

LEGISLATIVE HISTORY CHECKLIST
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(Farmland assessment--amendments)

NUSA: 54:4-23.3

LAWS OF: 1995 CHAPTER: 276

BILL NO: S1746

SPONSOR(S): Singer & others

DATE INTRODUCED: January 23, 1995

COMMITTEE: ASSEMBLY ---

SENATE: Senior Citizens; Budget

AMENDED DURING PASSAGE: Yes Amendments during passage
 Third reprint enacted¹ denoted by superscript
 numbers

DATE OF PASSAGE: ASSEMBLY: June 12, 1995 Re-enacted 12-11-95

SENATE: June 12, 1995 Re-enacted 12-7-95

DATE OF APPROVAL: December 15, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes 2-6-95 & 3-13-95

FISCAL NOTE: Yes

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

974.90 New Jersey. Legislature. Senior Citizens, Veterans Affairs &
 T235 Agriculture Committee.
 1994b Public hearing, held 7-12-94 & 8-25-94. Freehold &
 Trenton, 1994.

See newspaper clipping--attached:

"Whitman signs bill eliminating cuts...", 7-26-95, Atlantic City Press.

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[THIRD REPRINT]

SENATE, No. 1746

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1995

By Senators SINGER, CASEY, Assemblymen Cottrell
and Malone

1 AN ACT concerning farmland assessment, and amending and
2 supplementing P.L.1964, c.48 and amending P.L.1970, c.237.

3

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

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

8 3. Land shall be deemed to be in agricultural use when devoted
9 to the production for sale of plants and animals useful to man,
10 including but not limited to: forages and sod crops; grains and
11 feed crops; dairy animals and dairy products; poultry and poultry
12 products; livestock, including beef cattle, sheep, swine, horses,
13 ponies, mules or goats, including the breeding [and] , boarding,
14 ¹raising, rehabilitating, ¹training or grazing of any or all of such
15 animals ¹, except that "livestock" shall not include dogs¹; bees
16 and apiary products; fur animals; trees and forest products; or
17 when devoted to and meeting the requirements and qualifications
18 for payments or other compensation pursuant to a soil
19 conservation program under an agreement with an agency of the
20 federal government, except that land which is devoted
21 exclusively to the production for sale of tree and forest products,
22 other than Christmas trees, and is not appurtenant woodland,
23 shall not be deemed to be in agricultural use unless the landowner
24 fulfills the following additional conditions:

25 a. The landowner establishes and complies with the provisions
26 of a woodland management plan for this land, prepared in
27 accordance with policies, guidelines and practices approved by
28 the Division of Parks and Forestry in the Department of
29 Environmental Protection, in consultation with the Department
30 of Agriculture and the Dean of Cook College at Rutgers, The
31 State University, which policies, guidelines and practices are
32 designed to eliminate excessive and unnecessary cutting;

33 b. The landowner and a forester from a list of foresters
34 approved by the Department of Environmental Protection
35 annually attest to compliance with subsection a. of this section;
36 and

37 c. The landowner annually submits an application, as
38 prescribed in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the
39 assessor, accompanied by a copy of the plan established pursuant
40 to subsection a. of this section; written documentation of
41 compliance with subsection b. of this section; a supplementary
42 woodland data form setting forth woodland management actions

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSV committee amendments adopted February 6, 1995.

² Senate SBA committee amendments adopted March 13, 1995.

³ Senate amendments adopted in accordance with Governor's
recommendations October 19, 1995.

1 taken in the pre-tax year, the type and quantity of tree and
 2 forest products sold, and the amount of income received or
 3 anticipated for same; a map of the land showing the location of
 4 the activity and the soil group classes of the land; and other
 5 pertinent information required by the Director of the Division of
 6 Taxation as part of the application for valuation, assessment and
 7 taxation, as provided in P.L.1964, c.48 (C.54:4-23.1 et seq.). The
 8 landowner shall, at the same time, submit to the Commissioner of
 9 the Department of Environmental Protection an exact copy of
 10 the application and accompanying information submitted to the
 11 assessor pursuant to this subsection. For the purposes of this
 12 amendatory and supplementary act, "appurtenant woodland"
 13 means a wooded piece of property which is contiguous to, part of,
 14 or beneficial to a tract of land, which tract of land has a
 15 minimum area of at least five acres devoted to agricultural or
 16 horticultural uses other than the production for sale of trees and
 17 forest products, exclusive of Christmas trees, to which tract of
 18 land the woodland is supportive and subordinate.

19 ²[¹Any determination of whether land qualifies as devoted to
 20 an agricultural use, shall be based on the total number of acres of
 21 land used for that activity, not the revenue generated from the
 22 activity on that land.¹]²

23 (cf: P.L.1986, c.201, s.1)

24 ²[¹2. Section 4 of P.L.1964, c.48 (C.54:4-23.4) is amended to
 25 read as follows:

26 Land shall be deemed to be in horticultural use when devoted
 27 to the production for sale of fruits of all kinds, including grapes,
 28 nuts and berries; vegetables; nursery, floral, ornamental and
 29 greenhouse products; or when devoted to and meeting the
 30 requirements and qualifications for payments or other
 31 compensation pursuant to a soil conservation program under an
 32 agreement with an agency of the Federal Government.

