

40:12-20

LEGISLATIVE HISTORY CHECKLIST
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(Parks--county & municipal
--maintenance agreements)

NJSA: 40:12-20

LAWS OF: 1992 CHAPTER: 101

BILL NO: A793

SPONSOR(S) LoBiondo & Gibson

DATE INTRODUCED: February 3, 1992

COMMITTEE: ASSEMBLY: Environment
SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendements denoted
by asterisks

DATE OF PASSAGE: ASSEMBLY: March 16, 1992 Re-enacted 8-3-92
SENATE: May 7, 1992 Re-enacted 9-14-92

DATE OF APPROVAL: September 19, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[SECOND REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 793 and 938

STATE OF NEW JERSEY

ADOPTED FEBRUARY 20, 1992

Sponsored by Assemblymen LoBIONDO, GIBSON,
WARSH and Assemblywoman Derman

1 AN ACT concerning the maintenance of county and municipal
2 parks and supplementing Title 40 and chapter 10A of Title 54 of
3 the Revised Statutes.

4

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

7 1. The Legislature finds and declares that county and municipal
8 parks in the State are deteriorating due to a lack of proper
9 maintenance; that the use and enjoyment of such parks is
10 diminished by their poor condition; that counties and
11 municipalities often do not have the funds to expend for the proper
12 maintenance of their parks; that proper maintenance helps extend
13 the life of park facilities, thereby reducing the need in some cases
14 for large public capital expenditures for new park facilities and
15 allowing any savings resulting therefrom to be used for other
16 public purposes; that private businesses located near county or
17 municipal parks have a public service interest as well as a private
18 financial incentive in ensuring that such parks are well cared for;
19 that such businesses often have financial and other resources
20 available to them to devote to such a worthy purpose; that many
21 nonprofit organizations would welcome the opportunity for their
22 members and volunteers to assist counties or municipalities in the
23 maintenance of county or municipal parks in a spirit of public
24 service; and that, therefore, it is appropriate to authorize counties
25 and municipalities and private businesses or nonprofit
26 organizations to establish mutually beneficial partnerships in the
27 manner prescribed by this act that will result in county and
28 municipal parks that are better maintained for the use and
29 enjoyment of the public.

30 2. As used in this act:

31 "Local government unit" means a county, municipality, or joint
32 meeting, including any commission, utilities or other authority,
33 board, or agency thereof, or a county park commission, county
34 board of park commissioners, county or municipal board of
35 recreation commissioners, municipal recreation commission, or
36 similar entity.

37 "Park" means a park, playground, picnic area, square,
38 monument, beach, waterfront, recreation area, conservation area,
39 or similar place or property, or any open space, owned or
40 controlled by a local government unit.

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 SCO committee amendments adopted April 6, 1992.

² Assembly amendments adopted in accordance with Governor's
recommendations July 20, 1992.

1 "Participating business entity" means a business entity that has
2 entered into a park maintenance agreement with a local
3 government unit in accordance with this act.

4 "Participating entity" means a business entity or nonprofit
5 organization that has entered into a park maintenance agreement
6 with a local government unit in accordance with this act.

7 3. Any local government unit may enter into an agreement with
8 a business entity or nonprofit organization located within or near
9 the local government unit to provide for the maintenance of a park
10 or any portion thereof located within the local government unit, at
11 no cost to the local government unit except as provided pursuant
12 to section 4 of this act. No such park maintenance agreement may
13 be entered into unless the business entity or nonprofit organization
14 successfully demonstrates to the local government unit that the
15 business entity or nonprofit organization is capable of maintaining
16 the park according to the agreed upon terms and conditions. A
17 park maintenance agreement shall be for such period as may be
18 agreed upon by the local government unit and the business entity
19 or nonprofit organization, and may be terminated by the business
20 entity or nonprofit organization upon at least six months notice to
21 the local government unit, or by the local government unit at any
22 time without prior notice to the business entity or nonprofit
23 organization, for any reason, including, but not limited to, failure
24 of the participating business entity or nonprofit organization to
25 comply with any term or condition of the park maintenance
26 agreement.

27 4. A local government unit may provide at no cost to a
28 participating entity such materials, supplies, or services that the
29 local government unit deems appropriate to assist the
30 participating entity with its park maintenance responsibilities,
31 including, but not limited to, solid waste recycling or disposal
32 services.

33 5. A local government unit may advertise and promote a park
34 maintenance agreement program established by the local
35 government unit pursuant to this act.

36 6. A local government unit may provide for appropriate public
37 recognition of a participating entity, including, but not limited to:

- 38 a. issuance of a certificate of recognition; and
39 b. authorization for the participating entity to pay for and
40 erect a sign or signs at the park maintained by that participating
41 entity indicating (1) the name and address of the participating
42 entity, and (2) that it has assumed all or a portion of the
43 maintenance responsibilities for the park as a public service in
44 accordance with this act. The local government unit shall
45 determine the size, color, style, and location of any such sign or
46 signs that may be erected. A local government unit may pay for a
47 sign or signs erected in accordance with this section if the
48 participating entity is a nonprofit organization.

