

[Second Reprint]

ASSEMBLY, No. 4729

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 11, 2022

Sponsored by:

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman ROBERT D. CLIFTON

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:

Assemblywomen Dunn, Murphy, McCarthy Patrick, Eulner, Piperno,

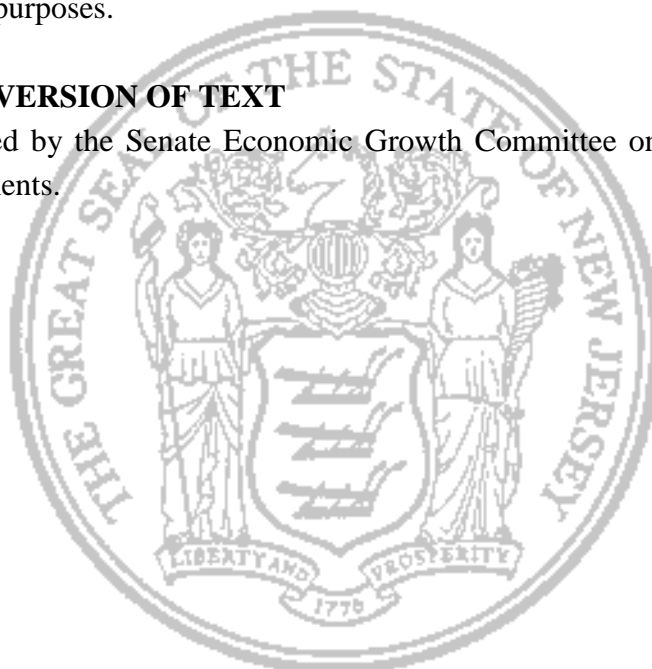
Assemblymen Space, Wirths and Rooney

SYNOPSIS

Revises method for appraisals of farmland to be acquired for farmland preservation purposes.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 8, 2023, with amendments.



(Sponsorship Updated As Of: 1/26/2023)

1 AN ACT concerning the appraisal of farmland for farmland
2 preservation purposes and amending P.L.1999, c.152 and
3 P.L.2016, c.12.

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

7
8 1. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to
9 read as follows:

10 38. a. All acquisitions or grants made pursuant to section 37 of
11 P.L.1999, c.152 (C.13:8C-37) shall be made with respect to
12 farmland devoted to farmland preservation under programs
13 established by law.

14 b. The expenditure and allocation of constitutionally dedicated
15 moneys for farmland preservation purposes shall reflect the
16 geographic diversity of the State to the maximum extent practicable
17 and feasible.

18 c. The committee shall implement the provisions of section 37
19 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures
20 and criteria established pursuant to the "Agriculture Retention and
21 Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as
22 provided otherwise by **[this act]** P.L.1999, c.152 (C.13:8C-1 et
23 seq.).

24 d. The committee shall adopt the same or a substantially
25 similar method for determining, for the purposes of **[this act]**
26 P.L.1999, c.152 (C.13:8C-1 et seq.), the committee's share of the
27 cost of a development easement on farmland to be acquired by a
28 local government as that which is being used by the committee on
29 the date of enactment of **[this act]** P.L.1999, c.152 (C.13:8C-1 et
30 seq.) for prior farmland preservation funding programs.

31 e. Notwithstanding the provisions of section 24 of P.L.1983,
32 c.32 (C.4:1C-31) or **[this act]** P.L.1999, c.152 (C.13:8C-1 et seq.),
33 or any rule or regulation adopted pursuant thereto, to the contrary,
34 whenever the value of a development easement on farmland to be
35 acquired using constitutionally dedicated moneys in whole or in
36 part is determined based upon the value of any pinelands
37 development credits allocated to the parcel pursuant to P.L.1979,
38 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
39 management plan adopted pursuant thereto, the committee shall
40 determine the value of the development easement by:

41 (1) conducting a sufficient number of fair market value
42 appraisals as it deems appropriate to determine the value for
43 farmland preservation purposes of the pinelands development
44 credits;

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:

¹Assembly AAN committee amendments adopted December 12, 2022.

²Senate SEG committee amendments adopted June 8, 2023.

1 (2) considering development easement values in counties,
2 municipalities, and other areas (a) reasonably contiguous to, but
3 outside of, the pinelands area, which in the sole opinion of the
4 committee constitute reasonable development easement values in
5 the pinelands area for the purposes of this subsection, and (b) in the
6 pinelands area where pinelands development credits are or may be
7 utilized, which in the sole opinion of the committee constitute
8 reasonable development easement values in the pinelands area for
9 the purposes of this subsection;

10 (3) considering land values in the pinelands regional growth
11 areas;

12 (4) considering the importance of preserving agricultural lands
13 in the pinelands area; and

14 (5) considering such other relevant factors, including the rate of
15 inflation, as may be necessary to increase participation in the
16 farmland preservation program by owners of agricultural lands
17 located in the pinelands area.

