

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED OCTOBER 6, 2008

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Assemblyman Moriarty, Assemblywomen Greenstein, Vainieri Huttle and
Assemblyman Diegnan**

SYNOPSIS

Establishes forest stewardship and forest certification programs in DEP;
establishes Forest Stewardship Incentive Fund.

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee
on May 11, 2009, with amendments.

(Sponsorship Updated As Of: 1/12/2010)

1 **AN ACT** concerning forest stewardship, supplementing Title 13 of
2 the Revised Statutes, amending and supplementing P.L.1964,
3 c.48, and amending P.L.2004, c.120 and P.L.2005, c.367.

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

7
8 1. (New section) a. The Legislature finds and declares that
9 forest lands are critical to the environmental welfare of the State;
10 that forest lands help clean and refresh the air by filtering dust and
11 particulates; that forest lands absorb carbon dioxide and release
12 oxygen, helping to reduce global warming; that forest lands help
13 clean and protect the waters of the State, promote replenishment of
14 aquifers, stabilize soils, provide shade, and provide habitat essential
15 to sustaining New Jersey's native biodiversity, including habitat
16 critical for endangered and threatened species and species of special
17 concern; and that it is proper to consider the management of forests
18 in a sustainable manner as an agricultural or horticultural use which
19 yields public benefits.

20 b. The Legislature further finds and declares that forest lands are
21 critical to the social welfare of the State; that forest lands are a
22 necessary and important part of community and urban
23 environments, and are essential to the maintenance of quality of life
24 in the State; that forest lands afford outdoor recreational
25 opportunities and irreplaceable aesthetic benefits; and that forest
26 lands promote the health of the citizenry by contributing to the
27 availability of clean air and water.

28 c. The Legislature further finds and declares that forest lands
29 contribute to the economic well being of the State through increased
30 property values, ecotourism, business opportunities, and forest
31 products, and through helping to preserve New Jersey as a place
32 where both employers and skilled and talented employees choose to
33 reside.

34 d. The Legislature further finds and declares that forest lands are
35 an irreplaceable component of the environment worthy of
36 conservation and stewardship and that they must be nurtured to
37 guarantee sustained and improved yields of forest benefits; that the
38 State's publicly and ¹**[privately-owned]** privately owned¹ forest
39 lands are now seldom managed effectively due to a lack of
40 guidance, resources, and incentives for improved forest
41 stewardship; and that care and management of forest lands could be
42 enhanced through the establishment of a forest stewardship
43 program.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted May 11, 2009.

1 e. The Legislature therefore determines that it is in the public
2 interest to establish a forest stewardship program to develop and
3 promote the long-term active management of the State's forest
4 resources in order to preserve and enhance those resources and
5 realize the benefits thereof.

6
7 2. (New section) As used in sections 1 through 8 of
8 P.L. , c. (C.) (pending before the Legislature as this bill):

9 "Department" means the Department of Environmental
10 Protection.

11 "Forest stewardship plan" means a plan prepared and
12 implemented by an owner of forest land, and approved by the
13 department, pursuant to section 3 of P.L. , c. (C.) (pending
14 before the Legislature as this bill).

15 "Local government unit" means a municipality, county, or other
16 political subdivision of the State, or any agency, board,
17 commission, utilities authority or other authority, or other entity
18 thereof.

19 "Owner" means an owner of forest land.

20 "Sustainability" means, with respect to forest land, having the
21 ability to: (1) maintain its ecological processes, biodiversity,
22 resource productivity, regeneration capacity, and vitality; and
23 promote forest health, preclude the spread of invasive non-native
24 species, maintain forest integrity and contiguity, preserve New
25 Jersey's native biodiversity, and protect endangered and threatened
26 species and species of special concern and the habitat that sustains
27 them; and (2) realize the potential to fulfill now and for future
28 generations, relevant ecological, environmental, economic, and
29 social functions, including but not limited to protection and
30 improvement of air quality and of water supply and water quality,
31 stabilization of soils, prevention and suppression of uncontrolled
32 wildfires, service of markets for forest products, provision of
33 recreational opportunities, and improvement of quality of life.

34 "Sustainable manner" means employing practices for the use and
35 care of forest land that promote sustainability and do not cause
36 damage to other ecosystems, and avoiding acts and omissions that
37 undermine sustainability.

