

40:12-16

LEGISLATIVE HISTORY CHECKLIST
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(Recreation & conservation)

NJSA: 40:12-16

LAWS OF: 1997 **CHAPTER:** 24

BILL NO: S1110/S1558

SPONSOR(S): Kyrillos and others

DATE INTRODUCED: May 9, 1996

COMMITTEE: **ASSEMBLY:** ---

SENATE: Budget; Natural Resources

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Senate committee substitute by superscript numbers
(3R) enacted

DATE OF PASSAGE: **ASSEMBLY:** September 26, 1996 Re-enacted 1-29-97

SENATE: June 27, 1996 Re-enacted 10-3-96

DATE OF APPROVAL: March 3, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes 6-17-96 & 6-6-96

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 1110 and 1158

STATE OF NEW JERSEY

ADOPTED JUNE 6, 1996

Sponsored by Senators KYRILLOS, CIESLA, INVERSO
and Assemblyman Corodemus

1 AN ACT concerning recreation and conservation, farmland
2 preservation, and historic preservation, amending R.S.40:12-14
3 and P.L.1992, c.157, supplementing Title 40 of the Revised
4 Statutes, and repealing parts of the statutory law.

5

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

8

9 1. (New section) As used in this act:

10 "Acquisition" means the securing of a fee simple or a lesser interest
11 in land, including but not limited to an easement restricting
12 development, by gift, purchase, installment purchase agreement,
13 devise, or condemnation;

14 "Charitable conservancy" means a corporation or trust exempt
15 from federal income taxation under paragraph (3) of subsection (c) of
16 section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C.
17 §501(c)(3)), whose purposes include (1) acquisition and preservation
18 of lands in a natural, scenic, or open condition, or (2) historic
19 preservation of historic properties, structures, facilities, sites, areas, or
20 objects, or the acquisition of such properties, structures, facilities,
21 sites, areas, or objects for historic preservation purposes;

22 "County trust fund" means a "County Open Space, Recreation, and
23 Farmland and Historic Preservation Trust Fund" created pursuant to
24 subsection c. of section 2 of this act;

25 "Development" means any improvement to land acquired for

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 20, 1996.

² Assembly floor amendments adopted July 18, 1996.

³ Senate amendments adopted in accordance with Governor's recommendations December 19, 1996.

1 recreation and conservation purposes designed to expand and enhance
2 its utilization for those purposes;

3 "Farmland" means land actively devoted to agricultural or
4 horticultural use that is valued, assessed, and taxed pursuant to the
5 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
6 seq.);

7 "Farmland preservation purposes" means the long-term
8 preservation of farmland for agricultural or horticultural use;

9 "Historic preservation" means the performance of any work
10 relating to the stabilization, repair, rehabilitation, renovation,
11 restoration, improvement, protection, or preservation of a historic
12 property, structure, facility, site, area, or object;

13 "Historic property, structure, facility, site, area, or object" means
14 any property, structure, facility, site, area, or object approved for
15 inclusion, or which meets the criteria for inclusion, in the New Jersey
16 Register of Historic Places pursuant to P.L.1970, c.268
17 (C.13:1B-15.128 et seq.);

18 "Land" or "lands" means real property, including improvements
19 thereof or thereon, rights-of-way, water, lakes, riparian and other
20 rights, easements, privileges and all other rights or interests of any
21 kind or description in, relating to or connected with real property;

22 "Municipal trust fund" means a "Municipal Open Space,
23 Recreation, and Farmland and Historic Preservation Trust Fund"
24 created pursuant to subsection c. of section 7 of this act;

25 "Public indoor recreation" means public recreation in enclosed
26 structures or facilities, and includes but is not limited to swimming
27 pools, basketball courts, and ice skating rinks open for public use; and

28 "Recreation and conservation purposes" means the use of lands for
29 parks, open space, natural areas, ecological and biological study,
30 forests, water reserves, wildlife preserves, fishing, hunting, camping,
31 boating, winter sports, or similar uses for either public outdoor
32 recreation or conservation of natural resources, or both, or the use of
33 lands for public indoor recreation.

34

35 2. (New section) a. (1) The governing body of any county may
36 submit to the voters of the county in a general or special election a
37 proposition authorizing imposition of an annual levy for an amount or
38 at a rate deemed appropriate for any or all of the following purposes,
39 or any combination thereof, as determined by the governing body:

40 (a) acquisition of lands for recreation and conservation purposes;

41 (b) development of lands acquired for recreation and conservation
42 purposes;

43 (c) maintenance of lands acquired for recreation and conservation
44 purposes;

45 (d) acquisition of farmland for farmland preservation purposes;

46 (e) historic preservation of historic properties, structures,

1 facilities, sites, areas, or objects, and the acquisition of such
2 properties, structures, facilities, sites, areas, or objects for historic
3 preservation purposes; or

4 (f) payment of debt service on indebtedness issued or incurred by
5 a county for any of the purposes set forth in subparagraphs (a), (b), (d)
6 or (e) of this paragraph.

7 (2) The amount or rate of the annual levy may be subdivided in the
8 proposition to reflect the relative portions thereof to be allocated to
9 any of the respective purposes specified in paragraph (1) of this
10 subsection or may be depicted as a total amount or rate, to be
11 subdivided in a manner determined previously, or to be determined at
12 a later date, by the governing body of the county after conducting at
13 least one public hearing thereon.

14 b. Upon approval of the proposition by a majority of the votes
15 cast by the voters of the county, the governing body of the county may
16 annually raise by taxation a sum not to exceed the amount or rate set
17 forth in the proposition approved by the voters for the purposes
18 specified therein. If the amount or rate set forth in the proposition
19 was not subdivided among the various purposes, the governing body
20 of the county may determine the appropriate amount or rate to be
21 allocated to each purpose after conducting at least one public hearing
22 thereon.

23 c. Amounts raised by the levy imposed pursuant to this section
24 shall be deposited into a "County Open Space, Recreation, and
25 Farmland and Historic Preservation Trust Fund" to be created by the
26 county, and shall be used exclusively for the purposes authorized by
27 the voters of the county. Any interest or other income earned on
28 monies deposited into the county trust fund shall be credited to the
29 fund to be used for the same purposes as the principal. Separate
30 accounts may be created within the county trust fund for the deposit
31 of revenue to be expended for each of the purposes specified in the
32 proposition approved by the voters of the county.

33 d. (1) (a) Selection of lands for acquisition for recreation and
34 conservation purposes shall be in accordance with an open space and
35 recreation plan prepared and adopted by the county.

36 (b) Selection of projects to develop or maintain lands acquired for
37 recreation and conservation purposes shall be in accordance with a
38 open space and recreation development and maintenance plan prepared
39 and adopted by the county.

40 (c) Selection of farmland for acquisition for farmland preservation
41 purposes shall be in accordance with a farmland preservation plan
42 prepared and adopted by the county or pursuant to the provisions of
43 the "Agriculture Retention and Development Act," P.L.1983, c.32
44 (C.4:1C-11 et al.) or any other law enacted for the purpose of
45 preserving farmland, or any rules or regulations adopted pursuant
46 thereto.

1 (d) Selection of historic preservation projects shall be in
2 accordance with a historic preservation plan prepared and adopted by
3 the county.

4 (2) Monies in the county trust fund may be used to pay the cost
5 of preparing and adopting the plans required by this subsection.

6 e. The governing body of a county may submit to the voters of the
7 county in a general or special election a proposition amending or
8 supplementing a proposition previously submitted, approved, and
9 implemented as provided pursuant to this section either (1) changing
10 the amount or rate of the annual levy, or (2) adding or removing
11 purposes authorized pursuant to this section for which the levy may be
12 expended. Upon approval of the amendatory or supplementary
13 proposition by a majority of the votes cast by the voters of the county,
14 the governing body of the county shall implement it in the same
15 manner as set forth in this act for implementation of the original
16 proposition.