49 7. a. Except where permitted by the "New Jersey Tort Claims
50 Act," N.J.S.59:1-1 et seq., no local government unit, or any
51 employee or agent thereof, may be held liable in any civil action
52 to any person for any injury or damages that may be caused or
53 sustained by any participating entity, or any employee, agent,
54 contractor, member, or volunteer thereof, during the course, or as

1 a result of, maintaining a park.

2 b. As a condition of any park maintenance agreement entered
3 into in accordance with this act:

4 (1) a participating entity, and each employee, agent,
5 contractor, member, or volunteer of that participating entity
6 assisting in maintaining a park, shall sign a waiver releasing the
7 local government unit and its employees and agents from any civil
8 liability for any injury or damages, except those arising from
9 criminal or willful, wanton, or grossly negligent conduct, that may
10 be sustained by the participating entity, or any employee, agent,
11 contractor, member, or volunteer thereof, as the case may be,
12 during the course, or as a result of, maintaining a park;

13 (2) a participating business entity shall agree to indemnify, and
14 if requested by the local government unit, defend, the local
15 government unit and its employees and agents against all claims
16 made by any person for injuries or damages that may be caused or
17 sustained by the participating business entity, or any employee,
18 agent, contractor, member, or volunteer thereof, during the
19 course, or as a result of, maintaining a park; and

20 (3) a participating business entity shall obtain and retain
21 insurance in an amount sufficient for the purposes set forth in this
22 section.

23 8. While performing park maintenance responsibilities pursuant
24 to a park maintenance agreement entered into in accordance with
25 this act, a participating entity and its employees, agents,
26 contractors, members, and volunteers shall not be considered to
27 be "public employees" or "State employees" for the purposes of
28 the "New Jersey Tort Claims Act," or otherwise be accorded any
29 of the protections set forth therein.

30 9. a. Nothing in this act may be construed to supersede the
31 provisions of R.S.40:12-1 et seq., R.S.40:61-1 et seq., chapters 32
32 and 37 of Title 40 of the Revised Statutes, or any rule or
33 regulation established by a local government unit applicable to the
34 operation of its parks for the benefit of all park users.

35 b. Any agreement entered into in accordance with this act shall
36 not be subject to the requirements and provisions of the "Local
37 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

38 ¹[10. The Department of Community Affairs, in conjunction
39 with the Department of Commerce, Energy and Economic
40 Development, the Department of Environmental Protection, and
41 the Division of Taxation in the Department of the Treasury, shall
42 prepare an information packet about this act, and shall distribute
43 it at no charge to each local government unit in the State at least
44 once every two years and, upon request, to any other person at a
45 charge not to exceed the cost of reproduction. The information
46 packet shall include a description of the advantages and benefits,
47 including tax benefits, of a park maintenance agreement entered
48 into in accordance with this act, both to a local government unit
49 and to a participating entity; suggestions concerning the
50 advertisement and promotion of a park maintenance agreement
51 program; and instructions on the preparation of a park
52 maintenance agreement, including, but not limited to,
53 recommended terms and conditions for incorporation into the
54 agreement.]¹

1 ¹[11.] ²[10.]¹ a. A taxpayer who provides materials, supplies, or
2 labor, or who incurs other costs, including, but not limited to,
3 increased costs for insurance, pursuant to a park maintenance
4 agreement entered into in accordance with P.L. , c. (C.)
5 (now before the Legislature as this bill), which is certified by a
6 local government unit pursuant to subsection b. of this section,
7 shall be entitled to a credit as provided herein against the tax
8 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
9 an amount equal to 100% of the cost of such materials, supplies,
10 labor, or other costs. The tax imposed pursuant to section 5 of
11 P.L.1945, c.162 shall first be reduced by the amount of any credit
12 allowable pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78)
13 prior to applying the credit allowed pursuant to this section. The
14 amount of the credit claimed in the tax year for which
15 certification is received shall not exceed 50% of the tax liability
16 that would be otherwise due, and shall not reduce the amount of
17 tax liability to less than the statutory minimum provided in
18 subsection (e) of section 5 of P.L.1945, c.162.

19 b. In order to qualify for the tax credit pursuant to subsection
20 a. of this section, the taxpayer shall apply for a certification from
21 the local government unit that certifies that the taxpayer was a
22 participating business entity for the applicable tax year. The
23 certification shall specifically indicate the date when the taxpayer
24 became a participating business entity, include a copy of the park
25 maintenance agreement, and state, to the best of the local
26 government unit's knowledge, that the materials, supplies, labor,
27 or other costs incurred by the taxpayer have not previously
28 qualified for and received a credit pursuant to this section.

29 Upon certification, the local government unit shall submit a
30 copy thereof to the taxpayer and to the Director of the Division of
31 Taxation. When filing a tax return that includes a claim for a
32 credit pursuant to this section, the taxpayer shall include a copy of
33 the certification and a statement that the materials, supplies,
34 labor, or other costs were incurred in the applicable tax year. Any
35 credit shall be valid in the tax year in which the certification is
36 approved, and any unused portion thereof may be carried forward
37 for up to four subsequent tax years.

