

[Second Reprint]

SENATE, No. 1311

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 3, 2022

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SYNOPSIS

Establishes NJ State Parks and Open Space Foundation.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 4, 2023, with amendments.



(Sponsorship Updated As Of: 1/8/2024)

1 AN ACT establishing the New Jersey State Parks and ²**[Forests]**
 2 Open Space² Foundation, and supplementing Title 13 of the
 3 Revised Statutes.

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

7
 8 1. As used in this act:

9 ²**[“Development” or “develop” means the same as that term is**
 10 defined in section 3 of P.L.1999, c.152 (C.13:8C-3).]

11 “Commissioner” means the Commissioner of Environmental
 12 Protection.

13 “County and municipal parks and open space” means parks,
 14 forests, historic sites, natural areas, wildlife management areas, and
 15 any other lands, waters, and facilities owned or administered by a
 16 county or a municipality, or an agency thereof, for recreation and
 17 conservation purposes.

18 “Department” means the Department of Environmental
 19 Protection.

20 “Foundation” means the New Jersey State Parks and Open Space
 21 Foundation established pursuant to section 2 of this act.²

22 “Qualifying tax exempt nonprofit organization” means a
 23 nonprofit organization that is exempt from federal taxation pursuant
 24 to section 501 (c)(3) of the federal Internal Revenue Code, 26
 25 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to
 26 section 27 P.L.1999, c.152 (C.13:8C-27).

27 ²**[“Recreation and conservation purposes” means the same as**
 28 that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

29 “State parks and forests” means the same as that term is defined
 30 in section 3 of P.L.1983, c.324 (C.13:1L-3).

31 “Stewardship activity” means the same as that term is defined in
 32 section 3 of P.L.2016, c.12 (C.13:8C-45).]

33 “State parks and open space” means State parks, forests, historic
 34 sites, natural areas, wildlife management areas, and any other lands,
 35 waters, and facilities owned or administered by the department for
 36 recreation and conservation purposes.²

37
 38 2. a. There is established ²**[in the Department of**
 39 **Environmental Protection]**² a nonprofit, educational, and charitable
 40 organization to be known as the New Jersey State Parks and
 41 ²**[Forests]** Open Space² Foundation. The foundation shall be
 42 devoted to the raising of funds ²**[for the support, including**
 43 maintenance and development, and promotion of New Jersey’s
 44 State parks and forests] to be used for (1) improvements to natural

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:

¹Senate SEN committee amendments adopted June 13, 2022.

²Assembly AAP committee amendments adopted December 4, 2023.

1 or artificial assets, including the planning, design, construction,
2 installation, renovation, repair, or restoration thereof, which are
3 designed to expand and enhance the utilization of State parks and
4 open space, and county and municipal parks and open space, for
5 recreation and conservation purposes and the equitable access
6 thereto; and (2) activities, beyond the routine operations of State
7 parks and open space, or county and municipal parks and open
8 space, which are intended to enhance public programming and
9 recreational and educational offerings, restore or maintain public
10 accessibility to the natural resources of the State, or support
11 operation and maintenance activities attendant thereto. Funds
12 raised by the foundation shall be supplementary to State and federal
13 funds received by the department for these purposes².

14 b. The foundation shall be incorporated as a New Jersey
15 nonprofit corporation pursuant to ²[P.L.1983, c.127 (C.15A:1-1 et
16 seq.)] N.J.S.15A:1-1 et seq.², and shall be organized and operated
17 in such manner as to be eligible under applicable federal law for
18 tax-exempt status and for the receipt of tax-deductible
19 contributions.

20 ²[c. The New Jersey State Parks and Forests Foundation shall be
21 governed by a board of directors, which shall consist of nine
22 members, as follows:

23 (1) one representative from the Governor's office, who shall be
24 appointed by, and shall serve during the term of, the Governor;

25 (2) the Commissioner of Environmental Protection, or the
26 commissioner's designee, who shall serve ex officio;

27 (3) the chairperson of the Garden State Preservation Trust
28 established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4), or
29 the chairperson's designee, who shall serve ex officio; and

30 (4) six members of the public, appointed by the Governor, with
31 the advice and consent of the Senate, who shall have expertise in
32 open space preservation, natural lands management, or fundraising,
33 and be residents of the State. Of the members appointed pursuant to
34 this paragraph, at least three shall represent nonprofit organizations
35 having open space preservation or environmental education as their
36 corporate purpose.