17 f. Upon petition to the governing body of a county signed by the
18 voters of the county equal in number to at least 15% of the votes cast
19 therein at the last preceding general election, filed with the governing
20 body at least 90 days before a general or special election, the
21 governing body of the county shall submit to the voters of the county
22 in the general or special election the proposition otherwise authorized
23 pursuant to subsection a. or subsection e. of this section, as the case
24 may be.

25
26 3. (New section) a. Any county whose voters, prior to the
27 effective date of this act, approved pursuant to P.L.1989, c.30
28 (C.40:12-16 et seq.) a proposition authorizing the acquisition of lands
29 for conservation as open space or as farmland shall be deemed to have
30 approved a proposition for ¹[any or all of]¹ the purposes specified in
31 paragraph (1) of subsection a. of section 2 of this act ¹. but excluding
32 the ²[purposes] purpose² specified in ²[subparagraphs (b) and]
33 subparagraph² (c) of that paragraph if the proposition was approved
34 prior to the 24 months immediately preceding the effective date of
35 P.L..... c.....(C.....)(now pending before the Legislature as this
36 bill).¹ at the amount or rate specified in the original proposition, which
37 purposes shall be determined by ²adoption of a resolution or
38 ordinance, as appropriate, by² the governing body of the county after
39 conducting at least one public hearing thereon ³and subject to the
40 requirements of subsections b., c. and d. of this section³ . The county
41 open space and farmland preservation trust fund created for the
42 purposes of P.L.1989, c.30 (C.40:12-16 et seq.) shall be dissolved and
43 any monies remaining therein shall be deposited into the "County Open
44 Space, Recreation, and Farmland and Historic Preservation Trust
45 Fund" created pursuant to subsection c. of section 2 of this act to be
46 utilized for the purposes determined by the governing body of the

1 county as authorized pursuant to this subsection.

2 ³b. A county shall not expend more than \$100,000 for any
3 proposed project or use to be undertaken pursuant to a resolution or
4 ordinance adopted pursuant to subsection a. of this section authorizing
5 a purpose specified in subparagraphs (b), (c), or (f) of paragraph (1)
6 of subsection a. of section 2 of this act, unless the governing body of
7 the county first conducts a public hearing on the proposed project or
8 use and adopts a resolution or ordinance, as appropriate, authorizing
9 the expenditure. Any public hearing required pursuant to this
10 subsection shall be held at least 45 days before the governing body of
11 the county takes action to adopt the resolution or ordinance
12 authorizing the expenditure.

13 c. In addition to any other applicable requirements of law, rule or
14 regulation, the governing body of the county shall provide notice of
15 the public hearing required pursuant to subsection b. of this section at
16 least 30 days before the date of the hearing as follows:

17 (1) By mailing or otherwise providing a copy of the notice to: (a)
18 the county clerk and to the municipal clerk of every municipality in
19 which the land or lands affected by the proposed project or use are
20 located; and (b) any person who requests in writing of the governing
21 body to receive in advance such notices; and

22 (2) By publishing the notice in a daily or weekly newspaper of
23 general circulation in the county and each municipality in which the
24 land or lands to be affected by the proposed project or use are located.

25 d. The governing body of the county shall include the following
26 information in all notices required pursuant to subsection c. of this
27 section: (1) a general description of the proposed project or use and
28 the location of the land or lands to be affected; (2) the aggregate
29 amount of monies to be utilized for the proposed project or use; (3) a
30 schedule setting forth the anticipated commencement and completion
31 date for the proposed project or use; (4) the date, time, and place of
32 the public hearing; (5) a statement that the public may submit written
33 comments to the governing body of the county on or before the date
34 of the public hearing; and (6) the name and address of the person
35 designated by the governing body of the county to receive the written
36 comments and to contact for additional information.³

37 ³[b.] e.³ Any county whose voters, prior to the effective date of
38 this act, approved pursuant to R.S.40:12-10 et seq. a proposition
39 authorizing the establishment, maintenance, and improvement of a
40 system of public recreation shall be deemed to have approved a
41 proposition for any or all of the purposes specified in paragraph (1) of
42 subsection a. of section 2 of this act at the amount or rate specified in
43 the original proposition, which purposes shall be determined by
44 ²adoption of a resolution or ordinance, as appropriate, by² the
45 governing body of the county after conducting at least one public
46 hearing thereon. Any fund created for the purposes of R.S.40:12-10

1 et seq. shall be dissolved and any monies remaining therein shall be
2 deposited into the "County Open Space, Recreation, and Farmland and
3 Historic Preservation Trust Fund" created pursuant to subsection c. of
4 section 2 of this act to be utilized for the purposes determined by the
5 governing body of the county as authorized pursuant to this
6 subsection.

7

8 4. (New section) Lands acquired by a county using revenue raised
9 pursuant to this act shall be held in trust and shall be used exclusively
10 for the purposes authorized under this act.

11 After conducting at least one public hearing thereon and upon a
12 finding that the purposes of this act might otherwise be better served
13 or that any land acquired by a county pursuant thereto is required for
14 another public use, which finding shall be set forth in a resolution or
15 ordinance, as appropriate, adopted by the governing body of the
16 county, the governing body may convey, through sale, exchange,
17 transfer, or other disposition, title to, or a lesser interest in, that land,
18 provided that the governing body shall replace any land conveyed
19 under this section by land of at least equal fair market value and of
20 reasonably equivalent usefulness, size, quality, and location to the land
21 conveyed, and any monies derived from the conveyance shall be
22 deposited into the "County Open Space, Recreation, and Farmland and
23 Historic Preservation Trust Fund" created pursuant to subsection c. of
24 section 2 of this act for use for the purposes authorized by this act for
25 monies in the county trust fund. Any such conveyance shall be made
26 in accordance with the "Local Lands and Buildings Law," P.L.1971,
27 c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange,
28 the land or improvements thereon to be transferred to the trust shall
29 be at least equal in fair market value and of reasonably equivalent
30 usefulness, size, quality, and location to the land or improvements
31 transferred from the trust.

32

33 5. (New section) Amounts raised by taxation for the purposes of
34 this act shall be apportioned by the county board of taxation among
35 the municipalities within the county in accordance with R.S.54:4-49.
36 The amounts so apportioned shall be assessed, levied and collected in
37 the same manner and at the same time as other county taxes. The tax
38 collected pursuant to this act shall be referred to as the "County Open
39 Space, Recreation, and Farmland and Historic Preservation Tax."

40

41 6. (New section) a. The governing body of any county in which
42 the voters of the county have approved a proposition in accordance
43 with this act may adopt a resolution authorizing the distribution of
44 monies deposited into the "County Open Space, Recreation, and
45 Farmland and Historic Preservation Trust Fund" created pursuant to
46 subsection c. of section 2 of this act, in such portions as deemed

1 appropriate, to municipalities within the county or to charitable
2 conservancies, to be used in the county by those municipalities or
3 charitable conservancies for the purposes of this act in accordance
4 with the provisions, conditions, and requirements of thereof, provided
5 that any municipality or charitable conservancy receiving such monies
6 has presented a plan to the county documenting the proposed use of
7 the monies.

8 b. Lands acquired by a municipality pursuant to this section shall
9 be held in trust and shall be used exclusively for the purposes
10 authorized by this act.

11 c. The governing body of a municipality acquiring lands using
12 monies received pursuant to this section shall have full control of the
13 lands and may adopt an ordinance providing for (1) suitable rules,
14 regulations, and bylaws for use of the lands, (2) the enforcement of
15 those rules, regulations and bylaws, and (3) when appropriate, the
16 charging and collection of reasonable fees for use of the lands or for
17 activities conducted thereon.

18 d. In order to qualify to receive monies from a county trust fund
19 pursuant to this section, the board of directors, board of trustees, or
20 other governing body, as appropriate, of an applying charitable
21 conservancy shall:

22 (1) demonstrate to the governing body of the county that it
23 qualifies as a charitable conservancy;

24 (2) agree to use the monies only in connection with lands located
25 in the county and for the purposes authorized by this act;

26 (3) agree to make and keep the lands accessible to the public,
27 unless the governing body of the county determines that public
28 accessibility would be detrimental to the lands or to any natural or
29 historic resources associated therewith;

30 (4) agree not to sell, lease, exchange, transfer, or donate the lands
31 for which the monies received were allocated for use pursuant to this
32 section, except upon approval of the governing body of the county
33 under such conditions as the governing body may establish; and

34 (5) agree to execute and donate to the county at no charge (a) a
35 conservation restriction or historic preservation restriction, as the case
36 may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), or (b) a
37 development easement, as defined pursuant to section 3 of P.L.1983,
38 c.32 (C.4:1C-13), as appropriate, on the lands for which the monies
39 received were allocated for use pursuant to this section.

