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"McGreevey Signs Highlands Bill," 8-11-2004, The Times, p.A4

"Governor Signs and Cheers Highlands Act," 8-11-2004, Star Ledger, p.13

"For McGreevey; Lost Chances are Piling Up," 8-11-2004, New York Times, p.B1

"McGreevey Signs Environment Bill," 8-11-2004, New York Times, p.B6

"Environmentalists Snub Signing of Highlands Bill," 8-11-2004, Philadelphia Inquirer, p.A1

**HEARINGS:**

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on "Testimony on the Recommendations of the Governor's Force to Assist the  
2004 Respective Committees in Developing Legislation to Protect and Preserve Drinking Water in the Highlands  
Region." March 22, 2004, Trenton, 2004

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 and A2635 held on March 30, 2004, Trenton, 2004  
2004a

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 and A2635 held on April 12, 2004, Trenton 2004  
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974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 and A2635 held on April 15, 2004, Trenton, 2004  
2004b

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 and A2635 held on April 22, 2004, Trenton 2004  
2004e

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 and A2635 held on May 10, 2004, Trenton 2004  
2004f

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on A2635 held on May 17, 2004, Trenton 2004  
2004g

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 held on May 20, 2004, Trenton, 2004  
2004c

974.90 New Jersey. Legislature. Senate Environment Committee and Assembly Solid Waste Committee.  
R336 Committee meeting on S1 held on June 7, 2004, Trenton 2004  
2004d

Title 13.  
Chapter 20. (New)  
Highlands Water  
Protection  
§§1-18,21-37 -  
C.13:20-1 to  
13:20-35  
§19 - C.54:1-85  
§20 - C.54:1-84  
§38 - C.13:9B-5.1  
§39 - C.58:1A-5.1  
§40 - C.58:11-24.1  
§41 - C.58:12A-4.1  
§42 - C.58:11A-7.1  
§43 - C.58:16A-60.1

P.L. 2004, CHAPTER 120, *approved August 10, 2004*  
Senate, No. 1 (*First Reprint*)

1 **AN ACT** concerning the Highlands Region, creating a Highlands Water  
2 Protection and Planning Council, <sup>1</sup>dedicating a portion of the realty  
3 transfer fee revenue annually for certain State aid purposes in the  
4 Highlands Region and in the pinelands area.<sup>1</sup> supplementing Title  
5 13 of the Revised Statutes, and amending and supplementing  
6 various sections of the statutory law.

7

8 **BE IT ENACTED** by the Senate and General Assembly of the State  
9 of New Jersey:

10

11 1. (New section) This act shall be known, and may be cited, as the  
12 "Highlands Water Protection and Planning Act."

13

14 2. (New section) The Legislature finds and declares that the  
15 national Highlands Region is an area that extends from northwestern  
16 Connecticut across the lower Hudson River Valley and northern New  
17 Jersey into east central Pennsylvania; that the national Highlands  
18 <sup>1</sup>[region] Region<sup>1</sup> has been recognized as a landscape of special  
19 significance by the United States Forest Service; that the New Jersey  
20 portion of the national Highlands Region is nearly 800,000 acres, or  
21 about 1,250 miles, covering portions of <sup>1</sup>[90] ~~88~~<sup>1</sup> municipalities in  
22 seven counties; <sup>1</sup>and<sup>1</sup> that the New Jersey Highlands Region is  
23 designated as a Special Resource Area in the State Development and  
24 Redevelopment Plan.

25 The Legislature further finds and declares that the New Jersey  
26 Highlands is an essential source of drinking water, providing clean and  
27 plentiful drinking water for one-half of the State's population,  
28 including communities beyond the New Jersey Highlands, from only  
29 13 percent of the State's land area; that the New Jersey Highlands  
30 contains other exceptional natural resources such as clean air,

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SEN committee amendments adopted June 7, 2004.

1 contiguous forest lands, wetlands, pristine watersheds, and <sup>1</sup>[wildlife  
2 and plant species habitats] habitat for fauna and flora<sup>1</sup>, includes many  
3 sites of historic significance, and provides abundant recreational  
4 opportunities for the citizens of the State.

5 The Legislature further finds and declares that the New Jersey  
6 Highlands provides a desirable quality of life and place where people  
7 live and work; that it is important to ensure the economic viability of  
8 communities throughout the New Jersey Highlands; <sup>1</sup>and<sup>1</sup> that  
9 residential, commercial, and industrial development <sup>1</sup>[and],<sup>1</sup>  
10 redevelopment<sup>1</sup>,<sup>1</sup> and economic growth in certain appropriate areas of  
11 the New Jersey Highlands <sup>1</sup>[is] are<sup>1</sup> also in the best interests of all the  
12 citizens of the State, providing <sup>1</sup>[enumerable] innumerable<sup>1</sup> social,  
13 cultural, and economic benefits and opportunities.

14 The Legislature further finds and declares that there are  
15 approximately 110,000 acres of agricultural lands in active production  
16 in the New Jersey Highlands; that these lands are important resources  
17 of the State that should be preserved; <sup>1</sup>[and]<sup>1</sup> that the agricultural  
18 industry in the region is a vital component of the economy <sup>1</sup>[and],<sup>1</sup>  
19 welfare <sup>1</sup>, and cultural landscape<sup>1</sup> of the <sup>1</sup>Garden<sup>1</sup> State <sup>1</sup>; and, that in  
20 order to preserve the agricultural industry in the region, it is necessary  
21 and important to recognize and reaffirm the goals, purposes, policies,  
22 and provisions of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1  
23 et seq.) and the protections afforded to farmers thereby<sup>1</sup>.

24 The Legislature further finds and declares that, since 1984, 65,000  
25 acres, or over 100 square miles, of the New Jersey Highlands have  
26 been lost to development; that sprawl and the pace of development in  
27 the region has dramatically increased, with the rate of loss of forested  
28 lands and wetlands more than doubling since 1995; that the New  
29 Jersey Highlands, because of its proximity to rapidly expanding  
30 suburban areas, is at serious risk of being fragmented and consumed  
31 by unplanned development; and that the existing land use and  
32 environmental regulation system cannot protect the water and natural  
33 resources of the New Jersey Highlands against the environmental  
34 impacts of sprawl development.

35 The Legislature further finds and declares that the protection of the  
36 New Jersey Highlands, because of its vital link to the future of the  
37 State's drinking water supplies and other key natural resources, is an  
38 issue of State level importance that cannot be left to the uncoordinated  
39 land use decisions of <sup>1</sup>[90] 88<sup>1</sup> municipalities, seven counties, and a  
40 myriad of private landowners; that the State should take action to  
41 delineate within the New Jersey Highlands a preservation area of  
42 exceptional natural resource value that includes watershed protection  
43 and other environmentally sensitive lands where stringent protection  
44 policies <sup>1</sup>[would] should<sup>1</sup> be implemented; that a regional approach  
45 to land use planning in the preservation area should be established to  
46 replace the existing uncoordinated system; that such a new regional

1 approach to land use planning should be complemented by increased  
2 standards more protective of the environment established by the  
3 Department of Environmental Protection for development in the  
4 preservation area of the New Jersey Highlands; that the new regional  
5 planning approach and the more stringent environmental regulatory  
6 standards should be accompanied, as a matter of wise public policy  
7 and fairness to property owners, by a strong and significant  
8 commitment by the State to fund the acquisition of exceptional natural  
9 resource value lands; and that in the light of the various pressures now  
10 arrayed against the New Jersey Highlands, these new approaches  
11 should be implemented as soon as possible.

12 <sup>1</sup>The Legislature further finds and declares that in the New Jersey  
13 Highlands there is a mountain ridge running southwest from Hamburg  
14 Mountain in Sussex County that separates the eastern and the western  
15 New Jersey Highlands; that much of the State's drinking water supplies  
16 originate in the eastern New Jersey Highlands; and that planning for  
17 the region and the environmental standards and regulations to protect  
18 those water supplies should be developed with regard to the  
19 differences in the topography of the Highlands Region and how the  
20 topography affects the quality of the water supplies.<sup>1</sup>

21 The Legislature therefore determines, in the light of these findings  
22 set forth hereinabove, and with the intention of transforming them into  
23 action, that it is in the public interest of all the citizens of the State of  
24 New Jersey to enact legislation setting forth a comprehensive approach  
25 to the protection of the water and other natural resources of the New  
26 Jersey Highlands; that this comprehensive approach should consist of  
27 the identification of a preservation area of the New Jersey Highlands  
28 that would be subjected to stringent water and natural resource  
29 protection <sup>1</sup>standards, policies<sup>1</sup>, planning, and regulation; that this  
30 comprehensive approach should also consist of the establishment of a  
31 Highlands Water Protection and Planning Council charged with the  
32 preparation of a regional master plan for the preservation area in the  
33 New Jersey Highlands as well as for the region in general; that this  
34 comprehensive approach should also include the adoption by the  
35 Department of Environmental Protection of stringent standards  
36 governing major development in the Highlands preservation area; that  
37 <sup>1, 1</sup> because of the imminent peril that the ongoing rush of development  
38 poses for the New Jersey Highlands, immediate, interim standards  
39 should be imposed on the date of enactment of this act on major  
40 development in the preservation area of the New Jersey Highlands,  
41 followed subsequently by adoption by the department of appropriate  
42 rules and regulations; that it is appropriate to encourage in certain  
43 areas of the New Jersey Highlands, consistent with the State  
44 Development and Redevelopment Plan and smart growth strategies  
45 and principles, appropriate patterns of compatible residential,  
46 commercial, and industrial development, redevelopment, and economic  
47 growth, in or adjacent to areas already utilized for such purposes, and

1 to discourage piecemeal, scattered, and inappropriate development, in  
2 order to accommodate local and regional growth and economic  
3 development in an orderly way while protecting the Highlands  
4 environment from the individual and cumulative adverse impacts  
5 thereof; that the maintenance of agricultural production and a positive  
6 agricultural business climate should be encouraged to the maximum  
7 extent possible wherever appropriate in the New Jersey Highlands; and  
8 that all such aforementioned measures should be guided, in heart,  
9 mind, and spirit, by an abiding and generously given commitment to  
10 protecting the incomparable water resources and natural beauty of the  
11 New Jersey Highlands so as to preserve them intact, in trust, forever  
12 for the pleasure, enjoyment, and use of future generations while also  
13 providing every conceivable opportunity for appropriate economic  
14 growth and development to advance the <sup>1</sup>[qualify] quality<sup>1</sup> of life of  
15 the residents of the region and the entire State.

16

17 3. (New section) As used in this act:

18 <sup>1</sup>"Agricultural or horticultural development" means construction for  
19 the purposes of supporting common farmsite activities, including but  
20 not limited to: the production, harvesting, storage, grading,  
21 packaging, processing, and the wholesale and retail marketing of  
22 crops, plants, animals, and other related commodities and the use and  
23 application of techniques and methods of soil preparation and  
24 management, fertilization, weed, disease, and pest control, disposal of  
25 farm waste, irrigation, drainage and water management, and grazing;

26 "Agricultural impervious cover" means agricultural or horticultural  
27 buildings, structures, or facilities with or without flooring, residential  
28 buildings, and paved areas, but shall not mean temporary coverings;

29 "Agricultural or horticultural use" means the use of land for  
30 common farmsite activities, including but not limited to: the  
31 production, harvesting, storage, grading, packaging, processing, and  
32 the wholesale and retail marketing of crops, plants, animals, and other  
33 related commodities and the use and application of techniques and  
34 methods of soil preparation and management, fertilization, weed,  
35 disease, and pest control, disposal of farm waste, irrigation, drainage  
36 and water management, and grazing;<sup>1</sup>

37 "Application for development" means the application form and all  
38 accompanying documents required for approval of a subdivision plat,  
39 site plan, planned development, conditional use, zoning variance, or  
40 direction of the issuance of a permit pursuant to the "Municipal Land  
41 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et  
42 seq., for any use, development<sup>1,1</sup> or construction;

43 <sup>1</sup>"Capital improvement" means any facility for the provision of  
44 public services with a life expectancy of three or more years, owned  
45 and operated by or on behalf of the State or a political subdivision  
46 thereof;

47 "Construction beyond site preparation" means having completed the

1 foundation for a building or structure, and does not include the  
2 clearing, cutting, or removing of vegetation, bringing construction  
3 materials to the site, or site grading or other earth work associated  
4 with preparing a site for construction;

5 "Construction materials facility" means any facility or land upon  
6 which the activities of production of ready mix concrete, bituminous  
7 concrete, or class B recycling occurs;<sup>1</sup>

8 "Council" means the Highlands Water Protection and Planning  
9 Council established by section 4 of this act;

10 "Department" means the Department of Environmental Protection;

11 <sup>1</sup>"Development" means the same as that term is defined in section  
12 3.1 of P.L.1975, c.291 (C.40:55D-4);<sup>1</sup>

13 "Development regulation" means the same as that term is defined  
14 in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

15 "Disturbance" means the placement of impervious surface, the  
16 exposure or movement of soil or bedrock, or the clearing, cutting, or  
17 removing of vegetation;

18 "Environmental land use or water permit" means a permit, approval,  
19 or other authorization issued by the Department of Environmental  
20 Protection pursuant to the "Freshwater Wetlands Protection Act,"  
21 P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management  
22 Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution  
23 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty  
24 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199  
25 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977,  
26 c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977,  
27 c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act,"  
28 P.L.1962, c.19 (C.58:16A-50 et seq.)<sup>1</sup> [; or an approval for an  
29 individual subsurface sewage disposal system from a delegated local  
30 health agency pursuant to the "County Environmental Health Act,"  
31 P.L.1977, c.443 (C.26:3A2-21 et al.)]<sup>1</sup>;

32 <sup>1</sup>"Facility expansion" means the expansion of the capacity of an  
33 existing capital improvement in order that the improvement may serve  
34 new development;

35 "Farm conservation plan" means a site specific plan that prescribes  
36 needed land treatment and related conservation and natural resource  
37 management measures, including forest management practices, that are  
38 determined to be practical and reasonable for the conservation,  
39 protection, and development of natural resources, the maintenance and  
40 enhancement of agricultural or horticultural productivity, and the  
41 control and prevention of nonpoint source pollution;

42 "Farm management unit" means a parcel or parcels of land, whether  
43 contiguous or noncontiguous, together with agricultural or  
44 horticultural buildings, structures and facilities, producing agricultural  
45 or horticultural products, and operated as a single enterprise;<sup>1</sup>

46 "Highlands open waters" means all springs, streams <sup>1</sup>including  
47 intermittent streams<sup>1</sup>, wetlands, and bodies of surface water, whether

1 natural or artificial, located wholly or partially within the boundaries  
2 of the Highlands Region<sup>1</sup>, but shall not mean swimming pools<sup>1</sup>;

3 "Highlands Region" means that region so designated by subsection  
4 a. of section 7 of this act;

5 <sup>1</sup>"Immediate family member" means spouse, child, parent, sibling,  
6 aunt, uncle, niece, nephew, first cousin, grandparent, grandchild,  
7 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,  
8 stepchild, stepbrother, stepsister, half brother, or half sister, whether  
9 the individual is related by blood, marriage, or adoption;

10 "Impact fee" means cash or in-kind payments required to be paid by  
11 a developer as a condition for approval of a major subdivision or major  
12 site plan for the developer's proportional share of the cost of providing  
13 new or expanded reasonable and necessary public improvements  
14 located outside the property limits of the subdivision or development  
15 but reasonably related to the subdivision or development based upon  
16 the need for the improvement created by, and the benefits conferred  
17 upon, the subdivision or development;<sup>1</sup>

18 "Impervious surface" means any structure, surface, or improvement  
19 that reduces or prevents absorption of stormwater into land, and  
20 includes porous paving, paver blocks, gravel, crushed stone, decks,  
21 patios, elevated structures, and other similar structures, surfaces, or  
22 improvements;

23 <sup>1</sup>"Individual unit of development" means a dwelling unit in the case  
24 of a residential development, a square foot in the case of a  
25 non-residential development, or any other standard employed by a  
26 municipality for different categories of development as a basis upon  
27 which to establish a service unit;<sup>1</sup>

28 "Local government unit" means a municipality, county, or other  
29 political subdivision of the State, or any agency, board, commission,  
30 utilities authority or other authority, or other entity thereof;

31 "Major <sup>1</sup>Highlands<sup>1</sup> development" means<sup>1</sup>, except as otherwise  
32 provided pursuant to subsection a. of section 30 of this act, (1)<sup>1</sup> any  
33 non-residential development <sup>1</sup>[, whether or not it also qualifies as a  
34 development as defined in the "Municipal Land Use Law," P.L.1975,  
35 c.291 (C.40:55D-1 et seq.); any residential development, whether or  
36 not it also qualifies as a development as defined in the "Municipal  
37 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), that provides  
38 for the ultimate disturbance of one acre or more of land or an increase  
39 in impervious surface of one-quarter acre or more; or any residential  
40 development, whether or not it also qualifies as a development as  
41 defined in the "Municipal Land Use Law," P.L.1975, c.291  
42 (C.40:55D-1 et seq.),] in the preservation area; (2) any residential  
43 development in the preservation area<sup>1</sup> that requires an environmental  
44 land use or water permit <sup>1</sup>[issued by the Department of Environmental  
45 Protection but which does not result] or that results<sup>1</sup> in the ultimate  
46 disturbance of one acre or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
47 increase in impervious surface by one-quarter acre or more; <sup>1</sup>(3) any



1 activity undertaken or engaged in the preservation area that is not a  
2 development but results in the ultimate disturbance of one-quarter acre  
3 or more of forested area or that results in a cumulative increase in  
4 impervious surface by one-quarter acre or more on a lot; or (4) any  
5 capital or other project of a State entity or local government unit in  
6 the preservation area that requires an environmental land use or water  
7 permit or that results in the ultimate disturbance of one acre or more  
8 of land or a cumulative increase in impervious surface by one-quarter  
9 acre or more. Major Highlands development shall not mean an  
10 agricultural or horticultural development or agricultural or  
11 horticultural use in the preservation area;

12 "Mine" means any mine, whether on the surface or underground,  
13 and any mining plant, material, equipment, or explosives on the surface  
14 or underground, which may contribute to the mining or handling of ore  
15 or other metalliferous or non-metalliferous products. The term "mine"  
16 shall also include a quarry, sand pit, gravel pit, clay pit, or shale pit;

17 "Mine site" means the land upon which a mine, whether active or  
18 inactive, is located, for which the Commissioner of Labor has granted  
19 a certificate of registration pursuant to section 4 of P.L.1954, c.197  
20 (C.34:6-98.4) and the boundary of which includes all contiguous  
21 parcels, except as provided below, of property under common  
22 ownership or management, whether located in one or more  
23 municipalities, as such parcels are reflected by lot and block numbers  
24 or metes and bounds, including any mining plant, material, or  
25 equipment. "Contiguous parcels" as used in this definition of "mine  
26 site" shall not include parcels for which mining or quarrying is not a  
27 permitted use or for which mining or quarrying is not permitted as a  
28 prior nonconforming use under the "Municipal Land Use Law,"  
29 P.L.1975, c.291 (C.40:55D-1 et seq.);

30 "Office of Smart Growth" means the Office of State Planning  
31 established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201)<sup>1</sup>;

32 "Planning area" means that portion of the Highlands Region not  
33 included within the preservation area;

34 "Preservation area" means that portion of the Highlands Region so  
35 designated by subsection b. of section 7 of this act;

36 <sup>1</sup>"Public utility" means the same as that term is defined in  
37 R.S.48:2-13;<sup>1</sup>

38 "Recreation and conservation purposes" means the same as that  
39 term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

40 "Regional master plan" means the Highlands regional master plan  
41 or any revision thereof adopted by the council pursuant to section 8 of  
42 this act;

43 <sup>1</sup>["State entity" means any State department, agency, board,  
44 commission, or other entity, district water supply commission,  
45 independent State authority or commission, or bi-state entity;]

46 "Resource management systems plan" means a site specific  
47 conservation system plan that (1) prescribes needed land treatment and

1 related conservation and natural resource management measures,  
2 including forest management practices, for the conservation,  
3 protection, and development of natural resources, the maintenance and  
4 enhancement of agricultural or horticultural productivity, and the  
5 control and prevention of nonpoint source pollution, and (2)  
6 establishes criteria for resources sustainability of soil, water, air,  
7 plants, and animals;

8 "Service area" means that area to be served by the capital  
9 improvement or facility expansion as designated in the capital  
10 improvement program adopted by a municipality under section 20 of  
11 P.L.1975, c.291 (C.40:55D-29);

12 "Service unit" means a standardized measure of consumption, use,  
13 generation or discharge attributable to an individual unit of  
14 development calculated in accordance with generally accepted  
15 engineering or planning standards for a particular category of capital  
16 improvements or facility expansions;

17 "Soil conservation district" means the same as that term is defined  
18 in R.S. 4:24-2;<sup>1</sup>

19 "State Development and Redevelopment Plan" means the State  
20 Development and Redevelopment Plan adopted pursuant to P.L.1985,  
21 c.398 (C.52:18A-196 et al.);

22 <sup>1</sup>"State entity" means any State department, agency, board,  
23 commission, or other entity, district water supply commission,  
24 independent State authority or commission, or bi-state entity;

25 "State Soil Conservation Committee" means the State Soil  
26 Conservation Committee in the Department of Agriculture established  
27 pursuant to R.S. 4:24-3;

28 "Temporary coverings" means permeable, woven and non-woven  
29 geotextile fabrics that allow for water infiltration or impermeable  
30 materials that are in contact with the soil and are used for no more  
31 than two consecutive years;<sup>1</sup> and

32 "Waters of the Highlands" means all springs, streams <sup>1</sup>including  
33 intermittent streams<sup>1</sup>, and bodies of surface or ground water, whether  
34 natural or artificial, located wholly or partially within the boundaries  
35 of the Highlands Region<sup>1</sup>, but shall not mean swimming pools<sup>1</sup>.

36  
37 4. (New section) There is hereby established a public body  
38 corporate and politic, with corporate succession, to be known as the  
39 "Highlands Water Protection and Planning Council." The council shall  
40 constitute a political subdivision of the State established as an  
41 instrumentality exercising public and essential governmental functions,  
42 and the exercise by the council of the powers and duties conferred by  
43 this act shall be deemed and held to be an essential governmental  
44 function of the State. For the purpose of complying with the  
45 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
46 Constitution, the council is hereby allocated within the Department of  
47 Environmental Protection, but, notwithstanding that allocation, the

1 council shall be independent of any supervision or control by the  
2 department or by the commissioner or any officer or employee thereof.

3

4 5. (New section) a. The council shall consist of 15 voting  
5 members to be appointed and qualified as follows:

6 (1) Eight residents of the counties of Bergen, Hunterdon, Morris,  
7 Passaic, Somerset, Sussex, or Warren, appointed by the Governor,  
8 with the advice and consent of the Senate, (a) no more than four of  
9 whom shall be of the same political party, (b) <sup>1</sup> of whom five shall be  
10 municipal officials <sup>1</sup>residing in the Highlands Region and<sup>1</sup> holding  
11 elective office at the time of appointment and three shall be county  
12 officials holding elective office at the time of appointment, and <sup>1</sup>[(b)]  
13 (c) <sup>1</sup> among whom shall be <sup>1</sup>(i) <sup>1</sup> at least one resident from each of the  
14 counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex,  
15 and Warren<sup>1</sup>, and (ii) two residents from the county that has the  
16 largest population residing in the Highlands Region, of whom no more  
17 than one shall be of the same political party<sup>1</sup>; and

18 (2) Seven residents of the State, <sup>1</sup>of whom five shall be<sup>1</sup> appointed  
19 by the Governor, with the advice and consent of the Senate <sup>1</sup>, one shall  
20 be appointed by the Governor upon the recommendation of the  
21 President of the Senate, and one shall be appointed by the Governor  
22 upon the recommendation of the Speaker of the General Assembly.  
23 The members appointed pursuant to this paragraph shall have, to the  
24 maximum extent practicable, expertise, knowledge, or experience in  
25 water quality protection, natural resources protection, environmental  
26 protection, agriculture, forestry, land use, or economic development,  
27 and at least four of them shall be property owners, business owners,  
28 or farmers in the Highlands Region or residents or nonresidents of the  
29 Highlands Region who benefit from or consume water from the  
30 Highlands Region<sup>1</sup>.

31 b. (1) Council members shall serve for terms of five years;  
32 provided, however, that of the members first appointed, five shall  
33 serve a term of three years, five shall serve a term of four years, and  
34 five shall serve a term of five years. <sup>1</sup>The initial terms of the two  
35 council members appointed by the Governor upon the  
36 recommendation, respectively, of the President of the Senate and the  
37 Speaker of the General Assembly shall be among those council  
38 members assigned initial terms of five years pursuant to this  
39 paragraph.<sup>1</sup>

40 (2) Each member shall serve for the term of the appointment and  
41 until a successor shall have been appointed and qualified. Any vacancy  
42 shall be filled in the same manner as the original appointment for the  
43 unexpired term only.

44 c. Any member of the council may be removed by the Governor,  
45 for cause, after a public hearing.

46 d. Each member of the council, before entering upon the member's  
47 duties, shall take and subscribe an oath to perform the duties of the

1 office faithfully, impartially, and justly to the best of the member's  
2 ability, in addition to any oath that may be required by R.S.41:1-1 et  
3 seq. A record of the oath shall be filed in the Office of the Secretary  
4 of State.

5 e. The members of the council shall serve without compensation,  
6 but the council may, within the limits <sup>1</sup>[or] <sup>1</sup>of<sup>1</sup> funds appropriated or  
7 otherwise made available for such purposes, reimburse its members for  
8 necessary expenses incurred in the discharge of their official duties.

9 f. The powers of the council shall be vested in the members thereof  
10 in office. A majority of the total authorized membership of the council  
11 shall constitute a quorum <sup>1</sup>[except that] and<sup>1</sup> no action may be taken  
12 by the council except upon the affirmative vote of a majority of the  
13 <sup>1</sup>[quorum] total authorized membership of the council<sup>1</sup>. No alternate  
14 or designee of any council member shall exercise any power to vote on  
15 any matter pending before the council.

16 g. The Governor shall designate one of the members of the council  
17 as chairperson. The council shall appoint an executive director, who  
18 shall be the chief administrative officer thereof. The executive director  
19 shall serve at the pleasure of the council, and shall be a person  
20 qualified by training and experience to perform the duties of the office.

21 h. The members and staff of the council shall be subject to the  
22 "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-  
23 12 et seq.).

24 i. The council shall be subject to the provisions of the "Open Public  
25 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

26 j. A true copy of the minutes of every meeting of the council shall  
27 be prepared and forthwith delivered to the Governor. No action taken  
28 at a meeting by the council shall have force or effect until 10 days,  
29 exclusive of Saturdays, Sundays, and public holidays, after a copy of  
30 the minutes shall have been so delivered; provided, however, that no  
31 action taken with respect to the adoption of the regional master plan,  
32 or any portion or revision thereof, shall have force or effect until 30  
33 days, exclusive of Saturdays, Sundays, and public holidays, after a  
34 copy of the minutes shall have been so delivered. If, in the 10-day  
35 period, or 30-day period, as the case may be, the Governor returns the  
36 copy of the minutes with a veto of any action taken by the council at  
37 the meeting, the action shall be null and void and of no force and  
38 effect.

39

40 6. (New section) The council shall have the following powers,  
41 duties, and responsibilities, in addition to those prescribed elsewhere  
42 in this act:

43 a. To adopt and from time to time amend and repeal suitable  
44 bylaws for the management of its affairs;

45 b. To adopt and use an official seal and alter it at the council's  
46 pleasure;

47 c. To maintain an office at such place or places in the Highlands

- 1 Region as it may designate;
- 2 d. To sue and be sued in its own name;
- 3 e. To appoint, retain and employ, without regard to the provisions  
4 of Title 11A of the New Jersey Statutes but within the limits of funds  
5 appropriated or otherwise made available for those purposes, such  
6 officers, employees, <sup>1</sup>attorneys,<sup>1</sup> agents, and experts as it may require,  
7 and to determine the qualifications, terms of office, duties, services,  
8 and compensation therefor;
- 9 f. To apply for, receive, and accept, from any federal, State, or  
10 other public or private source, grants or loans for, or in aid of, the  
11 council's authorized purposes <sup>1</sup>[,]<sup>1</sup> or <sup>1</sup>[the]<sup>1</sup> in the carrying out of  
12 the council's powers, duties, and responsibilities;
- 13 g. To enter into any and all agreements or contracts, execute any  
14 and all instruments, and do and perform any and all acts or things  
15 necessary, convenient, or desirable for the purposes of the council or  
16 to carry out any power, duty, or responsibility expressly given in this  
17 act;
- 18 h. To call to its assistance and avail itself of the services of such  
19 employees of any State entity or local government unit as may be  
20 required and made available for such purposes;
- 21 i. To adopt a regional master plan for the Highlands Region as  
22 provided pursuant to section 8 of this act;
- 23 j. To appoint advisory boards, commissions, councils, or panels to  
24 assist in its activities, including but not limited to a municipal advisory  
25 council consisting of mayors, municipal council members, or other  
26 representatives of municipalities located in the Highlands Region;
- 27 <sup>1</sup>[k. To authorize, if deemed useful, the establishment by  
28 appropriate persons or organizations of a nonprofit organization or  
29 organizations exempt from taxation pursuant to section 501 (c)(3) of  
30 the federal Internal Revenue Code of 1986, 26 U.S.C. s.501 (c)(3), for  
31 the purposes of assisting the council in furthering the purposes of this  
32 act and the regional master plan;]<sup>1</sup>
- 33 <sup>1</sup>[l.] k.<sup>1</sup> To solicit and consider public input and comment on the  
34 council's activities, the regional master plan, and other issues and  
35 matters of importance in the Highlands Region by periodically holding  
36 public hearings or conferences and providing other opportunities for  
37 such input and comment by interested parties;
- 38 <sup>1</sup>[m.] l.<sup>1</sup> To conduct examinations and investigations, to hear  
39 testimony, taken under oath at public or private hearings, on any  
40 material matter, and to require attendance of witnesses and the  
41 production of books and papers;
- 42 <sup>1</sup>[n.] m.<sup>1</sup> To prepare and transmit to the Commissioner of  
43 Environmental Protection such recommendations for water quality and  
44 water supply standards for surface and ground waters in the Highlands  
45 Region, or in tributaries and watersheds thereof, and for other  
46 environmental protection standards pertaining to the lands and natural  
47 resources of the Highlands Region, as the council deems appropriate;

1       <sup>1</sup>[o.] n.<sup>1</sup> To identify and designate in the regional master plan  
2 special areas in the preservation area within which development shall  
3 not occur in order to protect water resources and environmentally  
4 sensitive lands while recognizing the need to provide just  
5 compensation to the owners of those lands when appropriate, whether  
6 through acquisition, transfer of development rights programs, or other  
7 means or strategies;

8       <sup>1</sup>[p.] o.<sup>1</sup> To identify any lands in which the public acquisition of  
9 a fee simple or lesser interest therein is necessary or desirable in order  
10 to ensure the preservation thereof, or to provide sites for public  
11 recreation, as well as any lands the beneficial use of which are so  
12 adversely affected by the restrictions imposed pursuant to this act as  
13 to require a guarantee of just compensation therefor, and to transmit  
14 a list of those lands to the Commissioner of Environmental Protection,  
15 affected local government units, and appropriate federal agencies;

16       <sup>1</sup>[q.] p.<sup>1</sup> To develop model land use ordinances and other  
17 development regulations, for consideration and possible adoption by  
18 municipalities in the planning area, that would help protect the  
19 environment, including, but not limited to, ordinances and other  
20 development regulations pertaining to steep slopes, forest cover,  
21 wellhead and water supply protection, <sup>1</sup>water conservation,<sup>1</sup>  
22 impervious surface, and clustering; and to provide guidance and  
23 technical assistance in connection therewith to those municipalities;

24       <sup>1</sup>[r.] q.<sup>1</sup> To identify and designate, and accept petitions from  
25 municipalities to designate, special critical environmental areas in high  
26 resource value lands in the planning area, and develop voluntary  
27 standards and guidelines for protection of such special areas for  
28 possible implementation by those municipalities;

29       <sup>1</sup>[s.] r.<sup>1</sup> To comment upon any application for development before  
30 a local government unit, on the adoption of any master plan,  
31 development regulation, or other regulation by a local government  
32 unit, or on the enforcement by a local government unit of any  
33 development regulation or other regulation, which power shall be in  
34 addition to any other review, oversight, or intervention powers of the  
35 council prescribed by this act;

36       <sup>1</sup>[t.] s.<sup>1</sup> To work with interested municipalities to enter into  
37 agreements to establish, where appropriate, capacity-based  
38 development densities, including, but not limited to, appropriate higher  
39 densities to support transit villages or in centers designated by the  
40 State Development and Redevelopment Plan and endorsed by the State  
41 Planning Commission;

42       <sup>1</sup>[u.] t. To establish and implement a road signage program in  
43 cooperation with the Department of Transportation and local  
44 government units to identify significant natural and historic resources  
45 and landmarks in the Highlands Region;

46       u. To promote, in conjunction with the Department of

1 Environmental Protection and the Department of Agriculture,  
 2 conservation of water resources both in the Highlands Region and in  
 3 areas outside of the Highlands Region for which the Highlands is a  
 4 source of drinking water;

5 v. To promote brownfield remediation and redevelopment in the  
 6 Highlands Region;

7 w. To work with the State Agriculture Development Committee  
 8 and the Garden State Preservation Trust to establish incentives for any  
 9 landowner in the Highlands Region seeking to preserve land under the  
 10 farmland preservation program that would be provided in exchange for  
 11 the landowner agreeing to permanently restrict the amount of  
 12 impervious surface and agricultural impervious cover on the farm to  
 13 a maximum of five percent of the total land area of the farm;

14 x.<sup>1</sup> To establish and charge, in accordance with a fee schedule to  
 15 be set forth by rule or regulation adopted pursuant to the  
 16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
 17 seq.), reasonable fees for services performed relating to the review of  
 18 applications for development and other applications filed with or  
 19 otherwise brought before the council, or for other services, as may be  
 20 required by this act or the regional master plan; and

21 <sup>1</sup>[v.] y.<sup>1</sup> To prepare, adopt, amend, or repeal, pursuant to the  
 22 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
 23 (C.52:14B-1 et seq.), such rules and regulations as may be necessary  
 24 in order to exercise its powers and perform its duties and  
 25 responsibilities under the provisions of this act.

26  
 27 7. (New section) a. The Highlands Region shall consist of all that  
 28 area within the boundaries of the following municipalities:

29 (1) in Bergen County: Mahwah <sup>1</sup>[,]<sup>1</sup> and Oakland;

30 (2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury,  
 31 Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton,  
 32 High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford,  
 33 Tewksbury, and Union;

34 (3) in Morris County: Boonton Town, Boonton Township, Butler,  
 35 Chester Boro, Chester Township, Denville, Dover, Hanover, Harding,  
 36 Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill,  
 37 Montville, Morris Plains, Morris Township, Morristown, Mount  
 38 Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy  
 39 Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway  
 40 Township, Roxbury, Victory Gardens, Washington, and Wharton;

41 (4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood,  
 42 Wanaque, and West Milford;

43 (5) in Somerset County: <sup>1</sup>Bedminster,<sup>1</sup> Bernards, Bernardsville,  
 44 Far Hills, and Peapack-Gladstone;

45 (6) in Sussex County: <sup>1</sup>[Andover Boro, Andover Township,]<sup>1</sup>  
 46 Byram, Franklin, Green, Hamburg, Hardyston, Hopatcong,  
 47 <sup>1</sup>[Lafayette,]<sup>1</sup> Ogdensburg, Sparta, Stanhope, and Vernon; and

1 (7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin,  
2 Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope,  
3 Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg,  
4 Pohatcong, Washington Boro, Washington Township, and White.

