

ASSEMBLY, No. 1953

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblyman CORODEMUS and  
Assemblywoman FARRAGHER

1 AN ACT concerning county and municipal parks and amending  
2 P.L.1992, c.101.

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 1 of P.L.1992, c.101 (C.40:12-20) is amended to read  
8 as follows:

9 1. The Legislature finds and declares that county and municipal  
10 parks in the State are deteriorating due to a lack of proper  
11 maintenance , operation, or improvement ; that the use and enjoyment  
12 of such parks is diminished by their poor condition; that counties and  
13 municipalities often do not have the funds to expend for the proper  
14 maintenance , operation, or improvement of their parks; that proper  
15 maintenance , operation, and improvement helps extend the life of park  
16 facilities, thereby reducing the need in some cases for large public  
17 capital expenditures for new park facilities and allowing any savings  
18 resulting therefrom to be used for other public purposes; that private  
19 businesses located near county or municipal parks have a public  
20 service interest as well as a private financial incentive in ensuring that  
21 such parks are well cared for; that such businesses often have financial  
22 and other resources available to them to devote to such a worthy  
23 purpose; that many nonprofit organizations would welcome the  
24 opportunity for their members and volunteers to assist counties or  
25 municipalities in the maintenance , operation, or improvement of  
26 county or municipal parks in a spirit of public service; and that,  
27 therefore, it is appropriate to authorize counties and municipalities and  
28 private businesses or nonprofit organizations to establish mutually  
29 beneficial partnerships in the manner prescribed by this act that will  
30 result in county and municipal parks that are better maintained ,  
31 operated, and improved for the use and enjoyment of the public.

32 (cf: P.L.1992, c.101, s.1)

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1       2. Section 2 of P.L.1992, c.101 (C.40:12-21) is amended to read  
2 as follows:

3       2. As used in this act:

4       "Improvement" means, but is not necessarily limited to,  
5 construction, reconstruction, stabilization, repair, rehabilitation,  
6 renovation, or restoration of a park or park facility, building, structure,  
7 infrastructure, or feature.

8       "Local government unit" means a county, municipality, or joint  
9 meeting, including any commission, utilities or other authority, board,  
10 or agency thereof, or a county park commission, county board of park  
11 commissioners, county or municipal board of recreation  
12 commissioners, municipal recreation commission, or similar entity.

13       "Operation" means, but is not necessarily limited to, the providing  
14 of park or recreation services, equipment, materials, supplies, or staff  
15 personnel.

16       "Park" means a park, playground, picnic area, square, monument,  
17 beach, waterfront, recreation area, conservation area, or similar place  
18 or property, or any open space, owned or controlled by a local  
19 government unit.

20       "Participating business entity" means a business entity that has  
21 entered into a park maintenance , operation, or improvement  
22 agreement with a local government unit in accordance with this act.

23       "Participating entity" means a business entity or nonprofit  
24 organization that has entered into a park maintenance , operation, or  
25 improvement agreement with a local government unit in accordance  
26 with this act.

27 (cf: P.L.1992, c.101, s.2)

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29       3. Section 3 of P.L.1992, c.101 (C.40:12-22) is amended to read  
30 as follows:

31       3. Any local government unit may enter into an agreement with a  
32 business entity or nonprofit organization located within or near the  
33 local government unit to provide for the maintenance , operation, or  
34 improvement of a park or any portion thereof located within the local  
35 government unit, at no cost to the local government unit except as  
36 provided pursuant to section 4 of [this act] P.L.1992, c.101 (C.40:12-  
37 23). No such park maintenance , operation, or improvement  
38 agreement may be entered into unless the business entity or nonprofit  
39 organization successfully demonstrates to the local government unit  
40 that the business entity or nonprofit organization is capable of  
41 maintaining , operating, or improving the park according to the agreed  
42 upon terms and conditions. A park maintenance , operation, or  
43 improvement agreement shall be for such period as may be agreed  
44 upon by the local government unit and the business entity or nonprofit  
45 organization, and may be terminated by the business entity or  
46 nonprofit organization upon at least six months' notice to the local

1 government unit, or by the local government unit at any time without  
2 prior notice to the business entity or nonprofit organization, for any  
3 reason, including, but not limited to, failure of the participating  
4 business entity or nonprofit organization to comply with any term or  
5 condition of the park maintenance , operation, or improvement  
6 agreement.

7 (cf: P.L.1992, c.101, s.3)

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9 4. Section 4 of P.L.1992, c.101 (C.40:12-23) is amended to read  
10 as follows:

11 4. A local government unit may provide at no cost to a  
12 participating entity such equipment, materials, supplies, or services  
13 that the local government unit deems appropriate to assist the  
14 participating entity with its park maintenance , operation, or  
15 improvement responsibilities, including, but not limited to, solid waste  
16 recycling or disposal services.