40

41 7. (New section) a. (1) The governing body of any municipality
42 may submit to the voters of the municipality in a general or special
43 election a proposition authorizing imposition of an annual levy for an
44 amount or at a rate deemed appropriate for any or all of the following
45 purposes, or any combination thereof, as determined by the governing
46 body:

- 1 (a) acquisition of lands for recreation and conservation purposes;
2 (b) development of lands acquired for recreation and conservation
3 purposes;
4 (c) maintenance of lands acquired for recreation and conservation
5 purposes;
6 (d) acquisition of farmland for farmland preservation purposes;
7 (e) historic preservation of historic properties, structures, facilities,
8 sites, areas, or objects, and the acquisition of such properties,
9 structures, facilities, sites, areas, or objects for historic preservation
10 purposes; or
11 (f) payment of debt service on indebtedness issued or incurred by
12 a municipality for any of the purposes set forth in subparagraphs (a),
13 (b), (d) or (e) of this paragraph.
14 (2) The amount or rate of the annual levy may be subdivided in the
15 proposition to reflect the relative portions thereof to be allocated to
16 any of the respective purposes specified in paragraph (1) of this
17 subsection or may be depicted as a total amount or rate, to be
18 subdivided in a manner determined previously, or to be determined at
19 a later date, by the governing body of the municipality after
20 conducting at least one public hearing thereon.
21 b. Upon approval of the proposition by a majority of the votes cast
22 by the voters of the municipality, the governing body of the
23 municipality may annually raise by taxation a sum not to exceed the
24 amount or rate set forth in the proposition approved by the voters for
25 the purposes specified therein. If the amount or rate set forth in the
26 proposition was not subdivided among the various purposes, the
27 governing body of the municipality may determine the appropriate
28 amount or rate to be allocated to each purpose after conducting at
29 least one public hearing thereon.
30 c. Amounts raised by the levy imposed pursuant to this section
31 shall be deposited into a "Municipal Open Space, Recreation, and
32 Farmland and Historic Preservation Trust Fund" to be created by the
33 municipality, and shall be used exclusively for the purposes authorized
34 by the voters of the municipality. Any interest or other income earned
35 on monies deposited into the municipal trust fund shall be credited to
36 the fund to be used for the same purposes as the principal. Separate
37 accounts may be created within the municipal trust fund for the deposit
38 of revenue to be expended for each of the purposes specified in the
39 proposition approved by the voters of the municipality.
40 d. The governing body of a municipality may submit to the voters
41 of the municipality in a general or special election a proposition
42 amending or supplementing a proposition previously submitted,
43 approved, and implemented as provided pursuant to this section either
44 (1) changing the amount or rate of the annual levy, or (2) adding or
45 removing purposes authorized pursuant to this section for which the
46 levy may be expended. Upon approval of the amendatory or

1 supplementary proposition by a majority of the votes cast by the voters
2 of the municipality, the governing body of the municipality shall
3 implement it in the same manner as set forth in this act for
4 implementation of the original proposition.

5 e. Upon petition to the governing body of a municipality signed by
6 the voters of the municipality equal in number to at least 15% of the
7 votes cast therein at the last preceding general election, filed with the
8 governing body at least 90 days before a general or special election,
9 the governing body of the municipality shall submit to the voters of the
10 municipality in the general or special election the proposition
11 otherwise authorized pursuant to subsection a. or subsection d. of this
12 section, as the case may be.

13

14 8. (New section) Any municipality whose voters, prior to the
15 effective date of this act, approved pursuant to R.S.40:12-10 et seq.
16 a proposition authorizing the establishment, maintenance, and
17 improvement of a system of public recreation shall be deemed to have
18 approved a proposition for any or all of the purposes specified in
19 paragraph (1) of subsection a. of section 7 of this act at the amount or
20 rate specified in the original proposition, which purposes shall be
21 determined by 2adoption of an ordinance by² the governing body of
22 the municipality after conducting at least one public hearing thereon.
23 Any fund created for the purposes of R.S.40:12-10 et seq. shall be
24 dissolved and any monies remaining therein shall be deposited into the
25 "Municipal Open Space, Recreation, and Farmland and Historic
26 Preservation Trust Fund" created pursuant to subsection c. of section
27 7 of this act to be utilized for the purposes determined by the
28 governing body of the municipality as authorized pursuant to this
29 section.

30

31 9. (New section) Lands acquired by a municipality using revenue
32 raised pursuant to this act shall be held in trust and shall be used
33 exclusively for the purposes authorized under this act.

34 After conducting at least one public hearing thereon and upon a
35 finding that the purposes of this act might otherwise be better served
36 or that any land acquired by a municipality pursuant thereto is required
37 for another public use, which finding shall be set forth in an ordinance
38 adopted by the governing body of the municipality, the governing body
39 may convey, through sale, exchange, transfer, or other disposition,
40 title to, or a lesser interest in, that land, provided that the governing
41 body shall replace any land conveyed under this section by land of at
42 least equal fair market value and of reasonably equivalent usefulness,
43 size, quality, and location to the land conveyed, and any monies
44 derived from the conveyance shall be deposited into the "Municipal
45 Open Space, Recreation, and Farmland and Historic Preservation
46 Trust Fund" created pursuant to subsection c. of section 7 of this act

1 for use for the purposes authorized by this act for monies in the
2 municipal trust fund. Any such conveyance shall be made in
3 accordance with the "Local Lands and Buildings Law," P.L.1971,
4 c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange,
5 the land or improvements thereon to be transferred to the trust shall
6 be at least equal in fair market value and of reasonably equivalent
7 usefulness, size, quality, and location to the land or improvements
8 transferred from the trust.

9

10 10. R.S.40:12-14 is amended to read as follows:

11 40:12-14. Any two or more municipalities may jointly establish,
12 maintain, and improve, or maintain and improve if already established,
13 a public recreation system including parks, open space, and
14 playgrounds **【**, as provided in R.S.40:12-10 through R.S.40:12-13**】**.
15 (cf: P.L.1993, c.37, s.3)

16

17 11. Section 7 of P.L.1992, c.157 (C.40:12-16.1) is amended to
18 read as follows:

19 7. The county agriculture development board of a county in which
20 the voters of the county have approved, in a general or special
21 election, a proposition authorizing the acquisition of lands for
22 **【**conservation as open space or as**】** farmland preservation purposes
23 pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) or P.L. , c. (C.)
24 (now before the Legislature as this bill) shall, pursuant to the
25 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), adopt a
26 prioritized list of farmland eligible for acquisition of development
27 easements thereon by installment purchase agreements pursuant to the
28 provisions of P.L.1992, c.157 (C.40:12-16.1 et al.) if the county
29 intends to acquire development easements on farmland in that manner.
30 The governing body of the county shall annually appropriate from the
31 **【**county open space and farmland preservation trust fund**】** "County
32 Open Space, Recreation, and Farmland and Historic Preservation
33 Trust Fund" created pursuant to subsection c. of section 2 of P.L. ,
34 c. (C.) (now before the Legislature as this bill) such amounts as
35 it may deem necessary to finance the acquisition of development
36 easements on farmland within that county by installment purchase
37 agreement.

38 (cf: P.L.1992, c.157, s.7)

39

40 12. R.S.40:12-10 through R.S.40:12-13, ³**【**sections 1, 2, 3, and 4
41 of**】**³ P.L.1989, c.30 ³**【**(C.40:12-16; 40:12-17; 40:12-18; and 40:12-
42 19), and**】** (C.40:12-16 et seq.), and³ section 1 of P.L.1994, c.125
43 (C.40:12-19.1) are repealed; however, any proposition proposed
44 thereunder and scheduled prior to the effective date of this act for
45 placement on the ballot may nevertheless be placed on the ballot for

1 consideration by the voters of the county or municipality, as the case
2 may be, but shall be implemented as provided pursuant to this act.

