SENATE CONCURRENT RESOLUTION No. 84

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS
Amends Constitution to dedicate 6% of Corporation Business Tax revenues from FY2016 to FY2045 for open space, farmland, and historic preservation; ends dedication of 4% of Corporation Business Tax revenues for environmental programs; dedicates natural resource damages and environmental fine revenue to underground storage tank programs and State-funded hazardous discharge cleanups.

CURRENT VERSION OF TEXT
As introduced.
A CONCURRENT RESOLUTION proposing to amend Article VIII,
Section II, paragraph 6 of the New Jersey Constitution.

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

1. The following proposed amendment to the Constitution of
the State of New Jersey is agreed to:

PROPOSED AMENDMENT

Amend Article VIII, Section II, paragraph 6 to read as follows:
6. [There] (a) Commencing July 1, 2015 until June 30, 2045,
there shall be credited annually to a special account in the General
Fund an amount equivalent to [4%] 6% of the revenue annually
derived from the tax imposed pursuant to the "Corporation Business
Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended
and supplemented, or any other State law of similar effect.
The amount annually credited pursuant to this [paragraph]
subparagraph shall be dedicated and shall be appropriated from time
to time by the Legislature only [(for the following purposes: paying
or financing costs incurred by the State for the remediation of
discharges of hazardous substances, which costs may include
performing necessary operation and maintenance activities relating
to remedial actions and costs incurred for providing alternative
sources of public or private water supplies, when a water supply has
been, or is suspected of being, contaminated by a hazardous
substance discharge; providing funding, including the provision of
loans or grants, for the upgrade, replacement, or closure of
underground storage tanks that store or were used to store
hazardous substances, and for the costs of remediating any
discharge therefrom; providing funding, including the provision of
loans or grants, for the costs of the remediation of discharges of
hazardous substances, which costs may include costs incurred for
providing alternative sources of public or private water supplies,
when a water supply has been, or is suspected of being,
contaminated by a hazardous substance discharge; for paying or
financing the cost of water quality point and nonpoint source
pollution monitoring, watershed based water resource planning and
management, and nonpoint source pollution prevention projects; for
providing grants for the costs of air pollution control equipment to
reduce the levels of particulate matter emissions from diesel-
powered engines, and for funding for other measures to reduce
human exposure to those emissions; and for providing funding,
including loans and grants, for the development of lands for

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.
recreation and conservation purposes, and to satisfy any payments
relating to bonds, notes, or other obligations, including refunding
bonds, issued by an authority or similar entity established by law to
provide funding for the development of lands for recreation and
conservation purposes] to provide funding, including loans or
grants, for: the preservation, including acquisition, development,
and stewardship, of lands for recreation and conservation purposes,
including lands that protect water supplies and lands that have
incurred flood or storm damage or are likely to do so, or that may
buffer or protect other properties from flood or storm damage; the
preservation and stewardship of farmland for agricultural or
horticultural use and production; historic preservation; and
administrative costs associated with each of those efforts.

It shall not be competent for the Legislature, under any pretense
whatever, to borrow, appropriate, or use the amount credited to the
special account pursuant to this [paragraph] subparagraph, or any
portion thereof, for any purpose or in any manner other than as
enumerated in this [paragraph] subparagraph. It shall not be
competent for the Legislature, under any pretense whatever, to
borrow, appropriate, or use the amount credited to the special
account pursuant to this [paragraph] subparagraph, or any portion
thereof, for the payment of the principal or interest on any general
obligation bond that was approved by the voters prior to this
[paragraph] subparagraph becoming part of this Constitution.

(a) Fifteen percent of the amount annually credited pursuant to
this paragraph shall be dedicated, and shall be appropriated from
time to time by the Legislature, only for paying or financing the
cost of water quality point and nonpoint source pollution
monitoring, watershed based water resource planning and
management, and nonpoint source pollution prevention projects.

(b) There shall be credited annually to a special account in the
General Fund an amount equivalent to the revenue annually derived
from natural resource damages collected by the State as defined by
law and all fines collected by the State from violations of
environmental laws as defined by law.

The amount annually credited pursuant to this subparagraph shall
be dedicated and shall be appropriated from time to time by the
Legislature only for the following purposes: providing funding,
including the provision of loans or grants, for the upgrade,
replacement, or closure of underground storage tanks that store or
were used to store hazardous substances, and for the costs of
remediating any discharge therefrom; and paying or financing costs
incurred by the State for the remediation of discharges of hazardous
substances, which costs may include performing necessary
operation and maintenance activities relating to remedial actions
and costs incurred for providing alternative sources of public or
private water supplies, when a water supply has been, or is
suspected of being, contaminated by a hazardous substance discharge.

Twenty-five percent of the amount annually credited pursuant to this subparagraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing funding, including the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and for providing funding, including the provision of loans or grants, for the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge. [Of any amount dedicated pursuant to this subparagraph (b) but not expended prior to January 1, 2004, fifty percent of that amount shall be expended on funding for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and fifty percent shall be expended on funding the costs of the remediation of discharges of hazardous substances, including costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.