38
39 3. (New section) a. The department shall establish a forest
40 stewardship program under which an owner, in conjunction with a
41 forester or other professional selected by the owner from a list of
42 foresters approved by the department, or from a list of other
43 professionals authorized by the department in consultation with the
44 forest stewardship advisory committee established pursuant to
45 section 8 of P.L. , c. (C.) (pending in the Legislature as this
46 bill), may prepare a forest stewardship plan for land, five acres or
47 greater in area, submit the plan to the department for approval, and

1 implement the plan as approved, or as subsequently amended with
2 the approval of the department.

3 A forest stewardship plan, at a minimum, shall:

4 (1) conform with the rules and regulations adopted pursuant to
5 section 8 of P.L. , c. (C.) (pending before the Legislature as
6 this bill) designed to ensure the sustainability of forest lands;

7 (2) list the owner's long term stewardship goals for the forest
8 land; and, for each year that the plan applies, list the activities to be
9 implemented that year, including the activities designed to ensure
10 the sustainability of the forest land as well as activities designed to
11 eliminate excessive and unnecessary cutting, and provide the
12 rationale for each activity listed; and

13 (3) establish the monitoring, recordkeeping, and reporting
14 necessary to document implementation of the forest stewardship
15 plan, including documentation of activities and inspections
16 performed.

17 Notwithstanding the provisions of section 6 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), a forest
19 stewardship plan submitted for land in the pinelands area shall
20 comply with the standards of the comprehensive management plan
21 for the pinelands area adopted pursuant to P.L.1979, c.111
22 (C.13:18A-1 et seq.).

23 b. The department may elect to inspect the forest land, prior to
24 determining whether to approve a forest stewardship plan, in order
25 to assess the appropriateness and sufficiency of the proposed plan.

26 After the department approves a forest stewardship plan, the
27 forest land shall be subject to inspection by the department during
28 one of the first three years following approval and at least once
29 every three years following the first inspection.

30 c. A forest stewardship plan shall be valid for a period of 10
31 years, unless sooner terminated by the owner or revoked by the
32 department. To continue, without interruption, participation in the
33 forest stewardship program, an owner shall prepare a new or revised
34 forest stewardship plan pursuant to subsection a. of this section and,
35 in accordance with procedures established by the department, obtain
36 the department's approval of the new or revised forest stewardship
37 plan prior to the expiration date of the current forest stewardship
38 plan.

39 d. A forest stewardship plan approved pursuant to this section
40 shall be considered to be a woodland management plan pursuant to
41 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
42 (C.54:4-23.3) when the approved forest stewardship plan is
43 submitted as part of an application for valuation, assessment and
44 taxation pursuant to the "Farmland Assessment Act of 1964,"
45 P.L.1964, c.48 (C.54:4-23.1 et seq.).

1 4. (New section) a. For the purposes of section 1 of P.L.2005,
2 c.367 (C.52:32-45), the department shall establish a forest
3 certification program under which the department may certify that
4 forest land is managed in a sustainable manner, provided that:

5 (1) the owner has obtained a forest stewardship plan approved by
6 the department pursuant to section 3 of P.L. , c. (C.)
7 (pending before the Legislature as this bill); and

8 (2) the owner and a forester or other professional selected by the
9 owner from a list of foresters approved by the department, or from a
10 list of other professionals authorized by the department in
11 consultation with the forest stewardship advisory committee
12 established pursuant to section 8 of P.L. , c. (C.) (pending in
13 the Legislature as this bill), has annually attested to full compliance
14 with the forest stewardship plan for at least two years.

15 b. Certification pursuant to subsection a. of this section, or
16 renewal thereof, shall be in accordance with procedures established
17 by the department and shall be valid for five years, except that the
18 department may withdraw certification if the department determines
19 that the owner has failed to maintain full implementation of the
20 forest stewardship plan. To maintain in good standing the
21 certification of forest land beyond the date that a forest stewardship
22 plan expires, the owner shall obtain the department's approval of a
23 new or revised forest stewardship plan pursuant to section 3 of
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 prior to the expiration date of the current forest stewardship plan.
26

27 5. (New section) a. There is established in the General Fund a
28 special nonlapsing fund, to be known as the "Forest Stewardship
29 Incentive Fund." Moneys in the fund shall be dedicated to:

30 (1) providing grants to persons for the purpose of developing
31 'and implementing' a forest stewardship plan pursuant to section 3
32 of P.L. , c. (C.) (pending before the Legislature as this bill);

33 (2) paying the costs of the department to develop, implement,
34 and administer the provisions of P.L. , c. (C.) (pending before
35 the Legislature as this bill); and

36 (3) providing for the stewardship and management of State
37 forests.