3

4 13. This act shall take effect immediately and shall retroactively
5 apply to any proposition identical or similar to that described in this
6 act that is approved by the voters of any county or municipality, as the
7 case may be, prior to the effective date of this act.

8

9

10

11

12 Consolidates and revises county and municipal open space and
13 farmland tax referendum laws.

SENATE, No. 1110

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senator INVERSO

1 AN ACT concerning open space and farmland preservation by certain
2 counties, and amending P.L.1989, c.30, and P.L.1992, c.157.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1989, c.30 (C.40:12-16) is amended to read as
8 follows:

9 1. The governing body of any county in which the voters of the
10 county have approved, in a general or special election, a proposition
11 authorizing the acquisition, maintenance, or improvement of lands for
12 conservation as open space or the acquisition of lands for conservation
13 as farmland, may annually raise by taxation, including for purpose of
14 debt service payments on indebtedness issued for the acquisition, u
15 maintenance, or improvement of open space or the acquisition of
16 farmland, a sum not to exceed the amount or rate set forth in the
17 proposition approved by the voters, for the acquisition, maintenance,
18 or improvement of land or water areas, and any existing improvements
19 thereon, within the county for conservation as open space or the
20 acquisition of land within the county for conservation as farmland.
21 Amounts raised by taxation hereunder shall be deposited in a county
22 open space and farmland preservation trust fund and shall be used
23 exclusively for the acquisition, maintenance, or improvement of open
24 space or the acquisition of farmland. Separate accounts may be
25 created within the county open space and farmland preservation trust
26 fund for the deposit of revenue to be expended for the acquisition, u
27 maintenance, or improvement of open space areas and for the deposit
28 of revenue to be expended for the acquisition of farmland. Selection
29 of open space for acquisition shall be in accordance with a park,
30 recreational and open space plan prepared and adopted by the county.
31 Revenue to be expended for the acquisition of farmland may be
32 expended pursuant to a farmland preservation plan prepared and
33 adopted by the county or pursuant to the provisions of the
34 "Agriculture Retention and Development Act," P.L.1983, c.32

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

Matter underlined thus is new matter.

1 (C.4:1C-11 et al.) or any other law enacted for the purpose of
2 preserving farmland.

3 Whenever the county shall determine that it is necessary that any
4 public utility facilities such as tracks, pipes, mains, conduits, cables,
5 wires, towers, poles and other equipment and appliances of any public
6 utility, as defined in R.S.48:2-13, which are now, or hereafter may be,
7 located in, on, along, over or under any open space acquired by the
8 county, should be removed from such area, the public utility owning
9 or operating such facilities shall relocate or remove the same in
10 accordance with the open space plan prepared and adopted by the
11 county; except that the cost and expenses of such relocation or
12 removal, including the cost of installing such facilities in a new
13 location or new locations, and the cost of any lands, or any rights or
14 interests in lands, and any other rights acquired to accomplish such
15 relocation or removal, less the cost of any lands or any rights of the
16 public utility paid to the public utility in connection with the relocation
17 or removal of such property, shall be ascertained and paid by the
18 county as a part of the cost of the acquisition. In case of any such
19 relocation or removal of facilities, as aforesaid, the public utility
20 owning or operating the same, its successors or assigns, may maintain
21 and operate such facilities, with the necessary appurtenances, in the
22 new location, for as long a period, and upon the same terms and
23 conditions, as it had the right to maintain and operate such facilities in
24 their former location.

25 As used in this act:

26 "Acquisition" means the securing of a fee simple absolute or a lesser
27 interest in land or water areas, including easements restricting
28 development, by gift, purchase, devise, installment purchase
29 agreement, or condemnation.

30 "Farmland" means land actively devoted to agricultural or
31 horticultural use that is valued, assessed and taxed pursuant to the
32 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
33 seq.).

34 "Open space" means land or water areas to be retained in a largely
35 natural or undeveloped state, for purposes of, among other things,
36 providing parkland or green spaces, protecting ecologically sensitive
37 areas, preserving flora and wildlife, or protecting or preserving areas
38 of scenic, historic and cultural value, while at the same time affording,
39 whenever practicable, public outdoor recreational opportunities for the
40 county's residents. "Open space" may include a recreational area such
41 as a golf course if the acquisition subserves the objective of this act of
42 protecting a largely undeveloped area from future development.
43 (cf: P.L.1992, c.157, s.1)

44
45 2. Section 7 of P.L.1992, c.157 (C.40:12-16.1) is amended to read
46 as follows:

1 7. The county agriculture development board of a county in which
2 the voters of the county have approved, in a general or special
3 election, a proposition authorizing the acquisition , maintenance, or
4 improvement of lands for conservation as open space or the
5 acquisition of lands for conservation as farmland pursuant to
6 P.L.1989, c.30 (C.40:12-16 et seq.) shall, pursuant to the provisions
7 of section 24 of P.L.1983, c.32 (C.4:1C-31), adopt a prioritized list of
8 farmland eligible for acquisition of development easements thereon by
9 installment purchase agreements pursuant to the provisions of
10 P.L.1992, c.157 (C.40:12-16.1 et al.) if the county intends to acquire
11 development easements on farmland in that manner. The governing
12 body of the county shall annually appropriate from the county open
13 space and farmland preservation trust fund such amounts as it may
14 deem necessary to finance the acquisition of development easements
15 on farmland within that county by installment purchase agreement.
16 (cf: P.L.1992, c.157, s.7)

17

18 3. Section 3 of P.L.1989, c.30 (C.40:12-18) is amended to read as
19 follows:

20 3. Amounts raised by taxation for the acquisition , maintenance, or
21 improvement of open space or the acquisition of farmland pursuant to
22 this act shall be apportioned by the county board of taxation among
23 the municipalities within the county in accordance with R.S.54:4-49.
24 The amounts so apportioned shall be assessed, levied and collected in
25 the same manner and at the same time as other county taxes. The tax
26 collected hereunder shall be referred to as the "County Open Space
27 and Farmland Preservation Trust Fund Tax."

28 (cf: P.L.1992, c.157, s.3)

29

30 4. This act shall take effect immediately and shall also apply
31 retroactively to any monies raised prior to the effective date of this act
32 through a proposition approved by the voters of a county pursuant to
33 section 1 of P.L.1989, c.30 (C.40:12-16).

34

35

36 SPONSOR'S STATEMENT

37

38 This bill would amend the law authorizing any county to adopt a
39 county open space and farmland preservation trust fund tax to provide
40 that the tax revenues may also be used for the maintenance and
41 improvement of open space within the county.

1

2

3 Authorizes counties to use "County Open Space and Farmland
4 Preservation Trust Fund Tax" revenues for maintenance or
5 improvement of open space.

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SENATE, No. 1158

STATE OF NEW JERSEY

INTRODUCED MAY 16, 1996

By Senators KYRILLOS, CIESLA, Martin, Cafiero and
Bennett

1 AN ACT concerning recreation and conservation, farmland
2 preservation, and historic preservation, amending RS.40:12-14 and
3 P.L.1992, c.157, supplementing Title 40 of the Revised Statutes,
4 and repealing parts of the statutory law.