18 f. No pinelands development credit that is acquired or obtained
19 in connection with the acquisition of a development easement on
20 farmland or fee simple title to farmland by the State, a local
21 government unit, or a qualifying tax exempt nonprofit organization
22 using constitutionally dedicated moneys in whole or in part may be
23 conveyed in any manner. All such pinelands development credits
24 shall be retired permanently.

25 g. (Deleted by amendment, P.L.2010, c.70)

26 h. Any farmland for which a development easement or fee
27 simple title has been acquired pursuant to section 37 of P.L.1999,
28 c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the
29 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the
30 "Agriculture Retention and Development Act," P.L.1983, c.32
31 (C.4:1C-11 et al.).

32 i. (Deleted by amendment, P.L.2010, c.70)

33 j. (1) Commencing on the date of enactment of P.L.2004, c.120
34 (C.13:20-1 et al.) and through June 30, 2024 for lands located in the
35 Highlands Region as defined pursuant to section 3 of P.L.2004,
36 c.120 (C.13:20-3), when the committee, a local government unit, or
37 a qualifying tax exempt nonprofit organization seeks to acquire a
38 development easement on farmland or the fee simple title to
39 farmland for farmland preservation purposes using constitutionally
40 dedicated moneys in whole or in part, Green Acres bond act moneys
41 in whole or in part, or constitutionally dedicated CBT moneys
42 pursuant to P.L.2016, c.12 (C.13:8C-43 et seq.) in whole or in part,
43 it shall conduct or cause to be conducted an appraisal or appraisals
44 of the value of the lands that shall be made using (a) the land use
45 zoning of the lands, and any State environmental laws or
46 Department of Environmental Protection rules and regulations that
47 may affect the value of the lands, subject to the appraisal and in
48 effect at the time of proposed acquisition, and (b) the land use

1 zoning of the lands, and any State environmental laws or
2 Department of Environmental Protection rules and regulations that
3 may affect the value of the lands, subject to the appraisal and in
4 effect on January 1, 2004. The higher of those two values shall be
5 utilized by the committee, a local government unit, or a qualifying
6 tax exempt nonprofit organization as the basis for negotiation with
7 the landowner with respect to the acquisition price for the lands.
8 The landowner shall be provided with both values determined
9 pursuant to this paragraph.

10 A landowner may waive any of the requirements of this
11 paragraph and may agree to sell the lands for less than the values
12 determined pursuant to this paragraph.

13 The provisions of this paragraph shall be applicable only to lands
14 the owner of which at the time of proposed acquisition is the same
15 person who owned the lands on the date of enactment of P.L.2004,
16 c.120 (C.13:20-1 et al.) and who has owned the lands continuously
17 since that enactment date, or is an immediate family member of that
18 person.

19 (2) (Deleted by amendment, P.L.2010, c.70)

20 (3) The requirements of this subsection shall be in addition to
21 any other requirements of law, rule, or regulation not inconsistent
22 therewith.

23 (4) This subsection shall not:

24 (a) apply in the case of lands to be acquired with federal moneys
25 in whole or in part;

26 (b) (Deleted by amendment, P.L.2010, c.70); or

27 (c) alter any requirements to disclose information to a
28 landowner pursuant to the "Eminent Domain Act of 1971,"
29 P.L.1971, c.361 (C.20:3-1 et seq.).

30 (5) For the purposes of this subsection, "immediate family
31 member" means a spouse, child, parent, sibling, aunt, uncle, niece,
32 nephew, first cousin, grandparent, grandchild, father-in-law,
33 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,
34 stepbrother, stepsister, half brother, or half sister, whether the
35 individual is related by blood, marriage, or adoption.

36 k. The committee and the Department of Environmental
37 Protection, pursuant to the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and
39 regulations that establish standards and requirements regulating any
40 improvement on lands acquired by the State for farmland
41 preservation purposes using constitutionally dedicated moneys to
42 assure that any improvement does not diminish the protection of
43 surface water or groundwater resources.

44 Any rules and regulations adopted pursuant to this subsection
45 shall not apply to improvements on lands acquired prior to the
46 adoption of the rules and regulations.

47 l. (1) The committee, within three months after the date of the
48 first meeting of the Highlands Water Protection and Planning

1 Council established pursuant to section 4 of P.L.2004, c.120
2 (C.13:20-4), shall consult with and solicit recommendations from
3 the council concerning farmland preservation strategies and
4 acquisition plans in the Highlands Region as defined in section 3 of
5 P.L.2004, c.120 (C.13:20-3).