38 b. The fund shall be credited with:

39 (1) the amount allocated for programs that enhance the
40 stewardship and restoration of the State's forests pursuant to section
41 7 of P.L.2007, c.340 (C.26:2C-51) from the "Global Warming
42 Solutions Fund," established pursuant to section 6 of P.L.2007,
43 c.340 (C.26:2C-50);

44 (2) any other moneys as may be appropriated to the fund by the
45 Legislature or otherwise provided to the fund; and

46 (3) any return on the investment of moneys deposited in the fund.

1 c. In each State fiscal year, the amount credited to the Forest
2 Stewardship Incentive Fund shall be appropriated to the fund for the
3 purposes set forth in this section.

4 d. The department may award individual grants of up to \$1,500
5 from the fund to pay for the cost of developing a forest stewardship
6 plan pursuant to section 3 of P.L. , c. (C.) (pending before the
7 Legislature as this bill). If the cost of developing a forest
8 stewardship plan exceeds \$1,500, the department may also award 80
9 percent of the cost that exceeds \$1,500 to the owner, up to a
10 maximum grant of \$2,500. Grants from the fund may be made to
11 local government units, nonprofit organizations, and private owners
12 of forest land. Notwithstanding the provisions of this subsection to
13 the contrary, the amount of the grants prescribed by this subsection
14 may be adjusted annually by the department in direct proportion to
15 the increase in the Consumer Price Index for all urban consumers in
16 the New York City area as reported by the United States
17 Department of Labor.

18 ¹e. The department may award individual grants through a cost-
19 sharing program established pursuant to subsection c. of section 8
20 of P.L. , c. (C.) (pending before the Legislature as this bill)
21 to private owners who have obtained a forest stewardship plan
22 approved by the department pursuant to section 3 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill). The
24 department shall expend no more than \$150,000 in any State fiscal
25 year for grants awarded through the cost-sharing program.¹
26

27 6. (New section) No local government unit may enact, on or
28 after the date of enactment of P.L. , c. (C.) (pending before
29 the Legislature as this bill), any ordinance, rule, or resolution, as
30 appropriate, that conflicts with, prevents or impedes the
31 implementation of a forest stewardship plan approved pursuant to
32 section 3 of P.L. , c. (C.) (pending before the Legislature as
33 this bill) or impose a fee in excess of \$100 in any calendar year for
34 the cutting of trees on any land that is the subject of an approved
35 forest stewardship plan. The provisions of P.L. , c. (C.)
36 (pending before the Legislature as this bill) supersede any such
37 ordinance, rule, or resolution, as appropriate, enacted or adopted on
38 or prior to the date of enactment of P.L. , c. (C.) (pending
39 before the Legislature as this bill).

40
41 7. (New section) a. The department, utilizing guidance
42 provided by the United States Forest Service and in consultation
43 with the forest stewardship advisory committee established pursuant
44 to subsection ¹[c.] d.¹ of section 8 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), and with the benefit of public
46 comment, shall develop and establish forest sustainability criteria
47 and indicators appropriate to the circumstances encountered in New

1 Jersey, as a basis for monitoring, recording, and assessing the
2 extent, condition, and sustainability of all New Jersey forests,
3 whether publicly or privately owned. The department shall prepare
4 a report setting forth the findings and assessments based on these
5 forest sustainability criteria and indicators by February 1 of the
6 third year after the date of enactment of P.L. , c. (C.)
7 (pending before the Legislature as this bill), and every seven years
8 thereafter, which report shall include any recommendations for
9 legislative or administrative action. The Commissioner of
10 Environmental Protection shall transmit the report to the Governor
11 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
12 Legislature.

13 b. The department shall consider the findings and assessments
14 set forth in the forest sustainability criteria and indicators report
15 prepared pursuant to subsection a. of this section to determine how
16 to adapt the rules and regulations adopted pursuant to section 8 of
17 P.L. , c. (C.) (pending before the Legislature as this bill) to
18 ensure the sustainability of forest lands, to set priorities for the
19 management of State-owned forest lands, and to assist in
20 establishing priorities for the use of State funds for the acquisition
21 of forest lands.

