the contrary, if an
11 application for valuation, assessment and taxation as land in
12 agricultural or horticultural use is accompanied by a forest
13 stewardship plan pursuant to subsection a. of this section, the forest
14 land shall be deemed to be actively devoted to agricultural or
15 horticultural use if the owner has prepared and obtained the
16 approval of the forest stewardship plan pursuant to section 3 of
17 P.L. , c. (C.) (pending before the Legislature as this bill)
18 and implements the forest stewardship plan in full.

19 d. For forest land to qualify under the "Farmland Assessment
20 Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation,
21 assessment and taxation as land in agricultural or horticultural use,
22 the forest land shall be actively devoted to agricultural or
23 horticultural use and shall have been so devoted for at least the two
24 successive years immediately preceding the tax year in issue. If a
25 forest stewardship plan is submitted with an application as the
26 woodland management plan pursuant to subsection a. of this
27 section, this requirement shall be deemed to be met if the provisions
28 of subsections e. or f. of this section are satisfied.

29 e. In the case where a forest stewardship plan was approved
30 more than two years preceding the tax year in issue, the forest land
31 shall be deemed to be actively devoted to agricultural or
32 horticultural use and to have been so devoted for at least the two
33 successive years immediately preceding the tax year in issue if the
34 owner has implemented in full the approved forest stewardship plan
35 for at least the two successive years immediately preceding the tax
36 year in issue.

37 f. In the case where a forest stewardship plan was approved
38 less than two years preceding the tax year in issue, the forest land
39 shall be deemed to be actively devoted to agricultural or
40 horticultural use and to have been so devoted for at least two
41 successive years immediately preceding the tax year in issue if:

42 (1) the owner has implemented in full the forest stewardship plan
43 once it was approved; and

44 (2) for at least the remaining portion of the two-year period
45 immediately preceding the tax year in issue, prior to the approval of
46 the forest stewardship plan, the forest land qualifies, pursuant to
47 sections 5 and 6 of the "Farmland Assessment Act of 1964,"
48 P.L.1964, c.48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have

1 been actively devoted to agricultural or horticultural use.
2 Additionally, if the land was devoted exclusively to the production
3 for sale of tree and forest products, other than Christmas trees, and
4 is not appurtenant woodland, the owner must have established a
5 woodland management plan more than two years preceding the tax
6 year in issue and complied with that plan until such time as a forest
7 stewardship plan was approved pursuant to section 3 of
8 P.L. , c. (C.) (pending before the Legislature as this bill).

9 g. Notwithstanding the provisions of subsection c. of this
10 section, when a forest stewardship plan is submitted with an
11 application as the woodland management plan pursuant to
12 subsection a. of this section, the forest land shall not be deemed to
13 be actively devoted to agricultural or horticultural use for the two
14 successive years immediately preceding the tax year in issue if the
15 forest stewardship plan has expired during those two years and a
16 new forest stewardship plan has not been approved prior to the
17 expiration date of the current forest stewardship plan.

18 h. Except as provided in this section, the provisions of the
19 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
20 seq.), other than the provisions of section 5 of P.L.1964, c.48
21 (C.54:4-23.5), shall apply to an application submitted pursuant to
22 subsection b. of this section with a forest stewardship plan as a
23 woodland management plan.

24 i. The Department of Environmental Protection, in
25 consultation with the Department of Agriculture and the
26 Department of the Treasury, shall adopt, pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), any rules and regulations necessary for the implementation of
29 this section.

