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With Pension Costs Soaring, Should New Jersey Commit Billions to More Open Space Preservation?

By Leonard Gilroy and Julian Morris

Introduction

The New Jersey Legislature is currently considering a bill—Senate Concurrent Resolution 84 (SCR84)—that would amend the state Constitution to dedicate six percent of the state's Corporation Business Tax revenues from FY2016 to FY2045 for the purpose of open space, farmland and historic preservation, and it would send this amendment on the ballot for voter approval in the next general election (presumably November 2014).

The new funding stream would be used to cover loans or grants for: (1) preserving land for recreation and conservation purposes under the state's Green Acres program (as well as to expand the "Blue Acres" program to purchase lands in flood-prone areas, or lands that buffer such properties, and demolish all structures and improvements thereon); (2) preserving farmland; (3) preserving historic properties; and (4) covering the administrative costs associated with these efforts.

Yet the state government already owns nearly 15 percent of New Jersey's total land area outright and, altogether, it has set aside *nearly one-third of its total land area* as protected open space, according to state figures. That is on par with the amount of total state land area already developed.

It is unclear why additional land preservation is needed when a significant portion of the state is already off-limits to development. Nor is it clear why there is a rush to lock in three decades of massive funding for land preservation when far higher spending priorities—primarily, rapidly rising government retiree pension and debt service costs—loom.

Over 30% of the State Is Already Off Limits to Development

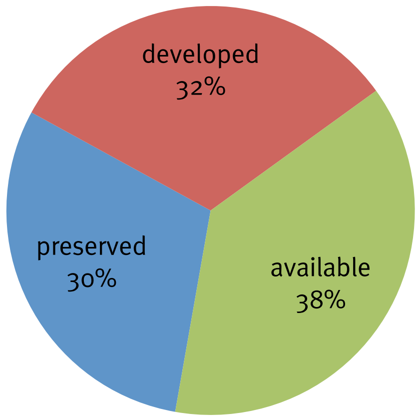
The state of New Jersey has a total land area of 4,968,980 acres, according to the New Jersey Department of Environmental Protection (NJDEP).[1]

According to the New Jersey Department of the Treasury, the state owns 734,213 acres of land outright through fee simple ownership.[2] This represents *nearly 15 percent* of the total state land area. But this doesn't tell the whole story in terms of land "protected," as it does not include any easements, leased properties or "critical" properties (e.g., agency buildings, data centers)

NJDEP estimates that 1,499,923 acres of open space and farmland —*30.2 percent* of the total state land area—have been "preserved" through a combination of land purchases, purchases of private landowners' development rights, and municipal-level acquisitions and easement purchases undertaken under the auspices of the Green Acres program.[3]

According to NJDEP, 1,593,853 acres of land is currently classified as "developed," representing 32.1 percent of the state's total land area. As shown in Figure 1, the remaining 1,875,204 acres (37.7 percent) of total state land area is classified as "available" today—meaning not yet developed and not yet protected as open space or farmland.[4]

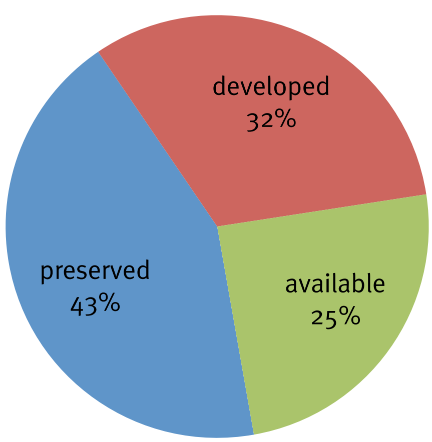
Figure 1: Current Pattern of New Jersey Land Development



Source: New Jersey Department of Environmental Protection, Green Acres Program, *2013–2017 New Jersey Statewide Comprehensive Outdoor Recreation Plan (DRAFT)*, November 2013, pp. 13–14.

In its most recent *Statewide Comprehensive Outdoor Recreation Plan,* NJDEP claims that there exists "a need to preserve an additional 650,000 acres of open space statewide."[5] Adding another 650,000 acres of protected land would increase the state land area preserved as open space and farmland to 2,149,923 acres, or *43.3 percent* of the total state land area, as shown in Figure 2.