38 The Director of the Division of Taxation, in consultation with
39 the Commissioner of Commerce, Energy and Economic
40 Development, the Commissioner of Community Affairs, and the
41 Commissioner of Environmental Protection, shall adopt rules and
42 regulations establishing technical specifications and certification
43 requirements for qualification for the credit established pursuant
44 to this section.

45 c. On or before January 31 of each year, the Director of the
46 Division of Taxation, in consultation with the Commissioner of
47 Commerce, Energy and Economic Development, the Commissioner
48 of Community Affairs, and the Commissioner of Environmental
49 Protection, shall ¹[submit a report to the Governor, the
50 Legislature, and the State Treasurer setting forth] compile and
51 make available for public inspection a record of¹ the number of
52 certifications that were approved during the preceding calendar
53 year and the amount of the credit applied for and received
54 pursuant to this section with respect to each such certification.

1 1On or before January 31, 1993 and for the following four years
2 thereafter, the Director of the Division of Taxation shall notify
3 the Governor and the Legislature as to the availability of this
4 information.¹

5 d. For the purposes of this section, "local government unit,"
6 "park," and "participating business entity" means the same as
7 those terms are respectively defined pursuant to section 2 of
8 P.L. , c. (C.) (now before the Legislature as this bill).²

9 ¹[12.] ²[11.1] 10.² This act shall take effect immediately.

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14 Authorizes counties and municipalities to make agreements with
15 local businesses and nonprofit organizations to maintain county or
16 municipal parks.

ASSEMBLY, No. 793
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1992

By Assemblymen LoBIONDO and GIBSON

1 AN ACT concerning the maintenance of municipal parks and
2 supplementing chapter 61 of Title 40 of the Revised Statutes.

3

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

6 1. The municipal body or authority having control of any public
7 park, playground or other public recreational place or property
8 may enter into an agreement with a qualifying tax exempt
9 non-profit organization to provide for the maintenance of the
10 place or property or part thereof. For the purpose of this act,
11 "qualifying tax exempt non-profit organization" means a
12 neighborhood non-profit organization that has received tax
13 exemption under section 501 (c) of the 1954 Internal Revenue
14 Code and that can successfully demonstrate to the municipality
15 its capability to maintain the park according to the agreed upon
16 terms.

17 2. The agreement entered into pursuant to section 1 of this act
18 may authorize the provision by the local entity at no cost to the
19 participating organization of any goods or services it deems
20 appropriate to assist the participating organization.

21 3. While fulfilling maintenance responsibilities in accordance
22 with an agreement entered into pursuant to section 1 of this act,
23 a member of the participating organization shall be considered a
24 "public employee" for the purposes of the "New Jersey Tort
25 Claims Act," N.J.S.59:1-1 et seq.

26 4. Nothing in this act may be construed to supersede the
27 provisions of R.S.40:12-1 et seq. or R.S.40:61-1 et seq. including,
28 but not limited to, all rules established by the municipality
29 applicable to the operation of its parks for the benefit of all park
30 users.

31 5. This act shall take effect immediately.

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STATEMENT

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36 This bill would encourage community and neighborhood groups
37 to participate in the maintenance of neighborhood parks. There
38 are numerous organizations throughout the State with the
39 interest and the resources to provide these services and thus
40 relieve the municipality of some of its maintenance burden.

41 Accordingly, this bill would authorize municipalities to enter
42 into agreements with neighborhood non-profit organizations for
43 the maintenance of neighborhood parks or public recreational
44 areas. The municipality may make goods and services available
45 to the organization at no cost. Members of the organization,

1 while performing maintenance functions, shall be considered
2 public employees for the purposes of the "New Jersey Tort
3 Claims Act," thus affording them some immunity from tort
4 actions. Finally, this authorizing legislation would not supersede
5 existing statutes regarding municipal authority over parks.

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10 Authorizes agreements between municipalities and certain
11 organizations for the maintenance of parks.

ASSEMBLY, No. 938
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1992

By Assemblyman WARSH

1 AN ACT concerning the maintenance of municipal parks and
2 supplementing Title 40 and chapter 10A of Title 54 of the
3 Revised Statutes.

4

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

7 1. The Legislature finds and declares that municipal parks in
8 the State are deteriorating due to a lack of proper maintenance;
9 that the use and enjoyment of such parks is diminished by their
10 poor condition; that municipalities often do not have the funds to
11 expend for the proper maintenance of their parks; that proper
12 maintenance helps extend the life of park facilities, thereby
13 reducing the need in some cases for large public capital
14 expenditures for new park facilities and allowing any savings
15 resulting therefrom to be used for other public purposes; that
16 private businesses located near municipal parks have a public
17 service interest as well as a private financial incentive in
18 ensuring that such parks are well cared for; that such businesses
19 often have financial and other resources available to them to
20 devote to such a worthy purpose; and that, therefore, it is
21 appropriate to authorize municipalities and private businesses to
22 establish mutually beneficial partnerships in the manner
23 prescribed by this act that will result in municipal parks that are
24 better maintained for the use and enjoyment of the public.