6 The council's recommendations shall also address strategies and
7 plans concerning establishment by the committee of a methodology
8 for prioritizing the acquisition of development easements and fee
9 simple titles to farmland in the Highlands preservation area, as
10 defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland
11 preservation purposes using moneys from the Garden State
12 Farmland Preservation Trust Fund, especially with respect to
13 farmland that has declined substantially in value due to the
14 implementation of the "Highlands Water Protection and Planning
15 Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations
16 may also include a listing of specific parcels in the Highlands
17 preservation area that the council is aware of that have experienced
18 a substantial decline in value and for that reason should be
19 considered by the committee as a priority for acquisition, but any
20 such list shall remain confidential notwithstanding any provision of
21 P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

22 (2) In prioritizing applications for funding submitted by local
23 government units in the Highlands planning area, as defined in
24 section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development
25 easements on farmland in the Highlands planning area using
26 moneys from the Garden State Farmland Preservation Trust Fund,
27 the committee shall accord a higher weight to any application
28 submitted by a local government unit to preserve farmland in a
29 municipality in the Highlands planning area that has amended its
30 development regulations in accordance with section 13 of P.L.2004,
31 c.120 (C.13:20-13) to establish one or more receiving zones for the
32 transfer of development potential from the Highlands preservation
33 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
34 that which is accorded to comparable applications submitted by
35 other local government units to preserve farmland in municipalities
36 in the Highlands planning area that have not made such
37 amendments to their development regulations.

38 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
39 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
40 the sum spent by the committee in each of those fiscal years for the
41 acquisition by the committee of development easements and fee
42 simple titles to farmland for farmland preservation purposes using
43 moneys from the Garden State Farmland Preservation Trust Fund in
44 each county of the State shall be not less, and may be greater if
45 additional sums become available, than the average annual sum
46 spent by the department therefor in each such county, respectively,

1 for State fiscal years 2002 through 2004, provided there is sufficient
2 and appropriate farmland within the county to be so acquired by the
3 committee for such purposes.
4 (cf: P.L.2019, c.136, s.9)

5
6 2. Section 8 of P.L.2016, c.12 (C.13:8C-50) is amended to read
7 as follows:

8 8. a. The State Treasurer shall establish a fund to be known as
9 the "Preserve New Jersey Farmland Preservation Fund" and shall
10 deposit all moneys received pursuant to paragraph (3) of subsection
11 a. of section 5 of P.L.2016, c.12 (C.13:8C-47), paragraph (2) of
12 subsection a. of section 1 of P.L.2019, c.136 (C.13:8C-47.1), and
13 any other moneys appropriated by law for deposit into the fund.

14 Moneys in the fund shall be invested in permitted investments or
15 shall be held in interest-bearing accounts in those depositories as
16 the State Treasurer may select, and may be invested and reinvested
17 in permitted investments or as other trust funds in the custody of the
18 State Treasurer in the manner provided by law. All interest or other
19 income or earnings derived from the investment or reinvestment of
20 moneys in the fund shall be credited to the fund.

21 b. (1) The moneys in the fund are specifically dedicated and
22 shall be used for the same purposes as those set forth in section 37
23 of P.L.1999, c.152 (C.13:8C-37) and as provided in paragraph (2)
24 of this subsection.

25 (2) Of the moneys deposited into the Preserve New Jersey
26 Farmland Preservation Fund: (a) in State fiscal year 2017 through
27 and including State fiscal year 2019, up to three percent shall be
28 allocated by the committee on an annual basis for stewardship
29 activities; and (b) commencing in State fiscal year 2020 and
30 annually thereafter, up to four percent shall be allocated by the
31 committee on an annual basis for stewardship activities.

32 (3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-
33 43 et seq.) to the contrary, stewardship activities undertaken on
34 farmland on which (a) the pinelands development credits have been
35 acquired pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), and the
36 pinelands comprehensive management plan adopted pursuant
37 thereto, or the development rights have been acquired pursuant to a
38 transfer of development rights program for the Highlands Region
39 established pursuant to section 13 of P.L.2004, c.120 (C.13:20-13),
40 and (b) there is deed restriction approved by the committee, shall be
41 eligible for funding pursuant to paragraph (2) of this subsection.

42 c. Moneys in the fund shall not be expended except in
43 accordance with appropriations from the fund made by law. Any
44 act appropriating moneys from the Preserve New Jersey Farmland
45 Preservation Fund shall identify any particular project or projects to
46 be funded by the moneys, and any expenditure for a project for
47 which the location is not identified by municipality and county in
48 the appropriation shall require the approval of the Joint Budget

1 Oversight Committee, or its successor, except as permitted
2 otherwise in accordance with the same exceptions as those specified
3 in paragraph (2) of subsection b. of section 23 of P.L.1999, c.152
4 (C.13:8C-23).

5 d. Unexpended moneys due to project withdrawals,
6 cancellations, or cost savings shall be returned to the fund.