5 b. <sup>1</sup>(1)<sup>1</sup> The preservation area shall consist of <sup>1</sup>all<sup>1</sup> that area  
6 <sup>1</sup>within the boundaries<sup>1</sup> described <sup>1</sup>[by the Highlands Task Force,  
7 established by Executive Order No. 70 of 2003, and based upon  
8 natural resource data assembled by the United States Forest Service,  
9 Rutgers, The State University, and the New Jersey Water Supply  
10 Authority, which is to be translated, allowing for reasonable variations,  
11 by the Highlands Task Force with the assistance of Rutgers, The State  
12 University, the Department of Environmental Protection, and other  
13 appropriate entities, to appropriate and nearest practicable, on-the-  
14 ground, and easily identified reference points, such as, but not limited  
15 to, road descriptions, survey lines, and municipal boundaries, by May  
16 1, 2004 or as soon thereafter as may be possible. This narrative  
17 description of the preservation area shall be enacted into law.] herein:  
18

19 Beginning at the New Jersey and New York border and the  
20 intersection of State Highway 17 and Interstate 287 in northern  
21 Mahwah Township; thence southerly on Interstate 287 to its  
22 intersection with Ramapo Valley Road (U.S. Highway 202); thence  
23 southwesterly on Ramapo Valley Road (U.S. Highway 202) to its  
24 intersection with the Campgaw Mountain County Reservation,  
25 immediately south of Marion Drive; thence in a general northeastern  
26 direction along the boundary of the Campgaw Mountain County  
27 Reservation, until its intersection with Interstate 287; thence southerly  
28 on Interstate 287 to its intersection with the Mahwah Township and  
29 Oakland Borough corporate boundary; thence northwesterly along the  
30 Mahwah Township and Oakland Borough corporate boundary to its  
31 intersection with the Ramapo River; thence south on the east bank of  
32 the Ramapo River to its intersection with Interstate 287; thence  
33 westerly on Interstate 287 to its intersection with West Oakland  
34 Avenue; thence southerly and westerly on West Oakland Avenue to its  
35 intersection with Doty Road; thence southerly on Doty Road to its  
36 intersection with Ramapo Valley Road (U.S. Highway 202); thence  
37 westerly and southerly on Ramapo Valley Road (U.S. Highway 202)  
38 to its intersection with Long Hill Road (County Road 931); thence  
39 southerly on Long Hill Road (County Road 931) to its intersection  
40 with the Oakland Borough and Franklin Lakes Borough corporate  
41 boundary; thence southerly on the Oakland Borough and Franklin  
42 Lakes Borough corporate boundary to its intersection with the  
43 Oakland Borough corporate boundary; thence northwesterly along the  
44 Oakland Borough corporate boundary to the Wanaque Borough  
45 corporate boundary; thence westerly and southerly along the Wanaque  
46 Borough and Pompton Lakes Borough corporate boundary to its  
47 intersection with Ringwood Avenue (Alternate 511) to its intersection



1 with the southwestern corner of Block 478, lot 7 in Wanaque  
2 Borough; thence east along the boundary of Block 478, lot 7 to  
3 boundary of Block 479, lot 3 in Wanaque Borough; thence northerly  
4 along the boundary of Block 479, lot 3 to the boundary of Block 479,  
5 lot 2; thence westerly and northerly to Interstate 287; thence northerly  
6 on Interstate 287 to its intersection with the Pompton River; thence  
7 northerly along the western bank of the Pompton River to its  
8 intersection in Wanaque Borough with the abandoned railroad right of  
9 way east of Ringwood Avenue; thence northerly on the abandoned  
10 railroad right of way to its intersection with Belmont Avenue; thence  
11 easterly on Belmont Avenue to its intersection with Mullen Avenue;  
12 thence southerly and easterly on Mullen Avenue to its intersection  
13 with Belmont Avenue thence easterly to Meadow Brook; thence  
14 northerly on the eastern bank of Meadow Brook to its intersection  
15 with Meadow Brook Avenue in Wanaque Borough; thence easterly on  
16 Meadow Brook Avenue to its intersection with Crescent Road; thence  
17 northerly on Crescent Road to its intersection with Tremont Terrace;  
18 thence northerly on Tremont Terrace to its intersection with Wilson  
19 Drive; thence northerly on Wilson Drive to its intersection with  
20 Conklintown Road; thence westerly on Conklintown Road to its  
21 intersection with Ringwood Avenue (Alternate 511); thence southerly  
22 on Ringwood Avenue (Alternate 511) to its intersection with the  
23 Wanaque Reservoir public lands; thence southerly and westerly on the  
24 Wanaque Reservoir public lands boundary to its intersection with  
25 Posts Brook; thence southerly on the eastern bank of Posts Brook to  
26 its intersection with Doty Road; thence easterly on Doty Road to its  
27 intersection the northeast corner of Block 401, lot 3 in Wanaque  
28 Borough; thence southerly along the boundary of Block 401, lot 3 to  
29 the intersection with the Bloomingdale Borough and Wanaque  
30 Borough corporate boundary; thence southerly on Bloomingdale  
31 Borough and Wanaque Borough corporate boundary to its intersection  
32 with Union Avenue County Road 511); thence westerly on Union  
33 Avenue (County Road 511) to its intersection with Morse Lake Road;  
34 thence north on Morse Lake Road to the southeastern corner of Block  
35 57, lot 41 in Bloomingdale Borough; thence westerly along the  
36 boundary of Block 57, lot 41 to the boundary of Block 57, lot 40;  
37 thence northerly and westerly along the boundary of Block 57, lot 40  
38 to the northeast corner of Block 57, lot 43.01; thence continuing  
39 westerly and southerly along the boundary of Block 57, lot 43.01 to  
40 the boundary of Block 92.08, lot 77; thence westerly along the  
41 boundary of Block 92.08, lot 77 to the northeast corner of Block  
42 92.08, lot 1; thence continuing westerly along the northern boundary  
43 of Block 92.08, lot 1 to the southern boundary of Block 49.02, lot 12;  
44 thence continuing westerly along the southern boundary of Block  
45 49.02, lot 12 to the southern boundary of Block 49.02, lot 28; thence  
46 continuing westerly along the southern boundary of Block 49.02, lot  
47 28 to Woodlot Road; thence westerly across Woodlot Road to the

1 boundary of Block 49.09, lot 8; thence westerly along the southern  
2 boundary of Block 49.09, lot 8 to the boundary of Block 49.09, lot 12;  
3 thence westerly along the southern boundary of Block 49.09, lot 12 to  
4 Overlook Road (Natalie Court); thence westerly across Overlook  
5 Road (Natalie Court) to the boundary of Block 49.01, lot 5.04; thence  
6 northwesterly along the boundary of Block 49.01, lot 5.04 to the  
7 southern corner of Block 49.01, lot 5.05; thence northwesterly along  
8 the boundary of Block 49.01, lot 5.05 to a corner of Block 44, lot 182;  
9 thence generally westerly following the southern boundary of Block  
10 44, lot 182 to Glenwild Avenue (Carmantown Road) at South Road;  
11 thence northerly along the eastern edge of Glenwild Avenue  
12 (Carmantown Road) right of way to a point opposite Glade Road;  
13 thence south across Glenwild Avenue (Carmantown Road) to the  
14 northeast corner of Block 5, lot 28; thence south along the boundary  
15 of Block 5, lot 28 to the boundary of Block 5, lot 26.01; thence  
16 southerly along the boundary of Block 5, lot 26.01 to Star Lake Road  
17 (Ridge Road); thence southwest across Star Lake Road (Ridge Road)  
18 to the northern corner of Block 5, lot 26.11 along the boundary of  
19 Block 5, lot 26.01; thence westerly along the boundary of Block 5, lot  
20 26.01 to the northern corner of Block 5, lot 26.02; thence southerly  
21 and westerly following along the boundary of Block 5, lot 26.02 to the  
22 northeastern corner of Block 5, lot 25.02; thence westerly and  
23 southerly along the boundary of Block 5, lot 25.02 to the northern  
24 limit of the Macopin Road (County Road 693) right of way; thence  
25 northerly and westerly on Macopin Road (County Road 693) to its  
26 intersection with the Bloomingdale Borough and West Milford  
27 Township corporate boundary; thence southerly on the Bloomingdale  
28 Borough and West Milford Township corporate boundary to its  
29 intersection with the West Milford Township and Butler Borough  
30 corporate boundary; thence southerly along this corporate boundary  
31 to its intersection with the Kinnelon Borough, Butler Borough and  
32 Morris County Corporate boundary; thence westerly, southerly and  
33 easterly on the Kinnelon Borough and Butler Borough corporate  
34 boundary to its intersection with State Highway 23; thence easterly on  
35 State Highway 23 to its intersection with the Kinnelon Borough and  
36 Riverdale Borough corporate boundary; thence southerly and easterly  
37 on the Riverdale Borough and Pequannock Township corporate  
38 boundary to its intersection with Interstate 287; thence southerly on  
39 Interstate 287 to its intersection with Old Lane Road Extension;  
40 thence westerly, northerly and westerly on Old Lane Road Extension  
41 to the intersection of Virginia Drive; thence southerly on Virginia  
42 Drive to its intersection with MacLeay Drive; thence southwestly on  
43 MacLeay Drive to its intersection with West Lake Drive; thence  
44 southwesterly on West Lake Drive to Taylortown Road; thence  
45 northerly and westerly on Taylortown Road to its intersection with  
46 Boonton Avenue and Rockaway Valley Road; thence westerly on  
47 Rockaway Valley Road to its intersection with Powerville Road

1 (County Road 618); thence northerly on Powerville Road (County  
2 Road 618) to its intersection with Kincaid Road; thence easterly on  
3 Kincaid Road to its intersection with the Boonton Township and  
4 Montville Township corporate boundary; thence northerly, along the  
5 corporate boundary to the intersection with the Boonton Township  
6 and Kinnelon Borough corporate boundary; thence westerly on the  
7 corporate boundary to the intersection with the Boonton Township  
8 and Rockaway Township corporate boundary; thence and southerly on  
9 the Boonton Township corporate boundary to its intersection with  
10 Split Rock Road; thence northerly on Split Rock Road to its  
11 intersection with Lyonsville Road; thence southerly and westerly on  
12 Lyonsville Road and its continuation as Meriden Lyonsville Road to  
13 its intersection with Beaver Brook; thence along the eastern bank of  
14 the Beaver Brook southerly to its intersection with Ford Road; thence  
15 southerly and westerly along Ford Road to its intersection with Morris  
16 Avenue; thence northerly and westerly along Morris Avenue to its  
17 intersection with Green Pond Road (County Road 513); thence  
18 northerly on Green Pond Road (County Road 513) to its intersection  
19 with the Wildcat Ridge Wildlife Management Area; thence westerly on  
20 the Wildcat Ridge Wildlife Management Area boundary to its  
21 intersection with Hibernia Brook; thence westerly on the southern  
22 bank of Hibernia Brook to its intersection with Valley View Drive;  
23 thence westerly on Valley View Drive to its intersection with Erie  
24 Avenue; thence northerly on Erie Avenue to its intersection with  
25 Comanche Avenue; thence southerly on Comanche Avenue to its  
26 intersection with West Lake Shore Drive; thence westerly on West  
27 Lake Shore Drive to its intersection with Jackson Avenue; thence  
28 westerly on Jackson Avenue to its intersection with Miami Trail;  
29 thence westerly and southerly on Miami Trail to its intersection with  
30 Cayuga Avenue; thence southerly on Cayuga Avenue to its  
31 intersection with South Brookside Avenue; thence easterly on South  
32 Brookside Avenue to its intersection with Montauk Avenue; thence  
33 southerly on Montauk Avenue to its intersection with Old Middletown  
34 Road; thence southwesterly on Old Middletown Road to its  
35 intersection with Ridge Road; thence westerly on Ridge Road to its  
36 intersection with Cathy's Place; thence southerly on Cathy's Place to  
37 its intersection with Mt. Hope Road (County Road 666); thence  
38 northerly on Mt. Hope Road (County Road 666) to its intersection  
39 with the Mt. Hope Park public land boundary; thence southerly and  
40 westerly on the Mt. Hope Park public land boundary to its intersection  
41 with Block 70001 in Rockway Township (Picatinny Arsenal); thence  
42 northeasterly, northerly and southwesterly on the boundary of Block  
43 70001 (Picatinny Arsenal) to its intersection with State Highway 15;  
44 thence northerly on State Highway 15 to its intersection with the  
45 Rockaway Township and Jefferson Township corporate boundary;  
46 thence southwesterly on the Rockaway Township and Jefferson  
47 Township corporate boundary south of Interstate 80 to its intersection

1 with the Conrail/NJ Transit right of way; thence westerly on  
2 Conrail/NJ Transit right of way to its intersection with the Roxbury  
3 Township and Mount Arlington Borough corporate boundary; thence  
4 northerly on the Roxbury Township and Mount Arlington Borough  
5 corporate boundary to its intersection with the southern corner of  
6 Block 22, lot 13 in Mount Arlington Borough; thence northerly and  
7 northwesterly on the boundary of Block 22, lot 13 to its intersection  
8 with Berkshire Avenue; thence westerly on Berkshire Avenue to its  
9 intersection with Mountainview Avenue; thence northerly on  
10 Mountainview Avenue to its intersection with the southern corner on  
11 Block 8, lot 5.01 in Mount Arlington Borough; thence easterly,  
12 northerly, southerly then northerly on the boundary of Block 8, lot  
13 5.01 to its intersection with Littel Way; thence westerly on Littel Way  
14 to its intersection with Howard Boulevard (County Road 615); thence  
15 northerly on Howard Boulevard, continuing northerly as it becomes  
16 Espanong Road, to its intersection with Edison Road (County Road  
17 615); thence easterly on Edison Road (County Road 615) to its  
18 intersection with State Highway 15; thence northerly on the eastern  
19 edge of the State Highway 15 right of way north of Lake Winona to  
20 its intersection with the electrical utility right of way; thence southerly  
21 and westerly on the utility right of way to its intersection with State  
22 Highway 181; thence southerly on State Highway 181 to its  
23 intersection with Prospect Point Road; thence southerly on Prospect  
24 Point Road to its intersection with Northwood Road (County Road  
25 609); thence southwestery on Northwood Road to its intersection  
26 with a tributary of the Musconetcong River; thence northerly on the  
27 west bank of the tributary of the Musconetcong River to its  
28 intersection with the southwestern boundary of Block 70001, lot 4 in  
29 Hopatcong Borough; thence southwestery on the southwestern  
30 boundary of Block 70001, lot 4 to its intersection with the  
31 southernmost corner of Block 70001, lot 5; thence northwesterly on  
32 the boundary of Block 70001, lot 5 to its intersection with Block  
33 70001, lot 1; thence southwestery on Block 70001, lot 1 to its  
34 intersection with the easternmost point of Block 50002, lot 1; thence  
35 southwesterly on Block 50002, lot 1 to its intersection with Mohawk  
36 Trail and Block 50003, lot 1 in Hopatcong Borough; thence  
37 northwesterly and southwestery along the northeast border of Block  
38 5003, lot 1 to its intersection with the northwest corner of Block  
39 5002, lot 2; thence southerly along the western boundary of Block  
40 5002, lot 2 to its intersection with the northernmost corner Block  
41 5002, lot 4; thence southwestery along the Block 5002, lot 4 to its  
42 intersection with Block 5002, lot 6; thence northwesterly,  
43 southwesterly, southeasterly and southwestery along the boundary of  
44 Block 5002, lot 6 to its westernmost corner; thence westerly on a line  
45 to the intersection of Old Sparta Stanhope Road and Lubbers Run;  
46 thence northerly on Old Sparta Stanhope Road to its intersection with  
47 Sparta Stanhope Road (County Route 605); thence southerly on

1 Sparta Stanhope Road (County Route 605) to the intersection of the  
2 Conrail right of way; thence southerly along the Conrail right of way  
3 to its intersection with the Byram Township and Stanhope Borough  
4 corporate boundary; thence westerly and southerly along the Byram  
5 Township and Stanhope Borough corporate boundary to its  
6 intersection with the southeastern corner of Block 42, lot 115 in  
7 Byram Township; thence northeasterly and westerly on the block limit  
8 of Block 42 to its intersection with the southeastern corner of Block  
9 42, lot 112; thence northerly on a line approximately 390 feet east of,  
10 and parallel to, State Highway 206 to its intersection with Brookwood  
11 Road; thence easterly on Brookwood Road to the southeastern corner  
12 of Block 40, lot 18; thence northerly on the boundary of Block 40, lot  
13 18 to its intersection with Block 40, lot 15; thence easterly and  
14 northerly on Block 40, lot 15 to its intersection with Block 40, lot 14;  
15 thence northeasterly, northerly, and westerly on the boundary of  
16 Block 40, lot 14 to its intersection with the southeastern corner of  
17 Block 365, lot 5; thence northeasterly on the boundary of Block 365,  
18 lot 5 to Lake Lackawanna Road (also known as Lackawanna Drive)  
19 and the southeastern corner of Block 226, lot 16; thence northeasterly  
20 on the boundary of Block 226, lot 16 to its intersection with Block  
21 226, lot 11; thence westerly, northerly, westerly, southerly, and  
22 westerly on the boundary of Block 226, lot 11 to its intersection with  
23 State Highway 206; thence southerly on State Highway 206 to its  
24 intersection with the northeast corner of Block 70, lot 7.02; thence  
25 westerly, southerly, westerly, and southerly on the boundary of Block  
26 70, lot 7.02 to its intersection with Block 70, lot 7.01; thence  
27 southerly on the boundary of Block 70, lot 7.01 to its intersection with  
28 Block 70, lot 6; thence southerly on the boundary of Block 70, lot 6  
29 to its intersection with Hi Glen Drive, continuing southerly to the  
30 northwest corner of Block 59, lot 5; thence southerly on the boundary  
31 of Block 59, lot 5 to its intersection with Block 34, lot 16; thence  
32 westerly, southerly, easterly and southerly on the boundary of Block  
33 34, lot 16 to its intersection with Block 34, lot 17; thence westerly on  
34 the boundary of Block 34, Lot 17 to its intersection with Millstream  
35 Lane (as depicted on the municipal map); thence southerly on  
36 Millstream Lane (as depicted on the municipal map) to its intersection  
37 with Netcong Avenue; thence easterly on Netcong Avenue to its  
38 intersection with State Highway 206; thence southerly on the western  
39 edge of the State Highway 206 right of way to its intersection with the  
40 northeastern corner of Block 36, lot 39.01; thence westerly, southerly  
41 and easterly along the boundary of lot 39.01 to the western edge of the  
42 State Highway 206 right of way; thence southerly on the western edge  
43 of the State Highway 206 right of way to its intersection with the  
44 northeastern corner of Block 36, lot 40; thence westerly, northerly,  
45 westerly along the boundary of Block 36 Lot 40 to the boundary of  
46 Block 36, Lot 42; thence northerly, westerly, southerly along the  
47 boundary of Block 36, Lot 42 to Waterloo Road; thence westerly

1 along Waterloo Road to the intersection with the northwestern corner  
2 of Block 29, Lot 201.03; thence southerly to the intersection of Block  
3 29, Lot 201.02 and Block 27, Lot 379; thence easterly to the northeast  
4 corner of Block 27, Lot 379; thence southerly on a line approximately  
5 143 feet west of, and paralleling, the western edge of the State  
6 Highway 206 right of way to the intersection with Acorn Street;  
7 thence easterly on Acorn Street to State Highway 206; thence  
8 southerly along the western edge of the State Highway 206 right of  
9 way to its intersection with the corporate boundary between Byram  
10 Township and Stanhope Borough; thence generally southerly along the  
11 corporate boundary between Byram Township and Stanhope Borough  
12 to the Musconetcong River and the corporate boundary between  
13 Byram Township and Mount Olive Township; thence northwesterly  
14 along the corporate boundary between Byram Township and Mount  
15 Olive Township to its intersection with Allamuchy State Park; thence  
16 southerly, westerly and southerly on the Allamuchy State Park  
17 boundary to its intersection with Interstate 80; thence southeasterly on  
18 Interstate 80 to its intersection with International Drive North; thence  
19 southeasterly on International Drive North to its intersection with  
20 Waterloo Valley Road; thence easterly and southerly on Waterloo  
21 Valley Road to its intersection with Allamuchy State Park; thence  
22 easterly and southerly and westerly on the Allamuchy State Park  
23 boundary to its intersection with Lozier Road; thence easterly on  
24 Lozier Road to its intersection with Waterloo Road; thence southerly  
25 on Waterloo Road to its intersection with 4th Street; thence westerly  
26 and southerly on 4th Street to its intersection with Hopkins Drive;  
27 thence southerly on Hopkins Drive to its intersection with Netcong  
28 Road (County Road 649); thence southerly and westerly on Netcong  
29 Road (County Road 649) to its intersection with Sand Shore Road  
30 (County Road 649); thence southerly on Sand Shore Road (County  
31 Road 649) to its intersection with U.S. Highway 46; thence northerly  
32 and easterly on U.S. Highway 46 to its intersection with Gold Mine  
33 Road; thence easterly on Gold Mine Road to its intersection with State  
34 Highway 206; thence northerly on State Highway 206 to its  
35 intersection with Mountain Road; thence southerly and easterly on  
36 Mountain Road to its intersection with Mooney Road; thence northerly  
37 on Mooney Road to its intersection with U.S. Highway 46; thence  
38 easterly and southerly on U.S. Highway 46 to its intersection with  
39 Main Street and the Morris Canal Park boundary; thence southerly on  
40 the Morris Canal Park boundary to its intersection with Mountain  
41 Road; thence northeasterly on Mountain Road to its intersection with  
42 Emmans Road; thence southerly and westerly on Emmans Road to its  
43 intersection with the Conrail right of way south of Drake's Brook;  
44 thence southerly and westerly on Conrail right of way to its  
45 intersection with State Highway 206; thence southerly on State  
46 Highway 206 to its intersection with the Mount Olive Township and  
47 Chester Township corporate boundary; thence northerly and westerly

1 on the Chester Township corporate boundary to its intersection with  
2 the Roxbury Township corporate boundary, continuing northerly and  
3 westerly on the Roxbury Township and Chester Township corporate  
4 boundaries to the intersection with the Black River Wildlife  
5 Management Area; thence northerly and easterly on the boundary of  
6 the lands of the Morris County Utilities Authority to its intersection  
7 with easterly on Righter Road; thence easterly on Righter Road to its  
8 intersection with Park Avenue; thence southerly on Park Avenue to its  
9 intersection with the Randolph Township and Chester Township  
10 corporate boundary; thence southeasterly on the Chester Township  
11 corporate boundary to its intersection with North Road (County Road  
12 513); thence southerly and westerly on North Road (County Road  
13 513) to its intersection with the Chester Township and Chester  
14 Borough corporate boundary; thence northerly; thence westerly,  
15 southerly and easterly around the Chester Borough corporate  
16 boundary to its intersection with Main Street (County Road 510);  
17 thence southerly on County Route 510 to its intersection with Chester  
18 Township and Mendham Township corporate boundary; thence  
19 southerly on the Chester Township corporate boundary to its  
20 intersection with the Chester Township and Peapack-Gladstone  
21 Borough and Somerset County corporate boundary; thence  
22 southwesterly on the Chester Township and Peapack-Gladstone  
23 Borough and Somerset County corporate boundary to its intersection  
24 with the Bedminster Township corporate boundary; thence southerly  
25 on the Bedminster Township corporate boundary to its intersection  
26 with Pottersville Road (County Road 512); thence westerly on  
27 Pottersville Road (County Road 512) to its intersection with Black  
28 River Road; thence northerly and westerly on Black River Road to its  
29 intersection with the corporate boundaries of Bedminster Township  
30 and Tewksbury Township; thence northerly along the corporate  
31 boundaries to their intersection with the corporate boundary of  
32 Washington Township; thence westerly along the corporate boundaries  
33 of Washington Township and Tewksbury Township to the point where  
34 it intersects Black River Road; thence northerly and westerly on Black  
35 River Road to the intersection of Hacklebarney Road; thence north on  
36 Hacklebarney Road to the intersection of Old Farmers Road; thence  
37 northerly and westerly on Old Farmers Road to the intersection of  
38 Flintlock Drive; thence easterly and northerly on Flintlock Drive to the  
39 intersection of Parker Road; thence westerly on Parker Road to the  
40 intersection of Old Farmers Road; thence northerly on Old Farmers  
41 Road to the intersection with the southwestern corner of Block 36.06  
42 in Washington Township; thence northeasterly on the southern  
43 boundary of Block 36.06 to its intersection with Block 36, lot 42;  
44 thence northwesterly on the boundary of Block 36, lot 42 to its  
45 intersection with the southern corner of Block 36, lot 41; thence  
46 northeasterly along the southern boundary of Block 36, lot 41 to its

1 intersection with Block 36, lot 43; thence northwesterly on the eastern  
2 boundary of Block 36, lot 41 to its intersection with Block 36, lot  
3 43.01; thence westerly and northwesterly on the boundary of Block  
4 36, lot 43.01 to a point 560 feet southeast from the centerline of East  
5 Mill Road; thence easterly, and parallel to East Mill Road, a distance  
6 of 1300 feet to a point 560 feet from the centerline of East Mill Road;  
7 thence northerly to its intersection with East Mill Road; thence  
8 westerly on East Mill Road to its intersection with the southwestern  
9 corner of Block 28, lot 17.01; thence northwesterly on the western  
10 boundary of Block 28, lot 17.01 to its intersection with Block 28, lot  
11 17; thence westerly, easterly and northwesterly on Block 28, lot 17 to  
12 its intersection with Block 28, lot 300; thence northwesterly on Block  
13 28, lot 300 to its intersection with Block 28, lot 60; thence  
14 northwesterly on Block 28, lot 60 to its intersection with Fairview  
15 Avenue; thence southwesterly on Fairview Avenue to its intersection  
16 with Springtown Brook (Raritan River Tributary); thence northerly  
17 and northwesterly on Springtown Brook to its intersection with the  
18 southeastern corner of Block 25, lot 47; thence northwesterly and  
19 westerly on the boundary of Block 25, lot 47 to a point that is due east  
20 of the northernmost corner of Block 25, lot 48; thence due east to the  
21 northernmost corner of Block 25, lot 48; thence westerly, northerly  
22 and westerly on the northernmost boundaries of Block 25, lots 48, 49,  
23 47.01, 51, and 52.01 to the intersection of Block 25, lot 52.02; thence  
24 northwesterly on Block 25, lot 52.02 to Schooley's Mountain Road  
25 (County Road 517); thence across Schooley's Mountain Road (County  
26 Road 517) to the northeastern corner of Block 33, lot 19.01; thence  
27 westerly on Block 33, lot 19.01 to the northernmost corner of Block  
28 33, lot 19; thence southwesterly on a line to the southwestern corner  
29 of Block 33, lot 58.01; thence southeasterly on Block 33, lot 58.01 to  
30 its intersection with the abandoned railroad right of way (including the  
31 Columbia Gas transmission line); thence crossing the abandoned  
32 railroad right of way to the southeastern corner of Block 33, lot 58;  
33 thence southeasterly on Block 33, lot 58 to West Mill Road (County  
34 Road 513); thence crossing to West Mill Road (County Road 513) to  
35 the eastern corner of Block 34, lot 46; thence southeasterly and  
36 northeasterly on Block 34, lot 46 to its intersection with Block 34, lot  
37 50; thence northeasterly on Block 34, lot 50 to its intersection with  
38 Block 34, lot 1.01; thence northeasterly on Block 34, lot 1.01 to its  
39 intersection with Block 34, lot 3.01; thence northeasterly on Block 34,  
40 lot 3.01 to its intersection with Fairmount Road (County Road 517);  
41 thence southerly along Fairmount Road to the intersection of Parker  
42 Road; thence northeast along Parker Road to Black River Road;  
43 thence east along Parker Road to Pickle Road; thence south on Pickle  
44 Road to the intersection of West Fairmount Road (County Road 512);  
45 thence southerly on West Fairmount Road (County Road 512) to its  
46 intersection with Hollow Brook Road; thence westerly on Hollow



1 Brook Road to its intersection with Homestead Road; thence southerly  
2 on Homestead Road to its intersection with High Street (County Road  
3 517) and Hill and Dale Road; thence westerly on Hill and Dale Road  
4 to its intersection with Rockaway Road; thence westerly on Rockaway  
5 Road to its intersection with Meadow Road; thence southerly on  
6 Meadow Road to its intersection with Bissell Road; thence westerly on  
7 Bissell Road to its intersection with Welsh Road; thence southerly and  
8 westerly on Welsh Road to its intersection with the Tewksbury  
9 Township and Clinton Township corporate boundary; thence westerly  
10 on the Tewksbury Township and Clinton Township corporate  
11 boundary to its intersection with Cokesbury Road (County Road 639);  
12 thence northerly and westerly on Cokesbury Road (County Road 639)  
13 to its intersection with Cokesbury Califon Road; thence northerly on  
14 Cokesbury Califon Road to its intersection with the Lebanon  
15 Township and Clinton Township corporate boundary; thence westerly  
16 on the Lebanon Township and Clinton Township corporate boundary  
17 to its intersection with Mt. Grove Road; thence southerly on Mt.  
18 Grove Road to its intersection with Beaver Brook Ravine public land  
19 boundary; thence southerly, westerly and northerly on the Beaver  
20 Brook Ravine public land boundary to its intersection with Highbridge  
21 Cokesbury Road (County Road 639); thence westerly on Highbridge  
22 Cokesbury Road (County Road 639) to its intersection with Stone  
23 Mill Road; thence north on Stone Mill Road to the Clinton Township  
24 and Lebanon Township corporate boundary; thence westerly on the  
25 Clinton Township corporate boundary to its intersection with the High  
26 Bridge Borough and Lebanon Township corporate boundary; thence  
27 west and southerly along the corporate boundary to the intersection  
28 with Cregar Road; thence westerly on Cregar Road to its intersection  
29 with State Highway 31; thence southerly on State Highway 31 to its  
30 intersection with the Spruce Run Reservoir boundary; thence southerly  
31 and westerly on the Spruce Run Reservoir boundary to its intersection  
32 with Rupell Road; thence westerly on Rupell Road to its intersection  
33 with the Clinton Fish and Wildlife Management Area; thence westerly  
34 on the Clinton Fish and Wildlife Management Area boundary to its  
35 intersection with Charlestown Road (County Road 635); thence  
36 southerly on Charlestown Road (County Road 635) to its intersection  
37 with South Frontage Road in Union Township; thence westerly on  
38 South Frontage Road to the intersection of Baptist Church Road;  
39 thence south on Baptist Church Road to the Norfolk Southern Lehigh  
40 Valley railroad right of way; thence easterly along the northern  
41 boundary of the Norfolk Southern Lehigh Valley railroad right of way  
42 to Mechlin Corner Road; thence north on Mechlin Corner Road to the  
43 intersection of Perryville Road; thence easterly and southerly on  
44 Perryville Road to its intersection with Race Street; thence easterly on  
45 Race Street to its intersection with the Franklin Township and Union  
46 Township corporate boundary; thence southerly on the Franklin

1 Township and Union Township corporate boundary to Pittstown  
2 Clinton Road (County Road 513) to its intersection with Cook's Cross  
3 Road; thence westerly on Cook's Cross Road to its intersection with  
4 Bloomsbury Road (County Road 579); thence northerly and westerly  
5 on Bloomsbury Road (County Road 579) to its intersection with Little  
6 York Pattenburg Road (County Road 614); thence westerly and  
7 southerly on Little York Pattenburg Road (County Road 614) to its  
8 intersection with Little York Mt. Pleasant Road (County Road 631)  
9 and Ellis Road; thence westerly and northerly on Ellis Road to its  
10 intersection with Hawkes Schoolhouse Road; thence southerly on  
11 Hawkes Schoolhouse Road to its intersection with Milford Warren  
12 Glen Road (County Road 519); thence westerly on Milford Warren  
13 Glen Road (County Road 519) to its intersection with Dennis Road;  
14 thence westerly and northerly on Dennis Road to its intersection with  
15 Milford Warren Glen Road (County Road 519); thence northerly on  
16 Milford Warren Glen Road (County Road 519) to its intersection with  
17 the Musconetcong River; thence southerly and westerly on the  
18 southern bank of the Musconetcong River to its intersection with the  
19 Delaware River and the State of New Jersey corporate boundary;  
20 thence northerly and easterly on the Delaware River and the State of  
21 New Jersey corporate boundary to its intersection with the  
22 Phillipsburg Town and Pohatcong Township corporate boundary;  
23 thence northeasterly on the Phillipsburg Town and Pohatcong  
24 Township corporate boundary to its intersection with Interstate 78;  
25 thence southerly on interstate 78 to its intersection with the Pohatcong  
26 Township and Alpha Borough corporate boundary; thence southerly  
27 and westerly on the Pohatcong Township and Alpha Borough  
28 corporate boundary to its intersection with Snydersville Road; thence  
29 northeasterly on Snydersville Road to its intersection with Interstate  
30 78; thence noutheasterly on Interstate 78 to its intersection with the  
31 Pohatcong Township and Alpha Borough corporate boundary; thence  
32 northeasterly on the Pohatcong Township and Alpha Borough  
33 corporate boundary to its intersection with Edge Road; thence  
34 northwesterly on Edge Road to its intersection with Interstate 78;  
35 thence northerly and easterly on Interstate 78 to its intersection with  
36 US Highway 22; thence southeasterly on US Highway 22 to its  
37 intersection with the Greenwich Township and Pohatcong Township  
38 corporate boundary; thence southerly on the Greenwich Township and  
39 Pohatcong Township corporate boundary to its intersection with  
40 Warren Glen Bloomsbury Road (County Road 639); thence northerly  
41 and easterly on Warren Glen Bloomsbury Road (County Road 639) to  
42 its intersection with State Highway 173 in Greenwich Township;  
43 thence easterly on State Highway 173 to its intersection with Church  
44 Street (County Road 579); thence easterly on Church Street (County  
45 Road 579) to its intersection with the Musconetcong River; thence  
46 northerly and easterly on the northern bank of the Musconetcong

1 River to its intersection with the eastern most boundary of the  
2 Musconetcong Valley Acquisition public lands in Bethlehem  
3 Township; thence easterly and southerly on the Musconetcong Valley  
4 Acquisition public land boundary to its intersection with the Conrail  
5 right of way; thence easterly on the Conrail right of way to its  
6 intersection with D. Hull Private Road; thence southerly on the D.  
7 Hull Private Road to its intersection with State Highway 173; thence  
8 east to the intersection of West Portal Asbury Road (County Road  
9 643); thence easterly and northerly on West Portal Asbury Road  
10 (County Road 643); thence easterly and northerly on West  
11 Portal-Asbury Road (County Road 643) to its intersection with Maple  
12 Avenue in Warren County; thence northerly and easterly on Maple  
13 Avenue to its intersection with Shurts Road; thence southerly on  
14 Shurts Road, becoming Valley Road in Hunterdon County, continuing  
15 on Valley Road to its intersection with Main Street in Hampton  
16 Borough; thence northerly on Main Street to its intersection with State  
17 Highway 31; thence northerly on State Highway 31 to its intersection  
18 with the Musconetcong River; thence northerly and easterly on the  
19 northern bank of the Musconetcong River to its intersection with  
20 Newburgh Road; thence east on Newburgh Road to the intersection  
21 of Schooley's Mountain Road (County Route 517); thence northerly  
22 on Schooley's Mountain Road (County Route 517) to the  
23 Musconetcong River; thence northerly along the Musconetcong River  
24 to East Avenue; thence northeasterly along East Avenue to U.S.  
25 Highway 46; thence northerly and easterly along U.S. Highway 46 to  
26 the intersection with the Washington Township and Mount Olive  
27 Township corporate boundary; thence westerly and southerly along  
28 said corporate boundary to the Musconetcong River; thence northerly  
29 along the southern bank of the Musconetcong River to the Stephens  
30 State Park boundary; thence northerly, westerly, northerly, westerly  
31 along the Stephens State Park boundary to a point opposite the lands  
32 of Stephens State Park on the western and northern bank of the  
33 Musconetcong; thence across the Musconetcong River to the  
34 boundary of the lands of Stephens State Park; thence along the  
35 southern boundary of Stephens State Park to the intersection of  
36 Willow Grove Road (Warren County Route 604); thence north along  
37 the lands of Stephens State Park and Willow Grove Road (Warren  
38 County Route 604) to a point opposite the lands of Stephens State  
39 Park on the west side of Willow Grove Road (Warren County Route  
40 604); thence crossing Willow Grove Road to the boundary of the lands  
41 of Stephens State Park; thence westerly along said State Park  
42 boundary lands to the intersection with the Conrail right of way;  
43 thence southerly on Conrail right of way to its intersection with Bilby  
44 Road; thence northerly and westerly on Bilby Road to its intersection  
45 with Old Bilby Road; thence northerly and westerly on Old Bilby Road  
46 to its intersection with High Street (County Road 517); thence

1 southerly on High Street (County Road 517) to its intersection with  
2 Old Allamuchy Road; thence southerly and westerly on Old Allamuchy  
3 Road to its intersection with the Independence Township and  
4 Hackettstown Town corporate boundary; thence westerly and  
5 southerly on the Hackettstown Town corporate boundary to its  
6 intersection with the Hackettstown Town and Mansfield Township  
7 corporate boundary; thence southerly and easterly on the  
8 Hackettstown Town and Mansfield Township corporate boundary to  
9 its intersection with the Conrail railroad right of way at Rockport  
10 Road; thence southerly and westerly on the Conrail railroad right of  
11 way into Washington Township to a point along the Conrail railroad  
12 right of way 1,250 feet southwest of the Washington Township and  
13 Mansfield Township corporate boundary; thence proceeding  
14 northwesterly 380 feet more or less along a line projected to the  
15 southeastern corner of Block 43, lot 10.01 in Washington Township;  
16 thence continuing northwesterly and westerly along the boundary of  
17 Block 43, lot 10.01 to the northeastern corner of Block 43, lot 10;  
18 thence westerly along the boundary of Block 43, lot 10 to the  
19 southeastern corner of Block 43, lot 9; thence northerly along the  
20 eastern boundaries of Block 43, lots 9, 6 and 5; thence along a line  
21 projected from the northern corner of Block 43, lot 5 365 feet more  
22 or less across a portion of Block 43, lot 3 to the southeastern corner  
23 of Block 43, lot 4; thence northerly and westerly along the boundary  
24 of Block 43, lot 4 to Port Colden Road; thence northerly on Port  
25 Colden Road to the Shabbecong Creek crossing; thence southwestly  
26 along the northern bank of the Shabbecong Creek to its intersection  
27 with the western boundary of Block 40, lot 86; thence south along  
28 Block 40, lot 86 to the northeastern corner of Block 40, lot 87.02;  
29 thence westerly along the northern boundary of Block 40, lot 87.02;  
30 thence 60 feet more or less along a line projected from the  
31 northwestern corner of Block 40, lot 87.02 across a portion of Block  
32 40, lot 87 to the northeast corner of Block 40, lot 87.01 and a corner  
33 of Block 40, lot 87; thence westerly along the southern boundary of  
34 Block 40, lot 87 to the Washington Township and Washington  
35 Borough corporate boundary; thence northerly and westerly along the  
36 Washington Township and Washington Borough corporate boundary  
37 to the southern corner of Block 40, lot 105; thence northeasterly to  
38 the corner and intersection with the boundary of Block 40, lot 87;  
39 thence northwesterly along the boundary of Block 40, lot 87 to the  
40 intersection with the first southwestern corner of Block 40, lot 110;  
41 thence northwesterly along the western boundary of Block 40, lot 110  
42 to the southern corner of Block 40, lot 25; thence northeasterly and  
43 northwesterly along the boundary of Block 40, lot 25 to the southern  
44 corner of Block 40, lot 28; thence northeasterly and northwesterly  
45 along the boundary of Block 40, lot 28 the intersection of Jackson  
46 Valley Road and State Highway 31; thence northerly along western

1 edge of the right of way of State Highway 31 to a point 2,200 feet  
2 north of Jackson Valley Road intersection; thence turning 90 degrees  
3 west from the right of way edge and proceeding 1,300 feet more or  
4 less westerly across a portion of Block 38, lot 5 to the Conrail railroad  
5 tracks or right of way; thence south along the eastern edge of Conrail  
6 railroad tracks or right of way to the northern corner of Block 38, lot  
7 8; thence south along the western boundary of Block 38, lot 8 to the  
8 southern bank of the Pohatcong Creek; thence southwesterly along the  
9 southern bank of the Pohatcong Creek to Mine Hill Road; thence  
10 northwesterly along Mine Hill Road to the intersection of Bowerstown  
11 Road; thence southwesterly approximately 310 feet on the northern  
12 edge of the Bowerstown Road right of way to its intersection with a  
13 12 foot wide portion of Block 5, lot 18 which provides access to  
14 Bowerstown Road; thence 550 feet more or less westerly along the 12  
15 foot wide portion of Block 5, lot 18 to the point it intersects with the  
16 western limit of the 100 foot wide New Jersey Power and Light  
17 easement; thence turning south approximately 104 degrees more or  
18 less and projecting along a line 200 feet more or less to the northern  
19 corner of Block 5, lot 16.04; thence projected southerly along a line  
20 300 feet more or less to the northern corner of Block 5, lot 17; thence  
21 continuing southerly along the western boundaries of Block 5, lots 17,  
22 16.01, 16.02, and 16.03 to the western corner of Block 5, lot 16.03;  
23 thence projecting southerly along a line 670 feet more or less to the  
24 eastern corner of Block 5, lot 22.01; thence continuing southerly along  
25 the eastern boundary of Block 5, lot 22.01 to Lannings Trail; thence  
26 southeast across Lannings Trail to the northeast corner of Block 6, lot  
27 13.05; thence southwesterly and northwesterly along the eastern  
28 boundary of Block 6, lot 13.05 to the eastern corner of Block 6, lot  
29 11; thence southerly along the eastern boundary of Block 6, lot 11 to  
30 Lanning Terrace; thence southerly across Lanning Terrace to the  
31 northeastern corner of Block 6, lot 19.03; thence southerly along the  
32 eastern boundary of Block 6, lot 19.03 to the intersection of the  
33 northern boundary of Block 6, lot 20.01; thence following along the  
34 boundary of Block 6, lot 20.01 easterly and then generally  
35 southwesterly to the eastern corner of Block 6, lot 32; thence  
36 southwesterly along the eastern boundary of Block 6, lot 32 to Forces  
37 Hill Road; thence easterly on Forces Hill Road to the intersection of  
38 Brass Castle Road; thence westerly along the southern edge of the  
39 Brass Castle Road right of way to the eastern corner of Block 14, lot  
40 1; thence southwesterly and southeasterly along the boundary of Block  
41 14, lot 1 to the northeastern corner of Block 14, lot 22; thence  
42 southeasterly and southwesterly along the boundary of Block 14, lot  
43 22 to Old Schoolhouse Road; thence southwesterly along the northern  
44 edge of the right of way for Old Schoolhouse Road to the intersection  
45 with the northern edge of the right of way of Little Philadelphia Road;  
46 thence southwesterly along the northern edge of the right of way for

