

SENATE, No. 382

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators McNAMARA and LITTELL

1 AN ACT concerning the taxation of property used for the purpose and
2 for the protection of a public water supply, amending R.S.54:4-3.3,
3 and supplementing chapter 4 of Title 54 of the Revised Statutes.
4

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

7
8 1. (New section) The Legislature finds and declares that the
9 protection of water supplies, especially public water supplies serving
10 large segments of the State's population, is necessary for the purposes
11 of protecting and promoting the public health, safety, and welfare; that
12 protecting watershed lands is an important element in any
13 governmental strategy to preserve the quality and quantity of public
14 water supplies; that various State and local initiatives, programs, and
15 declarations of intent indicate a common objective that the sale and
16 development of watershed lands contributing to the protection of
17 public water supplies should be significantly restricted.

18 The Legislature further finds and declares that the courts of the
19 State traditionally take into account governmental action in restricting
20 the uses of land when determining the assessed value of real property
21 for taxation, in order to implement the State policy that a parcel of real
22 property be valued in the context of an arms-length sales transaction
23 and in accordance with the requirements of Article VIII, Section I,
24 paragraph 1 of the State Constitution that property be assessed for
25 taxation by uniform rules and pursuant to the same standard of value.

26 The Legislature also finds and declares that the courts of the State
27 have heretofore recognized that there are essentially three types of
28 appraisal methods appropriate for the evaluation of real property for
29 taxation - comparable sales, capitalization of income, and replacement
30 cost; that the courts, while cautioning that often more than one
31 method may be needed or utilized in the appraisal of a parcel of real
32 property, have also recognized that each of those three appraisal

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 methods may be used as a primary, though not necessarily exclusive,
2 approach for determining the value for taxation purposes of a
3 particular type of real property.

4 The Legislature therefore determines that it is appropriate to
5 provide that in any case where limits or restrictions have been placed
6 upon the sale or development of watershed lands owned by a State
7 authority or commissions or a local governmental entity, whether by
8 law, rule, regulation, or order of the State, or by county or municipal
9 resolution or ordinance, or where it is the express intent of the owner
10 of those watershed lands to restrict the sale or development thereof,
11 it may be deemed appropriate for the tax assessor to determine that the
12 highest and best use of those lands is for the provision and sale of
13 water and for the protection of that water supply, and to employ the
14 appraisal method involving the capitalization of the actual or potential
15 income from those watershed lands in order to determine the assessed
16 valuation thereof for tax purposes.

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18 2. (New section) As used in this act:

19 "Tax assessor" means the tax assessor, appointed pursuant to the
20 provisions of chapter 9 of Title 40A of the New Jersey Statutes, of a
21 municipality in which watershed lands are located.

22 "Watershed lands" means any lands that are held and utilized by any
23 State authority or commission or other instrumentality of the State, or
24 any county or municipality, county or municipal utilities authority,
25 county or municipal commission, municipal water district, joint
26 meeting, or other county or municipal governmental entity for the
27 purpose and for the protection of a public water supply.

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29 3. (New section) a. In any case where limits or restrictions have
30 been placed upon the sale or development of watershed lands owned
31 by a local governmental entity, whether by law, rule, regulation, or
32 order of the State, or by county or municipal resolution or ordinance,
33 or where it is the express intent of the owner of those watershed lands
34 to restrict the sale or development thereof, it may be deemed
35 appropriate for the tax assessor to determine that the highest and best
36 use of those lands is for the provision and sale of water and for the
37 protection of that water supply. In accordance with such a
38 determination, the tax assessor, in determining the assessed valuation
39 of the watershed lands for taxation purposes, may employ the
40 capitalization of income approach as the primary appraisal method.

41 b. In deriving an appropriate economic rent equivalent for
42 watershed lands for the purpose of capitalizing an income stream, the
43 tax assessor may take into account income streams for comparable
44 water supply operations, whether publicly or privately owned, or
45 owned by a public utility, and regardless of the status thereof with
46 respect to regulation by any State department, board, commission, or

1 other agency or entity. Such data may also be used in determining the
2 economic rent equivalent for watershed lands for which the owner fails
3 to submit income data to the tax assessor pursuant to the requirements
4 of subsection c. of this section.

5 c. Every owner of watershed lands shall, on or before September
6 1 of each year, submit to the tax assessor of the municipality in which
7 those lands are located such current and historical income data as the
8 tax assessor shall require, pursuant to written notice, with respect to
9 the provision and sale of water obtained from or protected by those
10 watershed lands.

11 d. The provisions of this section shall not apply if more than 5% of
12 the watershed lands have been sold or offered for sale within the
13 pre-tax year for use other than for the purpose, or for the protection,
14 of a public water supply.

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16 4. R.S.54:4-3.3 is amended to read as follows:

17 54:4-3.3. Exemption of public property; Morris Canal and Banking
18 Company property

19 Except as otherwise provided by article 1 of this chapter (§ 54:4-1
20 et seq.), the property of the State of New Jersey; and the property of
21 the respective counties, school districts and taxing districts used for
22 public purposes, or for the preservation or exhibit of historical data,
23 records or property; school district property which is leased to a
24 nonprofit organization which is exempt from taxation under R.S.
25 54:4-3.6, for use by that organization in its exempt functions; school
26 district property which is leased to another board of education or
27 governmental agency; and property acquired by any municipality
28 through tax title foreclosure or by deed in lieu of foreclosure, if not
29 used for private purpose, shall be exempt from taxation under this
30 chapter, but this exemption shall not include real property bought in
31 for debts or on foreclosure of mortgages given to secure loans out of
32 public funds or out of money in court, which property shall be taxed
33 unless devoted to public use. The lands of counties, municipalities,
34 and other municipal and public agencies of this State used for the
35 purpose and for the protection of a public water supply shall be subject
36 to taxation by the respective taxing districts where situated, at the
37 taxable value thereof, without regard to any buildings or other
38 improvements thereon, in the same manner and to the same extent as
39 the lands of private persons except as otherwise provided pursuant to
40 P.L. , c. (C.) (now before the Legislature as this bill), but all
41 other property so used shall be exempt from taxation. Property, the
42 title to which is in the Morris Canal and Banking Company, in trust for
43 the State, shall, so long as the title is so vested, be deemed to be the
44 property of the State within the meaning of any tax law.

45 (cf: P.L.1983, c.262, s.1)

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3 Authorizes capitalization of income as primary appraisal method for
4 assessment of county or municipally owned watershed lands.