17 (cf: P.L.1992, c.101, s.4)

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19 5. Section 5 of P.L.1992, c.101 (C.40:12-24) is amended to read  
20 as follows:

21 5. A local government unit may advertise and promote a park  
22 maintenance , operation, or improvement agreement program  
23 established by the local government unit pursuant to this act.

24 (cf: P.L.1992, c.101, s.5)

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26 6. Section 6 of P.L.1992, c.101 (C.40:12-25) is amended to read  
27 as follows:

28 6. A local government unit may provide for appropriate public  
29 recognition of a participating entity, including, but not limited to:

30 a. issuance of a certificate of recognition; and

31 b. authorization for the participating entity to pay for and erect a  
32 sign or signs at the park maintained , operated, or improved by that  
33 participating entity indicating (1) the name and address of the  
34 participating entity, and (2) that it has assumed all or a portion of the  
35 maintenance , operation, or improvement responsibilities for the park  
36 as a public service in accordance with this act. The local government  
37 unit shall determine the size, color, style, and location of any such sign  
38 or signs that may be erected. A local government unit may pay for a  
39 sign or signs erected in accordance with this section if the participating  
40 entity is a nonprofit organization.

41 (cf: P.L.1992, c.101, s.6)

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43 7. Section 7 of P.L.1992, c.101 (C.40:12-26) is amended to read  
44 as follows:

45 7. a. Except where permitted by the "New Jersey Tort Claims  
46 Act," N.J.S.59:1-1 et seq., no local government unit, or any employee

1 or agent thereof, may be held liable in any civil action to any person  
2 for any injury or damages that may be caused or sustained by any  
3 participating entity, or any employee, agent, contractor, member, or  
4 volunteer thereof, during the course, or as a result of, maintaining ,  
5 operating, or improving a park.

6 b. As a condition of any park maintenance , operation, or  
7 improvement agreement entered into in accordance with this act:

8 (1) a participating entity, and each employee, agent, contractor,  
9 member, or volunteer of that participating entity assisting in  
10 maintaining , operating, or improving a park, shall sign a waiver  
11 releasing the local government unit and its employees and agents from  
12 any civil liability for any injury or damages, except those arising from  
13 criminal or willful, wanton, or grossly negligent conduct, that may be  
14 sustained by the participating entity, or any employee, agent,  
15 contractor, member, or volunteer thereof, as the case may be, during  
16 the course, or as a result of, maintaining , operating, or improving a  
17 park;

18 (2) a participating business entity shall agree to indemnify, and if  
19 requested by the local government unit, defend, the local government  
20 unit and its employees and agents against all claims made by any  
21 person for injuries or damages that may be caused or sustained by the  
22 participating business entity, or any employee, agent, contractor,  
23 member, or volunteer thereof, during the course, or as a result of,  
24 maintaining , operating, or improving a park; and

25 (3) a participating business entity shall obtain and retain insurance  
26 in an amount sufficient for the purposes set forth in this section.

27 (cf: P.L.1992, c.101, s.7)

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29 8. Section 8 of P.L.1992, c.101 (C.40:12-27) is amended to read  
30 as follows:

31 8. While performing park maintenance , operation, or improvement  
32 responsibilities pursuant to a park maintenance , operation, or  
33 improvement agreement entered into in accordance with this act, a  
34 participating entity and its employees, agents, contractors, members,  
35 and volunteers shall not be considered to be "public employees" or  
36 "State employees" for the purposes of the "New Jersey Tort Claims  
37 Act," or otherwise be accorded any of the protections set forth therein.

38 (cf: P.L.1992, c.101, s.8)

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40 9. Section 9 of P.L.1992, c.101 (C.40:12-28) is amended to read  
41 as follows:

42 9. a. Nothing in this act may be construed to supersede the  
43 provisions of R.S.40:12-1 et seq., R.S.40:61-1 et seq., chapters 32 and  
44 37 of Title 40 of the Revised Statutes, or any rule or regulation  
45 established by a local government unit applicable to the maintenance,  
46 operation , or improvement of its parks for the benefit of all park

1 users.

2 b. Any agreement entered into in accordance with this act shall not  
3 be subject to the requirements and provisions of the "Local Public  
4 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).  
5 (cf: P.L.1992, c.101, s.9)

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7 10. This act shall take effect immediately.

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10 STATEMENT

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12 This bill would expand the county and municipal "adopt a park" law  
13 regarding the establishment of park maintenance agreements with  
14 business entities or nonprofit organizations to include park operations  
15 and improvements.

16 This bill would provide public park and recreation agencies with the  
17 ability to provide for and expand public park and recreation services  
18 and facilities with the assistance of a business entity or a nonprofit  
19 organization. This option is especially useful at this time of fiscal  
20 austerity in government.

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25 Expands county and municipal "adopt a park" law regarding park  
26 maintenance to include park operations and improvements.