1 Little Philadelphia Road to the northeastern corner of Block 15, lot  
2 8.01; thence southwesterly along the northern boundary of Block 15,  
3 lot 8.01 to the Washington Township and Franklin Township  
4 corporate boundary; thence southeasterly along the Washington  
5 Township and Franklin Township corporate boundary to State  
6 Highway Route 57; thence southwesterly along State Highway Route  
7 57 to its intersection with Uniontown Road (County Road 519) in  
8 Lopatcong Township; thence northerly on Uniontown Road (County  
9 Road 519) to the intersection of Upper Belvidere Road Warren  
10 County Route 519; thence continuing northerly on Warren County  
11 Route 519 which becomes Belvidere Phillipsburg Road to its  
12 intersection with South Bridgeville Road (County Road 519); thence  
13 easterly and northerly on South Bridgeville Road (County Road 519)  
14 to its intersection with Brass Castle Road (County Road 623); thence  
15 easterly and southerly on Brass Castle Road (County Road 623) to its  
16 intersection with Hazen Oxford Road (County Road 624); thence  
17 easterly and southerly on Hazen Oxford Road (County Road 624) to  
18 its intersection with Belvidere Road (County Road 624); thence  
19 easterly and southerly on Belvidere Road (County Road 624) to its  
20 intersection with the northwestern corner of Block 24, lot 10 in  
21 Oxford Township; thence southerly, thence easterly on the boundary  
22 of Block 24, lot 10 to its intersection with the eastern boundary of  
23 Block 24, lot 20; thence southerly on the boundary of Block 24, lot 20  
24 to its intersection with the northern boundary of Block 24, lot 19;  
25 thence easterly, thence southeasterly on the boundary of Block 24, lot  
26 19 to its intersection with the northeastern corner of Block 24, lot  
27 13.01; thence southerly on the eastern boundary of Block 24, lot 13.01  
28 to its intersection with Block 24, lot 13; thence southerly on the  
29 eastern boundary of Block 24, lot 13 to its intersection with Buckley  
30 Avenue; thence easterly on Buckley Avenue to its intersection with the  
31 northwestern corner of Block 2, lot 30; thence southerly, thence  
32 easterly on the boundary of Block 2, lot 30, continuing easterly on the  
33 southern boundaries of Block 2, lots 31, 32, 33, 34, 35, and the  
34 southeastern corner of lot 36; thence on a line due south to its  
35 intersection with Block 2, lot 18.01; thence easterly, thence southerly  
36 on the boundary of Block 2, lot 18.01 to its intersection with the  
37 northwestern corner of Block 2, lot 19.02 at Kent Place; thence  
38 southerly on the boundary of Block 2, lot 19.02 to its southwestern  
39 corner; thence southerly on a line to the southwestern corner of Block  
40 2, lot 61; thence easterly on the southern boundary of Block 2, lot 61  
41 to its intersection with Jonestown Road; thence southerly on  
42 Jonestown Road to its intersection with the southwestern corner of  
43 Block 1.01, lot 39.02; thence easterly on the southern boundary of  
44 Block 1.01, lot 39.02, continuing easterly on the southern boundary  
45 of Block 1.01, lots 39 and 39.01 to the intersection with Mine Hill  
46 Road; thence northerly on Mine Hill Road to the intersection with

1 Academy Street and the Oxford Mountain public land boundary;  
2 thence northeasterly on the Oxford Mountain public land boundary to  
3 the intersection with State Highway 31; thence easterly on State  
4 Highway 31 to the intersection of Oram's Lane; thence easterly on  
5 Oram's Lane to its end and intersection with Block 34, lot 2; thence  
6 northerly, thence easterly on the boundary of Block 34, lot 2 to its  
7 intersection with Block 34, lot 2.01; thence easterly on the northern  
8 boundary of Block 34, lot 2.01 to its intersection with the Pequest  
9 Wildlife Management Area boundary; thence northerly on the Pequest  
10 Wildlife Management Area boundary to its intersection with Axford  
11 Avenue and the Pequest Wildlife Management Area boundary; thence  
12 westerly and northerly on the Pequest Wildlife Management Area  
13 boundary to its intersection with the Oxford Township and White  
14 Township corporate boundary; thence westerly on the Oxford  
15 Township and White Township corporate boundary to its intersection  
16 with State Highway 31; thence northerly on State Highway 31 to its  
17 intersection with U.S. 46; thence easterly on U.S. 46 to its intersection  
18 with Free Union Road; thence northerly on Free Union Road to its  
19 intersection with Beechwood Road; thence westerly on Beechwood  
20 Road to its intersection with Tamarack Road; thence northerly on  
21 Tamarack Road to its intersection with the White Township and  
22 Liberty Township corporate boundary; thence northerly and westerly  
23 on the White Township and Liberty Township corporate boundary to  
24 its intersection with Mountain Lake Road (County Road 617); thence  
25 southerly and westerly on Mountain Lake Road to its intersection with  
26 North Bridgeville Road (County Road 519); thence northerly on North  
27 Bridgeville Road (County Road 519) to its intersection with the White  
28 Township and Hope Township corporate boundary; thence easterly  
29 and southerly on the White Township and Hope Township corporate  
30 boundary to its intersection with the Hope Township and Liberty  
31 Township corporate boundary; thence northerly and easterly on the  
32 Hope Township and Liberty Township corporate boundary to its  
33 intersection with the Frelinghuysen Township and Independence  
34 Township corporate boundary; thence northerly and easterly on the  
35 Frelinhuysen Township and Independence Township corporate  
36 boundary to its intersection with Frelinghuysen Township and  
37 Allamuchy Township corporate boundary; thence northerly and  
38 easterly on the Frelinghuysen Township and Allamuchy Township  
39 corporate boundary to its intersection with the southern boundary of  
40 the Interstate 80 right of way in Frelinghuysen Township; thence  
41 easterly along the southern boundary of the Interstate 80 right of way  
42 to its intersection with the Conrail right of way in Allamuchy  
43 Township; thence southerly and westerly on the Conrail right of way  
44 to its intersection with the southeastern corner of Block 29 , lot 29 in  
45 Independence Township; thence northwesterly along the southwest  
46 boundary of Block 29, lot 29 in Independence Township to the

1 Pequest River; thence northerly on the western bank of the Pequest  
2 River to its intersection with the southern corner of Block 29, lot 44  
3 in Independence Township; thence northwesterly along the  
4 southwestern boundary of Block 29, lot 44 in Independence Township  
5 to Shades of Death Road; thence southerly and westerly on Shades of  
6 Death Road to its intersection with Hope Road (County Road 611);  
7 thence southerly and easterly on Hope Road (County Road 611) to its  
8 intersection with U.S. 46; thence northerly and easterly on U.S. 46 to  
9 its intersection with Old Cemetery Road; thence southerly and easterly  
10 on Old Cemetery Road across the Conrail right of way to its  
11 intersection with Cemetery Road; thence southerly and easterly on  
12 Cemetery Road to its intersection with Barkers Mill Road; thence  
13 southerly and easterly on Barkers Mill Road to its intersection with  
14 Johnson Road; thence easterly and northerly on Johnson Road to its  
15 intersection with U.S. 46 and Ketchum Road; thence northerly and  
16 easterly on Ketchum Road to its intersection with Petersburg Road  
17 (County Road 614) and Ridge Road; thence northerly and easterly on  
18 Ridge Road to its intersection with County Road 517; thence northerly  
19 on County Road 517 to its intersection with Stuyvestant Road and  
20 Allamuchy State Park boundary; thence northerly along the Allamuchy  
21 State Park boundary into Green Township; thence southeasterly and  
22 northeasterly along the Allamuchy State Park boundary to its  
23 intersection with the Green Township and Byram Township corporate  
24 boundary; thence continuing northerly and easterly on the Byram  
25 Township and Andover Borough corporate boundary; thence  
26 continuing northerly and easterly along the Byram Township and  
27 Andover Township corporate boundary to its intersection with the  
28 Sparta Township corporate boundary; thence easterly on the Sparta  
29 Township corporate boundary to its intersection with Tomahawk  
30 Trail; thence easterly and northerly on Tomahawk Trail to its  
31 intersection with Green Road; thence northerly on Green Road to its  
32 intersection with Sawmill Road; thence easterly and northerly on  
33 Sawmill Road to its intersection with State Highway 181; thence  
34 northerly on State Highway 181 to its intersection with Blue Heron  
35 Road; thence easterly on Blue Heron Road to its intersection with  
36 State Highway 15; thence northerly along the western boundary of the  
37 State Highway 15 right of way to its intersection with the southern  
38 corner of Block 13.13, lot 21 in Sparta Township; thence easterly and  
39 thence northerly along the boundary of Block 13.13, lot 21 to its  
40 intersection with Block 13.13, lot 22; thence northeasterly on the  
41 boundary of Block 13.13, lot 22 to its intersection with Glen Road  
42 (Sussex County Route 620); thence westerly on Glen Road (Sussex  
43 County Route 620) to its intersection with the westernmost point of  
44 Block 7, lot 57; thence easterly on the boundary of Block 7, lot 57 to  
45 its intersection with Block 7, lot 58; thence northerly on the boundary  
46 of Block 7, lot 58 to its intersection with the southwestern edge of



1 Block 7, lot 61.02; thence easterly, northerly, then westerly on the  
2 boundary of Block 7, lot 61.02 to its intersection with Main Street;  
3 thence southwesterly on Main Street to its intersection with the  
4 southernmost corner of Block 12, lot 3; thence westerly on the  
5 southern boundary of Block 12, lot 3 to its intersection with Sussex  
6 County Route 517); thence westerly on Sussex County Route 517 to  
7 its intersection with Station Road; thence northerly on Station Road  
8 to its intersection with the southernmost point of Block 19, lot 43;  
9 thence northerly, thence easterly on the boundary of Block 19, lot 43  
10 to its intersection with Block 19, lot 39; thence following the boundary  
11 of Block 19, lot 39 around the parcel in a counterclockwise manner to  
12 its intersection with Block 19, lot 99; thence southerly on the  
13 boundary of Block 19, lot 99 to its intersection with the western  
14 boundary of the State Highway 15 right of way; thence northerly along  
15 the western boundary of the State Highway 15 right of way to its  
16 intersection with Houses Corner Road; thence easterly and northerly  
17 on Houses Corner Road to its intersection with West Mountain Road;  
18 thence southerly on West Mountain Road to its intersection with  
19 Sparta Munsons Road; thence southeasterly across Sparta Munsons  
20 Road to the Conrail right of way; thence northerly and easterly along  
21 the northwestern boundary of the Conrail right of way to its  
22 intersection with the Ogdensburg Borough and Sparta Township  
23 corporate boundary; thence northeasterly to the southwestern end of  
24 Heater's Pond and proceeding northerly along the western edge of  
25 Heater's Pond to the intersection of Edison Road; thence westerly on  
26 Edison Road to the intersection with the New York Susquehanna and  
27 Western Railroad right of way; thence northerly along the the easterly  
28 edge of the New York Susquehanna and Western Railroad right of  
29 way to the Ogdensburg Borough and Hardyston Township corporate  
30 boundary; thence westerly on the Ogdensburg Borough and Hardyston  
31 Township corporate boundary to its intersection with the Franklin  
32 Borough corporate boundary; thence easterly and northerly on the  
33 Franklin Borough and Hardyston Township corporate boundary to its  
34 intersection with Henderson Road (Hamburg Turnpike); thence  
35 southerly and easterly on Henderson Road (Hamburg Turnpike) to the  
36 intersection of Mountain Road in Hardyston Township; thence  
37 northerly on Mountain Road to its intersection with Rudetown Road  
38 (County Road 517); thence easterly and northerly on Rudetown Road  
39 (County Road 517) to the Black Creek in Vernon Township; thence  
40 easterly along Black Creek to its intersection with the boundary of  
41 Block 280, lot 22 in Vernon Township; thence easterly along said  
42 boundary to the western boundary of Block 280, lot 23; thence  
43 following the boundary of Block 280, lot 23 south to the boundary of  
44 Block 177, lot 49; thence easterly and northerly along the boundary of  
45 Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence  
46 easterly along the boundary of Block 190, lot 18.06 to the boundary

1 of Block 190, lot 18.05; thence southeasterly and thence northeasterly  
2 along the boundary Block 190, lot 18.05 to the boundary of Block  
3 190, lot 18.01; thence northeasterly along the boundary of Block 190,  
4 lot 18.01 to the boundary of Block 190, lot 18.S01; thence  
5 southeasterly along the boundary of Block 190, lot 18.S01 to the  
6 boundary of Block 190, lot 20; thence southwesterly and easterly  
7 along the boundary of Block 190, lot 20 to the boundary of Block 240,  
8 lot 1; thence easterly along the boundary of Block 240, lot 1 to County  
9 Road 515; thence northerly along County Road 515 to the intersection  
10 of Breakneck Road and County Road 515; thence easterly and  
11 southerly along the northern edge of the right of way of Breakneck  
12 Road to the intersection of the southeastern corner of Block 143, lot  
13 17 in Vernon Township; thence northerly along the eastern boundary  
14 of Block 143, lot 17 to the northern corner of Block 143, lot 25;  
15 thence northerly 1035 feet more or less along a line projected across  
16 Block 143, lot 17 to the southern corner of Block 143, lot 16; thence  
17 northerly along the eastern boundary of Block 143, lot 16 to the  
18 southern corner of Block 143, lot 15; thence westerly and northerly  
19 along the southwestern boundary of Block 143, lot 15 to Pond Eddy  
20 Road; thence northerly across Pond Eddy Road to the southern corner  
21 of Block 143, lot 10; thence northerly along the eastern boundary of  
22 Block 143, lot 10 to the boundary of Block 143, lot 7; thence westerly  
23 southerly and generally northerly along the western boundary of Block  
24 143, lot 7 to the limit of Block 143.01; thence northwesterly along the  
25 southern limit of Block 143.01 to the eastern corner of Block 143.01,  
26 lot 22; thence northwesterly along the northern boundary of Block  
27 143.01, lot 22 and lot 23 to Vernon Warwick Road (State Highway  
28 94); thence easterly and northerly on Vernon Warwick Road (State  
29 Highway 94) to its intersection with Maple Grange Road; thence  
30 northerly and westerly on Maple Grange Road to its intersection with  
31 Pochuck Creek and Wawayanda State Park/Appalachian Trail public  
32 land; thence northerly and westerly along the western and southern  
33 Wawayanda State Park/Appalachian Trail public land boundary to its  
34 intersection with the western terminus of Thistle Avenue (Walnut Hill  
35 Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill  
36 Drive) to its intersection with Phlox Terrace; thence southerly on  
37 Phlox Terrace to its intersection with Cedar Terrace; thence southerly  
38 on Cedar Terrace to its intersection with Clover Lane; thence easterly  
39 on Clover Lane to its intersection with Zinnia Drive; thence southerly  
40 and westerly on the eastern and southern bank of the tributary of  
41 Black Creek to its intersection with Lounsberry Hollow Road; thence  
42 northerly on Lounsberry Hollow Road to its intersection with  
43 Dorchester Road; thence westerly and southerly on Dorchester Road  
44 to its intersection with Rolling Hills Road; thence southerly on Rolling  
45 Hills Road to its intersection with a tributary of Black Creek to its  
46 intersection with Pochuck Mountain public land boundary; thence

1 southerly and northerly on the Pochuck Mountain public land  
2 boundary to its intersection with a tributary of Black Creek; thence  
3 northerly on the western bank of the tributary of Black Creek to its  
4 intersection with Lake Glenwood; thence along the west shore of Lake  
5 Glenwood to Pochuck Creek; thence northerly and westerly on Lake  
6 Shore Drive to its intersection with Glenwood Martin Station Road  
7 (County Road 565); thence southerly and westerly on Glenwood  
8 Martin Station Road (County Road 565) to its intersection with  
9 Babtown Road; thence northerly on Babtown Road to its intersection  
10 with Maple Avenue; thence northerly on with Maple Avenue to its  
11 intersection with Spring Lane; thence northerly on Spring Lane to its  
12 intersection with Lakeside Drive; thence northerly on Lakeside Drive  
13 to its intersection with Glen Road; thence westerly on Glen Road to  
14 its intersection with Lake Walkill Road; thence northerly on Lake  
15 Walkill Road to its intersection with the New York State corporate  
16 boundary; thence easterly and southerly to its intersection with State  
17 Highway 17 and Interstate Highway 287 in northern Mahwah  
18 Township, at a point of origin.

19

20 (2) Except as otherwise provided in paragraph (1) of this  
21 subsection, any natural geographical feature, including a river, stream,  
22 or brook, used in paragraph (1) of this subsection for the boundary  
23 description of the preservation area shall be considered to lie totally  
24 within the preservation area, and any road, railroad, or railroad right  
25 of way used in paragraph (1) of this subsection for the boundary  
26 description of the preservation area shall be considered to lie totally  
27 outside of the preservation area. The use of property block and lot  
28 designations include or exclude property from the preservation area.  
29 Where a survey gore exists between a property boundary depicted  
30 upon a municipal tax map and the limits of a surveyed property noted  
31 in paragraph (1) of this subsection, the surveyed property boundary  
32 description shall be considered to constitute the preservation area  
33 boundary.<sup>1</sup>

34 c. The planning area shall consist of all that area of the Highlands  
35 Region not within the preservation area.

36 <sup>1</sup>d. The preservation area shall not include any land located within  
37 the boundaries of any regional center or town center designated by the  
38 State Planning Commission pursuant to the "State Planning Act,"  
39 P.L.1985, c.398 (C.52:18A-196 et al.) as of the date of enactment of  
40 this act, except to the extent necessary as set forth in the boundary  
41 description of the preservation area in subsection b. of this section to  
42 reflect appropriate and nearest practicable, on-the-ground, and easily  
43 identified reference points.<sup>1</sup>

44

45 8. (New section) <sup>1</sup>a.<sup>1</sup> The council shall, within 18 months after the  
46 date of its first meeting, and after holding at least five public hearings

1 in various locations in the Highlands Region and at least one public  
2 hearing in Trenton, prepare and adopt a regional master plan for the  
3 Highlands Region. The Highlands regional master plan shall be  
4 periodically revised and updated at least once every <sup>1</sup>[five] ~~six~~<sup>1</sup> years,  
5 after public hearings.

6 <sup>1</sup>The council shall not adopt the regional master plan unless it  
7 recommends receiving zones in the planning area and capacity therefor  
8 for each receiving zone pursuant to the transfer of development rights  
9 program authorized in section 13 of this act.

10 b. Within 60 days after adopting the regional master plan, the  
11 council shall submit the plan to the State Planning Commission for  
12 endorsement pursuant to the rules and regulations adopted by the  
13 State Planning Commission. The State Planning Commission review  
14 shall be limited to the planning area only.<sup>1</sup>

15  
16 9. (New section) a. During the preparation of the regional master  
17 plan or any revision thereof, the council shall consult with the  
18 Department of Environmental Protection, the Department of  
19 Community Affairs, the State Planning Commission, the Department  
20 of Agriculture, the State Agriculture <sup>1</sup>[and]<sup>1</sup> Development  
21 Committee, <sup>1</sup>the Department of Transportation, and appropriate  
22 officials of local <sup>1</sup>[governments] government units<sup>1</sup> and State,  
23 regional, and federal <sup>1</sup>departments, <sup>1</sup>agencies <sup>1</sup>and other governmental  
24 entities<sup>1</sup> with jurisdiction over lands, waters, and natural resources  
25 within the Highlands Region, with interested professional, scientific,  
26 and citizen organizations, and with any advisory groups that may be  
27 established by the council. <sup>1</sup>The council shall also consult with the  
28 Department of Transportation in preparing the transportation  
29 component of the regional master plan.<sup>1</sup> The council shall review all  
30 relevant federal, State, and private studies of the Highlands Region,  
31 the State Development and Redevelopment Plan, municipal, county,  
32 and regional plans, applicable federal and State laws and rules and  
33 regulations, and other <sup>1</sup>pertinent information on the Highlands Region.

34 b. Prior to adoption of, and in preparing, the regional master plan,  
35 the council may, in conjunction with municipalities in the preservation  
36 area, identify areas in which redevelopment shall be encouraged in  
37 order to promote the economic well-being of the municipality,  
38 provided that the redevelopment conforms <sup>1</sup>[to] with<sup>1</sup> the goals of the  
39 preservation area and this act <sup>1</sup>, with the standards prescribed pursuant  
40 to section 32 of this act,<sup>1</sup> and with the rules and regulations adopted  
41 by the Department of Environmental Protection pursuant to sections  
42 <sup>1</sup>[32] ~~33~~<sup>1</sup> and <sup>1</sup>[33] ~~34~~<sup>1</sup> of this act. <sup>1</sup>Any areas identified for possible  
43 redevelopment pursuant to this subsection shall be either a brownfield  
44 site designated by the Department of Environmental Protection or a  
45 site at which at least 70% of the area thereof is covered with  
46 impervious surface.<sup>1</sup>

1 c. <sup>1</sup>In preparing and implementing the regional master plan or any  
2 revision thereto, the council shall ensure that the goals, purposes,  
3 policies, and provisions of, and the protections afforded to farmers by,  
4 the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any  
5 rules or regulations adopted pursuant thereto, are recognized and not  
6 compromised in any manner.

7 d.<sup>1</sup> Upon adoption of the regional master plan or any revision  
8 thereof, copies thereof shall be transmitted to the Governor <sup>1</sup>[and  
9 to],<sup>1</sup> the Legislature<sup>1</sup>, the governing body of every municipality and  
10 county located in the Highlands Region, and the State Planning  
11 Commission<sup>1</sup>.

12  
13 10. (New section) a. The goal of the regional master plan with  
14 respect to the entire Highlands Region shall be to protect and enhance  
15 the significant values of the resources thereof in a manner which is  
16 consistent with the purposes and provisions of this act.

17 b. The goals of the regional master plan with respect to the  
18 preservation area shall be to:

19 (1) protect, restore, and enhance the quality and quantity of surface  
20 and ground waters therein;

21 (2) preserve extensive and, to the maximum extent possible,  
22 contiguous areas of land in its natural state, thereby ensuring the  
23 continuation of a Highlands environment which contains the unique  
24 and significant natural, scenic, and other resources representative of  
25 the Highlands Region;

26 (3) protect the natural, scenic, and other resources of the Highlands  
27 Region, including but not limited to contiguous forests, wetlands,  
28 vegetated stream corridors, steep slopes, and critical habitat for fauna  
29 and flora;

30 (4) preserve farmland and historic sites and other historic resources;

31 (5) <sup>1</sup>preserve outdoor recreation opportunities, including hunting  
32 and fishing, on publicly owned land;

33 (6) promote conservation of water resources;

34 (7) promote brownfield remediation and redevelopment;

35 (8)<sup>1</sup> promote compatible agricultural, horticultural, recreational,  
36 and cultural uses and opportunities within the framework of protecting  
37 the Highlands environment; and

38 <sup>1</sup>~~[(6)]~~ (9)<sup>1</sup> prohibit or limit to the maximum extent possible  
39 construction or development which is incompatible with preservation  
40 of this unique area.

41 c. The goals of the regional master plan with respect to the  
42 planning area shall be to:

43 (1) protect, restore, and enhance the quality and quantity of surface  
44 and ground waters therein;

45 (2) preserve to the maximum extent possible any environmentally  
46 sensitive lands and other lands needed for recreation and conservation

1 purposes;

2 (3) protect and maintain the essential character of the Highlands  
3 environment;

4 (4) preserve farmland and historic sites and other historic resources;

5 (5) promote the continuation and expansion of agricultural,  
6 horticultural, recreational, and cultural uses and opportunities;

7 <sup>1</sup>[and]<sup>1</sup>

8 (6) <sup>1</sup>preserve outdoor recreation opportunities, including hunting  
9 and fishing, on publicly owned land;

10 (7) promote conservation of water resources;

11 (8) promote brownfield remediation and redevelopment;

12 (9)<sup>1</sup> encourage, consistent with the State Development and  
13 Redevelopment Plan and smart growth strategies and principles,  
14 appropriate patterns of compatible residential, commercial, and  
15 industrial development, redevelopment, and economic growth, in or  
16 adjacent to areas already utilized for such purposes, and discourage  
17 piecemeal, scattered, and inappropriate development, in order to  
18 accommodate local and regional growth and economic development  
19 in an orderly way while protecting the Highlands environment from the  
20 individual and cumulative adverse impacts thereof <sup>1</sup>; and

21 (10) promote a sound, balanced transportation system that is  
22 consistent with smart growth strategies and principles and which  
23 preserves mobility in the Highlands Region<sup>1</sup>.

24

25 11. (New section) <sup>1</sup>a.<sup>1</sup> The regional master plan shall include, but  
26 need not necessarily be limited to:

27 <sup>1</sup>[a.] (1)<sup>1</sup> A resource assessment which:

28 <sup>1</sup>[(1)] (a)<sup>1</sup> determines the amount and type of human development  
29 and activity which the ecosystem of the Highlands Region can sustain  
30 while still maintaining the overall ecological values thereof, with  
31 special reference to surface and ground water quality and supply;  
32 <sup>1</sup>contiguous forests and woodlands; <sup>1</sup>endangered and threatened  
33 animals, plants, and biotic communities; ecological factors relating to  
34 the protection and enhancement of agricultural <sup>1</sup>or horticultural<sup>1</sup>  
35 production or activity; air quality; and other appropriate  
36 considerations affecting the ecological integrity of the Highlands  
37 Region; <sup>1</sup>and<sup>1</sup>

38 <sup>1</sup>[(2)] (b)<sup>1</sup> includes an assessment of scenic, aesthetic, cultural,  
39 historic, open space, <sup>1</sup>[farm land] farmland<sup>1</sup>, and outdoor recreation  
40 resources of the region, together with a determination of overall  
41 policies required to maintain and enhance such resources; <sup>1</sup>[and

42 (3) includes an assessment of opportunities for appropriate  
43 economic growth, development, and redevelopment which shall  
44 include consideration of public investment priorities, infrastructure  
45 investments, economic development, revitalization, housing,  
46 transportation, energy resources, waste management, recycling,

1 brownfields, and design such as mixed-use, compact design, and  
2 transit villages.

3 b.] (2)<sup>1</sup> A financial component, together with a cash flow timetable  
4 which:

5 <sup>1</sup>[(1)] (a)<sup>1</sup> details the cost of implementing the regional master  
6 plan, including, but not limited to, <sup>1</sup>property tax stabilization  
7 measures, watershed moratorium offset aid, planning grants and other  
8 State aid for local government units, capital requirements for any  
9 development transfer bank,<sup>1</sup> payments in lieu-of-taxes, acquisition,  
10 within five years and within 10 years after the date of enactment of this  
11 act, of fee simple or other interests in lands for preservation or  
12 recreation and conservation purposes, compensation guarantees,  
13 general administrative costs, and any anticipated extraordinary or  
14 continuing costs; and

15 <sup>1</sup>[(2)] (b)<sup>1</sup> details the sources of revenue for covering such costs,  
16 including, but not limited to, grants, donations, and loans from local,  
17 State, and federal departments <sup>1</sup>[and],<sup>1</sup> agencies, and other  
18 governmental entities,<sup>1</sup> and from the private sector <sup>1</sup>[.]:<sup>1</sup>

19 <sup>1</sup>[c.] (3)<sup>1</sup> A component to provide for the maximum feasible local  
20 government and public input into the council's operations, which shall  
21 include a framework for developing policies for the planning area in  
22 conjunction with those local government units <sup>1</sup>[with jurisdiction over  
23 those lands] in the planning area<sup>1</sup> who choose to conform to the  
24 regional master plan <sup>1</sup>[.]:<sup>1</sup>

25 <sup>1</sup>[d.] (4)<sup>1</sup> A coordination and consistency component which details  
26 the ways in which local, State, and federal programs and policies may  
27 best be coordinated to promote the goals, purposes, policies, and  
28 provisions of the regional master plan, and which details how land,  
29 water, and structures managed by governmental or nongovernmental  
30 entities in the public interest within the Highlands Region may be  
31 integrated into the regional master plan<sup>1</sup>;

32 (5) A transportation component that provides a plan for  
33 transportation system preservation, includes all federally mandated  
34 projects or programs, and recognizes smart growth strategies and  
35 principles. The transportation component shall include projects to  
36 promote a sound, balanced transportation system that is consistent  
37 with smart growth strategies and principles and which preserves  
38 mobility and maintains the transportation infrastructure of the  
39 Highlands Region. Transportation projects and programs shall be  
40 reviewed and approved by the council in consultation with the  
41 Department of Transportation prior to inclusion in the transportation  
42 component; and

43 (6) A smart growth component that includes an assessment, based  
44 upon the resource assessment prepared pursuant to paragraph (1) of  
45 subsection a. of this section, of opportunities for appropriate

1 development, redevelopment, and economic growth, and a transfer of  
2 development rights program which shall include consideration of  
3 public investment priorities, infrastructure investments, economic  
4 development, revitalization, housing, transportation, energy resources,  
5 waste management, recycling, brownfields, and design such as mixed-  
6 use, compact design, and transit villages. In preparing this component,  
7 the council shall:

8 (a) prepare a land use capability map;

9 (b) identify existing developed areas capable of sustaining  
10 redevelopment activities and investment;

11 (c) identify undeveloped areas in the planning area, which are not  
12 significantly constrained by environmental limitations such as steep  
13 slopes, wetlands, or dense forests, are not prime agricultural areas, and  
14 are located near or adjacent to existing development and  
15 infrastructure, that could be developed;

16 (d) identify transportation, water, wastewater, and power  
17 infrastructure that would support or limit development and  
18 redevelopment in the planning area. This analysis shall also provide  
19 proposed densities for development, redevelopment, or voluntary  
20 receiving zones for the transfer of development rights;

21 (e) identify potential voluntary receiving zones in the planning area  
22 for the transfer of development rights through the appropriate  
23 expansion of infrastructure or the modified uses of existing  
24 infrastructure;

25 (f) issue model minimum standards for municipal and county master  
26 planning and development regulations outside of the preservation area,  
27 including density standards for center-based development to  
28 encourage, where appropriate, the adoption of such standards;

29 (g) identify special critical environmental areas and other critical  
30 natural resource lands where development should be limited; and

31 (h) identify areas appropriate for redevelopment and set appropriate  
32 density standards for redevelopment. Any area identified for possible  
33 redevelopment pursuant to this subparagraph shall be either a  
34 brownfield site designated by the Department of Environmental  
35 Protection or a site at which at least 70% of the area thereof is  
36 covered with impervious surface.

37 b. The resource assessment, transportation component, and smart  
38 growth component prepared pursuant to subsection a. of this section  
39 shall be used only for advisory purposes in the planning area and shall  
40 have no binding or regulatory effect therein<sup>1</sup>.

41  
42 12. (New section) In addition to the contents of the regional  
43 master plan described in section 11 of this act, the plan shall also  
44 include, with respect to the preservation area, a land use capability  
45 map and a comprehensive statement of policies for planning and  
46 managing the development and use of land in the preservation area,



1 which shall be based upon, comply with, and implement the  
2 environmental standards <sup>1</sup>[set forth in section 31 of this act and as]<sup>1</sup>  
3 adopted by the Department of Environmental Protection pursuant to  
4 sections <sup>1</sup>[32 through 33] 33 and 34<sup>1</sup> of this act<sup>1</sup>, and the resource  
5 assessment prepared pursuant to paragraph (1) of subsection a. of  
6 section 11 of this act<sup>1</sup>.

7 These policies shall include provision for implementing the regional  
8 master plan by the State and local government units in the preservation  
9 area in a manner that will ensure the continued, uniform, and  
10 consistent protection of the Highlands Region in accordance with the  
11 goals, purposes, policies, and provisions of this act, and shall include:

12 a. a preservation zone element that identifies zones within the  
13 preservation area where development shall not occur in order to  
14 protect water resources and environmentally sensitive lands <sup>1</sup>[that]  
15 and which<sup>1</sup> shall be permanently preserved through <sup>1</sup>use of<sup>1</sup> a variety  
16 of tools, including <sup>1</sup>but not limited to land<sup>1</sup> acquisition and the<sup>1</sup>  
17 transfer of development rights; and

18 b. minimum standards governing municipal and county master  
19 planning, development regulations, and other regulations concerning  
20 the development and use of land in the preservation area, including,  
21 but not limited to, standards for minimum lot sizes and stream  
22 setbacks, construction on steep slopes, maximum appropriate  
23 population densities, and regulated or prohibited uses for specific  
24 portions of the preservation area.

25

26 13. (New section) a. The council shall <sup>1</sup>[develop and implement]  
27 use the regional master plan elements prepared pursuant to sections 11  
28 and 12 of this act, including the resource assessment and the smart  
29 growth component, to establish<sup>1</sup> a transfer of development rights  
30 program for the Highlands Region <sup>1</sup>that furthers the goals of the  
31 regional master plan. The transfer of development rights program  
32 shall be<sup>1</sup> consistent with <sup>1</sup>the "State Transfer of Development Rights  
33 Act," P.L.2004, c.2 (C.40:55D-137 et seq.) or<sup>1</sup> any <sup>1</sup>applicable<sup>1</sup>  
34 transfer of development rights program created otherwise by law<sup>1</sup>,  
35 except as otherwise provided in this section<sup>1</sup>.

36 b. <sup>1</sup>In consultation with municipal, county, and State entities, the  
37 council shall, within 18 months after the date of enactment of this act,  
38 and from time to time thereafter as may be appropriate, identify areas  
39 within the preservation area that are appropriate as sending zones  
40 pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.).

41 c. In consultation with municipal, county, and State entities, the  
42 council shall, within 18 months after the date of enactment of this act,  
43 and from time to time thereafter as may be appropriate, identify areas  
44 within the planning area that are appropriate for development as  
45 voluntary receiving zones pursuant to P.L.2004, c.2 (C.40:55D-137  
46 et seq.) considering the information gathered pursuant to sections 11

1 and 12 of this act, including but not limited to the information  
2 gathered on the transfer of development rights pursuant to paragraph  
3 (6) of subsection a. of section 11 of this act. For the purposes of the  
4 council establishing a transfer of development rights program prior to  
5 the preparation of the initial regional master plan, the council in  
6 identifying areas appropriate for development as voluntary receiving  
7 zones shall consider such information as may be gathered pursuant to  
8 sections 11 and 12 of this act and as may be available at the time, but  
9 the council need not delay the creation of the transfer of development  
10 rights program until the initial regional master plan has been prepared.  
11 The council shall set a goal of identifying areas within the planning  
12 area that are appropriate for development as voluntary receiving zones  
13 that, combined together, constitute four percent of the land area of the  
14 planning area, to the extent that the goal is compatible with the  
15 amount and type of human development and activity that would not  
16 compromise the integrity of the ecosystem of the planning area.

17 d. The council shall work with municipalities and the State  
18 Planning Commission to identify centers, designated by the State  
19 Planning Commission, as voluntary receiving zones for the transfer of  
20 development rights program.

21 e. In consultation with municipal, county, and State entities, the  
22 council shall assist municipalities or counties in analyzing voluntary  
23 receiving zone capacity.

24 f. In consultation with municipal, county, and State entities, the  
25 council shall work with municipalities outside of the preservation area  
26 to assist these municipalities in developing ordinances necessary to  
27 implement the transfer of development rights. The council shall also  
28 establish advisory or model ordinances and other information for this  
29 purpose.

30 The council shall make assistance available to municipalities that  
31 desire to create additional sending zones on any lands within their  
32 boundaries which lie within the planning area and are designated for  
33 conservation in the regional master plan.

34 g. Notwithstanding the provisions of P.L.2004, c.2 (C.40:55D-137  
35 et seq.) to the contrary, the council shall perform the real estate  
36 analysis for the Highlands Region that is required to be performed by  
37 a municipality prior to the adoption or amendment of any development  
38 transfer ordinance pursuant to P.L.2004, c.2.

39 h. (1) The council shall set the initial value of a development right.  
40 The Office of Green Acres in the Department of Environmental  
41 Protection and the State Agriculture Development Committee shall  
42 provide support and technical assistance to the council in the operation  
43 of the transfer of development rights program. The council shall  
44 establish the initial value of a development right considering the  
45 Department of Environmental Protection rules and regulations in effect  
46 the day before the date of enactment of this act.

1       (2) The council shall give priority consideration for inclusion in a  
2 transfer of development rights program any lands that comprise a  
3 major Highlands development that would have qualified for an  
4 exemption pursuant to paragraph (3) of subsection a. of section 30 of  
5 this act but for the lack of a necessary State permit as specified in  
6 subparagraphs (b) or (c), as appropriate, of paragraph (3) of  
7 subsection a. of section 30 of this act, and for which an application for  
8 such a permit had been submitted to the Department of Environmental  
9 Protection and deemed by the department to be complete for review  
10 on or before March 29, 2004.

11       i.<sup>1</sup> (1) The council may use the State Transfer of Development  
12 Rights Bank established pursuant to section 3 of P.L.1993, c.339  
13 (C.4:1C-51) for the purposes of facilitating the transfer of  
14 development potential in accordance with <sup>1</sup>[subsection a. of]<sup>1</sup> this  
15 section and the regional master plan. The council may also establish  
16 a development transfer bank for such purposes.

17       (2) At the request of the council, the Department of Banking and  
18 Insurance, the State Transfer of Developments Right Bank, the State  
19 Agriculture Development Committee, and the Pinelands Development  
20 Credit Bank shall provide technical assistance to the council in  
21 establishing and operating a development transfer bank as authorized  
22 pursuant to paragraph (1) of this subsection.

23       <sup>1</sup>[(c) The] (3) <sup>1</sup>Any<sup>1</sup> bank <sup>1</sup>established by the council<sup>1</sup> shall operate  
24 in accordance with provisions of general law authorizing the creation  
25 of development transfer banks by municipalities and counties.

26       j.<sup>1</sup> The Office of Smart Growth shall review and coordinate State  
27 infrastructure capital investment, community development and  
28 financial assistance in the planning area in furtherance of the regional  
29 master plan. Prior to the council establishing its transfer of  
30 development rights program, the Office of Smart Growth shall  
31 establish a transfer of development rights pilot program that includes  
32 Highlands Region municipalities.

33       k. Any municipality in the planning area whose municipal master  
34 plan and development regulations have been approved by the council  
35 to be in conformance with the regional master plan in accordance with  
36 sections 14 or 15 of this act, and that amends its development  
37 regulations to accommodate voluntary receiving zones within its  
38 boundaries which are identified pursuant to subsection c. of this  
39 section and which provide for a minimum residential density of five  
40 dwelling units per acre, shall, for those receiving zones, be: eligible  
41 for an enhanced planning grant from the council of up to \$250,000;  
42 eligible for a grant to reimburse the reasonable costs of amending the  
43 municipal development regulations; authorized to impose impact fees  
44 in accordance with subsection m. of this section; entitled to legal  
45 representation pursuant to section 22 of this act; accorded priority  
46 status in the Highlands Region for any State capital or infrastructure

1 programs; and eligible for any other appropriate assistance, incentives,  
2 or benefits provided pursuant to section 18 of this act.