33 Any determination of whether land qualifies as devoted to a
 34 horticultural use, shall be based on the total number of acres of
 35 land used for that activity, not the revenue generated from the
 36 activity on that land.¹

37 (cf: P.L.1964, c.48, s.4)]²

38 ¹[²]²[³.¹] ².² Section 5 of P.L.1964, c.48 (C.54:4-23.5) is
 39 amended to read as follows:

40 5. Land, five acres in area, shall be deemed to be actively
 41 devoted to agricultural or horticultural use when the
 42 ¹[aggregate]¹ amount of the gross sales of agricultural or
 43 horticultural products produced thereon [together with], any
 44 payments received under a soil conservation program, ¹[and]
 45 ³[or]³ ¹ fees received for breeding, ³[boarding,]³ ¹raising
 46 ³[,rehabilitating,¹ training]³ or grazing any livestock ¹[have] ³[,
 47 or any combination of such sales, payments and fees has¹],
 48 income imputed to land used for grazing in the amount
 49 determined by the State Farmland Evaluation Advisory
 50 Committee created pursuant to section 20 of P.L.1964, c.48
 51 (C.54:4-23.20), and fees received for boarding, rehabilitating or
 52 training any livestock where the land under the boarding,
 53 rehabilitating or training facilities is contiguous to land which
 54 otherwise qualifies for valuation, assessment and taxation under

1 this act, have³ averaged at least \$500.00 per year during the
 2 2-year period immediately preceding the tax year in issue, or
 3 there is clear evidence of anticipated yearly gross sales and such
 4 payments amounting to at least \$500.00 within a reasonable
 5 period of time.

6 In addition, where the land is more than five acres in area, it
 7 shall be deemed to be actively devoted to agricultural or
 8 horticultural use when the ¹[aggregate]¹ amount of the gross
 9 sales of agricultural or horticultural products produced on the
 10 area above five acres [together with], any payments received
 11 under a soil conservation program, ¹[and] ³[or]³ ¹ fees received
 12 for breeding, ³[boarding,]³ ¹raising ³[,rehabilitating,¹ training]³
 13 or grazing any livestock ¹[have] ³[, or any combination of such
 14 sales, payments and fees has¹], income imputed to land used for
 15 grazing in the amount determined by the State Farmland
 16 Evaluation Advisory Committee created pursuant to section 20 of
 17 P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding,
 18 rehabilitating or training any livestock where the land under the
 19 boarding, rehabilitating or training facilities is contiguous to land
 20 which otherwise qualifies for valuation, assessment and taxation
 21 under this act, have³ averaged at least \$5.00 per acre per year
 22 during the 2-year period immediately preceding the tax year in
 23 issue, or there is clear evidence of anticipated yearly gross sales
 24 and such payments amounting to an average of at least \$5.00 per
 25 year within a reasonable period of time; except in the case of
 26 woodland and wetland, where the minimum requirement shall be
 27 an average of \$0.50 per acre on the area above five acres.

28 ¹As used in this section, "livestock" shall not include dogs.¹

29 ³For the purposes of this section, the presence of an
 30 intervening public thoroughfare shall not preclude a finding of
 31 contiguity.³

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

38 In determining the eligibility of land for valuation, assessment
 39 and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the
 40 assessor of the taxing district in which the land is located shall,
 41 upon request by the owner of the land, exempt the owner from
 42 the income requirements of this section if the owner
 43 demonstrates to the satisfaction of the assessor that the failure
 44 to meet the income requirements was due to an injury, illness or
 45 death of the person responsible for performing the activities
 46 which produce the income necessary to meet the income
 47 eligibility requirement of this section. ¹The request of the owner
 48 shall be accompanied by a certificate of a physician stating that
 49 the person was physically incapacitated or by a certified copy of
 50 the death certificate, as the case may be. The assessor may only
 51 grant an exemption once for a particular illness, injury or death.¹

52 (cf: P.L.1973, c.99, s.1)

53 ¹[3.]²[4.1] 3.2 Section 11 of P.L.1964, c.48 (C.54:4-23.11) is
 54 amended to read as follows:

1 11. In determining the total area of land actively devoted to
2 agricultural or horticultural use there shall be included the area
3 of all land under barns, sheds, ¹seasonal¹ farm markets ¹selling
4 predominantly agricultural products¹, ¹seasonal¹ agricultural
5 labor housing, silos, cribs, greenhouses and like structures, lakes,
6 dams, ponds, streams, irrigation ditches and like facilities, but
7 land under and such additional land as may be actually used in
8 connection with the farmhouse shall be excluded in determining
9 such total area.

