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Christie's shifting of open-space funds unconstitutional?



Governor Christie's decision to take nearly \$20 million in state tax revenue dedicated to open space preservation and use it instead to cover parks management in his state budget was unconstitutional, according to a legal opinion issued by a non-partisan arm of the legislature.

James M. O'Neill reported March 28 in *The Record*:

But the governor's office disputes the opinion laid out by the Office of Legislative Services, which had issued its opinion at the request of state Sen. Bob Smith, D-Middlesex, who chairs the Senate environment and energy committee. A state environmental group, meanwhile, says taking the money for other purposes jeopardizes the chance to protect sensitive land in North Jersey and elsewhere that should be preserved.

In his budget for fiscal 2016, Christie had earmarked nearly \$20 million for parks management from money raised through a corporate business tax constitutionally dedicated for open space and farmland preservation. Voters had overwhelmingly approved a constitutional amendment in 2014 dedicating about \$80 million annually from the corporate tax for such preservation efforts.

When the legislature, in its budget appropriations bill, changed the source of the \$20 million to a clean energy fund, Christie used his line item veto power to change the source back to the preservation funds. "This is money that had been dedicated by voters for open space preservation and stewardship," Jeff Tittel of the New Jersey Sierra Club said Monday. "We're very concerned about this. What the governor has done is unconstitutional and unconscionable."

Tittel also said the Christie administration has sat on the rest of the money raised through the constitutional amendment for open space preservation and failed to spend it at all. "This is an arrogant abuse of power," Tittel said.

The Christie administration dismissed the OLS legal opinion – and the Sierra Club’s complaints.

“We disagree with OLS’s opinion,” said Joseph Perone, a spokesman with the state treasurer’s office. “This was a completely permissible use of these funds that also is consistent with the constitutional amendment approved by a majority of voters.”

Kevin Roberts, a Christie spokesman, was even more blunt in rejecting Tittel’s criticism.

“Jeff Tittel continues to set himself on fire concerning issues that he knows nothing about,” Roberts said.

The legislature, meanwhile, is trying again to ensure the \$20 million in question goes to open space preservation rather than covering parks expenses. A bill introduced by Smith to do that passed the environment and energy committee in January and was approved by the full Senate, 32-5, on March 14. The bill is now awaiting action in the Assembly.

However, an identical bill passed in December at the end of the previous legislative session was vetoed by Christie without comment.

If that happens again, Tittel said the Sierra Club could seek a legal opinion from the courts.



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Frank Brill at 1:33 PM



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1



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