37 No person holding elective public office shall be eligible to be a
38 member of the board of directors.

39 d. Of the public members first appointed pursuant to paragraph
40 (4) of subsection c. of this section, one shall be appointed to a term
41 of one year, two shall be appointed to a term of two years, two shall
42 be appointed to a term of three years, and one shall be appointed to
43 term of four years. Following the expiration of the original terms,
44 the public members shall serve for a term of four years and are
45 eligible for reappointment. Any vacancy shall be filled in the same
46 manner as the original appointment, for the unexpired term. A
47 public member may continue to serve until their successor is
48 appointed.

1 e. No member of the board of directors shall engage in any
2 business transaction or professional activity for profit with the New
3 Jersey State Parks and Forests Foundation.

4 f. Members of the board of directors shall serve without
5 compensation, but shall be entitled to reimbursement for necessary
6 expenses incurred in the performance of their duties.

7 g. The board of directors of the New Jersey State Parks and
8 Forests Foundation shall be authorized, within the limits of its own
9 funds, to employ an executive director and professional, technical,
10 and administrative personnel. Employees of the foundation shall
11 not be construed to be employees of the State of New Jersey. The
12 board shall also be authorized to contract for such professional and
13 administrative services as it shall deem necessary.

14 h. Upon the incorporation of the New Jersey State Parks and
15 Forests Foundation and the establishment of the first board of
16 directors, the board shall adopt bylaws setting forth the structure,
17 officers, powers, and duties of the foundation.

18 i. The first chairperson of the foundation shall be the public
19 member first appointed by the Governor. At the first meeting of the
20 foundation held in each subsequent year, the members shall elect
21 one of the public members to serve as chairperson. The members
22 shall annually elect one of the public members as vice chairperson,
23 and shall select a secretary and a treasurer, who need not be
24 members of the foundation. The same person may be elected to
25 serve as both secretary and treasurer.

26 j. Five members of the board of directors shall constitute a
27 quorum, and action may be taken and motions and resolutions
28 adopted at any meeting thereof by the affirmative vote of a majority
29 of the full membership of the board of directors. No vacancy in the
30 membership of the trust shall impair the right of a quorum of the
31 members to exercise all the powers and perform all the duties of the
32 trust. The foundation shall meet at the call of the chairperson, or
33 upon the request of any four members of the board of directors.
34 The foundation shall in all respects comply with the provisions of
35 the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

36 k. The Department of Environmental Protection shall provide
37 staff support to the foundation. The foundation shall be entitled to
38 call to its assistance and avail itself of the services of the employees
39 of any State, county, or municipal department, board, bureau,
40 commission, or agency as the foundation may require and as may be
41 available to the foundation for its purposes. The foundation shall
42 be a separate and independent entity from the State and any State
43 department, and shall have all of the rights and powers of a
44 corporation organized under N.J.S.15A:1-1 et seq.

45 c. The department may provide financial assistance and the
46 services of employees of the department as may be required to form
47 and incorporate the foundation within the limits of funds
48 appropriated to the department or otherwise made available to the

1 department for these purposes. Once the foundation is
2 incorporated, the foundation may apply for grants-in-aid from any
3 department or instrumentality of the State as may be necessary to
4 supplement other funding raised by or otherwise made available to
5 the foundation.²

6
7 ²3. a. The New Jersey State Parks and Open Space Foundation
8 shall be governed by a board of directors, which shall consist of 12
9 members, as follows:

10 (1) the Commissioner of Environmental Protection, or the
11 commissioner's designee, who shall serve as a nonvoting, ex officio
12 member;

13 (2) the Secretary of State, or the secretary's designee, who shall
14 serve as a nonvoting, ex officio member;

15 (3) the State Treasurer, of the treasurer's designee, who shall
16 serve as a nonvoting, ex officio member;