Figure 2: Proposed Pattern of New Jersey Land Development



Source: Author's calculation based on NJDEP data.

Yet the rationale for an additional 650,000 acres of preserved land is thin. The 650,000 acres targeted for preservation by NJDEP—which are presumably the impetus for SCR84—consist of land that has "been identified for preservation by [NJDEP] agencies, local governments and conservation organizations" as possessing "important natural and recreational resources that will meet the current and future open space and recreation needs."[6]

While some lands may indeed contain important natural attributes, it is not clear that they require preservation by the state. For example, state and local riparian zone and watershed development regulations are already used to regulate the development of lands that provide watershed services in such a way as to mitigate potential negative impacts.

Overall, the 650,000 acres effectively represent a wish list on the part of state and local governments and environmental organizations, which appear to be operating under the assumption that "more is better." This begs an important set of questions for taxpayers:

- If nearly one-third of the state's land area is protected already and is off-limits for future development, why are policymakers and environmental interests proposing to spend billions of dollars over the next 30 years to preserve even more open space?
- At what point will "enough" open space be protected?
- How much land would the envisioned spending program ultimately take out of productive commerce, and what potential tax revenues would be foregone by taking these lands off the tax rolls?
- How much existing and future preserved land would be available for public access?
- What happens if the owners of the targeted 650,000 acres of "available" land today are unwilling to sell or relinquish the development rights for their properties? Would the state then merely aim to protect land possessing less "important natural and recreational resources," or would it end a 30-year land acquisition program early?
- How would the 30-year preservation program envisioned in SCR84 impact private, nonprofit land trusts that can and do engage in privately funded efforts to protect land?
- How would the removal of a further 13 percent of the state's land from potential development impact land prices and hence affordability? (Experience elsewhere suggests that restricting the availability of land

for development can dramatically raise prices, to the detriment of those on lower incomes and to the detriment of the economy as a whole.[7])

- Is it necessary to divert billions of dollars in corporate tax revenues toward land preservation in order to achieve the objectives envisioned in the legislation?
    - Many protections already exist in New Jersey law and in local regulations prohibiting developments that would adversely affect the environment. What additional benefits would be provided by the purchase of additional lands?
    - To the extent that the objectives of the proposed legislation are considered desirable, are there less costly ways to achieve them?

Dramatic Expansion in Government Purchases of Land and Private Development Rights

Since its creation in 1961, the state's Green Acres program has relied on funding approved by voters in 13 separate ballot measures, plus some supplemental budget appropriations, so far totaling over $3 billion (in nominal dollars).[8] For the most part, previous initiatives provided one-shot infusions of funding toward preservation.

SCR84, if enacted and fully implemented, would escalate spending on land preservation dramatically relative to previous efforts. Gov. Christie's latest budget proposal notes that the current estimate of fiscal year 2015 Corporation Business Tax receipts is $2.58 billion.[9] Assuming similar revenues in fiscal year 2016—given that receipts have ranged between $2.0 and $2.6 billion since fiscal year 2009—then the proposed six percent earmark for land preservation under SCR84 would total $154.8 million.

Even under a very conservative assumption that corporate tax receipts would merely hold steady over a 30-year period, implementation of SCR84 could yield at least $4.6 billion earmarked for preservation over that period, in nominal terms. This represents a *more than 50 percent increase* relative to what has been spent thus far on the state's land preservation efforts over the last 53 years, in just under half the time.

Fiscal Uncertainty and Looming Pension Payments Dwarf other Spending Considerations

With projected state revenues of $32.8 billion in fiscal year 2014, proposed new spending of at least $150 million per year as envisioned in SCR84 may seem at first glance like a mere drop in the bucket, representing 0.5 percent of revenues in FY2014. However, it is important to put SCR84's proposed new spending in perspective.

