

FARMLAND PRESERVATION

LEGISLATIVE PACKAGE

**Governor's Office of Policy and Planning
State House**

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GOVERNOR'S OFFICE OF POLICY AND PLANNING

STATE OF NEW JERSEY

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EXECUTIVE OFFICE



INTER-COMMUNICATION

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To: Donald Linky

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(Institution or Department)

Date: May 20, 1981

RE: FARMLAND PRESERVATION LEGISLATIVE PACKAGE

The Department of Agriculture Farmland Preservation package consists of five bills. These are the Agriculture Retention & Development Act, the Voluntary Agriculture Districting Act, the Right to Farm Act, the Agriculture Bond Act, and an Agriculture Tax Moratorium Constitutional Amendment. My comments and recommendations concerning these five bills are detailed below:

1. Agriculture Development & Retention Act:

This Act establishes county Agricultural Development Boards and a State Agricultural Development Committee.

The key changes which should be made are as follows:

Section 3e -- The County Boards are to be formed from a mix of county agencies and public members. This section empowers to them to hire staff and consultants as necessary. However, considerable cost savings would result if the Boards were required to use the staffs of the County Planning Boards. This would have the secondary benefit of promoting coordination within county government and give the Planning Boards something to do.

Section 5a -- The State Agriculture Committee is proposed to contain the Secretary of Agriculture, the Commissioners of DEP and DCA, the State Treasurer, the Dean of Cook College, and six public members, 4 of which must be farmers. This should be changed to 3 public members required to be farmers. This change will give the Governor more control over the vote of the Board and is necessary to make the changes recommended for Section 7 workable.

Section 7a -- Requires government agencies to notify county and state agricultural boards whenever construction or acquisition of farmland is proposed. This requirement should be limited to land within agricultural districts. This is necessary to provide sufficient incentives for farmers to join the districts.

Section 7b -- This requires the notice of intent to contain a statement of justification and an evaluation of alternatives to the proposed project which does not involve the taking of farmland.

This provision will prove to be unworkable for the following reasons:

- the members of the County Agriculture Board are neither interested nor competent to assess the need or the alternatives to projects in other areas. Their concern is the promotion of farming; not the general welfare. Their training will be mostly in agriculturally related fields so that they will not have the background to judge other public projects.
- This type of notice and review process will be used to delay and defeat public projects by special-interest groups unrelated to the County Agricultural Boards.
- The agencies sponsoring the projects taking farmland will not take this provision seriously. If they are to file an impact statement after proposing the project, the fundamental decision will already have been made. Therefore, the law will not significantly alter agency decisions.

If we really want to preserve farmland, there should be a flat prohibition on taking farmland in agricultural districts for public projects. This prohibition should be subject to appeal to the State Agricultural Development Committee for special cases. As long as the changes proposed to Section 5a are made, the Governor will be able to get appeals favorably acted upon so that this prohibition would not really hinder government operations.

Section 7c --- This provision would need to be altered if my recommendations on Section 7b are adopted.

2. Voluntary Agriculture Districting Act:

This Act permits the establishment of agriculture districts by farmers. The farmers who form such districts must commit their land to agricultural use for 8 years. In return, the farmer is to receive the services of the County Agricultural Board in mediating conflicts and applying for assistance. The key changes which should be made are as follows:

Section 2a --- No standards exist concerning the establishment of districts. In order to prevent this Act from being abused, especially by people with an exclusionary intent, there should be both a minimum size standard and a minimum level of agricultural production standard for the establishment of agricultural districts.

Section 2f --- This section attempts to bypass municipal governing bodies which fail to approve an Agricultural District by having the State Agricultural Board order the municipality to accept the creation of the district. This provision would not be accepted by the Legislature. A more acceptable means of dealing with recalcitrant towns may be to require that the proposal for the creation of the District be put on the ballot as a public question in the next election.

Section 4a --- As presently constituted, a farmer outside of a district is eligible for any government program or protection that a farmer inside the district is entitled to. No incentive exists to join a district. This should be changed such that all benefits which accrue to farmers as a result of the other legislation in the package, such as the ban on public projects or the right-to-farm provisions, only occur within Agricultural Districts. Only if this is done, will membership in a district have any meaning to a farmer.

3. Right to Farm Act:

This Act interprets the Constitution to provide New Jersey citizens with an "inherent right" to farm their land. The language of the Act is extremely broad and should be narrowed considerably. References to the Constitution should be removed. Also, right-to-farm "benefits" should only occur within agricultural districts.

4. Agricultural Bond Act:

This Act authorizes the sale of bonds (\$50 million) for the purpose of purchasing of development rights on agricultural land and for contributing to soil erosion control and agricultural water projects. The following changes should be made:

Section 5 -- The Act allows the State to purchase agricultural land anywhere. To avoid wasting the money, the Act should prohibit the use of the funds in counties not facing development pressures or in counties in which agriculture has no future.

This section also permits the State to sell agricultural land back into private hands. However, there is no statement as to where the proceeds of these sales will go. A paragraph should be added directing the proceeds of such sales to a specific place, either the Farmland Retention Fund or the General Fund.

5. Tax Moratorium & Constitutional Amendment:

This Act amends the Constitution to exempt farmland and farm structures engaged in a retention program from any property taxes. Key questions are:

Section 1 -- The Act should be amended to only provide the exemption to farmland in Agricultural Districts. The state should not subsidize farmland which does not need a subsidy.

Also, who will compensate municipalities for this tax loss? If municipalities alone are expected to make up the difference, then we may be generating opposition to the entire package. In any event, the Department of Agriculture should be directed to give us a cost analysis on the exemption for a representative number of town.

