

SENATE, No. 2118

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 2, 2008

Sponsored by:

Senator JENNIFER BECK

District 12 (Mercer and Monmouth)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Revises certain provisions of farmland assessment law.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning farmland assessment, amending and
2 supplementing P.L.1964, c.48, and repealing section 1 of
3 P.L.1968, c.455 (C.54:4-23.13a).

4

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

7

8 1. (New section) a. For the purposes of sections 3 and 4 of
9 P.L.1964, c.48 (C.54:4-23.3 and C.54:4-23.4), and in addition to the
10 requirements and provisions prescribed by those sections, land shall
11 be deemed to be in agricultural use when devoted to the production
12 for sale of:

13 (1) dairy animals and dairy products, poultry and poultry
14 products, or livestock only if the land meets the minimum livestock
15 carrying capacity standard or minimum poultry carrying capacity
16 standard, as appropriate, for the animals;

17 (2) crops, only if the land meets the cropping intensity standard
18 for that crop; or

19 (3) honeybees, honeybee or apiary products, or pollen or nectar
20 for honeybees, only if the applicant submits at the time of
21 application for eligibility of the land for valuation, assessment and
22 taxation under P.L.1964, c.48 (C.54:4-23.1 et seq.) an annual site
23 specific commercial bee and rotational crop management plan
24 approved by the Department of Agriculture and implemented
25 throughout the tax year.

26 b. The Department of Agriculture shall adopt, pursuant to the
27 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
28 seq.), and within one year after the date of enactment of P.L. , c.
29 (C.) (pending before the Legislature as this bill), rules and
30 regulations (1) establishing, for the purposes of this section and
31 sections 3 and 4 of P.L.1964, c.48 (C.54:4-23.3 and C.54:4-23.4),
32 minimum livestock carrying capacity standards, minimum poultry
33 carrying capacity standards, and cropping intensity standards, and
34 (2) implementing the requirements of paragraph (3) of subsection a.
35 of this section.

36 c. The Division of Taxation in the Department of the Treasury,
37 in conjunction with the Department of Agriculture, shall annually
38 offer, free of charge, a six-hour continuing education course to
39 municipal tax assessors, county tax administrators, and other
40 appropriate local government officials on cropping intensity,
41 minimum livestock carrying capacities, and minimum poultry
42 carrying capacities for land actively devoted to agricultural or
43 horticultural use.

44 d. The State Board of Agriculture, the Department of
45 Agriculture, and the Department of Environmental Protection shall

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.

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1 consult with the New Jersey Forestry Association and the New
2 Jersey Division of the Society of American Foresters on any issues
3 pertaining to woodland management and the “Farmland Assessment
4 Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

5

6 2. Section 4 of P.L.1964, c.48 (C.54:4-23.4) is amended to read
7 as follows:

8 4. Land shall be deemed to be in horticultural use when devoted
9 to the production for sale of fruits of all kinds, including grapes,
10 nuts and berries; vegetables; nursery, floral, ornamental and
11 greenhouse products; or when devoted to and meeting the
12 requirements and qualifications for payments or other compensation
13 pursuant to a soil conservation program under an agreement with an
14 agency of the Federal Government , provided that the land meets
15 the appropriate cropping intensity standard for the horticultural crop
16 as prescribed by the Department of Agriculture pursuant to section
17 1 of P.L. , c. (C.) (pending before the Legislature as this bill).
18 (cf: P.L.1964, c.48, s.4)

19

20 3. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read
21 as follows:

22 5. a. Land, five acres in area, shall be deemed to be actively
23 devoted to agricultural or horticultural use when the amount of the
24 gross sales of agricultural or horticultural products produced
25 thereon, any payments received under a soil conservation program,
26 fees received for breeding, raising or grazing any livestock, income
27 imputed to cropland pastured and permanent pasture land used for
28 grazing in the amount determined by the State Farmland Evaluation
29 Advisory Committee created pursuant to section 20 of P.L.1964,
30 c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating
31 or training any livestock where the land under the boarding,
32 rehabilitating or training facilities is contiguous to land which
33 otherwise qualifies for valuation, assessment and taxation under this
34 act, have averaged at least ~~【\$500.00】~~ \$1,000 per year during the
35 two-year period immediately preceding the tax year in issue, or
36 there is clear evidence of anticipated yearly gross sales and such
37 payments amounting to at least ~~【\$500.00】~~ \$1,000 within a
38 reasonable period of time. Every three years, the State Farmland
39 Evaluation Advisory Committee shall review the \$1,000 minimum
40 gross sales and payments requirement of this section, and may, by
41 rule or regulation adopted pursuant to the “Administrative
42 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), raise the
43 amount of that minimum to such level as the committee determines
44 appropriate.