3 1. Any municipality located outside of the Highlands Region in any  
4 county that has a municipality in the Highlands Region that has  
5 received plan endorsement by the State Planning Commission pursuant  
6 to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.),  
7 that establishes a receiving zone which provides for a minimum  
8 residential density of five dwelling units per acre for the transfer of  
9 development rights from a sending zone in the Highlands Region, and  
10 that accepts that transfer of development rights shall, for those  
11 receiving zones, be eligible for the same grants, authority, and other  
12 assistance, incentives, and benefits as provided to municipalities in the  
13 planning area pursuant to subsection k. of this section except for legal  
14 representation as provided pursuant to section 22 of this act and  
15 priority status in the Highlands Region for any State capital or  
16 infrastructure programs.

17 m. (1) A municipality that is authorized to impose impact fees  
18 under subsection k. of this section shall exercise that authority by  
19 ordinance.

20 (2) Any impact fee ordinance adopted pursuant to this subsection  
21 shall include detailed standards and guidelines regarding: (a) the  
22 definition of a service unit, including specific measures of  
23 consumption, use, generation or discharge attributable to particular  
24 land uses, densities and characteristics of development; and (b) the  
25 specific purposes for which the impact fee revenues may be expended.

26 (3) An impact fee ordinance shall also include a delineation of  
27 service areas for each capital improvement whose upgrading or  
28 expansion is to be funded out of impact fee revenues, a fee schedule  
29 which clearly sets forth the amount of the fee to be charged for each  
30 service unit, and a payment schedule.

31 (4) An impact fee may be imposed by a municipality pursuant to this  
32 subsection in order to generate revenue for funding or recouping the  
33 costs of new capital improvements or facility expansions necessitated  
34 by new development, to be paid by the developer as defined pursuant  
35 to section 3.1 of P.L.1975, c.291 (C.40:55D-4). Improvements and  
36 expansions for which an impact fee is to be imposed shall bear a  
37 reasonable relationship to needs created by the new development, but  
38 in no case shall an impact fee assessed pursuant to this subsection  
39 exceed \$15,000 per dwelling unit unless and until impact fees are  
40 otherwise established by law at which time the impact fee shall be  
41 200% of the calculated impact fee.

42 (5) No impact fee shall be assessed pursuant to this subsection  
43 against any low or moderate income housing unit within an  
44 inclusionary development as defined under P.L.1985, c.222  
45 (C.52:27D-301 et al.).

46 No impact fee authorized under this subsection shall include a

1 contribution for any transportation improvement necessitated by a new  
2 development in a county which is covered by a transportation  
3 development district created pursuant to the "New Jersey  
4 Transportation Development District Act of 1989," P.L.1989, c.100  
5 (C.27:1C-1 et al.).<sup>1</sup>  
6

7 14. (New section) a. Within <sup>1</sup>[six months] nine to 15 months<sup>1</sup>  
8 after the date of adoption of the regional master plan or any revision  
9 thereof, <sup>1</sup>according to a schedule to be established by the council.<sup>1</sup>  
10 each municipality located wholly or partially in the preservation area  
11 shall submit to the council such revisions of the municipal master plan  
12 and development regulations, as applicable to the development and use  
13 of land in the preservation area, as may be necessary in order to  
14 conform them with the goals, requirements, and provisions of the  
15 regional master plan. After receiving and reviewing the revisions, the  
16 council shall approve, reject, or approve with conditions the revised  
17 plan and development regulations, as it deems appropriate, after public  
18 hearing, within 60 days after the date of submission thereof.

19 Upon rejecting or conditionally approving any such revised plan or  
20 development regulations, the council shall identify such changes  
21 therein that it deems necessary for council approval thereof, and the  
22 relevant municipality shall adopt and enforce the plan or development  
23 regulations as so changed.

24 b. Within <sup>1</sup>[six months] nine to 15 months<sup>1</sup> after the date of  
25 adoption of the regional master plan or any revision thereof,  
26 <sup>1</sup>according to a schedule to be established by the council.<sup>1</sup> each county  
27 located wholly or partially in the preservation area shall submit to the  
28 council such revisions of the county master plan and associated  
29 regulations, as applicable to the development and use of land in the  
30 preservation area, as may be necessary in order to conform them with  
31 the goals, requirements, and provisions of the regional master plan.  
32 After receiving and reviewing the revisions, the council shall approve,  
33 reject, or approve with conditions those revised plans and associated  
34 regulations, as it deems appropriate, after public hearing, within 60  
35 days after the date of submission thereof.

36 Upon rejecting or conditionally approving any such revised plan or  
37 associated regulations, the council shall identify such changes therein  
38 that it deems necessary for council approval thereof, and the relevant  
39 county shall adopt and enforce the plan or associated regulations as so  
40 changed.

41 c. <sup>1</sup>[Any approval of an application for development, or use of  
42 land, in the preservation area granted by any local government unit in  
43 violation of the regional master plan or an approved revised municipal  
44 or county master plan, development regulations, or other regulations  
45 pursuant to this act shall be null and void and of no force and effect at  
46 law or equity.] The council may revoke a conformance approval

1 granted pursuant to this section or section 15 of this act, after  
2 conducting a hearing, if the council finds that the local government  
3 unit has taken action inconsistent with the regional master plan.<sup>1</sup>

4 d. In the event that any municipality or county fails to adopt or  
5 enforce an approved revised master plan, development regulations, or  
6 other regulations, as the case may be, including any condition thereto  
7 imposed by the council, as required pursuant to subsections a. or b. of  
8 this section, the council shall adopt and enforce such rules and  
9 regulations as may be necessary to implement the minimum standards  
10 contained in the regional master plan as applicable to any municipality  
11 or county within the preservation area. If any municipality or county  
12 fails to adopt or enforce an approved revised master plan, development  
13 regulations, or other regulations, as the case may be, including any  
14 condition thereto imposed by the council, as required pursuant to  
15 subsections a. or b. of this section, the council shall have all local  
16 enforcement authority provided pursuant to the "Municipal Land Use  
17 Law," P.L.1975, c.291 (C.40:55D-1 et seq.)<sup>1</sup> [and],<sup>1</sup> R.S.40:27-1 et  
18 seq.,<sup>1</sup> and this act,<sup>1</sup> as well as the authority to issue stop construction  
19 orders, as may be necessary to implement the provisions of this act,  
20 any rules and regulations adopted pursuant thereto, and the  
21 requirements and provisions of the regional master plan.

22 e. A municipality or county may adopt revisions to its master plan,  
23 development regulations, or other regulations for the purposes of this  
24 section that are stricter<sup>1</sup>, as determined by the council,<sup>1</sup> than the  
25 minimum necessary to obtain approval of conformance with the  
26 regional master plan.

27 <sup>1</sup>f. The requirements of this section shall not apply to any  
28 municipality or county located wholly within the planning area. Any  
29 municipality or county located partially within the preservation area  
30 and partially within the planning area shall be required to comply with  
31 the provisions of this section and the regional master plan only with  
32 respect to that portion of the municipality or county lying within the  
33 preservation area. Voluntary conformance with the regional master  
34 plan as it may apply to those portions of a municipality or county lying  
35 within the planning area shall be permitted as provided pursuant to  
36 section 15 of this act.<sup>1</sup>

37  
38 15. (New section) a. <sup>1</sup>(1)<sup>1</sup> For any municipality located wholly in  
39 the planning area or for any portion of a municipality lying within the  
40 planning area, the municipality may, by ordinance, petition the council  
41 of its intention to revise its master plan and development regulations,  
42 as applicable to the development and use of land in the planning area,  
43 to conform with the goals, requirements, and provisions of the  
44 regional master plan.

45 The municipality shall proceed in revising its master plan and  
46 development regulations in accordance with the framework adopted

1 by the council pursuant to subsection a. of section 14 of this act.

2 After receiving and reviewing those revisions, <sup>1</sup>and after consulting  
3 with the State Planning Commission,<sup>1</sup> the council shall approve, reject,  
4 or approve with conditions the revised plan and development  
5 regulations, as it deems appropriate, after public hearing, within 60  
6 days after the date of submission thereof.

7 <sup>1</sup>[b.] (2)<sup>1</sup> Upon rejecting or conditionally approving any such  
8 revised plan or development regulations, the council shall identify such  
9 changes therein that it deems necessary for council approval thereof,  
10 and the municipality may adopt and enforce the plan or development  
11 regulations as so changed in order for them to be deemed approved in  
12 conformance with the regional master plan.

13 <sup>1</sup>[c.] (3)<sup>1</sup> Any municipality approved by the council to be in  
14 conformance with the regional master plan pursuant to this <sup>1</sup>[section]  
15 subsection<sup>1</sup> shall be entitled to any financial or other assistance or  
16 incentives received by a municipality from the State as a benefit or  
17 result of obtaining council approval pursuant to section 14 of this act.

18 <sup>1</sup>(4)<sup>1</sup> Upon the commencement of each reexamination by the  
19 municipality of its master plan and development regulations as  
20 required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89)  
21 which have been previously approved by the council to be in  
22 conformance with the regional master plan pursuant to this  
23 subsection<sup>1</sup>, the municipality shall so notify the council and, thereafter,  
24 submit to the council the draft revision of its master plan and  
25 development regulations for review, by the council, of conformance  
26 with the regional master plan. If, after conducting the reexamination,  
27 the municipality does not resubmit to the council its master plan and  
28 development regulations as they pertain to the planning area and  
29 obtain reapproval thereof from the council in accordance with this  
30 <sup>1</sup>[section] subsection<sup>1</sup>, or if the council finds the reexamined master  
31 plan or development regulations<sup>1</sup> not to be in conformance with the  
32 regional master plan, the council may require the municipality to  
33 reimburse the council or the State, as appropriate, in whole or in part  
34 for any financial or other assistance or incentives received by the  
35 municipality from the State as a benefit or result of obtaining council  
36 approval pursuant to this <sup>1</sup>[section] subsection<sup>1</sup>.

37 <sup>1</sup>[e.] (5)<sup>1</sup> A municipality may adopt revisions to its master plan or  
38 development regulations for the purposes of this <sup>1</sup>[section]  
39 subsection<sup>1</sup> that are stricter<sup>1</sup>, as determined by the council,<sup>1</sup> than the  
40 minimum necessary to obtain approval of conformance with the  
41 regional master plan.

42 <sup>1</sup>[f.] b. (1)<sup>1</sup> Each county with lands in the planning area may, by  
43 ordinance or resolution, as appropriate, petition the council of its  
44 intention to revise its master plan and associated regulations, as  
45 applicable to the development and use of land in the planning area, to  
46 conform with the goals, requirements, and provisions of the regional

1 master plan.

2 The county shall proceed in revising its master plan and associated  
3 regulations in accordance with the framework adopted by the council  
4 pursuant to subsection b. of section 14 of this act.

5 After receiving and reviewing those revisions, <sup>1</sup>and after consulting  
6 with the State Planning Commission,<sup>1</sup> the council shall approve, reject,  
7 or approve with conditions the revised plan and associated regulations,  
8 as it deems appropriate, after public hearing, within 60 days after the  
9 date of submission thereof.

10 <sup>1</sup>[g.] (2)<sup>1</sup> Upon rejecting or conditionally approving any such  
11 revised plan or associated regulations, the council shall identify such  
12 changes therein that it deems necessary for council approval thereof,  
13 and the county may adopt and enforce the plan or associated  
14 regulations as so changed in order for them to be deemed approved in  
15 conformance with the regional master plan.

16 <sup>1</sup>[h.] (3)<sup>1</sup> Any county approved by the council to be in  
17 conformance with the regional master plan pursuant to this <sup>1</sup>[section]  
18 subsection<sup>1</sup> shall be entitled to any financial or other assistance or  
19 incentives received by a county from the State as a benefit or result of  
20 obtaining council approval pursuant to section 14 of this act.

21

22 <sup>1</sup>[16. (New section) a. For the purposes of subsection a. of  
23 section 37 of P.L.1975, c.291 (C.40:55D-49), any amendments made  
24 to a major subdivision or a site plan ordinance pursuant to this act to  
25 conform it to the regional master plan shall be construed to relate to  
26 public health and safety for any major development that has received  
27 preliminary approval prior to the amendment of a major subdivision or  
28 site plan ordinance pursuant to this act. An amendment made to a  
29 major subdivision or site plan ordinance pursuant to this act shall not  
30 be construed to relate to public health and safety if the major  
31 development is a residential development that requires an  
32 environmental land use or water permit but which does not result in  
33 the ultimate disturbance of one acre or more of land or an increase in  
34 impervious surface by one-quarter acre or more.

35 b. (1) Any final approval of a major development which is  
36 outstanding upon the adoption by a municipality of amendments to its  
37 development regulations pursuant to this act to conform those  
38 development regulations to the regional master plan, shall be reviewed  
39 by the municipality for consistency with the regional master plan. In  
40 the event that the final approval is not consistent with the regional  
41 master plan, any rights otherwise conferred by the final approval shall  
42 expire. The provisions of this subsection shall apply whether the final  
43 approval involves a site plan, major subdivision, or general  
44 development plan pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

45 This paragraph shall not apply to any major development which is  
46 a residential development that requires an environmental land use or



1 water permit but which does not result in the ultimate disturbance of  
2 one acre or more of land or an increase in impervious surface by  
3 one-quarter acre or more.

4 (2) Notwithstanding any provision of paragraph (1) of this  
5 subsection to the contrary, any major development for which, at the  
6 time of the adoption of amendments to the municipal development  
7 regulations pursuant to this act to conform them to the regional master  
8 plan, a construction permit has been issued, may proceed in  
9 accordance with the terms of the relevant approvals.]<sup>1</sup>

10  
11 <sup>1</sup>[17.] 16.<sup>1</sup> (New section) a. The council may <sup>1</sup>[prepare and  
12 distribute suggested guidelines for the location and construction of  
13 capital projects by State entities or local government units within the  
14 Highlands Region] provide comments and recommendations on any  
15 capital or other project proposed to be undertaken by any State entity  
16 or local government unit in the Highlands Region<sup>1</sup>.

17 b. Within the preservation area, any capital or other project of a  
18 State entity or local government unit that involves the ultimate  
19 disturbance of two acres or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
20 increase in impervious surface by one acre or more shall be submitted  
21 to the council for review<sup>1</sup>, except that no such submission shall be  
22 required for (1) the routine maintenance and operations, rehabilitation,  
23 preservation, reconstruction, or repair of transportation or  
24 infrastructure systems by a State entity or local government unit,  
25 provided that the activity is consistent with the goals and purposes of  
26 this act and does not result in the construction of any new through-  
27 capacity travel lanes, or (2) the construction of transportation safety  
28 projects and bicycle and pedestrian facilities, provided that the activity  
29 does not result in the construction of any new through-capacity travel  
30 lanes<sup>1</sup>. The council shall establish procedures for conducting such  
31 reviews and shall have the power to approve, approve with conditions,  
32 or disapprove the project. No such project shall proceed without the  
33 approval of the council; provided that, in the case of a project of a  
34 State entity, if the council disapproves the project, the head of the  
35 appropriate principal department of State government with primary  
36 responsibility for the project may override the council's disapproval  
37 upon making a written finding, which shall be submitted to the council  
38 and the Governor, that the project is necessary for public health,  
39 safety, or welfare and including with that finding a factual basis and  
40 explanation in support thereof. In the case of a project of an  
41 independent State authority or commission or a bi-state entity, any  
42 such finding shall be made by the Governor or such other State  
43 governmental official as the Governor may designate for that purpose.

44 <sup>1</sup>The council shall review any submission pursuant to this  
45 subsection within 30 days after receipt. If the council fails to act  
46 within the 30-day period, or within such other time period as may be

1 mutually agreed upon by the parties, the project shall be deemed  
2 approved.<sup>1</sup>

3 c. Within the planning area, any capital or other project of a State  
4 entity or local government unit that provides for the ultimate  
5 disturbance of two acres or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
6 increase in impervious surface by one acre or more shall be submitted  
7 to the council for a nonbinding review and comment<sup>1</sup>, except that no  
8 such submission shall be required for (1) the routine maintenance and  
9 operations, rehabilitation, preservation, reconstruction, or repair of  
10 transportation or infrastructure systems by a State entity or local  
11 government unit, provided that the activity is consistent with the goals  
12 and purposes of this act and does not result in the construction of any  
13 new through-capacity travel lanes, or (2) the construction of  
14 transportation safety projects and bicycle and pedestrian facilities by  
15 a State entity or local government unit, provided that the activity does  
16 not result in the construction of any new through-capacity travel  
17 lanes<sup>1</sup>. The council shall establish procedures for conducting such  
18 reviews <sup>1</sup>within 30 days after receipt or within such other time period  
19 as may be mutually agreed upon by the parties<sup>1</sup>. The failure of the  
20 council to act <sup>1</sup>[expeditiously] within the 30-day or other agreed upon  
21 time period<sup>1</sup> on any such review pursuant to this subsection shall not  
22 be cause for delay of the project, and the project may proceed whether  
23 or not the council has conducted the review <sup>1</sup>authorized pursuant to  
24 this subsection<sup>1</sup>.

25

26 <sup>1</sup>[18.] 17.<sup>1</sup> (New section) a. <sup>1</sup>(1)<sup>1</sup> Subsequent to adoption of the  
27 regional master plan, the council may review, within 15 days after any  
28 final local government unit approval<sup>1</sup>, rejection, or approval with  
29 conditions<sup>1</sup> thereof, any application for development in the  
30 preservation area. Upon determining to exercise that authority, the  
31 council shall transmit, by certified mail, written notice thereof to the  
32 person who submitted the application <sup>1</sup>to the local government unit<sup>1</sup>.  
33 The council shall, after public hearing thereon, approve, reject, or  
34 approve with conditions any such application <sup>1</sup>or decision<sup>1</sup> within 60  
35 days after transmitting the notice; provided, however, that an  
36 application shall not be rejected or conditionally approved unless the  
37 council determines that the development does not conform with the  
38 regional master plan, as applicable to the local government unit  
39 wherein the development is located, or that the development could  
40 result in substantial impairment of the resources of the Highlands  
41 Region. Such approval, rejection, or conditional approval shall be  
42 binding upon the person who submitted the application, shall  
43 supersede any local government unit <sup>1</sup>[approval of] decision on<sup>1</sup> any  
44 such development, and shall be subject only to judicial review as  
45 provided in section <sup>1</sup>[29] 28<sup>1</sup> of this act. <sup>1</sup>Pending completion of the  
46 review by the council of any final local government approval or

1 approval with conditions of an application for development in the  
2 preservation area and the issuance of the council's decision thereon,  
3 the applicant shall not proceed with the development.

4 (2) No cause of action may be filed in the Superior Court to contest  
5 a local government unit decision on an application for development in  
6 the preservation area if the council exercises its review authority  
7 pursuant to this section. Any such cause of action filed before the date  
8 that the council exercises its review authority pursuant to this section  
9 shall be dismissed by the court for lack of jurisdiction. Upon  
10 determination of the council to exercise its review authority pursuant  
11 to this section, judicial review of the decision of the local government  
12 unit and of the council pursuant to this section shall proceed as  
13 provided pursuant to section 28 of this act.<sup>1</sup>

14 b. Every person submitting an application for development in the  
15 preservation area shall be required to provide a notice of the  
16 application to the council in accordance with such procedures therefor  
17 as shall be established by the council.

18 c. Notwithstanding any provision of subsections a. or b. of this  
19 section to the contrary, for any municipality or county that has  
20 adopted an approved revised master plan, development regulations, or  
21 other regulations, as the case may be, including any condition thereto  
22 imposed by the council, the requirements of this section shall apply  
23 only to applications for development that provide for the ultimate  
24 disturbance of two acres or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
25 increase in impervious surface by one acre or more. The council<sup>1</sup>,  
26 however,<sup>1</sup> may provide, pursuant to subsection d. of section 14 of this  
27 act, that the requirements of this section apply to any application for  
28 development within the preservation area in any municipality or county  
29 that fails to adopt or enforce an approved revised master plan,  
30 development regulations, or other regulations, as the case may be,  
31 including any condition thereto imposed by the council.

32 d. Any member of the public may request the council to consider  
33 reviewing an application for development in the preservation area as  
34 provided in this section.

35  
36 <sup>1</sup>[19.] 18.<sup>1</sup> (New section) a. Any municipality in the Highlands  
37 Region whose municipal master plan and development regulations, and  
38 any county in the Highlands Region whose county master plan and  
39 associated regulations, have been approved by the council to be in  
40 conformance with the regional master plan in accordance with sections  
41 14 or 15 of this act shall qualify for State aid, planning assistance,  
42 technical assistance, and other benefits and incentives that may be  
43 awarded or provided by the State to municipalities and counties which  
44 have received plan endorsement <sup>1</sup>by the State Planning Commission<sup>1</sup>  
45 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196  
46 et al.) or which otherwise practice or implement smart growth

1 strategies and principles. Any such municipality or county shall also  
2 qualify for any State aid that may be provided for smart growth  
3 projects.

4 b. The council <sup>1</sup>[may] shall<sup>1</sup> make available grants and other  
5 financial and technical assistance to municipalities and counties for any  
6 revision of their master plans, development regulations, or other  
7 regulations which is designed to bring those plans, development  
8 regulations, or other regulations into conformance with the regional  
9 master plan or for implementation of a transfer of development rights  
10 program pursuant to this act. <sup>1</sup>The grants and other financial  
11 assistance shall pay for the reasonable expenses therefor incurred by  
12 a municipality or county and shall be distributed according to such  
13 procedures and guidelines as may be established by the council.<sup>1</sup> The  
14 council <sup>1</sup>[may] shall<sup>1</sup> make the grants and other financial assistance  
15 from any State, federal, or other funds that <sup>1</sup>[may] shall <sup>1</sup>be  
16 appropriated or otherwise made available to it for that purpose<sup>1</sup>,  
17 including monies required to be made available therefor from the  
18 "Highlands Protection Fund" created pursuant to section 21 of this  
19 act<sup>1</sup>.

20

21 <sup>1</sup>[20. (New section) a. Every municipality located wholly or  
22 partially in the preservation area shall be entitled to State aid to  
23 compensate for any decrease in the aggregate amount of property tax  
24 revenues derived from the taxation of real property in that portion of  
25 the municipality located in the preservation area that is directly  
26 attributable to the implementation of this act. The council shall  
27 establish methods and procedures for calculating the aggregate true  
28 value of the real property and the aggregate amount of property tax  
29 revenues derived therefrom in each municipality in the preservation  
30 area in the year prior to the enactment of this act, and for calculating,  
31 for each year after the enactment of this act, any decrease in the  
32 aggregate true value of the real property, and in the aggregate amount  
33 of property tax revenues derived therefrom, that is directly attributable  
34 to the implementation of this act. The council shall annually calculate  
35 the amount to which each municipality is entitled pursuant to this  
36 section, and shall certify and transmit such amounts to the State  
37 Treasurer and to the Director of the Division of Local Government  
38 Services in the Department of Community Affairs.

39 b. Commencing July 1 next following two years after the date of  
40 enactment of this act, or at such other date as may be established by  
41 the council, no municipality shall receive any State aid made available  
42 pursuant to this section unless the municipality's master plan and  
43 development regulations, as applicable to the preservation area, have  
44 been approved by the council to be in conformance with the regional  
45 master plan pursuant to section 14 of this act.

46 c. The State Treasurer shall include in the State Treasurer's annual

1 budget request for State aid the amounts certified by the council  
2 pursuant to subsection a of this section. The State Treasurer shall pay,  
3 from monies appropriated for the purposes of this section, to each  
4 municipality the amount of State aid appropriated therefor in a manner  
5 and pursuant to a schedule set forth in the rules and regulations  
6 adopted pursuant subsection d. of this section.

7 d. The State Treasurer and the Director of the Division of Local  
8 Government Services, in consultation with the council, shall adopt,  
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
10 (C.52:14B-1 et seq.), any rules and regulations necessary to implement  
11 the provisions of this section.

12 e. This section shall expire July 1 next following five years after the  
13 date of enactment of this act.】<sup>1</sup>

14

15 19. (New section) a. (1) There is established in the Department  
16 of the Treasury the "Highlands Municipal Property Tax Stabilization  
17 Board," which shall consist of three members to be appointed by the  
18 Governor, who shall be recognized experts in the field of taxation.  
19 Members of the board may also be members of the Highlands Water  
20 Protection and Planning Council established pursuant to section 4 of  
21 P.L. , c. (C. ) (now before the Legislature as this bill).

22 (2) Within 120 days after the date of enactment of P.L. , c.  
23 (C. ) (now before the Legislature as this bill), the board, in  
24 consultation with the Highlands Water Protection and Planning  
25 Council, shall establish procedures for determining the valuation base  
26 of a qualified municipality, whether fiscal stress has been caused by the  
27 implementation of the "Highlands Water Protection and Planning Act,"  
28 P.L. , c. (C. ) (now before the Legislature as this bill) in a  
29 qualified municipality, and the amount due a qualified municipality to  
30 compensate for a decline in the aggregate true value of vacant land  
31 directly attributable to the implementation of the "Highlands Water  
32 Protection and Planning Act."

33 b. The "Highlands Municipal Property Tax Stabilization Fund" is  
34 established in the General Fund as a special nonlapsing fund for the  
35 purpose of providing State aid to qualified municipalities pursuant to  
36 this section. There shall be credited each State fiscal year from the  
37 "Highlands Protection Fund" created pursuant to section 21 of P.L. ,  
38 c. (C. ) (now before the Legislature as this bill) to the Highlands  
39 Municipal Property Tax Stabilization Fund such sums as shall be  
40 necessary to provide State aid to qualified municipalities pursuant to  
41 this section. Every qualified municipality shall be eligible for a  
42 distribution from the fund pursuant to the provisions of this section.

43 c. The assessor of every qualified municipality shall certify to the  
44 county tax board on a form to be prescribed by the Director of the  
45 Division of Taxation in the Department of the Treasury, and on or  
46 before December 1 annually, a report of the assessed value of each

1 parcel of vacant land in the base year and the change in the assessed  
2 value of each such parcel in the current tax year attributable to  
3 successful appeals of assessed values of vacant land to the county tax  
4 board pursuant to R.S.54:3-21 et seq. or attributable to a revaluation  
5 approved by the director and implemented or a reassessment approved  
6 by the county board of taxation. If a judgment or an appeal is  
7 overturned or modified, upon a final judgment an appropriate  
8 adjustment shall be made by the director in the payment of the  
9 entitlement due next following the judgment.

10 d. (1) Upon receipt of reports filed pursuant to subsection c. of this  
11 section and using procedures developed by the board pursuant to  
12 subsection a. of this section, the county tax board shall compute and  
13 certify to the director on or before December 20 of each year, in such  
14 manner as to identify for each qualified municipality the aggregate  
15 decline, if any, in the true value of vacant land, comparing the current  
16 tax year to the base year. The aggregate changes so identified for each  
17 qualified municipality shall constitute its valuation base for purposes  
18 of this section.

19 (2) The Director of the Division of Taxation shall, on or before  
20 January 10 of each year, provide the board with all relevant  
21 information collected pursuant to the provisions of this section and any  
22 other information deemed necessary by the board to determine the  
23 valuation base.

24 (3) Upon receipt of the information, the board shall make a final  
25 determination on the valuation base of each qualified municipality;  
26 calculate the amount due a qualified municipality, in accordance with  
27 the procedures developed pursuant to subsection a. of this section, to  
28 compensate for a decline, if any, by multiplying its valuation base by  
29 its tax rate; and certify to the director and the State Treasurer, on or  
30 before February 1 of each year, that amount to which each qualified  
31 municipality is entitled.

32 e. Upon receipt of the certification by the board, the State  
33 Treasurer shall certify to each qualified municipality, on or before  
34 February 15, its property tax stabilization amount. A copy of the  
35 certified amounts shall be forwarded to the Director of the Division of  
36 Local Government Services in the Department of Community Affairs.

37 f. (1) The State Treasurer, upon warrant of the Director of the  
38 Division of Budget and Accounting in the Department of the Treasury,  
39 shall pay to each qualified municipality its entitlement as State aid  
40 from the sums available in the "Highlands Municipal Property Tax  
41 Stabilization Fund" in two equal installments pursuant to a schedule  
42 prescribed by the Division of Local Government Services.

43 (2) If the amount available in the "Highlands Municipal Property  
44 Tax Stabilization Fund" in any year is insufficient to pay the full  
45 amount to which each qualified municipality is entitled pursuant to this  
46 section, the payments shall be made on a pro rata basis.

1       (3) Notwithstanding any provisions of this section to the contrary,  
2 in the sixth, seventh, eighth, ninth, and tenth years of the State aid  
3 program created by this section, a qualified municipality shall be  
4 entitled to receive, respectively, 90%, 70%, 50%, 30%, and 10% of  
5 the sum it otherwise would have been paid pursuant to this subsection,  
6 and thereafter the program shall expire.

7       g. Any municipality receiving a certification from the State  
8 Treasurer pursuant to subsection e. of this section shall anticipate such  
9 sums in its annual budget or any amendments or supplements thereto  
10 as a direct offset to the amount to be raised by taxation.

11       h. The Director of the Division of Taxation in reviewing the  
12 reports filed pursuant to subsection c. of this section may make such  
13 changes therein as the director deems necessary to ensure that the  
14 reports accurately reflect the change in the assessed value of vacant  
15 land.

16       i. The Director of the Division of Local Government Services shall  
17 make such changes in the budget of any qualified municipality to  
18 ensure that all sums received pursuant to this section are utilized as a  
19 direct offset to the amount to be raised by taxation and shall make  
20 such changes therein as the director deems necessary to ensure that the  
21 offset occurs.

22       j. Any sum received by a qualified municipality pursuant to this  
23 section shall not be considered as an exception or exemption under  
24 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

25       k. Notwithstanding the provisions of the "Local Budget Law"  
26 (N.J.S.40A:4-1 et seq.), a qualified municipality which is due a  
27 property tax stabilization payment pursuant to this section may  
28 anticipate the amount of the entitlement in its annual budget for the  
29 year in which the payment is made.

30       l. The State Treasurer may deduct from the State aid a municipality  
31 would otherwise receive pursuant to this section an amount equivalent  
32 to that portion of any sums received by a municipality pursuant to  
33 section 1 of P.L.1999, c.225 (C.58:29-8) that the State Treasurer, in  
34 consultation with the Director of the Division of Local Government  
35 Services, determines to be duplicative of any State aid received  
36 pursuant to this section.

37       m. The Director of the Division of Taxation and the Director of the  
38 Division of Local Government Services shall each adopt, pursuant to  
39 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), such rules and regulations as may be necessary to implement the  
41 provisions of this section.

42       n. As used in this section:

43       "Base year" means the calendar year 2003;

44       "Board" means the Highlands Municipal Property Tax Stabilization  
45 Board established pursuant to subsection a. of this section;

46       "Current tax year" means the most recent year for which a report

1 is filed pursuant to subsection c. of this section;

2 "Highlands preservation area" means the preservation area of the  
3 Highlands Region designated by subsection b. of section 7 of P.L. ,  
4 c. (C. ) (now before the Legislature as this bill);

5 "Qualified municipality" means any municipality located wholly or  
6 partially in the Highlands preservation area, provided however, that  
7 after the adoption of the Highlands regional master plan by the  
8 Highlands Water Protection and Planning Council pursuant to section  
9 8 of P.L. , c. (C. ) (now before the Legislature as this bill),  
10 qualified municipality shall mean only a municipality that has  
11 conformed its municipal master plan and development regulations to  
12 the Highlands regional master plan pursuant to section 14 of P.L. ,  
13 c. (C. ) (now before the Legislature as this bill);

14 "Tax rate" means that portion of the effective property tax rate for  
15 the current tax year which reflects local taxes to be raised for district  
16 school purposes and local municipal purposes, calculated by dividing  
17 the total of column 12, section C by net valuation on which county  
18 taxes are apportioned in column 11, both as reflected in the Abstract  
19 of Ratables for the current tax year, and expressed as a rate per \$100  
20 of true value;

21 "True value of vacant land" or "true value" means the aggregate  
22 assessed value of vacant land divided by the average ratio of  
23 assessed-to-true value of real property (commonly known as the  
24 equalization rate) promulgated by the Director of the Division of  
25 Taxation in the Department of the Treasury and published in the table  
26 of equalized valuation; and

27 "Valuation base" means the change in the aggregate true value of  
28 vacant land directly attributable to the implementation of the  
29 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
30 (now before the Legislature as this bill) in a qualified municipality  
31 when comparing the current tax year to the base year.

32 o. This section shall expire July 1 next following one year after the  
33 date the last State aid payment is made to a qualified municipality in  
34 the tenth year as provided pursuant to paragraph (3) of subsection f.  
35 of this section.<sup>1</sup>

36

37 <sup>1</sup>20. (New section) a. The "Pinelands Property Tax Assistance  
38 Fund" is established in the General Fund as a special nonlapsing fund  
39 for the purpose of providing State aid to qualifying municipalities in  
40 the pinelands area. The Commissioner of Community Affairs shall  
41 serve as administrator of the fund.

42 b. Every qualifying municipality in the pinelands area shall be  
43 eligible for State aid made with monies in the fund. The Commissioner  
44 of Community Affairs shall annually distribute to each qualifying  
45 municipality in the pinelands area a percentage of the monies annually  
46 allocated to the fund equal to the percentage the qualifying



1 municipality received of the total sum distributed from the "Pinelands  
2 Municipal Property Tax Stabilization Fund" pursuant to P.L.1983,  
3 c.551 (C.54:1-68 et seq.).

4 c. The State Treasurer shall annually credit, in each of the first five  
5 years after the date of enactment of P.L. , c. (C. ) (now before  
6 the Legislature as this bill), to the "Pinelands Property Tax Assistance  
7 Fund" from the "Highlands Protection Fund" established pursuant to  
8 section 21 of P.L. , c. (C. ) (now before the Legislature as this  
9 bill), the sum of \$1,800,000.

10 d. Any State aid made available with monies from the "Pinelands  
11 Property Tax Assistance Fund" pursuant to this section shall be in  
12 addition to any other moneys appropriated or otherwise made available  
13 pursuant to any other federal or State program for the same category  
14 of aid.

15 e. Any qualifying municipality receiving State aid pursuant to this  
16 section shall anticipate those sums in its annual budget or any  
17 amendments or supplements thereto as a direct offset to the amount to  
18 be raised by taxation.

19 f. The Director of the Division of Local Government Services in  
20 the Department of Community Affairs shall make such changes in the  
21 budget of any qualifying municipality to ensure that all sums received  
22 pursuant to this section are utilized as a direct offset to the amount to  
23 be raised by taxation and shall make such changes therein as the  
24 director deems necessary to ensure that the offset occurs.

25 g. Any sum received by a qualifying municipality pursuant to this  
26 section shall not be considered as an exception or exemption under  
27 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

28 h. Notwithstanding the provisions of the "Local Budget Law"  
29 (N.J.S.40A:4-1 et seq.), a qualifying municipality which is due a  
30 payment pursuant to this section may anticipate the amount of the  
31 entitlement in its annual budget for the year in which the payment is  
32 made.

33 i. The Director of the Division of Local Government Services shall  
34 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
35 c.410 (C.52:14B-1 et seq.), such rules and regulations as may be  
36 necessary to implement the provisions of this section.

37 j. As used in this section:

38 "Pinelands area" means the area so designated in section 10 of  
39 P.L.1979, c.111 (C.13:18A-11); and

40 "Qualifying municipality" means any municipality that received  
41 State aid distributed from the "Pinelands Municipal Property Tax  
42 Stabilization Fund" pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

43 k. This section shall expire July 1 next following one year after the  
44 date the last State aid payment is made to a qualifying municipality in  
45 the fifth year as provided pursuant to subsection c. of this section.<sup>1</sup>

1 <sup>1</sup>21. (New section) a. There is created in the Department of the  
 2 Treasury a special non-lapsing fund to be known as the "Highlands  
 3 Protection Fund." The monies in the fund are dedicated and shall be  
 4 used only to carry out the purposes enumerated in subsection b. of this  
 5 section. The fund shall be credited with all revenues collected and  
 6 deposited in the fund pursuant to section 4 of P.L.1968, c.49  
 7 (C.46:15-8), all interest and other income received from the  
 8 investment of monies in the fund, and any monies which, from time to  
 9 time, may otherwise become available for the purposes of the fund.  
 10 Pending the use thereof pursuant to the provisions of subsection b. of  
 11 this section, the monies deposited in the fund shall be held in  
 12 interest-bearing accounts in public depositories, as defined pursuant to  
 13 section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or  
 14 reinvested in such securities as are approved by the State Treasurer.  
 15 Interest or other income earned on monies deposited into the fund  
 16 shall be credited to the fund for use as set forth in subsection b. of this  
 17 section for other monies in the fund.

18 b. Monies deposited in the "Highlands Protection Fund" shall be  
 19 used only for:

20 (1) payments to the "Highlands Municipal Property Tax  
 21 Stabilization Fund" established pursuant to subsection b. of section 19  
 22 of this act in such amounts as are necessary to provide property tax  
 23 stabilization aid pursuant to that section;

24 (2) payments of watershed moratorium offset aid pursuant to  
 25 section 1 of P.L.1999, c. 225 (C.58:29-8);

26 (3) the making of grants by the Highlands Water Protection and  
 27 Planning Council pursuant to sections 13 and 18 of this act; and

28 (4) allocations to the Pinelands Property Tax Assistance Fund  
 29 established pursuant to section 20 of this act.<sup>1</sup>

30

31 <sup>1</sup>[21.] 22.<sup>1</sup> (New section) The <sup>1</sup>[Attorney General] council<sup>1</sup> shall  
 32 provide legal representation to any requesting local government unit  
 33 located in the Highlands Region in any cause of action filed against the  
 34 local government unit and contesting an act or decision of the local  
 35 government unit taken or made under authority granted pursuant to  
 36 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
 37 R.S.40:27-1 et seq., the "State Uniform Construction Code Act,"  
 38 P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

39 a. the municipal master plan and development regulations, or, in  
 40 the case of a county governmental entity, the county master plan and  
 41 associated regulations, have been approved by the council to be in  
 42 conformance with the regional master plan in accordance with sections  
 43 14 or 15 of this act; <sup>1</sup>[and]<sup>1</sup>

44 b. the council <sup>1</sup>[has certified in writing to the Attorney General]  
 45 determines<sup>1</sup> that the act or decision of the local government unit which  
 46 is the subject of the cause of action is consistent with the regional

1 master plan<sup>1</sup>; and

2 c. the act or decision of the local government unit that is the  
3 subject of the cause of action involves an application for development  
4 that provides for the ultimate disturbance of two acres or more of land  
5 or a cumulative increase in impervious surface by one acre or more<sup>1</sup>.

6  
7 <sup>1</sup>[22.] 23.<sup>1</sup> (New section) Within 10 days after the date of  
8 enactment of this act, the Department of Community Affairs, in  
9 consultation with the Department of Environmental Protection, shall  
10 provide guidelines and instructions to all local government units  
11 located wholly or partially within the preservation area with respect to  
12 the processing, review, and enforcement of applications for  
13 development after the date of enactment of this act and before  
14 adoption of the regional master plan.