17 (4) the chairperson of the Garden State Preservation Trust
18 established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4), or
19 the chairperson's designee, who shall serve ex officio;

20 (5) six members of the public, appointed by the Governor, with
21 the advice and consent of the Senate, who shall have expertise in
22 open space preservation, recreational development, natural lands
23 management, or fundraising. Of the public members appointed
24 pursuant to this paragraph, at least three members shall represent
25 nonprofit organizations having open space preservation or
26 environmental education as their corporate purpose, and two
27 members shall have experience advancing the causes of equity or
28 environmental justice;

29 (6) one member of the public appointed by the President of the
30 Senate; and

31 (7) one member of the public appointed by the Speaker of the
32 General Assembly.

33 b. All public members of the board of directors shall be
34 residents of the State and shall be selected to provide diverse
35 geographic representation across the State. No person holding
36 elective public office shall be eligible to be a member of the board
37 of directors.

38 c. Of the public members first appointed pursuant to paragraph
39 (5) of subsection a. of this section, one shall be appointed to a term
40 of one year, two shall be appointed to a term of two years, two shall
41 be appointed to a term of three years, and one shall be appointed to
42 term of four years. The public members appointed pursuant to
43 paragraphs (6) and (7) of subsection a. of this section shall be
44 appointed to terms of three years. Following the expiration of the
45 original terms, the public members shall serve for a term of four
46 years and shall be eligible for reappointment. Any vacancy shall be
47 filled in the same manner as the original appointment, for the

- 1 unexpired term. A public member may continue to serve until a
2 successor is appointed.
- 3 d. No member of the board of directors shall engage in any
4 business transaction or professional activity for profit with the
5 foundation or the department.
- 6 e. Members of the board of directors shall serve without
7 compensation, but shall be entitled to reimbursement for necessary
8 and reasonable expenses incurred in the performance of their duties.
- 9 f. The board of directors shall be authorized, within the limits
10 of its own funds, to employ an executive director and professional,
11 technical, and administrative personnel. Employees of the
12 foundation shall not be construed to be employees of the State of
13 New Jersey. The board shall also be authorized to contract for such
14 professional and administrative services as it shall deem necessary.
- 15 g. Upon the incorporation of the foundation and the
16 establishment of the first board of directors, the board shall adopt
17 bylaws setting forth the structure, officers, powers, and duties of the
18 foundation and a code of ethics for the avoidance of conflicts of
19 interest.
- 20 h. The commissioner shall serve as the chairperson of the
21 board. The members shall annually elect one of the public members
22 as vice chairperson, and shall select a secretary and a treasurer, who
23 need not be members of the foundation. The same person may be
24 elected to serve as both secretary and treasurer.
- 25 i. Five members of the board of directors shall constitute a
26 quorum, and action may be taken, and motions and resolutions
27 adopted at any meeting thereof by the affirmative vote of a majority
28 of the appointed membership of the board of directors. No vacancy
29 in the membership of the board shall impair the right of a quorum of
30 the members to exercise all the powers and perform all the duties of
31 the board. The board shall meet at the call of the chairperson, but
32 not less than quarterly, or upon the request of any four members of
33 the board of directors. The foundation shall in all respects comply
34 with the provisions of the "Open Public Meetings Act," P.L.1975,
35 c.231 (C.10:4-6 et seq.).
- 36 j. Members of the board and officers and employees of the
37 foundation shall not be liable in an action for damages to any
38 person for any action taken or recommendation made within the
39 scope of their employment as a member, officer, or employee, if the
40 action or recommendation was taken or made without malice. The
41 members of the board shall be indemnified and their defense of any
42 action provided for in the same manner and to the same extent as
43 employees of the State under the "New Jersey Tort Claims Act,"
44 N.J.S.59:1-1 et seq., with respect to actions or omissions in the
45 scope of their employment.
- 46 k. The foundation may convene committees to administer the
47 work of the foundation as it may deem appropriate, including for
48 the consideration of specific fundraising strategies. The foundation

1 shall convene committees dedicated to the solicitation and
2 administration of funds for Liberty State Park, Island Beach State
3 Park, and other specific State parks, or to open space, initiatives, or
4 projects deemed appropriate by the board, and may solicit and
5 accept specifically dedicated donations, which shall be subject to
6 separate and distinct accounting.²

