

# ASSEMBLY, No. 3583

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 12, 2018

**Sponsored by:**

**Assemblyman HAROLD "HAL" J. WIRTHS**

**District 24 (Morris, Sussex and Warren)**

**Assemblyman ADAM J. TALIAFERRO**

**District 3 (Cumberland, Gloucester and Salem)**

### SYNOPSIS

Allows qualifying counties and municipalities to become "agriculture development counties" and "agriculture development municipalities" and provides certain associated resulting benefits therefrom to encourage, protect, and preserve agriculture and related businesses.

### CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/25/2018)

1 AN ACT concerning agriculture and supplementing Titles 4, 27, and  
2 34 of the Revised Statutes, and P.L.1971, c.176 (C.13:1F-1 et  
3 seq.), P.L.1981, c.262 (C.58:1A-1 et seq.), and P.L.1947, c.377  
4 (C.58:4A-5 et seq.).

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

8  
9 1. a. The governing body of any qualifying county, after  
10 conducting at least one public hearing and upon adoption of an  
11 ordinance or resolution, as appropriate, may designate the county as  
12 an "agriculture development county." Designation as an agriculture  
13 development county shall result in the benefits prescribed pursuant  
14 to sections 2 through 8 of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill).

16 b. The governing body of any qualifying municipality, after  
17 conducting at least one public hearing and upon adoption of an  
18 ordinance or resolution, as appropriate, may designate the  
19 municipality as an "agriculture development municipality."  
20 Designation as an agriculture development municipality shall result  
21 in the benefits prescribed pursuant to sections 2 through 8 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill).

23 c. As used in this section:

24 "Qualifying county" means any county with at least 3% of the  
25 total area of the county permanently preserved for agricultural or  
26 horticultural purposes, as certified by the State Agriculture  
27 Development Committee.

28 "Qualifying municipality" means any municipality, not located  
29 in a qualifying county, with at least 3% of the total area of the  
30 municipality permanently preserved for agricultural or horticultural  
31 purposes, as certified by the State Agriculture Development  
32 Committee.

33  
34 2. a. Before any person aggrieved by the operation of a  
35 commercial farm located in an agriculture development county or  
36 an agriculture development municipality, as may be the case, may  
37 file a complaint pursuant to section 5 of P.L.1998, c.48 (C.4:1C-  
38 10.1), the person and the owner of the commercial farm shall be  
39 required to participate in agricultural mediation under the New  
40 Jersey Agricultural Mediation Program, or a substantively similar  
41 program designated by the State Agriculture Development  
42 Committee, in an effort to resolve the dispute.

43 b. As used in this section:

44 "Agriculture development county" means a county designated as  
45 such pursuant to section 1 of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill).

47 "Agriculture development municipality" means a municipality  
48 designated as such pursuant to section 1 of P.L. , c. (C. )

1 (pending before the Legislature as this bill).

2 "Commercial farm" means a commercial farm as defined  
3 pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

4  
5 3. a. The Department of Environmental Protection shall  
6 provide for a method by which persons who are applying for  
7 certification and licensing to use or apply pesticides pursuant to the  
8 "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et  
9 seq.) may identify whether or not the certification and licensing is  
10 being sought in connection with the operation of a commercial farm  
11 and whether or not the commercial farm is located in an agriculture  
12 development county or agriculture development municipality. If the  
13 applicant for any such certification and licensing certifies on the  
14 application that the certification and licensing is being sought in  
15 connection with the operation of a commercial farm that is located  
16 in an agriculture development county or agriculture development  
17 municipality, the application shall be given priority review and  
18 consideration by the department ahead of all other applications for  
19 such certifications and licenses submitted in connection with the  
20 operation of any commercial farm that is not located in an  
21 agriculture development county or agriculture development  
22 municipality.

23 b. As used in this section:

24 "Agriculture development county" means a county designated as  
25 such pursuant to section 1 of P.L. , c. (C. ) (pending before the  
26 Legislature as this bill).

27 "Agriculture development municipality" means a municipality  
28 designated as such pursuant to section 1 of P.L. , c. (C. )  
29 (pending before the Legislature as this bill).