45 In addition, where the land is more than five acres in area, it
46 shall be deemed to be actively devoted to agricultural or
47 horticultural use when the amount of the gross sales of agricultural
48 or horticultural products produced on the area above five acres, any

1 payments received under a soil conservation program, fees received
2 for breeding, raising or grazing any livestock, income imputed to
3 cropland pastured and permanent pasture land used for grazing in
4 the amount determined by the State Farmland Evaluation Advisory
5 Committee created pursuant to section 20 of P.L.1964, c.48
6 (C.54:4-23.20), and fees received for boarding, rehabilitating or
7 training any livestock where the land under the boarding,
8 rehabilitating or training facilities is contiguous to land which
9 otherwise qualifies for valuation, assessment and taxation under this
10 act, have averaged at least \$5.00 per acre per year during the two-
11 year period immediately preceding the tax year in issue, or there is
12 clear evidence of anticipated yearly gross sales and such payments
13 amounting to an average of at least \$5.00 per year within a
14 reasonable period of time; except in the case of woodland and
15 wetland, where the minimum requirement shall be an average of
16 \$0.50 per acre on the area above five acres.

17 As used in this section, "livestock" shall not include dogs.

18 For the purposes of this section, the presence of an intervening
19 public thoroughfare shall not preclude a finding of contiguity.

20 b. Land previously qualified as actively devoted to agricultural
21 or horticultural use under the act; but failing to meet the additional
22 requirement on acreage above five acres , or failing to meet the
23 increase in the minimum amount of gross sales, payments and fees
24 received, and imputed income required pursuant to subsection a. of
25 this section as amended by section 3 of P.L. , c. (C.) (pending
26 before the Legislature as this bill), shall not be subject to the roll-
27 back tax because of such disqualification, but shall be treated as
28 land for which an annual application has not been submitted.

29 c. In determining the eligibility of land for valuation, assessment
30 and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the
31 assessor of the taxing district in which the land is located shall,
32 upon request by the owner of the land, exempt the owner from the
33 income requirements of this section if the owner demonstrates to
34 the satisfaction of the assessor that the failure to meet the income
35 requirements was due to an injury, illness or death of the person
36 responsible for performing the activities which produce the income
37 necessary to meet the income eligibility requirement of this section.
38 The request of the owner shall be accompanied by a certificate of a
39 physician stating that the person was physically incapacitated or by
40 a certified copy of the death certificate, as the case may be. The
41 assessor may only grant an exemption once for a particular illness,
42 injury or death.

43 (cf: P.L.1995, c.276, s.2)

44

45 4. Section 8 of P.L.1964, c.48 (C.54:4-23.8) is amended to read
46 as follows:

47 8. When land which is in agricultural or horticultural use and is
48 being valued, assessed and taxed under the provisions of P.L.1964,

1 c.48 (C.54:4-23.1 et seq.), is applied to a use other than agricultural
2 or horticultural, it shall be subject to additional taxes, hereinafter
3 referred to as roll-back taxes, in an amount equal to the difference,
4 if any, between the taxes paid or payable on the basis of the
5 valuation and the assessment authorized hereunder and the taxes
6 that would have been paid or payable had the land been valued,
7 assessed and taxed as other land in the taxing district, in the current
8 tax year (the year of change in use) and in such of the two tax years
9 immediately preceding, in which the land was valued, assessed and
10 taxed as herein provided.

11 If the tax year in which a change in use of the land occurs, the
12 land was not valued, assessed and taxed under P.L.1964, c.48
13 (C.54:4-23.1 et seq.), then such land shall be subject to roll-back
14 taxes for such of the two tax years, immediately preceding, in which
15 the land was valued, assessed and taxed hereunder.

16 Notwithstanding the provisions of any law, rule, or regulation to
17 the contrary, land which is valued, assessed and taxed under the
18 provisions of P.L.1964, c.48 (C.54:4-23.1 et seq.) and is acquired
19 by the State, a local government unit, a qualifying tax exempt
20 nonprofit organization, or the Palisades Interstate Park Commission
21 for recreation and conservation purposes shall not be subject to roll-
22 back taxes. As used in this section, "acquired," "local government
23 unit," "qualifying tax exempt nonprofit organization," and
24 "recreation and conservation purposes" mean the same as those
25 terms are defined pursuant to section 3 of P.L.1999, c.152
26 (C.13:8C-3).