10 (cf: P.L.1964, c.48, s.11)

11 ¹[4.]²[5.1] 4.2 Section 12 of P.L.1964, c.48 (C.54:4-23.12) is
12 amended to read as follows:

13 12. a. All structures, which are located on land in agricultural
14 or horticultural use and the farmhouse and the land on which the
15 farmhouse is located, together with the additional land used in
16 connection therewith, shall be valued, assessed and taxed by the
17 same standards, methods and procedures as other taxable
18 structures and other land in the taxing district, regardless of the
19 fact that the land is being valued, assessed and taxed pursuant to
20 P.L.1964, c.48 (C.54:4-23.1 et seq.); provided, however, that the
21 term "structures" shall not include "single-use agricultural or
22 horticultural facilities." As used in this act, "single-use
23 agricultural or horticultural facility" means property employed in
24 farming operations and commonly used for either storage or
25 growing, which is designed or constructed so as to be readily
26 dismantled and is of a type which can be marketed or sold
27 separately from the farmland and buildings and shall include, but
28 not be limited to, temporary demountable plastic covered
29 framework made up of portable parts with no permanent
30 understructures or related apparatus, commonly known as seed
31 starting plastic greenhouses, or other readily dismantled silos,
32 greenhouses, grain bins, manure handling equipment, and
33 impoundments, but shall not include a structure that encloses a
34 space within its walls used for housing, shelter, or working, office
35 or sales space, whether or not removable.

36 b. The Director of the Division of Taxation shall adopt, in
37 consultation with the Secretary of Agriculture and in accordance
38 with the "Administrative Procedure Act," P.L.1968, c.410
39 (C.52:14B-1 et seq.), [standards] rules and regulations establishing
40 criteria¹ for the assessment of ¹all¹ farm structures.

41 (cf: P.L.1993, c.251, s.1)

42 ¹[5.]²[6.1] 5.2 Section 13 of P.L.1964, c.48 (C.54:4-23.13) is
43 amended to read as follows:

44 13. Eligibility of land for valuation, assessment and taxation
45 under this act shall be determined for each tax year separately.
46 Application shall be submitted by the owner to the assessor of the
47 taxing district in which such land is situated on or before August
48 1 or September 1, if an extension of time has been granted by the
49 assessor under section 6 of P.L.1964, c.48 (C.54:4-23.6), of the
50 year immediately preceding the tax year for which such
51 valuation, assessment and taxation are sought. If the application
52 is filed by delivery through the mails or a commercial courier or
53 messenger service, compliance with the time limit for filing shall
54 be established if there is satisfactory evidence that it was

1 committed for delivery to the United States Postal Service or the
2 courier or messenger service within the time allowed for filing.
3 In the case of a courier or messenger service, the application
4 shall be received by the tax assessor of the taxing district within
5 three days after the statutory filing date. An application once
6 filed with the assessor for the ensuing tax year may not be
7 withdrawn by the applicant after August 1 or after September 1,
8 in cases where an extension of time for filing the application has
9 been granted by the assessor, of the pretax year.

10 If a change in use of the land occurs between August 1 and
11 December 31 of the pretax year, either the assessor or the county
12 board of taxation shall deny or nullify such application and, after
13 examination and inquiry, shall determine the full and fair value of
14 said land under the valuation standard applicable to other land in
15 the taxing district and shall assess the same, according to such
16 value. If, notwithstanding such change of use, the land is valued,
17 assessed and taxed under the provisions of this act in the ensuing
18 year, the assessor shall enter an assessment, as an added
19 assessment against such land, in the "Added Assessment List" for
20 the particular year involved in the manner prescribed in P.L.1941,
21 c.397 (C.54:4-63.1 et seq.). The amount of the added assessment
22 shall be in an amount equal to the difference, if any, between the
23 assessment imposed under this act and the assessment which
24 would have been imposed had the land been valued and assessed
25 as other land in the taxing district. The enforcement and
26 collection of additional taxes resulting from any additional
27 assessments so imposed shall be as provided by said chapter. The
28 additional assessment imposed under this section shall not affect
29 the roll-back taxes, if any, under section 8 of this act.

30 The application review shall include an on-site inspection of
31 the land ¹at least¹ once every three years. The municipality may
32 impose a fee for an on-site inspection of not more than \$25,
33 except that ¹contiguous and¹ non-contiguous parcels of land
34 owned by the same owner would be subject to a single fee.

35 (cf: P.L.1987, c.418, s.2)

36 ¹[6.] ²[7.1] 6.² Section 1 of P.L.1970, c.237 (C.54:4-23.13b) is
37 amended to read as follows:

38 1. Where an application for valuation hereunder has been filed
39 by the owner of land within the time provided herein, the assessor
40 of the taxing district in which such land is situated shall, on or
41 before November 1 of the pretax year, forward to such owner a
42 notice of disallowance by regular mail when a claim has been
43 disallowed. The assessor shall set forth in reason or reasons
44 therefor together with a statement notifying the landowner of his
45 right to appeal such determination to the county board of
46 taxation on or before [August 15] ¹[January 1] April 1¹ of the tax
47 year. Any appeal made pursuant to this section shall be governed
48 by the procedures provided for appeals ²[of omitted property
49 assessments in section 9 of P.L.1968, c.148 (C.54:4-63.39)] in
50 R.S.54:3-21².

