

**LEGISLATIVE HISTORY CHECKLIST**  
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(State Transfer of Redevelopment  
Rights Bank)

**NJSA:** 4:1C-49

**LAWS OF:** 1993 **CHAPTER:** 339

**BILL NO:** A745

**SPONSOR(S)** Shinn

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Environment; Appropriations  
**SENATE:** Budget; Environment

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
 Second reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** December 14, 1993  
**SENATE:** December 2, 1993

**DATE OF APPROVAL:** December 27, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes 10-19-92 & 12-3-91  
**SENATE:** Yes 6-14-93 & 5-10-93

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

Hearing on bill proposed during earlier Legislative session:  
 974.90 New Jersey. Legislative Services Agency.  
 R336 The legislative development and consideration of T.D.R.,  
 1975f proposal. A3192. Trenton, 1975.

KBG:pp

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblyman SHINN

1 AN ACT establishing the State Transfer of Development Rights  
2 Bank <sup>1</sup>[and],<sup>1</sup> supplementing <sup>1</sup>[P.L.1975, c.291 (C.40:55D-1 et  
3 seq.)] chapter 1C of Title 4 of the Revised Statutes, <sup>2</sup>amending  
4 P.L.1989, c.86<sup>2</sup> and making an appropriation.<sup>1</sup>

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

8 1. This act shall be known and may be cited as the "State  
9 Transfer of Development Rights Bank Act."

10 2. As used in this act:

11 <sup>1</sup>"Board" means the board of directors of the State Transfer of  
12 Development Rights Bank established pursuant to section 3 of  
13 this act;<sup>1</sup>

14 "Development potential" means the maximum number of  
15 dwelling units or square feet of nonresidential floor area that  
16 may be constructed on a specified lot or in a specified zone under  
17 the master plan and land use regulations in effect on the date of  
18 the adoption of the development transfer ordinance, and in  
19 accordance with recognized environmental constraints;

20 "Development transfer" means the conveyance of development  
21 potential, or the permission for development, from one or more  
22 lots to one or more other lots by deed, easement, or other means  
23 as authorized by ordinance adopted pursuant to law;

24 "Instrument" means the easement, credit, or other deed  
25 restriction used to record a development transfer;

26 "State Transfer of Development Rights Bank," "bank" or  
27 "State TDR Bank" means the bank established pursuant to section  
28 3 of this act <sup>1</sup>, and shall constitute the development potential  
29 transfer bank for the purposes of P.L.1989, c.183<sup>1</sup>.

30 3. a. There is established in the Executive Branch of the State  
31 Government a public body corporate and politic, with corporate  
32 succession, to be known as the State Transfer of Development  
33 Rights Bank. For the purpose of complying with the provisions of  
34 Article V, Section IV, paragraph 1 of the New Jersey  
35 Constitution, the bank is allocated within the <sup>1</sup>office of the State  
36 Agriculture Development Committee within the<sup>1</sup> Department of  
37 <sup>1</sup>[the Treasury] Agriculture<sup>1</sup>, but notwithstanding that allocation,  
38 the bank shall be independent of any supervision or control by the  
39 <sup>1</sup>committee or the<sup>1</sup> department or by <sup>1</sup>[an] any<sup>1</sup> officer or  
40 employee thereof, except as otherwise expressly provided in this  
41 act. The bank is constituted as an instrumentality of the

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:

<sup>1</sup> Assembly AEN committee amendments adopted October 19, 1992.

<sup>2</sup> Senate SBA committee amendments adopted June 24, 1993.

1 State exercising public and essential governmental functions, and  
2 the exercise by the bank of the powers conferred by this act is  
3 deemed to be an essential governmental function of the State.

4 b. <sup>1</sup>(1)<sup>1</sup> The bank shall be governed by a board of directors  
5 consisting of <sup>1</sup>[five] ten<sup>1</sup> voting <sup>1</sup>[ex officio]<sup>1</sup> members, or the  
6 designees thereof, as follows: the <sup>1</sup>[State Treasurer] Secretary of  
7 Agriculture<sup>1</sup>, who shall serve as chairperson <sup>1</sup>and who shall vote  
8 only in the event there is a tie vote<sup>1</sup>; the <sup>1</sup>[Secretary of  
9 Agriculture] State Treasurer<sup>1</sup>; the Commissioner of  
10 Environmental Protection; the Commissioner of Transportation;  
11 <sup>1</sup>[and] the Commissioner of Banking<sup>1</sup>; the Commissioner of  
12 Community Affairs; <sup>1</sup>the President of the State Board of  
13 Agriculture; the Chairman of the State Planning Commission; the  
14 President of the Association of New Jersey Environmental  
15 Commissions<sup>1</sup>; and <sup>1</sup>[four members to] one member of the  
16 general public, who shall be a farmer actively engaged in  
17 agriculture in New Jersey and who shall<sup>1</sup> be appointed by the  
18 Governor, with the advice and consent of the Senate <sup>1</sup>[, from the  
19 general public, no more than two of whom shall be from the same  
20 political party]<sup>1</sup>.

