

**ASSEMBLY CONCURRENT  
RESOLUTION No. 101**

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**STATE OF NEW JERSEY  
218th LEGISLATURE**

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INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Assemblyman RONALD S. DANCER  
District 12 (Burlington, Middlesex, Monmouth and Ocean)  
Assemblyman BOB ANDRZEJCZAK  
District 1 (Atlantic, Cape May and Cumberland)  
Assemblyman VINCENT MAZZEO  
District 2 (Atlantic)**

**Co-Sponsored by:**

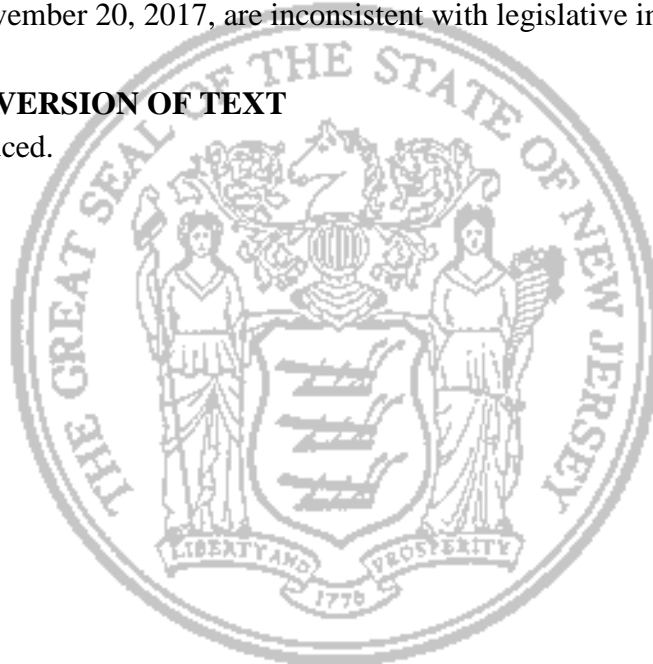
**Assemblymen Armato, Peterson, Assemblywoman N.Munoz and  
Assemblyman Houghtaling**

**SYNOPSIS**

Determines that the Department of Agriculture beekeeping regulations, proposed November 20, 2017, are inconsistent with legislative intent.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/9/2018)**

1   **A CONCURRENT RESOLUTION** concerning legislative review of  
2   certain Department of Agriculture proposed regulations pursuant  
3   to Article V, Section IV, paragraph 6 of the Constitution of the  
4   State of New Jersey.

5  
6   **WHEREAS**, Article V, Section IV, paragraph 6 of the Constitution of  
7   the State of New Jersey provides that the Legislature may review  
8   any rule or regulation adopted or proposed by an administrative  
9   agency to determine if the rule or regulation is consistent with the  
10   intent of the Legislature as expressed in the language of the statute  
11   which the rule or regulation is intended to implement and, upon a  
12   finding that the rule or regulation is not consistent with legislative  
13   intent, may transmit the finding to the Governor and the head of the  
14   agency; and

15   **WHEREAS**, On November 20, 2017, the Department of Agriculture,  
16   contrary to assurances offered concerning revision of the draft  
17   regulations informally circulated in July 2017, proposed for public  
18   comment in the New Jersey Register rules and regulations affecting  
19   beekeeping practices in the State; and

20   **WHEREAS**, The Department of Agriculture was advised in July 2017  
21   by several legislators, the New Jersey Farm Bureau, and the New  
22   Jersey Beekeepers Association that the draft regulations, now  
23   proposed regulations, were contrary to the legislative intent of laws  
24   affecting bees compiled in Titles 4 and 40 of the Revised Statutes;  
25   and

26   **WHEREAS**, Preserving the State's bee populations and apiary activities  
27   are of the utmost importance to the agriculture in the State and the  
28   public welfare; and