15  
16 <sup>1</sup>[23.] 24.<sup>1</sup> (New section) The municipal master plan and  
17 development regulations of any municipality, and the county master  
18 plan and associated regulations of any county, located in the Highlands  
19 Region which have been approved by the council to be in conformance  
20 with the regional master plan in accordance with sections 14 or 15 of  
21 this act shall be entitled to a strong presumption of validity. In any  
22 cause of action filed against such a local government unit and  
23 contesting an act or decision of the local government unit taken or  
24 made under authority granted pursuant to the "Municipal Land Use  
25 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the  
26 "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-  
27 119 et seq.), or this act, the court shall give extraordinary deference  
28 to the local government unit, provided that the municipal master plan  
29 and development regulations, or, in the case of a county governmental  
30 entity, the county master plan and associated regulations, have been  
31 approved by the council to be in conformance with the regional master  
32 plan in accordance with sections 14 or 15 of this act. The plaintiff  
33 shall have the burden of proof to demonstrate by clear and convincing  
34 evidence that the act or decision of any such local government unit  
35 was arbitrary, capricious, or unreasonable or in patent abuse of  
36 discretion.

37  
38 <sup>1</sup>[24.] 25.<sup>1</sup> (New section) a. The Council on Affordable Housing  
39 shall take into consideration the regional master plan prior to making  
40 any determination regarding <sup>1</sup>the allocation of<sup>1</sup> the prospective fair  
41 share of the housing need in any municipality in the Highlands Region  
42 under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)  
43 <sup>1</sup>for the fair share period subsequent to 1999<sup>1</sup>.

44 b. <sup>1</sup>[Upon adoption by the Highlands Water Protection and  
45 Planning Council of the regional master plan, any municipality located  
46 wholly or partially in the preservation area, and any municipality in the

1 Highlands planning area that is approved by the Highlands Water  
2 Protection and Planning Council to be in conformance with the  
3 regional master plan pursuant to section 15 of this act, may petition  
4 the Council on Affordable Housing to have its 1987 to 1999 fair share  
5 obligation adjusted in accordance with any applicable rules and  
6 regulations to reflect the change in circumstances in the municipality  
7 resulting from conformance with the regional master plan. In the  
8 event that the municipality has received substantive certification or is  
9 subject to a judgment of repose, that protection shall not be affected  
10 or compromised by the adjustment.

11 c. Any municipality requesting an adjustment pursuant to  
12 subsection b. of this section shall be eligible to apply for planning  
13 assistance grants from the State for the purposes of that subsection.]

14 Nothing in this act shall affect protections provided through a grant  
15 of substantive certification or a judgment of repose granted prior to  
16 the date of enactment of this act.<sup>1</sup>

17

18 <sup>1</sup>[25.] 26.<sup>1</sup> (New section) Within 90 days after the first meeting  
19 of the Highlands Water Protection and Planning Council, the Site  
20 Improvement Advisory Board established pursuant to section 3 of  
21 P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community  
22 Affairs shall consult with the council and the Commissioner of  
23 Environmental Protection concerning whether the site improvement  
24 standards for residential development adopted pursuant to P.L.1993,  
25 c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently  
26 protective for the Highlands Region, especially for the preservation  
27 area; and if it is determined they are not, those standards shall be  
28 modified accordingly as soon as practicable <sup>1</sup>thereafter<sup>1</sup> to meet that  
29 objective.

30

31 <sup>1</sup>[26. a. Effective on the date of enactment of this act, any person  
32 who is selling any land, or any interest therein or option therefor,  
33 within the preservation area shall give to the Commissioner of  
34 Environmental Protection written notice, by certified mail, that a  
35 contract of sale has been executed for the property. The notice shall  
36 set forth the terms and conditions of the executed contract of sale and  
37 shall have attached a copy of that contract. The notice of executed  
38 contract of sale shall also include any other information that the  
39 commissioner may reasonably require by rule or regulation. The State  
40 shall have the right of first refusal to purchase the land upon  
41 substantially similar terms and conditions, which right shall be  
42 exercisable as provided by this section. The State may exercise its  
43 right of first refusal only if the land, or the interest therein or option  
44 therefor, is to be used for water supply protection purposes or  
45 recreation and conservation purposes, or farmland preservation  
46 purposes. If the State chooses to exercise its right of first refusal, the

1 State shall give notice of that intent to the landowner within a period  
2 of 30 days following the date of receipt of the notice of executed  
3 contract of sale. The State shall submit its offer to match the terms  
4 and conditions of the executed contract of sale to the landowner  
5 within the 60 days following the expiration of the 30-day period. If no  
6 notice is given within the 30-day period that the State intends to  
7 exercise its right of first refusal, or if no offer is submitted to the  
8 landowner within the 60-day period following the 30-day period, the  
9 owner may at the expiration of the 30-day period or the 60-day period,  
10 as the case may be, convey the land to the proposed purchaser named  
11 in the executed contract of sale upon the terms and conditions  
12 specified therein, or to the proposed purchaser's assignee as provided  
13 in that executed contract of sale. If the owner fails to convey the land  
14 to the named proposed purchaser or an assignee thereof pursuant to  
15 the executed contract of sale, the land shall again become subject to  
16 the State's right of first refusal as provided by this section. A  
17 landowner may elect to convey the land to the State upon the exercise  
18 of the State's right of first refusal without breaching the original  
19 contract of sale, notwithstanding that the State's offer is different than,  
20 or provides for lower consideration than, that in the original executed  
21 contract of sale.

22 b. The requirements of this section shall not apply to any sale or  
23 other conveyance of land between immediate family members, to any  
24 sale of a structure that is located on a lot of less than 10 acres, or to  
25 any land that is subject to the State Agriculture Development  
26 Committee's first right and option to purchase as provided pursuant to  
27 section 2 of P.L.1989, c.28 (C.4:1C-39).

28 c. The Commissioner of Environmental Protection shall, within 60  
29 days after the date of enactment of this act, transmit, by certified mail,  
30 written notice of the provisions of this section to the governing body  
31 of every municipality and county located in whole or in part in the  
32 preservation area, and publish a notice in the New Jersey Register and  
33 in at least two newspapers circulating within the preservation area.

34 d. Any contract made in violation of subsection a. of this section  
35 is voidable.

36 e. Nothing in this section shall be construed so as to limit any  
37 authority granted to the Department of Environmental Protection, the  
38 State Agriculture Development Committee, or any other State entity,  
39 or a local government unit, pursuant to law, to acquire any lands, or  
40 interests therein or options therefor, in such manner as may be  
41 provided in any such law.

42 f. For the purposes of this section, "immediate family member"  
43 means spouse, child, sibling, aunt, uncle, niece, nephew, first cousin,  
44 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,  
45 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half  
46 brother, or half sister, whether the individual is related by blood,

1 marriage, or adoption.]<sup>1</sup>

2

3 <sup>1</sup>[27. (New section) No local government unit, public utility, or  
4 State entity shall sell or otherwise convey any land or interest therein  
5 it owns that is located in the Highlands Region and is utilized for the  
6 purpose of protecting a public water supply, as defined and determined  
7 by the Commissioner of Environmental Protection; except that this  
8 section:

9 a. shall not apply to the sale or conveyance of such lands to  
10 another local government unit, public utility, or State entity for the  
11 purpose of protecting a public water supply, or the sale or conveyance  
12 of such lands for permanent preservation and use for recreation and  
13 conservation purposes, provided that in either case the sale or  
14 conveyance is approved by the commissioner; or

15 b. shall not prevent the lease or other conveyance of such lands as  
16 authorized pursuant to P.L.2002, c.47 (C.40A:12-17.1 et al.),  
17 provided that the lands so leased or otherwise conveyed shall continue  
18 to be subject to the prohibition prescribed by this section and the  
19 requirements and provisions of that act.]<sup>1</sup>

20

21 <sup>1</sup>[28.] 27.<sup>1</sup> (New section) The council may institute an action or  
22 proceeding in Superior Court for injunctive relief for any violation of  
23 this act, or any rule or regulation adopted pursuant thereto, or, in the  
24 preservation area for any violation of, or nonconformance with, the  
25 regional master plan <sup>1</sup>[, and the court may proceed in the action in a  
26 summary manner]. The council may also institute an action or  
27 proceeding for injunctive relief for any violation of the regional master  
28 plan in the planning area as it relates to a municipality or county that  
29 has been approved to be in conformance with the regional master plan  
30 pursuant to section 15 of this act<sup>1</sup>. In any <sup>1</sup>action or<sup>1</sup> proceeding  
31 brought pursuant to this section, the court <sup>1</sup>may proceed in a summary  
32 manner and<sup>1</sup> may also grant temporary or interlocutory relief.

33

34 <sup>1</sup>[29.] 28.<sup>1</sup> (New section) Any decision rendered or action taken  
35 by the council pursuant to this act shall be a final agency action subject  
36 to judicial review in the Appellate Division of the Superior Court of  
37 New Jersey in accordance with the Rules of Court. The court may  
38 grant such relief as it deems just and proper, and to make and enter an  
39 order enforcing, modifying, and enforcing as so modified, remanding  
40 for further specific evidence or findings, or setting aside in whole or  
41 in part, the decision of the council. The findings of fact upon which  
42 the council's decision is based shall be conclusive if supported by  
43 substantial evidence on the record considered as a whole.

44

45 <sup>1</sup>[30.] 29.<sup>1</sup> (New section) On or before March 31 in each year the  
46 council shall make an annual report of its activities for the preceding

1 calendar year to the Governor <sup>1</sup>[and],<sup>1</sup> the Legislature<sup>1</sup>, and the  
2 governing body and the chief executive officer of each municipality  
3 and county in the Highlands Region<sup>1</sup>. Each such report shall set forth  
4 a complete operating and financial statement covering its operations  
5 during the year.

6  
7 <sup>1</sup>30. (New section) a. The following are exempt from the  
8 provisions of this act, the regional master plan, any rules or regulations  
9 adopted by the Department of Environmental Protection pursuant to  
10 this act, or any amendments to a master plan, development regulations,  
11 or other regulations adopted by a local government unit to specifically  
12 conform them with the regional master plan:

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

18 (2) the construction of a single family dwelling on a lot in existence  
19 on the date of enactment of this act, provided that the construction  
20 does not result in the ultimate disturbance of one acre or more of land  
21 or a cumulative increase in impervious surface by one-quarter acre or  
22 more;

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

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

27 (i) preliminary or final site plan approval;

28 (ii) final municipal building or construction permit;

29 (iii) minor subdivision approval where no subsequent site plan  
30 approval is required;

31 (iv) final subdivision approval where no subsequent site plan  
32 approval is required; or

33 (v) preliminary subdivision approval where no subsequent site plan  
34 approval is required; and

35 (b) at least one of the following permits from the Department of  
36 Environmental Protection, if applicable to the proposed major  
37 Highlands development:

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

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

43 (iii) a certification or other approval or authorization issued  
44 pursuant to the "The Realty Improvement Sewerage and Facilities Act  
45 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

46 (iv) a treatment works approval pursuant to the "Water Pollution

- 1 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or  
2 (c) one of the following permits from the Department of  
3 Environmental Protection, if applicable to the proposed major  
4 Highlands development, and if the proposed major Highlands  
5 development does not require one of the permits listed in  
6 subsubparagraphs (i) through (iv) of subparagraph (b) of this  
7 paragraph:  
8 (i) a permit or other approval or authorization issued pursuant to  
9 the "Freshwater Wetlands Protection Act," P.L.1987, c.156  
10 (C.13:9B-1 et seq.); or  
11 (ii) a permit or other approval or authorization issued pursuant to  
12 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
13 et seq.).  
14 The exemption provided in this paragraph shall apply only to the  
15 land area and the scope of the major Highlands development addressed  
16 by the qualifying approvals pursuant to subparagraphs (a) and (b), or  
17 (c) if applicable, of this paragraph, shall expire if any of those  
18 qualifying approvals expire, and shall expire if construction beyond site  
19 preparation does not commence within three years after the date of  
20 enactment of this act;  
21 (4) the reconstruction of any building or structure for any reason  
22 within 125% of the footprint of the lawfully existing impervious  
23 surfaces on the site, provided that the reconstruction does not increase  
24 the lawfully existing impervious surface by one-quarter acre or more.  
25 This exemption shall not apply to the reconstruction of any agricultural  
26 or horticultural building or structure for a non-agricultural or non-  
27 horticultural use;  
28 (5) any improvement to a single family dwelling in existence on the  
29 date of enactment of this act, including but not limited to an addition,  
30 garage, shed, driveway, porch, deck, patio, swimming pool, or septic  
31 system;  
32 (6) any improvement, for non-residential purposes, to a place of  
33 worship owned by a nonprofit entity, society or association, or  
34 association organized primarily for religious purposes, or a public or  
35 private school, or a hospital, in existence on the date of enactment of  
36 this act, including but not limited to new structures, an addition to an  
37 existing building or structure, a site improvement, or a sanitary facility;  
38 (7) an activity conducted in accordance with an approved woodland  
39 management plan pursuant to section 3 of P.L.1964, c.48  
40 (C.54:4-23.3) or the normal harvesting of forest products in  
41 accordance with a forest management plan approved by the State  
42 Forester;  
43 (8) the construction or extension of trails with non-impervious  
44 surfaces on publicly owned lands or on privately owned lands where  
45 a conservation or recreational use easement has been established;  
46 (9) the routine maintenance and operations, rehabilitation,



1 preservation, reconstruction, or repair of transportation or  
2 infrastructure systems by a State entity or local government unit,  
3 provided that the activity is consistent with the goals and purposes of  
4 this act and does not result in the construction of any new through-  
5 capacity travel lanes;

6 (10) the construction of transportation safety projects and bicycle  
7 and pedestrian facilities by a State entity or local government unit,  
8 provided that the activity does not result in the construction of any  
9 new through-capacity travel lanes;

10 (11) the routine maintenance and operations, rehabilitation,  
11 preservation, reconstruction, repair, or upgrade of public utility lines,  
12 rights of way, or systems, by a public utility, provided that the activity  
13 is consistent with the goals and purposes of this act;

14 (12) the reactivation of rail lines and rail beds existing on the date  
15 of enactment of this act;

16 (13) the construction of a public infrastructure project approved by  
17 public referendum prior to January 1, 2005 or a capital project  
18 approved by public referendum prior to January 1, 2005;

19 (14) the mining, quarrying, or production of ready mix concrete,  
20 bituminous concrete, or Class B recycling materials occurring or which  
21 are permitted to occur on any mine, mine site, or construction  
22 materials facility existing on June 7, 2004;

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

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

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

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

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

1 d. Nothing in this act shall be construed to repeal, reduce, or  
2 otherwise modify the obligation of counties, municipalities, and other  
3 municipal and public agencies of the State to pay property taxes on  
4 lands used for the purpose and for the protection of a public water  
5 supply, without regard to any buildings or other improvements  
6 thereon, pursuant to R.S.54:4-3.3.<sup>1</sup>

7  
8 <sup>1</sup>31. (New section) a. (1) Any agricultural or horticultural  
9 development in the preservation area that would result in the increase,  
10 after the date of enactment of this act either individually or  
11 cumulatively, of agricultural impervious cover by three percent or  
12 more of the total land area of a farm management unit in the  
13 preservation area shall require the review and approval by the local  
14 soil conservation district of a farm conservation plan which shall be  
15 prepared and submitted by the owner or operator of the farm  
16 management unit. Upon approval of the farm conservation plan by the  
17 local soil conservation district, the owner or operator of the farm  
18 management unit shall implement the plan on the farm management  
19 unit. The local soil conservation district shall transmit a copy of an  
20 approved farm conservation plan to the State Soil Conservation  
21 Committee, and, if any part of the farm management unit is preserved  
22 under any farmland preservation program, to the State Agriculture  
23 Development Committee.

24 (2) Any agricultural or horticultural development in the  
25 preservation area that would result in the increase, after the date of  
26 enactment of this act either individually or cumulatively, of agricultural  
27 impervious cover by nine percent or more of the total land area of a  
28 farm management unit in the preservation area shall require the review  
29 and approval by the local soil conservation district of a resource  
30 management systems plan which shall be prepared and submitted by  
31 the owner or operator of the farm management unit.

32 Prior to the approval of a resource management systems plan by a  
33 local soil conservation district, a copy of the resource management  
34 systems plan shall be forwarded by the local soil conservation district  
35 to the Department of Environmental Protection for review and  
36 approval, with or without conditions, or denial within 60 days after  
37 receipt by the department. Upon approval of the resource  
38 management systems plan by the local soil conservation district and  
39 the Department of Environmental Protection, the owner or operator  
40 of the farm management unit shall implement the plan on the farm  
41 management unit. The local soil conservation district shall transmit a  
42 copy of an approved resource management systems plan to the State  
43 Soil Conservation Committee, and, if any part of the farm management  
44 unit is preserved under any farmland preservation program, to the  
45 State Agriculture Development Committee.

46 (3) A farm conservation plan required pursuant to paragraph (1) of

1 this subsection and a resource management systems plan required  
2 pursuant to paragraph (2) of this subsection shall be prepared in  
3 accordance with science-based standards, consistent with the goals and  
4 purposes of this act, which standards shall be established by the State  
5 Board of Agriculture and the Department of Agriculture, in  
6 consultation with the Department of Environmental Protection, the  
7 State Agriculture Development Committee, Rutgers Cooperative  
8 Extension, and the Natural Resources Conservation Service in the  
9 United States Department of Agriculture. Within 270 days after the  
10 date of enactment of this act, the State Department of Agriculture, in  
11 consultation with the Department of Environmental Protection, shall  
12 develop and adopt, pursuant to the "Administrative Procedure Act,"  
13 P.L.1968, c.410 (C.52:14B-1 et seq.), these standards and any other  
14 rules and regulations necessary to implement this section.

15 b. (1) If any person violates any provision of subsection a. of this  
16 section, any rule or regulation adopted pursuant to subsection a. of  
17 this section, or a farm conservation plan or a resource management  
18 systems plan approved pursuant to subsection a. of this section, the  
19 Department of Agriculture or the local soil conservation district may  
20 institute a civil action in the Superior Court for injunctive relief to  
21 prohibit and prevent the violation or violations and the court may  
22 proceed in a summary manner.

23 (2) (a) Any person who violates any provision of subsection a. of  
24 this section, any rule or regulation adopted pursuant to subsection a.  
25 of this section, or a farm conservation plan or a resource management  
26 systems plan approved pursuant to subsection a. of this section shall  
27 be liable to a civil administrative penalty of up to \$5,000 for each  
28 violation. If the violation is of a continuing nature, each day during  
29 which it continues shall constitute an additional, separate, and distinct  
30 offense. No assessment shall be levied pursuant to this subsection  
31 until after the party has been notified by certified mail or personal  
32 service and provided an opportunity for a hearing.

33 (b) Any amount assessed under this subsection shall fall within a  
34 range established in a penalty schedule adopted by the Department of  
35 Agriculture pursuant to the "Administrative Procedure Act," which  
36 shall take into account the seriousness and duration of the violation  
37 and whether the violation involves the failure to prepare or to  
38 implement a farm conservation plan or resource management systems  
39 plan. The schedule shall also provide for an enhanced penalty if the  
40 violation causes an impairment to water quality. Any civil  
41 administrative penalty assessed under this subsection may be  
42 compromised by the Secretary of Agriculture upon the posting of a  
43 performance bond by the violator, or upon such terms and conditions  
44 as the secretary may establish by regulation.

45 (c) Any person who fails to pay a civil administrative penalty in full  
46 pursuant to this subsection shall be subject, upon order of a court, to

1 a civil penalty of up to \$5,000 for each violation. If the violation is of  
2 a continuing nature, each day during which it continues shall constitute  
3 an additional, separate, and distinct offense. Any such civil penalty  
4 imposed may be collected with costs in a summary proceeding  
5 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
6 (C.2A:58-10 et seq.). The Superior Court and the municipal court  
7 shall have jurisdiction to enforce the provisions of the "Penalty  
8 Enforcement Law of 1999" in connection with this subsection.

9 (d) All penalties collected pursuant to this subsection shall either be  
10 used, as determined by the council, by the State Agriculture  
11 Development Committee for the preservation of farmland in the  
12 preservation area or by any development transfer bank used or  
13 established by the council to purchase development potential in the  
14 preservation area.

15 c. Nothing in this act, the regional master plan, any rules or  
16 regulations adopted by the Department of Environmental Protection  
17 pursuant to this act, or any amendments to a master plan, development  
18 regulations, or other regulations adopted by a local government unit  
19 to specifically conform them with the regional master plan shall be  
20 construed to alter or compromise the goals, purposes, policies, and  
21 provisions of, or lessen the protections afforded to farmers by, the  
22 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules  
23 or regulations adopted pursuant thereto.

24 d. The provisions of this section shall not be construed to alter or  
25 obviate the requirements of any other applicable State or local laws,  
26 rules, regulations, development regulations, or ordinances.<sup>1</sup>

27  
28 <sup>1</sup>[31.] 32.<sup>1</sup> (New section) a. Commencing on the date of  
29 enactment of this act and until the effective date of the rules and  
30 regulations adopted by the Department of Environmental Protection  
31 pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act, all major  
32 Highlands<sup>1</sup> development in the preservation area shall require a  
33 Highlands Preservation Area approval from the department. The  
34 Highlands Preservation Area approval shall consist of the related  
35 aspects of other regulatory programs which may include, but need not  
36 be limited to, the "Freshwater Wetlands Protection Act," P.L.1987,  
37 c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species  
38 Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water  
39 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the  
40 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),  
41 "The Realty Improvement Sewerage and Facilities Act (1954),"  
42 P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning  
43 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water  
44 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area  
45 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and  
46 regulations adopted pursuant thereto. For the purposes of this section,

1 the provisions of P.L.1975, c. 232 (C.13:1D-29 et seq.) shall not apply  
2 to an application for a permit pursuant to the "Flood Hazard Area  
3 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

4 b. The Highlands Preservation Area approval shall also require:

5 (1) a prohibition on major <sup>1</sup>Highlands<sup>1</sup> development within 300 feet  
6 of any Highlands open waters, and a 300-foot buffer adjacent to all  
7 Highlands open waters<sup>1</sup>; provided, however, that this buffer shall not  
8 extend into the planning area<sup>1</sup>. For the purposes of this paragraph,  
9 major <sup>1</sup>Highlands<sup>1</sup> development does not include linear development  
10 for infrastructure, utilities, and the rights-of-way therefor, provided  
11 that there is no other feasible alternative<sup>1</sup>, as determined by the  
12 department,<sup>1</sup> for the linear development outside of the buffer.  
13 Structures or land uses in the buffer existing on the date of enactment  
14 of this act may remain, provided that the area of disturbance shall not  
15 be increased. This paragraph shall not be construed to limit the  
16 authority of the department to establish buffers of any size or any  
17 other protections for category one waters designated by the  
18 department pursuant to the "Water Pollution Control Act," P.L.1977,  
19 c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation  
20 adopted pursuant thereto, for major <sup>1</sup>Highlands<sup>1</sup> development or for  
21 other development that does not qualify as major <sup>1</sup>Highlands<sup>1</sup>  
22 development;

23 (2) the quality of all Highlands open waters and <sup>1</sup>[the]<sup>1</sup> waters of  
24 the Highlands within the preservation area to be maintained, restored,  
25 or enhanced, <sup>1</sup>as required pursuant to the "Water Pollution Control  
26 Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality  
27 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or  
28 regulation adopted pursuant thereto,<sup>1</sup> and any new or expanded point  
29 source discharge, except discharges from water supply facilities, shall  
30 not degrade existing water quality. In the case of water supply  
31 facilities, all reasonable measures shall be taken to eliminate or  
32 minimize water quality impacts;

33 (3) notwithstanding the provisions of subsection a. of section 5 of  
34 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
35 pursuant thereto, to the contrary, any diversion of more than 50,000  
36 gallons per day, and multiple diversions by the same or related entities  
37 for the same or related projects or developments of more than 50,000  
38 gallons per day, of waters of the Highlands shall require a permit  
39 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
40 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be  
41 based on consideration of individual and cumulative impacts of  
42 multiple diversions, maintenance of stream base flows, minimization  
43 of depletive use, maintenance of existing water quality, and protection  
44 of ecological uses<sup>1</sup>. Any new or increased diversion for nonpotable  
45 purposes that is more than 50% consumptive shall require an  
46 equivalent reduction in water demand within the same subdrainage

1 area through such means as groundwater recharge of stormwater or  
2 reuse. Existing unused allocation or allocations used for nonpotable  
3 purposes may be revoked by the department where measures to the  
4 maximum extent practicable are not implemented to reduce demand.  
5 All new or increased diversions shall be required to implement water  
6 conservation measures to the maximum extent practicable<sup>1</sup>;

7 (4) a zero net fill requirement for flood hazard areas pursuant to the  
8 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
9 seq.);

10 (5) the antidegradation provisions of the surface water quality  
11 standards and the stormwater regulations applicable to category one  
12 waters to be applied to Highlands open waters;

13 (6) a prohibition on impervious surfaces of greater than three  
14 percent of the land area of a lot existing on the date of enactment of  
15 this act, except that Highlands open waters shall not be included in the  
16 calculation of that land area;

17 (7) a prohibition on development, except linear development for  
18 infrastructure, utilities, and the rights-of-way therefor, provided that  
19 no other feasible alternative<sup>1</sup>, as determined by the department,<sup>1</sup> exists  
20 for the linear development, on steep slopes with a grade of 20% or  
21 greater; and

22 (8) a prohibition on development that disturbs upland forested  
23 areas, in order to prevent soil erosion and sedimentation, protect water  
24 quality, prevent stormwater runoff, and protect threatened and  
25 endangered animal and plant species sites and designated habitats.  
26 Notwithstanding the provisions of this paragraph to the contrary, if a  
27 major <sup>1</sup>Highlands<sup>1</sup> development complies with all other applicable  
28 requirements for a Highlands Preservation Area <sup>1</sup>[review] approval<sup>1</sup>  
29 pursuant to this subsection and disturbance to an upland forested area  
30 is unavoidable, the department shall allow the disturbance to an upland  
31 forested area of no more than 20 feet directly adjacent to a structure  
32 and of no more than 10 feet on each side of a driveway as necessary  
33 to access a non-forested area of a site.

34 c. <sup>1</sup>[The Highlands Preservation Area approval required pursuant  
35 to this section shall include a limited review by the department of an  
36 application for a Highlands Preservation Area approval to a review for  
37 the purpose of locating a single family dwelling on the property based  
38 upon the least environmental impact to the natural resources located  
39 on the property when the application is for the construction of a single  
40 family dwelling on property owned by the individual on the date of  
41 enactment of this act, but only if the construction requires an  
42 environmental land use or water permit and does not result in the  
43 ultimate disturbance of one acre or more of land or an increase in  
44 impervious surface by one-quarter acre or more. This limited review  
45 shall not be construed to authorize the waiver of any other provision  
46 of law, or any rule or regulation adopted pursuant thereto.]

1 Application for a Highlands Preservation Area approval shall be made  
2 on forms made available by the department and shall be accompanied  
3 by a fee established in accordance with a fee schedule issued by the  
4 department within 10 days after the date of enactment of this act and  
5 published in the New Jersey Register. The fee schedule shall be  
6 exempt from the rulemaking requirements of the "Administrative  
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall expire  
8 upon the adoption of the rules and regulations required pursuant to  
9 subsection a. of section 33 of this act.

10 d. The requirements and provisions of this section shall not apply  
11 in the planning area.<sup>1</sup>

12  
13 <sup>1</sup>[32.] 33.<sup>1</sup> (New section) a. Within 270 days after the date of  
14 enactment of this act, and notwithstanding the provisions of the  
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
16 to the contrary, the Commissioner of Environmental Protection, after  
17 consultation with the Department of Agriculture, the Department of  
18 Community Affairs, <sup>1</sup>[and],<sup>1</sup> the State Planning Commission,<sup>1</sup> and the  
19 Department of Transportation,<sup>1</sup> shall, immediately upon filing proper  
20 notice with the Office of Administrative Law, adopt the rules and  
21 regulations prepared by the department pursuant to section <sup>1</sup>[33] 34<sup>1</sup>  
22 of this act and any other rules and regulations necessary to establish  
23 the Highlands permitting review program established pursuant to  
24 section <sup>1</sup>[34] 35<sup>1</sup> of this act.

25 b. The rules and regulations adopted pursuant to subsection a. of  
26 this section shall be in effect for a period not to exceed one year after  
27 the date of the filing. These rules and regulations shall thereafter be  
28 adopted, amended, or readopted by the commissioner in accordance  
29 with the requirements of the "Administrative Procedure Act," after  
30 consultation with the council, the Department of Agriculture, the  
31 Department of Community Affairs, <sup>1</sup>[and]<sup>1</sup> the State Planning  
32 Commission<sup>1</sup>, and the Department of Transportation<sup>1</sup>.

33 c. <sup>1</sup>[The rules and regulations adopted by the commissioner  
34 pursuant to subsection a. of this section and any requirement to obtain  
35 a Highlands permitting review pursuant this act shall not apply to any  
36 major development for which all State environmental land use or water  
37 permits and local permits, approvals, and other authorizations have  
38 been issued.]

39 The requirements and provisions of sections 33 through 43 of this  
40 act shall not apply in the planning area.<sup>1</sup>

41  
42 <sup>1</sup>[33.] 34.<sup>1</sup> (New section) The Department of Environmental  
43 Protection shall prepare rules and regulations establishing the  
44 environmental standards for the preservation area upon which the  
45 regional master plan adopted by the council and the Highlands  
46 permitting review program administered by the department pursuant

1 to this act shall be based. These rules and regulations shall provide for  
2 at least the following:

3 a. a prohibition on major <sup>1</sup>Highlands<sup>1</sup> development within 300 feet  
4 of any Highlands open waters, and the establishment of a 300-foot  
5 buffer adjacent to all Highlands open waters<sup>1</sup>; provided, however, that  
6 this buffer shall not extend into the planning area<sup>1</sup>. For the purposes  
7 of this subsection, major <sup>1</sup>Highlands<sup>1</sup> development does not include  
8 linear development for infrastructure, utilities, and the rights-of-way  
9 therefor, provided that there is no other feasible alternative<sup>1</sup>, as  
10 determined by the department,<sup>1</sup> for the linear development outside of  
11 the buffer. Structures or land uses in the buffer existing on the date of  
12 enactment of this act may remain, provided that the area of disturbance  
13 shall not be increased. This subsection shall not be construed to limit  
14 any authority of the department to establish buffers of any size or any  
15 other protections for category one waters designated by the  
16 department pursuant to the "Water Pollution Control Act," P.L.1977,  
17 c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation  
18 adopted pursuant thereto, for major <sup>1</sup>Highlands<sup>1</sup> development or for  
19 other development that does not qualify as major <sup>1</sup>Highlands<sup>1</sup>  
20 development;

21 b. measures to ensure that existing water quality shall be  
22 maintained, restored, or enhanced<sup>1</sup>, as required pursuant to the "Water  
23 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the  
24 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
25 or any rule or regulation adopted pursuant thereto,<sup>1</sup> in all Highlands  
26 open waters and waters of the Highlands, and <sup>1</sup>to<sup>1</sup> provide that any  
27 new or expanded point source discharge, except discharges from water  
28 supply facilities, shall not degrade existing water quality. In the case  
29 of water supply facilities, all reasonable measures shall be taken to  
30 eliminate or minimize water quality impacts;

31 c. notwithstanding the provisions of section 23 of P.L.1987, c.156  
32 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to  
33 the contrary, the criteria for the type of activity or activities eligible  
34 for the use of a general permit for <sup>1</sup>any portion of<sup>1</sup> an activity located  
35 <sup>1</sup>[wholly or partially]<sup>1</sup> within a freshwater wetland or freshwater  
36 wetland transition area located <sup>1</sup>[wholly or partially]<sup>1</sup> in the  
37 preservation area, provided that these criteria are at least as protective  
38 as those provided in section 23 of P.L.1987, c.156 (C.13:9B-23);

39 d. notwithstanding the provisions of subsection a. of section 5 of  
40 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
41 pursuant thereto, to the contrary, a system for the regulation of any  
42 diversion of more than 50,000 gallons per day, and multiple diversions  
43 by the same or related entities for the same or related projects or  
44 developments of more than 50,000 gallons per day, of waters of the  
45 Highlands pursuant to the "Water Supply Management Act,"  
46 P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant



1 thereto shall be based on consideration of individual and cumulative  
2 impacts of multiple diversions, maintenance of stream base flows,  
3 minimization of depletive use, maintenance of existing water quality,  
4 and protection of ecological uses<sup>1</sup>. Any new or increased diversion for  
5 nonpotable purposes that is more than 50% consumptive shall require  
6 an equivalent reduction in water demand within the same subdrainage  
7 area through such means as groundwater recharge of stormwater or  
8 reuse. Existing unused allocation or allocations used for nonpotable  
9 purposes may be revoked by the department where measures to the  
10 maximum extent practicable are not implemented to reduce demand.  
11 All new or increased diversions shall be required to implement water  
12 conservation measures to the maximum extent practicable<sup>1</sup>;

13 e. a septic system density standard established at a level to prevent  
14 the degradation of water quality, or to require the restoration of water  
15 quality, and to protect ecological uses from individual, secondary, and  
16 cumulative impacts, in consideration of deep aquifer recharge available  
17 for dilution;

18 f. a zero net fill requirement for flood hazard areas pursuant to the  
19 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
20 seq.);

21 g. the antidegradation provisions of the surface water quality  
22 standards and the stormwater regulations applicable to category one  
23 waters to be applied to Highlands open waters;

24 h. a prohibition on impervious surfaces of greater than three  
25 percent of the land area, except that Highlands open waters shall not  
26 be included in the calculation of that land area;

27 i. notwithstanding the provisions of the "Safe Drinking Water Act,"  
28 P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation  
29 adopted pursuant thereto, to the contrary, a limitation or prohibition  
30 on the construction of new public water systems or the extension of  
31 existing public water systems <sup>1</sup>to serve development in the  
32 preservation area<sup>1</sup>, except in the case of a demonstrated need to  
33 protect public health and safety;

34 j. a prohibition on development, except linear development for  
35 infrastructure, utilities, and the rights-of-way therefor, provided that  
36 no other feasible alternative<sup>1</sup>, as determined by the department,<sup>1</sup> exists  
37 for the linear development, on steep slopes in the preservation area  
38 with a grade of 20% or greater, and standards for development on  
39 slopes in the preservation area exhibiting a grade of between 10% and  
40 20%. The standards shall assure that developments on slopes  
41 exhibiting a grade of between 10% and 20% preserve and protect  
42 steep slopes from the negative consequences of development on the  
43 site and the cumulative impact in the Highlands Region. The standards  
44 shall be developed to prevent soil erosion and sedimentation, protect  
45 water quality, prevent stormwater runoff, protect threatened and  
46 endangered animal and plant species sites and designated habitats,

1 provide for minimal practicable degradation of unique or irreplaceable  
2 land types, historical or archeological areas, and existing scenic  
3 attributes at the site and within the surrounding area, protect upland  
4 forest, and restrict impervious surface; and shall take into  
5 consideration differing soil types, soil erodability, topography,  
6 hydrology, geology, and vegetation types; and

7 k. a prohibition on development that disturbs upland forested  
8 areas, in order to prevent soil erosion and sedimentation, protect water  
9 quality, prevent stormwater runoff, and protect threatened and  
10 endangered animal and plant species sites and designated habitats; and  
11 standards to protect upland forested areas that require all appropriate  
12 measures be taken to avoid impacts or disturbance to upland forested  
13 areas, and where avoidance is not possible that all appropriate  
14 measures have been taken to minimize and mitigate impacts to upland  
15 forested areas and to prevent soil erosion and sedimentation, protect  
16 water quality, prevent stormwater runoff, and protect threatened and  
17 endangered animal and plant species sites and designated habitats.

18

19 <sup>1</sup>[34.] 35.<sup>1</sup> (New section) a. The Department of Environmental  
20 Protection shall establish a Highlands permitting review program to  
21 provide for the coordinated review of any major <sup>1</sup>Highlands<sup>1</sup>  
22 development in the preservation area based upon the rules and  
23 regulations adopted by the department pursuant to sections <sup>1</sup>[32 and  
24 33] 33 and 34<sup>1</sup> of this act. The Highlands permitting review program  
25 established pursuant to this section shall consolidate the related  
26 aspects of other regulatory programs which may include, but need not  
27 be limited to, the "Freshwater Wetlands Protection Act," P.L.1987,  
28 c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species  
29 Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water  
30 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the  
31 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),  
32 "The Realty Improvement Sewerage and Facilities Act (1954),"  
33 P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning  
34 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water  
35 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area  
36 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and  
37 regulations adopted pursuant thereto, and the rules and regulations  
38 adopted pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act. For  
39 the purposes of this section, the provisions of P.L.1975, c.232  
40 (C.13:1D-29 et seq.) shall not apply to an application for a permit  
41 pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19  
42 (C.58:16A-50 et seq.).

43 b. The Highlands permitting review program established pursuant  
44 to this section shall include:

45 (1) <sup>1</sup>[a provision limiting the review by the department of an  
46 application to a review for the purpose of locating a single family

1 dwelling on the property based upon the least environmental impact to  
2 the natural resources located on the property when the application is  
3 for the construction of a single family dwelling on property owned by  
4 the individual on the date of enactment of this act, but only if the  
5 construction requires an environmental land use or water permit and  
6 does not result in the ultimate disturbance of one acre or more of land  
7 or an increase in impervious surface by one-quarter acre or more;

8 (2) (a) a provision that may allow for the waiver of any provision  
9 of a Highlands permitting review on a case-by-case basis to avoid  
10 undue hardship to an individual owner of residential property for one  
11 single family dwelling that includes the ultimate disturbance of one  
12 acre or more of land or an increase in impervious surface by  
13 one-quarter acre or more, provided that the property was owned by  
14 the individual on the date of enactment of this act;

15 (b)]<sup>1</sup> a provision that may allow for a waiver of any provision of a  
16 Highlands permitting review on a case-by-case basis if determined to  
17 be necessary by the department in order to protect public health and  
18 safety;

19 <sup>1</sup>[(c)] (2)<sup>1</sup> a provision that may allow for a waiver of any provision  
20 of a Highlands permitting review on a case-by-case basis for  
21 redevelopment in certain previously developed areas in the  
22 preservation area identified by the council pursuant to subsection b. of  
23 section 9 <sup>1</sup>or subparagraph (h) of paragraph (6) of subsection a. of  
24 section 11<sup>1</sup> of this act; and

25 <sup>1</sup>[(d)] (3)<sup>1</sup> a provision that may allow for a waiver of any provision  
26 of the Highlands permitting review on a case-by-case basis in order to  
27 avoid the taking of property without just compensation.

28 The grant of a waiver pursuant to <sup>1</sup>[subparagraphs (a), (b), (c), or  
29 (d) of this paragraph] this subsection<sup>1</sup> by the department shall be  
30 conditioned upon the department's determination that the major  
31 <sup>1</sup>Highlands<sup>1</sup> development meets the requirements prescribed for a  
32 finding as listed in subsection a. of section <sup>1</sup>[35] 36<sup>1</sup> of this act to the  
33 maximum extent possible.