5

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

8

9 1. (New section) As used in this act:

10 "Acquisition" means the securing of a fee simple or a lesser interest
11 in land, including but not limited to an easement restricting
12 development, by gift, purchase, installment purchase agreement,
13 devise, or condemnation;

14 "Charitable conservancy" means a corporation or trust exempt from
15 federal income taxation under paragraph (3) of subsection (c) of
16 section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C.
17 §501(c)(3)), whose purposes include (1) acquisition and preservation
18 of lands in a natural, scenic, or open condition, or (2) historic
19 preservation of historic properties, structures, facilities, sites, areas, or
20 objects, or the acquisition of such properties, structures, facilities,
21 sites, areas, or objects for historic preservation purposes;

22 "County trust fund" means a "County Open Space, Recreation, and
23 Farmland and Historic Preservation Trust Fund" created pursuant to
24 subsection c. of section 2 of this act;

25 "Development" means any improvement to land acquired for
26 recreation and conservation purposes designed to expand and enhance
27 its utilization for those purposes;

28 "Farmland" means land actively devoted to agricultural or
29 horticultural use that is valued, assessed, and taxed pursuant to the
30 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
31 seq.);

32 "Farmland preservation purposes" means the long-term preservation
33 of farmland for agricultural or horticultural use;

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

Matter underlined thus is new matter.

1 "Historic preservation" means the performance of any work relating
2 to the stabilization, repair, rehabilitation, renovation, restoration,
3 improvement, protection, or preservation of a historic property,
4 structure, facility, site, area, or object;

5 "Historic property, structure, facility, site, area, or object" means
6 any property, structure, facility, site, area, or object approved for
7 inclusion, or which meets the criteria for inclusion, in the New Jersey
8 Register of Historic Places pursuant to P.L.1970, c.268
9 (C.13:1B-15.128 et seq.);

10 "Land" or "lands" means real property, including improvements
11 thereof or thereon, rights-of-way, water, lakes, riparian and other
12 rights, easements, privileges and all other rights or interests of any
13 kind or description in, relating to or connected with real property;

14 "Municipal trust fund" means a "Municipal Open Space, Recreation,
15 and Farmland and Historic Preservation Trust Fund" created pursuant
16 to subsection c. of section 7 of this act;

17 "Public indoor recreation" means public recreation in enclosed
18 structures or facilities, and includes but is not limited to swimming
19 pools, basketball courts, and ice skating rinks open for public use; and

20 "Recreation and conservation purposes" means the use of lands for
21 parks, open space, natural areas, ecological and biological study,
22 forests, water reserves, wildlife preserves, fishing, hunting, camping,
23 boating, winter sports, or similar uses for either public outdoor
24 recreation or conservation of natural resources, or both, or the use of
25 lands for public indoor recreation.

26

27 2. (New section) a. (1) The governing body of any county may
28 submit to the voters of the county in a general or special election a
29 proposition authorizing imposition of an annual levy for an amount or
30 at a rate deemed appropriate for any or all of the following purposes,
31 or any combination thereof, as determined by the governing body:

32 (a) acquisition of lands for recreation and conservation purposes;

33 (b) development of lands acquired for recreation and conservation
34 purposes;

35 (c) maintenance of lands acquired for recreation and conservation
36 purposes;

37 (d) acquisition of farmland for farmland preservation purposes;

38 (e) historic preservation of historic properties, structures, facilities,
39 sites, areas, or objects, and the acquisition of such properties,
40 structures, facilities, sites, areas, or objects for historic preservation
41 purposes; or

42 (f) payment of debt service on indebtedness issued or incurred by
43 a county for any of the purposes set forth in subparagraphs (a) through
44 (e) of this paragraph.

45 (2) The amount or rate of the annual levy may be subdivided in the
46 proposition to reflect the relative portions thereof to be allocated to

1 any of the respective purposes specified in paragraph (1) of this
2 subsection or may be depicted as a total amount or rate, to be
3 subdivided in a manner determined previously, or to be determined at
4 a later date, by the governing body of the county after conducting at
5 least one public hearing thereon.

6 b. Upon approval of the proposition by a majority of the votes cast
7 by the voters of the county, the governing body of the county may
8 annually raise by taxation a sum not to exceed the amount or rate set
9 forth in the proposition approved by the voters for the purposes
10 specified therein. If the amount or rate set forth in the proposition
11 was not subdivided among the various purposes, the governing body
12 of the county may determine the appropriate amount or rate to be
13 allocated to each purpose after conducting at least one public hearing
14 thereon.

15 c. Amounts raised by the levy imposed pursuant to this section
16 shall be deposited into a "County Open Space, Recreation, Farmland
17 and Historic Preservation Trust Fund" to be created by the county, and
18 shall be used exclusively for the purposes authorized by the voters of
19 the county. Any interest or other income earned on monies deposited
20 into the county trust fund shall be credited to the fund to be used for
21 the same purposes as the principal. Separate accounts may be created
22 within the county trust fund for the deposit of revenue to be expended
23 for each of the purposes specified in the proposition approved by the
24 voters of the county.

25 d. (1) (a) Selection of lands for acquisition for recreation and
26 conservation purposes shall be in accordance with an open space and
27 recreation plan prepared and adopted by the county.

28 (b) Selection of projects to develop or maintain lands acquired for
29 recreation and conservation purposes shall be in accordance with a
30 open space and recreation development and maintenance plan prepared
31 and adopted by the county.

32 (c) Selection of farmland for acquisition for farmland preservation
33 purposes shall be in accordance with a farmland preservation plan
34 prepared and adopted by the county or pursuant to the provisions of
35 the "Agriculture Retention and Development Act," P.L.1983, c.32
36 (C.4:1C-11 et al.) or any other law enacted for the purpose of
37 preserving farmland, or any rules or regulations adopted pursuant
38 thereto.

39 (d) Selection of historic preservation projects shall be in
40 accordance with a historic preservation plan prepared and adopted by
41 the county.

42 (2) Monies in the county trust fund may be used to pay the cost of
43 preparing and adopting the plans required by this subsection.

44 e. The governing body of a county may submit to the voters of the
45 county in a general or special election a proposition amending or
46 supplementing a proposition previously submitted, approved, and

1 implemented as provided pursuant to this section either (1) changing
2 the amount or rate of the annual levy, or (2) adding or removing
3 purposes authorized pursuant to this section for which the levy may be
4 expended. Upon approval of the amendatory or supplementary
5 proposition by a majority of the votes cast by the voters of the county,
6 the governing body of the county shall implement it in the same
7 manner as set forth in this act for implementation of the original
8 proposition.

9 f. Upon petition to the governing body of a county signed by the
10 voters of the county equal in number to at least 15% of the votes cast
11 therein at the last preceding general election, filed with the governing
12 body at least 90 days before a general or special election, the
13 governing body of the county shall submit to the voters of the county
14 in the general or special election the proposition otherwise authorized
15 pursuant to subsection a. or subsection e. of this section, as the case
16 may be.

17

18 3. (New section) a. Any county whose voters, prior to the
19 effective date of this act, approved pursuant to P.L.1989, c.30
20 (C.40:12-16 et seq.) a proposition authorizing the acquisition of lands
21 for conservation as open space or as farmland shall be deemed to have
22 approved a proposition for any or all of the purposes specified in
23 paragraph (1) of subsection a. of section 2 of this act at the amount or
24 rate specified in the original proposition, which purposes shall be
25 determined by the governing body of the county after conducting at
26 least one public hearing thereon. The county open space and farmland
27 preservation trust fund created for the purposes of P.L.1989, c.30
28 (C.40:12-16 et seq.) shall be dissolved and any monies remaining
29 therein shall be deposited into the "County Open Space, Recreation,
30 and Farmland and Historic Preservation Trust Fund" created pursuant
31 to subsection c. of section 2 of this act to be utilized for the purposes
32 determined by the governing body of the county as authorized
33 pursuant to this subsection.

34 b. Any county whose voters, prior to the effective date of this act,
35 approved pursuant to R.S.40:12-10 et seq. a proposition authorizing
36 the establishment, maintenance, and improvement of a system of public
37 recreation shall be deemed to have approved a proposition for any or
38 all of the purposes specified in paragraph (1) of subsection a. of
39 section 2 of this act at the amount or rate specified in the original
40 proposition, which purposes shall be determined by the governing
41 body of the county after conducting at least one public hearing
42 thereon. Any fund created for the purposes of R.S.40:12-10 et seq.
43 shall be dissolved and any monies remaining therein shall be deposited
44 into the "County Open Space, Recreation, and Farmland and Historic
45 Preservation Trust Fund" created pursuant to subsection c. of section
46 2 of this act to be utilized for the purposes determined by the

1 governing body of the county as authorized pursuant to this
2 subsection.