51 (cf: P.L.1970, c.237, s.1)

52 ¹[7.]²[8.1] 7.² Section 14 of P.L.1964, c.48 (C.54:4-23.14) is
53 amended to read as follows:

54 14. Application for valuation, assessment and taxation of land

1 in agricultural or horticultural use under this act shall be on a
 2 form prescribed by the Director of the Division of Taxation in the
 3 Department of the Treasury, and provided for the use of
 4 claimants by the governing bodies of the respective taxing
 5 districts. The form of application shall provide for the reporting
 6 of information pertinent to the provisions of Article VIII, Section
 7 1, paragraph 1(b) of the Constitution, as amended, and this act.
 8 A certification by the landowner that the facts set forth in the
 9 application are true may be prescribed by the director to be in
 10 lieu of a sworn statement to that effect. Statements so certified
 11 shall be considered as if made under oath and subject to the same
 12 penalties as provided by law for perjury. Any landowner¹, except
 13 those who have submitted a woodland management plan pursuant
 14 to section 3 of P.L.1964, c.48 (C.54:4-23.3),¹ who is¹ [a new] an¹
 15 applicant for valuation, assessment and taxation pursuant to
 16 P.L.1964, c.48 (C.54:4-23.1 et seq.)¹ for lands not previously
 17 qualified under the act¹ shall submit¹ with the application¹ a
 18 [farm conservation plan approved by the local soil conservation
 19 district with the application] map of land use classes and soil
 20 groups that conforms with standards established by the Division
 21 of Taxation in consultation with the Secretary of Agriculture¹.
 22 The director shall devise a form for the extension of filing time
 23 for the valuation application, which form shall include the name
 24 and address of the applicant, the reason for the extension, and a
 25 space for the approval or rejection of the assessor.

26 (cf: P.L.1964, c.418, s.4)

27 ¹[8.]² [9.1] 8.² (New section) If any application for valuation,
 28 assessment and taxation under P.L.1964, c.48 (C.54:4-23.1 et
 29 seq.) made for the 1993 tax year or later, which was denied based
 30 on a determination that the use of land for breeding, boarding,
 31 ³raising, rehabilitating,³ training ³[,]³ or grazing of livestock was
 32 not an agricultural use which met the eligibility requirements of
 33 section 3 of P.L.1964, c.48 ³(C.54:4-23.3)³, ¹and for which an
 34 appeal was filed¹ and which is resubmitted after the effective
 35 date of ³[this act] P.L. , c. (now before the Legislature as
 36 this bill)³ and approved as a result of the amendments to section
 37 3 of P.L.1964, c.48 ³[(C.54:4-23.1 et seq.)] (C.54:4-23.3)³ by
 38 section 1 of ³[this act] P.L. , c. (now before the Legislature
 39 as this bill)³, and to section 5 of P.L.1964, c.48 ³[(C.54:4-23.1 et
 40 seq.)] (C.54:4-23.5)³ by section ¹[2] ³[3¹] ² of ³[this act] P.L. ,
 41 c. (now before the Legislature as this bill)³, the land for which
 42 the application was made shall be deemed to have been eligible
 43 for valuation, assessment, and taxation under P.L.1964, c.48 as of
 44 the first eligible tax year after the application, and the taxing
 45 district shall make retroactive payments to the landowner in the
 46 amount of the taxes paid which were in excess of the amount
 47 payable if taxed under P.L.1964, c.48.

48 ¹[9.]² [10.1] 9.² This act shall take effect immediately.

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Revises the "Farmland Assessment Act of 1964."

1 appeal made pursuant to this section shall be governed by the
 2 procedures provided for appeals of omitted property assessments
 3 in section 9 of P.L.1968, c.148 (C.54:4-63.39).

4 (cf: P.L.1970, c.237, s.1)

5 7. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to
 6 read as follows:

7 14. Application for valuation, assessment and taxation of land
 8 in agricultural or horticultural use under this act shall be on a
 9 form prescribed by the Director of the Division of Taxation in the
 10 Department of the Treasury, and provided for the use of
 11 claimants by the governing bodies of the respective taxing
 12 districts. The form of application shall provide for the reporting
 13 of information pertinent to the provisions of Article VIII, Section
 14 1, paragraph 1(b) of the Constitution, as amended, and this act.
 15 A certification by the landowner that the facts set forth in the
 16 application are true may be prescribed by the director to be in
 17 lieu of a sworn statement to that effect. Statements so certified
 18 shall be considered as if made under oath and subject to the same
 19 penalties as provided by law for perjury. Any landowner who is a
 20 new applicant for valuation, assessment and taxation pursuant to
 21 P.L.1964, c.48 (C.54:4-23.1 et seq.) shall submit a farm
 22 conservation plan approved by the local soil conservation district
 23 with the application. The director shall devise a form for the
 24 extension of filing time for the valuation application, which form
 25 shall include the name and address of the applicant, the reason
 26 for the extension, and a space for the approval or rejection of the
 27 assessor.