Spending billions of dollars on land acquisition and development rights over 30 years is a substantial commitment of resources in an era of ongoing fiscal crisis and unpredictability. The U.S. Government Accountability Office released a report in April 2013 that found that state and local governments will continue to face both near-term and long-term fiscal challenges—with a growing gap between revenue and spending—*through the year 2060*, largely due to increased spending on Medicaid and the rising cost of health care compensation for state and local government employees and retirees.[10] The implication is that rather than finding new ways to spend millions—and ultimately billions—of tax dollars, states and local governments should be looking to immediately *reduce* expenditures and hold spending flat for decades to come.

Further, New Jersey made a historic payment of over $1.6 billion to the state's woefully underfunded pension system in FY2014 and has a legal requirement to dramatically increase pension funding in the coming years, up to a level of $5 billion annually by 2018. According to some estimates, the state's unfunded pension liability—payment obligations made for which funds have not been set aside—currently exceeds $170 billion.[11]

The rapidly rising pension obligations effectively siphon significant funding away from other important categories of state spending, including education, healthcare, higher education and public safety. And they are going to take a major bite out of the budget immediately. In his January 2014 State of the State address, Gov. Christie warned that, "[f]or the fiscal year 2015 budget, the increase in pension and debt-service costs could amount to as much as nearly $1 billion."

Despite these growing fiscal pressures, SCR84 would siphon corporate tax revenue away from the general fund. Today, four percent of Corporation Business Tax revenues are dedicated to the remediation of discharges of hazardous substances, funding loans and grants for underground storage tanks, financing water quality programs, providing loans and grants for air pollution control equipment, and funding the development of lands for recreation and conservation purposes. The remainder is deposited to the state treasury for general use.

SCR84 would cancel that four percent dedication, replacing it with the six percent dedication to land preservation. In other words, SCR84 would *divert more money* away from the general fund. Using the same FY 2015 corporate tax revenue estimate discussed above, that additional 2 percent equates to $51.6 million less general fund revenue on an annual basis. Increasing this dedication of corporate tax revenues away from the general fund amid the state's growing pension funding crisis seems fiscally irresponsible and unwise.

Conclusion

With pension payments adding billions in budget spending by law in the near term—and with massive unfunded liabilities looming for decades into the future—now is not the time for the state to commit additional resources toward land preservation. There are simply higher spending priorities elsewhere in the budget.

About the Authors

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Endnotes

[1] New Jersey Department of Environmental Protection, Green Acres Program, *2013–2017 New Jersey Statewide Comprehensive Outdoor Recreation Plan*, November 2013, p. 13, http://www.nj.gov/dep/greenacres/pdf/Public_Review_SCORP.pdf (accessed February 6, 2014)

[2] New Jersey Department of the Treasury, Division of Property Management and Construction, *County Acreage Summary of State Owned Property*, http://www.state.nj.us/treasury/dpmc/lists_state_owned_properties.shtml (accessed February 6, 2014)

[3] New Jersey Department of Environmental Protection, *2013–2017 New Jersey Statewide Comprehensive Outdoor Recreation Plan*, pp. 13–14.

[4] Ibid.

[5] Ibid., p. 15.

[6] Ibid., p. 32.

[7] See, for example, this brief on the impact of land use planning restrictions in the UK: http://www.lse.ac.uk/researchAndExpertise/units/growthCommission/documents/pdf/contributions/lseGC_SERC_planning.pdf

[8] New Jersey Department of Environmental Protection, *Green Acres Funding Summary 1961–2009*, http://www.nj.gov/dep/greenacres/bondact.html (accessed February 6, 2014).

[9] New Jersey Office of Management and Budget, *The Governor's FY 2015 Budget—Budget Summary*, February 2014, p. 17, http://www.state.nj.us/treasury/omb/publications/15bib/BIB.pdf (accessed March 18, 2014).

[10] U.S. Government Accountability Office, *State and Local Governments' Fiscal Outlook: April 2013 Update*, April 2013, http://goo.gl/SWfG1I (accessed February 10, 2014).

[11] Cory Eucalitto, *Promises Made, Promises Broken—The Betrayal of Pensioners and Taxpayers* (Glen Allen, Virginia: State Budget Solutions, September 2013), http://www.statebudgetsolutions.org/publications/detail/promises-made-promises-broken-the-betrayal-of-pensioners-and-taxpayers (accessed February 10, 2014).