21 <sup>1</sup>(2) All members of the board, except the member of the  
22 general public, shall serve ex officio. The term of the member of  
23 the general public shall be for four years, with reappointment  
24 possible for a second term only.

25 <sup>(3)</sup><sup>1</sup> A majority of the membership <sup>1</sup>of the board<sup>1</sup> shall  
26 constitute a quorum except that no action may be taken by the  
27 board except upon the affirmative vote of a majority of the total  
28 membership of the board. Designees of the <sup>1</sup>[five] nine<sup>1</sup> ex  
29 officio members shall have the power to vote in the absence of  
30 members.

31 <sup>1</sup>c. (1) Upon request of the board, the State Agriculture  
32 Development Committee shall provide that appropriate staff be  
33 made available to assist and advise the board in performing its  
34 functions, duties, and responsibilities pursuant to this act.

35 (2) Officials of State agencies serving on the board shall, to  
36 the maximum extent practicable and without remuneration from  
37 the board, avail the board of the expertise of their agencies in  
38 the areas of land use and planning, banking, law, agriculture,  
39 natural resource protection, historic site preservation, and other  
40 areas of expertise required by the board to adequately address  
41 the broader public and planning purposes of transfer of  
42 development rights and of the State Transfer of Development  
43 Rights Bank.

44 (3) Funding necessary to provide the board with direct staff  
45 assistance or professional services that cannot be made available  
46 through existing State agency staff as provided in this subsection  
47 shall be made available as provided for pursuant to section 8 of  
48 this act.<sup>1</sup>

49 4. The board shall have the following powers:

50 a. To purchase <sup>1,1</sup> or to provide matching funds for the  
51 purchase of 80% of <sup>1,1</sup> the value of development potential and to  
52 otherwise facilitate development transfers, from the owner of  
53 record of the property from which the development potential is

1 to be transferred or from any person, or entity, public or private,  
2 holding the interest in development potential that is subject to  
3 development transfer <sup>1</sup>[,];<sup>1</sup> provided that <sup>1</sup>, in the case of  
4 providing matching funds for the purchase of 80% of the value of  
5 development potential,<sup>1</sup> the remaining 20% of that value is  
6 <sup>2</sup>[obtained] contributed<sup>2</sup> by the affected municipality or county,  
7 or both, after public notice thereof in the New Jersey Register  
8 and in one newspaper of general circulation in the area affected  
9 by the purchase. The remaining 20% of the value of the  
10 development potential to be <sup>2</sup>[obtained] contributed<sup>2</sup> by the  
11 affected municipality or county, or both, <sup>2</sup>to match funds  
12 provided by the board,<sup>2</sup> may be obtained by purchase from, or  
13 donation by, the owner of record of the property from which the  
14 development potential is to be transferred or from any person, or  
15 entity, public or private, holding the interest in development  
16 potential that is subject to development transfer. The value of  
17 development potential may be determined by either appraisal,  
18 municipal averaging based upon appraisal data, or by a formula  
19 supported by appraisal data. The board may also engage in  
20 development transfer by sale, exchange, or other method of  
21 conveyance <sup>1</sup>[, or retire development potential]<sup>1</sup> <sup>2</sup>, provided that  
22 in doing so, the board shall not substantially impair the private  
23 sale, exchange or other method of conveyance of development  
24 potential<sup>2</sup>. The board may not, nor shall anything in this act be  
25 construed as permitting the board to, engage in development  
26 transfer from one municipality to another, which transfer is not  
27 in accordance with the ordinances of both municipalities.