25 2. As used in this act:

26 "Municipality" means a municipal governing body, municipal
27 utilities or other type of authority, municipal agency or
28 commission, or a joint meeting.

29 "Park" means a park, playground, picnic area, square,
30 monument, beach, waterfront, recreation area, conservation
31 area, or similar place or property, or any open space, owned or
32 controlled by a municipality.

33 "Participating business entity" means a business entity that has
34 made a park maintenance agreement with a municipality in
35 accordance with this act.

36 3. Any municipality may enter into an agreement with a
37 business entity located within the municipality to provide for the
38 maintenance of a park or any portion thereof located within the
39 municipality, at no cost to the municipality except as provided
40 pursuant to section 4 of this act. No such park maintenance
41 agreement may be made unless the business entity successfully
42 demonstrates to the municipality that the business entity is
43 capable of maintaining the park according to the agreed upon
44 terms and conditions. A park maintenance agreement shall be for
45 such period as may be agreed upon by the municipality and the

1 business entity, and may be terminated for any reason at any
2 time by either party, including, but not limited to, failure of the
3 participating business entity to comply with any term or
4 condition of the park maintenance agreement.

5 4. A municipality may provide at no cost to a participating
6 business entity such materials, supplies, or services that the
7 municipality deems appropriate to assist the participating
8 business entity with its park maintenance responsibilities,
9 including, but not limited to, solid waste recycling or disposal
10 services.

11 5. A municipality may advertise and promote a park
12 maintenance agreement program established in the municipality
13 pursuant to this act.

14 6. A municipality may provide for appropriate public
15 recognition of a participating business entity, including, but not
16 limited to:

17 a. issuance of a certificate of recognition; and

18 b. authorization for the participating business entity to pay for
19 and erect a sign or signs at the park maintained by that
20 participating business entity indicating (1) the name and address
21 of the participating business entity, and (2) that it has assumed
22 all or a portion of the maintenance responsibilities for the park as
23 a public service in accordance with this act. The municipality
24 shall determine the size, color, style, and location of any such
25 sign or signs that may be erected.

26 7. a. No municipality, or any employee or agent thereof, may
27 be held liable to any person for any injury or damages that may
28 be caused or sustained by any participating business entity, or any
29 employee, agent, or contractor thereof, during the course, or as a
30 result of, maintaining a park.

31 b. As a condition of any park maintenance agreement made in
32 accordance with this act:

33 (1) the participating business entity, and each employee,
34 agent, or contractor of that participating business entity assisting
35 in maintaining a park, shall sign a waiver releasing the
36 municipality and its employees and agents from any liability for
37 any injury or damages that may be sustained by the participating
38 business entity, or any employee, agent, or contractor thereof, as
39 the case may be, during the course, or as a result of, maintaining
40 a park;

41 (2) the participating business entity shall agree to indemnify,
42 and if requested by the municipality, defend, the municipality and
43 its employees against all claims made by any person for injuries
44 or damages that may be caused or sustained by the participating
45 business entity, or any employee, agent, or contractor thereof,
46 during the course, or as a result of, maintaining a park; and

47 (3) the participating business entity shall obtain and retain
48 insurance in an amount sufficient for the purposes set forth in
49 this section.

50 8. While performing park maintenance responsibilities pursuant
51 to a park maintenance agreement made in accordance with this
52 act, a participating business entity and its employees, agents, and
53 contractors shall not be considered to be "public employees" or
54 "State employees" for the purposes of the "New Jersey Tort

1 Claims Act," N.J.S.59:1-1 et seq., or otherwise be accorded any
2 of the protections set forth therein.

3 9. Nothing in this act may be construed to supersede the
4 provisions of R.S.40:12-1 et seq. or R.S.40:61-1 et seq. including,
5 but not limited to, all rules established by a municipality
6 applicable to the operation of its parks for the benefit of all park
7 users.

8 10. The Department of Commerce, Energy and Economic
9 Development, in conjunction with the Department of Community
10 Affairs and the Department of Environmental Protection, shall
11 prepare an information packet about this act, and shall distribute
12 it at no charge to each municipality in the State at least once
13 every two years and, upon request, to any other person at a
14 charge not to exceed the cost of reproduction. The information
15 packet shall include a description of the advantages and benefits,
16 including tax benefits, of a park maintenance agreement made in
17 accordance with this act, both to a municipality and to a
18 participating business entity; suggestions concerning the
19 advertisement and promotion of a park maintenance agreement
20 program; and instructions on the preparation of a park
21 maintenance agreement, including, but not limited to,
22 recommended terms and conditions for incorporation into the
23 agreement.

