

ASSEMBLY, No. 5659

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman JAMES J. KENNEDY
District 22 (Middlesex, Somerset and Union)
Assemblyman ANTHONY S. VERRELLI
District 15 (Hunterdon and Mercer)
Assemblyman KEVIN J. ROONEY
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Requires State entities engaging in projects resulting in deforestation of any size to submit plan to DEP for no net loss of forested areas.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2021)

1 **AN ACT** concerning the removal of trees by State entities and
2 amending P.L.1993, c.106.

3

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

6

7 1. Section 2 of P.L.1993, c.106 (C.13:1L-14.2) is amended to
8 read as follows:

9 2. a. Each State entity, by July 1, 1993, and at least annually
10 thereafter, shall develop, and submit to the Division of Parks and
11 Forestry in the Department of Environmental Protection, a plan for
12 compensatory reforestation for **all** any areas **[at least one-half** acre in size] that are owned or maintained by that State entity and
13 are scheduled for deforestation. A reforestation plan required
14 pursuant to this act shall establish a goal of no net loss of existing
15 forested area based upon a reasonable and practical Tree
16 Replacement Factor developed due to the act of deforestation and in
17 accordance with this act. The plan shall be subject to approval of
18 the division after review and comment by the Community Forestry
19 Council established pursuant to section 5 of P.L.1996, c.135
20 (C.13:1L-17.5). No project that would deforest land **[at least one-**
21 **half acre in size]** that is owned or maintained by a State entity may
22 be commenced without approval of that State entity's plan by the
23 division.

24 A reforestation plan shall provide that, if tree planting adjacent
25 to the deforested area is not feasible, it shall be conducted in the
26 following order: within the municipality in which the deforestation
27 occurred, within five miles of the site of deforestation, or off-site.

28 b. A reforestation plan developed pursuant to this section shall
29 include appropriate and approved methods for the planting,
30 protection, care and management of trees and other related natural
31 resources. With the advice and assistance of the Community
32 Forestry Council, the division shall develop and make available to
33 State entities a list of guideline elements that shall be required in a
34 reforestation plan. These guidelines shall establish but not limit the
35 basic framework of an approved reforestation plan.

36 A reforestation plan developed pursuant to this section shall
37 provide that:

38 (1) if the division determines that it is not feasible to conduct
39 the tree planting efforts on-site, then the tree planting shall be
40 conducted first on State property within the municipality in which
41 the deforestation occurred or municipal property within the
42 municipality in which the deforestation occurred. Municipal
43 property may include property owned or maintained by that
44 community including but not limited to parks, streets, schools,
45 municipal facilities, and open space and recreation areas;

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 (2) if the division determines that it is not feasible to conduct
2 the tree planting efforts on-site or within that municipality, then the
3 tree planting shall be conducted within five miles of the site of the
4 deforestation. Sites within five miles of the site of deforestation
5 may include property owned or maintained by the State, county or
6 other municipal entity;

7 (3) if the division determines that it is not practicable to conduct
8 the tree planting efforts on-site, within the municipality or five
9 miles of the site, then the tree planting shall be conducted off-site
10 by the State entity. Off-site property may include property owned
11 or maintained by a State entity other than the one developing and
12 implementing the plan if the State entity that is to receive the
13 benefits of the off-site tree planting efforts agrees thereto;

14 (4) the State entity shall use native species when practicable;

15 (5) the shape or configuration of the reforested area may be
16 substantially similar to the shape or configuration of the deforested
17 area;

18 (6) the replacement of trees shall be determined by the Tree
19 Replacement Factor and shall be based upon accepted forestry
20 research and practices which show the average tree density within
21 urban areas to be 204 trees per acre of tree cover;

22 (7) in using the Tree Replacement Factor (TRF) for sites that are
23 deforested the following number of stems shall be calculated for
24 seeding, caliper and whip/container trees:

$$\begin{aligned} 25 \quad TRF &= 204 (2" - 2 \frac{1}{2}") \text{ caliper trees per acre} \\ 26 \quad &= 408 \text{ whip/container (4' - 6') trees per acre} \\ 27 \quad &= 1210 \text{ tree seedlings per acre;} \end{aligned}$$

28 (8) the seedlings shall be planted from six to 10 feet apart, or at
29 a distance mutually agreed to by the division and the State entity,
30 and that the seedlings are obtainable from a tree nursery owned and
31 operated by the State. Subject to availability from a State tree
32 nursery, the seedlings used in reforestation by a State entity
33 pursuant to this act shall be those that are the most suitable for the
34 site; and

35 (9) the species of caliper nursery grown trees measured at two
36 and one half inches and whips at one and one half inches shall be
37 planted based upon the approved planting plan and subject to the
38 standards established by the American Association of Nurserymen.
39 Trees to be planted shall be selected from those recommended in
40 the publication entitled "Trees for New Jersey Streets" published by
41 the New Jersey Shade Tree Federation and in accordance with the
42 recommended planting specifications. Diversity in species
43 composition shall be required to reduce the risk of widespread loss
44 of trees to single insect and disease infestation and, therefore,
45 similar species shall not exceed 30 percent of the total planting.

46 c. The State entity shall enter into a memorandum of
47 agreement with the division that guarantees the division
48 reimbursement for actual labor hours attributable to the review and

1 implementation of that State entity's reforestation plan pursuant to
2 this act. If the compensatory reforestation as required by this act
3 cannot be accomplished on the site of the project by the State entity,
4 the division and the State entity may mutually agree within the
5 memorandum of agreement that the State entity responsible for the
6 deforestation shall pay an amount equal to the value of the number
7 of trees required as determined by the Tree Replacement Factor and
8 in accordance with an approved plan. This payment shall be
9 deposited in the "Shade Tree and Community Forest Preservation
10 License Plate Fund," established pursuant to section 12 of P.L.1996,
11 c.135 (C.39:3-27.81), and shall be expended for reforestation by the
12 division with the advice of the Community Forestry Council and the
13 approval of the director of the division. The memorandum of
14 agreement shall be part of the State entity's plan for compensatory
15 reforestation.

16 (cf: P.L.2001, c.10, s.1)

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18 2. This act shall take effect immediately.

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STATEMENT

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This bill would expand current law to require State entities engaging in projects of any size resulting in deforestation to submit a plan to DEP for no net loss of forested areas. The requirement to develop a reforestation plan, commonly called the no net loss compensatory reforestation program, currently applies to State entities that are engaging in projects that would deforest land at least one-half acre in size.

This bill would eliminate the one-half acre threshold and require State entities to develop and submit a plan for compensatory reforestation of areas of any size that are scheduled for deforestation. The New Jersey Global Warming Response Act 2020 80x50 Report recommended that lowering or eliminating the one-half acre threshold could help to ensure greater protection of the State's natural resources.

Compensatory reforestation plans are required to be approved by the Division of Parks and Forestry in the Department of Environmental Protection prior to the commencement of a deforestation project. Compensatory reforestation plans provide for the maturity of the forest that is to be deforested to be assessed and for the reforestation plan to provide for comparable tree density based on accepted forestry and research practices, so that there is no net loss of trees across the State as a result of deforestation projects. This effort will help to ensure that trees deforested, as a result of construction projects, are replanted elsewhere.