34 c. The <sup>1</sup>[limited review provision of paragraph (1) of subsection  
35 b. of this section and the]<sup>1</sup> waiver provisions of <sup>1</sup>[paragraph (2) of]<sup>1</sup>  
36 subsection b. of this section are limited to the provisions of the rules  
37 and regulations adopted pursuant to section <sup>1</sup>[33] 34<sup>1</sup> of this act, and  
38 shall not limit the department's jurisdiction or authority pursuant to  
39 any other provision of law, or any rule or regulation adopted pursuant  
40 thereto, that is incorporated into the Highlands permitting review  
41 program.

42 d. The Highlands permitting review program established pursuant  
43 to this section may provide for the issuance of a general permit<sup>1</sup>,<sup>1</sup>  
44 provided that the department adopts rules and regulations which  
45 identify the activities subject to general permit review and establish the

1 criteria for the approval or disapproval of a general permit.

2 e. Any person proposing to construct or cause to be constructed,  
3 or to undertake or cause to be undertaken, as the case may be, a major  
4 <sup>1</sup>Highlands<sup>1</sup> development in the preservation area shall file an  
5 application for a Highlands permitting review with the department, on  
6 forms and in a manner prescribed by the department.

7 f. The department shall, in accordance with a fee schedule adopted  
8 as a rule or regulation, establish and charge reasonable fees necessary  
9 to meet the administrative costs of the department associated with the  
10 processing, review, and enforcement of any application for a Highlands  
11 permitting review. These fees shall be deposited in the "Environmental  
12 Services Fund," established pursuant to section 5 of P.L.1975, c.232  
13 (C.13:1D-33), and kept separate and apart from all other State  
14 receipts and appropriated only as provided herein. There shall be  
15 appropriated annually to the department revenue from that fund  
16 sufficient to defray in full the costs incurred in the processing, review,  
17 and enforcement of applications for Highlands permitting reviews.

18

19 <sup>1</sup>[35.] 36.<sup>1</sup> (New section) a. The Commissioner of Environmental  
20 Protection shall review filed applications for Highlands permitting  
21 reviews, including any information presented at public hearings or  
22 during a comment period, or submitted during the application review  
23 period.

24 Except as otherwise provided by subsection b. of this section, a  
25 Highlands permitting review approval may be issued only upon a  
26 finding that the proposed major <sup>1</sup>Highlands<sup>1</sup> development:

27 (1) would have a de minimis impact on water resources and would  
28 not cause or contribute to a significant degradation of surface or  
29 ground waters. In making this determination, the commissioner shall  
30 consider the extent of any impacts on water resources resulting from  
31 the proposed major <sup>1</sup>Highlands<sup>1</sup> development, including, but not  
32 limited to, the regenerative capacity of aquifers or other surface or  
33 ground water supplies, increases in stormwater generated, increases in  
34 impervious surface, increases in stormwater pollutant loading, changes  
35 in land use, and changes in vegetative cover;

36 (2) would cause minimal feasible interference with the natural  
37 functioning of animal, plant, and other natural resources at the site and  
38 within the surrounding area, and minimal feasible individual and  
39 cumulative adverse impacts to the environment both onsite and offsite  
40 of the major <sup>1</sup>Highlands<sup>1</sup> development;

41 (3) will result in minimum feasible alteration or impairment of the  
42 aquatic ecosystem including existing contour, vegetation, fish and  
43 wildlife resources, and aquatic circulation of a freshwater wetland;

44 (4) will not jeopardize the continued existence of species listed  
45 pursuant to "The Endangered and Nongame Species Conservation  
46 Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant

1 Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which  
2 appear on the federal endangered or threatened species list, and will  
3 not result in the likelihood of the destruction or adverse modification  
4 of habitat for any rare, threatened, or endangered species of animal or  
5 plant;

6 (5) is located or constructed so as to neither endanger human life  
7 or property nor otherwise impair the public health, safety, and welfare;

8 (6) would result in minimal practicable degradation of unique or  
9 irreplaceable land types, historical or archeological areas, and existing  
10 public scenic attributes at the site and within the surrounding area; and

11 (7) meets all other applicable department standards, rules, and  
12 regulations and State laws.

13 b. A Highlands permitting review approval may be issued to a  
14 major <sup>1</sup>Highlands<sup>1</sup> development<sup>1</sup> [subject to a limited review pursuant  
15 to paragraph (1) of subsection b. of section 34 of this act or]<sup>1</sup> granted  
16 a waiver pursuant to the provisions of <sup>1</sup>[paragraph (2) of]<sup>1</sup> subsection  
17 b. of section <sup>1</sup>[34] <sup>1</sup>35<sup>1</sup> of this act notwithstanding the inability to  
18 make the finding required pursuant to subsection a. of this section.

19

20 <sup>1</sup>[36.] <sup>1</sup>37.<sup>1</sup> (New section) a. Whenever the Commissioner of  
21 Environmental Protection finds that a person has violated any  
22 provision of section <sup>1</sup>[31] <sup>1</sup>32<sup>1</sup> of this act, a Highlands permitting  
23 review approval issued pursuant to section <sup>1</sup>[35] <sup>1</sup>36<sup>1</sup> of this act, or  
24 any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] <sup>1</sup>33  
25 <sup>1</sup>and 34<sup>1</sup> of this act, the commissioner may:

26 (1) Issue an order requiring any such person to comply in  
27 accordance with subsection b. of this section; or

28 (2) Bring a civil action in accordance with subsection c. of this  
29 section; or

30 (3) Levy a civil administrative penalty in accordance with  
31 subsection d. of this section; or

32 (4) Bring an action for a civil penalty in accordance with subsection  
33 e. of this section; or

34 (5) Petition the Attorney General to bring a criminal action in  
35 accordance with subsection f. of this section.

36 Recourse to any of the remedies available under this section shall  
37 not preclude recourse to any of the other remedies prescribed in this  
38 section or by any other applicable law.

39 b. Whenever, on the basis of available information, the  
40 commissioner finds a person in violation of any provision of section  
41 <sup>1</sup>[31] <sup>1</sup>32<sup>1</sup> of this act, a Highlands permitting review approval issued  
42 pursuant to section <sup>1</sup>[35] <sup>1</sup>36<sup>1</sup> of this act, or any rule or regulation  
43 adopted pursuant to sections <sup>1</sup>[32 and 33] <sup>1</sup>33 and 34<sup>1</sup> of this act, the  
44 commissioner may issue an order: (1) specifying the provision or  
45 provisions of the <sup>1</sup>law, <sup>1</sup> rule, regulation, permit, approval, or

1 authorization of which the person is in violation; (2) citing the action  
2 which constituted the violation; (3) requiring compliance with the  
3 provision or provisions violated; (4) requiring the restoration of the  
4 area which is the site of the violation; and (5) providing notice to the  
5 person of the right to a hearing on the matters contained in the order.

6 c. The commissioner is authorized to institute a civil action in  
7 Superior Court for appropriate relief from any violation of any  
8 provision of section <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands permitting  
9 review approval issued pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of this act, or  
10 any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 33  
11 and 34<sup>1</sup> of this act. Such relief may include, singly or in combination:

12 (1) A temporary or permanent injunction;

13 (2) Assessment of the violator for the costs of any investigation,  
14 inspection, or monitoring survey which led to the establishment of the  
15 violation, and for the reasonable costs of preparing and bringing legal  
16 action under this subsection;

17 (3) Assessment of the violator for any costs incurred by the State  
18 in removing, correcting, or terminating the adverse effects resulting  
19 from any unauthorized regulated activity for which legal action under  
20 this subsection may have been brought;

21 (4) Assessment against the violator for compensatory damages for  
22 any loss or destruction of wildlife, fish or aquatic life, and for any  
23 other actual damages caused by an unauthorized regulated activity;

24 (5) A requirement that the violator restore the site of the violation  
25 to the maximum extent practicable and feasible.

26 d. The commissioner is authorized to assess a civil administrative  
27 penalty of up to \$25,000 for each violation of any provision of section  
28 <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands permitting review approval issued  
29 pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of this act, or any rule or regulation  
30 adopted pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act, and  
31 each day during which each violation continues shall constitute an  
32 additional, separate, and distinct offense. Any amount assessed under  
33 this subsection shall fall within a range established by regulation by the  
34 commissioner for violations of similar type, seriousness, and duration.

35 <sup>1</sup>In adopting rules and regulations establishing the amount of any  
36 penalty to be assessed, the commissioner may take into account the  
37 economic benefits from the violation gained by the violator.<sup>1</sup> No

38 assessment shall be levied pursuant to this section until after the party  
39 has been notified by certified mail or personal service. The notice  
40 shall: (1) identify the section of the <sup>1</sup>law,<sup>1</sup> rule, regulation, permit,  
41 approval, or authorization violated; (2) recite the facts alleged to  
42 constitute a violation; (3) state the amount of the civil penalties to be  
43 imposed; and (4) affirm the rights of the alleged violator to a hearing.

44 The ordered party shall have 20 days from receipt of the notice within  
45 which to deliver to the commissioner a written request for a hearing.  
46 After the hearing and upon finding that a violation has occurred, the

1 commissioner may issue a final order after assessing the amount of the  
2 fine specified in the notice. If no hearing is requested, the notice shall  
3 become a final order after the expiration of the 20-day period.  
4 Payment of the assessment is due when a final order is issued or the  
5 notice becomes a final order. The authority to levy an administrative  
6 penalty is in addition to all other enforcement provisions in this act and  
7 in any other applicable law, rule, or regulation, and the payment of any  
8 assessment shall not be deemed to affect the availability of any other  
9 enforcement provisions in connection with the violation for which the  
10 assessment is levied. Any civil administrative penalty assessed under  
11 this section may be compromised by the commissioner upon the  
12 posting of a performance bond by the violator, or upon such terms and  
13 conditions as the commissioner may establish by regulation.

14 e. A person who violates any provision of section <sup>1</sup>[31] 32<sup>1</sup> of this  
15 act, a Highlands permitting review approval issued pursuant to section  
16 <sup>1</sup>[35] 36<sup>1</sup> of this act, or any rule or regulation adopted pursuant to  
17 sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act, an administrative order  
18 issued pursuant to subsection b. of this section, or a court order issued  
19 pursuant to subsection c. of this section, or who fails to pay a civil  
20 administrative penalty in full pursuant to subsection d. of this section,  
21 shall be subject, upon order of a court, to a civil penalty not to exceed  
22 \$10,000 per day of such violation, and each day during which the  
23 violation continues shall constitute an additional, separate, and distinct  
24 offense. Any civil penalty imposed pursuant to this subsection may be  
25 collected with costs in a summary proceeding pursuant to the "Penalty  
26 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).  
27 <sup>1</sup>In addition to any penalties, costs or interest charges, the court may  
28 assess against the violator the amount of actual economic benefit  
29 accruing to the violator from the violation.<sup>1</sup> The Superior Court and  
30 the municipal court shall have jurisdiction to enforce the provisions of  
31 the "Penalty Enforcement Law of 1999" in connection with this act.

32 f. A person who purposely or negligently violates any provision of  
33 section <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands permitting review approval  
34 issued pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of this act, or any rule or  
35 regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of  
36 this act, shall be guilty, upon conviction, of a crime of the fourth  
37 degree and, notwithstanding any provision of N.J.S.2C:43-3 to the  
38 contrary, shall be subject to a fine of not less than \$2,500 nor more  
39 than \$25,000 per day of violation, in addition to any other applicable  
40 penalties and provisions under Title 2C of the New Jersey Statutes.  
41 A second or subsequent offense under this subsection shall subject the  
42 violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to  
43 the contrary, of not less than \$5,000 nor more than \$50,000 per day  
44 of violation, in addition to any other applicable penalties and  
45 provisions under Title 2C of the New Jersey Statutes. A person who  
46 knowingly makes a false statement, representation, or certification in

1 any application, record, or other document filed or required to be  
2 maintained under this act shall be guilty, upon conviction, of a crime  
3 of the fourth degree and, notwithstanding any provision of  
4 N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more  
5 than \$10,000, in addition to any other applicable penalties and  
6 provisions under Title 2C of the New Jersey Statutes.

7 g. In addition to the penalties prescribed in this section, a notice of  
8 violation of any provision of section <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands  
9 permitting review approval issued pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of  
10 this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>[32  
11 and 33] 33 and 34<sup>1</sup> of this act, shall be recorded on the deed of the  
12 property wherein the violation occurred, on order of the  
13 commissioner, by the clerk or register of deeds and mortgages of the  
14 county wherein the affected property is located and with the clerk of  
15 the Superior Court and shall remain attached thereto until such time  
16 as the violation has been remedied and the commissioner orders the  
17 notice of violation removed.

18 h. The department may require an applicant or permittee to provide  
19 any information the department requires to determine compliance with  
20 any provision of section <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands permitting  
21 review approval issued pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of this act, or  
22 any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 33  
23 and 34<sup>1</sup> of this act.

24 i. <sup>1</sup>Any person who knowingly, recklessly, or negligently makes a  
25 false statement, representation, or certification in any application,  
26 record, or other document filed or required to be maintained under this  
27 act shall be in violation of this act and shall be subject to the penalties  
28 assessed pursuant to subsections d. and e. of this section.

29 j.<sup>1</sup> All penalties collected pursuant to this section shall either be  
30 used, as determined by the council, by the department for the  
31 acquisition of lands in the preservation area or by any development  
32 transfer bank used or established by the council to purchase  
33 development potential in the preservation area.

34 <sup>1</sup>k. The department shall have the authority to enter any property,  
35 facility, premises, or site for the purpose of conducting inspections or  
36 sampling of soil or water, and for otherwise determining compliance  
37 with the provisions of sections 32 through 36 this act.<sup>1</sup>

38  
39 <sup>1</sup>[37.] 38.<sup>1</sup> (New section) Notwithstanding the provisions  
40 P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted  
41 pursuant thereto, to the contrary, major <sup>1</sup>Highlands<sup>1</sup> development as  
42 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
43 as this bill) that includes a regulated activity as defined in section 3 of  
44 P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater  
45 wetland transition area located <sup>1</sup>[wholly or partially]<sup>1</sup> in the Highlands



1 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
2 before the Legislature as this bill) shall also be regulated pursuant to  
3 sections <sup>1</sup>[31 through 36] 32 through 37<sup>1</sup> of P.L. , c. (C. ) (now  
4 before the Legislature as this bill).

5  
6 <sup>1</sup>[38.] 39.<sup>1</sup> (New section) Notwithstanding the provisions of  
7 subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule  
8 or regulation adopted pursuant thereto, to the contrary, the  
9 Department of Environmental Protection, pursuant to section <sup>1</sup>[33]  
10 34<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill),  
11 shall establish a permit system to provide for review of allocations or  
12 reallocations<sup>1</sup>, for other than agricultural or horticultural purposes.<sup>1</sup>  
13 of waters of the Highlands, as defined in section 3 of P.L. , c.  
14 (C. ) (now before the Legislature as this bill), to provide for the  
15 issuance of permits for diversions either individually or cumulatively  
16 of more than 50,000 gallons per day of waters of the Highlands in the  
17 Highlands preservation area as defined in section 3 of P.L. , c.  
18 (C. ) (now before the Legislature as this bill).

19  
20 <sup>1</sup>[39.] 40.<sup>1</sup> (New section) Notwithstanding the provisions of the  
21 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.)  
22 and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et  
23 seq.), or any rule or regulation adopted pursuant thereto, to the  
24 contrary, the Department of Environmental Protection, pursuant to  
25 section <sup>1</sup>[33] 34<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature  
26 as this bill), shall establish a septic system density standard at a level  
27 to prevent the degradation of water quality <sup>1</sup>[.]<sup>1</sup> or to require the  
28 restoration of water quality, <sup>1</sup>as required pursuant to the "Water  
29 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the  
30 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
31 or any rule or regulation adopted pursuant thereto.<sup>1</sup> and to protect  
32 ecological uses from individual, secondary, and cumulative impacts, in  
33 consideration of deep aquifer recharge available for dilution, which  
34 standard shall be applied to any major <sup>1</sup>Highlands<sup>1</sup> development as  
35 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
36 as this bill) located <sup>1</sup>[wholly or partially within] in<sup>1</sup> the Highlands  
37 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
38 before the Legislature as this bill).

39  
40 <sup>1</sup>[40.] 41.<sup>1</sup> (New section) Notwithstanding the provisions of the  
41 "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or  
42 any rule or regulation adopted pursuant thereto, to the contrary, the  
43 Department of Environmental Protection, pursuant to section <sup>1</sup>[33]  
44 34<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill),  
45 within the Highlands preservation area as defined in section 3 of

1 P.L. , c. (C. ) (now before the Legislature as this bill), shall limit  
 2 or prohibit the construction of new public water systems or the  
 3 extension of existing public water systems <sup>1</sup>to serve development in  
 4 the Highlands preservation area as defined in section 3 of P.L. ,  
 5 c. (C. ) (now before the Legislature as this bill)<sup>1</sup>, except in the case  
 6 of a demonstrated need to protect public health and safety<sup>1</sup>, and  
 7 except to serve development in the Highlands preservation area that  
 8 is exempt from the provisions of P.L. , c. (C. ) (now before the  
 9 Legislature as this bill) pursuant to subsection a. of section 30 of  
 10 P.L. , c. (C. ) (now before the Legislature as this bill)<sup>1</sup>.

11

12 <sup>1</sup>[41.] 42.<sup>1</sup> (New section) Notwithstanding the provisions of the  
 13 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.)  
 14 and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et  
 15 seq.), or any rule or regulation adopted pursuant thereto, to the  
 16 contrary, within the Highlands preservation area as defined in section  
 17 3 of P.L. , c. (C. ) (now before the Legislature as this bill),  
 18 designated sewer service areas for which wastewater collection  
 19 systems have not been installed on the date of enactment of P.L. ,  
 20 c. (C. ) (now before the Legislature as this bill) are hereby  
 21 revoked, and any associated treatment works approvals in the  
 22 impacted areas shall expire on the date of enactment of P.L. , c.  
 23 (C. ) (now before the Legislature as this bill), <sup>1</sup>[and the] except that  
 24 any designated sewer service area shall not be revoked and any  
 25 associated treatment works approvals shall not expire if necessary to  
 26 serve development in the Highlands preservation area that is exempt  
 27 from the provisions of P.L. , c. (C. ) (now before the  
 28 Legislature as this bill) pursuant to subsection a. of section 30 of  
 29 P.L. , c. (C. ) (now before the Legislature as this bill). <sup>1</sup>The  
 30 Department of Environmental Protection shall implement measures to  
 31 amend any water quality management plan as appropriate to reflect the  
 32 revocation of designated sewer service areas pursuant to this section.

33

34 <sup>1</sup>[42.] 43.<sup>1</sup> (New section) Notwithstanding the provisions of the  
 35 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
 36 seq.), or any rule or regulation adopted pursuant thereto, to the  
 37 contrary, the Department of Environmental Protection, pursuant to  
 38 section <sup>1</sup>[33] 34<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature  
 39 as this bill), shall establish a zero net fill requirement within any flood  
 40 hazard area located <sup>1</sup>[wholly or partially within] in<sup>1</sup> the Highlands  
 41 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
 42 before the Legislature as this bill).

43

44 <sup>1</sup>[43. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
 45 as follows:

46 24. a. Any landowner applying to the board to sell a development

1 easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall  
2 offer to sell the development easement at a price which, in the opinion  
3 of the landowner, represents a fair value of the development potential  
4 of the land for nonagricultural purposes, as determined in accordance  
5 with the provisions of [this act] P.L.1983, c.32 (C.4:1C-11 et seq.).

6 b. Any offer shall be reviewed and evaluated by the board and the  
7 committee in order to determine the suitability of the land for  
8 development easement purchase. Decisions regarding suitability shall  
9 be based on the following criteria:

10 (1) Priority consideration shall be given, in any one county, to  
11 offers with higher numerical values obtained by applying the following  
12 formula:

$$\begin{array}{r}
 13 \\
 14 \quad \text{nonagricultural} - \text{agricultural} - \text{landowner's} \\
 15 \quad \text{developmental value} \quad \text{value} \quad \text{asking price} \\
 16 \quad \text{-----} \\
 17 \quad \quad \text{nonagricultural} - \text{agricultural} \\
 18 \quad \quad \text{development value} \quad \text{value} \\
 19
 \end{array}$$

20 (2) The degree to which the purchase would encourage the  
21 survivability of the municipally approved program in productive  
22 agriculture; and

23 (3) The degree of imminence of change of the land from productive  
24 agriculture to nonagricultural use.

25 The board and the committee shall reject any offer for the sale of  
26 development easements which is unsuitable according to the above  
27 criteria and which has not been approved by the board and the  
28 municipality.

29 c. Two independent appraisals paid for by the board shall be  
30 conducted for each parcel of land so offered and deemed suitable. The  
31 appraisals shall be conducted by independent, professional appraisers  
32 selected by the board and the committee from among members of  
33 recognized organizations of real estate appraisers. The appraisals shall  
34 determine the current overall value of the parcel for nonagricultural  
35 purposes, as well as the current market value of the parcel for  
36 agricultural purposes. The difference between the two values shall  
37 represent an appraisal of the value of the development easement. If  
38 Burlington County or a municipality therein has established a  
39 development transfer bank pursuant to the provisions of P.L.1989,  
40 c.86 (C.40:55D-113 et seq.) or the Highlands Water Protection and  
41 Planning Council has established a development transfer bank pursuant  
42 to section 13 of P.L. , c. (C. ) (now before the Legislature as  
43 this bill), the municipal average of the value of the development  
44 potential of property in a sending zone established by the bank may be  
45 the value used by the board in determining the value of the  
46 development easement. If a development easement is purchased using

1 moneys appropriated from the fund, the State shall provide no more  
2 than 80%, except 100% under emergency conditions specified by the  
3 committee pursuant to rules or regulations, of the cost of the  
4 appraisals conducted pursuant to this section.

5 d. Upon receiving the results of the appraisals, or in Burlington  
6 county or a municipality therein or elsewhere where a municipal  
7 average has been established under [P.L.1989, c.86 (C.40:55D-113 et  
8 seq.)] subsection c. of this section, upon receiving an application from  
9 the landowners, the board and the committee shall compare the  
10 appraised value, or the municipal average, as the case may be, and the  
11 landowner's offer and, pursuant to the suitability criteria established in  
12 subsection b. of this section:

13 (1) Approve the application to sell the development easement and  
14 rank the application in accordance with the criteria established in  
15 subsection b. of this section; or

16 (2) Disapprove the application, stating the reasons therefor.

17 e. Upon approval by the committee and the board, the secretary is  
18 authorized to provide the board, within the limits of funds  
19 appropriated therefor, an amount equal to no more than 80%, except  
20 100% under emergency conditions specified by the committee  
21 pursuant to rules or regulations, of the purchase price of the  
22 development easement, as determined pursuant to the provisions of  
23 this section. The board shall provide its required share and accept the  
24 landowner's offer to sell the development easement. The acceptance  
25 shall cite the specific terms, contingencies and conditions of the  
26 purchase.

27 f. The landowner shall accept or reject the offer within 30 days of  
28 receipt thereof. Any offer not accepted within that time shall be  
29 deemed rejected.

30 g. Any landowner whose application to sell a development  
31 easement has been rejected for any reason other than insufficient funds  
32 may not reapply to sell a development easement on the same land  
33 within two years of the original application.

34 h. No development easement shall be purchased at a price greater  
35 than the appraised value determined pursuant to subsection c. of this  
36 section or the municipal average, as the case may be.

37 i. The appraisals conducted pursuant to this section or the fair  
38 market value of land restricted to agricultural use shall not be used to  
39 increase the assessment and taxation of agricultural land pursuant to  
40 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
41 et seq.).

42 j. (1) In determining the suitability of land for development  
43 easement purchase, the board and the committee may also include as  
44 additional factors for consideration the presence of a historic building  
45 or structure on the land and the willingness of the landowner to  
46 preserve that building or structure, but only if the committee first

1 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
 2 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
 3 subsection. The committee may, by rule or regulation adopted  
 4 pursuant to the "Administrative Procedure Act," assign any such  
 5 weight it deems appropriate to be given to these factors.

6 (2) The provisions of paragraph (1) of this subsection may also be  
 7 applied in determining the suitability of land for fee simple purchase  
 8 for farmland preservation purposes as authorized by P.L.1983, c.31  
 9 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
 10 c.152 (C.13:8C-1 et seq.).

11 (3) (a) For the purposes of paragraph (1) of this subsection:  
 12 "historic building or structure" means the same as that term is defined  
 13 pursuant to subsection c. of section 2 of P.L.2001, c.405  
 14 (C.13:8C-40.2).

15 (b) For the purposes of paragraph (2) of this subsection, "historic  
 16 building or structure" means the same as that term is defined pursuant  
 17 to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).  
 18 (cf: P.L.2001, c.405, s.3)]<sup>1</sup>

19

20 <sup>1</sup>44. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
 21 as follows:

22 24. a. Any landowner applying to the board to sell a development  
 23 easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall  
 24 offer to sell the development easement at a price which, in the opinion  
 25 of the landowner, represents a fair value of the development potential  
 26 of the land for nonagricultural purposes, as determined in accordance  
 27 with the provisions of P.L.1983, c.32.

28 b. Any offer shall be reviewed and evaluated by the board and the  
 29 committee in order to determine the suitability of the land for  
 30 development easement purchase. Decisions regarding suitability shall  
 31 be based on the following criteria:

32 (1) Priority consideration shall be given, in any one county, to  
 33 offers with higher numerical values obtained by applying the following  
 34 formula:

35

36 nonagricultural - agricultural - landowner's  
 37 developmental value value asking price

38 -----

39 nonagricultural - agricultural  
 40 development value value

41 (2) The degree to which the purchase would encourage the  
 42 survivability of the municipally approved program in productive  
 43 agriculture; and

44 (3) The degree of imminence of change of the land from productive  
 45 agriculture to nonagricultural use.

46 The board and the committee shall reject any offer for the sale of

1 development easements which is unsuitable according to the above  
2 criteria and which has not been approved by the board and the  
3 municipality.

4 c. Two independent appraisals paid for by the board shall be  
5 conducted for each parcel of land so offered and deemed suitable. The  
6 appraisals shall be conducted by independent, professional appraisers  
7 selected by the board and the committee from among members of  
8 recognized organizations of real estate appraisers. The appraisals shall  
9 determine the current overall value of the parcel for nonagricultural  
10 purposes, as well as the current market value of the parcel for  
11 agricultural purposes. The difference between the two values shall  
12 represent an appraisal of the value of the development easement. If  
13 Burlington County or a municipality therein has established a  
14 development transfer bank pursuant to the provisions of P.L.1989,  
15 c.86 (C.40:55D-113 et seq.) or if any county or any municipality in  
16 any county has established a development transfer bank pursuant to  
17 section 22 of P.L.2004, c.2 (C.40:55D-158) or the Highlands Water  
18 Protection and Planning Council has established a development  
19 transfer bank pursuant to section 13 of P.L. , c. (C. ) (now  
20 before the Legislature as this bill), the municipal average of the value  
21 of the development potential of property in a sending zone established  
22 by the bank may be the value used by the board in determining the  
23 value of the development easement. If a development easement is  
24 purchased using moneys appropriated from the fund, the State shall  
25 provide no more than 80%, except 100% under emergency conditions  
26 specified by the committee pursuant to rules or regulations, of the cost  
27 of the appraisals conducted pursuant to this section.

28 d. Upon receiving the results of the appraisals, or in Burlington  
29 county or a municipality therein or elsewhere where a municipal  
30 average has been established under subsection c. of this section, upon  
31 receiving an application from the landowners, the board and the  
32 committee shall compare the appraised value, or the municipal  
33 average, as the case may be, and the landowner's offer and, pursuant  
34 to the suitability criteria established in subsection b. of this section:

35 (1) Approve the application to sell the development easement and  
36 rank the application in accordance with the criteria established in  
37 subsection b. of this section; or

38 (2) Disapprove the application, stating the reasons therefor.

39 e. Upon approval by the committee and the board, the secretary is  
40 authorized to provide the board, within the limits of funds  
41 appropriated therefor, an amount equal to no more than 80%, except  
42 100% under emergency conditions specified by the committee  
43 pursuant to rules or regulations, of the purchase price of the  
44 development easement, as determined pursuant to the provisions of  
45 this section. The board shall provide its required share and accept the  
46 landowner's offer to sell the development easement. The acceptance

1 shall cite the specific terms, contingencies and conditions of the  
2 purchase.

3 f. The landowner shall accept or reject the offer within 30 days of  
4 receipt thereof. Any offer not accepted within that time shall be  
5 deemed rejected.

6 g. Any landowner whose application to sell a development easement  
7 has been rejected for any reason other than insufficient funds may not  
8 reapply to sell a development easement on the same land within two  
9 years of the original application.

10 h. No development easement shall be purchased at a price greater  
11 than the appraised value determined pursuant to subsection c. of this  
12 section or the municipal average, as the case may be.

13 i. The appraisals conducted pursuant to this section or the fair  
14 market value of land restricted to agricultural use shall not be used to  
15 increase the assessment and taxation of agricultural land pursuant to  
16 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
17 et seq.).

18 j. (1) In determining the suitability of land for development  
19 easement purchase, the board and the committee may also include as  
20 additional factors for consideration the presence of a historic building  
21 or structure on the land and the willingness of the landowner to  
22 preserve that building or structure, but only if the committee first  
23 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
24 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
25 subsection. The committee may, by rule or regulation adopted  
26 pursuant to the "Administrative Procedure Act," assign any such  
27 weight it deems appropriate to be given to these factors.

28 (2) The provisions of paragraph (1) of this subsection may also be  
29 applied in determining the suitability of land for fee simple purchase  
30 for farmland preservation purposes as authorized by P.L.1983, c.31  
31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
32 c.152 (C.13:8C-1 et seq.).

33 (3) (a) For the purposes of paragraph (1) of this subsection:  
34 "historic building or structure" means the same as that term is defined  
35 pursuant to subsection c. of section 2 of P.L.2001, c.405  
36 (C.13:8C-40.2).

37 (b) For the purposes of paragraph (2) of this subsection, "historic  
38 building or structure" means the same as that term is defined pursuant  
39 to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).<sup>1</sup>  
40 (cf: P.L.2004, c.2, s.28)

41

42 <sup>1</sup>[44.] 45.<sup>1</sup> Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended  
43 to read as follows:

44 29. Nothing herein contained shall be construed to prohibit the  
45 creation of a municipally approved program or other farmland  
46 preservation program, the purchase of development easements, or the

1 extension of any other benefit herein provided on land, and to owners  
2 thereof, in the Pinelands area, as defined pursuant to section 3 of P.L.  
3 1979, c. 111 (C. 13:18A-3), or in the Highlands Region, as defined in  
4 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
5 bill) .  
6 (cf: P.L.1983, c.32, s.29)

7

8 <sup>1</sup>[45. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read  
9 as follows:

10 4. The board shall have the following powers:

11 a. To purchase, or to provide matching funds for the purchase of  
12 80% of, the value of development potential and to otherwise facilitate  
13 development transfers, from the owner of record of the property from  
14 which the development potential is to be transferred or from any  
15 person, or entity, public or private, holding the interest in development  
16 potential that is subject to development transfer; provided that, in the  
17 case of providing matching funds for the purchase of 80% of the value  
18 of development potential, the remaining 20% of that value is  
19 contributed by the affected municipality or county, or both, after  
20 public notice thereof in the New Jersey Register and in one newspaper  
21 of general circulation in the area affected by the purchase. The  
22 remaining 20% of the value of the development potential to be  
23 contributed by the affected municipality or county, or both, to match  
24 funds provided by the board, may be obtained by purchase from, or  
25 donation by, the owner of record of the property from which the  
26 development potential is to be transferred or from any person, or  
27 entity, public or private, holding the interest in development potential  
28 that is subject to development transfer. The value of development  
29 potential may be determined by either appraisal, municipal averaging  
30 based upon appraisal data, or by a formula supported by appraisal  
31 data. The board may also engage in development transfer by sale,  
32 exchange, or other method of conveyance, provided that in doing so,  
33 the board shall not substantially impair the private sale, exchange or  
34 other method of conveyance of development potential. The board may  
35 not, nor shall anything in this act be construed as permitting the board  
36 to, engage in development transfer from one municipality to another,  
37 which transfer is not in accordance with the ordinances of both  
38 municipalities;

39 b. To adopt and, from time to time, amend or repeal suitable  
40 bylaws for the management of its affairs;

41 c. To adopt and use an official seal and alter that seal at its  
42 pleasure;

43 d. To apply for, receive, and accept, from any federal, State, or  
44 other public or private source, grants or loans for, or in aid of, the  
45 board's authorized purposes;

46 e. To enter into any agreement or contract, execute any legal



1 document, and perform any act or thing necessary, convenient, or  
2 desirable for the purposes of the board or to carry out any power  
3 expressly given in this act;

4 f. To adopt, pursuant to the "Administrative Procedure Act,"  
5 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary  
6 to implement the provisions of this act;

7 g. To call to its assistance and avail itself of the services of the  
8 employees of any State, county, or municipal department, board,  
9 commission, or agency as may be required and made available for  
10 these purposes;

11 h. To retain such staff as may be necessary in the career service  
12 and to appoint an executive director thereof. The executive director  
13 shall serve as a member of the senior executive or unclassified service  
14 and may be appointed without regard to the provisions of Title 11A of  
15 the New Jersey Statutes;

16 i. To review and analyze innovative techniques that may be  
17 employed to maximize the total acreage reserved through the use of  
18 perpetual easements;

19 j. To provide, through the State TDR Bank, a financial guarantee  
20 with respect to any loan to be extended to any person that is secured  
21 using development potential as collateral for the loan. Financial  
22 guarantees provided under this act shall be in accordance with  
23 procedures, terms and conditions, and requirements, including rights  
24 and obligations of the parties in the event of default on any loan  
25 secured in whole or in part using development potential as collateral,  
26 to be established by rule or regulation adopted by the board pursuant  
27 to the "Administrative Procedure Act";

28 k. To enter into agreement with the State Agriculture Development  
29 Committee for the purpose of acquiring development potential through  
30 the acquisition of development easements on farmland so that the  
31 board may utilize the existing processes, procedures, and capabilities  
32 of the State Agriculture Development Committee as necessary and  
33 appropriate to accomplish the goals and objectives of the board as  
34 provided for pursuant to this act;

35 l. To enter into agreements with other State agencies or entities  
36 providing services and programs authorized by law so that the board  
37 may utilize the existing processes, procedures, and capabilities of those  
38 other agencies or entities as necessary and appropriate to accomplish  
39 the goals and objectives of the board as provided for pursuant to this  
40 act; [and]

41 m. To provide planning assistance grants to municipalities that  
42 have adopted viable development transfer ordinances, as determined  
43 by the board, for up to 50% of the cost of planning associated with  
44 such an ordinance and incurred by a municipality, or \$10,000,  
45 whichever is less, which grants shall be made utilizing moneys  
46 deposited into the bank pursuant to section 8 of [this act] P.L.1993,

1 c.339:

2 n. To provide funding to any development transfer bank that may  
3 be established by the Highlands Water Protection and Planning Council  
4 pursuant to section 13 of P.L. , c. (C. ) (now before the  
5 Legislature as this bill), for (1) the purchase of development potential  
6 by the Highlands development transfer bank, and (2) the council to  
7 provide planning assistance grants to municipalities in the Highlands  
8 Region that are participating in a transfer of development rights  
9 program implemented by the council pursuant to section 13 of P.L. ,  
10 c. (C. ) (now before the Legislature as this bill) in such amounts as  
11 the council deems appropriate notwithstanding any provision of  
12 subsection m. of this section or of section 8 of P.L.1993, c.339 to the  
13 contrary; and

14 o. To serve as a development transfer bank for the Highlands  
15 Region if requested to do so by the Highlands Water Protection and  
16 Planning Council pursuant to section 13 of P.L. , c. (C. ) (now  
17 before the Legislature as this bill).