30
31 11. Section 3 of P.L.1968, c.73 (C.2A:42A-4) is amended to
32 read as follows:

33 3. This act shall not limit the liability which would otherwise
34 exist:

35 a. For willful or malicious failure to guard, or to warn against,
36 a dangerous condition, use, structure or activity; or

37 b. For injury suffered in any case where permission to engage
38 in sport or recreational activity on the premises was granted for a
39 consideration other than (1) the consideration, if any, paid to the
40 landowner by the State, or (2) the consideration paid to a landowner
41 with an approved forest stewardship plan prepared pursuant to
42 section 3 of P.L. , c. (C.) (pending before the Legislature as
43 this bill), provided that the owner is fully implementing the forest
44 stewardship plan and the use of the forest land for the sport or
45 recreational activity is consistent with the sustainability of the
46 forest land and is specified in the forest stewardship plan ; or

47 c. For injury caused, by acts of persons to whom permission to
48 engage in sport or recreational activity was granted, to other

1 persons as to whom the person granting permission, or the owner,
2 lessee or occupant of the premises, owes a duty to keep the
3 premises safe or to warn of danger.
4 (cf: P.L.1968, c.73, s.3)

5
6 12. Section 1 of P.L.2005, c.367 (C.52:32-45) is amended to
7 read as follows:

8 1. a. Notwithstanding the provisions of any other law to the
9 contrary, the Director of the Division of Purchase and Property in
10 the Department of the Treasury, the Director of the Division of
11 Property Management and Construction in the Department of the
12 Treasury, or any State agency having authority to contract for the
13 purchase of goods or services, shall whenever possible give
14 preference to wood or paper products derived from sustainably
15 managed forests or procurement systems when entering into or
16 renewing a contract for the purchase of such goods or related
17 services. Any preference provided pursuant to this subsection may
18 not supersede any preference given to recycled paper and paper
19 products pursuant to P.L.1987, c. 102 (C.13:1E-99.11 et seq.).

20 In preparing the specifications for any contract for the purchase
21 of goods and services the Director of the Division of Purchase and
22 Property, the Director of the Division of Property Management and
23 Construction, or any State agency having authority to contract for
24 the purchase of goods or services shall include in the invitation to
25 bid, where relevant, a statement that any response to the invitation
26 that proposes or calls for the use of wood or paper products derived
27 from sustainably managed forests or procurement systems shall
28 receive preference whenever possible.

29 b. The provisions of subsection a. of this section shall not
30 apply:

31 (1) To any binding contractual obligations for the purchase of
32 goods or services entered into prior to the effective date of **[this**
33 **act]** P.L.2005, c.367 (C.52:32-45 et seq.) ;

34 (2) To bid packages advertised and made available to the public,
35 or to any competitive and sealed bids received by the State, prior to
36 the effective date of **[this act]** P.L.2005, c.367 (C.52:32-45 et seq.);
37 or

38 (3) To any amendment, modification, or renewal of a contract,
39 which contract was entered into prior to the effective date of **[this**
40 **act]** P.L.2005, c.367 (C.52:32-45 et seq.) where the application
41 would delay timely completion of a project or involve an increase in
42 the total moneys to be paid by the State under that contract.

43 c. For the purposes of **[this act]** P.L.2005, c.367 (C.52:32-45
44 et seq.) , "derived from sustainably managed forests or procurement
45 systems" means the source of the wood or paper product is a forest
46 or system for procuring wood or paper products that is certified by
47 the Department of Environmental Protection under the forest

1 certification program established pursuant to section 4 of
2 P.L. , c. (C.) (pending before the Legislature as this bill) or
3 by an independent third party using one or more of the following
4 certification programs or standards:

- 5 (1) The Sustainable Forestry Initiative program;
- 6 (2) The American Forest Foundation American Tree Farm
7 System program;
- 8 (3) The sustainable forest management system standards of the
9 Canadian Standards Association;
- 10 (4) The Forest Stewardship Council certification program;
- 11 (5) The Pan-European forest certification system;
- 12 (6) The Finnish Forest Certification System;
- 13 (7) The United Kingdom Woodland Assurance Standard;
- 14 (8) The International Organization for Standardization (ISO)
15 standard 14001; or
- 16 (9) Any other certification program or standard that the State
17 Treasurer or the Commissioner of Environmental Protection
18 determines may be used to certify that wood or paper products are
19 derived from sustainably managed forests or procurement systems.
20 (cf: P.L.2005, c.367, s.1)

21
22 13. This act shall take effect on the first day of the seventh
23 month following enactment, but the Commissioner of
24 Environmental Protection may take such anticipatory administrative
25 action in advance thereof as shall be necessary for the
26 implementation of this act.

