

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)

Co-Sponsored by:

Assemblywomen Dunn, Murphy, McCarthy Patrick and Assemblyman Clifton

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/12/2022)

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;

45 (2) considering development easement values in counties,

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (4) This subsection shall not:

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

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

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

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

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

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

46 l. (1) The committee, within three months after the date of the
47 first meeting of the Highlands Water Protection and Planning
48 Council established pursuant to section 4 of P.L.2004, c.120

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

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

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

37 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
38 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
39 the sum spent by the committee in each of those fiscal years for the
40 acquisition by the committee of development easements and fee
41 simple titles to farmland for farmland preservation purposes using
42 moneys from the Garden State Farmland Preservation Trust Fund in
43 each county of the State shall be not less, and may be greater if
44 additional sums become available, than the average annual sum
45 spent by the department therefor in each such county, respectively,
46 for State fiscal years 2002 through 2004, provided there is sufficient
47 and appropriate farmland within the county to be so acquired by the

1 committee for such purposes.
2 (cf: P.L.2019, c.136, s.9)

3

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

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

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

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

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

30 (3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-
31 43 et seq.) to the contrary, stewardship activities undertaken on
32 farmland on which (a) the pinelands development credits have been
33 acquired pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), and the
34 pinelands comprehensive management plan adopted pursuant
35 thereto, or the development rights have been acquired pursuant to a
36 transfer of development rights program for the Highlands Region
37 established pursuant to section 13 of P.L.2004, c.120 (C.13:20-13),
38 and (b) there is deed restriction approved by the committee, shall be
39 eligible for funding pursuant to paragraph (2) of this subsection.

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

1 in paragraph (2) of subsection b. of section 23 of P.L.1999, c.152
2 (C.13:8C-23).

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

5 e. Notwithstanding the provisions of section 24 of P.L.1983,
6 c.32 (C.4:1C-31) or section 38 of P.L.1999, c.152 (C.13:8C-38), or
7 any rule or regulation adopted pursuant thereto, to the contrary,
8 when the committee, a local government unit, or a qualifying tax
9 exempt nonprofit organization seeks to acquire a development
10 easement on farmland using, in whole or in part, monies deposited
11 into the Preserve New Jersey Farmland Preservation Fund, the value
12 of the development easement shall be determined by the following:

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

15 (2) a value determined in accordance with a formula, to be
16 known as the "Statewide Farmland Preservation Formula," adopted
17 by the committee by rule or regulation pursuant to the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), that includes:

20 (a) conducting a sufficient number of fair market value
21 appraisals of agricultural lands within the municipality in which the
22 land is located as the committee deems appropriate to determine the
23 value of the land for farmland preservation;

24 (b) considering development easement values in counties and
25 municipalities reasonably contiguous to, but outside of, the
26 municipality in which the land to be acquired is located, which in
27 the sole opinion of the committee constitute reasonable
28 development easement values for the purposes of this subsection;

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

31 (d) considering such other relevant factors as may be necessary
32 to increase participation in the farmland preservation program by
33 owners of agricultural lands located in municipality and county in
34 which the land is located, including, but not limited to, the rate of
35 inflation, the quality of the agricultural soils, the size of the
36 agricultural lands to be acquired, and the risk of conversion of the
37 land from productive agriculture to nonagricultural use; and

38 (e) providing additional value for the proximity of agricultural
39 lands located adjacent to preserved agricultural lands, lands
40 preserved for recreation and conservation purposes, aquifer
41 recharge areas, lands subject to development or conservation
42 easements, utility and roadway rights-of-way, military bases, and
43 airports and associated airspace; and, if applicable,

44 (3) (a) in the case of property located in the pinelands area,
45 whenever the value of a development easement on farmland to be
46 acquired is determined based upon the value of any pinelands
47 development credits allocated to the parcel pursuant to P.L.1979,
48 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive

1 management plan adopted pursuant thereto, the value determined by
2 the committee pursuant to subsection e. of section 38 of P.L.1999,
3 c.152 (C.13:8C-38);

4 (b) in the case of property located in the Highlands Region, the
5 value determined pursuant to subsection j. of section 38 of
6 P.L.1999, c.152 (C.13:8C-38), if applicable.

7 The landowner shall be provided with the values determined
8 pursuant to paragraphs (1) and (2) of this subsection, and if
9 applicable, the value determined pursuant to paragraph (3) of this
10 subsection. The higher of the values shall be utilized by the
11 committee, a local government unit, or a qualifying tax exempt
12 nonprofit organization as the basis for negotiation with the
13 landowner with respect to the acquisition price. A landowner may
14 waive any of the requirements of this subsection and may agree to
15 sell the lands for less than the values determined pursuant to this
16 subsection.

17 This subsection shall not apply in the case of lands to be
18 acquired with federal moneys in whole or in part.

19 (cf: P.L.2019, c.136, s.4)

20

21 3. This act shall take effect immediately.

22

23

24 STATEMENT

25

26 This bill would establish a new process for the determination of
27 the value of a development easement to be acquired for farmland
28 preservation purposes by the State Agriculture Development
29 Committee (SADC), a local government unit, or a qualifying tax
30 exempt nonprofit organization using, in whole or in part,
31 constitutionally dedicated Corporation Business Tax monies
32 deposited into the Preserve New Jersey Farmland Preservation
33 Fund, pursuant to P.L.2016, c.12 (C.13:8C-43 et seq.). This process
34 would be used in addition to the appraisal processes in current law.

35 Under this bill, the committee would adopt, pursuant to the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.) a formula, to be known as the "Statewide Farmland
38 Preservation Formula," that includes:

39 (a) conducting a sufficient number of fair market value
40 appraisals of agricultural lands within the municipality in which the
41 land is located;

42 (b) considering development easement values in counties and
43 municipalities reasonably contiguous to, but outside of, the
44 municipality in which the land to be acquired is located;

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

47 (d) considering such other relevant factors as may be necessary
48 to increase participation in the farmland preservation program by

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

6 (e) providing additional value for the proximity of agricultural
7 lands located adjacent to preserved agricultural lands, lands
8 preserved for recreation and conservation purposes, aquifer
9 recharge areas, lands subject to development or conservation
10 easements, utility and roadway rights-of-way, military bases, and
11 airports and associated airspace.

12 The value determined pursuant to this new process would be
13 used in addition to the processes contained in current law.

14 In addition, the bill would amend subsection e. of section 38 of
15 P.L.1999, c.152 (C.13:8C-38), which sets for how value is to be
16 calculated when the value of the farmland to be acquired is
17 determined based upon the value of any pinelands development
18 credits allocated to the parcel pursuant to P.L.1979, c.111
19 (C.13:18A-1 et seq.) and the pinelands comprehensive management
20 plan adopted pursuant thereto. Under this bill, that value would
21 include consideration of the rate of inflation.

22 A landowner would be provided with the values determined
23 pursuant to these different methods and the higher of the values
24 would be used as the basis for negotiation with the landowner with
25 respect to the acquisition price.