28 b. To adopt and, from time to time, amend or repeal suitable  
29 bylaws for the management of its affairs;

30 c. To adopt and use an official seal and alter <sup>1</sup>[the same] that  
31 seal<sup>1</sup> at its pleasure;

32 d. To apply for, receive, and accept, from any federal, State,  
33 or other public or private source, grants or loans for, or in aid of,  
34 the board's authorized purposes;

35 e. To enter into any agreement or contract, execute any legal  
36 document, and perform any act or thing necessary, convenient, or  
37 desirable for the purposes of the board or to carry out any power  
38 expressly given in this act;

39 f. To adopt, pursuant to the "Administrative Procedure Act,"  
40 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
41 necessary to implement the provisions of this act;

42 g. To call to its assistance and avail itself of the services of  
43 the employees of any State, county, or municipal department,  
44 board, commission, or agency as may be required and made  
45 available for these purposes;

46 h. To retain such staff as may be necessary in the career  
47 service and to appoint an executive director thereof. The  
48 executive director shall serve as a member of the senior  
49 executive or unclassified service and may be appointed without  
50 regard to the provisions of Title 11A of the New Jersey Statutes;

51 i. To review and analyze innovative techniques that may be  
52 employed to maximize the total acreage reserved through the use  
53 of perpetual easements <sup>1</sup>;

54 j. To provide, through the State TDR Bank, a financial

1 guarantee with respect to any loan to be extended to any person  
 2 that is secured using development potential as collateral for the  
 3 loan<sup>2</sup>[,]. Financial guarantees provided under this act shall be<sup>2</sup> in  
 4 accordance with procedures, terms and conditions, and  
 5 requirements <sup>2</sup>, including rights and obligations of the parties in  
 6 the event of default on any loan secured in whole or in part using  
 7 development potential as collateral,<sup>2</sup> to be established by rule or  
 8 regulation adopted by the board pursuant to the "Administrative  
 9 Procedure Act";

10 k. To enter into agreement with the State Agriculture  
 11 Development Committee for the purpose of acquiring  
 12 development potential through the acquisition of development  
 13 easements on farmland so that the board may utilize the existing  
 14 processes, procedures, and capabilities of the State Agriculture  
 15 Development Committee as necessary and appropriate to  
 16 accomplish the goals and objectives of the board as provided for  
 17 pursuant to this act;

18 l. To enter into agreements with other State agencies or  
 19 entities providing services and programs authorized by law so  
 20 that the board may utilize the existing processes, procedures, and  
 21 capabilities of those other agencies or entities as necessary and  
 22 appropriate to accomplish the goals and objectives of the board  
 23 as provided for pursuant to this act; and

24 m. To provide planning assistance grants to municipalities that  
 25 have adopted viable development transfer ordinances, as  
 26 determined by the board, for up to 50% of the cost of planning  
 27 associated with such an ordinance and incurred by a municipality,  
 28 or \$10,000, whichever is less, which grants shall be made utilizing  
 29 monies deposited into the bank pursuant to section 8 of this act<sup>1</sup>.

30 <sup>1</sup>[5. a. There is established in the State TDR Bank a  
 31 Development Potential Transfer Review Committee, comprising  
 32 the Director of the Office of Financial Management and the  
 33 Administrator of the General Services Administration in the  
 34 Department of the Treasury; the Executive Director of the State  
 35 TDR Bank; and one of the public members of the bank appointed  
 36 by the chairperson of the board of directors thereof.

37 b. The review committee is authorized to purchase or to  
 38 provide matching funds for the purchase of development potential  
 39 and to engage in development transfer by sale, exchange, or other  
 40 method of conveyance, or retire development potential in the  
 41 name of the board pursuant to procedures established by the  
 42 board.]<sup>1</sup>

43 <sup>1</sup>[6.] <sup>5.1</sup> a. The board shall establish and maintain a  
 44 Development Potential Transfer Registry, which shall include:

45 (1) The name and address of every person to whom and from  
 46 whom development potential is sold or otherwise conveyed, the  
 47 date of the conveyance, and the consideration, if any, received  
 48 therefor;

49 (2) The name and address of any person who has utilized  
 50 development potential, the location of the land to which and from  
 51 which the development potential was transferred, and the date  
 52 this transfer was made; and

53 (3) An annual enumeration of the total number of development  
 54 transfers, listing the municipality or municipalities involved in

1 the transfer and the instrument of transfer.

2 b. No person shall purchase or otherwise acquire, encumber, or  
3 utilize any development potential without recording that fact,  
4 within 10 business days thereof, with the bank.