18 (cf: P.L.1993, c.339, s.4)]<sup>1</sup>

19

20 <sup>1</sup>46. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read  
21 as follows:

22 4. The board shall have the following powers:

23 a. To purchase, or to provide matching funds for the purchase of  
24 80% of, the value of development potential and to otherwise facilitate  
25 development transfers, from the owner of record of the property from  
26 which the development potential is to be transferred or from any  
27 person, or entity, public or private, holding the interest in development  
28 potential that is subject to development transfer; provided that, in the  
29 case of providing matching funds for the purchase of 80% of the value  
30 of development potential, the remaining 20% of that value is  
31 contributed by the affected municipality or county, or both, after  
32 public notice thereof in the New Jersey Register and in one newspaper  
33 of general circulation in the area affected by the purchase. The  
34 remaining 20% of the value of the development potential to be  
35 contributed by the affected municipality or county, or both, to match  
36 funds provided by the board, may be obtained by purchase from, or  
37 donation by, the owner of record of the property from which the  
38 development potential is to be transferred or from any person, or  
39 entity, public or private, holding the interest in development potential  
40 that is subject to development transfer. The value of development  
41 potential may be determined by either appraisal, municipal averaging  
42 based upon appraisal data, or by a formula supported by appraisal  
43 data. The board may also engage in development transfer by sale,  
44 exchange, or other method of conveyance, provided that in doing so,  
45 the board shall not substantially impair the private sale, exchange or  
46 other method of conveyance of development potential. The board may

- 1 not, nor shall anything in this act be construed as permitting the board  
2 to, engage in development transfer from one municipality to another,  
3 which transfer is not in accordance with the ordinances of both  
4 municipalities;
- 5 b. To adopt and, from time to time, amend or repeal suitable  
6 bylaws for the management of its affairs;
- 7 c. To adopt and use an official seal and alter that seal at its  
8 pleasure;
- 9 d. To apply for, receive, and accept, from any federal, State, or  
10 other public or private source, grants or loans for, or in aid of, the  
11 board's authorized purposes;
- 12 e. To enter into any agreement or contract, execute any legal  
13 document, and perform any act or thing necessary, convenient, or  
14 desirable for the purposes of the board or to carry out any power  
15 expressly given in this act;
- 16 f. To adopt, pursuant to the "Administrative Procedure Act,"  
17 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary  
18 to implement the provisions of this act;
- 19 g. To call to its assistance and avail itself of the services of the  
20 employees of any State, county, or municipal department, board,  
21 commission, or agency as may be required and made available for  
22 these purposes;
- 23 h. To retain such staff as may be necessary in the career service  
24 and to appoint an executive director thereof. The executive director  
25 shall serve as a member of the senior executive or unclassified service  
26 and may be appointed without regard to the provisions of Title 11A of  
27 the New Jersey Statutes;
- 28 i. To review and analyze innovative techniques that may be  
29 employed to maximize the total acreage reserved through the use of  
30 perpetual easements;
- 31 j. To provide, through the State TDR Bank, a financial guarantee  
32 with respect to any loan to be extended to any person that is secured  
33 using development potential as collateral for the loan. Financial  
34 guarantees provided under this act shall be in accordance with  
35 procedures, terms and conditions, and requirements, including rights  
36 and obligations of the parties in the event of default on any loan  
37 secured in whole or in part using development potential as collateral,  
38 to be established by rule or regulation adopted by the board pursuant  
39 to the "Administrative Procedure Act";
- 40 k. To enter into agreement with the State Agriculture Development  
41 Committee for the purpose of acquiring development potential through  
42 the acquisition of development easements on farmland so that the  
43 board may utilize the existing processes, procedures, and capabilities  
44 of the State Agriculture Development Committee as necessary and  
45 appropriate to accomplish the goals and objectives of the board as  
46 provided for pursuant to this act;

1 l. To enter into agreements with other State agencies or entities  
2 providing services and programs authorized by law so that the board  
3 may utilize the existing processes, procedures, and capabilities of those  
4 other agencies or entities as necessary and appropriate to accomplish  
5 the goals and objectives of the board as provided for pursuant to this  
6 act;

7 m. To provide planning assistance grants to municipalities for up  
8 to 50% of the cost of preparing, for development potential transfer  
9 purposes, a utility service plan element or a development transfer plan  
10 element of a master plan pursuant to section 19 of P.L.1975, c.291  
11 (C.40:55D-28), a real estate market analysis required pursuant to  
12 section 12 of P.L.2004, c.2 (C.40:55D-148), and a capital  
13 improvement program pursuant to section 20 of P.L.1975, c.291  
14 (C.40:55D-29) and incurred by a municipality, or \$40,000, whichever  
15 is less, which grants shall be made utilizing moneys deposited into the  
16 bank pursuant to section 8 of P.L.1993, c.339, as amended by section  
17 31 of P.L.2004, c.2;

18 n. To provide funding in the form of grants or loans for the  
19 purchase of development potential to development transfer banks  
20 established by a municipality or county pursuant to P.L.1989, c.86  
21 (C.40:55D-113 et seq.) or section 22 of P.L.2004, c.2  
22 (C.40:55D-158); [and]

23 o. To serve as a development transfer bank designated by the  
24 governing body of a municipality or county pursuant to section 22 of  
25 P.L.2004, c.2 (C. 40:55D-158);

26 p. To provide funding to (1) any development transfer bank that  
27 may be established by the Highlands Water Protection and Planning  
28 Council pursuant to section 13 of P.L. , c. (C. ) (now before the  
29 Legislature as this bill), for the purchase of development potential by  
30 the Highlands development transfer bank, and (2) the council to  
31 provide planning assistance grants to municipalities in the Highlands  
32 Region that are participating in a transfer of development rights  
33 program implemented by the council pursuant to section 13 of P.L. ,  
34 c. (C. ) (now before the Legislature as this bill) in such amounts as  
35 the council deems appropriate to the municipalities notwithstanding  
36 any provision of subsection m. of this section or of section 8 of  
37 P.L.1993, c.339, as amended by section 31 of P.L.2004, c.2, to the  
38 contrary; and

39 q. To serve as a development transfer bank for the Highlands  
40 Region if requested to do so by the Highlands Water Protection and  
41 Planning Council pursuant to section 13 of P.L. , c. (C. ) (now  
42 before the Legislature as this bill).<sup>1</sup>

43 (cf: P.L.2004, c.2, s.30)

44

45 <sup>1</sup>[46.] 47.<sup>1</sup> Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is  
46 amended to read as follows:

1 11. Subject to the provisions of Title [11 of the Revised] 11A of  
2 the New Jersey Statutes, and within the limits of funds appropriated  
3 or otherwise made available, the commissioner may appoint any officer  
4 or employee to the department necessary to carry out the provisions  
5 of [this act] P.L.1983, c.560 (C.13:1B-15.133 et seq.) , fix and  
6 determine their qualifications, which may include a knowledge of and  
7 familiarity with the pinelands area or the Highlands Region and the  
8 residents thereof.

9 (cf: P.L.1983, c.560, s.11)

10  
11 <sup>1</sup>[47.] 48.<sup>1</sup> Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is  
12 amended to read as follows:

13 1. The Department of Environmental Protection, in cooperation  
14 with the Division of Travel and Tourism in the [Department of] New  
15 Jersey Commerce and Economic [Development] Growth Commission,  
16 [and] in consultation with the Pinelands Commission as it affects the  
17 pinelands area designated pursuant to section 10 of P.L.1979, c.111  
18 (C.13:18A-11), and in consultation with the Highlands Water  
19 Protection and Planning Council as it affects the Highlands Region  
20 designated pursuant to section 7 of P.L. , c. (C. ) (now before  
21 the Legislature as this bill), shall establish a natural resources  
22 inventory, using the Geographic Information System, for the purpose  
23 of encouraging ecologically based tourism and recreation in New  
24 Jersey. This inventory shall contain information on New Jersey's  
25 natural, historic, and recreational resources, and shall include, to the  
26 greatest extent possible, but need not be limited to, federal, State,  
27 county and local parks, wildlife management areas, hatcheries, natural  
28 areas, historic sites, State forests, recreational areas, ecological and  
29 biological study sites, reservoirs, marinas, boat launches,  
30 campgrounds, waterfront access points, winter sports recreation areas,  
31 and national wildlife refuges.

32 (cf: P.L.1997, c.64, s.1)

33  
34 <sup>1</sup>[48.] 49.<sup>1</sup> Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended  
35 to read as follows:

36 1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall  
37 not apply in the case of conveyances by the State or the department  
38 involving an exchange of lands within the pinelands area, as defined in  
39 section 10 of P.L.1979, c.111 (C.13:18A-11), or within the  
40 Hackensack Meadowlands District, as defined in section 4 of  
41 P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as  
42 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
43 as this bill), to the federal government or any agency or entity thereof,  
44 another State agency or entity, or a local unit, provided the lands to be  
45 conveyed are used for recreation or conservation purposes, shall  
46 continue to be used for recreation or conservation purposes and it has

1 been determined pursuant to subsection c. of this section that the  
2 proposed recreation and conservation purposes for the lands do not  
3 significantly alter the ecological and environmental value of the lands  
4 being exchanged.

5 b. Prior to any conveyance of lands that is exempted from the  
6 provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
7 subsection a. of this section, the Department of Environmental  
8 Protection shall conduct at least one public hearing on the proposed  
9 conveyance in the municipality in which the lands proposed to be  
10 conveyed are located. The local unit proposing the recreation or  
11 conservation use of the lands being exchanged shall present its  
12 proposal for the use of the lands being exchanged at the public  
13 hearing, including a description of the proposed recreation or  
14 conservation use of the lands and any proposed alterations to the lands  
15 for the recreation or conservation purposes.

16 c. As a condition of any conveyance of lands that is exempted from  
17 the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
18 subsection a. of this section, and prior to any public hearing required  
19 pursuant to subsection b. of this section, the Pinelands Commission,  
20 [or] the [Hackensack] New Jersey Meadowlands [Development]  
21 Commission, or the Highlands Water Protection and Planning Council,  
22 as appropriate, after consultation with the local units in which the  
23 lands to be conveyed are located, shall determine that the proposed  
24 recreation or conservation purpose does not significantly alter the  
25 ecological and environmental value of the lands being exchanged. The  
26 appropriate commission or council shall determine that the proposed  
27 recreation or conservation purpose does not significantly alter the  
28 ecological and environmental value of the lands being exchanged, if:

29 (1) the appropriate commission or council determines that any  
30 proposed recreation or conservation use of the lands being exchanged  
31 is consistent with the law, rules and regulations governing the  
32 protection and development of the pinelands area or pinelands  
33 preservation area, as appropriate and as defined in section 10 of  
34 P.L.1979, c.111 (C.13:18A-11), [or] the Hackensack Meadowlands  
35 District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or the  
36 Highlands Region, as defined in section 3 of P.L. , c. (C. ) (now  
37 before the Legislature as this bill), and the requirements of the law,  
38 rules or regulations have been met to the satisfaction of the  
39 appropriate commission or council; and

40 (2) a portion of the lands would be maintained in an undeveloped  
41 or pre-conveyance state and no wetlands would be negatively affected  
42 in violation of State or federal law, or any rules or regulations adopted  
43 pursuant thereto.

44 The determinations required pursuant to this subsection shall be  
45 made available to the public at the time of the public hearing required  
46 pursuant to subsection b. of this section.

1 d. For the purposes of this section, "local unit" means a  
2 municipality, county, or other political subdivision of the State, or any  
3 agency thereof authorized to administer, protect, develop and maintain  
4 lands for recreation and conservation purposes.

5 (cf: P.L.1995, c.306, s.1)

6  
7 <sup>1</sup>[49.] 50.<sup>1</sup> Section 18 of P.L.1985, c.432 (C.13:1M-18) is  
8 amended to read as follows:

9 18. a. Nothing in this act shall be construed to supersede or  
10 prohibit the adoption, by the governing body of any [county or]  
11 municipality or county, of any ordinance or resolution regulating or  
12 prohibiting the exploration beyond the reconnaissance phase, drilling  
13 for and the extraction of oil and natural gas <sup>1</sup>or uranium<sup>1</sup>. As used in  
14 this section, "reconnaissance" means:

15 (1) A geologic and mineral resource appraisal of a region by  
16 searching and analyzing published literature, aerial photography, and  
17 geologic maps;

18 (2) Use of geophysical, geochemical, and remote sensing techniques  
19 that do not involve road building, land clearing or the introduction of  
20 chemicals to a land or water area;

21 (3) Surface geologic, topographic or other mapping and property  
22 surveying; or

23 (4) Sample collections which do not involve excavation or drilling  
24 equipment or the introduction of chemicals to land or water area.

25 b. A municipality or county shall submit a copy of any ordinance  
26 or regulation specifically pertaining to activities regulated by this act,  
27 or a rule or regulation promulgated pursuant to this act, to the  
28 department.

29 c. The department shall, within 90 days of submittal, approve or  
30 disapprove any ordinance or regulation submitted pursuant to  
31 subsection b. of this section. An ordinance or regulation shall be  
32 disapproved only if the department finds it unreasonable and provides  
33 in writing its reasons for the finding. The failure of the department to  
34 act within 90 days of submittal shall constitute approval.

35 d. Nothing in this section shall be construed to limit the authority  
36 of a municipality or county or board of health to enact ordinances or  
37 regulations of general applicability to all industrial or commercial  
38 activities, including, but not limited to, ordinances and regulations  
39 limiting noise, light, and odor.

40 e. The department shall not approve any ordinance or regulation  
41 submitted pursuant to subsection b. of this section which governs  
42 activities within the Pinelands area designated in the "Pinelands  
43 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the  
44 Pinelands Commission has approved the ordinance or regulation. The  
45 department shall not disapprove an ordinance or regulation, or portion  
46 thereof, which has been certified by the Pinelands Commission as

1 consistent with the requirements of the Comprehensive Management  
2 Plan as required by the "Pinelands Protection Act."

3 f. The department shall not approve any ordinance or regulation  
4 submitted pursuant to subsection b. of this section which governs  
5 activities within the Highlands preservation area designated in the  
6 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
7 (now before the Legislature as this bill), unless the Highlands Water  
8 Protection and Planning Council has approved the ordinance or  
9 regulation. The department shall not disapprove an ordinance or  
10 regulation, or portion thereof, which has been certified by the  
11 Highlands Water Protection and Planning Council as consistent with  
12 the requirements of the Highlands regional master plan as required by  
13 the "Highlands Water Protection and Planning Act."

14 (cf: P.L.1985, c.432, s.18)

15  
16 <sup>1</sup>[50.] 51.<sup>1</sup> Section 25 of P.L.1999, c.152 (C.13:8C-25) is  
17 amended to read as follows:

18 25. Within one year after the date of enactment of this act, and  
19 biennially thereafter until and including 2008, the Garden State  
20 Preservation Trust, after consultation with the Department of  
21 Environmental Protection, the State Agriculture Development  
22 Committee, the New Jersey Historic Trust, the Pinelands Commission,  
23 the Highlands Water Protection and Planning Council, and the Office  
24 of State Planning in the Department of Community Affairs, shall  
25 prepare and submit to the Governor and the Legislature a written  
26 report, which shall:

27 a. Describe the progress being made on achieving the goals and  
28 objectives of Article VIII, Section II, paragraph 7 of the State  
29 Constitution and this act with respect to the acquisition and  
30 development of lands for recreation and conservation purposes, the  
31 preservation of farmland, and the preservation of historic properties,  
32 and provide recommendations with respect to any legislative,  
33 administrative, or local action that may be required to ensure that  
34 those goals and objectives may be met in the future;

35 b. Tabulate, both for the reporting period and cumulatively, the  
36 total acreage for the entire State, and the acreage in each county and  
37 municipality, of lands acquired for recreation and conservation  
38 purposes and of farmland preserved for farmland preservation  
39 purposes that have been applied toward meeting the goals and  
40 objectives of Article VIII, Section II, paragraph 7 of the State  
41 Constitution and this act with respect to the acquisition of lands for  
42 recreation and conservation purposes and the preservation of farmland;

43 c. Tabulate, both for the reporting period and cumulatively, the  
44 total acreage for the entire State, and the acreage in each county and  
45 municipality, of any donations of land that have been applied toward  
46 meeting the goals and objectives of Article VIII, Section II, paragraph



1 7 of the State Constitution and this act with respect to the acquisition  
2 of lands for recreation and conservation purposes and the preservation  
3 of farmland;

4 d. List, both for the reporting period and cumulatively, and by  
5 project name, project sponsor, and location by county and  
6 municipality, all historic preservation projects funded with  
7 constitutionally dedicated moneys in whole or in part;

8 e. Indicate those areas of the State where, as designated by the  
9 Department of Environmental Protection in the Open Space Master  
10 Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1),  
11 the acquisition and development of lands by the State for recreation  
12 and conservation purposes is planned or is most likely to occur, and  
13 those areas of the State where there is a need to protect water  
14 resources, including the identification of lands where protection is  
15 needed to assure adequate quality and quantity of drinking water  
16 supplies in times of drought, indicate those areas of the State where  
17 the allocation of constitutionally dedicated moneys for farmland  
18 preservation purposes is planned or is most likely to occur, and  
19 provide a proposed schedule and expenditure plan for those  
20 acquisitions, developments, and allocations, for the next reporting  
21 period, which shall include an explanation of how those acquisitions,  
22 developments, and allocations will be distributed throughout all  
23 geographic regions of the State to the maximum extent practicable and  
24 feasible;

25 f. List any surplus real property owned by the State or an  
26 independent authority of the State that may be utilizable for recreation  
27 and conservation purposes or farmland preservation purposes, and  
28 indicate what action has been or must be taken to effect a conveyance  
29 of those lands to the department, the committee, local government  
30 units, qualifying tax exempt nonprofit organizations, or other entities  
31 or persons so that the lands may be preserved and used for those  
32 purposes;

33 g. List, for the reporting period, all projects for which applications  
34 for funding under the Green Acres, farmland preservation, and historic  
35 preservation programs were received but not funded with  
36 constitutionally dedicated moneys during the reporting period, and the  
37 reason or reasons why those projects were not funded;

38 h. Provide, for the reporting period, a comparison of the amount  
39 of constitutionally dedicated moneys annually appropriated for local  
40 government unit projects for recreation and conservation purposes in  
41 municipalities eligible to receive State aid pursuant to P.L.1978, c.14  
42 (C.52:27D-178 et seq.) to the average amount of Green Acres bond  
43 act moneys annually appropriated for such projects in the years 1984  
44 through 1998; and

45 i. Tabulate, both for the reporting period and cumulatively, the  
46 total acreage for the entire State, and the acreage in each county and

1 municipality, of lands acquired for recreation and conservation  
2 purposes that protect water resources and that protect flood-prone  
3 areas.

4 (cf: P.L.2002, c.76, s.3)

5

6 <sup>1</sup>[51.] 52.<sup>1</sup> Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is  
7 amended to read as follows:

8 5. a. Within one year after the date of enactment of P.L.2002, c.76  
9 (C.13:8C-25.1 et al.), and annually thereafter, the Department of  
10 Environmental Protection, in consultation with the Office of State  
11 Planning in the Department of Community Affairs [~~and~~], the Pinelands  
12 Commission, and the Highlands Water Protection and Planning  
13 Council, shall prepare and submit to the Governor and the Legislature  
14 an Open Space Master Plan, which shall indicate those areas of the  
15 State where the acquisition and development of lands by the State for  
16 recreation and conservation purposes is planned or is most likely to  
17 occur, and those areas of the State where there is a need to protect  
18 water resources, including the identification of lands where protection  
19 is needed to assure adequate quality and quantity of drinking water  
20 supplies in times of drought, and which shall provide a proposed  
21 schedule and expenditure plan for those acquisitions and developments  
22 for the next reporting period, which shall include an explanation of  
23 how those acquisitions and developments will be distributed  
24 throughout all geographic regions of the State to the maximum extent  
25 practicable and feasible.

26 b. The department shall provide any information the Garden State  
27 Preservation Trust deems necessary in preparing its biennial report  
28 pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

29 (cf: P.L.2002, c.76, s.5)

30

31 <sup>1</sup>[52.] 53.<sup>1</sup> Section 26 of P.L.1999, c.152 (C.13:8C-26) is  
32 amended to read as follows:

33 26. a. Moneys appropriated from the Garden State Green Acres  
34 Preservation Trust Fund to the Department of Environmental  
35 Protection shall be used by the department to:

36 (1) Pay the cost of acquisition and development of lands by the  
37 State for recreation and conservation purposes;

38 (2) Provide grants and loans to assist local government units to pay  
39 the cost of acquisition and development of lands for recreation and  
40 conservation purposes; and

41 (3) Provide grants to assist qualifying tax exempt nonprofit  
42 organizations to pay the cost of acquisition and development of lands  
43 for recreation and conservation purposes.

44 b. The expenditure and allocation of constitutionally dedicated  
45 moneys for recreation and conservation purposes shall reflect the  
46 geographic diversity of the State to the maximum extent practicable

1 and feasible.

2 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,  
3 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted  
4 pursuant thereto, to the contrary, the value of a pinelands development  
5 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1  
6 et seq.) and the pinelands comprehensive management plan adopted  
7 pursuant thereto, shall be made utilizing a value to be determined by  
8 either appraisal, regional averaging based upon appraisal data, or a  
9 formula supported by appraisal data. The appraisal and appraisal data  
10 shall consider as appropriate: land values in the pinelands regional  
11 growth areas; land values in counties, municipalities, and other areas  
12 reasonably contiguous to, but outside of, the pinelands area; and other  
13 relevant factors as may be necessary to maintain the environmental,  
14 ecological, and agricultural qualities of the pinelands area.

15 (2) No pinelands development credit allocated to a parcel of land  
16 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands  
17 comprehensive management plan adopted pursuant thereto that is  
18 acquired or obtained in connection with the acquisition of the parcel  
19 for recreation and conservation purposes by the State, a local  
20 government unit, or a qualifying tax exempt nonprofit organization  
21 using constitutionally dedicated moneys in whole or in part may be  
22 conveyed in any manner. All such pinelands development credits shall  
23 be retired permanently.

24 d. (1) (a) For State fiscal years 2000 through 2004 only, when the  
25 department, a local government unit, or a qualifying tax exempt  
26 nonprofit organization seeks to acquire lands for recreation and  
27 conservation purposes using constitutionally dedicated moneys in  
28 whole or in part or Green Acres bond act moneys in whole or in part,  
29 it shall conduct or cause to be conducted an appraisal or appraisals of  
30 the value of the lands that shall be made using the land use zoning of  
31 the lands <sup>1</sup>[(I)] (i)<sup>1</sup> in effect at the time of proposed acquisition, and  
32 (ii) in effect on November 3, 1998 as if that land use zoning is still in  
33 effect at the time of proposed acquisition. The higher of those two  
34 values shall be utilized by the department, a local government unit, or  
35 a qualifying tax exempt nonprofit organization as the basis for  
36 negotiation with the landowner with respect to the acquisition price  
37 for the lands. The landowner shall be provided with both values  
38 determined pursuant to this subparagraph.

39 A landowner may waive any of the requirements of this paragraph  
40 and may agree to sell the lands for less than the values determined  
41 pursuant to this paragraph.

42 (b) After the date of enactment of P.L.2001, c.315 and through  
43 June 30, 2004, in determining the two values required pursuant to  
44 subparagraph (a) of this paragraph, the appraisal shall be made using  
45 not only the land use zoning but also the Department of Environmental  
46 Protection wastewater, water quality and watershed management rules

1 and regulations and associated requirements and standards applicable  
2 to the lands subject to the appraisal <sup>1</sup> [(I)] (i)<sup>1</sup> in effect at the time of  
3 proposed acquisition, and (ii) in effect on November 3, 1998 as if  
4 those rules and regulations and associated requirements and standards  
5 are still in effect at the time of proposed acquisition.

6 (2) The requirements of this subsection shall be in addition to any  
7 other requirements of law, rule, or regulation not inconsistent  
8 therewith.

9 (3) This subsection shall not:

10 (a) apply if the land use zoning of the lands at the time of proposed  
11 acquisition, and the Department of Environmental Protection  
12 wastewater, water quality and watershed management rules and  
13 regulations and associated requirements and standards applicable to  
14 the lands at the time of proposed acquisition, have not changed since  
15 November 3, 1998;

16 (b) apply in the case of lands to be acquired with federal moneys  
17 in whole or in part;

18 (c) apply in the case of lands to be acquired in accordance with  
19 subsection c. of this section;

20 (d) apply to projects funded using constitutionally dedicated  
21 moneys appropriated pursuant to the annual appropriations act for  
22 State fiscal year 2000 (P.L.1999, c.138); or

23 (e) alter any requirements to disclose information to a landowner  
24 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
25 (C.20:3-1 et seq.).

26 e. Moneys appropriated from the fund may be used to match  
27 grants, contributions, donations, or reimbursements from federal aid  
28 programs or from other public or private sources established for the  
29 same or similar purposes as the fund.

30 f. Moneys appropriated from the fund shall not be used by local  
31 government units or qualifying tax exempt nonprofit organizations to  
32 acquire lands that are already permanently preserved for recreation and  
33 conservation purposes, as determined by the department.

34 g. Whenever lands are donated to the State by a public utility, as  
35 defined pursuant to Title 48 of the Revised Statutes, for recreation and  
36 conservation purposes, the commissioner may make and keep the lands  
37 accessible to the public, unless the commissioner determines that  
38 public accessibility would be detrimental to the lands or any natural  
39 resources associated therewith.

40 h. Whenever the State acquires land for recreation and conservation  
41 purposes, the agency in the Department of Environmental Protection  
42 responsible for administering the land shall, within six months after the  
43 date of acquisition, inspect the land for the presence of any buildings  
44 or structures thereon which are or may be historic properties and,  
45 within 60 days after completion of the inspection, provide to the New  
46 Jersey Historic Preservation Office in the department (1) a written

1 notice of its findings, and (2) for any buildings or structures which are  
2 or may be historic properties discovered on the land, a request for  
3 determination of potential eligibility for inclusion of the historic  
4 building or structure in the New Jersey Register of Historic Places.  
5 Whenever such a building or structure is discovered, a copy of the  
6 written notice provided to the New Jersey Historic Preservation Office  
7 shall also be sent to the New Jersey Historic Trust and to the county  
8 historical commission or advisory committee, the county historical  
9 society, the local historic preservation commission or advisory  
10 committee, and the local historical society if any of those entities exist  
11 in the county or municipality wherein the land is located.

12 i. (1) Commencing July 1, 2004 and until five years after the date  
13 of enactment of P.L.2001, c.315, when the department, a local  
14 government unit, or a qualifying tax exempt nonprofit organization  
15 seeks to acquire lands for recreation and conservation purposes using  
16 constitutionally dedicated moneys in whole or in part or Green Acres  
17 bond act moneys in whole or in part, it shall conduct or cause to be  
18 conducted an appraisal or appraisals of the value of the lands that shall  
19 be made using the Department of Environmental Protection  
20 wastewater, water quality and watershed management rules and  
21 regulations and associated requirements and standards applicable to  
22 the lands subject to the appraisal (a) in effect at the time of proposed  
23 acquisition, and (b) in effect on November 3, 1998 as if those rules and  
24 regulations and associated requirements and standards are still in effect  
25 at the time of proposed acquisition. The higher of those two values  
26 shall be utilized by the department, a local government unit, or a  
27 qualifying tax exempt nonprofit organization as the basis for  
28 negotiation with the landowner with respect to the acquisition price  
29 for the lands. The landowner shall be provided with both values  
30 determined pursuant to this paragraph. A landowner may waive any  
31 of the requirements of this paragraph and may agree to sell the lands  
32 for less than the values determined pursuant to this paragraph.

33 (2) The requirements of this subsection shall be in addition to any  
34 other requirements of law, rule, or regulation not inconsistent  
35 therewith.

36 (3) This subsection shall not:

37 (a) apply if the Department of Environmental Protection  
38 wastewater, water quality and watershed management rules and  
39 regulations and associated requirements and standards applicable to  
40 the lands at the time of proposed acquisition have not changed since  
41 November 3, 1998;

42 (b) apply in the case of lands to be acquired with federal moneys  
43 in whole or in part;

44 (c) apply in the case of lands to be acquired in accordance with  
45 subsection c. of this section; or

46 (d) alter any requirements to disclose information to a landowner

1 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
2 (C.20:3-1 et seq.).

3 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
4 (now before the Legislature as this bill) <sup>1</sup>or July 1, 2004, whichever is  
5 later,<sup>1</sup> and <sup>1</sup>[until five years after that date] through June 30, 2009<sup>1</sup>,  
6 when the department, a local government unit, or a qualifying tax  
7 exempt nonprofit organization seeks to acquire lands <sup>1</sup>[in the  
8 Highlands preservation area]<sup>1</sup> for recreation and conservation  
9 purposes using constitutionally dedicated moneys in whole or in part  
10 or Green Acres bond act moneys in whole or in part, it shall conduct  
11 or cause to be conducted an appraisal or appraisals of the value of the  
12 lands that shall be made using (a) <sup>1</sup>[the rules and regulations adopted  
13 by the Department of Environmental Protection pursuant to P.L. , c.  
14 (C. ) (now before the Legislature as this bill) and the provisions of  
15 section 31 of that act applicable to] the land use zoning of the lands,  
16 and any State environmental laws or Department of Environmental  
17 Protection rules and regulations that may affect the value of<sup>1</sup> the  
18 lands<sup>1</sup>,<sup>1</sup> subject to the appraisal and in effect at the time of proposed  
19 acquisition, and (b) <sup>1</sup>[the rules and regulations adopted by the  
20 Department of Environmental Protection pursuant to any  
21 environmental land use or water law applicable to] the land use zoning  
22 of the lands, and any State environmental laws or Department of  
23 Environmental Protection rules and regulations that may affect the  
24 value of<sup>1</sup> the lands<sup>1</sup>,<sup>1</sup> subject to the appraisal and in effect on <sup>1</sup>[the  
25 day before the date of enactment of P.L. , c. (C. ) (now before  
26 the Legislature as this bill)] January 1, 2004<sup>1</sup>. The higher of those  
27 two values shall be utilized by the department, a local government  
28 unit, or a qualifying tax exempt nonprofit organization as the basis for  
29 negotiation with the landowner with respect to the acquisition price  
30 for the lands. The landowner shall be provided with both values  
31 determined pursuant to this paragraph.

32 A landowner may waive any of the requirements of this paragraph  
33 and may agree to sell the lands for less than the values determined  
34 pursuant to this paragraph.

35 The provisions of this paragraph shall be applicable only to lands  
36 the owner of which at the time of proposed acquisition is the same  
37 person who owned the lands on the date of enactment of P.L. , c.  
38 (C. ) (now before the Legislature as this bill) and who has owned the  
39 lands continuously since that enactment date, or is an immediate family  
40 member of that person.

41 (2) A landowner whose lands are subject to the provisions of  
42 paragraph (1) of this subsection shall choose to have the lands  
43 appraised in accordance with this subsection or in accordance with the  
44 provisions of either subsection d. or subsection i. of this section to the  
45 extent that the subsection is applicable and has not expired.

1       (3) The requirements of this subsection shall be in addition to any  
2 other requirements of law, rule, or regulation not inconsistent  
3 therewith.

4       (4) This subsection shall not:

5       (a) apply in the case of lands to be acquired with federal moneys in  
6 whole or in part; <sup>1</sup>[or]<sup>1</sup>

7       (b) <sup>1</sup>apply in the case of lands to be acquired in accordance with  
8 subsection c. of this section; or

9       (c)<sup>1</sup> alter any requirements to disclose information to a landowner  
10 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
11 (C.20:3-1 et seq.).

12       (5) For the purposes of this subsection <sup>1</sup>[:

13       "Environmental land use or water law" means the "Freshwater  
14 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
15 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
16 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
17 et seq.), "The Realty Improvement Sewerage and Facilities Act  
18 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
19 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
20 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the  
21 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
22 seq.);

23       "Highlands preservation area" means the preservation area in the  
24 Highlands Region as defined pursuant to section of P.L. , c. (C. )  
25 (now before the Legislature as this bill); and

26       "Immediate<sup>1</sup> family member" means <sup>1</sup>a<sup>1</sup> spouse, child,  
27 <sup>1</sup>parent, <sup>1</sup>sibling, aunt, uncle, niece, nephew, first cousin, grandparent,  
28 grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
29 stepparent, stepchild, stepbrother, stepsister, half brother, or half  
30 sister, whether the individual is related by blood, marriage, or  
31 adoption.

32       [j.] k. The department shall adopt guidelines for the evaluation and  
33 priority ranking process which shall be used in making decisions  
34 concerning the acquisition of lands by the State for recreation and  
35 conservation purposes using moneys from the Garden State Green  
36 Acres Preservation Trust Fund and from any other source. <sup>1</sup>The  
37 guidelines shall be designed to provide, to the maximum extent  
38 practicable and feasible, that such moneys are spent equitably among  
39 the geographic areas of the State.<sup>1</sup> The guidelines, and any  
40 subsequent revisions thereto, shall be published in the New Jersey  
41 Register. The adoption of the guidelines or of the revisions thereto,  
42 shall not be subject to the requirements of the "Administrative  
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

44       [k.] l. In making decisions concerning the acquisition of lands by  
45 the State for recreation and conservation purposes using moneys from  
46 the Garden State Green Acres Preservation Trust Fund, in the

1 evaluation and priority ranking process the department shall accord  
2 three times the weight to acquisitions of lands that would protect  
3 water resources, and two times the weight to acquisitions of lands that  
4 would protect flood-prone areas, as those criteria are compared to the  
5 other criteria in the priority ranking process.

6 [l.] m. The department, pursuant to the "Administrative Procedure  
7 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and  
8 regulations that establish standards and requirements regulating any  
9 activity on lands acquired by the State for recreation and conservation  
10 purposes using constitutionally dedicated moneys to assure that the  
11 activity on those lands does not diminish the protection of surface  
12 water or groundwater resources.

13 Any rules and regulations adopted pursuant to this subsection shall  
14 not apply to activities on lands acquired prior to the adoption of the  
15 rules and regulations.

16 <sup>1</sup>n. (1) The department, within three months after the date of the  
17 first meeting of the Highland Water Protection and Planning Council  
18 established pursuant to section 4 of P.L. , c. (C. ) (now before  
19 the Legislature as this bill), shall consult with and solicit  
20 recommendations from the council concerning land preservation  
21 strategies and acquisition plans in the Highlands Region as defined in  
22 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
23 bill).

24 The council's recommendations shall also address strategies and  
25 plans concerning establishment by the department of a methodology  
26 for prioritizing the acquisition of land in the Highlands preservation  
27 area, as defined in section 3 of P.L. , c. (C. ) (now before the  
28 Legislature as this bill), for recreation and conservation purposes using  
29 moneys from the Garden State Green Acres Preservation Trust Fund,  
30 especially with respect to (a) any land that has declined substantially  
31 in value due to the implementation of the "Highlands Water Protection  
32 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
33 this bill), and (b) any major Highlands development, as defined in  
34 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
35 bill), that would have qualified for an exemption pursuant to paragraph  
36 (3) of subsection a. of section 30 of P.L. , c. (C. ) (now before  
37 the Legislature as this bill) but for the lack of a necessary State permit  
38 as specified in subparagraphs (b) or (c), as appropriate, of paragraph  
39 (3) of subsection a. of section 30 of P.L. , c. (C. ) (now before  
40 the Legislature as this bill), and for which an application for such a  
41 permit had been submitted to the Department of Environmental  
42 Protection and deemed by the department to be complete for review  
43 on or before March 29, 2004. The recommendations may also include  
44 a listing of specific parcels in the Highlands preservation area that the  
45 council is aware of that meet the criteria of subparagraphs (a) or (b)  
46 of this paragraph and for that reason should be considered by the



1 department as a priority for acquisition, but any such list shall remain  
2 confidential notwithstanding any provision of P.L.1963, c.73  
3 (C.47:1A-1 et seq.) or any other law to the contrary.

4 (2) In making decisions concerning applications for funding  
5 submitted by municipalities in the Highlands planning area, as defined  
6 in section 3 of P.L. , c. (C. ) (now before the Legislature as this  
7 bill), to acquire or develop lands for recreation and conservation  
8 purposes using moneys from the Garden State Green Acres  
9 Preservation Trust Fund, in the evaluation and priority ranking process  
10 the department shall accord a higher weight to any application  
11 submitted by a municipality in the Highlands planning area that has  
12 amended its development regulations in accordance with section 13 of  
13 P.L. , c. (C. ) (now before the Legislature as this bill) to  
14 establish one or more receiving zones for the transfer of development  
15 potential from the Highlands preservation area, as defined in section  
16 3 of P.L. , c. (C. ) (now before the Legislature as this bill), than  
17 that which is accorded to comparable applications submitted by other  
18 municipalities in the Highlands planning area that have not made such  
19 amendments to their development regulations.

20 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1  
21 et seq.) to the contrary, for State fiscal years 2005 through 2009, the  
22 sum spent by the department in each of those fiscal years for the  
23 acquisition of lands by the State for recreation and conservation  
24 purposes using moneys from the Garden State Green Acres  
25 Preservation Trust Fund in each county of the State shall be not less,  
26 and may be greater if additional sums become available, than the  
27 average annual sum spent by the department therefor in each such  
28 county, respectively, for State fiscal years 2002 through 2004,  
29 provided there is sufficient and appropriate lands within the county to  
30 be so acquired by the State for such purposes.<sup>1</sup>

31 (cf: P.L.2002, c.76, s.4)

32

33 <sup>1</sup>[53.] 54.<sup>1</sup> Section 38 of P.L.1999, c.152 (C.13:8C-38) is  
34 amended to read as follows:

35 38. a. All acquisitions or grants made pursuant to section 37 of  
36 <sup>1</sup>[this act] P.L.1999, c.152 (C.13:8C-37)<sup>1</sup> shall be made with respect  
37 to farmland devoted to farmland preservation under programs  
38 established by law.

39 b. The expenditure and allocation of constitutionally dedicated  
40 moneys for farmland preservation purposes shall reflect the geographic  
41 diversity of the State to the maximum extent practicable and feasible.

42 c. The committee shall implement the provisions of section 37 of  
43 <sup>1</sup>[this act] P.L.1999, c.152 (C.13:8C-37) <sup>1</sup>In accordance with the  
44 procedures and criteria established pursuant to the "Agriculture  
45 Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.)  
46 except as provided otherwise by this act.

1 d. The committee shall adopt the same or a substantially similar  
2 method for determining, for the purposes of this act, the committee's  
3 share of the cost of a development easement on farmland to be  
4 acquired by a local government as that which is being used by the  
5 committee on the date of enactment of this act for prior farmland  
6 preservation funding programs.

7 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32  
8 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant  
9 thereto, to the contrary, whenever the value of a development  
10 easement on farmland to be acquired using constitutionally dedicated  
11 moneys in whole or in part is determined based upon the value of any  
12 pinelands development credits allocated to the parcel pursuant to  
13 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
14 management plan adopted pursuant thereto, the committee shall  
15 determine the value of the development easement by:

16 (1) conducting a sufficient number of fair market value appraisals  
17 as it deems appropriate to determine the value for farmland  
18 preservation purposes of the pinelands development credits;

19 (2) considering development easement values in counties,  
20 municipalities, and other areas (a) reasonably contiguous to, but  
21 outside of, the pinelands area, which in the sole opinion of the  
22 committee constitute reasonable development easement values in the  
23 pinelands area for the purposes of this subsection, and (b) in the  
24 pinelands area where pinelands development credits are or may be  
25 utilized, which in the sole opinion of the committee constitute  
26 reasonable development easement values in the pinelands area for the  
27 purposes of this subsection;

28 (3) considering land values in the pinelands regional growth areas;

29 (4) considering the importance of preserving agricultural lands in  
30 the pinelands area; and

31 (5) considering such other relevant factors as may be necessary to  
32 increase participation in the farmland preservation program by owners  
33 of agricultural lands located in the pinelands area.

34 f. No pinelands development credit that is acquired or obtained in  
35 connection with the acquisition of a development easement on  
36 farmland or fee simple title to farmland by the State, a local  
37 government unit, or a qualifying tax exempt nonprofit organization  
38 using constitutionally dedicated moneys in whole or in part may be  
39 conveyed in any manner. All such pinelands development credits shall  
40 be retired permanently.

41 g. (1) (a) For State fiscal years 2000 through 2004 only, when the  
42 committee, a local government unit, or a qualifying tax exempt  
43 nonprofit organization seeks to acquire a development easement on  
44 farmland or the fee simple title to farmland for farmland preservation  
45 purposes using constitutionally dedicated moneys in whole or in part,  
46 it shall conduct or cause to be conducted an appraisal or appraisals of

1 the value of the lands that shall be made using the land use zoning of  
2 the lands <sup>1</sup>[(I)] (i)<sup>1</sup> in effect at the time of proposed acquisition, and  
3 (ii) in effect on November 3, 1998 as if that land use zoning is still in  
4 effect at the time of proposed acquisition. The higher of those two  
5 values shall be utilized by the committee, a local government unit, or  
6 a qualifying tax exempt nonprofit organization as the basis for  
7 negotiation with the landowner with respect to the acquisition price  
8 for the lands. The landowner shall be provided with both values  
9 determined pursuant to this subparagraph.

10 A landowner may waive any of the requirements of this paragraph  
11 and may agree to sell the lands for less than the values determined  
12 pursuant to this paragraph.

13 (b) After the date of enactment of P.L.2001, c.315 and through  
14 June 30, 2004, in determining the two values required pursuant to  
15 subparagraph (a) of this paragraph, the appraisal shall be made using  
16 not only the land use zoning but also the Department of Environmental  
17 Protection wastewater, water quality and watershed management rules  
18 and regulations and associated requirements and standards applicable  
19 to the lands subject to the appraisal <sup>1</sup>[(I)] (i)<sup>1</sup> in effect at the time of  
20 proposed acquisition, and (ii) in effect on November 3, 1998 as if  
21 those rules and regulations and associated requirements and standards  
22 are still in effect at the time of proposed acquisition.

23 (2) The requirements of this subsection shall be in addition to any  
24 other requirements of law, rule, or regulation not inconsistent  
25 therewith.

