

40:12-19.1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Open space)

**NJSA:** 40:12-19.1

**LAWS OF:** 1994 **CHAPTER:** 125

**BILL NO:** S147

**SPONSOR(S):** Martin

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Environment

**SENATE:** Natural Resources

**AMENDED DURING PASSAGE:** No Assembly substitute enacted

**DATE OF PASSAGE:** **ASSEMBLY:** September 12, 1994

**SENATE:** May 12, 1994

**DATE OF APPROVAL:** October 26, 1994

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

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ASSEMBLY SUBSTITUTE FOR

SENATE, No. 147

STATE OF NEW JERSEY

ADOPTED AUGUST 29, 1994

Sponsored by Senator MARTIN,  
Assemblywoman MURPHY, and  
Assemblyman DeCROCE

1 AN ACT concerning county open space and farmland preservation  
2 trust funds and supplementing P.L.1989, c.30 (C.40:12-16 et  
3 seq.).  
4

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

7 1. a. The governing body of any county in which the voters of  
8 the county have approved a proposition in accordance with  
9 section 1 of P.L.1989, c.30 (C.40:12-16) may adopt a resolution  
10 authorizing the distribution of monies deposited in the county  
11 open space and farmland preservation trust fund, in such portions  
12 as deemed appropriate, to municipalities within the county or to  
13 charitable conservancies, to be used by those municipalities or  
14 charitable conservancies for the acquisition of open space or  
15 farmland located in the county in accordance with the provisions,  
16 conditions, and requirements of P.L.1989, c.30 (C.40:12-16 et  
17 seq.), provided that any municipality or charitable conservancy  
18 receiving such monies has presented a plan to the county  
19 documenting the proposed use of the lands to be acquired.

20 b. Land or water areas, and any improvements thereon,  
21 acquired by a municipality pursuant to this section shall be held  
22 in a municipal open space and farmland preservation trust and  
23 shall be used exclusively for purposes authorized pursuant to  
24 P.L.1989, c.30 (C.40:12-16 et seq.).

25 c. The governing body of the municipality acquiring land or  
26 water areas, and any improvements thereon, for open space using  
27 funds received pursuant to this section shall have full control of  
28 the open space and may adopt an ordinance providing for (1)  
29 suitable rules, regulations, and bylaws for use of the open space,  
30 (2) the enforcement of those rules, regulations and bylaws, and (3)  
31 when appropriate, the charging and collection of reasonable fees  
32 for use of the open space or for activities conducted thereon.

33 d. In order to qualify to receive funds from a county open  
34 space and farmland preservation trust fund for the acquisition of  
35 open space or farmland pursuant to this section, the board of  
36 directors, board of trustees, or other governing body, as  
37 appropriate, of an applying charitable conservancy shall:

38 (1) demonstrate to the governing body of the county that it  
39 qualifies as a charitable conservancy for the purposes of  
40 P.L.1979, c.378 (C.13:8B-1 et seq.);

41 (2) agree to use the funds only to acquire open space or  
42 farmland located in the county;

43 (3) agree to make and keep the open space accessible to the  
44 public, unless the governing body of the county determines that  
45 public accessibility would be detrimental to the lands or waters,

1 or any improvements thereon, or to any natural resources  
2 associated therewith;

3 (4) agree not to sell, lease, exchange, or donate the open space  
4 or farmland acquired pursuant to this section except upon  
5 approval of the governing body of the county under such  
6 conditions as the governing body may establish; and

7 (5) agree to execute and donate to the county at no charge (a)  
8 a conservation restriction or historic preservation restriction, as  
9 the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.),  
10 on any open space to be acquired using funds received from the  
11 county open space and farmland preservation trust fund pursuant  
12 to this section, or (b) a development easement on any farmland to  
13 be acquired using funds received from the county open space and  
14 farmland preservation trust fund pursuant to this section.