24 11. a. A taxpayer who provides materials, supplies, or labor,
25 or who incurs other costs, including, but not limited to, increased
26 costs for insurance, pursuant to a park maintenance agreement
27 made in accordance with P.L. , c. (C.) (now before the
28 Legislature as this bill), which is certified by a municipality
29 pursuant to subsection b. of this section, shall be entitled to a
30 credit as provided herein against the tax imposed pursuant to
31 section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to
32 100% of the cost of such materials, supplies, labor, or other
33 costs. The tax imposed pursuant to section 5 of P.L.1945, c.162
34 shall first be reduced by the amount of any credit allowable
35 pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78) prior to
36 applying the credit allowed pursuant to this section. The amount
37 of the credit claimed in the tax year for which certification is
38 received shall not exceed 50% of the tax liability that would be
39 otherwise due, and shall not reduce the amount of tax liability to
40 less than the statutory minimum provided in subsection (e) of
41 section 5 of P.L.1945, c.162.

42 b. In order to qualify for the tax credit pursuant to subsection
43 a. of this section, the taxpayer shall apply for a certification
44 from the municipality that certifies that the taxpayer was a
45 participating business entity for the applicable tax year. The
46 certification shall specifically indicate the date when the
47 taxpayer became a participating business entity, include a copy
48 of the park maintenance agreement, and state, to the best of the
49 municipality's knowledge, that the materials, supplies, labor, or
50 other costs incurred by the taxpayer have not previously qualified
51 for and received a credit pursuant to this section.

52 Upon certification, the municipality shall submit a copy
53 thereof to the taxpayer and the Director of the Division of
54 Taxation. When filing a tax return that includes a claim for a

1 credit pursuant to this section, the taxpayer shall include a copy
2 of the certification and a statement that the materials, supplies,
3 labor, or other costs were incurred in the applicable tax year.
4 Any credit shall be valid in the tax year in which the certification
5 is approved, and any unused portion thereof may be carried
6 forward for up to four subsequent tax years.

7 The Commissioner of Commerce, Energy and Economic
8 Development, in consultation with the Commissioner of
9 Community Affairs, the Commissioner of Environmental
10 Protection, and the Director of the Division of Taxation, shall
11 adopt rules and regulations establishing technical specifications
12 and certification requirements for qualification for the credit
13 established pursuant to this section.

14 c. On or before January 31 of each year, the Commissioner of
15 Commerce, Energy and Economic Development, in consultation
16 with the Commissioner of Community Affairs and the
17 Commissioner of Environmental Protection, shall submit a report
18 to the Governor, the Legislature, and the State Treasurer setting
19 forth the number of certifications that were approved during the
20 preceding calendar year and the amount of the credit applied for
21 and received pursuant to this section with respect to each such
22 certification.

23 d. For the purposes of this section, "municipality" means
24 municipality, "park" means park, and "participating business
25 entity" means participating business entity, as those terms are
26 respectively defined pursuant to section 2 of P.L. , c. (C.)
27 (now before the Legislature as this bill).

28 12. This act shall take effect immediately.

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STATEMENT

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33 This bill would authorize any municipality to enter into an
34 agreement with a business entity located within the municipality
35 to provide for the maintenance of a municipal park or any portion
36 thereof located within the municipality, at no cost to that
37 municipality. Such a park maintenance agreement could not be
38 made unless the business entity successfully demonstrates to the
39 municipality that the business entity is capable of maintaining
40 the park according to the agreed upon terms and conditions. A
41 park maintenance agreement would be for such period as may be
42 agreed upon by the municipality and the business entity, and may
43 be terminated for any reason at any time by either party,
44 including, but not limited to, failure of the participating business
45 entity to comply with any term or condition of the agreement.

46 The bill would authorize a municipality to:

47 (1) provide at no cost to a participating business entity such
48 materials, supplies, or services the municipality deems
49 appropriate to assist the participating business entity with its
50 park maintenance responsibilities, including, but not limited to,
51 solid waste recycling or disposal services;

52 (2) advertise and promote a park maintenance agreement
53 program established in the municipality pursuant to the act; and

54 (3) provide for appropriate public recognition of a

1 participating business entity, including, but not limited to:

2 (a) issuance of a certificate of recognition; and

3 (b) authorization for the participating business entity to pay
4 for and erect a sign or signs at the park maintained by that
5 participating business entity indicating (1) the name and address
6 of the participating business entity, and (2) that it has assumed
7 all or a portion of the maintenance responsibilities for the park as
8 a public service in accordance with the act. The municipality
9 would determine the size, color, style, and location of any such
10 sign or signs that may be erected.

11 The bill also provides that municipalities would be protected
12 from claims by any person for injuries or damages that may be
13 caused or sustained by any participating business entity, or any
14 employee, agent, or contractor thereof, during the course, or as a
15 result of, maintaining a park.

16 The Department of Commerce, Energy and Economic
17 Development, in conjunction with the Department of Community
18 Affairs and the Department of Environmental Protection, would
19 be required to prepare an information packet about the act, and
20 distribute it at no charge to each municipality in the State at
21 least once every two years and, upon request, to any other person
22 at a charge not to exceed the cost of reproduction. The
23 information packet would include a description of the advantages
24 and benefits, including tax benefits, of a park maintenance
25 agreement made in accordance with the act, both to a
26 municipality and to a participating business entity; suggestions
27 concerning the advertisement and promotion of a park
28 maintenance agreement program; and instructions on the
29 preparation of a park maintenance agreement, including, but not
30 limited to, recommended terms and conditions for incorporation
31 into the agreement.

