

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 969

STATE OF NEW JERSEY

DATED: FEBRUARY 29, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 969.

This bill would implement, 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.

Specifically 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 (i.e., 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 would be dedicated for the above-listed four 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 would receive

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 and including fiscal year 2019, dedicated revenues would be allocated as follows:

(1) 64 percent would be used 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 would be used for farmland preservation purposes; and

(3) 5 percent would be used for historic preservation purposes.

A maximum of 5 percent each year would be permitted to be used 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 activities. The bill defines “stewardship activity” to mean “activity, which is beyond routine operations and maintenance, undertaken by the State, a local government unit, or a qualifying tax exempt nonprofit organization to repair or restore lands acquired or developed for recreation and conservation purposes for the purpose of enhancing or protecting those lands for recreation and conservation purposes. For the purposes of the farmland preservation program, “stewardship activity” means an activity, which is beyond routine operation and maintenance, undertaken by the landowner, or a farmer operator as an agent of the landowner, to repair, restore, or improve lands preserved for farmland preservation purposes, including but not limited to soil and water conservation projects approved pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24).

Of the 64 percent allocated each year for the Green Acres program: 55 percent would be used for State open space acquisition and development projects; 38 percent would be used for grants and loans to fund local government open space acquisition and development projects; and 7 percent would be used for grants to fund open space acquisition and development projects undertaken by qualifying tax exempt nonprofit organizations. Of the funding for State open space acquisition and development projects: 50 percent would be used for acquisition projects and 50 percent would be used for development projects. Further, of the funding for State open space development projects, up to 22 percent would be used for stewardship activities undertaken on lands administered by the Division of Fish and Wildlife and up to 22 percent would be used 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

would be used to fund stewardship activities. Of the allocated funding for open space acquisition and development projects by qualifying tax exempt nonprofit organizations, 11 percent would be used to fund stewardship activities. In addition, for the Green Acres Program, up to 5 percent would be 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, would 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 State would be prohibited 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, eminent domain proceedings could be employed 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 in the bill.

For the Green Acres program, the bill provides that an urban aid municipality may receive a grant by the State 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 Department of Environmental Protection (DEP) 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 would be available for stewardship activities. In addition, 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 provides, under the Green Acres program, that the State shall 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 provides that historic preservation funds may also be used for emergency intervention and the acquisition of historic property easements. The bill defines “emergency intervention” to mean an immediate assessment or capital improvement necessary to protect or stabilize the structural integrity of a historic property.

Lastly, the bill provides that the DEP, the State Agriculture Development Committee, and the New Jersey Historic Trust would each, at least once every 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.

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
Available for Administrative Costs	5%*	\$2,563,904
Preserve NJ Farmland Preservation Fund	31%	\$24,837,820
Available for Stewardship Activities	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

Estimated FY 2016 Allocation of Preserve New Jersey Green Acres Fund			
Purpose	Fund Percent	Preserve NJ Fund Account	
		Percent	Amount
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
Available for Stewardship Activities – Division of Fish and Wildlife	22%**		\$3,102,324
Available for Stewardship Activities – Division of Parks and Forestry	22%**		\$3,102,324
Local Government Grants and Loans	38%	24.3%	\$19,485,670
Available for Stewardship Activities	2%***		\$389,713
Grants to Nonprofit Organizations	7%	4.5%	\$3,589,466
Available for Stewardship Activities	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