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McBride, Sokola, Winslow

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO. 678

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE GENERAL POWERS AND DUTIES OF THE DELAWARE DEPARTMENT OF TRANSPORTATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 132(h), Title 17 of the Delaware Code, by striking the section in its entirety and by substituting in lieu thereof the following:

“(h)(1) Whenever the Department of Transportation widens, constructs or reconstructs any major arterial, interstate connector, minor arterial, collector road or proposed road in this State, the Department shall plant new trees or replace trees to be removed in order to execute the plans therefor. The Department shall incorporate into the cost of such project an amount equal to at least 3% of its total value designated specifically for planting new or replacement trees. If trees are to be removed in order to execute the plans, then three replacement trees must be planted for every tree that is removed.

(2) Each new or replacement tree must be a minimum height of 16 feet, balled and burlapped nursery-grown stock of a similar botanical classification as those to be removed or, where no trees are removed, as those in the surrounding area. All planting work shall be done in accordance with § 728 of the Delaware Department of Transportation Standard Specifications (January 1, 1974, or latest revised edition). The placement of trees must be in compliance with federal law and regulations relating to the distance such trees must be planted from the edge of the roadway.

- 16 (3) If substantial evidence supports other landscaping or planting activities in lieu of planting any or
17 all of the new or replacement trees required by paragraph (1) of this subsection, then the
18 Department shall plant as many trees as the evidence supports and shall use the remainder of the
19 funds that had been designated for planting trees for other landscaping or planting activities.
- 20 (4) For the purposes of this subsection, ‘other landscaping and planting activities’ may incorporate the
21 installation of grass or sod, but must include the installation of additional forms of groundcover,
22 shrubs, trees, or similar flora.”

SYNOPSIS

Under existing law, the Delaware Department of Transportation is directed to set aside funds to replace shade trees that it removes during construction projects it undertakes in urbanized areas whenever possible. This Act strengthens that language, and expands the scope of the landscaping directed by the affected section, by requiring the Department of Transportation to plant new trees or to replace trees it removes and to budget 3% of every project to do so, unless it has substantial evidence to support "other landscaping or planting activities" in addition to or instead of trees. The trees that are planted must be similar to those which were removed or are otherwise in the area and, if trees are removed, 3 replacement trees must be planted for every tree removed. This Act defines "other landscaping and planting activities" as permitting the installation of grass or sod, but requiring the installation of other forms of ground cover, trees, shrubs, and other flora.