32 Finally, the bill would provide a 100% credit against the
33 corporate business tax to any participating business entity for the
34 costs of materials, supplies, labor, or other miscellaneous
35 expenses, including, but not limited to, increased costs for
36 insurance, incurred by the participating business entity while
37 performing its responsibilities pursuant to a park maintenance
38 agreement made in accordance with the act.

39 Park maintenance is a considerable and chronic problem in the
40 State at all levels of government. Municipal park maintenance
41 particularly suffers whenever municipal budgets are stretched to
42 the limit. This bill would establish a mutually beneficial
43 partnership between the public and private sectors that would
44 result in municipal parks that are maintained better for the
45 enjoyment of the public. Under the bill, private businesses would
46 in essence "adopt" and care for municipal parks as a public
47 service in exchange for favorable publicity and certain tax
48 benefits.

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53 Authorizes municipalities to make agreements with local
54 businesses to maintain municipal parks.

ASSEMBLY ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 793 and 938

STATE OF NEW JERSEY

DATED: FEBRUARY 20, 1992

The Assembly Environment Committee favorably reports an Assembly Committee Substitute for Assembly Bill Nos. 793 and 938.

This committee substitute would authorize any county or municipality, including any commission, utilities or other authority, board, or agency thereof, and any county or municipal park or recreation commission or similar entity, to enter into an agreement with a business entity or nonprofit organization located within or near the county or municipality to provide for the maintenance of a county or municipal park or any portion thereof located within the county or municipality, at no cost to the applicable local government unit. Such a park maintenance agreement could not be entered into unless the business entity or nonprofit organization successfully demonstrates to the local government unit that the business entity or nonprofit organization, as the case may be, is capable of maintaining the park according to the agreed upon terms and conditions. A park maintenance agreement would be for such period as may be agreed upon by the local government unit and the business entity or nonprofit organization, and may be terminated by the business entity or nonprofit organization upon at least six months notice to the local government unit, or by the local government unit at any time without prior notice to the business entity or nonprofit organization, for any reason, including, but not limited to, failure of the participating business entity or nonprofit organization to comply with any term or condition of the agreement.

The committee substitute would authorize a local government unit to:

(1) provide at no cost to a participating business entity or nonprofit organization such materials, supplies, or services the local government unit deems appropriate to assist the participating business entity or nonprofit organization with its park maintenance responsibilities, including, but not limited to, solid waste recycling or disposal services;

(2) advertise and promote a park maintenance agreement program established by the local government unit pursuant to the act; and

(3) provide for appropriate public recognition of a participating business entity or nonprofit organization, including, but not limited to:

(a) issuance of a certificate of recognition; and

(b) authorization for the participating business entity or nonprofit organization to pay for and erect a sign or signs at the park maintained by that participating business entity or nonprofit organization indicating (1) the name and address of the participating business entity or nonprofit organization, and (2) that

it has assumed all or a portion of the maintenance responsibilities for the park as a public service in accordance with the act. The local government unit would determine the size, color, style, and location of any such sign or signs that may be erected. A local government unit may pay for a sign or signs erected in accordance with this provision if the participating entity is a nonprofit organization.

The committee substitute also provides that local government units would be protected from claims by any person for injuries or damages that may be caused or sustained by any participating business entity or nonprofit organization, or any employee, agent, contractor, member, or volunteer thereof, during the course, or as a result of, maintaining a park.

While performing park maintenance responsibilities pursuant to a park maintenance agreement entered into in accordance with the act, a participating business entity or nonprofit organization and its employees, agents, contractors, members, and volunteers would not be considered to be "public employees" or "State employees" for the purposes of the "New Jersey Tort Claims Act," or otherwise be accorded any of the protections set forth therein.

The Department of Community Affairs, in conjunction with the Department of Commerce, Energy and Economic Development, the Department of Environmental Protection, and the Division of Taxation in the Department of the Treasury, would be required to prepare an information packet about the act, and would be required to distribute it at no charge to each local government unit in the State at least once every two years and, upon request, to any other person at a charge not to exceed the cost of reproduction. The information packet would include a description of the advantages and benefits, including tax benefits, of a park maintenance agreement entered into in accordance with the act, both to a local government unit and to a participating business entity or nonprofit organization; suggestions concerning the advertisement and promotion of a park maintenance agreement program; and instructions on the preparation of a park maintenance agreement, including, but not limited to, recommended terms and conditions for incorporation into the agreement.

Finally, the bill would provide a 100% credit against the corporate business tax to any participating business entity for the costs of materials, supplies, labor, or other miscellaneous expenses, including, but not limited to, increased costs for insurance, incurred by the participating business entity while performing its responsibilities pursuant to a park maintenance agreement entered into in accordance with the act.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 793 and 938

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 6, 1992

The Senate Community Affairs Committee favorably reports Assembly Nos. 793/938 ACS with Senate committee amendments.