3

4 4. (New section) Lands acquired by a county using revenue raised
5 pursuant to this act shall be held in trust and shall be used exclusively
6 for the purposes authorized under this act.

7 After conducting at least one public hearing thereon and upon a
8 finding that the purposes of this act might otherwise be better served
9 or that any land acquired by a county pursuant thereto is required for
10 another public use, which finding shall be set forth in a resolution or
11 ordinance, as appropriate, adopted by the governing body of the
12 county, the governing body may convey, through sale, exchange,
13 transfer, or other disposition, title to, or a lesser interest in, that land,
14 provided that the governing body shall replace any land conveyed
15 under this section by land of at least equal fair market value and of
16 reasonably equivalent usefulness, size, quality, and location to the land
17 conveyed, and any monies derived from the conveyance shall be
18 deposited into the "County Open Space, Recreation, and Farmland and
19 Historic Preservation Trust Fund" created pursuant to subsection c. of
20 section 2 of this act for use for the purposes authorized by this act for
21 monies in the county trust fund. Any such conveyance shall be made
22 in accordance with the "Local Lands and Buildings Law," P.L.1971,
23 c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange,
24 the land or improvements thereon to be transferred to the trust shall
25 be at least equal in fair market value and of reasonably equivalent
26 usefulness, size, quality, and location to the land or improvements
27 transferred from the trust.

28

29 5. (New section) Amounts raised by taxation for the purposes of
30 this act shall be apportioned by the county board of taxation among
31 the municipalities within the county in accordance with R.S.54:4-49.
32 The amounts so apportioned shall be assessed, levied and collected in
33 the same manner and at the same time as other county taxes. The tax
34 collected pursuant to this act shall be referred to as the "County Open
35 Space, Recreation, and Farmland and Historic Preservation Tax."

36

37 6. (New section) a. The governing body of any county in which
38 the voters of the county have approved a proposition in accordance
39 with this act may adopt a resolution authorizing the distribution of
40 monies deposited into the "County Open Space, Recreation, and
41 Farmland and Historic Preservation Trust Fund" created pursuant to
42 subsection c. of section 2 of this act, in such portions as deemed
43 appropriate, to municipalities within the county or to charitable
44 conservancies, to be used in the county by those municipalities or
45 charitable conservancies for the purposes of this act in accordance
46 with the provisions, conditions, and requirements of thereof, provided

1 that any municipality or charitable conservancy receiving such monies
2 has presented a plan to the county documenting the proposed use of
3 the monies.

4 b. Lands acquired by a municipality pursuant to this section shall
5 be held in trust and shall be used exclusively for the purposes
6 authorized by this act.

7 c. The governing body of a municipality acquiring lands using
8 monies received pursuant to this section shall have full control of the
9 lands and may adopt an ordinance providing for (1) suitable rules,
10 regulations, and bylaws for use of the lands, (2) the enforcement of
11 those rules, regulations and bylaws, and (3) when appropriate, the
12 charging and collection of reasonable fees for use of the lands or for
13 activities conducted thereon.

14 d. In order to qualify to receive monies from a county trust fund
15 pursuant to this section, the board of directors, board of trustees, or
16 other governing body, as appropriate, of an applying charitable
17 conservancy shall:

18 (1) demonstrate to the governing body of the county that it
19 qualifies as a charitable conservancy;

20 (2) agree to use the monies only in connection with lands located
21 in the county and for the purposes authorized by this act;

22 (3) agree to make and keep the lands accessible to the public,
23 unless the governing body of the county determines that public
24 accessibility would be detrimental to the lands or to any natural or
25 historic resources associated therewith;

26 (4) agree not to sell, lease, exchange, transfer, or donate the lands
27 for which the monies received were allocated for use pursuant to this
28 section, except upon approval of the governing body of the county
29 under such conditions as the governing body may establish; and

30 (5) agree to execute and donate to the county at no charge (a) a
31 conservation restriction or historic preservation restriction, as the case
32 may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), or (b) a
33 development easement, as defined pursuant to section 3 of P.L.1983,
34 c.32 (C.4:1C-13), as appropriate, on the lands for which the monies
35 received were allocated for use pursuant to this section.

36

37 7. (New section) a. (1) The governing body of any municipality
38 may submit to the voters of the municipality in a general or special
39 election a proposition authorizing imposition of an annual levy for an
40 amount or at a rate deemed appropriate for any or all of the following
41 purposes, or any combination thereof, as determined by the governing
42 body:

43 (a) acquisition of lands for recreation and conservation purposes;

44 (b) development of lands acquired for recreation and conservation
45 purposes;

46 (c) maintenance of lands acquired for recreation and conservation

1 purposes;

2 (d) acquisition of farmland for farmland preservation purposes;

3 (e) historic preservation of historic properties, structures, facilities,
4 sites, areas, or objects, and the acquisition of such properties,
5 structures, facilities, sites, areas, or objects for historic preservation
6 purposes; or

7 (f) payment of debt service on indebtedness issued or incurred by
8 a municipality for any of the purposes set forth in subparagraphs (a)
9 through (e) of this paragraph.

10 (2) The amount or rate of the annual levy may be subdivided in the
11 proposition to reflect the relative portions thereof to be allocated to
12 any of the respective purposes specified in paragraph (1) of this
13 subsection or may be depicted as a total amount or rate, to be
14 subdivided in a manner determined previously, or to be determined at
15 a later date, by the governing body of the municipality after
16 conducting at least one public hearing thereon.

17 b. Upon approval of the proposition by a majority of the votes cast
18 by the voters of the municipality, the governing body of the
19 municipality may annually raise by taxation a sum not to exceed the
20 amount or rate set forth in the proposition approved by the voters for
21 the purposes specified therein. If the amount or rate set forth in the
22 proposition was not subdivided among the various purposes, the
23 governing body of the municipality may determine the appropriate
24 amount or rate to be allocated to each purpose after conducting at
25 least one public hearing thereon.

26 c. Amounts raised by the levy imposed pursuant to this section
27 shall be deposited into a "Municipal Open Space, Recreation,
28 Farmland and Historic Preservation Trust Fund" to be created by the
29 municipality, and shall be used exclusively for the purposes authorized
30 by the voters of the municipality. Any interest or other income earned
31 on monies deposited into the municipal trust fund shall be credited to
32 the fund to be used for the same purposes as the principal. Separate
33 accounts may be created within the municipal trust fund for the deposit
34 of revenue to be expended for each of the purposes specified in the
35 proposition approved by the voters of the municipality.

36 d. The governing body of a municipality may submit to the voters
37 of the municipality in a general or special election a proposition
38 amending or supplementing a proposition previously submitted,
39 approved, and implemented as provided pursuant to this section either
40 (1) changing the amount or rate of the annual levy, or (2) adding or
41 removing purposes authorized pursuant to this section for which the
42 levy may be expended. Upon approval of the amendatory or
43 supplementary proposition by a majority of the votes cast by the voters
44 of the municipality, the governing body of the municipality shall
45 implement it in the same manner as set forth in this act for
46 implementation of the original proposition.

1 e. Upon petition to the governing body of a municipality signed by
2 the voters of the municipality equal in number to at least 15% of the
3 votes cast therein at the last preceding general election, filed with the
4 governing body at least 90 days before a general or special election,
5 the governing body of the municipality shall submit to the voters of the
6 municipality in the general or special election the proposition
7 otherwise authorized pursuant to subsection a. or subsection d. of this
8 section, as the case may be.

9
10 8. (New section) Any municipality whose voters, prior to the
11 effective date of this act, approved pursuant to R.S.40:12-10 et seq.
12 a proposition authorizing the establishment, maintenance, and
13 improvement of a system of public recreation shall be deemed to have
14 approved a proposition for any or all of the purposes specified in
15 paragraph (1) of subsection a. of section 7 of this act at the amount or
16 rate specified in the original proposition, which purposes shall be
17 determined by the governing body of the municipality after conducting
18 at least one public hearing thereon. Any fund created for the purposes
19 of R.S.40:12-10 et seq. shall be dissolved and any monies remaining
20 therein shall be deposited into the "Municipal Open Space, Recreation,
21 and Farmland and Historic Preservation Trust Fund" created pursuant
22 to subsection c. of section 7 of this act to be utilized for the purposes
23 determined by the governing body of the municipality as authorized
24 pursuant to this section.