Commencing January 1, 2004 and ending December 31, 2005, forty percent of the moneys dedicated pursuant to this subparagraph (b) shall be appropriated for funding the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and sixty percent shall be appropriated for funding the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.

Commencing January 1, 2006 and ending December 31, 2006, forty percent of the moneys dedicated pursuant to this subparagraph (b) shall be appropriated for funding the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and sixty percent shall be appropriated for funding the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.
Commencing January 1, 2007 and ending December 31, 2021, the moneys dedicated pursuant to this subparagraph (b) shall be appropriated for funding the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge; but if in any fiscal year during that time the amount previously dedicated and appropriated for funding loans or grants for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and available for that purpose but not expended, is less than $20,000,000, then in the following fiscal year, fifty-five percent of the monies dedicated pursuant to this subparagraph (b) shall be appropriated for funding loans or grants for underground storage tanks and only forty-five percent of the monies dedicated pursuant to this subparagraph (b) shall be appropriated for funding the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.

Commencing January 1, 2004, up to $2,000,000.00 per year, which shall be taken from the amount appropriated pursuant to this subparagraph (b) for the costs of the remediation of discharges of hazardous substances, may be expended for the costs of a State underground storage tank inspection program, which costs may include the direct but not indirect program administrative costs incurred by the State for the employment of inspectors and a compliance and enforcement staff, and the purchase of vehicles and equipment necessary for the implementation thereof.

All moneys derived from repayments of any loan issued from the amount dedicated pursuant to this subparagraph [(b)] shall be dedicated, and shall be appropriated from time to time by the Legislature, only for the purposes authorized pursuant to this subparagraph [(b)]. The dedication of moneys derived from loan repayments shall not expire.

Except for moneys that may be expended for the costs of a State underground storage tank inspection program, and except for amounts that may be appropriated from time to time by the Legislature on or after January 1, 2006, but not to exceed $1,000,000 annually, to administer programs to provide loans and grants for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, no moneys appropriated pursuant to this subparagraph [(b)] may be expended on any direct or indirect administrative costs of the State or any of its departments, agencies, or authorities.
Commencing January 1, 2006, funding for administrative costs for programs to provide loans and grants for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances may be appropriated from time to time by the Legislature from the amount dedicated pursuant to this subparagraph (b) for those purposes in an amount not to exceed $1,000,000 in any year.

No moneys appropriated pursuant to this subparagraph may be expended on any upgrade, replacement, or closure of any underground storage tank, or for the remediation of any discharge therefrom, for any underground storage tank owned by the State or any of its departments, agencies, or authorities, or for costs incurred by the State for the remediation of discharges of hazardous substances.

Commencing on January 1, 2022, the moneys dedicated pursuant to this subparagraph (b) may be appropriated from time to time by the Legislature: for providing funding, including the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom; for providing funding, including the provision of loans or grants, for the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge; or for the costs of a State underground storage tank inspection program, in an amount up to $2,000,000.00 per year.

The Legislature may appropriate after January 1, 2006, an amount not to exceed $10,000,000, of any of the amounts appropriated in any fiscal year ending before July 1, 2005, made for the purpose of the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and not expended for that purpose prior to the end of the fiscal year ending on June 30, 2005, for the purpose set forth in subparagraph (d) of this paragraph.

(c) Twenty-eight percent of the amount annually credited pursuant to this subparagraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for paying or financing costs incurred by the State for the remediation of discharges of hazardous substances, which costs may include performing necessary operation and maintenance activities relating to remedial actions and costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge. No moneys
appropriated pursuant to this subparagraph (c) may be expended for any indirect administrative costs of the State, its departments, agencies, or authorities. No more than nine percent of the moneys annually credited pursuant to this paragraph, which shall be taken from the amount dedicated pursuant to this subparagraph (c), may be expended for any direct program administrative costs of the State, its departments, agencies, or authorities.

(d) Commencing January 1, 2006 and ending December 31, 2015, seventeen percent of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing grants for the costs of air pollution control equipment to reduce the levels of particulate matter emissions from diesel-powered engines, funding for other measures to reduce human exposure to those emissions, and funding for those program administrative costs as provided in this subparagraph. No more than $1,150,000 per year of the amount dedicated pursuant to this subparagraph (d) may be expended for program administrative costs of the State, its departments, agencies, or authorities for implementing the provisions of this subparagraph (d), and for regulating particulate matter emissions from diesel-powered engines.

Any amount dedicated and appropriated pursuant to this subparagraph (d) but not expended prior to January 1, 2016 shall be dedicated and may be appropriated from time to time by the Legislature for the purposes authorized in subparagraph (c) of this paragraph.

