

ASSEMBLY, No. 1131

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Allows State-owned, municipally-managed Blue Acres lands to be used for freshwater wetlands mitigation projects.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning freshwater wetlands mitigation and amending
2 P.L.1987, c.156.

3

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

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7 1. Section 13 of P.L.1987, c.156 (C.13:9B-13) is amended to
8 read as follows:

9 13. a. The department shall require as a condition of a
10 freshwater wetlands permit that all appropriate measures have been
11 carried out to mitigate adverse environmental impacts, restore
12 vegetation, habitats, and land and water features, prevent
13 sedimentation and erosion, minimize the area of freshwater wetland
14 disturbance and insure compliance with the Federal Act and
15 implementing regulations.

16 b. The department may require the creation, enhancement, or
17 restoration of an area of freshwater wetlands of equal ecological
18 value to those which will be lost, and shall determine whether the
19 creation, enhancement, or restoration of freshwater wetlands is
20 conducted onsite or offsite. The department shall accept and
21 evaluate a proposal to create, enhance, or restore an area of
22 freshwater wetlands only after the department has evaluated the
23 permit application for which the proposal is made, and shall
24 evaluate the proposal to create, enhance, or restore an area of
25 freshwater wetlands independently of the permit application. The
26 department's evaluation of a proposal to create, enhance, or restore
27 an area of freshwater wetlands shall be conducted in consultation
28 with the United States Environmental Protection Agency.

29 c. If the department determines that the creation, enhancement,
30 or restoration of freshwater wetlands onsite is not feasible, the
31 department, in consultation with the United States Environmental
32 Protection Agency, may consider the option of permitting: the
33 creation of freshwater wetlands or the enhancement or restoration of
34 degraded freshwater wetlands offsite on private property with the
35 restriction on these freshwater wetlands of any future development;
36 the protection of transition areas or upland areas offsite, on private
37 property, that are deemed by the department to be valuable for the
38 protection of a freshwater wetlands ecosystem, with the restriction
39 on these areas of any future development; the creation of freshwater
40 wetlands or the enhancement or restoration of degraded freshwater
41 wetlands offsite on Blue Acres land, provided that the State and the
42 municipality in which the land is located have both granted
43 permission for the land to be used for that purpose; or the making of
44 a contribution to the Wetlands Mitigation Bank. The contribution
45 shall be equivalent to the lesser of the following costs: (1)

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.

1 purchasing, and enhancing or restoring, existing degraded
2 freshwater wetlands, resulting in preservation of freshwater
3 wetlands of equal ecological value to those which are being lost; or
4 (2) purchase of property and the cost of creation of freshwater
5 wetlands of equal ecological value to those which are being lost.
6 The applicant may also donate land as part of the contribution if the
7 Wetlands Mitigation Council determines that the donated land has
8 potential to be a valuable component of the freshwater wetlands
9 ecosystem. The department shall permit the donation of land as a
10 part of the contribution to the Wetlands Mitigation Bank only after
11 determining that all alternatives to the donation are not practicable
12 or feasible.

13 As used in this section, "Blue Acres land" means a parcel of real
14 property acquired and owned by the State under a federal or State
15 program for the acquisition of real property, for recreation and
16 conservation purposes, that has been damaged by, or may be prone
17 to incurring damage caused by, storms or storm-related flooding, or
18 that may buffer or protect other lands from such damage, and which
19 parcel is managed for recreation and conservation purposes by the
20 municipality in which the land is located under an agreement made
21 between the State and the municipality.

22 (cf: P.L.1993, c.298, s.5)

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24 2. This act shall take effect immediately.

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STATEMENT

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29 This bill would allow, as an option for required freshwater
30 wetlands mitigation associated with a development project, the
31 creation of freshwater wetlands or the enhancement or restoration of
32 degraded freshwater wetlands offsite on State-owned, municipally-
33 managed Blue Acres land, provided that the State and the
34 municipality in which the land is located have both granted
35 permission for the land to be used for that purpose.

36 The "Freshwater Wetlands Protection Act" currently provides,
37 with respect to freshwater wetlands mitigation requirements, that if
38 the Department of Environmental Protection (DEP) determines that
39 the creation, enhancement, or restoration of freshwater wetlands on
40 a development site is not feasible, the DEP, in consultation with the
41 United States Environmental Protection Agency, may consider the
42 option of permitting the developer to: (1) create freshwater
43 wetlands or enhance or restore degraded freshwater wetlands offsite
44 on private property with the restriction on these freshwater wetlands
45 of any future development; (2) protect wetlands transition areas or
46 upland areas offsite, on private property, that are deemed by the
47 DEP to be valuable for the protection of a freshwater wetlands
48 ecosystem, with the restriction on these areas of any future

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1 development; or (3) make an appropriate contribution to the
2 Wetlands Mitigation Bank. This bill would add a fourth mitigation
3 option, i.e., the creation of freshwater wetlands or the enhancement
4 or restoration of degraded freshwater wetlands offsite on State-
5 owned, municipally-managed Blue Acres land, provided that the
6 State and the municipality in which the land is located have both
7 granted permission for the land to be used for that purpose.

8 The bill defines “Blue Acres land” to mean a parcel of real
9 property acquired and owned by the State under a federal or State
10 program for the acquisition of real property, for recreation and
11 conservation purposes, that has been damaged by, or may be prone
12 to incurring damage caused by, storms or storm-related flooding, or
13 that may buffer or protect other lands from such damage, and which
14 parcel is managed for recreation and conservation purposes by the
15 municipality in which the land is located under an agreement made
16 between the State and the municipality.