7 e. Notwithstanding the provisions of section 24 of P.L.1983,
8 c.32 (C.4:1C-31) or section 38 of P.L.1999, c.152 (C.13:8C-38), or
9 any rule or regulation adopted pursuant thereto, to the contrary,
10 when the committee, a local government unit, or a qualifying tax
11 exempt nonprofit organization seeks to acquire a development
12 easement on², or fee simple title to,² farmland using, in whole or in
13 part, monies deposited into the Preserve New Jersey Farmland
14 Preservation Fund,² the Garden State Farmland Preservation Trust
15 Fund established pursuant to section 20 of P.L.1999, c.152
16 (C.13:8C-20), or any other State monies provided for farmland
17 preservation purposes,² the value of the development easement², or
18 fee simple title, as applicable,² shall be determined by the
19 following:

20 (1) the procedure set forth in section 24 of P.L.1983, c.32
21 (C.4:1C-31);

22 (2) a value determined in accordance with a formula, to be
23 known as the "Statewide Farmland Preservation Formula,"¹ which
24 formula is established [adopted by the committee]¹ by rule or
25 regulation¹ adopted by the committee,¹ pursuant to² [the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.)] subsection f. of this section²,¹ [that] and¹ includes:

28 (a) conducting² or analyzing² a sufficient number of fair market
29 value appraisals of agricultural lands within the municipality in
30 which the land is located², or the surrounding market area, or
31 both,² as the committee deems appropriate to determine the value of
32 the land for farmland preservation;

33 (b) considering² farmland and² development easement values in
34 counties and municipalities reasonably contiguous to, but outside
35 of, the municipality in which the land to be acquired is located,
36 which in the sole opinion of the committee constitute reasonable
37 farmland and² development easement values for the purposes of
38 this subsection;

39 (c) considering the importance of preserving agricultural lands in
40 the municipality and county in which the land is located;

41 (d) considering the status and value of natural resources in the
42 municipality and county in which the land is located, and in
43 counties and municipalities that are reasonably contiguous to, but
44 outside of, the municipality and county in which the land is located;

45 (e)¹ considering such other relevant factors as may be necessary
46 to increase participation in the farmland preservation program by

1 owners of agricultural lands located in ¹the¹ municipality and
2 county in which the land is located, including, but not limited to,
3 the rate of inflation, the quality of the agricultural soils, the size of
4 the agricultural lands to be acquired, and the risk of conversion of
5 the land from productive agriculture to nonagricultural use; and

6 ¹[(e)] (f)¹ providing additional value for the proximity of
7 agricultural lands located adjacent to preserved agricultural lands,
8 lands preserved for recreation and conservation purposes, aquifer
9 recharge areas, lands subject to development or conservation
10 easements, ²and lands whose conversion to nonagricultural use
11 would lead to conflicting land uses, including, but not limited to,²
12 utility and roadway rights-of-way, military bases, and airports and
13 associated airspace; and, if applicable,

14 (3) (a) in the case of property located in the pinelands area,
15 whenever the value of a development easement on farmland to be
16 acquired is determined based upon the value of any pinelands
17 development credits allocated to the parcel pursuant to P.L.1979,
18 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
19 management plan adopted pursuant thereto, the value determined by
20 the committee pursuant to subsection e. of section 38 of P.L.1999,
21 c.152 (C.13:8C-38); ¹or¹

22 (b) in the case of property located in the Highlands Region, the
23 value determined pursuant to subsection j. of section 38 of
24 P.L.1999, c.152 (C.13:8C-38) ¹[, if applicable]¹.

25 The landowner shall be provided with the values determined
26 pursuant to paragraphs (1) and (2) of this subsection, and if
27 applicable, the value determined pursuant to paragraph (3) of this
28 subsection. The higher of the values shall be utilized by the
29 committee, a local government unit, or a qualifying tax exempt
30 nonprofit organization as the basis for negotiation with the
31 landowner with respect to the acquisition price. A landowner may
32 waive any of the requirements of this subsection and may agree to
33 sell the lands for less than the values determined pursuant to this
34 subsection.

35 ²[This subsection shall not apply in the case of lands to be
36 acquired with federal moneys in whole or in part.]

37 f. Notwithstanding the provisions of the “Administrative
38 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
39 contrary, the committee shall, immediately upon filing proper
40 notice with the Office of Administrative Law, adopt rules and
41 regulations to establish the “Statewide Farmland Preservation
42 Formula” required pursuant to paragraph (2) of subsection e. of this
43 section. The rules and regulations adopted pursuant to this
44 subsection shall be in effect for a period not to exceed three years
45 after the date of the filing. These rules and regulations shall
46 thereafter be adopted, amended, or readopted by the committee in

- 1 accordance with the requirements of the “Administrative Procedure
- 2 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).²
- 3 (cf: P.L.2019, c.136, s.4)
- 4
- 5 3. This act shall take effect immediately.