27
28

29 STATEMENT

30
31 This bill directs the Department of Environmental Protection
32 (DEP) to establish a forest stewardship program for owners of
33 forest land who prepare forest stewardship plans for land five acres
34 or greater. Forest stewardship plans, to be approved by the DEP,
35 would, at a minimum: be required to conform with the rules and
36 regulations, policies, guidelines and best management practices
37 designed to ensure the sustainability of forest lands to be adopted
38 by the DEP pursuant to the bill; list the owner's long term
39 stewardship goals for the forest land; and, for each year that the
40 forest stewardship plan applies, list the activities to be implemented
41 that year, including those activities designed to ensure the
42 sustainability of the forest land, and provide the rationale for each
43 activity listed. Approved plans would be valid for ten years.

44 The bill directs the DEP to establish a forest certification
45 program under which it may certify that forest land is managed in a
46 sustainable manner. The bill amends P.L.2005, c.367 (C.52:32-45
47 et seq.) concerning the certification of wood or paper products from

1 sustainably managed forests or procurement systems to include
2 products certified under this new program.

3 The bill directs the DEP to establish a cost share incentive
4 program, to be known as the New Jersey Forest Stewardship
5 Incentive Program, if funds are appropriated or otherwise made
6 available for the support and funding of such a program. Under the
7 program, to the extent funding is available, the DEP would award
8 grants to local government units, non-profit organizations, and
9 private owners of forest land to help subsidize their costs in
10 implementing stewardship activities listed in approved forest
11 stewardship plans.

12 This bill directs the DEP, in consultation with the forest
13 stewardship advisory council to be established by the DEP in
14 accordance with rules and regulations to be adopted pursuant to the
15 bill, and using guidance provided by the United States Forest
16 Service, to develop and establish forest sustainability criteria and
17 indicators specific to New Jersey and compatible with national
18 standards, in order to record, assess, and monitor the sustainability,
19 condition, and extent of New Jersey forests. The bill requires the
20 DEP to prepare a report every seven years based on these forest
21 sustainability criteria and indicators, with the first report required
22 by February 1st of the third year following the date of enactment of
23 the bill into law.

24 The bill authorizes the DEP to adopt rules and regulations to: set
25 forth policies, guidelines and best management practices that
26 establish standards designed to ensure the sustainability of forest
27 lands; establish a forest stewardship advisory council; establish a
28 fee schedule for the review of forest stewardship plans, woodland
29 management plans, on-site inspections, annual determinations of
30 compliance of applications for farmland assessment, and for
31 certification that forest lands are being managed in a sustainable
32 manner; and for the implementation of this bill.

33 The bill further provides that no local government unit may
34 enact, on or after the date of enactment of this bill into law, any
35 ordinance, rule, or resolution, as appropriate, that conflicts with,
36 prevents or impedes the implementation of a forest stewardship plan
37 or impose a fee in excess of \$100 in any calendar year for the
38 cutting of trees on any land that is the subject of an approved forest
39 stewardship plan. In addition, the provisions of the bill would
40 supersede any ordinance, rule, or resolution, as appropriate, enacted
41 or adopted on or prior to the date of enactment of the bill into law.

42 This bill expands the current farmland assessment program under
43 the "Farmland Assessment Act of 1964" to provide differential
44 property tax assessment to owners of forest land who implement an
45 approved forest stewardship plan. This bill requires,
46 notwithstanding any provision of the "Farmland Assessment Act of
47 1964," or any rule or regulation adopted pursuant thereto, to the
48 contrary, that a woodland management plan prepared on or after

1 January 1, 2009 must conform with the requirements for a forest
2 stewardship plan, as set forth in the bill. This bill provides that an
3 owner of forest land who has established and is complying with a
4 forest stewardship plan shall not be required to meet the income
5 threshold requirements of the "Farmland Assessment Act of 1964"
6 for that woodland.