28 (cf: P.L.1964, c.418, s.4)

29 8. (New section) If any application for valuation, assessment
 30 and taxation under P.L.1964, c.48 (C.54:4-23.1 et seq.) made for
 31 the 1993 tax year or later, which was denied based on a
 32 determination that the use of land for breeding, boarding,
 33 training, or grazing of livestock was not an agricultural use which
 34 met the eligibility requirements of section 3 of P.L.1964, c.48,
 35 and which is resubmitted after the effective date of this act and
 36 approved as a result of the amendments to section 3 of P.L.1964,
 37 c.48 (C.54:4-23.1 et seq.) by section 1 of this act, and to section
 38 5 of P.L.1964, c.48 (C.54:4-23.1 et seq.) by section 2 of this act,
 39 the land for which the application was made shall be deemed to
 40 have been eligible for valuation, assessment, and taxation under
 41 P.L.1964, c.48 as of the first eligible tax year after the
 42 application, and the taxing district shall make retroactive
 43 payments to the landowner in the amount of the taxes paid which
 44 were in excess of the amount payable if taxed under P.L.1964,
 45 c.48.

46 9. This act shall take effect immediately.

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 48
 49 *SPONSORS'* STATEMENT

50
 51 Article VIII, Section I, paragraph 1(b) of the New Jersey
 52 Constitution, as amended in 1963, authorized the Legislature to
 53 enact laws to provide that the value of certain land actively
 54 devoted to agricultural or horticultural use, shall, for local

1 property tax purposes, be that value which such land has for
2 agricultural or horticultural use. This bill would make various
3 revisions to the "Farmland Assessment Act of 1964," which
4 implemented the constitutional provision.

5 This bill would expand the definition of land devoted to
6 agricultural use to include the boarding or training of livestock.
7 Currently, for land to be considered actively devoted to
8 agricultural or horticultural use, the land must be at least five
9 acres and the gross sales of products produced thereon together
10 with any payments received under a soil conservation program
11 must have averaged at least \$500 per year during the two-year
12 period immediately preceding the tax year in issue. This bill
13 would allow the fees received for breeding, boarding, training or
14 grazing any livestock to be considered in meeting the \$500
15 eligibility requirement. Land owners that had been denied
16 farmland assessment based on these criteria would qualify upon
17 the effective date of the bill.

18 In determining the eligibility of land for farmland assessment,
19 under the bill the assessor of the taxing district in which the land
20 is located shall, upon request by the owner of the land, exempt
21 from the income requirements if the land is actively farmed by a
22 farmer and the owner demonstrates to the satisfaction of the
23 assessor that the failure to meet the income requirements was
24 due to an injury to the farmer, or an illness or the death of the
25 farmer.

26 This bill would add farm markets and agricultural labor housing
27 to the list of structures the land under which would be eligible for
28 farmland assessment.

29 The bill would direct the Division of Taxation to adopt, in
30 consultation with the Secretary of Agriculture, standards for the
31 assessment of farm structures.

32 This bill would require that the application review include an
33 on-site inspection of the land once every three years. Also, the
34 bill would allow a municipality to charge an on-site inspection
35 fee of not more than \$25, except that non-contiguous parcels of
36 land owned by the same owner would be subject to a single fee.

37 This bill would alter the date by which any appeals must be
38 made to the county board of taxation to January 1 of the tax year.

39 In addition, this bill would require a new applicant for farmland
40 assessment to submit a farm conservation plan approved by the
41 local soil conservation district with the application.

42 Finally, under the bill if any application for valuation,
43 assessment and taxation under P.L.1964, c.48 made for the 1993
44 tax year or later, which was denied based on a determination that
45 the use of land for breeding, boarding, training, or grazing of
46 livestock was not an agricultural use which met the eligibility
47 requirements of section 3 of P.L.1964, c.48, and which is
48 resubmitted after the effective date of this act and approved as a
49 result of the amendments to section 3 of P.L.1964, c.48 by
50 section 1 of this act, and to section 5 of P.L.1964, c.48 by section
51 2 of this act, the land for which the application was made shall be
52 deemed to have been eligible for valuation, assessment, and
53 taxation under P.L.1964, c.48 as of the first eligible tax year
54 after the application, and the taxing district shall make

1 retroactive payments to the landowner in the amount of the taxes
2 paid which were in excess of the amount payable if taxed under
3 P.L.1964, c.48.

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8 Revises the "Farmland Assessment Act of 1964."

SENATE SENIOR CITIZENS, VETERANS AFFAIRS
AND AGRICULTURE COMMITTEE

STATEMENT TO

SENATE, No. 1746

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1995

The Senate Senior Citizens, Veterans Affairs and Agriculture Committee favorably reports Senate Bill No. 1746 with committee amendments.

Article VIII, Section I, paragraph 1(b) of the New Jersey Constitution, as amended in 1963, authorized the Legislature to enact laws to provide that the value of certain land actively devoted to agricultural or horticultural use, shall, for local property tax purposes, be that value which such land has for agricultural or horticultural use. This bill would make various revisions to the "Farmland Assessment Act of 1964," which implemented the constitutional provision.