22
23 8. (New section) The department shall adopt, pursuant to the
24 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
25 seq.), rules and regulations necessary for the implementation of P.L.
26 , c. (C.) (pending before the Legislature as this bill), including
27 rules and regulations:

28 a. setting forth policies, guidelines and best management
29 practices that establish standards designed to ensure the
30 sustainability of forest lands, which may be applicable to any
31 publicly and privately owned forest land;

32 b. establishing, in consultation with the forest stewardship
33 advisory committee established pursuant to subsection ‘[c.] d.’ of
34 this section, professional standards and requirements of persons in
35 addition to foresters on the list approved by the department,
36 authorized to prepare forest stewardship plans pursuant to section 3
37 of P.L. , c. (C.) (pending before the Legislature as this bill);
38 ‘[and]’

39 c. ‘establishing, in consultation with the forest stewardship
40 advisory committee established pursuant to subsection d. of this
41 section, a cost-sharing program modeled upon the federal forest
42 land enhancement program established pursuant to 16 U.S.C. s.2103
43 to provide individual grants to private owners to assist with a
44 portion of the costs associated with the implementation of forest
45 stewardship plans approved by the department pursuant to section 3
46 of P.L. , c. (C.) (pending before the Legislature as this bill);
47 and identifying eligibility criteria, establishing the reimbursement

1 rate, and developing a priority ranking system for grant
2 applications; and

3 d.¹ establishing a forest stewardship advisory committee,
4 consistent with the federal requirements for the establishment of a
5 State Forest Stewardship Coordinating Committee pursuant to 16
6 U.S.C. s.2113, to advise the department (1) on issues related to
7 forest stewardship and recommend programs, actions and standards,
8 including rules and regulations, policies, guidelines and best
9 management practices, for the conservation and stewardship of
10 forest lands, and (2) with respect to the standards and requirements
11 to be established pursuant to subsection b. of this section.

12

13 9. (New section) As used in this section and section 10 of
14 P.L. , c. (C.) (pending before the Legislature as this bill):

15 “Forest stewardship plan” means a plan prepared and
16 implemented by an owner of forest land, and approved by the
17 Department of Environmental Protection, pursuant to section 3 of
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 “Owner” means an owner of forest land.

20 “Woodland management plan” means a plan prepared and
21 implemented by an owner of forest land or woodland pursuant to
22 section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48
23 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

24

25 10. (New section) a. Notwithstanding any provision of the
26 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
27 seq.), or any rule or regulation adopted pursuant thereto, to the
28 contrary, an owner who annually submits an application pursuant to
29 subsection c. of section 3 of P.L.1964, c.48 (C.54:4-23.3) may
30 provide a forest stewardship plan or a woodland management plan
31 to accompany the application.

32 b. When a forest stewardship plan is submitted with an
33 application pursuant to subsection a. of this section, the forest land
34 shall not be deemed to be actively devoted to agricultural or
35 horticultural use for the two successive years immediately
36 preceding the tax year in issue if the forest stewardship plan has
37 expired during those two years and a new forest stewardship plan
38 has not been approved prior to the expiration date of the current
39 forest stewardship plan.

40 c. In the case where a forest stewardship plan was approved
41 more than two years preceding the tax year in issue, the forest land
42 shall be deemed to be actively devoted to agricultural or
43 horticultural use and to have been so devoted for at least the two
44 successive years immediately preceding the tax year in issue if the
45 owner has implemented in full the approved forest stewardship plan
46 for at least the two successive years immediately preceding the tax
47 year in issue.

1 d. In the case where a forest stewardship plan was approved less
2 than two years preceding the tax year in issue, the forest land shall
3 be deemed to be actively devoted to agricultural or horticultural use
4 and to have been so devoted for at least two successive years
5 immediately preceding the tax year in issue if:

6 (1) the owner has implemented in full the forest stewardship plan
7 once it was approved; and

8 (2) for at least the remaining portion of the two-year period
9 immediately preceding the tax year in issue, prior to the approval of
10 the forest stewardship plan, the forest land qualifies, pursuant to
11 sections 5 and 6 of the "Farmland Assessment Act of 1964,"
12 P.L.1964, c.48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have
13 been actively devoted to agricultural or horticultural use.
14 Additionally, if the land was devoted exclusively to the production
15 for sale of tree and forest products, other than Christmas trees, and
16 is not appurtenant woodland, the owner must have established a
17 woodland management plan more than two years preceding the tax
18 year in issue and complied with that plan until such time as a forest
19 stewardship plan was approved pursuant to section 3 of
20 P.L. , c. (C.) (pending before the Legislature as this bill).

21 e. The Department of Environmental Protection, in consultation
22 with the Department of Agriculture and the Department of the
23 Treasury, shall adopt, pursuant to the "Administrative Procedure
24 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
25 regulations necessary for the implementation of this section.