7 Lastly, this bill amends P.L.1968, c.73 (C.2A:42A-2 et seq.),
8 commonly known as the "Landowner's Liability Act," which
9 provides general liability protection under certain circumstances to
10 landowners (as well as lessees and occupants of the lands) who
11 grant permission for individuals to enter upon their lands to engage
12 in certain statutorily defined sport and recreational activities,
13 including but not limited to hunting, fishing, and trapping.
14 However, current law withdraws that protection when the
15 permission is granted in exchange for the payment of consideration,
16 such as, for example, a fee or pursuant to a lease agreement. This
17 bill would remove this statutorily-induced inhibition on those lands
18 where the landowner is implementing an approved forest
19 stewardship plan and the use of the forest land for the sport or
20 recreational activity is consistent with the sustainability of the
21 forest land and is specified in the forest stewardship plan.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3239

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 11, 2009

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments Assembly Bill No. 3239.

This bill, as amended, directs the Department of Environmental Protection (DEP) to establish a forest stewardship program to promote sustainable management of the State's forest resources. The forest stewardship program created by the bill, as amended, has five conceptual components:

- 1) The administration and authorization of forest stewardship plans;
- 2) The extension of a differential property tax assessment through the "Farmland Assessment Act of 1964" to forest land managed under a DEP approved forest stewardship plan;
- 3) The creation of a Forest Stewardship Incentive Fund;
- 4) The establishment of a DEP sustainably managed forest land certification and the preferred status of products derived from certified land for State contracting purposes; and
- 5) The enumeration of certain administrative apparatuses and procedures, including but not limited to, an advisory committee, reporting requirements and promulgation of regulations.

These components of the proposed forest stewardship program are described below.

Forest Stewardship Plans

Under the bill, as amended, owners of five acres or more of forest land may prepare a forest stewardship plan for submission to the DEP. To be approved by the DEP, a forest stewardship plan must:

- 1) enumerate the owner's long term stewardship goals for the forest land;
- 2) provide a list and rationale for the activities to be implemented in each year of the plan;
- 3) conform to the rules and regulations adopted by DEP pursuant to the bill, as amended, to ensure the sustainability of forest lands; and
- 4) establish documentation protocol for the implementation of the

forest stewardship plan.

Forest stewardship plans submitted for land in the pinelands area must be consistent with the standards in the comprehensive management plan for such areas.

The DEP may elect to inspect forest land prior to approval of a forest stewardship plan. Upon approval of the plan, the forest land is subject to DEP inspection during one of the immediately succeeding three years and at least once every three years following the first post-approval inspection. Approved forest stewardship plans are valid for 10 years, unless sooner terminated or revoked. Procedure for seeking new or revised forest stewardship plans is to be established by the DEP.

Differential Property Tax Assessment

The bill, as amended, also provides that forest land owners who implement a DEP approved forest stewardship plan can qualify for a differential property tax assessment, as agricultural use, under the "Farmland Assessment Act of 1964." In applying for the differential property tax assessment, forest land owners are not required to meet the current income threshold requirements for woodlands under the "Farmland Assessment Act of 1964" or submit a map of land use classes and soil groups with their application for a differential property tax assessment.

Forest Stewardship Incentive Fund

The bill, as amended, establishes the "Forest Stewardship Incentive Fund," which is to be used for providing grants for the development and implementation of forest stewardship plans, paying the costs incurred by DEP from implementing and administering the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to a forest land owner in an amount of up to \$1,500 to pay for the cost of developing a forest stewardship plan. If an owner's costs exceed \$1,500, the department may award an owner 80 percent of the costs which exceed \$1,500 to the owner, up to a maximum grant of \$2,500. The bill, as amended, authorizes the fund to be credited with: amounts allocated for the stewardship and restoration of State forests in the "Global Warming Solutions Fund"; amounts otherwise appropriated to the "Forest Stewardship Incentive Fund"; and any return on investment on deposits in the "Forest Stewardship Incentive Fund."

