

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 780

# STATE OF NEW JERSEY

DATED: APRIL 4, 2016

The Assembly Appropriations Committee reports favorably Assembly Bill No. 780.

This bill implements, for State fiscal year 2016 through State fiscal year 2019, the constitutional dedication of Corporation Business Tax (CBT) revenues for open space, farmland, and historic preservation.

Senate Concurrent Resolution No. 84 SCS of 2014, or “Ballot Question No. 2,” presented to, and approved by, the voters of the State on November 4, 2014, amended the New Jersey Constitution to dedicate four percent of CBT revenues for open space, farmland, and historic preservation, water programs, public and private site remediation, and underground storage tank programs for fiscal years 2016 through 2019, and further increased the annual dedication for certain environmental programs from four percent to six percent commencing in fiscal year 2020 and thereafter.

With regard to open space, farmland, and historic preservation, for fiscal year 2016 through fiscal year 2019, of the four percent CBT dedication, the State Constitution dedicates annually 71 percent for: (1) providing 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 (i.e., Green Acres and Blue Acres); (2) providing funding, including loans or grants, for the preservation and stewardship of land for agricultural or horticultural use and production (i.e., farmland preservation); (3) providing funding, including loans or grants, for historic preservation; and (4) paying administrative costs associated with each of those efforts. Commencing July 1, 2019, for State fiscal year 2020 and thereafter, of the six percent of the CBT revenue to be dedicated annually for certain environmental programs, 78 percent is dedicated for the four above-listed purposes.

The State Constitution also dedicates money received from leases and conveyances of State open-space lands. Under this bill, each State park, forest, or wildlife management area receives from that dedication an amount equal to the amount of revenue annually

derived from leases or conveyances of lands at that State park, forest, or wildlife management area, as appropriate, to be used for recreation and conservation purposes at that State park, forest, or wildlife management area.

For fiscal year 2016 through fiscal year 2019, the bill allocates dedicated revenues as follows:

- (1) 64 percent for acquiring and developing lands for public recreation and conservation purposes, including lands that protect water supplies, under the Green Acres program;
- (2) 31 percent for farmland preservation purposes; and
- (3) 5 percent for historic preservation purposes.

The bill allows a maximum of 5 percent each year for administrative costs associated with implementing the Green Acres program.

Of the monies allocated for the Green Acres program and the farmland preservation program, the bill also allocates funding for “stewardship activity” as defined by the bill.

Of the 64 percent allocated each year for the Green Acres program: 55 percent is for State open space acquisition and development projects; 38 percent is for grants and loans to fund local government open space acquisition and development projects; and 7 percent is for grants to fund open space acquisition and development projects undertaken by qualifying tax exempt nonprofit organizations.

Of that funding for State open space acquisition and development projects: 50 percent is for acquisition projects and 50 percent is for development projects. Further, of the funding for State open space development projects, up to 22 percent may be for stewardship activities undertaken on lands administered by the Division of Fish and Wildlife and up to 22 percent may be for stewardship activities undertaken on lands administered by the Division of Parks and Forestry. Of the funding allocated for local open space acquisition and development projects, up to 2 percent may fund stewardship activities. Of the allocated funding for open space acquisition and development projects by qualifying tax exempt nonprofit organizations, 11 percent is for stewardship activities. In addition, for the Green Acres Program, up to 5 percent is available for organizational, administrative and other work and services, including salaries, equipment and materials.

“Blue Acres” is the term used to refer to properties that have been damaged by storms or storm-related flooding, that appear likely to incur such damage, or that may buffer or protect other lands from such damage. Structures on a purchased property are demolished, the debris is removed, and the land is preserved as open space. The Blue Acres program is administered by the DEP’s Green Acres program. Under the bill, funding under the Blue Acres program, when available, will be used for (1) acquisition by the

State of Blue Acres properties, or (2) State grants to assist qualifying tax exempt nonprofits in the acquisition of Blue Acres properties. The bill prohibits the State from using eminent domain to acquire land for Blue Acres projects, except with the approval of the Legislature by adoption of a concurrent resolution to that effect. However, if needed, the bill allows eminent domain proceedings by the State for the purpose only of establishing value.

This bill continues the State's existing open space, farmland, and historic preservation programs. It is based on the provisions of the "Garden State Preservation Trust Act" (GSPTA), as well as the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009" (P.L.2009, c.117) and the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007" (P.L.2007, c.119) and, generally, defines relevant terms in the same manner as the GSPTA and continues the respective priority systems, ranking criteria, and funding policies set forth in the GSPTA, except as otherwise specified by the bill.

For the Green Acres program, the bill provides that an urban aid municipality may receive a State grant for the acquisition or development of lands for recreation and conservation purposes for 75 percent of the cost of acquisition or development of the lands by the local government unit, and this amount may be increased by the DEP to up to 100 percent of the allowable funding cap upon a demonstration of special need or exceptional circumstances. Under current law, an urban aid municipality may receive a grant for 50 percent of the cost of the project, with the possibility of this amount being increased to a maximum of 75 percent (up to the allowable cap). In addition, the bill provides that a local government unit or a qualifying tax exempt nonprofit organization may use a grant or loan for recreation and conservation purposes for the construction of a community garden.