27 In determining the amounts of the roll-back taxes chargeable on
28 land which has undergone a change in use, the assessor shall for
29 each of the roll-back tax years involved, ascertain:

30 (a) The full and fair value of such land under the valuation
31 standard applicable to other land in the taxing district;

32 (b) The amount of the land assessment for the particular tax year
33 by multiplying such full and fair value by the county percentage
34 level, as determined by the county board of taxation in accordance
35 with section 3 of P.L.1960, c.51 (C.54:4-2.27);

36 (c) The amount of the additional assessment on the land for the
37 particular tax year by deducting the amount of the actual assessment
38 on the land for that year from the amount of the land assessment
39 determined under (b) hereof; and

40 (d) The amount of the roll-back tax for that tax year by
41 multiplying the amount of the additional assessment determined
42 under (c) hereof by the general property tax rate of the taxing
43 district applicable for that tax year.

44 Land previously qualified as actively devoted to agricultural or
45 horticultural use under P.L.1964, c.48 (C.54:4-23.1 et seq.), but
46 failing to meet the additional requirements of section 1 of P.L. , c.
47 (C.) (pending before the Legislature as this bill) or the additional
48 cropping intensity requirements for horticultural crops of section 4

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1 of P.L.1964, c.48 (C.54:4-23.4) added by section 2 of P.L. , c.
2 (C.) (pending before the Legislature as this bill), shall not be
3 subject to the roll-back tax because of such disqualification, but
4 shall be treated as land for which an annual application has not been
5 submitted.

6 (cf: P.L.2001, c.312, s.2)

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8 5. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to
9 read as follows:

10 14. a. Application for valuation, assessment and taxation of
11 land in agricultural or horticultural use under this act shall be on a
12 form prescribed by the Director of the Division of Taxation in the
13 Department of the Treasury, and provided for the use of claimants
14 by the governing bodies of the respective taxing districts. The form
15 of application shall provide for the reporting of information
16 pertinent to the provisions of Article VIII, Section 1, paragraph 1(b)
17 of the Constitution, as amended, and this act. The applicant shall
18 include with the form of application, in a manner prescribed by the
19 director, proofs of sales or clear evidence of anticipated gross sales
20 of agricultural or horticultural products, and of any other payments,
21 fees, or income received from the agricultural or horticultural use of
22 the land, in the prior year, amounting to at least \$1,000 for the first
23 five acres. A certification by the landowner that the facts set forth
24 in the application are true may be prescribed by the director to be in
25 lieu of a sworn statement to that effect. Statements so certified
26 shall be considered as if made under oath and subject to the same
27 penalties as provided by law for perjury. Any landowner, except
28 those who have submitted a woodland management plan pursuant to
29 section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for
30 valuation, assessment and taxation pursuant to P.L.1964, c.48
31 (C.54:4-23.1 et seq.) for lands not previously qualified under the act
32 shall submit with the application a map of land use classes and soil
33 groups that conforms with standards established by the Division of
34 Taxation in consultation with the Secretary of Agriculture.

35 b. The director shall devise a form for the extension of filing
36 time for the valuation application, which form shall include the
37 name and address of the applicant, the reason for the extension, and
38 a space for the approval or rejection of the assessor.

39 (cf: P.L.1995, c.276, s.7)

40

41 6. Section 20 of P.L.1964, c.48 (C.54:4-23.20) is amended to
42 read as follows:

43 20. There is hereby created a State Farmland Evaluation
44 Advisory Committee, the members of which shall be the Director
45 of the Division of Taxation; the Dean of the College of Agriculture,
46 Rutgers, The State University; and the Secretary of Agriculture.
47 The committee shall meet from time to time on the call of the
48 Secretary of Agriculture and annually determine and publish a

1 range of values for each of the several classifications of land in
2 agricultural and horticultural use in the various areas of the State.
3 The primary objective of the committee shall be the determination
4 of the ranges in fair value of such land based upon its productive
5 capabilities when devoted to agricultural or horticultural uses. In
6 making these annual determinations of value, the committee shall
7 consider available evidence of agricultural or horticultural
8 capability derived from the soil survey at Rutgers, The State
9 University, the National Co-operative Soil Survey, and such other
10 evidence of value of land devoted exclusively to agricultural or
11 horticultural uses as it may in its judgment deem pertinent. On or
12 before October 1 of each year, the committee shall make these
13 ranges of fair value available to the assessing authority in each of
14 the taxing districts in which land in agricultural and horticultural
15 use is located.