The bill, as amended, also establishes a cost-sharing program modeled upon the federal forest land enhancement program established pursuant to 16 U.S.C. s.2103 to provide individual grants to private owners to assist with a portion of the costs associated with the implementation of forest stewardship plans approved by the DEP. The DEP is authorized to award individual grants through the program, totaling up to \$150,000 in any State fiscal year. The forest

stewardship advisory committee established under the bill is to be consulted when establishing this program.

Sustainably Managed Forest Certification

The bill, as amended, also directs the DEP to establish a sustainably managed forest certification program. The bill, as amended, amends provisions concerning preference in State contracts for wood or paper products from sustainably managed forests or procurement systems to include products produced from land with a sustainably managed forest certification. To acquire such a certification, a forest land owner must have: a DEP approved forest stewardship plan; and an annual attestation from the owner and a forester or DEP authorized professional confirming compliance with the approved forest stewardship plan. Certifications are valid for five years.

Advisory Committee, Reporting and Regulation

The bill, as amended, directs the DEP, in consultation with the forest stewardship advisory committee which is to be established by the DEP pursuant to this bill, as amended, and using guidance provided by the United States Forest Service, to develop and establish forest sustainability criteria and indicators specific to New Jersey and compatible with national standards, in order to record, assess, and monitor the sustainability, condition, and extent of New Jersey forests. The DEP must prepare a report every seven years based on the forest sustainability criteria and indicators, with the first report due by February 1st of the third year following the date of enactment of the bill, as amended.

The bill, as amended, also authorizes the DEP to adopt rules and regulations to: set forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands; establish a forest stewardship advisory committee; and implement the bill, as amended.

The bill, as amended, also provides that no local government unit may enact, on or after the date of enactment, any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan or imposes a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. Additionally, the bill, as amended, extends the exemption under the "Highlands Water Protection and Planning Act" for activities conducted pursuant to a woodland management plan to include activities carried out pursuant to a forest stewardship plans.

The bill, as amended, takes effect one year from the date of enactment, but enables the Commissioner of Environmental Protection to take anticipatory administrative action.

Finally, the bill, as amended, is identical to the Senate Committee Substitute for Senate Bill No. 713, as also amended and reported by the committee.

COMMITTEE AMENDMENTS

The committee amendments:

- 1) include both publicly and privately owned forest lands in the State;
- 2) expand the types of professionals to be consulted in the preparation of forest stewardship plans to a list authorized by the Department of Environmental Protection (DEP);
- 3) provide for compliance of forest stewardship plans with the pinelands area comprehensive management plan, where applicable;
- 4) revise the provisions establishing and administering a cost share incentive program to establish an incentive fund and specific provisions for administering the fund;
- 5) establish a cost-sharing program for forest stewardship of privately owned forests modeled on federal programs;
- 6) authorize the DEP to award grants under this program;
- 7) cap the total annual amount of grants awarded under the cost-sharing program at \$150,000;
- 8) establish a forest stewardship advisory committee to advise DEP and be consulted concerning the forest stewardship program;
- 9) delete the definition of “sustainability”;
- 10) make clarifying amendments concerning farmland assessment valuation, forest stewardship plans, and woodland management plans;
- 11) delete provisions limiting liability of landowners who allow sport or recreational activities on their land for a fee; and
- 12) make other technical and clarifying amendments.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3239

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3239 (1R).