26
27 11. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to
28 read as follows:

29 30. a. The following are exempt from the provisions of this act,
30 the regional master plan, any rules or regulations adopted by the
31 Department of Environmental Protection pursuant to this act, or any
32 amendments to a master plan, development regulations, or other
33 regulations adopted by a local government unit to specifically
34 conform them with the regional master plan:

35 (1) the construction of a single family dwelling, for an
36 individual's own use or the use of an immediate family member, on
37 a lot owned by the individual on the date of enactment of this act or
38 on a lot for which the individual has on or before May 17, 2004
39 entered into a binding contract of sale to purchase that lot;

40 (2) the construction of a single family dwelling on a lot in
41 existence on the date of enactment of this act, provided that the
42 construction does not result in the ultimate disturbance of one acre
43 or more of land or a cumulative increase in impervious surface by
44 one-quarter acre or more;

45 (3) a major Highlands development that received on or before
46 March 29, 2004:

1 (a) one of the following approvals pursuant to the "Municipal
2 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

3 (i) preliminary or final site plan approval;

4 (ii) final municipal building or construction permit;

5 (iii) minor subdivision approval where no subsequent site plan
6 approval is required;

7 (iv) final subdivision approval where no subsequent site plan
8 approval is required; or

9 (v) preliminary subdivision approval where no subsequent site
10 plan approval is required; and

11 (b) at least one of the following permits from the Department of
12 Environmental Protection, if applicable to the proposed major
13 Highlands development:

14 (i) a permit or certification pursuant to the "Water Supply
15 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

16 (ii) a water extension permit or other approval or authorization
17 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224
18 (C.58:12A-1 et seq.);

19 (iii) a certification or other approval or authorization issued
20 pursuant to the "The Realty Improvement Sewerage and Facilities
21 Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

22 (iv) a treatment works approval pursuant to the "Water Pollution
23 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

24 (c) one of the following permits from the Department of
25 Environmental Protection, if applicable to the proposed major
26 Highlands development, and if the proposed major Highlands
27 development does not require one of the permits listed in
28 subparagraphs (i) through (iv) of subparagraph (b) of this
29 paragraph:

30 (i) a permit or other approval or authorization issued pursuant to
31 the "Freshwater Wetlands Protection Act," P.L.1987, c.156
32 (C.13:9B-1 et seq.); or

33 (ii) a permit or other approval or authorization issued pursuant to
34 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-
35 50 et seq.).

36 The exemption provided in this paragraph shall apply only to the
37 land area and the scope of the major Highlands development
38 addressed by the qualifying approvals pursuant to subparagraphs (a)
39 and (b), or (c) if applicable, of this paragraph, shall expire if any of
40 those qualifying approvals expire, and shall expire if construction
41 beyond site preparation does not commence within three years after
42 the date of enactment of this act;

43 (4) the reconstruction of any building or structure for any reason
44 within 125% of the footprint of the lawfully existing impervious
45 surfaces on the site, provided that the reconstruction does not
46 increase the lawfully existing impervious surface by one-quarter
47 acre or more. This exemption shall not apply to the reconstruction

- 1 of any agricultural or horticultural building or structure for a non-
2 agricultural or non-horticultural use;
- 3 (5) any improvement to a single family dwelling in existence on
4 the date of enactment of this act, including but not limited to an
5 addition, garage, shed, driveway, porch, deck, patio, swimming
6 pool, or septic system;
- 7 (6) any improvement, for non-residential purposes, to a place of
8 worship owned by a nonprofit entity, society or association, or
9 association organized primarily for religious purposes, or a public
10 or private school, or a hospital, in existence on the date of
11 enactment of this act, including but not limited to new structures, an
12 addition to an existing building or structure, a site improvement, or
13 a sanitary facility;
- 14 (7) an activity conducted in accordance with an approved
15 woodland management plan pursuant to section 3 of P.L.1964, c.48
16 (C.54:4-23.3) or a forest stewardship plan approved pursuant to
17 section 3 of P.L. , c. (C.) (pending before the Legislature as this
18 bill), or the normal harvesting of forest products in accordance with
19 a forest management plan or forest stewardship plan approved by
20 the State Forester;
- 21 (8) the construction or extension of trails with non-impervious
22 surfaces on publicly owned lands or on privately owned lands
23 where a conservation or recreational use easement has been
24 established;
- 25 (9) the routine maintenance and operations, rehabilitation,
26 preservation, reconstruction, or repair of transportation or
27 infrastructure systems by a State entity or local government unit,
28 provided that the activity is consistent with the goals and purposes
29 of this act and does not result in the construction of any new
30 through-capacity travel lanes;
- 31 (10) the construction of transportation safety projects and bicycle
32 and pedestrian facilities by a State entity or local government unit,
33 provided that the activity does not result in the construction of any
34 new through-capacity travel lanes;
- 35 (11) the routine maintenance and operations, rehabilitation,
36 preservation, reconstruction, repair, or upgrade of public utility
37 lines, rights of way, or systems, by a public utility, provided that the
38 activity is consistent with the goals and purposes of this act;
- 39 (12) the reactivation of rail lines and rail beds existing on the
40 date of enactment of this act;
- 41 (13) the construction of a public infrastructure project approved
42 by public referendum prior to January 1, 2005 or a capital project
43 approved by public referendum prior to January 1, 2005;
- 44 (14) the mining, quarrying, or production of ready mix concrete,
45 bituminous concrete, or Class B recycling materials occurring or
46 which are permitted to occur on any mine, mine site, or construction
47 materials facility existing on June 7, 2004;