5 c. The board shall make available <sup>1</sup>(1)<sup>1</sup> in the form of an  
6 annual report the information included in the registry to the  
7 county and each municipality <sup>1</sup>[, which] that<sup>1</sup> has adopted a  
8 development transfer ordinance <sup>1</sup><sub>2</sub><sup>1</sup> and <sup>1</sup>[,] <sup>1</sup>(2)<sup>1</sup> upon request,  
9 pertinent information to any other person. The first annual  
10 report shall be submitted to the Governor and Legislature and  
11 shall be made available to the public on the first anniversary of  
12 the effective date of this act.

13 <sup>1</sup>[7.] 6.<sup>1</sup> a. The board may sell by negotiation or auction,  
14 exchange, or otherwise convey <sup>1</sup>[or retire]<sup>1</sup> any development  
15 potential that is purchased or otherwise acquired pursuant to the  
16 provisions of this act, after notice thereof <sup>1</sup>placed<sup>1</sup> in the New  
17 Jersey Register and in one newspaper of general circulation in  
18 the area affected by the conveyance <sup>1</sup>[or retirement]<sup>1</sup>. All sales,  
19 exchanges, <sup>1</sup>or<sup>1</sup> conveyances <sup>1</sup>[, or retirements]<sup>1</sup> shall be made  
20 prior to the expiration of the bank. The provisions of any other  
21 law to the contrary notwithstanding, no such sale, exchange, <sup>1</sup>or<sup>1</sup>  
22 conveyance <sup>1</sup>[, or retirement]<sup>1</sup> shall be subject to approval of the  
23 State House Commission or the General Services Administration  
24 in the Department of the Treasury.

25 b. When the board sells, exchanges, or otherwise conveys <sup>1</sup>[, or  
26 retires]<sup>1</sup> development potential, it shall remit 20% of the  
27 proceeds to the local government unit that participated in its  
28 acquisition unless the local government unit obtained its interest  
29 in the development potential by donation<sup>2</sup> and retain the  
30 remaining balance.

31 c. When the board sells, exchanges, <sup>2</sup>[or]<sup>2</sup> otherwise conveys  
32 <sup>1</sup>[, or retires]<sup>1</sup> <sup>2</sup>, purchases or otherwise acquires<sup>2</sup> development  
33 potential, it shall do so in a manner that shall not substantially  
34 impair the private sale and transfer thereof. The board may  
35 convey development potential without remuneration for use in  
36 projects that satisfy a compelling public purpose only by an  
37 affirmative vote of two-thirds of its members and approval by  
38 the local government unit that provided 20% of the cost of the  
39 acquisition of the development potential.

40 d. Governmental entities that provide municipal or county  
41 funding to finance the purchase of development potential prior to  
42 the operation of the State TDR Bank shall receive priority  
43 consideration by the State TDR Bank in the purchase of  
44 development potential.

45 <sup>2</sup>e. Prior to the sale, exchange or conveyance of any  
46 development potential purchased or otherwise acquired using  
47 moneys derived from bonds authorized by the "Farmland  
48 Preservation Bond Act of 1981," P.L.1981, c.276, as amended by  
49 P.L.1987, c.240 or the "Open Space Preservation Bond Act of  
50 1989," P.L.1989 c.183, the State TDR Bank shall obtain a  
51 determination from the State Treasurer that such sale, exchange  
52 or conveyance will not adversely affect the tax-exempt status of  
53 such bonds.<sup>2</sup>

54 <sup>1</sup>7. The board, three years after the effective date of this act,

1 shall prepare and submit a report to the Governor and Legislature  
2 assessing the implementation of this act, evaluating the operation  
3 of the State TDR Bank, providing a financial accounting and  
4 summary of any expenditures or disbursements made pursuant to  
5 this act, and making any recommendations for appropriate  
6 legislative or administrative action necessary to further the  
7 purposes of this act.<sup>1</sup>

8 <sup>18.</sup> a. There is appropriated to the State Transfer of  
9 Development Rights Bank from the "1989 Development Potential  
10 Transfer Bank Fund" established pursuant to section 23 of  
11 P.L.1989, c.183, the sum of \$20,000,000 for deposit into the State  
12 TDR Bank, which shall be expended in accordance with the  
13 provisions of this act.