The bill directs the Department of Environmental Protection (DEP) to establish a forest stewardship program to promote sustainable management of the State's forest resources. The forest stewardship program created by this bill has five conceptual components:

- 1) The administration and authorization of forest stewardship plans;
- 2) The extension of a differential property tax assessment through the "Farmland Assessment Act of 1964" to forest land managed under a DEP approved forest stewardship plan;
- 3) The creation of a Forest Stewardship Incentive Fund;
- 4) The establishment of a DEP sustainably managed forest land certification and the preferred status of products derived from certified land for State contracting purposes; and
- 5) The enumeration of certain administrative apparatuses and procedures, including but not limited to, an advisory committee, reporting requirements and promulgation of regulations.

These components of the proposed forest stewardship program are described below.

Forest Stewardship Plans

Under this bill owners of five acres or more of forest land may prepare a forest stewardship plan for submission to the DEP. To be approved by the DEP, a forest stewardship plan must:

- 1) enumerate the owner's long term stewardship goals for the forest land;
- 2) provide a list and rationale for the activities to be implemented in each year of the plan;
- 3) conform to the rules and regulations adopted by DEP pursuant to this bill to ensure the sustainability of forest lands; and
- 4) establish documentation protocol for the implementation of the forest stewardship plan.

Forest stewardship plans submitted for land in the pinelands area must be consistent with the standards in the comprehensive

management plan for such areas.

The DEP may elect to inspect forest land prior to approval of a forest stewardship plan. Upon approval of the plan, the forest land is subject to DEP inspection during one of the immediately succeeding three years and at least once every three years following the first post-approval inspection. Approved forest stewardship plans are valid for 10 years, unless sooner terminated or revoked. Procedure for seeking new or revised forest stewardship plans is to be established by the DEP.

Differential Property Tax Assessment

The bill also provides that forest land owners who implement a DEP approved forest stewardship plan can qualify for a differential property tax assessment, as agricultural use, under the "Farmland Assessment Act of 1964." In applying for the differential property tax assessment, forest land owners are not required to meet the current income threshold requirements for woodlands under the "Farmland Assessment Act of 1964" or submit a map of land use classes and soil groups with their application for a differential property tax assessment.

Forest Stewardship Incentive Fund

The bill establishes the "Forest Stewardship Incentive Fund," which is to be used for providing grants for the development and implementation of forest stewardship plans, paying the costs incurred by DEP from implementing and administering the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to a forest land owner in an amount of up to \$1,500 to pay for the cost of developing a forest stewardship plan. If an owner's costs exceed \$1,500, the department may award an owner 80 percent of the costs which exceed \$1,500, up to a maximum grant of \$2,500. The DEP may annually adjust these prescribed limitations in proportion to increases in the Consumer Price Index for all urban consumers in the New York City area as reported by the U.S. Department of Labor. The bill authorizes the fund to be credited with: amounts allocated for the stewardship and restoration of State forests in the "Global Warming Solutions Fund"; amounts otherwise appropriated to the "Forest Stewardship Incentive Fund"; and any return on investment on deposits in the "Forest Stewardship Incentive Fund."

The bill also establishes a cost-sharing program, modeled upon the federal forest land enhancement program established pursuant to 16 U.S.C. s.2103, to provide individual grants to private owners to assist with a portion of the costs associated with the implementation of forest stewardship plans approved by the DEP. The DEP is authorized to award individual grants through the program, totaling up to \$150,000 in any State fiscal year. The forest stewardship advisory committee established under the bill is to be consulted when establishing this program.

Sustainably Managed Forest Certification

The bill also directs the DEP to establish a sustainably managed forest certification program. The bill amends provisions concerning preference in State contracts for wood or paper products from sustainably managed forests or procurement systems to include products produced from land with a sustainably managed forest certification. To acquire such a certification, a forest land owner must have: a DEP approved forest stewardship plan; and an annual attestation from the owner and a forester or DEP authorized professional confirming compliance with the approved forest stewardship plan. Certifications are valid for five years.