Assembly Nos. 793/938 ACS, as amended by the committee, would authorize any county or municipality, including any commission, utilities or other authority, board, or agency thereof, and any county or municipal park or recreation commission or similar entity, to enter into an agreement with a business entity or nonprofit organization located within or near the county or municipality to provide for the maintenance of a county or municipal park or any portion thereof located within the county or municipality, at no cost to the applicable local government unit. Such a park maintenance agreement could not be entered into unless the business entity or nonprofit organization successfully demonstrates to the local government unit that the business entity or nonprofit organization, as the case may be, is capable of maintaining the park according to the agreed upon terms and conditions. A park maintenance agreement would be for such period as may be agreed upon by the local government unit and the business entity or nonprofit organization, and may be terminated by the business entity or nonprofit organization upon at least six months notice to the local government unit, or by the local government unit at any time without prior notice to the business entity or nonprofit organization, for any reason, including, but not limited to, failure of the participating business entity or nonprofit organization to comply with any term or condition of the agreement.

The committee substitute would authorize a local government unit to:

(1) provide at no cost to a participating business entity or nonprofit organization such materials, supplies, or services the local government unit deems appropriate to assist the participating business entity or nonprofit organization with its park maintenance responsibilities, including, but not limited to, solid waste recycling or disposal services;

(2) advertise and promote a park maintenance agreement program established by the local government unit pursuant to the act; and

(3) provide for appropriate public recognition of a participating business entity or nonprofit organization, including, but not limited to:

(a) issuance of a certificate of recognition; and

(b) authorization for the participating business entity or nonprofit organization to pay for and erect a sign or signs at the park maintained by that participating business entity or nonprofit

organization indicating (1) the name and address of the participating business entity or nonprofit organization, and (2) that it has assumed all or a portion of the maintenance responsibilities for the park as a public service in accordance with the act. The local government unit would determine the size, color, style, and location of any such sign or signs that may be erected. A local government unit may pay for a sign or signs erected in accordance with this provision if the participating entity is a nonprofit organization.

The committee substitute also provides that local government units would be protected from claims by any person for injuries or damages that may be caused or sustained by any participating business entity or nonprofit organization, or any employee, agent, contractor, member, or volunteer thereof, during the course, or as a result of, maintaining a park.

While performing park maintenance responsibilities pursuant to a park maintenance agreement entered into in accordance with the act, a participating business entity or nonprofit organization and its employees, agents, contractors, members, and volunteers would not be considered to be "public employees" or "State employees" for the purposes of the "New Jersey Tort Claims Act," or otherwise be accorded any of the protections set forth therein.

Finally, the bill would provide a 100% credit against the corporate business tax to any participating business entity for the costs of materials, supplies, labor, or other miscellaneous expenses, including, but not limited to, increased costs for insurance, incurred by the participating business entity while performing its responsibilities pursuant to a park maintenance agreement entered into in accordance with the act.

The committee amended the bill to remove the requirement that the Department of Community Affairs prepare an information packet and to alter the reporting requirements. As referred to the committee, this bill required the Director of the Division of Taxation, in consultation with other commissioners, to submit an annual report to the Governor, Legislature and State Treasurer setting forth the number of certifications that were approved during the preceding calendar year. The committee amended the bill to require only that the Director of the Division of Taxation maintain a record of certifications for public inspection and notify the Governor and Legislature on or before January 31, 1993 and for four years thereafter that the information is available.



OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001
Contact:**

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**TRENTON, N.J. 08625
Release:**

Monday,
Jan. 25, 1993

Gov. Jim Florio today conditionally vetoed S-793/A-1389 in order to make sure that it does not have the effect of relaxing regulations established by the New Jersey Board of Pharmacy.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 25, 1993

SENATE BILL NO. 793

To the Senate:

Pursuant to Article V., Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Bill No. 793 with my recommendations for reconsideration.

The federal Omnibus Budget Reconciliation Act of 1990 (OBRA 90) requires every state to establish standards for a drug use review program and for pharmacist counseling for Medicaid recipients in order to meet requirements for continued participation in the Medicaid outpatient prescription program. This bill would supplement the Pharmacy Act (N.J.S.A. 45:14-1 et seq.) by mandating that a pharmacist conduct a prospective drug review for all patients before each new prescription is dispensed to screen for potential drug therapy problems.

In the case of a prescription to be refilled, the bill allows the pharmacist to use his professional judgment to determine whether a prospective review is appropriate. In addition, this bill provides that a pharmacist shall "offer to counsel" any person who presents a new prescription for filling in any one of several ways, including face-to-face communication, a notation affixed to or written on the bag in which the prescription is delivered, or by telephone. Under the bill, if a prescription is delivered to a person residing outside of the local telephone calling area of the pharmacy, the pharmacist shall make the "offer to counsel" by affixing a note to or writing a note on the bag in which the prescription is delivered. The pharmacist must also provide a toll-free telephone number or accept reasonable collect calls from any person desiring counseling. The bill does not require a pharmacist to provide such counseling if the customer fails to

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accept the offer. If, however, the "offer to counsel" is accepted, the bill requires that the counseling be performed by the pharmacist himself. The bill requires pharmacists to maintain relevant patient information profiles to be considered in both the offer to counsel and the content of any counseling provided. Finally, the bill exempts hospitals and nursing homes from mandatory pharmacist counseling.