25
26 9. (New section) Lands acquired by a municipality using revenue
27 raised pursuant to this act shall be held in trust and shall be used
28 exclusively for the purposes authorized under this act.

29 After conducting at least one public hearing thereon and upon a
30 finding that the purposes of this act might otherwise be better served
31 or that any land acquired by a municipality pursuant thereto is required
32 for another public use, which finding shall be set forth in an ordinance
33 adopted by the governing body of the municipality, the governing body
34 may convey, through sale, exchange, transfer, or other disposition,
35 title to, or a lesser interest in, that land, provided that the governing
36 body shall replace any land conveyed under this section by land of at
37 least equal fair market value and of reasonably equivalent usefulness,
38 size, quality, and location to the land conveyed, and any monies
39 derived from the conveyance shall be deposited into the "Municipal
40 Open Space, Recreation, and Farmland and Historic Preservation
41 Trust Fund" created pursuant to subsection c. of section 7 of this act
42 for use for the purposes authorized by this act for monies in the
43 municipal trust fund. Any such conveyance shall be made in
44 accordance with the "Local Lands and Buildings Law," P.L.1971,
45 c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange,
46 the land or improvements thereon to be transferred to the trust shall

1 be at least equal in fair market value and of reasonably equivalent
2 usefulness, size, quality, and location to the land or improvements
3 transferred from the trust.

4

5 10. R.S.40:12-14 is amended to read as follows:

6 40:12-14. Any two or more municipalities may jointly establish,
7 maintain, and improve, or maintain and improve if already established,
8 a public recreation system including parks, open space, and
9 playgrounds [, as provided in R.S.40:12-10 through R.S.40:12-13].
10 (cf: P.L.1993, c.37, s.3)

11

12 11. Section 7 of P.L.1992, c.157 (C.40:12-16.1) is amended to
13 read as follows:

14 7. The county agriculture development board of a county in which
15 the voters of the county have approved, in a general or special
16 election, a proposition authorizing the acquisition of lands for
17 [conservation as open space or as] farmland preservation purposes
18 pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) or P.L. , c. (C.)
19 (now before the Legislature as this bill) shall, pursuant to the
20 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), adopt a
21 prioritized list of farmland eligible for acquisition of development
22 easements thereon by installment purchase agreements pursuant to the
23 provisions of P.L.1992, c.157 (C.40:12-16.1 et al.) if the county
24 intends to acquire development easements on farmland in that manner.
25 The governing body of the county shall annually appropriate from the
26 [county open space and farmland preservation trust fund] "County
27 Open Space, Recreation, and Farmland and Historic Preservation
28 Trust Fund" created pursuant to subsection c. of section 2 of P.L. ,
29 c. (C.) (now before the Legislature as this bill) such amounts as
30 it may deem necessary to finance the acquisition of development
31 easements on farmland within that county by installment purchase
32 agreement.

33 (cf: P.L.1992, c.157, s.7)

34

35 12. R.S.40:12-10 through R.S.40:12-13, sections 1, 2, 3, and 4 of
36 P.L.1989, c.30 (C.40:12-16; 40:12-17; 40:12-18; and 40:12-19), and
37 section 1 of P.L.1994, c.125 (C.40:12-19.1) are repealed; however,
38 any proposition proposed thereunder and scheduled prior to the
39 effective date of this act for placement on the ballot may be placed on
40 the ballot for consideration by the voters of the county or municipality,
41 as the case may be.

42

43 13. This act shall take effect immediately.

STATEMENT

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This bill would consolidate and revise two overlapping laws concerned with submitting propositions to voters of counties or municipalities to seek voter approval of the imposition of an annual levy for raising revenue to acquire, develop and maintain parks and open space and preserve farmland. One of those laws (C.40:12-16 et seq.) authorizes counties only to submit a proposition to the voters for an annual levy raising revenue for the acquisition only of lands for conservation as open space or as farmland. The other law (R.S.40:12-10 et seq.) authorizes both counties and municipalities to submit a proposition to the voters for an annual levy to raise revenue for the establishment, maintenance, and improvement of a public recreation system.

The bill would authorize a county or municipality to submit to the voters a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body of the county or municipality, as the case may be:

- (1) acquisition of lands for recreation and conservation purposes;
- (2) development (for recreation and conservation purposes) of lands acquired for recreation and conservation purposes;
- (3) maintenance of lands acquired for recreation and conservation purposes;
- (4) acquisition of farmland for farmland preservation purposes;
- (5) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or
- (6) payment of debt service on indebtedness issued or incurred by a county or municipality for any of the purposes set forth above.

The definition of recreation and conservation purposes in the bill includes both public outdoor recreation and public indoor recreation, in addition to various conservation purposes.

The bill includes a provision allowing voters to petition their governing bodies at the county or municipal level to place on the ballot a proposition like that authorized by the bill. At least 15% of the voters must sign such a petition to require the governing body to place the proposition on the ballot.

The bill also authorizes a county to distribute revenue it has raised from the annual levy to municipalities and qualifying charitable conservancies for the purposes set forth in the bill.

The bill establishes a mechanism by which propositions approved by county or municipal voters under the two current laws may be saved and revised to reflect the bill's provisions and purposes, without returning to the voters again, but only after at least one public hearing

1 has been held thereon.

2 Finally, the bill repeals the two current laws in favor of the system
3 to be established by the bill.

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8 Consolidates and revises county and municipal open space and
9 farmland tax referendum laws.

SENATE NATURAL RESOURCES AND ECONOMIC
DEVELOPMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 1110 and 1158

STATE OF NEW JERSEY

DATED: JUNE 6, 1996

The Senate Natural Resources and Economic Development Committee favorably reports a Senate Committee Substitute for Senate Nos. 1110 and 1158.

This proposed committee substitute would repeal two laws concerned with submitting propositions to voters of counties or municipalities to seek voter approval of the imposition of an annual levy for raising revenue to acquire, develop and maintain parks and open space and preserve farmland, and would replace the laws with a new law that would authorize counties and municipalities to propose such revenue raising ballot questions for an expanded number of purposes. One of the current laws (C.40:12-16 et seq.) authorizes counties only to submit a proposition to the voters for an annual levy raising revenue for the acquisition only of lands for conservation as open space or as farmland. The other law (R.S.40:12-10 et seq.) authorizes both counties and municipalities to submit a proposition to the voters for an annual levy to raise revenue for the establishment, maintenance, and improvement of a public recreation system.

The substitute would authorize a county or municipality to submit to the voters a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body of the county or municipality, as the case may be:

- (1) acquisition of lands for recreation and conservation purposes;
- (2) development (for recreation and conservation purposes) of lands acquired for recreation and conservation purposes;
- (3) maintenance of lands acquired for recreation and conservation purposes;
- (4) acquisition of farmland for farmland preservation purposes;
- (5) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or
- (6) payment of debt service on indebtedness issued or incurred by

a county or municipality for the purposes set forth above, with the exception of maintenance purposes described in (3), above.

The substitute also provides that any county or municipality whose voters, prior to the effective date of this act, approved a proposition authorizing the acquisition of lands for conservation as open space or farmland (i.e., pursuant to current law), shall be deemed to have approved a proposition for any or all of the purposes set forth in the substitute (i.e., prospective law). The substitute also dissolves any county open space and farmland preservation trust fund created for the purposes of P.L.1989, c.30 (C.40:12-16 et seq.) and any municipal fund created pursuant to R.S.40:12-10 et seq., and directs that any remaining monies be deposited into a new "Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" authorized by the substitute. Monies in the new fund could be used for any of the purposes established pursuant to the substitute, but only after at least one public hearing has been held thereon.

The definition of recreation and conservation purposes in the substitute includes both public outdoor recreation and public indoor recreation, in addition to various conservation purposes.