As amended, this bill would expand the definition of land devoted to agricultural use to include the boarding, raising, rehabilitating, or training of livestock. Currently, for land to be considered actively devoted to agricultural or horticultural use, the land must be at least five acres in size and the gross sales of products produced thereon together with any payments received under a soil conservation program must have averaged at least \$500 per year during the two-year period immediately preceding the tax year in issue. This bill would allow the fees received for breeding, boarding, raising, rehabilitating, training or grazing any livestock to be considered in meeting the \$500 eligibility requirement. Land owners that had been denied farmland assessment based on these criteria would qualify upon the effective date of the bill.

In determining the eligibility of land for farmland assessment, under the bill the assessor of the taxing district in which the land is located would, upon request by the owner of the land, exempt from the income requirements if the land is actively farmed by a farmer and the owner demonstrates to the satisfaction of the assessor that the failure to meet the income requirements was due to an injury to the farmer, or an illness or the death of the farmer. The request of the owner must be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

This bill would add seasonal farm markets selling predominantly agricultural products and seasonal agricultural labor housing to the list of structures the land under which would be eligible for farmland assessment.

The bill would direct the Division of Taxation to adopt, in consultation with the Secretary of Agriculture, criteria for the assessment of farm structures.

This bill would require that the application review include an on-site inspection of the land at least once every three years. Also, the bill would allow a municipality to charge an on-site inspection fee of not more than \$25, except that contiguous and non-contiguous parcels of land owned by the same owner would be subject to a single fee.

This bill would alter the date by which any appeals must be made to the county board of taxation to April 1 of the tax year.

In addition, this bill would require any landowner, except those who have submitted a woodland management plan, who is an applicant for valuation, assessment and taxation pursuant to P.L.1964, c.48 for lands not previously qualified under the act shall submit with the application a map of land use classes and soil groups that conforms with standards established by the Division of Taxation in consultation with the Secretary of Agriculture.

Finally, the bill would provide that if any application for farmland assessment made for the 1993 tax year or later, which was denied based on a determination that the use of land for breeding, boarding, training, or grazing of livestock was not an agricultural use which met the farmland assessment eligibility requirements, and for which an appeal has been filed and which is resubmitted after the effective date of this bill and approved as a result of the amendments to section 3 of P.L.1964, c.48 by section 1 of this bill, and to section 5 of P.L.1964, c.48 by section 3 of this bill, the land for which the application was made shall be deemed to have been eligible for farmland assessment as of the first eligible tax year after the application, and the taxing district shall make retroactive payments to the landowner in the amount of the taxes paid which were in excess of the amount payable if taxed under P.L.1964, c.48.

Committee amendments expanded the definition of land devoted to agricultural use to include raising and rehabilitating livestock, and to except dogs from the definition of livestock. The amendments also clarify that any combination of qualifying sales, payments and fees are to be considered for reaching the income requirements for eligibility for farmland assessment. The committee also amended the bill to clarify that any determination whether land qualifies as devoted to an agricultural or horticultural use, shall be based on the total number of acres of land used for that activity, not the revenue generated from the activity on that land.

The committee also amended the bill to require the request of an owner for an exemption from the income requirements to qualify for farmland assessment shall be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

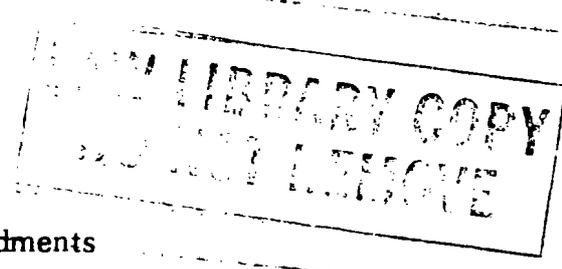
The amendments also specify that only the land under farm markets that are seasonal and sell predominantly agricultural products would be eligible for farmland assessment. In addition, only the land under seasonal agricultural labor housing would be eligible for farmland assessment.

The amendments require an on-site inspection of the land at least every three years.

Finally, the amendments specify that the retroactive payments would apply to application denials that were appealed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO
[FIRST REPRINT]
SENATE, No. 1746



with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 13, 1995

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1746 (1R) with amendments.

Senate Bill No. 1746 (1R), as amended, make various revisions to the "Farmland Assessment Act of 1964," which implemented Article VIII, Section I, paragraph 1(b) of the New Jersey Constitution, as amended in 1963. This Constitutional amendment provided that the value of certain land actively devoted to agricultural or horticultural use, shall, for local property tax purposes, be that value which such land has for agricultural or horticultural use.

This bill:

* Expands the definition of land devoted to agricultural use to include the boarding, raising, rehabilitating, or training of livestock. Currently, for land to be considered actively devoted to agricultural or horticultural use, the land must be at least five acres in size and the gross sales of products produced thereon, together with any payments received under a soil conservation program, must have averaged at least \$500 per year during the two-year period immediately preceding the tax year in issue. This bill would allow the fees received for breeding, boarding, raising, rehabilitating, training or grazing any livestock to be considered in meeting the \$500 eligibility requirement.