29   **WHEREAS**, There have been many news reports on the environmental  
30   dangers affecting bees and pollinators as well as dire predictions  
31   involving climate change, reports of alarming depletions of bee  
32   populations that may be connected with these changes, butterfly  
33   die-offs and alterations to butterfly migration patterns, and the  
34   serious threat to human survival that the loss of pollinators  
35   represents regardless of the causes; and

36   **WHEREAS**, Beyond the specifics of any statute, there is a clear  
37   indication of the Legislature's intent to protect bees and the apiary  
38   industries in the State expressed by its efforts to respond to the  
39   crisis by not only introducing numerous bills but enacting no less  
40   than seven new laws in the past four years to protect pollinators,  
41   five of which specifically protect bees and facilitate apiary activities  
42   in the State; and

43   **WHEREAS**, The plain language and intent of the Legislature expressed  
44   in these laws also indicate that the proposed regulations are  
45   inconsistent with legislative intent; and

46   **WHEREAS**, Section 2 of P.L.2015, c.76 (C.4:6-24) requires the  
47   Department of Agriculture, when developing standards for  
48   beekeeping to be set forth in regulation, to "consult with the New

1 Jersey League of Municipalities, the New Jersey Beekeepers  
2 Association, and the Mid-Atlantic Apiculture Research and  
3 Extension Consortium, or successor organizations with similar  
4 purposes”; and  
5 **WHEREAS**, Contrary to this direction and the department’s reference in  
6 the summary of its proposed regulations to meetings held  
7 concerning development of the regulations, the New Jersey  
8 Beekeepers Association and the Mid-Atlantic Apiculture Research  
9 and Extension Consortium were not meaningfully consulted  
10 concerning the standards or regulations or included in developing  
11 the standards and the regulations; and  
12 **WHEREAS**, When this fact was brought to the attention of the  
13 Department of Agriculture in July 2017, its immediate response  
14 was to recognize its oversight by withdrawing the draft regulations  
15 and assure concerned legislators and the New Jersey Beekeepers  
16 Association that the department would not be moving forward with  
17 the proposed regulations; and  
18 **WHEREAS**, Nevertheless, no significant changes were made to the  
19 regulations prior to the November 20, 2017 proposal to avoid a  
20 challenge to their validity; and  
21 **WHEREAS**, If the New Jersey Beekeepers Association had been  
22 meaningfully consulted as required by law, the association would  
23 have brought to the department’s attention that the proposed  
24 regulations are contrary to the Legislature’s intent to protect apiary  
25 activities in the State and to consider sound science, bee biology,  
26 and bee behavior as well as to work with municipalities to facilitate,  
27 not prohibit, beekeeping in suburban and urban areas of the State;  
28 and  
29 **WHEREAS**, The letter of the law set forth in section 2 of P.L.2015,  
30 c.76 (C.4:6-24) requires the Department of Agriculture to “consult”  
31 with the specified entities concerning the standards; and  
32 **WHEREAS**, The dictionary definition of “consult” includes “to seek  
33 advice or information from,” “ask guidance from,” “to consider or  
34 deliberate; take counsel; confer,” and definitions of “counsel” and  
35 “guidance” include “instruction given in directing the judgement or  
36 conduct of another,” “leadership,” and “direction,” but no such  
37 counsel, guidance, instruction, leadership, or direction was sought  
38 or considered in this case, and therefore the proposed regulations  
39 and the proposed standards to be implemented by them are  
40 inconsistent with the intention of the law; and  
41 **WHEREAS**, Coupled with the Legislature’s expressed intent and policy  
42 to protect pollinators, the Legislature clearly intended in directing  
43 this consultation to have entities intimate with the behavior, habits,  
44 health, and needs of bees to be not only solicited for their input but  
45 to have their input, informed judgment, and direction incorporated  
46 into the development of any standards and regulations affecting  
47 bees in the State; and