14 b. Of the moneys appropriated pursuant to subsection a. of this  
15 section, not more than \$400,000 may be expended in total for  
16 administrative costs<sup>2</sup>, staff assistance or professional services<sup>2</sup>  
17 within the period of four years from the effective date of this  
18 act, and not more than \$400,000 may be expended for the  
19 purposes of subsection m. of section 4 of this act.<sup>1</sup>

20 <sup>29.</sup> Section 14 of P.L.1989, c.86 (C.40:55D-126) is amended to  
21 read as follows:

22 14. If the governing body of Burlington County provides for the  
23 acquisition of a development easement under the provisions of  
24 P.L.1983, c.32 (C.4:1C-11 et al.), it may sell the development  
25 potential associated with the development easement subject to  
26 the terms and conditions of the development transfer ordinance  
27 adopted pursuant to this act; provided that if the development  
28 easement was purchased using moneys provided under the  
29 "Farmland Preservation Bond Act of 1981," P.L.1981, c.276, a  
30 percentage of all revenues generated through the resale of the  
31 development potential shall be refunded to the State in an  
32 amount equal to the State's percentage contribution to the  
33 original development easement purchase. Notwithstanding the  
34 foregoing, such refund shall not be paid to the State in the event  
35 the State Treasurer determines that such refund would adversely  
36 affect the tax-exempt status of any bonds authorized pursuant to  
37 the "Farmland Preservation Bond Act of 1981," P.L.1981, c.276.  
38 This repayment shall be made within 90 days after the end of the  
39 calendar year in which the sale occurs.<sup>2</sup>

40 (cf: P.L.1989, c.86, s.14)

41 <sup>1</sup>[8.] <sup>2</sup>[9.1] <sup>10.</sup><sup>2</sup> This act shall take effect immediately.

42  
43  
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45  
46 The "State Transfer of Development Rights Bank Act";  
47 appropriates \$20 million from 1989 bond fund.

1 retires development potential, it shall remit 20% of the proceeds  
2 to the local government unit that participated in its acquisition  
3 and retain the remaining balance.

4 c. When the board sells, exchanges, or otherwise conveys, or  
5 retires development potential, it shall do so in a manner that  
6 shall not substantially impair the private sale and transfer  
7 thereof. The board may convey development potential without  
8 remuneration for use in projects that satisfy a compelling public  
9 purpose only by an affirmative vote of two-thirds of its members  
10 and approval by the local government unit that provided 20% of  
11 the cost of the acquisition of the development potential.

12 d. Governmental entities that provide municipal or county  
13 funding to finance the purchase of development potential prior to  
14 the operation of the State TDR Bank shall receive priority  
15 consideration by the State TDR Bank in the purchase of  
16 development potential.

17 8. This act shall take effect immediately.

18  
19  
20 STATEMENT

21  
22 This bill would establish the State Transfer of Development  
23 Rights Bank (TDR Bank). The purpose of the bank would be to  
24 support development potential transfers as authorized under the  
25 "Burlington County Transfer of Development Rights  
26 Demonstration Act," P.L.1989, c.86 (C.55D:1-14 et seq.) or other  
27 similarly enacted laws. This support would be in the form of  
28 purchases or funding for the purchase of 80% of the value of  
29 development potential, and to otherwise facilitate development  
30 transfers. The remaining 20% would be purchased by the  
31 affected municipality or county. Upon sale of the development  
32 potential by the bank, the bank and the local governmental entity  
33 would be reimbursed for their share of the purchase.

34 The bank would be governed by a board of directors, which  
35 would comprise the State Treasurer, who would serve as  
36 chairperson; the Secretary of Agriculture; the Commissioner of  
37 Environmental Protection; the Commissioner of Transportation;  
38 the Commissioner of Community Affairs; and four members to be  
39 appointed by the Governor, with the advice and consent of the  
40 Senate, from the general public. A Development Transfer  
41 Review Committee serving the board would be authorized to  
42 purchase development potential and to sell, exchange, or  
43 otherwise convey, or retire development potential in accordance  
44 with the directions of the board.

45 The bill also specifies:

46 1. The bank would be able to fund programs, if established by  
47 law, other than the Burlington County Demonstration Project;

48 2. The information maintained by the Development Potential  
49 Transfer Registry would include the name of the person  
50 transferring development potential, as well as the location of the  
51 land from which the development potential was transferred;

52 3. The bank would be permitted to fund a purchase, as well as  
53 purchase, development potential;

54 4. The bank is prohibited from intermunicipal transfers of

1 development potential not in accordance with the ordinances of  
2 the impacted municipalities;

3 5. The bank may purchase development potential either by  
4 appraisal, municipal averaging based on appraisal, or by a formula  
5 supported by appraisal;

6 6. In purchasing development potential, the bank will give  
7 priority consideration to governmental entities that have  
8 acquired development potential prior to the operation of the bank;

9 7. Development potential may be purchased, not only from the  
10 landowner, but from any other private or public entity, such as  
11 individuals, counties, municipalities, or other TDR banks.