30 "Commercial farm" means a commercial farm as defined  
31 pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

32  
33 4. a. The Department of Environmental Protection shall  
34 provide for a method by which persons who are applying for a  
35 permit or certification to allocate, divert, or use water issued  
36 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
37 (C.58:1A-1 et seq.) may identify whether or not the permit or  
38 certification is sought in connection with the operation of a  
39 commercial farm and whether or not the commercial farm is located  
40 in an agriculture development county or agriculture development  
41 municipality. If the applicant for any such permit or certification  
42 certifies on the application that the permit or certification is being  
43 sought in connection with the operation of a commercial farm that  
44 is located in an agriculture development county or agriculture  
45 development municipality, the application shall be given priority  
46 review and consideration by the department ahead of all other  
47 applications for such permits or certifications submitted in  
48 connection with the operation of any commercial farm that is not

1 located in an agriculture development county or agriculture  
2 development municipality.

3 b. As used in this section:

4 "Agriculture development county" means a county designated as  
5 such pursuant to section 1 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill).

7 "Agriculture development municipality" means a municipality  
8 designated as such pursuant to section 1 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill).

10 "Commercial farm" means a commercial farm as defined  
11 pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

12

13 5. a. The Department of Environmental Protection shall  
14 provide for a method by which persons who are applying for a  
15 permit to construct a well issued pursuant to section 10 of P.L.1947,  
16 c.377 (C.58:4A-14) may identify whether or not the permit is being  
17 sought in connection with the operation of a commercial farm and  
18 whether or not the commercial farm is located in an agriculture  
19 development county or agriculture development municipality. If the  
20 applicant for any such permit certifies on the application that the  
21 permit is being sought in connection with the operation of a  
22 commercial farm that is located in an agriculture development  
23 county or agriculture development municipality, the application  
24 shall be given priority review and consideration by the department  
25 ahead of all other applications for such permits submitted in  
26 connection with the operation of any commercial farm that is not  
27 located in an agriculture development county or agriculture  
28 development municipality.

29 b. As used in this section:

30 "Agriculture development county" means a county designated as  
31 such pursuant to section 1 of P.L. , c. (C. ) (pending before the  
32 Legislature as this bill).

33 "Agriculture development municipality" means a municipality  
34 designated as such pursuant to section 1 of P.L. , c. (C. )  
35 (pending before the Legislature as this bill).

36 "Commercial farm" means a commercial farm as defined  
37 pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

38

39 6. a. The New Jersey Economic Development Authority, in  
40 consultation with the Secretary of Agriculture, shall establish a  
41 "New Jersey Agriculture-related Business Assistance Program" to  
42 provide financial assistance including, but not limited to, below-  
43 market fixed-rate loans and loan guarantees, for the development  
44 and support of qualifying agriculture-related businesses in any  
45 agriculture development county or agriculture development  
46 municipality in the State.

47 b. Within 18 months following the date of enactment of P.L. ,

48 c. (C. ) (pending before the Legislature as this bill), the

1 authority shall prepare a report on the status of the program. The  
2 report may be issued separately or in combination with other reports  
3 required by law and shall include, but need not be limited to, a  
4 description of the demand for the program from eligible applicants  
5 and participating banks, the efforts made by the authority to  
6 promote the program, the total amount of loans and loan guarantees  
7 approved pursuant to the program and an assessment of the  
8 effectiveness of the program in meeting the goals of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill). The  
10 authority shall submit its report to the Governor and, pursuant to  
11 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature,  
12 including therein any recommendations for legislation to improve  
13 the effectiveness of the program.

14 c. As used in this section:

15 "Agriculture development county" means a county designated as  
16 such pursuant to section 1 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).

18 "Agriculture development municipality" means a municipality  
19 designated as such pursuant to section 1 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill).

21 "Financial assistance" means a loan, loan guarantee, grant, tax  
22 exemption, or other financial aid or incentive.

23 "Qualifying agriculture-related business" means any business  
24 entity whose commercial activity primarily involves the support of  
25 agriculture, as shall be determined by the Secretary of Agriculture  
26 in accordance with rules and regulations adopted pursuant to the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.), and which shall include, but need not be limited to, any  
29 processor, supplier, or retailer of agricultural equipment, fertilizer,  
30 feed, seed, or farm product.

