

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1000000

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 1999

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments Assembly Bill No. 1000000.

As amended by the committee, this bill, to be known as the "Garden State Preservation Trust Act," would establish a statutory framework for open space preservation, farmland preservation, recreation and park development, and historic preservation efforts in the State for at least the next decade. In November 1998, the voters of the State approved a constitutional amendment dedicating \$98 million per year to those purposes and authorizing the issuance of up to \$1 billion in revenue bonds based upon the constitutionally dedicated funds. This bill would establish the "Garden State Preservation Trust" (GSPT) as the entity responsible for issuing those bonds, and prescribe procedures and funding allocations to guide the GSPT, the Department of Environmental Protection (DEP), the State Agricultural Development Committee (SADC), and the New Jersey Historic Trust (NJHT) in meeting those funding needs.

The GSPT would be composed of nine voting members, as follows: (1) the Commissioner of Environmental Protection, the Secretary of Agriculture, the Secretary of State, and the State Treasurer, all of whom would serve ex officio; and (2) one appointee by the Governor, two appointees (no more than one of whom could be from the same political party) by the President of the Senate, and two appointees (no more than one of whom could be from the same political party) by the Speaker of the General Assembly. The appointees of the Senate President and the Assembly Speaker would be made in compliance with the constitutional amendment's provision authorizing appointments to the GSPT by the Legislature. The terms of the appointees would be five years, except for the staggered terms of those first appointed. The chairperson would be elected annually and the chair would rotate annually among the three classes of appointees. The Governor's appointee would be the first chairperson of the trust.

The bill would provide that the GSPT shall not incur debt in any

State fiscal year in excess of \$200 million, except that if that permitted amount of debt, or any portion thereof, is not incurred in a State fiscal year it may be incurred in a subsequent State fiscal year. This limitation could not be increased except by law. The constitutional amendment provides that the constitutionally dedicated moneys shall not be used to make payments related to bonds, notes or other obligations which in aggregate principal amount exceed \$1 billion plus costs of issuance. The bill includes a \$1 billion limit (plus costs of issuance) on the aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness, that may be issued by the GSPT.

Generally, the bill would provide that in each State fiscal year over the next decade, the GSPT, after retaining sufficient funds to pay any debt service on its bonds and notes, would transfer \$6 million to the NJHT for historic preservation projects, and then divide the remaining proceeds as follows: 60% for the Green Acres program and 40% for the farmland preservation program. All administrative costs and expenses, including but not limited to salaries, fringe and other benefits, equipment, materials, direct and indirect costs, and non-salaried administrative costs, of the DEP, SADC, NJHT, and any other State entity incurred in connection with the implementation or administration of the constitutional amendment or the bill would be paid from the State General Fund, not from constitutionally dedicated moneys.

Of the moneys set aside each year for the Green Acres program, 50% would be allocated for open space acquisition and park development by the State, 40% for grants and low-interest (up to 2%) loans to local government units for open space acquisition and park development, and 10% for grants to nonprofit organizations for open space acquisition and park development. Loan repayments are specifically dedicated for future loans to local government units for open space acquisition or park development.

The GSPT would have the authority from year to year to alter the presumed funding allocation percentages and levels among and within the three programs as established in the bill and to transfer moneys between the programs for the purposes of responding to special needs or circumstances, but only after conducting at least one public hearing with at least 60 days advance public notice thereof.

Under the bill, proposed project funding lists would be submitted by the DEP and the SADC at least twice per year to the GSPT for its approval, and by the NJHT to the GSPT for its approval whenever deemed appropriate but most likely at least once per year. Once approved, these lists would be forwarded to the Governor and the Legislature for approval in the form of appropriation bills. The GSPT could not add projects to these lists, but it could delete projects. A project deletion by the GSPT would trigger a review process by the GSPT involving the affected parties. Upon completion of that review, if the DEP, SADC, or NJHT, as the case may be, decided that the

project still warranted funding, the project would be placed again on a list to be considered by the Legislature for appropriation, and once on that list the project could not be deleted again by the GSPT. The opinions of the GSPT and the State agency concerning the merits and validity of any project subjected to this review process would be forwarded to the Legislature. The Legislature would retain its inherent power in all cases to accept or reject a project by choosing to include it in, or exclude it from, an appropriation bill. The bill provides that the total amount that may be appropriated for Green Acres and farmland preservation projects in any State fiscal year shall not exceed \$200 million.

The bill would create the Office of Green Acres in the DEP. In addition to its other duties and responsibilities under the bill, the office would be responsible for establishing criteria for evaluating and ranking open space preservation projects for funding based upon guidelines in the bill, and would continue to administer the existing Green Acres bond act program and especially the existing Green Trust program for local government units. Projects funded with Green Trust moneys would also proceed through the GSPT approval process outlined above.

Under the bill, the GSPT would have certain reporting responsibilities with respect to financing plans, acquisition and development plans and progress, available surplus State property, and unfunded projects.