7
8 ²[3.] 4.² The New Jersey State Parks and ²[Forests] Open
9 Space² Foundation shall have the power:

10 a. to sue and be sued in its own name ²[, but members of the
11 board of directors shall be held harmless for acts performed in good
12 faith]²;

13 b. to adopt a seal and alter the same at pleasure;

14 c. to adopt bylaws for the regulation of its affairs and the
15 conduct of its business;

16 d. to maintain an office or offices at such a place or places
17 within the State as it may designate;

18 e. to appoint such officers, who need not be members of the
19 foundation, in addition to a secretary and a treasurer, as the
20 foundation deems advisable, and to employ such other employees
21 and agents as may be necessary or desirable in its judgment, to fix
22 their compensation, and to promote and discharge such officers,
23 employees and agents, all without regard to the provisions of Title
24 11, Civil Service, of the Revised Statutes;

25 f. to apply for and accept any grant of money from the federal
26 government, which might be or may become available for programs
27 in furtherance of its statutory goals, to subscribe to and comply with
28 any rule or regulation made by the federal government with respect
29 to the application of such a grant, and to enter into and perform any
30 contract or agreement with respect to the application of such a
31 grant;

32 g. to make, enter into, and perform all contracts and
33 agreements necessary or incidental to the performance of its duties
34 and the execution of its powers under this act;

35 h. to cooperate with and assist, insofar as practicable, any
36 agency of the State or any of its political subdivisions, and any
37 private agency or person in furtherance of the purposes of the
38 foundation; and

39 i. to do all acts and things necessary or convenient to carry out
40 the powers expressly granted in this act.

41
42 ²[4.] 5.² a. The New Jersey State Parks and ²[Forests] Open
43 Space² Foundation shall have the following powers, in particular:

44 (1) to solicit and ²[collect] accept² monetary donations ²[and
45 receive] ² gifts, grants, devises, ²[and]² bequests ²[of financial
46 contributions for the development, including stewardship, of State
47 parks and forests;

1 (2) to accept gifts, legacies, bequests, and endowments for any
2 purpose within the scope of the foundation¹, legacies, endowments,
3 personal property, or services from any public or private sources.²
4 and, unless otherwise specified by the person making such a
5 donation,² gift, ², grant, devise,² legacy, bequest, or endowment
6 ²[of money in furtherance of the foundation]², to invest ²or
7 reinvest² the same in whole or in part in ²[an interest-bearing trust
8 account or general obligations of the State of New Jersey;]
9 accordance with the provisions of subsection c. of this section; and²
10 ²[(3)] (2)² to apply all moneys, assets, property, or other things
11 of value it may receive incident to its operation or pursuant to the
12 general purposes of the foundation ²;
13 (4) in consultation with the Commissioner of Environmental
14 Protection, to develop and oversee opportunities for the
15 construction and operation of renewable energy generation systems
16 at State parks and forests, provided that:
17 (a) any renewable energy generation system shall not interfere
18 with the use of the lands for recreation and conservation purposes
19 and shall not violate any development easement, conservation
20 restriction or easement, or other restriction or easement
21 permanently restricting development on the land;
22 (b) any electric energy generated shall be used first to reduce the
23 energy needs of the State park or forest in which the renewable
24 energy generation system is located; and
25 (c) any income derived from the location and operation of
26 renewable energy generation system pursuant to this paragraph shall
27 be dedicated for the development, including stewardship, of State
28 parks and forests and be invested or held pursuant to subsection c.
29 of this section;
30 (5) to advise the Department of Environmental Protection
31 concerning the preparation of master plans and management plans
32 prepared by the department for each State park and forest pursuant
33 to section 5 of P.L.1983, c.324 (C.13:1L-5) in order to enhance
34 outdoor recreational activities and programs within State parks and
35 forests for the benefit of the State's citizens; and
36 (6) to enter into partnerships with qualifying tax exempt
37 nonprofit organizations or local government units for the
38 development, including stewardship, of lands preserved for
39 recreation and conservation purposes¹.
40 b. ²(1)² All funds received by the ²[New Jersey State Parks and
41 Forests Foundation] foundation², other than those necessary to pay
42 for the expenses of the foundation, shall be used exclusively for
43 ²[the development, including stewardship, and promotion of State
44 parks and forests. All expenditures for the development, including
45 stewardship, and promotion of State parks and forests shall be
46 undertaken in consultation with the Division of Parks and Forestry
47 or Division of Fish and Wildlife, as applicable.] : (a) improvements