* Permits a local tax assessor to grant an exemption to the income requirements if the owner demonstrates that the failure to meet the income requirements was due to injury, illness or death of the farmer farming the land. This request for an exemption must be accompanied by a physician's certificate or death certificate.

* Adds land upon which is located seasonal farm markets selling predominantly agricultural products and seasonal agricultural labor housing to the list eligible for farmland assessment.

* Requires that an application review for farmland assessment include an on-site inspection of the land at least once every three years and permits a municipality to charge an on-site inspection fee of not more than \$25.

* Requires a landowner applying for farmland assessment to submit with the application a map of land use classes and soil groups that conform with standards established by the Division of Taxation in consultation with the Secretary of Agriculture.

* Requires that certain farmland assessments for the 1993 tax year or later which are approved pursuant to certain conditions set forth in this bill be retroactive to the first eligible tax year after the application for farmland assessment was made.

COMMITTEE AMENDMENTS

The committee amended the bill to delete identical phrases in section 1 and section 2 of the bill at the suggestion of the Department of Agriculture. The department suggested that the phrases were ambiguous and could have resulted in inconsistent interpretations of the application of the farmland assessment statute.

In addition, the committee amended, at the suggestion of the Department of Treasury, a citation in section 7 of the bill concerning the appeal process after a denial of a farmland assessment application.

FISCAL IMPACT

This bill does not have an impact on State expenditures or revenues.

The bill does permit municipalities to charge a fee up to \$25 for on-site inspections of land under a farmland assessment. On-site inspection of land under a farmland assessment is required once every three years by the bill. This fee will generate additional revenues for municipalities.

LEGISLATIVE FISCAL ESTIMATE TO

[SECOND REPRINT]

SENATE, No. 1746

STATE OF NEW JERSEY

DATED: May 3, 1995

Senate Bill No. 1746 (2R) of 1995 makes various revisions to the "Farmland Assessment Act of 1964".

This bill would expand the definition of land devoted to agricultural use to include the boarding, raising, rehabilitating, or training of livestock, but would specifically except dogs from the definition of livestock. Currently, for land to be considered actively devoted to agricultural or horticultural use, the land must be at least five acres in size and the gross sales of products produced thereon together with any payments received under a soil conservation program must have averaged at least \$500 per year during the two-year period immediately preceding the tax year in issue. This bill would allow the fees received for breeding, boarding, raising, rehabilitating, training or grazing any livestock to be considered in meeting the \$500 eligibility requirement. Land owners that had been denied farmland assessment based on these criteria would qualify upon the effective date of the bill. The bill also clarifies that any determination as to whether land qualifies for farmland assessment shall be based on the total number of acres of land devoted to an agricultural or horticultural use, not the revenue generated from the activity on that land. The bill also clarifies that any combination of qualifying sales, payments and fees are to be considered for reaching the income requirements for eligibility for farmland assessment.

In determining the eligibility of land for farmland assessment under the bill the assessor of the taxing district in which the land is located would, upon request by the owner of the land, exempt the owner from the income requirements under the act if the land is otherwise qualified under the act and the owner demonstrates to the satisfaction of the assessor that the failure to meet the income requirements was due to an injury to the farmer, or an illness or the death of the farmer. The request of the owner must be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

This bill would add seasonal farm markets selling predominantly agricultural products and seasonal agricultural labor housing to the list of structures the land under which would be eligible for farmland assessment.

The bill would direct the Division of Taxation to adopt, in consultation with the Secretary of Agriculture, criteria for the assessment of farm structures.

This bill would require that the application review include an on-site inspection of the land at least once every three years. Also, the bill would allow a municipality to charge an on-site inspection fee of not more than \$25, except that contiguous and

non-contiguous parcels of land owned by the same owner would be subject to a single fee.

In addition, this bill would require any landowner, except those who have submitted a woodland management plan, who is an applicant for valuation, assessment and taxation pursuant to P.L.1964, c.48 for lands not previously qualified under the act to submit with the application a map of land use classes and soil groups that conforms with standards established by the Division of Taxation in consultation with the Secretary of Agriculture.

In addition, the bill would provide that if any application for farmland assessment made for the 1993 tax year or later, which was denied based on a determination that the use of land for breeding, boarding, training, or grazing of livestock was not an agricultural use which met the farmland assessment eligibility requirements, and for which an appeal has been filed and which is resubmitted after the effective date of this bill and approved as a result of the amendments to section 3 of P.L.1964, c.48 by section 1 of this bill, and to section 5 of P.L.1964, c.48 by section 3 of this bill, the land for which the application was made shall be deemed to have been eligible for farmland assessment as of the first eligible tax year after the application, and the taxing district shall make retroactive payments to the landowner in the amount of the taxes paid which were in excess of the amount payable if taxed under P.L.1964, c.48.

The bill specifies that the retroactive payments would apply to application denials that were appealed.