16 The committee shall also conduct the periodic review of the
17 minimum gross sales and payments requirement in order for land
18 which is actively devoted to agricultural or horticultural use to be
19 eligible for valuation, assessment and taxation under the provisions
20 of P.L.1964, c.48 (C.54:4-23.1 et seq.), as prescribed by section 5
21 of P.L.1964, c.48 (C.54:4-23.5).

22 Every five years, the committee shall review the application form
23 or forms for valuation, assessment and taxation of land in
24 agricultural or horticultural use pursuant to P.L.1964, c.48 (C.54:4-
25 23.1 et seq.), and provide any recommendations the committee may
26 have thereon to the Director of the Division of Taxation.

27 (cf: P.L.1964, c.48, s.20)

28

29 7. Section 1 of P.L.1999, c.278 (C.54:1-35.25b) is amended to
30 read as follows:

31 1. a. All tax assessor certificates issued prior to the effective
32 date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years
33 following that effective date and shall be renewed in accordance
34 with the procedure established in this section. All tax assessor
35 certificates issued on or after the effective date of P.L.1999, c.278
36 (C.54:1-35.25b et al.) shall expire five years after the issuance of
37 the certificate and shall be renewed in accordance with the
38 procedure established in this section.

39 (1) All tax assessor certificates shall be renewed upon
40 application, payment of the required renewal fee, and verification
41 that the applicant has met continuing education requirements, as set
42 forth in paragraph (2) and paragraph (3) of this subsection. After
43 the initial expiration of any tax assessor certificates following the
44 effective date of P.L.1999, c.278 (C.54:1-35.25b et al.), each
45 renewal period shall thereafter be for a period of three years. The
46 renewal date shall be 30 days prior to the expiration date of the tax
47 assessor certificate.

1 (2) Prior to the first renewal date of a tax assessor certificate
2 pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) every applicant
3 for renewal shall, on a form prescribed by the Director of the
4 Division of Taxation, furnish proof of having earned a total of at
5 least 50 continuing education credit hours over the prior five-year
6 period. Thereafter, prior to each succeeding renewal date of a tax
7 assessor certificate, every applicant for renewal shall, on a form
8 prescribed by the Director of the Division of Taxation, furnish
9 proof of having earned a total of at least 30 continuing education
10 credit hours over the prior three-year period. For the purposes of
11 this section, one continuing education credit hour means 50 minutes
12 of classroom or lecture time. After verifying that the applicant has
13 fulfilled the continuing education requirement and after receiving a
14 fee of not less than \$50 paid by the applicant to the order of the
15 Treasurer of the State of New Jersey, the Director of the Division of
16 Taxation shall renew the tax assessor certificate. The Director of
17 the Division of Taxation shall determine, by regulation, the
18 circumstances under which an extension of time to complete the
19 requirements for continuing education may be granted by the
20 director.

21 (3) Commencing January 1, 2014, for any tax assessor of a
22 municipality in which 20 or more Class 3B (Farm Qualified)
23 properties subject to valuation, assessment and taxation pursuant to
24 P.L.1964, c.48 (C.54:4-23.1 et seq.) are located, prior to every
25 renewal date of a tax assessor certificate issued to that tax assessor
26 pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) the applicant for
27 renewal shall, on a form prescribed by the Director of the Division
28 of Taxation, furnish proof of having taken, at least once in the prior
29 three years, the six-hour continuing education course concerning
30 certain aspects of farmland assessment required to be offered, free
31 of charge, by the Division of Taxation in the Department of the
32 Treasury, in conjunction with the Department of Agriculture,
33 pursuant to subsection c. of section 1 of P.L. , c. (C.)
34 (pending before the Legislature as this bill).

35 b. There is established within the Division of Taxation in the
36 Department of the Treasury the Tax Assessor Continuing Education
37 Eligibility Board. The board shall consist of six members and be
38 comprised as follows: the Director of the Division of Taxation or
39 his designee, the President of the Association of Municipal
40 Assessors, and the President of the New Jersey Association of
41 County Tax Board Commissioners and County Tax Administrators
42 shall be permanent members. The Director of the Division of
43 Taxation and the President of the Association of Municipal
44 Assessors shall each appoint an additional member who shall serve
45 for a term of two years. The Director of Government Services at
46 Rutgers University shall serve ex officio. Any vacancy in the
47 membership of the board shall be filled for the unexpired term in
48 the manner provided by the original appointment. The first meeting

1 of the board shall be held at the call of the Director of the Division
2 of Taxation, and thereafter the board shall meet annually and shall
3 hold at least one additional meeting within each 12-month period.
4 The board shall establish the curriculum areas and the number of
5 hours in each curriculum area that an assessor shall complete in
6 order to renew certification.