12 It is anticipated that the TDR Bank would utilize the \$25  
13 million of the proposed \$370 million "Green Acres and Farmland  
14 Preservation Bond Act" pending in the Legislature as Assembly  
15 Bill Nos. 3540/1752 ACS and Senate Bill No. 3637.

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19

20 The "State Transfer of Development Rights Bank Act."

ASSEMBLY ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 745

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 19, 1992

The Assembly Environment Committee favorably reports Assembly Bill No. 745 with Assembly committee amendments.

This bill would establish the State Transfer of Development Rights Bank (State TDR Bank). The purpose of the bank would be to support development potential transfers as authorized under the "Burlington County Transfer of Development Rights Demonstration Act," P.L.1989, c.86 (C.40:55D-113 et seq.) or other similarly enacted laws. This support would be in the form of purchasing, or providing matching funds for the purchases of 80% of, the value of development potential, and otherwise facilitating development transfers. In the case of funding for the purchase of 80% of the value of development potential, the remaining 20% would be obtained by the affected municipality or county. Upon sale of the development potential by the bank, the bank and the local governmental entity would be reimbursed for their share of the purchase.

The bill specifies:

1. The bank would be able to fund programs, if established by law, other than the Burlington County Transfer of Development Rights Demonstration Project;
2. The information maintained by the Development Potential Transfer Registry created in the bill would include, among other things, the name of the persons transferring development potential, as well as the location of the land to which and from which the development potential was transferred;
3. The bank would be permitted to fund a purchase of, as well as purchase, development potential;
4. The bank is prohibited from intermunicipal transfers of development potential not in accordance with the ordinances of the impacted municipalities;
5. The value of development potential may be determined either by appraisal, municipal averaging based on appraisal data, or by a formula supported by appraisal data;
6. Governmental entities that provide municipal or county funding to finance the purchase of development potential prior to the operation of the State TDR Bank would receive priority consideration by the State TDR Bank in the purchase of development potential;
7. Development potential may be purchased, not only from the landowner, but from any other private or public entity, such as individuals, counties, municipalities, or other TDR banks.

The Assembly Environment Committee amendments provide that the bank would be allocated in, but not of, the State Agriculture Development Committee. The bank would be governed by a board of directors consisting of ten voting members, as follows: the Secretary of Agriculture, who shall serve as chairperson and who shall vote only in the event there is a tie vote; the State Treasurer; the Commissioner of Environmental Protection; the Commissioner of Transportation; the Commissioner of Banking; the Commissioner of Community Affairs; the President of the State Board of Agriculture; the Chairman of the State Planning Commission; the President of the Association of New Jersey Environmental Commissions; and one member of the general public, who shall be a farmer actively engaged in agriculture in New Jersey and who shall be appointed by the Governor, with the advice and consent of the Senate. Upon request of the board, the State Agriculture Development Committee would provide the primary staff for the bank, although other appropriate State agencies would be required to provide staff as needed.

The Assembly Environment Committee amendments also provide that the board of directors would have the power to have the State TDR bank provide a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan, in accordance with procedures, terms and conditions, and requirements to be established by rule or regulation.

The Assembly Environment Committee amendments also authorize the board to: (1) enter into agreement with the State Agriculture Development Committee for the purpose of acquiring development potential through the acquisition of development easements on farmland so that the board may utilize the existing processes, procedures, and capabilities of the State Agriculture Development Committee as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to the bill; (2) enter into agreements with other State agencies or entities providing services and programs authorized by law so that the board may utilize the existing processes, procedures, and capabilities of those other agencies or entities as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to the bill; and (3) provide planning assistance grants to municipalities that have adopted viable development transfer ordinances, as determined by the board, for up to 50% of the cost of planning associated with such an ordinance and incurred by a municipality, or \$10,000, whichever is less, which grants shall be made utilizing monies appropriated for, and deposited into, the bank.

As amended by the Assembly Environment Committee, the bill requires the board, three years after the effective date of the bill, to prepare and submit a report to the Governor and Legislature assessing the implementation of the bill, evaluating the operation of the State TDR Bank, providing a financial accounting and summary of any expenditures or disbursements made pursuant to the bill, and making any recommendations for appropriate legislative or administrative action necessary to further the purposes of the bill.

The Assembly Environment Committee also amended the bill to remove the authority of the board to retire development potential.

The Assembly Environment Committee also made technical and clarifying amendments to the bill.