1 to natural or artificial assets, including the planning, design,
2 construction, installation, renovation, repair, or restoration thereof,
3 which are designed to expand and enhance the utilization of State
4 parks and open space, and county and municipal parks and open
5 space, for recreation and conservation purposes and the equitable
6 access thereto; and (b) activities, beyond the routine operations of
7 State parks and open space, or county and municipal parks and open
8 space, which are intended to enhance public programming and
9 recreational and educational offerings, restore or maintain public
10 accessibility to the natural resources of the State, or support
11 operation and maintenance activities attendant thereto.

12 (2) The foundation shall develop an open and transparent process
13 governing the solicitation of funding and the method by which
14 funding shall be made available to the department for the purposes
15 set forth in this act. The process shall ensure that any attribution or
16 recognition for a donation is minimal and equal regardless of the
17 size of a donation. Except as otherwise provided in subsection k. of
18 section 3 of this act, all funding shall be made available to the
19 department for use, consistent with paragraph (1) of this subsection,
20 in the areas of greatest need, as determined by the department in its
21 sole discretion.²

22 c. All monetary donations or other financial contributions
23 received by the foundation shall be invested ²and reinvested by the
24 foundation² in ²such obligations, securities, or other² permitted
25 investments ²[or shall be held in interest-bearing accounts in those
26 depositories selected by the foundation, in conjunction with the
27 State Treasurer, and may be invested and reinvested in permitted
28 investments or as other] as the board shall deem prudent, to the
29 same extent that² trust funds in the custody of the State Treasurer
30 ²[in the manner provided by] are invested and reinvested, and in a
31 manner that is consistent with the purposes and provisions of this
32 act and with other State and federal² law. All interest or other
33 income or earnings derived from the investment or reinvestment of
34 moneys by the foundation shall be credited to the foundation to be
35 used ²[for the development, including stewardship, of State parks
36 and forests pursuant to this] in accordance with the provisions of
37 this² ¹act¹.

38
39 ²6. The foundation shall not have the authority to accept real
40 property and shall direct all offers of real property to the
41 department.²

42
43 ²7. All expenses incurred by the foundation shall be payable
44 from funds raised by the foundation, and no liability or obligation,
45 in tort or contract, shall be incurred by the State for the operation of
46 the foundation. The foundation shall obtain private counsel, and

1 shall not be represented by the Attorney General or indemnified by
2 the State of New Jersey.²

3
4 ²**[5.] 8.**² a. The foundation shall cause an audit of its books and
5 accounts to be made at least once in each year by certified public
6 accountants. The cost thereof shall be considered an expense of the
7 foundation, and a copy thereof shall be filed with the Director of the
8 Division of Budget and Accounting in the Department of the
9 Treasury.

10 b. The foundation shall prepare and annually submit a report to
11 the Governor, the ²**[Commissioner of Environmental Protection]**
12 commissioner², and, pursuant to section 2 of P.L.1991, c.164
13 (C.52:14-19.1), to the Legislature, documenting the foundation's
14 activities during the preceding year, together with any
15 recommendations or requests the foundation deems appropriate to
16 further the purposes of the foundation. The report shall include a
17 complete operating and financial statement covering the operations
18 during the year, a specific short range financing plan for the
19 upcoming year, and a long range financing plan for the next five
20 years.

21 Within 10 days after the report is submitted to the
22 ²**[Commissioner of Environmental Protection]** commissioner²
23 pursuant to this subsection, the commissioner shall post a copy of
24 the report on the ²department's² Internet website ²**[of the**
25 **Department of Environmental Protection]**².

26
27 ²**[6.] 9.**² This act shall take effect immediately.