15 e. For the purposes of this section:

16 "Charitable conservancy" means a charitable conservancy as  
17 that term is defined in section 2 of P.L.1979, c.378 (C.13:8B-2);  
18 and

19 "Development easement" means a development easement as  
20 that term is defined in section 3 of P.L.1983, c.32 (C.4:1C-13).

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

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STATEMENT

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29 This substitute would authorize any county in which the voters  
30 of the county have approved a county open space and farmland  
31 preservation tax pursuant to law to distribute funds collected  
32 from that tax to municipalities and charitable conservancies for  
33 use by those entities in acquiring open space or farmland within  
34 the county. The sums, if any, to be distributed would be  
35 allocated at the discretion of the county governing body. Open  
36 space or farmland acquired by a municipality using funds made  
37 available to the municipality from a county open space and  
38 farmland preservation trust fund would be under the control of  
39 the municipality rather than the county. The substitute also  
40 prescribes certain conditions that must be met in order for a  
41 county to authorize the distribution of monies from the county  
42 open space and farmland preservation trust fund to charitable  
43 conservancies, in order to ensure that those monies will be  
44 expended for public purposes related to the preservation of open  
45 space and farmland.

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51 Authorizes counties to distribute monies in county open space and  
52 farmland preservation trust funds to municipalities and charitable  
conservancies.

SENATE, No. 147

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senator MARTIN

1 AN ACT concerning county open space and farmland preservation  
2 trust funds and supplementing P.L.1989, c.30 (C.40:12-16 et  
3 seq.).  
4

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

7 1. a. The governing body of any county in which the voters of  
8 the county have approved a proposition in accordance with  
9 section 1 of P.L.1989, c.30 (C.40:12-16) may adopt a resolution  
10 authorizing the distribution of monies deposited in the county  
11 open space and farmland preservation trust fund, in such portions  
12 as deemed appropriate, to municipalities within the county or to  
13 charitable conservancies, to be used by those municipalities or  
14 charitable conservancies for the acquisition of open space or  
15 farmland located in the county in accordance with the provisions,  
16 conditions, and requirements of P.L.1989, c.30 (C.40:12-16 et  
17 seq.).

18 b. Land or water areas, and any improvements thereon,  
19 acquired by a municipality pursuant to this section shall be held  
20 in a municipal open space and farmland preservation trust and  
21 shall be used exclusively for purposes authorized pursuant to  
22 P.L.1989, c.30 (C.40:12-16 et seq.).

23 c. The governing body of the municipality acquiring land or  
24 water areas, and any improvements thereon, for open space using  
25 funds received pursuant to this section shall have full control of  
26 the open space and may adopt an ordinance providing for (1)  
27 suitable rules, regulations, and bylaws for use of the open space,  
28 (2) the enforcement of those rules, regulations and bylaws, and (3)  
29 when appropriate, the charging and collection of reasonable fees  
30 for use of the open space or for activities conducted thereon.

31 d. In order to qualify to receive funds from a county open  
32 space and farmland preservation trust fund for the acquisition of  
33 open space or farmland pursuant to this section, the board of  
34 directors, board of trustees, or other governing body, as  
35 appropriate, of an applying charitable conservancy shall:

36 (1) demonstrate to the governing body of the county that it  
37 qualifies as a charitable conservancy for the purposes of  
38 P.L.1979, c.378 (C.13:8B-1 et seq.);

39 (2) agree to use the funds only to acquire open space or  
40 farmland located in the county;

41 (3) agree to make and keep the open space accessible to the  
42 public, unless the governing body of the county determines that  
43 public accessibility would be detrimental to the lands or waters,  
44 or any improvements thereon, or to any natural resources  
45 associated therewith;

1 (4) agree not to sell, lease, exchange, or donate the open space  
2 or farmland acquired pursuant to this section except upon  
3 approval of the governing body of the county under such  
4 conditions as the governing body may establish; and

5 (5) agree to execute and donate to the county at no charge (a)  
6 a conservation restriction or historic preservation restriction, as  
7 the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.),  
8 on any open space to be acquired using funds received from the  
9 county open space and farmland preservation trust fund pursuant  
10 to this section, or (b) a development easement on any farmland to  
11 be acquired using funds received from the county open space and  
12 farmland preservation trust fund pursuant to this section.