Advisory Committee, Reporting and Regulation

The bill directs the DEP, in consultation with the forest stewardship advisory committee, which is to be established by the DEP pursuant to this bill, and using guidance provided by the United States Forest Service, to develop and establish forest sustainability criteria and indicators specific to New Jersey in order to record, assess, and monitor the sustainability, condition, and extent of New Jersey forests. The DEP must prepare a report every seven years with findings based on the forest sustainability criteria and indicators, with the first report due by February 1st of the third year following the date of enactment of the bill.

The bill also authorizes the DEP to adopt rules and regulations to: set forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands; establish a forest stewardship advisory committee; and implement the bill. Additionally, the bill authorizes the DEP to adopt rules and regulation, in consultation with the Department of Agriculture and Department of the Treasury, for implementing the application process for the differential property tax assessment under the "Farmland Assessment Act of 1964" for forest land maintained in accordance with a DEP approved forest stewardship plan.

The bill also provides that no local government unit may enact, on or after the date of enactment, any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan or imposes a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. Additionally, the bill extends the exemption under the "Highlands Water Protection and Planning Act" for activities conducted pursuant to a woodland management plan to include activities carried out pursuant to a forest stewardship plans.

The bill takes effect one year from the date of enactment, but enables the Commissioner of Environmental Protection to take anticipatory administrative action.

This bill is identical to Senate Bill No. 713 (SCS/1R), as also reported by the committee.

FISCAL IMPACT:

According to the OLS Fiscal Estimate prepared for this bill, program costs will be covered under the annual allocation received from the Global Warming Solutions Fund, which is estimated at \$5.9 million for FY 2010. This amount is based on a DEP projection of \$64 million in greenhouse gas emission allowances being purchased in FY 2010 and deposited into the Global Warming Solutions Fund. Pursuant to section 7 of P.L.2007, c.340, which implements the policies of the “Global Warming Response Act” (P.L.2007, c.112), 10 percent (after administrative costs) of annual revenues generated from emission allowance purchases must be allocated to support programs that enhance the stewardship and restoration of the State’s forests and tidal marshes.

During State Budget hearings before the Legislature in April, 2009, the DEP projected a \$5.9 million allocation for these purposes during FY 2010. The OLS notes that the FY 2010 projection reflects only one year and annual allocations in subsequent years may vary greatly from year to year, depending on the price of allowances sold at any given time. It should also be noted that the estimated revenue level assumes that all available allowances will be purchased at one price, which may or may not be the case.

The OLS further notes that it does not have sufficient data or input from the DEP to estimate how available funding would ultimately be budgeted between grants, program costs, forest management and tidal marsh restoration.

Lastly, the bill’s farmland assessment provisions may reduce municipal property tax collections by exempting farmland, approved under a forest stewardship plan, from meeting current income threshold requirements to qualify for farmland assessment benefits.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3239

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 24, 2009

SUMMARY

- Synopsis:** Establishes forest stewardship and forest certification programs in DEP; establishes Forest Stewardship Incentive Fund.
- Type of Impact:** No impact on State Funds. Program funding provided by statutory dedication from the Global Warming Solutions Fund.
- Agencies Affected:** Department of Environmental Protection

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None-See comments below		

- The bill directs the Department of Environmental Protection (DEP) to establish a forest stewardship program for owners of forest lands that are five acres or greater. Forest stewardship plans would be designed to ensure the sustainability of forest lands.
- The bill creates a forest certification program and a forest stewardship advisory council charged with developing forest sustainability criteria specific to New Jersey.
- The DEP is directed to establish a Forest Stewardship Incentive Fund, to be supported by monies allocated for forest programs from the Global Warming Solutions Fund. This fund would provide full and cost-sharing grants to applicants developing forest stewardship plans, support the DEP's program budget, and finance the management of State forests.
- The Office of Legislative Services (OLS) estimates that \$5.9 million could be available in FY 2010 to support the objectives of the bill. Annual estimates beyond FY 2010 could vary significantly, depending on market factors. Also, the allocation of funds between grants, program costs and forest management cannot be determined at this time.