1 (15) the remediation of any contaminated site pursuant to
2 P.L.1993, c.139 (C.58:10B-1 et seq.);

3 (16) any lands of a federal military installation existing on the
4 date of enactment of this act that lie within the Highlands Region;
5 and

6 (17) a major Highlands development located within an area
7 designated as Planning Area 1 (Metropolitan), or Planning Area 2
8 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-
9 196 et seq.) as of March 29, 2004, that on or before March 29, 2004
10 has been the subject of a settlement agreement and stipulation of
11 dismissal filed in the Superior Court, or a builder's remedy issued
12 by the Superior Court, to satisfy the constitutional requirement to
13 provide for the fulfillment of the fair share obligation of the
14 municipality in which the development is located. The exemption
15 provided pursuant to this paragraph shall expire if construction
16 beyond site preparation does not commence within three years after
17 receiving all final approvals required pursuant to the "Municipal
18 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

19 b. The exemptions provided in subsection a. of this section shall
20 not be construed to alter or obviate the requirements of any other
21 applicable State or local laws, rules, regulations, development
22 regulations, or ordinances.

23 c. Nothing in this act shall be construed to alter the funding
24 allocation formulas established pursuant to the "Garden State
25 Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

26 d. Nothing in this act shall be construed to repeal, reduce, or
27 otherwise modify the obligation of counties, municipalities, and
28 other municipal and public agencies of the State to pay property
29 taxes on lands used for the purpose and for the protection of a
30 public water supply, without regard to any buildings or other
31 improvements thereon, pursuant to R.S.54:4-3.3.

32 (cf: P.L.2004, c.120, s.30)

33
34 12. Section 1 of P.L.2005, c.367 (C.52:32-45) is amended to
35 read as follows:

36 1. a. Notwithstanding the provisions of any other law to the
37 contrary, the Director of the Division of Purchase and Property in
38 the Department of the Treasury, the Director of the Division of
39 Property Management and Construction in the Department of the
40 Treasury, or any State agency having authority to contract for the
41 purchase of goods or services, shall whenever possible give
42 preference to wood or paper products derived from sustainably
43 managed forests or procurement systems when entering into or
44 renewing a contract for the purchase of such goods or related
45 services. Any preference provided pursuant to this subsection may
46 not supersede any preference given to recycled paper and paper
47 products pursuant to P.L.1987, c. 102 (C.13:1E-99.11 et seq.).

1 In preparing the specifications for any contract for the purchase
2 of goods and services the Director of the Division of Purchase and
3 Property, the Director of the Division of Property Management and
4 Construction, or any State agency having authority to contract for
5 the purchase of goods or services shall include in the invitation to
6 bid, where relevant, a statement that any response to the invitation
7 that proposes or calls for the use of wood or paper products derived
8 from sustainably managed forests or procurement systems shall
9 receive preference whenever possible.

10 b. The provisions of subsection a. of this section shall not apply:

11 (1) To any binding contractual obligations for the purchase of
12 goods or services entered into prior to the effective date of [this
13 act] P.L.2005, c.367 (C.52:32-45 et seq.) ;

14 (2) To bid packages advertised and made available to the public,
15 or to any competitive and sealed bids received by the State, prior to
16 the effective date of [this act] P.L.2005, c.367 (C.52:32-45 et seq.);
17 or

18 (3) To any amendment, modification, or renewal of a contract,
19 which contract was entered into prior to the effective date of [this
20 act] P.L.2005, c.367 (C.52:32-45 et seq.) where the application
21 would delay timely completion of a project or involve an increase in
22 the total moneys to be paid by the State under that contract.