Generally, with respect to the Green Acres program, the standard grant, if awarded, to a local government unit would be for 25% of open space acquisition costs, except the GSPT could raise that amount to 50% upon a showing of special need or exceptional circumstances. However, if a local government unit has enacted a dedicated local open space tax or similar stable source of local funding for open space preservation, the grant, if awarded, would be for 50% of acquisition costs, and the GSPT could raise that amount to 75% upon a special showing. A grant to a county or municipality for a project in an urban aid municipality would be for 50% of open space acquisition or park development costs, except that the GSPT could raise that amount to 75% upon a special showing. Finally, a grant to a nonprofit organization would be for up to 50% of open space acquisition or park development costs. Park development projects by a nonprofit organization on lands owned by a local government unit would require co-application or approval by the local government unit.

The bill would establish a sliding scale formula for payments in lieu of property taxes by the State for open space acquired and owned in fee simple by the State or nonprofit organizations. Initially, for such acquisitions pursuant to the bill, there would be a 13-year declining payment schedule similar to that used in past Green Acres bond acts. Thereafter, and for open space acquired prior to or after implementation of the bill using other funding sources and owned in fee simple by the State or nonprofit organizations, the payments in lieu

of property taxes would be based upon the total amount of open space owned in fee simple by the State or nonprofit organizations in the municipality, using a sliding scale, as follows: \$2 per acre when the percentage of the total acreage in a municipality that is owned in fee simple by the State or nonprofit organizations for open space preservation purposes is less than 20%; \$5 per acre for 20% to less than 50% ownership; \$10 per acre for 50% to less than 60% ownership; and \$20 per acre for 60% or more ownership. These payments would be made from the State General Fund, not from constitutionally dedicated moneys.

The bill would exempt the State, local government units, and nonprofit organizations from the payment of any farmland assessment roll-back tax in connection with any acquisition of land for open space preservation purposes. Also, the State would be prohibited from using eminent domain to acquire land for open space preservation except with the approval of the Legislature by adoption of a concurrent resolution to that effect. However, if needed, eminent domain proceedings could be employed by the State for the purpose only of establishing value.

The bill generally follows the laws and regulations for the existing Green Acres bond act program with respect to diversions of land acquired for open space preservation purposes to other uses, with certain exceptions.

With respect to farmland preservation, the SADC would pay for up to 80% of the cost of acquisition by a local government unit of a development easement on farmland. The bill also would provide for payment by the SADC of up to 80% of the cost of acquisition by a local government unit of the fee simple title to farmland, which would be resold with an agricultural deed restriction placed upon the land. As amended by the committee, the SADC would provide grants for up to 50% of the cost of acquisition by a nonprofit organization of a development easement on farmland or the fee simple title to farmland, which would be resold or leased with an agricultural deed restriction as determined by the SADC. The current sliding scale formula for calculating the actual SADC share of the cost of an acquisition, as set forth in SADC regulations, would continue.

Under the bill, the SADC as well could acquire farmland development easements or fee simple titles to farmland.

The bill would authorize a special flexible approach to be used when appraising farmland to be preserved in the pinelands area under the farmland preservation program. The bill also provides for a similar flexible approach to be used when appraising lands in the pinelands area to be acquired for open space preservation purposes. In addition, the bill would require the permanent retirement of any pinelands development credits acquired in connection with either the open space or farmland preservation programs.

The bill provides that in determining the value of lands under consideration for acquisition for open space or farmland preservation

purposes, any appraisal of that value conducted by or for the DEP, the SADC, a local government unit, or a nonprofit organization must be made using the land use zoning of the lands in effect on November 3, 1998; except that this provision would not apply to appraisals conducted for open space or farmland preservation purposes in the pinelands area as described above.

The bill would allocate \$6 million annually for historic preservation matching grants to local government units and nonprofit organizations, with a maximum grant amount of \$750,000 for any individual project. Also, unexpended historic preservation funds from past historic preservation grant awards due to project withdrawals, cancellations, or cost savings would be reallocated to historic preservation projects previously approved under the prior funding program. In addition, the bill would authorize two new alternatives (in addition to by concurrent resolution of the Legislature) for legislative approval of historic preservation loans issued pursuant to a 1987 bond act program: (1) by legislative act in connection with appropriations made pursuant to this bill; or (2) by approval of the Joint Budget Oversight Committee (JBOC). Finally, the bill would formalize by legislation the transfer, which was accomplished in 1998 by an executive reorganization plan, of the NJHT from in but not of the DEP to in but not of the Department of State, and make certain changes to the membership, powers, and operating procedures of the NJHT.

The committee amended the bill to: (1) amend the definition of "development" to specifically exclude shore protection and beach nourishment or replenishment activities; (2) clarify the definition of "local government unit"; (3) clarify the appointment process for the GSPT; (4) subject the GSPT to the provisions of the "Open Public Meetings Act"; (5) specify that certain transfers of appropriated moneys for approved projects would require the approval only of JBOC, and not the GSPT; (6) provide that a nonprofit organization could not use as its matching share of the cost of an acquisition or development project any constitutionally dedicated grant moneys or Green Acres bond act grant moneys; (7) add that the conveyance, disposition, or diversion of State-owned open space requires the approval of the Commissioner of Environmental Protection in addition to the approval of the State House Commission; (8) add that the SADC may provide grants to nonprofit organizations of up to 50% of the cost of acquisition of a development easement or the fee simple title to farmland; (9) remove "farmland preservation purposes" from the sections providing for payments in lieu of taxes and providing for an exemption from farmland assessment roll-back taxes, for reasons of either minimal applicability or simplification; and (10) make various technical and clarifying changes.