The current New Jersey Board of Pharmacy regulations (Board regulations) are generally consistent with OBRA 90 requirements for prospective drug reviews and patient counseling. I am, however, pleased to see that this bill supplements State law by requiring drug use review programs and patient counseling for all individuals and not just those receiving Medicaid benefits. This expansion of State law will ensure a consistent level of care for all patients.

Although I strongly agree with the intent of this bill to establish standards for a drug use review program and for pharmacist counseling of all patients, I believe that this bill weakens present pharmacy practice as governed by existing State Board of Pharmacy regulations (Board regulations). For this reason, there are several aspects of this legislation with which I must take exception.

First, State Board regulations currently require a pharmacist to maintain a Patient Profile System for the purpose of recording significant individual history, i.e., known allergies drug reactions and a comprehensive list of medications and relevant devices for all whom prescriptions are dispensed. This bill would relax the Board's regulations because it would not require a pharmacist to maintain as much information on each patient as the Board's regulations require. This bill therefore would benefit if it were amended to require pharmacists to record in the Patient Profile Record System, the same patient information that the Board's current regulations require be recorded in the Patient Profile Record System.

Second, OBRA 90 would allow ancillary personnel to extend to the patient the offer to receive counseling if the pharmacist chooses not to make the offer to the patient directly. Under OBRA 90 the actual counseling, however, can only be performed by a pharmacist.

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This bill limits the "offer to counsel" to the pharmacist only and needs to be expanded to include ancillary personnel.

Third, the bill does not provide for situations where it is inappropriate or unnecessary to verbally make the offer to counsel. This bill would benefit by an amendment to include language to: (a) take into account the delivery of prescriptions to the home by delivery persons and not the pharmacist; (b) handle language barriers experienced in many neighborhoods by providing written "offers to counsel" in various foreign languages; and (c) provide for the mail order prescription "offer to counsel."

Finally, as written, the bill makes it appear that the information recorded in the Patient Profile System by the dispensing pharmacist will be able to be retrieved by any pharmacist at any pharmacy location. The bill should be amended to clarify that the information recorded by the dispensing pharmacist in the Patient Profile System will only be able to be retrieved from the pharmacy where the information was originally recorded.

I believe that these amendments will ensure Board compliance with OBRA 90 requirements on drug use review and patient counseling and will have a positive impact on patient care and practice standards for pharmacists in New Jersey.

Accordingly, for the reasons stated above, I herewith return Senate Bill No. 793 and recommend that it be amended as follows:

Page 1, Section 1, Line 11:

After "contraindications" insert "to the extent the diagnosis information is available"

Page 1, Section 2, Line 24:

After "and" delete "may" insert "shall"

Page 1, Section 2, Lines 27-33:

Delete in entirety. Insert:
"(2) Face to face communication with ancillary personnel; or
(3) By telephone."

Page 1, Section 2, Lines 41-44:

Insert: "b. If, in the professional judgment of the pharmacist, it is inappropriate to verbally make the offer to counsel, the offer to counsel may be made in a written communication."

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Page 1, Section 2, Line 41:

Delete "b." insert "c."

Page 1, Section 2, Line 45:

Delete "c." insert "d."

Page 2, Section 2, Line 17:

Delete "d." insert "e."

Page 2, Section 3, Lines 24-33:

After "3", delete in entirety insert:

"a. A patient profile system must be maintained by all pharmacies for persons for whom prescriptions are dispensed. The patient profile record system shall be devised so as to enable the immediate retrieval of information necessary to enable the dispensing pharmacist to identify previously dispensed medication at the time a prescription is presented for dispensing. One profile record may be maintained for members of a family living at the same address and possessing the same family name.

b. The following information generated at the individual pharmacy shall be recorded in the patient profile system:

(1) The family name and the first name of the person for whom the medication is intended (the patient);

(2) The address and telephone number of the patient;

(3) Indication of the patient's age, birth date or age group (infant, child, adult) and gender;

(4) The original or refill date the medication is dispensed and the initials of the dispensing pharmacist, if said initials and such date are not recorded on the back of the original prescription or in any other record approved by the New Jersey State Board of Pharmacy;

(5) The number or designation identifying the prescription;

(6) The prescriber's name;

(7) The name, strength and quantity of the drug dispensed;

(8) Individual history where significant, including known

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allergies and drug reactions,
and a comprehensive list of
medications and relevant
devices; and

(9) Any additional comments
relevant to the patient's
drug use, including any
failure to accept the
pharmacist's offer to
counsel."

Page 2, Section 3, Line 34:

Delete "b." insert "c."

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ M. Robert DeCotiis

Chief Counsel to the Governor