23 c. For the purposes of [this act] P.L.2005, c.367 (C.52:32-45 et
24 seq.) , "derived from sustainably managed forests or procurement
25 systems" means the source of the wood or paper product is a forest
26 or system for procuring wood or paper products that is certified by
27 the Department of Environmental Protection under the forest
28 certification program established pursuant to section 4 of
29 P.L. , c. (C.) (pending before the Legislature as this bill) or
30 by an independent third party using one or more of the following
31 certification programs or standards:

32 (1) The Sustainable Forestry Initiative program;

33 (2) The American Forest Foundation American Tree Farm
34 System program;

35 (3) The sustainable forest management system standards of the
36 Canadian Standards Association;

37 (4) The Forest Stewardship Council certification program;

38 (5) The Pan-European forest certification system;

39 (6) The Finnish Forest Certification System;

40 (7) The United Kingdom Woodland Assurance Standard;

41 (8) The International Organization for Standardization (ISO)
42 standard 14001; or

43 (9) Any other certification program or standard that the State
44 Treasurer or the Commissioner of Environmental Protection
45 determines may be used to certify that wood or paper products are
46 derived from sustainably managed forests or procurement systems.

47 (cf: P.L.2005, c.367, s.1)

1 13. Section 3 of P.L.1964, c.48 (C.54:4-23.3) is amended to read
2 as follows:

3 3. Land shall be deemed to be in agricultural use when devoted
4 to the production for sale of plants and animals useful to man,
5 including but not limited to: forages and sod crops; grains and feed
6 crops; dairy animals and dairy products; poultry and poultry
7 products; livestock, including beef cattle, sheep, swine, horses,
8 ponies, mules or goats, including the breeding, boarding, raising,
9 rehabilitating, training or grazing of any or all of such animals ,
10 except that "livestock" shall not include dogs; bees and apiary
11 products; fur animals; trees and forest products; or when devoted to
12 and meeting the requirements and qualifications for payments or
13 other compensation pursuant to a soil conservation program under
14 an agreement with an agency of the federal government, except that
15 land which is devoted exclusively to the production for sale of tree
16 and forest products, other than Christmas trees, or devoted as
17 sustainable forestland, and is not appurtenant woodland, shall not
18 be deemed to be in agricultural use unless the landowner fulfills the
19 following additional conditions:

20 a. The landowner establishes and complies with the provisions
21 of a forest stewardship plan for this land, approved by the
22 Department of Environmental Protection pursuant to section 3 of
23 P.L. , c. (C.) (pending before the Legislature as this bill), or a
24 woodland management plan for this land, prepared in accordance
25 with policies, guidelines and practices approved by the Division of
26 Parks and Forestry in the Department of Environmental Protection,
27 in consultation with the Department of Agriculture and the Dean of
28 Cook College at Rutgers, The State University, which policies,
29 guidelines and practices are designed to eliminate excessive and
30 unnecessary cutting;

31 b. The landowner, and a forester from a list of foresters
32 approved by the Department of Environmental Protection or other
33 professional from a list of other professionals authorized by the
34 department in consultation with the forest stewardship advisory
35 committee established pursuant to section 8 of P.L. , c. (C.)
36 (pending in the Legislature as this bill), annually attest to
37 compliance with subsection a. of this section; and

38 c. The landowner annually submits an application, as prescribed
39 in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the assessor,
40 accompanied by a copy of the plan established pursuant to
41 subsection a. of this section; written documentation of compliance
42 with subsection b. of this section; a supplementary woodland data
43 form setting forth woodland management actions taken in the pre-
44 tax year, the type and quantity of tree and forest products sold, and
45 the amount of income received or anticipated for same; a map of the
46 land showing the location of the activity and the soil group classes
47 of the land; and other pertinent information required by the Director

1 of the Division of Taxation as part of the application for valuation,
2 assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-23.1
3 et seq.). The landowner shall, at the same time, submit to the
4 Commissioner of the Department of Environmental Protection an
5 exact copy of the application and accompanying information
6 submitted to the assessor pursuant to this subsection. For the
7 purposes of this amendatory and supplementary act, "appurtenant
8 woodland" means a wooded piece of property which is contiguous
9 to, part of, or beneficial to a tract of land, which tract of land has a
10 minimum area of at least five acres devoted to agricultural or
11 horticultural uses other than the production for sale of trees and
12 forest products, exclusive of Christmas trees, to which tract of land
13 the woodland is supportive and subordinate.
14 (cf: P.L.1995, c.276, s.1)

15

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

18 5. **【Land】** a. Except as otherwise provided in subsection b. of
19 this section, land, five acres in area, shall be deemed to be actively
20 devoted to agricultural or horticultural use when the amount of the
21 gross sales of agricultural or horticultural products produced
22 thereon, any payments received under a soil conservation program,
23 fees received for breeding, raising or grazing any livestock, income
24 imputed to land used for grazing in the amount determined by the
25 State Farmland Evaluation Advisory Committee created pursuant to
26 section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for
27 boarding, rehabilitating or training any livestock where the land
28 under the boarding, rehabilitating or training facilities is contiguous
29 to land which otherwise qualifies for valuation, assessment and
30 taxation under this act, have averaged at least \$500.00 per year
31 during the two-year period immediately preceding the tax year in
32 issue, or there is clear evidence of anticipated yearly gross sales and
33 such payments amounting to at least \$500.00 within a reasonable
34 period of time.