(e) Fifteen percent of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing funding, including loans and grants, for the development of lands for recreation and conservation purposes, and to satisfy any payments relating to bonds, notes, or other obligations, including refunding bonds, issued by an authority or similar entity established by law to provide funding for the development of lands for recreation and conservation purposes.

Commencing January 1, 2016, thirty-two percent of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing funding, including loans and grants, for the development of lands for recreation or conservation purposes, and to satisfy any payments relating to bonds, notes, or other obligations, including refunding bonds, issued by an authority or similar entity established by law to provide funding, for the development of lands for recreation or conservation purposes.

All moneys derived from repayments of any loan issued from the amount dedicated pursuant to this subparagraph (e) shall be dedicated, and shall be appropriated from time to time by the
Legislature, only for the purposes authorized pursuant to this subparagraph (e).

No more than five percent per year of the amount dedicated pursuant to this subparagraph (e) may be expended for program administrative costs of the State, its departments, agencies, or authorities for implementing the provisions of this subparagraph (e).

The authority or other similar entity established by law as described in this subparagraph (e) shall be the same authority or entity established for the purposes of Article VIII, Section II, paragraph 7 of the State Constitution.

(cf: Article VIII, Section II, paragraph 6 amended effective December 7, 2006)

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (☐) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (☐) in the square opposite the word "No."

b. In every municipality the following question:
<table>
<thead>
<tr>
<th>YES</th>
<th>CONSTITUTIONAL AMENDMENT DEDICATING STATE FUNDS FOR OPEN SPACE, FARMLAND, AND HISTORIC PRESERVATION, AND CHANGING EXISTING DEDICATION FOR UNDERGROUND STORAGE TANKS AND HAZARDOUS SITE CLEANUPS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Do you approve amending the Constitution to dedicate 6% of the Corporation Business Tax revenue each year for the next 30 years? The dedication would be for the preservation of open space, farmland, and historic sites. The amendment would end the current dedication of 4% of that revenue for environmental programs. In addition, the amendment dedicates natural resource damages and fines to fund underground storage tank removals and cleanups and polluted site cleanups?</td>
</tr>
</tbody>
</table>
This constitutional amendment would provide funding for Green Acres and “Blue Acres” projects. The projects preserve open space, farmland, and historic properties. The amendment would dedicate 6% of Corporation Business Tax revenue each year for the next 30 years for these purposes.

The Green Acres program buys land that protects water supplies and preserves open space. The program funds parks, fish and wildlife habitat, and flood prone or affected areas. It also funds park improvements and facilities.

“Blue Acres” refers to properties that have been damaged by storms or storm related flooding. The program also purchases properties that appear likely to incur such damage, or that may buffer or protect other lands from such damage. Structures on properties purchased from willing sellers are demolished, the debris is removed, and the land is preserved as open space.

This amendment also would end the current dedication of 4% of Corporation Business Tax revenue. That dedication provides funds for water quality programs, public and private hazardous site cleanups, underground storage tank removal and cleanup, air pollution control equipment for diesel engines, and park improvements and facilities.

Finally, this amendment would dedicate natural resource damages and fines collected from violations of environmental laws for underground storage tank removals and cleanups and State-funded hazardous site cleanups.
preservation, and historic preservation. The specific allocation for
each of these purposes would be established by law. The
amendment also allows for the dedicated monies to be used for
stewardship activities and administrative costs associated with the
programs.

The constitutional amendment also recognizes a special funding
category under open space preservation, referred to as the “Blue
Acres” program, for the acquisition, for recreation and conservation
purposes, of lands that have incurred flood or storm damage or are
likely to do so, or that may buffer or protect other properties from
flood or storm damage. Properties are purchased from willing
sellers only. The Blue Acres program is administered by the
Department of Environmental Protection’s Green Acres Program.

This proposed amendment to the State Constitution would
provide a dedicated, stable source of funding to continue the State’s
current programs for open space, including flood prone lands,
farmland preservation, and historic preservation implemented
pursuant to Article VIII, Section II, paragraph 7 of the State
Constitution, the “Garden State Preservation Trust Act,” P.L.1999,
c.152 (C.13:8C-1 et seq.), and various bond acts passed by the
voters of this State over the last 50 years.

The constitutional amendment would also cancel the current
constitutional dedication of 4% of Corporation Business Tax
revenues for remediation of discharges of hazardous substances,
funding loans and grants for underground storage tanks, financing
water quality programs, providing loans and grants for air pollution
control equipment to control emission from diesel-powered engines,
and funding for the development of lands for recreation and
conservation purposes. The amendment would instead dedicate
revenue annually derived from natural resource damages and fines
collected by the State from violations of environmental laws to
provide funding for loans and grants for the upgrade, replacement,
or closure of underground storage tanks that store or were used to
store hazardous substances and for the costs of remediating any
discharge therefrom and for State-funded remediation of discharges
of hazardous substances. The amendment would allocate 25% of
the fine revenue for underground storage tank programs and 75%
for State remediation of discharges of hazardous substances.