13 e. For the purposes of this section:

14 "Charitable conservancy" means the same as that term is  
15 defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2).

16 "Development easement" means the same as that term is  
17 defined pursuant to section 3 of P.L.1983, c.32 (C.4:1C-13).

18 2. This act shall take effect immediately and shall also apply  
19 retrospectively to any county whose voters have approved a  
20 proposition in accordance with section 1 of P.L.1989, c.30  
21 (C.40:12-16) prior to the effective date of this act.

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24 STATEMENT  
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26 This bill would authorize any county in which the voters of the  
27 county have approved a county open space and farmland  
28 preservation tax pursuant to law to distribute funds collected  
29 from that tax to municipalities and charitable conservancies for  
30 use by those entities in acquiring open space or farmland within  
31 the county. The sums, if any, to be distributed would be  
32 allocated at the discretion of the county governing body. Open  
33 space or farmland acquired by a municipality using funds made  
34 available to the municipality from a county open space and  
35 farmland preservation trust fund would be under the control of  
36 the municipality rather than the county. The bill also prescribes  
37 certain conditions that must be met in order for a county to  
38 authorize the distribution of monies from the county open space  
39 and farmland preservation trust fund to charitable conservancies,  
40 in order to ensure that those monies will be expended for public  
41 purposes related to the preservation of open space and farmland.

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47 Authorizes counties to distribute monies in county open space and  
48 farmland preservation trust funds to municipalities and charitable  
conservancies.

ASSEMBLY ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 147

STATE OF NEW JERSEY

DATED: JUNE 13, 1994

The Assembly Environment and Energy Committee favorably reports Senate Bill No. 147 (1R).

This bill would authorize any county in which the voters of the county have approved a county open space and farmland preservation tax pursuant to law to distribute funds collected from that tax to municipalities and charitable conservancies for use by those entities in acquiring open space or farmland within the county. The sums, if any, to be distributed would be allocated at the discretion of the county governing body. Open space or farmland acquired by a municipality using funds made available to the municipality from a county open space and farmland preservation trust fund would be under the control of the municipality rather than the county. The bill also prescribes certain conditions that must be met in order for a county to authorize the distribution of monies from the county open space and farmland preservation trust fund to charitable conservancies, in order to ensure that those monies will be expended for public purposes related to the preservation of open space and farmland.

As reported by the committee, this bill is identical to Assembly Bill No. 509 of 1994 as amended and also reported by the committee.

SENATE NATURAL RESOURCES, TRADE AND  
ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

**SENATE, No. 147**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 21, 1994

The Senate Natural Resources, Trade and Economic Development Committee favorably reports Senate Bill No. 147, with Senate committee amendments.

This bill would authorize any county in which the voters of the county have approved a county open space and farmland preservation tax pursuant to law to distribute funds collected from that tax to municipalities and charitable conservancies for use by those entities in acquiring open space or farmland within the county. The sums, if any, to be distributed would be allocated at the discretion of the county governing body. Open space or farmland acquired by a municipality using funds made available to the municipality from a county open space and farmland preservation trust fund would be under the control of the municipality rather than the county. The bill also prescribes certain conditions that must be met in order for a county to authorize the distribution of monies from the county open space and farmland preservation trust fund to charitable conservancies, in order to ensure that those monies will be expended for public purposes related to the preservation of open space and farmland.

The committee made technical amendments to the bill. A provision in section 2 purporting to make the act retroactive to counties that have already approved a proposition authorizing a county open space and farmland preservation tax is re-written to clarify that the retroactivity applies to the tax revenues that a county may have already raised, even though such monies were raised pursuant to a county proposition that did not envision the possibility of distribution of the monies to municipalities or charitable conservancies.

The technical amendments to section 1 of the bill are grammatical in nature, to clarify the intent of the sponsor.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.