31

32 7. a. In designing, constructing, reconstructing, resurfacing, or  
33 widening any State, county, or municipal road, street, highway, or  
34 bridge which is located or will be located in an agriculture  
35 development county or agriculture development municipality and  
36 which is to be funded in whole or in part using revenues or other  
37 funds of the New Jersey Transportation Trust Fund Authority, the  
38 State, or any funds used to support the State's transportation capital  
39 program, the responsible agency shall consider, and shall  
40 accommodate and facilitate where appropriate to the maximum  
41 extent practicable and feasible, the use or potential use of the road  
42 by farming equipment, machinery, and vehicles.

43 b. As used in this section:

44 "Agriculture development county" means a county designated as  
45 such pursuant to section 1 of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill).

47 "Agriculture development municipality" means a municipality

1 designated as such pursuant to section 1 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill).

3  
4 8. This act shall take effect immediately.

5  
6  
7 STATEMENT

8  
9 This bill would establish a process by which a qualifying county  
10 or qualifying municipality could be designated as an "agriculture  
11 development county" or "agriculture development municipality"  
12 and thereby qualify commercial farmers and related businesses  
13 located within the county or municipality to receive certain benefits  
14 designed to encourage, protect, and preserve agriculture.

15 Specifically, the bill provides that the governing body of any  
16 qualifying county or qualifying municipality, after conducting at  
17 least one public hearing and upon adoption of an ordinance or  
18 resolution, as appropriate, may designate the county or municipality  
19 as an "agriculture development county" or "agriculture development  
20 municipality," respectively. "Qualifying county" is defined in the  
21 bill to mean any county with at least three percent of the total area  
22 of the county permanently preserved for agricultural or horticultural  
23 purposes, as certified by the State Agriculture Development  
24 Committee. "Qualifying municipality" is defined in the bill to mean  
25 any municipality, not located in a qualifying county, with at least  
26 three percent of the total area of the municipality permanently  
27 preserved for agricultural or horticultural purposes, as certified by  
28 the State Agriculture Development Committee.

29 Once a county or municipality is designated an agriculture  
30 development county or agriculture development municipality, the  
31 operators of commercial farms within the county or municipality, as  
32 defined in the "Right to Farm Act," would receive the following  
33 benefits:

34 (1) Priority review and consideration by the Department of  
35 Environmental Protection (DEP) of pesticide certification and  
36 licensing applications;

37 (2) Priority review and consideration by the DEP of water  
38 allocation, diversion, and use permit and certification applications;

39 (3) Priority review and consideration by the DEP of well permit  
40 applications; and

41 (4) Required participation in an agricultural mediation program  
42 by any person aggrieved by the operation of a commercial farm  
43 before that person may file a complaint against the farmer under the  
44 "Right to Farm Act."

45 In addition, the bill directs the New Jersey Economic  
46 Development Authority (EDA), in consultation with the Secretary  
47 of Agriculture, to establish a "New Jersey Agriculture-related  
48 Business Program" to provide financial assistance, including but not

1 limited to loans and loan guarantees, to “qualified agriculture-  
2 related businesses” in agriculture development counties or  
3 agriculture development municipalities. Under this bill, a  
4 “qualified agriculture-related business” is defined to mean any  
5 business entity whose commercial activity primarily involves the  
6 support of agriculture, as shall be determined by the Secretary of  
7 Agriculture in accordance with rules and regulations adopted  
8 therefor, and which shall include, but need not be limited to, any  
9 processor, supplier, or retailer of agricultural equipment, fertilizer,  
10 feed, seed, or farm product. The bill also directs the EDA to issue a  
11 report on the status of the program to the Governor and Legislature  
12 within 18 months of enactment.

13 The bill further provides that whenever any State, county, or  
14 municipal road, street, highway, or bridge is designed, constructed,  
15 reconstructed, resurfaced, or widened in an agriculture development  
16 county or agriculture development municipality, and the work is to  
17 be funded in whole or in part using revenues or other funds of the  
18 New Jersey Transportation Trust Fund Authority, the State, or any  
19 funds used to support the State’s transportation capital program, the  
20 responsible agency must consider, and must accommodate and  
21 facilitate where appropriate to the maximum extent practicable and  
22 feasible, the use or potential use of the road by farming equipment,  
23 machinery, and vehicles.