BILL DESCRIPTION

Assembly Bill No. 3239 (1R) of 2008 directs the DEP to establish a forest stewardship program for owners of forest land who prepare forest stewardship plans for land five acres or greater. Forest stewardship plans would be subject to DEP approval and be valid for 10 years. The plans would be designed to ensure the sustainability of forest lands and be required to conform with all rules and regulations, policies, guidelines and best management practices adopted by the DEP pursuant to the bill.

The bill also directs the DEP to establish a forest certification program under which it may certify that forest land is managed in a sustainable manner. It further directs the DEP to establish a Forest Stewardship Incentive Fund, to be funded by monies allocated for programs that enhance the stewardship and restoration of the State's forests, from the Global Warming Solutions Fund created pursuant to section 6 of P.L.2007, c.340 (C..26:2C-50). The Incentive Fund is to be used for providing full and cost-sharing grants for the development of forest stewardship plans, paying the costs of the department to develop, implement and administer the provisions of the bill, and providing for the stewardship and management of State forests. Grants from the fund may be made to the owner of forest land for up to \$1,500 to pay for the cost of developing a forest stewardship plan. If the cost of developing a forest stewardship plan exceeds \$1,500, the department may also award 80 percent of the cost that exceeds \$1,500 to the owner, up to a maximum grant of \$2,500. The bill also limits the total amount allocated annually for cost-sharing grants to \$150,000.

The bill establishes a forest stewardship advisory council to develop, in consultation with the DEP, forest sustainability criteria and indicators specific to New Jersey and compatible with national standards. It also addresses forest stewardship plans as they relate to benefits received under farmland assessment rules. Last, the DEP is required to prepare a report every seven years based on these forest sustainability criteria and indicators.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although no fiscal note information was submitted by the DEP for the bill, it did provide fiscal note information on the original version of its companion bill, Senate Bill No. 713 of 2008. This information is presented here for background and comparative purposes. Relative to the original Senate bill, the DEP estimated that it would incur administrative costs totaling \$342,800, \$350,600 and \$360,000 respectively over the first three years of the program. The department's estimates were based on the salary costs of three State Foresters, two clerical employees and related operating expenses. The department estimated that 1,200 compliance inspections, 300 stewardship plan reviews, and 4,350 plan applications would be conducted or processed annually by the State Foresters. Fees charged for these services, which are not required under the amended version of the subject bill, were estimated at \$367,500 annually.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurred with the DEP estimates for Senate Bill No. 713 as introduced, and still finds the administrative cost estimates valid for the subject bill. Since program fees are not required under the bill, program costs will be covered under the annual allocation received from

the Global Warming Solutions Fund, which is estimated at \$5.9 million for FY 2010. This amount is based on a DEP projection of \$64 million in greenhouse gas emission allowances being purchased in FY 2010 and deposited into the Global Warming Solutions Fund. Pursuant to section 7 of P.L.2007, c.340, which implements the policies of the “Global Warming Response Act” (P.L.2007, c.112), 10 percent (after administrative costs) of annual revenues generated from emission allowance purchases must be allocated to support programs that enhance the stewardship and restoration of the State’s forests and tidal marshes. During State Budget hearings before the Legislature in April, 2009, the DEP projected a \$5.9 million allocation for these purposes during FY 2010.

The OLS notes that the FY 2010 projection reflects only one year and therefore can vary greatly from year to year, depending on the price of allowances sold at any given time. It should also be remembered that the estimated revenue level assumes that all available allowances will be purchased at one price, which may or may not be the case.

The OLS further notes that it does not have sufficient data or input from the DEP to estimate how available funding would ultimately be budgeted between grants, program costs, forest management and tidal marsh restoration. Last, the bill’s farmland assessment provisions may reduce municipal property tax collections by exempting farmland, approved under a forest stewardship plan, from meeting current income threshold requirements to qualify for farmland assessment benefits.

Section: Environment, Agriculture, Energy and Natural Resources

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Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).