7 c. When the holder of a tax assessor certificate has allowed the
8 certificate to lapse by failing to renew the certificate, a new
9 application and certificate shall be required. If application is made
10 within six months of the expiration of the certificate, then
11 application may be made in the same manner as a renewal, but with
12 an additional late renewal fee of \$50.

13 d. The Director of the Division of Taxation, in accordance with
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), shall adopt such regulations as are necessary to effectuate the
16 provisions of this section.

17 (cf: P.L.1999, c.278, s.1)

18

19 8. Section 1 of P.L.1968, c.455 (C.54:4-23.13a) is repealed.

20

21 9. This act shall take effect immediately, except that sections 1,
22 2, and 4 of this act shall be applicable to tax years commencing
23 with tax year 2010.

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25

26

STATEMENT

27

28 This bill would make various revisions to the "Farmland
29 Assessment Act of 1964" that would help ensure that its provisions
30 benefit true farmers and thereby help preserve and promote
31 agriculture as an industry and way of life in the Garden State to the
32 benefit of all citizens.

33 This bill would raise from \$500 to \$1,000 the minimum gross
34 sales and payments qualifying standard for farmland assessment on
35 the first five acres of land. The bill further would require the State
36 Farmland Evaluation Advisory Committee to review this minimum
37 every three years and authorize that committee to adopt regulations
38 to raise the amount of that minimum to a level the committee
39 determines appropriate after completing each such review. That
40 committee would also be required every five years to generally
41 review the farmland assessment form and to make recommendations
42 thereon to the Director of the Division of Taxation. The bill would
43 also provide that income imputed to land used for grazing would be
44 income imputed to cropland pastured as well as permanent pasture
45 land used for grazing.

46 The bill also would require farmland assessment applicants to
47 include with the application proofs of sales or clear evidence of
48 anticipated gross sales of agricultural or horticultural products, and

1 of any other payments, fees, or income received from the
2 agricultural or horticultural use of the land, in the prior year,
3 amounting to at least \$1,000 for the first five acres.

4 The bill also would provide that, starting with tax year 2010, in
5 addition to the requirements and provisions of current law, land
6 would be deemed to be in agricultural or horticultural use for
7 farmland assessment purposes when devoted to the production for
8 sale of:

9 (1) dairy animals and dairy products, poultry and poultry
10 products, or livestock only if the land meets the minimum livestock
11 carrying capacity standard or minimum poultry carrying capacity
12 standard, as appropriate, for the animals, as those standards are to
13 be defined in regulations to be adopted within one year by the
14 Department of Agriculture;

15 (2) crops, only if the land meets the cropping intensity standard
16 for that crop, as those standards are to be defined in regulations to
17 be adopted within one year by the Department of Agriculture; or

18 (3) honeybees, honeybee or apiary products, or pollen or nectar
19 for honeybees, only if the applicant submits an annual site specific
20 commercial bee and rotational crop management plan approved by
21 the Department of Agriculture and implemented throughout the tax
22 year.

23 Because this bill establishes new and more stringent standards to
24 qualify for farmland assessment, landowners who previously met
25 the farmland assessment standards under the current law but cannot
26 or do not meet the new standards will not be required to pay the
27 roll-back tax at the time of that disqualification provided they do
28 not abandon the agricultural use. However, because at that point
29 the property would no longer be farmland assessed under the new
30 standards, the landowner will then, and thereafter, be required to
31 pay the full property taxes on the land just as any other property
32 taxpayer who does not own farmland must do.

33 The bill further would provide that starting January 1, 2014, for
34 any tax assessor of a municipality in which 20 or more Class 3B
35 (Farm Qualified) properties (that is, properties that are farmland
36 assessed) are located, the tax assessor, as a condition of relicensing,
37 must provide proof of having taken, at least once in the prior three
38 years, the six-hour continuing education course concerning certain
39 aspects of farmland assessment required under the bill to be offered,
40 free of charge, by the Division of Taxation in the Department of the
41 Treasury, in conjunction with the Department of Agriculture.

42 The bill would further require the State Board of Agriculture, the
43 Department of Agriculture, and the Department of Environmental
44 Protection to consult with the New Jersey Forestry Association and
45 the New Jersey Division of the Society of American Foresters on
46 any issues pertaining to woodland management and farmland
47 assessment.

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1 Lastly, the bill would repeal section 1 of P.L.1968, c.455
2 (C.54:4-23.13a) concerning the timely submittal of certain farmland
3 assessment applications because it is no longer applicable.