1   **WHEREAS**, Section 2 of P.L.2015, c.76 (C.4:6-24) also requires the  
2   Department of Agriculture to consult with the Mid-Atlantic  
3   Apiculture Research and Extension Consortium, which further  
4   indicates legislative intent to incorporate sound science and apiary  
5   research into the standards and regulations proposed by the  
6   Department of Agriculture; and  
7   **WHEREAS**, That law also requires that the standards “reflect  
8   consideration of: (1) the population densities in rural, suburban,  
9   and urban areas of the State; (2) the densities and intensities of  
10   development and differing land uses in communities throughout the  
11   State; and (3) any other characteristics of various regions of the  
12   State that the department determines to be significant to the  
13   regulation of apiary activities in the State”; and  
14   **WHEREAS**, The proposed regulations do not set forth standards that  
15   reflect sound science and research or consideration of suburban and  
16   urban areas of the State or regional characteristics of the State as  
17   they relate to beekeeping; and  
18   **WHEREAS**, The proposed standards and regulations are contrary even  
19   to the department’s own established “Best Management Practices  
20   for Beekeepers in Populated Areas” which have long guided and  
21   supported urban and suburban beekeeping, and therefore all the  
22   more clearly do not reflect consideration of the elements specified  
23   to be considered pursuant to subsection c. of section 2 of P.L.2015,  
24   c.76 (C.4:6-24); and  
25   **WHEREAS**, The proposed regulations also ignore the Legislature’s  
26   intent expressed in section 1 of P.L.2015, c.76 (C.40:48-1.5),  
27   prohibits a municipality from establishing “any restriction or  
28   requirement that would result in the prohibition of the breeding or  
29   keeping of honey bees, the use of honey bees for pollination, or any  
30   activities related thereto, in the municipality,” except as provided  
31   pursuant to subsection b. or c. of that section of law; and  
32   **WHEREAS**, Subsection b. of section 1 of P.L.2015, c.76 (C.40:48-1.5)  
33   authorizes the State to regulate apiary activities in the State  
34   pursuant to other State laws concerning bees, including section 2 of  
35   P.L.2015, c.76 (C.4:6-24), but the proposed regulations are  
36   inconsistent with the Legislature’s intent expressed in section 2 of  
37   P.L.2015, c.76 (C.4:6-24); and  
38   **WHEREAS**, Subsection c. of section 1 of P.L.2015, c.76 (C.40:48-1.5)  
39   requires a municipality addressing a condition or circumstance not  
40   resolved by the State standards to consult with the Department of  
41   Agriculture, the New Jersey League of Municipalities, the New  
42   Jersey Beekeepers Association, and the Mid-Atlantic Apiculture  
43   Research and Extension Consortium, or successor organizations  
44   with similar purposes; and  
45   **WHEREAS**, This provision also requires the subsequent municipal  
46   standard adopted by ordinance to address the condition or  
47   circumstance and reflect consideration of “honey bee biology and