The substitute includes a provision allowing voters to petition their governing bodies at the county or municipal level to place on the ballot a proposition like that authorized by the substitute. At least 15% of the voters must sign such a petition to require the governing body to place the proposition on the ballot.

The substitute also authorizes a county to distribute revenue it has raised from the annual levy to municipalities and qualifying charitable conservancies for the purposes set forth in the substitute.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1110 and 1158**

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 1996

The Senate Budget and Appropriations Committee reports favorably Senate Bill Nos. 1101 and 1158 (SCS) with amendments.

Senate Bill Nos. 1101/1158 (SCS), as amended, repeals two laws concerned with submitting propositions to voters of counties or municipalities to seek voter approval of the imposition of an annual levy for raising revenue to acquire, develop and maintain parks and open space and preserve farmland, and would replace the laws with a new law that would authorize counties and municipalities to propose such revenue raising ballot questions for an expanded number of purposes. One of the current laws (C.40:12-16 et seq.) authorizes counties only to submit a proposition to the voters for an annual levy raising revenue for the acquisition only of lands for conservation as open space or as farmland. The other law (R.S.40:12-10 et seq.) authorizes both counties and municipalities to submit a proposition to the voters for an annual levy to raise revenue for the establishment, maintenance, and improvement of a public recreation system.

The bill authorizes a county or municipality to submit to the voters a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body of the county or municipality, as the case may be:

- (1) acquisition of lands for recreation and conservation purposes;
- (2) development (for recreation and conservation purposes) of lands acquired for recreation and conservation purposes;
- (3) maintenance of lands acquired for recreation and conservation purposes;
- (4) acquisition of farmland for farmland preservation purposes;
- (5) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or
- (6) payment of debt service on indebtedness issued or incurred by a county or municipality for the purposes set forth above, with the

exception of maintenance purposes described in (3), above.

The bill also provides that any county or municipality whose voters, prior to the effective date of this act, approved a proposition authorizing the acquisition of lands for conservation as open space or farmland (i.e., pursuant to current law), will be deemed to have approved a proposition for any or all of the purposes set forth in the substitute (i.e., prospective law). The bill also dissolves any county open space and farmland preservation trust fund created for the purposes of P.L.1989, c.30 (C.40:12-16 et seq.) and any municipal fund created pursuant to R.S.40:12-10 et seq., and directs that any remaining monies be deposited into a new "Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" authorized by the bill. Monies in the new fund could be used for any of the purposes established pursuant to the bill, but only after at least one public hearing has been held thereon.

The bill includes a provision allowing voters to petition their governing bodies at the county or municipal level to place on the ballot a proposition like that authorized by the bill. At least 15% of the voters must sign such a petition to require the governing body to place the proposition on the ballot.

The bill also authorizes a county to distribute revenue it has raised from the annual levy to municipalities and qualifying charitable conservancies for the purposes set forth in the bill.

COMMITTEE AMENDMENTS

The committee amended the bill at the request of the sponsor to exclude the future maintenance and development of lands acquired for recreational or conservational purposes from the list of purposes that could be deemed approved if the voters in a county, prior to the effective date of this act, approved a proposition authorizing the acquisition of lands for conservation as open space or farmland, unless the proposition was adopted within 24 months immediately preceding the effective date of this bill.

FISCAL IMPACT

This bill has not been certified as requiring a fiscal note because it does not have an impact on State revenues and expenditures.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 1110 AND 1158 (Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Committee Substitute for Senate Bill Nos. 1110 and 1158 (Second Reprint) with my recommendations for reconsideration.

A. Summary of the Bill

This bill repeals, consolidates and expands portions of two existing laws concerned with the raising of revenues by counties and municipalities for the acquisition, development and maintenance of parks and open space and farmland preservation. In consolidating these laws, the bill authorizes the governing body of a county or municipality to submit to voters a proposition authorizing imposition of an annual levy for six enumerated purposes, including the acquisition of lands for recreation and conservation purposes; the development or maintenance of these lands; the acquisition of farmland for farmland preservation purposes; the acquisition and preservation of certain historic properties and sites; and the payment of debt service on indebtedness related to these purposes. The bill dissolves existing county or municipal open space and farmland preservation trust funds created for the purposes of the repealed laws and directs that any remaining monies be deposited into the newly established "Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created at the county and municipal levels. The bill permits monies in the funds to be used for any of the above enumerated purposes, subject to certain requirements.

The bill applies retroactively, except that it excludes expenditures by a county for maintenance purposes if the proposition was approved two or more years before the effective date of the bill.

B. Recommended Action

I commend the sponsors of this bill for their efforts to assist municipalities and counties by providing them flexibility to better

manage and allocate valuable resources for their open space acquisition, farmland preservation and park development programs. The bill reposes the discretion to make such important local spending decisions at the most appropriate level: local government.

I am concerned, however, that the local decision be informed by the views of all interested parties. To ensure a high degree of public participation in this process, therefore, I today recommend that the bill be amended to augment the public notice and hearing requirements for certain expenditures of monies collected by counties prior to the effective date of the bill for open space acquisition and farmland preservation purposes. These enhanced requirements would apply to any project or use requiring an expenditure by a county in excess of \$100,000 in the aggregate, if such project or use relates to the development or maintenance of lands for recreation and conservation purposes or the payment of debt service. If a county government wishes to use monies collected prior to the effective date of the bill for these purposes, it must adopt a resolution or ordinance authorizing the project or use. I recommend that the bill be amended to require the governing body to hold an additional public hearing at least 45 days in advance of the adoption of the resolution or ordinance and to comply with specific notice requirements; I further recommend that this notice provide certain information, including a project or use description, estimated cost and proposed timetable for the commencement and completion of the project or use.

Lastly, I recommend technical changes to amend citations included in the repealer section of the bill.

Therefore, I herewith return Senate Committee Substitute for Senate Bill Nos. 1110 and 1158 (Second Reprint) and recommend that it be amended as follows:

Page 4, Section 3, Line 38:

After "thereon" insert "and subject to the requirements of subsections b., c. and d. of this section"

Page 4, Section 3, After Line 45: Add new subsections as follows:

"b. A county shall not expend more than \$100,000 for any proposed project or use to be undertaken pursuant to a resolution or ordinance adopted pursuant to subsection a. of this section authorizing a purpose specified in subparagraphs (b), (c), or (f) of paragraph (1) of subsection a. of section 2 of this act, unless the governing body of the county first conducts a public hearing on the proposed project or use and adopts a resolution or ordinance, as appropriate, authorizing the expenditure. Any public hearing required pursuant to this subsection shall be held at least 45 days before the governing body of the county takes action to adopt the resolution or ordinance authorizing the expenditure.

c. In addition to any other applicable requirements of law, rule or regulation, the governing body of the county shall provide notice of the public hearing required pursuant to subsection b. of this section at least 30 days before the date of the hearing as follows:

(1) By mailing or otherwise providing a copy of the notice to:
(a) the county clerk and to the municipal clerk of every municipality in which the land or lands affected by the proposed project or use are located; and
(b) any person who requests in writing of the governing body to receive in advance such notices; and

(2) By publishing the notice in a daily or weekly newspaper of general circulation in the county and each municipality in which the land or lands to be affected by the proposed project or use are located.

d. The governing body of the county shall include the following information in all notices required pursuant to subsection c. of this section: (1) a general description of the proposed project or use and the location of the land or lands to be affected; (2) the aggregate amount of monies to be utilized for the proposed project or use; (3) a schedule setting forth the anticipated commencement and completion date for the proposed project or use; (4) the date, time, and place of the public hearing; (5) a statement that the public may submit written comments to the governing body of the county on or before the date of the public hearing; and (6) the name and address of the person designated by the governing body of the county to receive the written comments and to contact for additional information."

Page 4, Section 3, Line 46:

Delete "b" and insert "e"

Page 10, Section 12, Line 1:

Delete "sections 1, 2, 3, and 4 of"

Page 10, Section 12, Line 2:

After "c.30" delete line and insert "(C.40:12-16 et seq.), and"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor