

ASSEMBLY, No. 1798

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

SYNOPSIS

Authorizes local government units to construct locally funded public indoor recreation facilities on certain types of parkland under certain conditions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning public indoor recreation on certain lands held by
2 local government units, and amending and supplementing P.L.1999,
3 c.152, and amending P.L.1997, c.24.

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

7
8 1. (New section) a. For lands held by a local government unit for
9 recreation and conservation purposes that were acquired in whole or
10 in part with constitutionally dedicated moneys but with no other
11 financial assistance from the State, the local government unit may
12 construct a building or other structure on the lands for public indoor
13 recreation, provided that the local government unit has held at least
14 one public hearing on the proposed change in purpose or use at least
15 60 days prior to final approval thereof by the local government unit.
16 Any action taken by a local government unit pursuant to this section
17 shall not be deemed to be a conveyance, disposal, or diversion for the
18 purposes of subsection b. of section 32 of P.L.1999, c.152
19 (C.13:8C-32).

20 b. The local government unit shall provide to the commissioner (1)
21 at least 30 days' advance written notice of any public hearing to be
22 held on any such change in purpose or use, (2) within 120 days after
23 final approval of the change in purpose or use by the local government
24 unit, written proof that any such public hearing was held, and (3)
25 written notice of the change in purpose or use within 120 days after it
26 has been effected.

27
28 2. Section 3 of P.L.1999, c.152 (C.13:8C-3) is amended to read as
29 follows:

30 3. As used in sections 1 through 42 of this act:

31 "Acquisition" or "acquire" means the obtaining of a fee simple or
32 lesser interest in land, including but not limited to a development
33 easement, a conservation restriction or easement, or any other
34 restriction or easement permanently restricting development, by
35 purchase, installment purchase agreement, gift, donation, eminent
36 domain by the State or a local government unit, or devise; except that
37 any acquisition of lands by the State for recreation and conservation
38 purposes by eminent domain shall be only as authorized pursuant to
39 section 28 of this act;

40 "Bonds" means bonds issued by the trust pursuant to this act;

41 "Commissioner" means the Commissioner of Environmental
42 Protection;

43 "Committee" means the State Agriculture Development Committee

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4);
2 "Constitutionally dedicated moneys" means any moneys made
3 available pursuant to Article VIII, Section II, paragraph 7 of the State
4 Constitution or through the issuance of bonds, notes or other
5 obligations by the trust, as prescribed by Article VIII, Section II,
6 paragraph 7 of the State Constitution and this act, or any moneys from
7 other sources deposited in the trust funds established pursuant to
8 sections 19, 20, and 21 of this act, and appropriated by law, for any of
9 the purposes set forth in Article VIII, Section II, paragraph 7 of the
10 State Constitution or this act;
11 "Convey" or "conveyance" means to sell, donate, exchange,
12 transfer, or lease for a term of 25 years or more;
13 "Cost" means the expenses incurred in connection with: all things
14 deemed necessary or useful and convenient for the acquisition or
15 development of lands for recreation and conservation purposes, the
16 acquisition of development easements or fee simple titles to farmland,
17 or the preservation of historic properties, as the case may be; the
18 execution of any agreements or franchises deemed by the Department
19 of Environmental Protection, State Agriculture Development
20 Committee, or New Jersey Historic Trust, as the case may be, to be
21 necessary or useful and convenient in connection with any project
22 funded in whole or in part using constitutionally dedicated moneys; the
23 procurement or provision of appraisal, archaeological, architectural,
24 conservation, design, engineering, financial, geological, historic
25 research, hydrological, inspection, legal, planning, relocation,
26 surveying, or other professional advice, estimates, reports, services, or
27 studies; the purchase of title insurance; the undertaking of feasibility
28 studies; the establishment of a reserve fund or funds for working
29 capital, operating, maintenance, or replacement expenses and for the
30 payment or security of principal or interest on bonds, as the Director
31 of the Division of Budget and Accounting in the Department of the
32 Treasury may determine; and reimbursement to any fund of the State
33 of moneys that may have been transferred or advanced therefrom to
34 any fund established by this act, or any moneys that may have been
35 expended therefrom for, or in connection with, this act;
36 "Department" means the Department of Environmental Protection;
37 "Development" or "develop" means, except as used in the
38 definitions of "acquisition" and "development easement" in this
39 section, any improvement made to a land or water area designed to
40 expand and enhance its utilization for recreation and conservation
41 purposes, and shall include the construction, renovation, or repair of
42 any such improvement, but shall not mean shore protection or beach
43 nourishment or replenishment activities;
44 "Development easement" means an interest in land, less than fee
45 simple title thereto, which interest represents the right to develop that
46 land for all nonagricultural purposes and which interest may be

1 transferred under laws authorizing the transfer of development
2 potential;

3 "Farmland" means land identified as having prime or unique soils as
4 classified by the Natural Resources Conservation Service in the United
5 States Department of Agriculture, having soils of Statewide
6 importance according to criteria adopted by the State Soil
7 Conservation Committee, established pursuant to R.S.4:24-3, or
8 having soils of local importance as identified by local soil conservation
9 districts, and which land qualifies for differential property taxation
10 pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48
11 (C.54:4-23.1 et seq.), and any other land on the farm that is necessary
12 to accommodate farm practices as determined by the State Agriculture
13 Development Committee;

14 "Farmland preservation," "farmland preservation purposes" or
15 "preservation of farmland" means the permanent preservation of
16 farmland to support agricultural or horticultural production as the first
17 priority use of that land;

18 "Garden State Farmland Preservation Trust Fund" means the
19 Garden State Farmland Preservation Trust Fund established pursuant
20 to section 20 of this act;

21 "Garden State Green Acres Preservation Trust Fund" means the
22 Garden State Green Acres Preservation Trust Fund established
23 pursuant to section 19 of this act;

24 "Garden State Historic Preservation Trust Fund" means the Garden
25 State Historic Preservation Trust Fund established pursuant to section
26 21 of this act;

27 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;
28 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;
29 P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; and any State
30 general obligation bond act that may be approved after the date of
31 enactment of this act for the purpose of providing funding for the
32 acquisition or development of lands for recreation and conservation
33 purposes;

34 "Historic preservation," "historic preservation purposes," or
35 "preservation of historic properties" means any work relating to the
36 conservation, improvement, interpretation, preservation, protection,
37 rehabilitation, renovation, repair, restoration, or stabilization of any
38 historic property, and shall include any work related to providing
39 access thereto for disabled or handicapped persons;

40 "Historic property" means any area, building, facility, object,
41 property, site, or structure approved for inclusion, or which meets the
42 criteria for inclusion, in the New Jersey Register of Historic Places
43 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

44 ["Indoor recreation" means active recreation that otherwise is or
45 may be pursued outdoors but, for reasons of extending the season or
46 avoiding inclement weather, is or may be pursued indoors within a

1 fully or partially enclosed building or other structure, and includes
2 basketball, ice skating, racquet sports, roller skating, swimming, and
3 similar recreational activities and sports as determined by the
4 Department of Environmental Protection;]

5 "Land" or "lands" means real property, including improvements
6 thereof or thereon, rights-of-way, water, lakes, riparian and other
7 rights, easements, privileges and all other rights or interests of any
8 kind or description in, relating to, or connected with real property;

9 "Local government unit" means a county, municipality, or other
10 political subdivision of the State, or any agency, authority, or other
11 entity thereof; except, with respect to the acquisition and development
12 of lands for recreation and conservation purposes, "local government
13 unit" means a county, municipality, or other political subdivision of the
14 State, or any agency, authority, or other entity thereof the primary
15 purpose of which is to administer, protect, acquire, develop, or
16 maintain lands for recreation and conservation purposes;

17 "New Jersey Historic Trust" means the entity established pursuant
18 to section 4 of P.L.1967, c.124 (C.13:1B-15.111);

19 "Notes" means the notes issued by the trust pursuant to this act;

20 "Pinelands area" means the pinelands area as defined pursuant to
21 section 3 of P.L.1979, c.111 (C.13:18A-3);

22 "Pinelands regional growth area" means a regional growth area
23 established pursuant to the pinelands comprehensive management plan
24 adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

25 "Project" means all things deemed necessary or useful and
26 convenient in connection with the acquisition or development of lands
27 for recreation and conservation purposes, the acquisition of
28 development easements or fee simple titles to farmland, or the
29 preservation of historic properties, as the case may be;

30 "Public indoor recreation" means active or passive public recreation
31 that, for reasons of comfort, extending the season, or avoiding
32 inclement weather, is or may be pursued indoors within a fully or
33 partially enclosed building or other structure, and includes arts and
34 crafts, basketball and other team sports, dance, equestrian activities,
35 fitness activities, horticulture, ice skating, performing arts, racquet
36 sports, roller skating, swimming, and similar recreational activities and
37 sports as determined by the Department of Environmental Protection,
38 and the use of the building or other structure as a meeting space or for
39 public assembly;

40 "Qualifying open space referendum county" means any county that
41 has: (1) approved and implemented, and is collecting and expending
42 the revenue from, an annual levy authorized pursuant to P.L.1997,
43 c.24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at
44 least one half of one cent per \$100 of assessed value of real property,
45 or for an amount or at a rate established by the county and in effect as
46 of April 1, 1999, whichever is greater; or (2) adopted an alternative

1 means of funding for the same or similar purposes as an annual levy,
2 which the Department of Environmental Protection, in consultation
3 with the committee and the New Jersey Historic Trust, approves to be
4 stable and reasonably equivalent in effect to an annual levy;

5 "Qualifying open space referendum municipality" means any
6 municipality that has: (1) approved and implemented, and is collecting
7 and expending the revenue from, an annual levy authorized pursuant
8 to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate
9 equivalent to at least one half of one cent per \$100 of assessed value
10 of real property, or for an amount or at a rate established by the
11 municipality and in effect as of April 1, 1999, whichever is greater; or
12 (2) adopted an alternative means of funding for the same or similar
13 purposes as an annual levy, which the Department of Environmental
14 Protection, in consultation with the committee and the New Jersey
15 Historic Trust, approves to be stable and reasonably equivalent in
16 effect to an annual levy;

17 "Qualifying tax exempt nonprofit organization" means a nonprofit
18 organization that is exempt from federal taxation pursuant to section
19 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501
20 (c)(3), and which qualifies for a grant pursuant to section 27, 39, or
21 41 of this act;

22 "Recreation and conservation purposes" means the use of lands for
23 beaches, biological or ecological study, boating, camping, fishing,
24 forests, greenways, hunting, natural areas, parks, playgrounds,
25 protecting historic properties, water reserves, watershed protection,
26 wildlife preserves, active sports, or a similar use for either public
27 outdoor recreation or conservation of natural resources, or both; and

28 "Trust" means the Garden State Preservation Trust established
29 pursuant to section 4 of this act.

30 (cf: P.L.1999, c.152, s.3)

31
32 3. Section 33 of P.L.1999, c.152 (C.13:8C-33) is amended to read
33 as follows:

34 33. a. For lands held by a local government unit for recreation and
35 conservation purposes that were neither acquired nor developed for
36 any of those purposes with any financial assistance from the State, and
37 which have been included in an inventory of lands prepared for the
38 purposes of complying with section 32 of this act, the local
39 government unit may (1) change the recreation and conservation
40 purpose for which the lands are being used to another recreation and
41 conservation purpose, including but not limited to developing the lands
42 for public outdoor recreation, or (2) construct a building or other
43 structure on the lands for public indoor recreation, provided that the
44 local government unit has held at least one public hearing on the
45 proposed change in purpose or use at least [90] 60 days prior to final
46 approval thereof by the local government unit. Any action taken by a

1 local government unit pursuant to this section shall not be deemed to
2 be a conveyance, disposal, or diversion for the purposes of subsection
3 b. of section 32 of this act.

4 b. The local government unit shall provide to the commissioner (1)
5 at least 30 days' advance written notice of any public hearing to be
6 held on any such change in purpose or use, (2) within ~~90~~ 120 days
7 after final approval of the change in purpose or use by the local
8 government unit, written proof that any such public hearing was held,
9 and (3) written notice of the change in purpose or use within ~~90~~ 120
10 days after it has been effected.
11 (cf: P.L.1999, c.152, s.33)

12

13 4. Section 1 of P.L.1997, c.24 (C.40:12-15.1) is amended to read
14 as follows:

15 1. As used in this act:

16 "Acquisition" means the securing of a fee simple or a lesser interest
17 in land, including but not limited to an easement restricting
18 development, by gift, purchase, installment purchase agreement,
19 devise, or condemnation;

20 "Charitable conservancy" means a corporation or trust exempt from
21 federal income taxation under paragraph (3) of subsection (c) of
22 section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C.
23 s.501(c)(3)), whose purposes include (1) acquisition and preservation
24 of lands in a natural, scenic, or open condition, or (2) historic
25 preservation of historic properties, structures, facilities, sites, areas, or
26 objects, or the acquisition of such properties, structures, facilities,
27 sites, areas, or objects for historic preservation purposes;

28 "County trust fund" means a "County Open Space, Recreation, and
29 Farmland and Historic Preservation Trust Fund" created pursuant to
30 subsection c. of section 2 of this act;

31 "Development" means any improvement to land acquired for
32 recreation and conservation purposes designed to expand and enhance
33 its utilization for those purposes;

34 "Farmland" means land actively devoted to agricultural or
35 horticultural use that is valued, assessed, and taxed pursuant to the
36 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
37 seq.);

38 "Farmland preservation purposes" means the long-term preservation
39 of farmland for agricultural or horticultural use;

40 "Historic preservation" means the performance of any work relating
41 to the stabilization, repair, rehabilitation, renovation, restoration,
42 improvement, protection, or preservation of an historic property,
43 structure, facility, site, area, or object;

44 "Historic property, structure, facility, site, area, or object" means
45 any property, structure, facility, site, area, or object approved for
46 inclusion, or which meets the criteria for inclusion, in the New Jersey

1 Register of Historic Places pursuant to P.L.1970, c.268
2 (C.13:1B-15.128 et seq.);

3 "Land" or "lands" means real property, including improvements
4 thereof or thereon, rights-of-way, water, lakes, riparian and other
5 rights, easements, privileges and all other rights or interests of any
6 kind or description in, relating to, or connected with real property;

7 "Municipal trust fund" means a "Municipal Open Space, Recreation,
8 and Farmland and Historic Preservation Trust Fund" created pursuant
9 to subsection c. of section 7 of this act;

10 "Public indoor recreation" means [public recreation in enclosed
11 structures or facilities, and includes but is not limited to swimming
12 pools, basketball courts, and ice skating rinks open for public use]
13 active or passive public recreation that, for reasons of comfort,
14 extending the season, or avoiding inclement weather, is or may be
15 pursued indoors within a fully or partially enclosed building or other
16 structure, and includes arts and crafts, basketball and other team
17 sports, dance, equestrian activities, fitness activities, horticulture, ice
18 skating, performing arts, racquet sports, roller skating, swimming, and
19 similar recreational activities and sports as determined by the
20 Department of Environmental Protection, and the use of the building
21 or other structure as a meeting space or for public assembly ; and

22 "Recreation and conservation purposes" means the use of lands for
23 parks, open space, natural areas, ecological and biological study,
24 forests, water reserves, wildlife preserves, fishing, hunting, camping,
25 boating, winter sports, or similar uses for either public outdoor
26 recreation or conservation of natural resources, or both, or the use of
27 lands for public indoor recreation.

28 (cf: P.L.1997, c.24, s.1)

29

30 5. This act shall take effect on the 30th day after the date of
31 enactment.

32

33

34 STATEMENT

35

36 This bill would authorize counties and municipalities to construct
37 public indoor recreation facilities on certain types of lands they own
38 for recreation and conservation purposes.

39 Current law, i.e., the "Garden State Preservation Trust Act," allows
40 a county or municipality, after conducting a public hearing, to build
41 certain kinds of public indoor recreation facilities on lands acquired
42 without any State financial assistance by the county or municipality for
43 recreation and conservation purposes, provided that State open space
44 preservation moneys are not used to pay for any of the cost of
45 construction of the facility. This bill would extend that authority, with
46 the same conditions, to allow a county or municipality to construct

1 such a facility on lands acquired by the county or municipality in whole
2 or in part using constitutionally dedicated moneys from the Garden
3 State Preservation Trust and for which no other forms of State
4 financial assistance were used in the acquisition. However, the bill
5 would not authorize the use of State open space preservation moneys
6 to pay in whole or in part for the construction of public indoor
7 recreation facilities.

8 The bill also amends the Garden State Preservation Trust Act and
9 the local open space referendum law to expand the definition of public
10 indoor recreation to mean "active or passive public recreation that, for
11 reasons of comfort, extending the season, or avoiding inclement
12 weather, is or may be pursued indoors within a fully or partially
13 enclosed building or other structure, and includes, but is not limited to,
14 arts and crafts, basketball and other team sports, dance, equestrian
15 activities, fitness activities, horticulture, ice skating, performing arts,
16 racquet sports, roller skating, swimming, and similar recreational
17 activities and sports as determined by the Department of
18 Environmental Protection, and the use of the building or other
19 structure as a meeting space or for public assembly."

20 Finally, the bill amends the Garden State Preservation Trust Act to
21 change several of the public notice, hearing, and reporting
22 requirements for local government units with regard to certain
23 proposed changes in purpose or use allowed already under that law so
24 that those requirements will be identical to those set forth in the bill.