Finally, the Assembly Environment Committee amendments appropriate \$20,000,000 from the "1989 Development Potential Bank Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for deposit into the State TDR Bank. Of the moneys appropriated, not more than \$400,000 may be expended in total for administrative costs within the period of four years from the effective date of the bill, and not more than \$400,000 may be expended for the purposes of the planning assistance grant program established in the bill.

This bill was pre-filed for introduction in the 1992-1993 session pending technical review. As reported the bill includes the changes required by technical review, which has been performed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 745

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1992

The Assembly Appropriations Committee reports favorably Assembly Bill No. 745 (1R).

Assembly Bill No. 745 (1R) establishes the State Transfer of Development Rights Bank (State TDR Bank) to support development potential transfers as authorized under P.L.1989, c.86 (C.40:55D-113 et seq.) or other similarly enacted laws. This support would be in the form of purchasing, or providing matching funds for the purchases of 80% of, the value of development potential, and otherwise facilitating development transfers. In the case of funding for the purchase of 80% of the value of development potential, the remaining 20% would be obtained by the affected municipality or county. Upon sale of the development potential by the bank, the bank and the local governmental entity would be reimbursed for their share of the purchase. The value of development potential may be determined either by appraisal, municipal averaging based on appraisal data, or by a formula supported by appraisal data. Governmental entities that provide municipal or county funding to finance the purchase of development potential prior to the operation of the State TDR Bank would receive priority consideration.

The State TDR Bank would be allocated in, but not of, the State Agriculture Development Committee and governed by a board of directors consisting of ten voting members, having the power to have the State TDR bank provide a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan.

The board is authorized to enter into agreement with the State Agriculture Development Committee to acquire development potential through the acquisition of development easements on farmland; enter into agreements with other State agencies or entities to accomplish its goals and objectives; and provide planning assistance grants to municipalities that have adopted viable development transfer ordinances for up to 50% of the cost of planning associated with such an ordinance and incurred by a municipality, or \$10,000, whichever is less, which grants shall be made utilizing monies appropriated for, and deposited into, the bank.

The board is required to prepare and submit a report to the Governor and Legislature within three years of the effective date, assessing the implementation of the bill, evaluating the operation of the State TDR Bank, providing a financial accounting and summary of any expenditures or disbursements made pursuant to the bill, and making any recommendations for any appropriately needed changes.

FISCAL IMPACT:

The bill appropriates \$20,000,000 from the "1989 Development Potential Transfer Bank Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for deposit into the State TDR Bank. Of the moneys appropriated, not more than \$400,000 may be expended in total for administrative costs within four years of the effective date of the bill, and not more than \$400,000 may be expended for the purposes of the planning assistance grant program established in the bill. This appropriation represents the balance currently remaining in this bond fund.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 745

STATE OF NEW JERSEY

DATED: MAY 10, 1993

The Senate Environment Committee favorably reports Assembly Bill No. 745 (1R).

This bill would establish the State Transfer of Development Rights Bank (State TDR Bank). The purpose of the bank would be to support development potential transfers as authorized under the "Burlington County Transfer of Development Rights Demonstration Act," P.L.1989, c.86 (C.40:55D-113 et seq.) or other similarly enacted laws. This support would be in the form of purchasing, or providing matching funds for the purchases of 80% of, the value of development potential, and otherwise facilitating development transfers. In the case of funding for the purchase of 80% of the value of development potential, the remaining 20% would be obtained by the affected municipality or county. Upon sale of the development potential by the bank, the bank and the local governmental entity would be reimbursed for their share of the purchase.

The bill specifies:

1. The bank would be able to fund programs, if established by law, other than the Burlington County Transfer of Development Rights Demonstration Project;

2. The information maintained by the Development Potential Transfer Registry created in the bill would include, among other things, the name of the persons transferring development potential, as well as the location of the land to which and from which the development potential was transferred;

3. The bank would be permitted to fund a purchase of, as well as purchase, development potential;

4. The bank is prohibited from intermunicipal transfers of development potential not in accordance with the ordinances of the impacted municipalities;

5. The value of development potential may be determined either by appraisal, municipal averaging based on appraisal data, or by a formula supported by appraisal data;

6. Governmental entities that provide municipal or county funding to finance the purchase of development potential prior to the operation of the State TDR Bank would receive priority consideration by the State TDR Bank in the purchase of development potential;

7. Development potential may be purchased, not only from the landowner, but from any other private or public entity, such as individuals, counties, municipalities, or other TDR banks.