Of the 31 percent allocated each year for farmland preservation purposes, up to 3 percent is available for stewardship activities. The bill authorizes the Blue Acres program to receive funds, but does not provide a specific allocation for the program from the total annual constitutional dedication of monies for open space, farmland, and historic preservation.

The bill requires, under the Green Acres program, that the State make payments in lieu of taxes (PILOTs) to municipalities in accordance with the "Garden State Preservation Trust Act" for lands acquired and owned by the State or qualifying tax exempt nonprofit organizations for recreation and conservation purposes.

For the historic preservation program, the bill allows historic preservation funds to be used for emergency intervention and the acquisition of historic property easements. The bill defines "emergency intervention" as an immediate assessment or capital

improvement necessary to protect or stabilize the structural integrity of a historic property.

The bill directs the DEP, the State Agriculture Development Committee, and the New Jersey Historic Trust each, at least once each two years, submit to the Garden State Preservation Trust projects recommended to receive funding under the bill. The Garden State Preservation Trust would then submit the list of projects to the Legislature for funding in the form of appropriation bills.

As reported, this bill is identical to Senate Bill No. 969, as also reported by the committee.

#### FISCAL IMPACT:

This bill implements the revised constitutional provisions that dedicate Corporation Business Tax (CBT) revenue, and certain revenues derived from leases or conveyances of land acquired or developed by the State for recreation and conservation purposes, to open space, farmland, and historic preservation, by establishing a General Fund account and specific funds to which that revenue is to be credited and deposited annually for fiscal years 2016 through 2019, for subsequent appropriation by the Legislature. The bill therefore does not change the amount of either State revenues or expenditures.

By requiring revenues to be annually credited to certain accounts, the bill provides a system for allocating constitutionally dedicated revenues among allowable uses. While one of those uses is grants and loans to local governments, the bill cannot be said to alter the level of local revenue and expenditures, because no specific funding level for local government grants and loans is provided in current law. This is not to say that local governments, individually or in the aggregate, might not receive, pursuant to this bill and subsequent acts appropriating funds under the system it creates, more or less funding than was received by prior enactments (i.e., bond acts and acts that appropriated the proceeds of bonds) that have provided funding for open space, farmland, or historic preservation in fiscal years preceding those to which this bill pertains.

The tables below summarize the system the bill creates for allocating CBT revenue. The first table displays the allocation of CBT revenue among three accounts created by section 5 of the bill among three funds created by sections 6, 8, and 9 of the bill using, *for illustrative purposes only*, the amount of CBT revenue estimated as being constitutionally available in FY 2016 in the Governor's Detailed Budget for that year. The second table displays the allocation, per section 6 of the bill, of revenues to be deposited in the Preserve New Jersey Green Acres Fund, *again for illustrative purposes only*. The total amount of estimated CBT revenue for allocation, 71 percent of 4 percent of CBT revenues, is \$80,122,000. Actual CBT revenues are

likely to differ in each fiscal year to which the bill pertains from the revenues assumed in the two tables.

Estimated FY 2016 CBT Revenue Credited to Preserve New Jersey Fund Account		
Fund	Percent	Amount
Preserve NJ Green Acres Fund	64%	\$51,278,080
<i>Available for Administrative Costs</i>	5%*	\$2,563,904
Preserve NJ Farmland Preservation Fund	31%	\$24,837,820
<i>Available for Stewardship Activities</i>	3%**	\$745,135
Preserve NJ Historic Preservation Fund	5%	\$4,006,100

\*Percentage of total Preserve New Jersey Green Acres Fund  
\*\*Included in Preserve NJ Farmland Preservation Fund

Purpose	Preserve NJ		Amount
	Fund Percent	Fund Account Percent	
State Acquisition and Development for Recreation and Conservation	55.0%	35.2%	\$28,202,944
State Acquisition*	27.5%	17.6%	\$14,101,472
State Development*	27.5%	17.6%	\$14,101,472
<i>Available for Stewardship Activities – Division of Fish and Wildlife</i>	22%**		\$3,102,324
<i>Available for Stewardship Activities – Division of Parks and Forestry</i>	22%**		\$3,102,324
Local Government Grants and Loans	38%	24.3%	\$19,485,670
<i>Available for Stewardship Activities</i>	2%***		\$389,713
Grants to Nonprofit Organizations	7%	4.5%	\$3,589,466
<i>Available for Stewardship Activities</i>	11%****		\$394,841

\*50% of total State Acquisition and Development for Recreation and Conservation  
\*\*Percentage of total State Development  
\*\*\*Percentage of total Local Government Grants and Loans  
\*\*\*\*Percentage of total Grants to Nonprofit Organizations