The Office of Legislative Services (OLS) states that this bill has no State cost. No data are available on a Statewide basis from which to assess the financial impact on municipal governments of a requirement for an on-site inspection of qualified farms at least once every three years. Currently, attentive assessors now inspect every farm as to whether or not it qualifies for farmland assessment each year. Under this bill municipalities would be allowed to charge an on-site inspection fee of not more than \$25, except that contiguous and non-contiguous parcels of land owned by the same owner would be subject to a single fee. In 1994, in the State 39,535 parcels of property were qualified for farmland assessment.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

September 28, 1995

SENATE BILL NO. 1746
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1746 (Second Reprint) with my recommendations for reconsideration.

A. Summary of Bill

This bill revises the "Farmland Assessment Act of 1964" (the "Act"), which permits land used for agricultural or horticultural purposes to be valued and assessed as farmland for purposes of taxation. Notably, the bill expands the Act's definition of land devoted to agricultural use to include the boarding, raising, rehabilitation or training of livestock, and would permit any combination of sales, payments and fees derived from these activities to be considered for reaching the income requirements of the Act.

The bill also revises some procedures regarding both application for valuation and assessment as farmland and the appeal process in the event farmland assessment is denied. Certain applications for farmland assessment which previously were denied on the grounds that the use of land for breeding, boarding, training, or grazing of livestock was not an agricultural use which met the farmland assessment eligibility requirements would qualify for retroactive eligibility under the bill.

B. Recommended Action

I am aware of the importance of agriculture here in the Garden State, and the retention of farmland and open spaces is identified as a critical issue in the New Jersey State Development and Redevelopment Plan. Moreover, the Secretary of Agriculture advises me that the Act, with its provisions granting

tax relief for farmland, is critical to the survival of agriculture in our State. The Secretary further advises me that the growing equine sector of agriculture, which would benefit from including boarding, training and rehabilitation of livestock as agricultural uses, should be encouraged in order for our farmers to remain competitive and viable in light of the evolving nature of agriculture.

Despite the desirability of the bill's goal of retaining farmland, the means employed by the bill to achieve this appears flawed. The Attorney General expresses concern that the manner in which this bill includes boarding, raising, rehabilitating, and training of livestock as specific uses which may qualify for assessment as farmland could be applied to land which is not actively devoted to agricultural use, resulting in the qualification of that land as "farmland" for tax purposes. Such an application is likely to yield an unconstitutional result in light of the language of the State Constitution which permits land actively devoted to agriculture or horticulture uses to be valued and assessed as farmland.

I support the concept of this bill, but believe that the concerns of the Attorney General must be addressed. Accordingly, I recommend that this bill be amended to indicate that boarding, raising, rehabilitating or training livestock must be conducted in conjunction with an agricultural or horticultural use if the land upon which those activities occur is to qualify for valuation and assessment as farmland under the Act. My recommended amendments provide for income to be imputed to land used for grazing, in the amount to be determined by the State

Farmland Evaluation Advisory Committee, and that the imputed income be counted toward achieving the minimum income required for land to be considered actively devoted to agricultural or horticultural use. I also recommend that fees received for boarding, rehabilitating or training livestock be counted toward achieving the Act's income requirement only if such operations take place on land which is contiguous to land which otherwise qualifies under the Act.

Therefore, I herewith return Senate Bill No. 1746 (Second Reprint) and recommend that it be amended as follows:

- Page 2, Section 2, Line 45: After "program" delete "or"
- Page 2, Section 2, Line 46: After "breeding" delete "boarding." and after "raising" delete "rehabilitating."
- Page 2, Section 2, Line 47: Delete "training"
- Page 2, Section 2, Lines 47-48: After "livestock" delete "or any combination of such sales, payments and fees has" and insert ", income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under this act, have"
- Page 3, Section 2, Line 4: After "program" delete "or"
- Page 3, Section 2, Line 5: After "breeding." delete "boarding." and after "raising" delete "rehabilitating, training"

- Page 2, Section 2, Lines 6-7: After "livestock" delete ", or any combination of such sales, payments and fees has" and insert ", income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to section 20 of P.L. 1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under this act, have"
- Page 3, Section 2, Line 14: Insert new paragraph: "For the purposes of this section, the presence of an intervening public thoroughfare shall not preclude a finding of contiguity."
- Page 6, Section 8, Line 13: After "boarding," insert "raising, rehabilitating."
- Page 6, Section 8, Line 14: After "training" delete ","
- Page 6, Section 8, Line 15: After "c.48" insert "(C.54:4-23.3)"
- Page 6, Section 8, Line 17: After "date of" delete "this act" and insert "P.L. , c. (now before the Legislature as this bill)"
- Page 6, Section 8, Lines 18-19: After "c.48" delete "(C.54:4-23.1 et seq.)" and insert "(C.54:4-23.3)"
- Page 6, Section 8, Line 19: After "section 1 of" delete "this act" and insert "P.L. , c. (now before the Legislature as this bill)"
- Page 6, Section 8, Line 20: Delete "(C.54:4-23.1 et seq.)" and insert "(C.54:4-23.5)"
- Page 6, Section 8, Line 20: After "section [2]" delete "2" and insert "2"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 6, Section 8, Line 20:

After "of" delete "this act"
and insert "P.L. , c. (now
before the Legislature as this
bill)"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Margaret M. Foti

Chief Counsel to the Governor