The bill provides that the bank would be allocated in, but not of, the State Agriculture Development Committee. The bank would be governed by a board of directors consisting of ten voting members, as follows: the Secretary of Agriculture, who shall serve as

chairperson and who shall vote only in the event there is a tie vote; the State Treasurer; the Commissioner of Environmental Protection; the Commissioner of Transportation; the Commissioner of Banking; the Commissioner of Community Affairs; the President of the State Board of Agriculture; the Chairman of the State Planning Commission; the President of the Association of New Jersey Environmental Commissions; and one member of the general public, who shall be a farmer actively engaged in agriculture in New Jersey and who shall be appointed by the Governor, with the advice and consent of the Senate. Upon request of the board, the State Agriculture Development Committee would provide the primary staff for the bank, although other appropriate State agencies would be required to provide staff as needed.

The bill provides that the board of directors would have the power to have the State TDR bank provide a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan, in accordance with procedures, terms and conditions, and requirements to be established by rule or regulation.

The board is also authorized to: (1) enter into an agreement with the State Agriculture Development Committee for the purpose of acquiring development potential through the acquisition of development easements on farmland so that the board may utilize the existing processes, procedures, and capabilities of the State Agriculture Development Committee as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to the bill; (2) enter into agreements with other State agencies or entities providing services and programs authorized by law so that the board may utilize the existing processes, procedures, and capabilities of those other agencies or entities as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to the bill; and (3) provide planning assistance grants to municipalities that have adopted viable development transfer ordinances, as determined by the board, for up to 50% of the cost of planning associated with such an ordinance and incurred by a municipality, or \$10,000, whichever is less, which grants shall be made utilizing monies appropriated for, and deposited into, the bank.

The bill also requires the board, three years after the effective date of the bill, to prepare and submit a report to the Governor and Legislature assessing the implementation of the bill, evaluating the operation of the State TDR Bank, providing a financial accounting and summary of any expenditures or disbursements made pursuant to the bill, and making any recommendations for appropriate legislative or administrative action necessary to further the purposes of the bill.

Finally, the bill appropriates \$20,000,000 from the "1989 Development Potential Bank Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for deposit into the State TDR Bank. Of the moneys appropriated, not more than \$400,000 may be expended in total for administrative costs within the period of four years from the effective date of the bill, and not more than \$400,000 may be expended for the purposes of the planning assistance grant program established in the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 745

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 1993

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 745 [1R], with committee amendments.

Assembly Bill No. 745 [1R], as amended, establishes the State Transfer of Development Rights Bank (State TDR Bank). The purpose of the bank is to support development potential transfers as authorized under the "Burlington County Transfer of Development Rights Demonstration Act," P.L.1989, c.86 (C.40:55D-113 et seq.) or other similar laws.

The State TDR Bank is allocated in, but not of, the State Agriculture Development Committee and will be governed by a board of directors consisting of ten voting members. The State Agriculture Development Committee would provide the primary staff for the bank, although other appropriate State agencies would be required to provide staff as needed.

The Board of Directors is empowered to purchase development potential, or provide up to 80% of the cost of the purchase of development potential with a county or municipality providing the remaining 20% of the cost. The board's authorization also includes the power to guarantee loans; enter into agreements with the State Agriculture Development Committee to acquire development potential through the acquisition of development easements on farmland; enter into agreements with other State agencies or entities to accomplish its goals and objectives; and provide planning assistance grants to municipalities that have adopted viable development transfer ordinances.

The board is required to prepare and submit a report to the Governor and Legislature within three years of the effective date, assessing the implementation of the bill, evaluating the operation of the State TDR Bank, providing a financial accounting and summary of any expenditures or disbursements made pursuant to the bill, and making any recommendations for needed changes.

COMMITTEE AMENDMENTS

The committee amended the bill to clarify some of its provisions and to require that prior to the sale, exchange or conveyance of any development potential acquired with bond funds, the State TDR Bank obtain a determination from the State Treasurer that the sale, exchange or conveyance does not affect the tax exempt status of the bonds.

FISCAL IMPACT

The bill appropriates \$20,000,000 from the "1989 Development Potential Bank Fund" established pursuant to the "Open Space

Preservation Bond Act of 1989," P.L.1989, c.183, for deposit into the State TDR Bank. A maximum of \$400,000 from this appropriation may be used for administrative costs during the four years following the enactment of the bill, and a maximum of \$400,000 may be used for the municipal planning assistance grant program established in the bill.

This bill will appropriate the total amount currently available in the fund.