1 behavior” in addition to population density, the density and  
2 intensity of development, and type of land use; and  
3 **WHEREAS**, These provisions reinforce the Legislature’s intent for  
4 consultation with the New Jersey League of Municipalities, the  
5 New Jersey Beekeepers Association, and the Mid-Atlantic  
6 Apiculture Research and Extension Consortium and the basing of  
7 any standard in sound science and understanding of honey bee  
8 biology and behavior; and  
9 **WHEREAS**, Section 1 of P.L.2015, c.76 (C.40:48-1.5) establishes a  
10 process for a municipality to adopt the new standards established  
11 pursuant to that law and the Department of Agriculture to delegate  
12 to the municipality monitoring and enforcement of those standards;  
13 and  
14 **WHEREAS**, Section 2 of P.L.2015, c.76 (C.4:6-24) expressly prohibits  
15 municipalities from adopting an ordinance, resolution, rule, or  
16 regulation concerning the breeding or keeping of honey bees, or any  
17 activities related thereto, that does not incorporate the new  
18 standards; and  
19 **WHEREAS**, The proposed regulations ignore the expressed intent of the  
20 Legislature in that law by allowing a municipality to grandfather  
21 through a petition to the department municipal apiary standards in  
22 effect prior to the enactment of P.L.2015, c.76; and  
23 **WHEREAS**, Chapter 6 of Title 4 of the Revised Statutes specifically  
24 authorizes the Department of Agriculture to inspect hives and  
25 monitor bee health through inspection and enforcement; and  
26 **WHEREAS**, The proposed regulations supersede this statutory authority  
27 by establishing a new subchapter 7 in the department’s regulations,  
28 entitled “Apiary and Municipal Administrative Standards for  
29 Breeding and Keeping of Bees and Related Activities,” under  
30 which the proposed regulations establish standards of  
31 administrative procedure for delegating the authority to monitor and  
32 enforce ostensibly all regulations concerning bee health and  
33 inspections; and  
34 **WHEREAS**, If the Legislature had intended to delegate such authority  
35 to municipalities, it would have amended the laws concerning  
36 control of diseases among bees found in chapter 6 of Title 4 of the  
37 Revised Statutes; and  
38 **WHEREAS**, The comment period for the proposed regulations closed  
39 January 19, 2018, and to date the department has not withdrawn the  
40 proposed regulations; and  
41 **WHEREAS**, The New Jersey Beekeepers Association, the Burlington  
42 County Board of Agriculture, the Department of Entomology and  
43 Wildlife Ecology at the University of Delaware, and the Village of  
44 Ridgewood in Bergen County have all submitted comments on the  
45 proposed regulations which demonstrate that the proposed  
46 regulations are inconsistent with legislative intent because they  
47 would have a significant negative impact on beekeeping,  
48 agriculture, and the environment; they do not reflect sound science

1 and understanding of honey bee biology and behavior; they allow  
2 for the grandfathering of municipal apiary standards that were  
3 enacted prior to P.L.2015, c.76; they improperly allow for  
4 delegation to municipalities of hive inspections and monitoring and  
5 enforcing of bee health; they were proposed without proper  
6 consultation with the New Jersey Beekeepers Association and the  
7 Mid-Atlantic Apiculture Research and Extension Consortium; and  
8 they are overly restrictive and prohibitive for the breeding or  
9 keeping of honey bees, and the use of honey bees for pollination, or  
10 any activities related thereto, in a municipality; and

11 **WHEREAS**, The proposed regulations, for all the reasons enumerated  
12 above, are inconsistent with the intent of the Legislature; now,  
13 therefore,

14

15 **BE IT RESOLVED** by the General Assembly of the State of New  
16 Jersey (the Senate concurring):

17

18 1. The Legislature declares that the rules and regulations  
19 proposed and published in the New Jersey Register on November  
20 20, 2017 by the Department of Agriculture concerning beekeeping  
21 are not consistent with the legislative intent.

22

23 2. Copies of this resolution, as filed with the Secretary of State,  
24 shall be transmitted by the Secretary of the Senate or the Clerk of  
25 the General Assembly to the Secretary of Agriculture.

26

27 3. Pursuant to Article V, Section IV, paragraph 6 of the  
28 Constitution of the State of New Jersey, the Department of  
29 Agriculture shall have 30 days following transmittal of this  
30 resolution to amend or withdraw the proposed rules and regulations  
31 or the Legislature may, by passage of another concurrent resolution,  
32 exercise its authority under the Constitution to invalidate the rules  
33 and regulations in whole or in part.

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STATEMENT

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38 This concurrent resolution embodies the finding of the  
39 Legislature that the Department of Agriculture proposed regulations  
40 concerning beekeeping, published for public comment in the New  
41 Jersey Register on November 20, 2017, are not consistent with the  
42 intent of the Legislature. The Department of Agriculture has 30  
43 days following transmittal of this resolution to amend or withdraw  
44 the proposed rules and regulations or the Legislature may, by  
45 passage of another concurrent resolution, exercise its authority  
46 under the Constitution to invalidate the rules and regulations in  
47 whole or in part, pending their adoption.