35 In addition, where the land is more than five acres in area, it
36 shall be deemed to be actively devoted to agricultural or
37 horticultural use when the amount of the gross sales of agricultural
38 or horticultural products produced on the area above five acres, any
39 payments received under a soil conservation program, fees received
40 for breeding, raising or grazing any livestock, income imputed to
41 land used for grazing in the amount determined by the State
42 Farmland Evaluation Advisory Committee created pursuant to
43 section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for
44 boarding, rehabilitating or training any livestock where the land
45 under the boarding, rehabilitating or training facilities is contiguous
46 to land which otherwise qualifies for valuation, assessment and
47 taxation under this act, have averaged at least \$5.00 per acre per

1 year during the two-year period immediately preceding the tax year
2 in issue, or there is clear evidence of anticipated yearly gross sales
3 and such payments amounting to an average of at least \$5.00 per
4 year within a reasonable period of time; except in the case of
5 woodland and wetland, where the minimum requirement shall be an
6 average of \$0.50 per acre on the area above five acres.

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

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

10 Land previously qualified as actively devoted to agricultural or
11 horticultural use under the act; but failing to meet the additional
12 requirement on acreage above five acres shall not be subject to the
13 roll-back tax because of such disqualification, but shall be treated as
14 land for which an annual application has not been submitted.

15 In determining the eligibility of land for valuation, assessment
16 and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the
17 assessor of the taxing district in which the land is located shall,
18 upon request by the owner of the land, exempt the owner from the
19 income requirements of this section if the owner demonstrates to
20 the satisfaction of the assessor that the failure to meet the income
21 requirements was due to an injury, illness or death of the person
22 responsible for performing the activities which produce the income
23 necessary to meet the income eligibility requirement of this section.
24 The request of the owner shall be accompanied by a certificate of a
25 physician stating that the person was physically incapacitated or by
26 a certified copy of the death certificate, as the case may be. The
27 assessor may only grant an exemption once for a particular illness,
28 injury or death.

29 b. The gross sales, payments, imputed income, and fees received
30 requirements of this section shall not apply to land that (1) is the
31 subject of a forest stewardship plan approved by the Department of
32 Environmental Protection pursuant to section 3 of P.L. _____,
33 c. (C.) (pending before the Legislature as this bill) which is
34 fully implemented, and (2) otherwise qualifies under the "Farmland
35 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for
36 valuation, assessment and taxation as land in agricultural or
37 horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-
38 23.3).

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

40

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

43 14. Application for valuation, assessment and taxation of land in
44 agricultural or horticultural use under this act shall be on a form
45 prescribed by the Director of the Division of Taxation in the
46 Department of the Treasury, and provided for the use of claimants
47 by the governing bodies of the respective taxing districts. The form

1 of application shall provide for the reporting of information
2 pertinent to the provisions of Article VIII, Section 1, paragraph 1(b)
3 of the Constitution, as amended, and this act. A certification by the
4 landowner that the facts set forth in the application are true may be
5 prescribed by the director to be in lieu of a sworn statement to that
6 effect. Statements so certified shall be considered as if made under
7 oath and subject to the same penalties as provided by law for
8 perjury. Any landowner, except those who have submitted a
9 woodland management plan or a forest stewardship plan pursuant to
10 section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for
11 valuation, assessment and taxation pursuant to P.L.1964, c.48
12 (C.54:4-23.1 et seq.) for lands not previously qualified under the act
13 shall submit with the application a map of land use classes and soil
14 groups that conforms with standards established by the Division of
15 Taxation in consultation with the Secretary of Agriculture. The
16 director shall devise a form for the extension of filing time for the
17 valuation application, which form shall include the name and
18 address of the applicant, the reason for the extension, and a space
19 for the approval or rejection of the assessor.

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

21

22 16. This act shall take effect one year following the date of
23 enactment, but the Commissioner of Environmental Protection may
24 take such anticipatory administrative action in advance thereof as
25 shall be necessary for the implementation of this act.