26 (3) This subsection shall not:

27 (a) apply if the land use zoning of the lands at the time of proposed  
28 acquisition, and the Department of Environmental Protection  
29 wastewater, water quality and watershed management rules and  
30 regulations and associated requirements and standards applicable to  
31 the lands at the time of proposed acquisition, have not changed since  
32 November 3, 1998;

33 (b) apply in the case of lands to be acquired with federal moneys in  
34 whole or in part;

35 (c) apply in the case of lands to be acquired in accordance with  
36 subsection e. of this section;

37 (d) apply to projects funded using constitutionally dedicated  
38 moneys appropriated pursuant to the annual appropriations act for  
39 State fiscal year 2000 (P.L.1999, c.138); or

40 (e) alter any requirements to disclose information to a landowner  
41 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
42 (C.20:3-1 et seq.).

43 h. Any farmland for which a development easement or fee simple  
44 title has been acquired pursuant to section 37 of <sup>1</sup>[this act] P.L.1999,  
45 c.152 (C.13:8C-37)<sup>1</sup> shall be entitled to the benefits conferred by the  
46 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the

1 "Agriculture Retention and Development Act," P.L.1983, c.32  
2 (C.4:1C-11 et al.).

3 i. (1) Commencing July 1, 2004 and until five years after the date  
4 of enactment of P.L.2001, c.315, when the committee, a local  
5 government unit, or a qualifying tax exempt nonprofit organization  
6 seeks to acquire a development easement on farmland or the fee simple  
7 title to farmland for farmland preservation purposes using  
8 constitutionally dedicated moneys in whole or in part, it shall conduct  
9 or cause to be conducted an appraisal or appraisals of the value of the  
10 lands that shall be made using the Department of Environmental  
11 Protection wastewater, water quality and watershed management rules  
12 and regulations and associated requirements and standards applicable  
13 to the lands subject to the appraisal (a) in effect at the time of  
14 proposed acquisition, and (b) in effect on November 3, 1998 as if  
15 those rules and regulations and associated requirements and standards  
16 are still in effect at the time of proposed acquisition. The higher of  
17 those two values shall be utilized by the committee, a local  
18 government unit, or a qualifying tax exempt nonprofit organization as  
19 the basis for negotiation with the landowner with respect to the  
20 acquisition price for the lands. The landowner shall be provided with  
21 both values determined pursuant to this paragraph. A landowner may  
22 waive any of the requirements of this paragraph and may agree to sell  
23 the lands for less than the values determined pursuant to this  
24 paragraph.

25 (2) The requirements of this subsection shall be in addition to any  
26 other requirements of law, rule, or regulation not inconsistent  
27 therewith.

28 (3) This subsection shall not:

29 (a) apply if the Department of Environmental Protection  
30 wastewater, water quality and watershed management rules and  
31 regulations and associated requirements and standards applicable to  
32 the lands at the time of proposed acquisition have not changed since  
33 November 3, 1998;

34 (b) apply in the case of lands to be acquired with federal moneys  
35 in whole or in part;

36 (c) apply in the case of lands to be acquired in accordance with  
37 subsection e. of this section; or

38 (d) alter any requirements to disclose information to a landowner  
39 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
40 (C.20:3-1 et seq.).

41 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
42 (now before the Legislature as this bill) <sup>1</sup>or July 1, 2004, whichever is  
43 later,<sup>1</sup> and <sup>1</sup>[until five years after that date] through June 30, 2009<sup>1</sup>,  
44 when the committee, a local government unit, or a qualifying tax  
45 exempt nonprofit organization seeks to acquire a development  
46 easement on farmland or the fee simple title to farmland for farmland

1 preservation purposes <sup>1</sup>[in the Highlands preservation area] <sup>1</sup>using  
2 constitutionally dedicated moneys in whole or in part, it shall conduct  
3 or cause to be conducted an appraisal or appraisals of the value of the  
4 lands that shall be made using (a) <sup>1</sup>[the rules and regulations adopted  
5 by the Department of Environmental Protection pursuant to P.L. ,  
6 c. (C. ) (now before the Legislature as this bill) and the provisions  
7 of section 31 of that act applicable to] the land use zoning of the  
8 lands, and any State environmental laws or Department of  
9 Environmental Protection rules and regulations that may affect the  
10 value of<sup>1</sup> the lands<sup>1</sup>,<sup>1</sup> subject to the appraisal and in effect at the time  
11 of proposed acquisition, and (b) <sup>1</sup>[the rules and regulations adopted  
12 by the Department of Environmental Protection pursuant to any  
13 environmental land use or water law applicable to] the land use zoning  
14 of the lands, and any State environmental laws or Department of  
15 Environmental Protection rules and regulations that may affect the  
16 value of<sup>1</sup> the lands<sup>1</sup>,<sup>1</sup> subject to the appraisal and in effect on <sup>1</sup>[the  
17 day before the date of enactment of P.L. , c. (C. ) (now before  
18 the Legislature as this bill)] January 1, 2004<sup>1</sup>. The higher of those  
19 two values shall be utilized by the committee, a local government unit,  
20 or a qualifying tax exempt nonprofit organization as the basis for  
21 negotiation with the landowner with respect to the acquisition price  
22 for the lands. The landowner shall be provided with both values  
23 determined pursuant to this paragraph.

24 A landowner may waive any of the requirements of this paragraph  
25 and may agree to sell the lands for less than the values determined  
26 pursuant to this paragraph.

27 The provisions of this paragraph shall be applicable only to lands  
28 the owner of which at the time of proposed acquisition is the same  
29 person who owned the lands on the date of enactment of P.L. , c.  
30 (C. ) (now before the Legislature as this bill) and who has owned the  
31 lands continuously since that enactment date, is an immediate family  
32 member of that person, or is a farmer as defined by the committee.

33 (2) A landowner whose lands are subject to the provisions of  
34 paragraph (1) of this subsection shall choose to have the lands  
35 appraised in accordance with this subsection or in accordance with the  
36 provisions of either subsection g. or subsection i. of this section to the  
37 extent that the subsection is applicable and has not expired.

38 (3) The requirements of this subsection shall be in addition to any  
39 other requirements of law, rule, or regulation not inconsistent  
40 therewith.

41 (4) This subsection shall not:

42 (a) apply in the case of lands to be acquired with federal moneys in  
43 whole or in part; <sup>1</sup>[or]<sup>1</sup>

44 (b) <sup>1</sup>apply in the case of lands to be acquired in accordance with  
45 subsection e. of this section; or

46 (c)<sup>1</sup> alter any requirements to disclose information to a landowner

1 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
2 (C.20:3-1 et seq.).

3 (5) For the purposes of this subsection<sup>1</sup> [:

4 "Environmental land use or water law" means the "Freshwater  
5 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
6 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
7 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
8 et seq.), "The Realty Improvement Sewerage and Facilities Act  
9 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
10 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
11 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the  
12 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
13 seq.);

14 "Highlands preservation area" means the preservation area in the  
15 Highlands Region as defined pursuant to section of P.L. , c. (C. )  
16 (now before the Legislature as this bill); and

17 "Immediate], "immediate<sup>1</sup> family member" means <sup>1</sup>a<sup>1</sup> spouse, child,  
18 <sup>1</sup>parent, <sup>1</sup>sibling, aunt, uncle, niece, nephew, first cousin, grandparent,  
19 grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
20 stepparent, stepchild, stepbrother, stepsister, half brother, or half  
21 sister, whether the individual is related by blood, marriage, or  
22 adoption.

23 [j.] k. The committee and the Department of Environmental  
24 Protection, pursuant to the "Administrative Procedure Act," P.L.1968,  
25 c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations  
26 that establish standards and requirements regulating any improvement  
27 on lands acquired by the State for farmland preservation purposes  
28 using constitutionally dedicated moneys to assure that any  
29 improvement does not diminish the protection of surface water or  
30 groundwater resources.

31 Any rules and regulations adopted pursuant to this subsection shall  
32 not apply to improvements on lands acquired prior to the adoption of  
33 the rules and regulations.

34 l. <sup>1</sup>(1)<sup>1</sup> The committee, within three months after the date of the  
35 first meeting of the Highland Water Protection and Planning Council  
36 established pursuant to section 4 of P.L. , c. (C. ) (now before  
37 the Legislature as this bill), shall consult with and solicit  
38 recommendations from the council concerning farmland preservation  
39 strategies and acquisition plans in the Highlands Region as defined in  
40 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
41 bill).

42 <sup>1</sup>The council's recommendations shall also address strategies and  
43 plans concerning establishment by the committee of a methodology for  
44 prioritizing the acquisition of development easements and fee simple  
45 titles to farmland in the Highlands preservation area, as defined in  
46 section 3 of P.L. , c. (C. ) (now before the Legislature as this

1 bill), for farmland preservation purposes using moneys from the  
2 Garden State Farmland Preservation Trust Fund, especially with  
3 respect to farmland that has declined substantially in value due to the  
4 implementation of the "Highlands Water Protection and Planning Act,"  
5 P.L. , c. (C. ) (now before the Legislature as this bill). The  
6 recommendations may also include a listing of specific parcels in the  
7 Highlands preservation area that the council is aware of that have  
8 experienced a substantial decline in value and for that reason should  
9 be considered by the committee as a priority for acquisition, but any  
10 such list shall remain confidential notwithstanding any provision of  
11 P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

12 (2) In prioritizing applications for funding submitted by local  
13 government units in the Highlands planning area, as defined in section  
14 3 of P.L. , c. (C. ) (now before the Legislature as this bill), to  
15 acquire development easements on farmland in the Highlands planning  
16 area using moneys from the Garden State Farmland Preservation Trust  
17 Fund, the committee shall accord a higher weight to any application  
18 submitted by a local government unit to preserve farmland in a  
19 municipality in the Highlands planning area that has amended its  
20 development regulations in accordance with section 13 of P.L. ,  
21 c. (C. ) (now before the Legislature as this bill) to establish one  
22 or more receiving zones for the transfer of development potential from  
23 the Highlands preservation area, as defined in section 3 of P.L. ,  
24 c. (C. ) (now before the Legislature as this bill), than that which  
25 is accorded to comparable applications submitted by other local  
26 government units to preserve farmland in municipalities in the  
27 Highlands planning area that have not made such amendments to their  
28 development regulations.

29 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1  
30 et seq.) to the contrary, for State fiscal years 2005 through 2009, the  
31 sum spent by the committee in each of those fiscal years for the  
32 acquisition by the committee of development easements and fee simple  
33 titles to farmland for farmland preservation purposes using moneys  
34 from the Garden State Farmland Preservation Trust Fund in each  
35 county of the State shall be not less, and may be greater if additional  
36 sums become available, than the average annual sum spent by the  
37 department therefor in each such county, respectively, for State fiscal  
38 years 2002 through 2004, provided there is sufficient and appropriate  
39 farmland within the county to be so acquired by the committee for  
40 such purposes.<sup>1</sup>

41 (cf: P.L.2002, c.76, s.6)

42

43 <sup>1</sup>[54.] 55.<sup>1</sup> Section 13 of P.L.1974, c.118 (C.13:13A-13) is  
44 amended to read as follows:

45 13. a. The commission shall prepare, or cause to be prepared, and,  
46 after a public hearing, or public hearings, and pursuant to the

1 provisions provided for in subsection 13 b. of this act, adopt a master  
2 plan or portion thereof for the physical development of the park, which  
3 plan may include proposals for various stages in the future  
4 development of the park, or amend the master plan. The master plan  
5 shall include a report presenting the objectives, assumptions,  
6 standards and principles which are embodied in the various  
7 interlocking portions of the master plan. The master plan shall be a  
8 composite of the one or more written proposals recommending the  
9 physical development and expansion of the park either in its entirety  
10 or a portion thereof which the commission shall prepare after meetings  
11 with the governing bodies of the affected municipalities and counties,  
12 and any agencies and instrumentalities thereof.

13 b. In preparing the master plan or any portion thereof or  
14 amendment thereto the commission shall give due consideration to:  
15 (1) the function of the canal as a major water supply facility in the  
16 State; (2) the necessity to provide recreational activities to the citizens  
17 of this State, including but not limited to, facilities, design capacities,  
18 and relationship to other available recreational areas; (3) existing  
19 historical sites and potential restorations or compatible development;  
20 (4) the range of uses and potential uses of the canal in the urban  
21 environments of the older, intensively developed communities through  
22 which it passes; and (5) designated wilderness areas to be kept as  
23 undeveloped, limited-access areas restricted to canoeing and hiking.  
24 In preparing the master plan or any portion thereof or amendment  
25 thereto the commission shall consider existing patterns of development  
26 and any relevant master plan or other plan of development, and shall  
27 insure widespread citizen involvement and participation in the planning  
28 process.

29 c. The commission shall act in support of local suggestions or  
30 desires to complement the park master plan. Consultation, planning,  
31 and technical expertise will be made available to local planning bodies  
32 that wish to implement land-use policy to enhance the park area. The  
33 commission shall act on or refer complaints by citizens' groups or  
34 private residents who discover hazardous situations, pollution, or  
35 evidence of noncompliance with use regulations.

36 d. The commission shall review and approve, reject or modify, any  
37 State project planned or State permits issued in the park, and submit  
38 its decision to the Governor.

39 e. The commission shall consult with the Highlands Water  
40 Protection and Planning Council, established pursuant to section 4 of  
41 P.L. , c. (C. ) (now before the Legislature as this bill), on any  
42 provision of the park master plan that may impact upon or otherwise  
43 affect the Highlands Region or the Highlands regional master plan, as  
44 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
45 as this bill), and any such provision shall be consistent with the  
46 Highlands regional master plan adopted by the council pursuant to that



1 act.

2 (cf: P.L.1974, c.118, s.13)

3

4 <sup>1</sup>[55.] 56.<sup>1</sup> Section 14 of P.L.1974, c.118 (C.13:13A-14) is  
5 amended to read as follows:

6 14. a. The commission shall determine, after a public hearing, or  
7 public hearings held in Hunterdon, Somerset, Mercer, and Middlesex  
8 counties respectively, the extent and limits of the region to be  
9 designated the review zone. Any subsequent modification of [said]  
10 the review zone shall be made by the commission only after public  
11 hearings in the county or counties in which [such] the modification is  
12 to be made. All public hearings required pursuant to this section shall  
13 be held only after giving prior notice thereof by public advertisement  
14 once each week for [2] two consecutive weeks in such newspaper or  
15 newspapers selected by the chairman of the commission as will best  
16 give notice thereof. The last publication of such notice shall be not  
17 less than 10 days prior to the date set for the hearing.

18 b. The commission shall approve all State actions within the review  
19 zone that impact on the park, and insure that these actions conform as  
20 nearly as possible to the commission's master plan and relevant local  
21 plans or initiatives. The State actions which the commission shall  
22 review will include the operations of the Division of Water Resources  
23 concerning water supply and quality; the Division of Parks and  
24 Forestry in developing recreation facilities; and the activities of any  
25 other State department or agency that might affect the park.

26 c. The commission shall review and approve, reject, or modify any  
27 project within the review zone. The initial application for a proposed  
28 project within the zone shall be submitted by the applicant to the  
29 appropriate municipal reviewing agency. If approved by the agency,  
30 the application shall be sent to the commission for review. The  
31 commission shall review each proposed project in terms of its  
32 conformity with, or divergence from, the objectives of the  
33 commission's master plan and shall: (1) advise the appropriate  
34 municipal reviewing agency that the project can proceed as proposed;  
35 (2) reject the application and so advise the appropriate municipal  
36 reviewing agency and the governing body of the municipality; or (3)  
37 require modifications or additional safeguards on the part of the  
38 applicant, and return the application to the appropriate municipal  
39 reviewing agency, which shall be responsible for insuring that these  
40 conditions are satisfied before issuing a permit. If no action is taken  
41 by the commission within a period of 45 days from the date of  
42 submission of the application to the commission by the municipal  
43 reviewing agency, this shall constitute an approval by the commission.  
44 The commission's decision shall be final and binding on the  
45 municipality, and the commission may, in the case of any violation or  
46 threat of a violation of a commission's decision by a municipality, or

1 by the appropriate municipal reviewing agency, as the case may be,  
2 institute civil action (1) for injunctive relief; (2) to set aside and  
3 invalidate a decision made by a municipality in violation of this  
4 subsection; or (3) to restrain, correct or abate such violation. As used  
5 herein: (1) "project" means any structure, land use change, or public  
6 improvements for which a permit from, or determination by, the  
7 municipality is required, which shall include, but not be limited to,  
8 building permits, zoning variances, and excavation permits; and (2)  
9 "agency" means any body or instrumentality of the municipality  
10 responsible for the issuance of permits or the approval of projects, as  
11 herein defined, which shall include, but not be limited to, governing  
12 bodies, planning and zoning boards, building inspectors, managers and  
13 municipal engineers.

14 d. To the extent that any action the commission takes pursuant to  
15 this section may impact upon or otherwise affect the Highlands Region  
16 or the Highlands regional master plan, as defined in section 3 of  
17 P.L. , c. (C. ) (now before the Legislature as this bill), the  
18 commission shall consult with the Highlands Water Protection and  
19 Planning Council, established pursuant to section 4 of P.L. , c.  
20 (C. ) (now before the Legislature as this bill), and any such action  
21 taken shall be consistent with Highland regional master plan adopted  
22 by the council pursuant to that act.

23 (cf: P.L.1974, c.118, s.14)

24

25 <sup>1</sup>[56.] 57.<sup>1</sup> Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended  
26 to read as follows:

27 2. Any billboard or outdoor advertising sign licensed and permitted  
28 pursuant to the "Roadside Sign Control and Outdoor Advertising  
29 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected  
30 on or above any State right-of-way or any real property of the  
31 department shall be subject to local government zoning ordinances,  
32 applicable local government building permit requirements, and in the  
33 pinelands area, shall be subject to the provisions of the comprehensive  
34 management plan prepared and adopted by the Pinelands Commission  
35 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the  
36 Highlands Region, shall be subject to the provisions of the "Highland  
37 Water Protection and Planning Act," P.L. , c. (C. ) (now before  
38 the Legislature as this bill), any rules and regulations adopted pursuant  
39 thereto, and the Highlands regional master plan adopted by the  
40 Highlands Water Protection and Planning Council pursuant to section  
41 8 of that act .

42 (cf: P.L.1997, c.144, s.2)

43

44 <sup>1</sup>[57.] 58.<sup>1</sup> R.S.32:14-5 is amended to read as follows:

45 32:14-5. a. Palisades Interstate Park Commission shall, from time  
46 to time, select and locate such lands lying between the top or steep

1 edge of the Palisades or the crest of the slope in places where the steep  
2 Palisade rocks are absent and the high-water line of the Hudson river,  
3 from the New York State line on the north, to a line beginning at the  
4 intersection of the southern line of the old Fort Lee dock or landing  
5 with the high-water line of the Hudson river and running thence in a  
6 westerly direction and at right angles to said high-water line of the  
7 Hudson river to the east side of the river road running from Edgewater  
8 to Fort Lee, in Bergen county, on the south, and such lands or rights  
9 in lands belonging to persons other than the State, as may lie between  
10 the exterior bulkhead line established in the Hudson river and the  
11 high-water line of the Hudson river, as may, in the opinion of the  
12 Palisades Interstate Park Commission, be proper and necessary to be  
13 reserved for the purpose of establishing a park and thereby preserving  
14 the scenic beauty of the Palisades.

15 b. The Palisades Interstate Park Commission, in cooperation with  
16 the North Jersey District Water Supply Commission and in  
17 consultation with the New Jersey Department of Environmental  
18 Protection and the Highlands Water Protection and Planning Council,  
19 may, from time to time, select and locate such lands lying within the  
20 Highlands or Skylands areas of Bergen, Hunterdon, Morris, Passaic,  
21 Somerset and Warren counties in the State of New Jersey, including  
22 lands in those areas lying within the North Jersey Water Supply  
23 District, as may, in the opinion of the Palisades Interstate Park  
24 Commission and the North Jersey District Water Supply Commission,  
25 in consultation with the department and the Highlands Water  
26 Protection and Planning Council, be proper and necessary to be  
27 reserved for establishing a park:

28 (1) to preserve the scenic beauty of those areas;

29 (2) for the purposes of recreation and conservation, which shall  
30 include hunting and fishing, or historic preservation; or

31 (3) for the purposes of watershed conservation or protecting,  
32 maintaining, or enhancing the quality and quantity of water supplies.

33 c. Except as authorized for the purposes specified by R.S.32:15-1  
34 et seq. and R.S.32:16-1 et seq. with regard to the location,  
35 construction, maintenance, and operation of the Henry Hudson Drive  
36 and the Palisades Interstate Parkway in Bergen county, the Palisades  
37 Interstate Park Commission shall not acquire by condemnation any  
38 lands described in subsections a. and b. of this section. Any such lands  
39 shall be acquired by the Palisades Interstate Park Commission only  
40 through a sale by a willing seller.

41 (cf: P.L.1995, c.274, s.2)

42

43 <sup>1</sup>[58.] 59.<sup>1</sup> Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended  
44 to read as follows:

45 5. a. The duties of the commission shall be to:

46 [a.] (1) assess present and projected development, land use, and

1 land management practices and patterns, and identify actual and  
2 potential environmental threats and problems, around Greenwood  
3 Lake and within its watershed, and determine the effects of those  
4 practices and patterns, threats, and problems upon the natural, scenic,  
5 and recreational resources of Greenwood Lake and its watershed;

6 [b.] (2) develop recommended regulations, procedures, policies,  
7 planning strategies, and model ordinances and resolutions pertaining  
8 to the protection, preservation, maintenance, management, and  
9 enhancement of Greenwood Lake and its watershed, which would be  
10 implemented as appropriate on a voluntary basis by those entities with  
11 representatives on the commission;

12 [c.] (3) coordinate environmental clean up, maintenance, and  
13 protection efforts undertaken, for the benefit of Greenwood Lake and  
14 its watershed, by those entities with representatives on the  
15 commission;

16 [d.] (4) coordinate with the New Jersey Department of  
17 Environmental Protection's watershed management program for the  
18 area that includes Greenwood Lake;

19 [e.] (5) recommend appropriate state legislation and administrative  
20 action pertaining to the protection, preservation, maintenance,  
21 management, and enhancement of Greenwood Lake and its watershed;

22 [f.] (6) advocate, and where appropriate, act as a coordinating,  
23 distributing, or recipient agency for, federal, state, or private funding  
24 of environmental cleanup, maintenance, and protection projects for  
25 Greenwood Lake and its watershed, which projects may include the  
26 work of the commission; and

27 [g.] (7) take such other action as may be appropriate or necessary  
28 to further the purpose of this act.

29 b. The commission shall consult with the Highlands Water  
30 Protection and Planning Council, established pursuant to section 4 of  
31 P.L. , c. (C. ) (now before the Legislature as this bill), in carrying  
32 out its duties as prescribed pursuant to subsection a. of this section.  
33 Any action taken by the commission that may impact upon or  
34 otherwise affect the Highlands preservation area, as defined in section  
35 3 of P.L. , c. (C. ) (now before the Legislature as this bill), shall  
36 be consistent with the Highlands regional master plan adopted by the  
37 council pursuant to section 8 of that act.

38 (cf: P.L.1999, c.402, s.5)

39

40 <sup>1</sup>[59. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
41 read as follows:

42 19. Preparation; contents; modification.

43 a. The planning board may prepare and, after public hearing, adopt  
44 or amend a master plan or component parts thereof, to guide the use  
45 of lands within the municipality in a manner which protects public  
46 health and safety and promotes the general welfare.

1       b. The master plan shall generally comprise a report or statement  
2 and land use and development proposals, with maps, diagrams and  
3 text, presenting, at least the following elements (1) and (2) and, where  
4 appropriate, the following elements (3) through (13):

5       (1) A statement of objectives, principles, assumptions, policies and  
6 standards upon which the constituent proposals for the physical,  
7 economic and social development of the municipality are based;

8       (2) A land use plan element (a) taking into account and stating its  
9 relationship to the statement provided for in paragraph (1) hereof, and  
10 other master plan elements provided for in paragraphs (3) through (13)  
11 hereof and natural conditions, including, but not necessarily limited to,  
12 topography, soil conditions, water supply, drainage, flood plain areas,  
13 marshes, and woodlands; (b) showing the existing and proposed  
14 location, extent and intensity of development of land to be used in the  
15 future for varying types of residential, commercial, industrial,  
16 agricultural, recreational, educational and other public and private  
17 purposes or combination of purposes; and stating the relationship  
18 thereof to the existing and any proposed zone plan and zoning  
19 ordinance; and (c) showing the existing and proposed location of any  
20 airports and the boundaries of any airport safety zones delineated  
21 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260  
22 (C.6:1-80 et seq.); and (d) including a statement of the standards of  
23 population density and development intensity recommended for the  
24 municipality;

25       (3) A housing plan element pursuant to section 10 of P.L.1985,  
26 c.222 (C.52:27D-310), including, but not limited to, residential  
27 standards and proposals for the construction and improvement of  
28 housing;

29       (4) A circulation plan element showing the location and types of  
30 facilities for all modes of transportation required for the efficient  
31 movement of people and goods into, about, and through the  
32 municipality, taking into account the functional highway classification  
33 system of the Federal Highway Administration and the types,  
34 locations, conditions and availability of existing and proposed  
35 transportation facilities, including air, water, road and rail;

36       (5) A utility service plan element analyzing the need for and  
37 showing the future general location of water supply and distribution  
38 facilities, drainage and flood control facilities, sewerage and waste  
39 treatment, solid waste disposal and provision for other related utilities,  
40 and including any storm water management plan required pursuant to  
41 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.);

42       (6) A community facilities plan element showing the existing and  
43 proposed location and type of educational or cultural facilities, historic  
44 sites, libraries, hospitals, firehouses, police stations and other related  
45 facilities, including their relation to the surrounding areas;

46       (7) A recreation plan element showing a comprehensive system of

- 1 areas and public sites for recreation;
- 2 (8) A conservation plan element providing for the preservation,  
3 conservation, and utilization of natural resources, including, to the  
4 extent appropriate, energy, open space, water supply, forests, soil,  
5 marshes, wetlands, harbors, rivers and other waters, fisheries,  
6 endangered or threatened species wildlife and other resources, and  
7 which systemically analyzes the impact of each other component and  
8 element of the master plan on the present and future preservation,  
9 conservation and utilization of those resources;
- 10 (9) An economic plan element considering all aspects of economic  
11 development and sustained economic vitality, including (a) a  
12 comparison of the types of employment expected to be provided by the  
13 economic development to be promoted with the characteristics of the  
14 labor pool resident in the municipality and nearby areas and (b) an  
15 analysis of the stability and diversity of the economic development to  
16 be promoted;
- 17 (10) A historic preservation plan element: (a) indicating the location  
18 and significance of historic sites and historic districts; (b) identifying  
19 the standards used to assess worthiness for historic site or district  
20 identification; and (c) analyzing the impact of each component and  
21 element of the master plan on the preservation of historic sites and  
22 districts;
- 23 (11) Appendices or separate reports containing the technical  
24 foundation for the master plan and its constituent elements;
- 25 (12) A recycling plan element which incorporates the State  
26 Recycling Plan goals, including provisions for the collection,  
27 disposition and recycling of recyclable materials designated in the  
28 municipal recycling ordinance, and for the collection, disposition and  
29 recycling of recyclable materials within any development proposal for  
30 the construction of 50 or more units of single-family residential  
31 housing or 25 or more units of multi-family residential housing and any  
32 commercial or industrial development proposal for the utilization of  
33 1,000 square feet or more of land; and
- 34 (13) A farmland preservation plan element, which shall include: an  
35 inventory of farm properties and a map illustrating significant areas of  
36 agricultural land; a statement showing that municipal ordinances  
37 support and promote agriculture as a business; and a plan for  
38 preserving as much farmland as possible in the short term by  
39 leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et  
40 al.) through a variety of mechanisms including, but not limited to,  
41 utilizing option agreements, installment purchases, and encouraging  
42 donations of permanent development easements.
- 43 c. The master plan and its plan elements may be divided into  
44 subplans and subplan elements projected according to periods of time  
45 or staging sequences.
- 46 d. The master plan shall include a specific policy statement

1 indicating the relationship of the proposed development of the  
2 municipality, as developed in the master plan to (1) the master plans  
3 of contiguous municipalities, (2) the master plan of the county in  
4 which the municipality is located, (3) the State Development and  
5 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
6 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and  
7 (4) the district solid waste management plan required pursuant to the  
8 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
9 (C.13:1E-1 et seq.) of the county in which the municipality is located.

10 In the case of a municipality situated within the Highlands Region,  
11 as defined pursuant to section 3 of P.L. , c. (C. ) (now before  
12 the Legislature as this bill), the master plan shall include a specific  
13 policy statement indicating the relationship of the proposed  
14 development of the municipality, as developed in the master plan, to  
15 the Highlands regional master plan adopted pursuant to section 4 of  
16 P.L. , c. (C. ) (now before the Legislature as this bill).

17 (cf: P.L.1999, c.180, s.2)]<sup>1</sup>

18

19 <sup>1</sup>[60. R.S.48:3-7 is amended to read as follow:

20 48:3-7. a. No public utility shall, without the approval of the  
21 board, sell, lease, mortgage or otherwise dispose of or encumber its  
22 property, franchises, privileges or rights, or any part thereof; or merge  
23 or consolidate its property, franchises, privileges or rights, or any part  
24 thereof, with that of any other public utility.

25 Where, by the proposed sale, lease or other disposition of all or a  
26 substantial portion of its property, any franchise or franchises,  
27 privileges or rights, or any part thereof or merger or consolidation  
28 thereof as set forth herein, it appears that the public utility or a wholly  
29 owned subsidiary thereof may be unable to fulfill its obligation to any  
30 employees thereof with respect to pension benefits previously enjoyed,  
31 whether vested or contingent, the board shall not grant its approval  
32 unless the public utility seeking the board's approval for such sale,  
33 lease or other disposition assumes such responsibility as will be  
34 sufficient to provide that all such obligations to employees will be  
35 satisfied as they become due.

36 Every sale, mortgage, lease, disposition, encumbrance, merger or  
37 consolidation made in violation of this section shall be void.

38 Nothing herein shall prevent the sale, lease or other disposition by  
39 any public utility of any of its property in the ordinary course of  
40 business, nor require the approval of the board to any grant,  
41 conveyance or release of any property or interest therein heretofore  
42 made or hereafter to be made by any public utility to the United States,  
43 State or any county or municipality or any agency, authority or  
44 subdivision thereof, for public use.

45 The approval of the board shall not be required to validate the title  
46 of the United States, State or any county or municipality or any

1 agency, authority or subdivision thereof, to any lands or interest  
2 therein heretofore condemned or hereafter to be condemned by the  
3 United States, State or any county or municipality or any agency,  
4 authority or subdivision thereof for public use.

5 b. Notwithstanding any law, rule, regulation or order to the  
6 contrary, an autobus public utility regulated by and subject to the  
7 provisions of Title 48 of the Revised Statutes may, without the  
8 approval of the Department of Transportation, sell, lease, mortgage or  
9 otherwise dispose of or encumber its property, or any part thereof,  
10 except that approval of the Department of Transportation shall be  
11 required for the following:

12 (1) the sale of 60% or more of its property within a 12-month  
13 period;

14 (2) a merger or consolidation of its property, franchises, privileges  
15 or rights; or

16 (3) the sale of any of its franchises, privileges or rights.

17 Notice of the sale, purchase or lease of any autobus or other vehicle  
18 subject to regulation under Title 48 of the Revised Statutes shall be  
19 provided to the Department of Transportation as the department shall  
20 require.

21 c. Except as otherwise provided in subsection e. of this section, no  
22 solid waste collector as defined in section 3 of P.L.1970, c.40  
23 (C.48:13A-3) shall, without the approval of the Department of  
24 Environmental Protection:

25 (1) sell, lease, mortgage or otherwise dispose of or encumber its  
26 property, including customer lists; or

27 (2) merge or consolidate its property, including customer lists, with  
28 that of any other person or business concern, whether or not that  
29 person or business concern is engaged in the business of solid waste  
30 collection or solid waste disposal pursuant to the provisions of  
31 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et  
32 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

33 d. Any solid waste collector seeking approval for any transaction  
34 enumerated in subsection c. of this section shall file with the  
35 department, on forms and in a manner prescribed by the department,  
36 a notice of intent at least 30 days prior to the completion of the  
37 transaction.

38 (1) The department shall promptly review all notices filed pursuant  
39 to this subsection. The department may, within 30 days of receipt of  
40 a notice of intent, request that the solid waste collector submit  
41 additional information to assist in its review if it deems that such  
42 information is necessary. If no such request is made, the transaction  
43 shall be deemed to have been approved. In the event that additional  
44 information is requested, the department shall outline, in writing, why  
45 it deems such information necessary to make an informed decision on  
46 the impact of the transaction on effective competition.



1 (2) The department shall approve or deny a transaction within 60  
2 days of receipt of all requested information. In the event that the  
3 department fails to take action on a transaction within the 60-day  
4 period specified herein, then the transaction shall be deemed to have  
5 been approved.

6 (3) The department shall approve a transaction unless it makes a  
7 determination pursuant to the provisions of section 19 of P.L.1991,  
8 c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage,  
9 disposition, encumbrance, merger or consolidation would result in a  
10 lack of effective competition.

11 The department shall prescribe and provide upon request all  
12 necessary forms for the implementation of the notification  
13 requirements of this subsection.

14 e. (1) Any solid waste collector may, without the approval of the  
15 department, purchase, finance or lease any equipment, including  
16 collection or haulage vehicles.

17 (2) Any solid waste collector may, without the approval of the  
18 department, sell or otherwise dispose of its collection or haulage  
19 vehicles; except that no solid waste collector shall, without the  
20 approval of the department in the manner provided in subsection d. of  
21 this section, sell or dispose of 33% or more of its collection or haulage  
22 vehicles within a 12-month period.

23 f. (1) The owner or operator of a privately-owned sanitary landfill  
24 facility may, without the approval of the Department of Environmental  
25 Protection, sell or otherwise dispose of its assets except that the prior  
26 approval of the department shall be required (a) to sell all assets  
27 associated with the sanitary landfill facility or a portion thereof  
28 sufficient to transfer the operation of the sanitary landfill facility to a  
29 new owner or operator; (b) to sell a controlling ownership interest in  
30 the sanitary landfill facility; or (c) to merge or consolidate its property  
31 with that of any other person or business concern, whether or not that  
32 person or business concern is engaged in the business of solid waste  
33 disposal pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et  
34 seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act.

35 (2) Any owner or operator seeking approval for any transaction  
36 enumerated in this subsection shall file with the department an  
37 application therefor, on forms and in a manner prescribed by the  
38 department. The department shall promptly review all applications  
39 filed pursuant to this subsection and shall serve requests for  
40 information regarding any transaction within 30 days following the  
41 filing of an application if the department deems that such information  
42 is necessary. The department shall approve or deny the transaction  
43 within 60 days of receipt of all requested information. In the event  
44 that the department fails to take action on a transaction within the  
45 60-day period specified herein, then the transaction shall be deemed to  
46 have been approved.

1 As used in this section, "business concern" means any corporation,  
2 association, firm, partnership, sole proprietorship, trust or other form  
3 of commercial organization; and "privately-owned sanitary landfill  
4 facility" means a commercial sanitary landfill facility which is owned  
5 and operated by a private person, corporation or other organization  
6 and includes all appurtenances and related improvements used at the  
7 site for the transfer, processing or disposal of solid waste.

8 g. No public water utility shall sell or otherwise convey any land  
9 it owns that is located in the Highlands Region, as defined in section  
10 3 of P.L. , c. (C. ) (now before the Legislature as this bill), and  
11 is utilized for the purpose of protecting a public water supply, except  
12 as may be allowed by the Commissioner of Environmental Protection,  
13 with the concurrence of the board, only for the purposes authorized  
14 pursuant to section 27 of P.L. , c. (C. ) (now before the  
15 Legislature as this bill).

16 (cf: P.L.2003, c.169, s.17)]<sup>1</sup>

17  
18 <sup>1</sup>60. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
19 read as follows:

20 19. Preparation; contents; modification.

21 a. The planning board may prepare and, after public hearing, adopt  
22 or amend a master plan or component parts thereof, to guide the use  
23 of lands within the municipality in a manner which protects public  
24 health and safety and promotes the general welfare.

25 b. The master plan shall generally comprise a report or statement  
26 and land use and development proposals, with maps, diagrams and  
27 text, presenting, at least the following elements (1) and (2) and, where  
28 appropriate, the following elements (3) through (14):

29 (1) A statement of objectives, principles, assumptions, policies and  
30 standards upon which the constituent proposals for the physical,  
31 economic and social development of the municipality are based;

32 (2) A land use plan element (a) taking into account and stating its  
33 relationship to the statement provided for in paragraph (1) hereof, and  
34 other master plan elements provided for in paragraphs (3) through (14)  
35 hereof and natural conditions, including, but not necessarily limited to,  
36 topography, soil conditions, water supply, drainage, flood plain areas,  
37 marshes, and woodlands; (b) showing the existing and proposed  
38 location, extent and intensity of development of land to be used in the  
39 future for varying types of residential, commercial, industrial,  
40 agricultural, recreational, educational and other public and private  
41 purposes or combination of purposes; and stating the relationship  
42 thereof to the existing and any proposed zone plan and zoning  
43 ordinance; and (c) showing the existing and proposed location of any  
44 airports and the boundaries of any airport safety zones delineated  
45 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260  
46 (C.6:1-80 et seq.); and (d) including a statement of the standards of

- 1 population density and development intensity recommended for the  
2 municipality;
- 3 (3) A housing plan element pursuant to section 10 of P.L.1985,  
4 c.222 (C.52:27D-310), including, but not limited to, residential  
5 standards and proposals for the construction and improvement of  
6 housing;
- 7 (4) A circulation plan element showing the location and types of  
8 facilities for all modes of transportation required for the efficient  
9 movement of people and goods into, about, and through the  
10 municipality, taking into account the functional highway classification  
11 system of the Federal Highway Administration and the types,  
12 locations, conditions and availability of existing and proposed  
13 transportation facilities, including air, water, road and rail;
- 14 (5) A utility service plan element analyzing the need for and  
15 showing the future general location of water supply and distribution  
16 facilities, drainage and flood control facilities, sewerage and waste  
17 treatment, solid waste disposal and provision for other related utilities,  
18 and including any storm water management plan required pursuant to  
19 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.). If a  
20 municipality prepares a utility service plan element as a condition for  
21 adopting a development transfer ordinance pursuant to subsection c.  
22 of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall  
23 address the provision of utilities in the receiving zone as provided  
24 thereunder;
- 25 (6) A community facilities plan element showing the existing and  
26 proposed location and type of educational or cultural facilities, historic  
27 sites, libraries, hospitals, firehouses, police stations and other related  
28 facilities, including their relation to the surrounding areas;
- 29 (7) A recreation plan element showing a comprehensive system of  
30 areas and public sites for recreation;
- 31 (8) A conservation plan element providing for the preservation,  
32 conservation, and utilization of natural resources, including, to the  
33 extent appropriate, energy, open space, water supply, forests, soil,  
34 marshes, wetlands, harbors, rivers and other waters, fisheries,  
35 endangered or threatened species wildlife and other resources, and  
36 which systemically analyzes the impact of each other component and  
37 element of the master plan on the present and future preservation,  
38 conservation and utilization of those resources;
- 39 (9) An economic plan element considering all aspects of economic  
40 development and sustained economic vitality, including (a) a  
41 comparison of the types of employment expected to be provided by the  
42 economic development to be promoted with the characteristics of the  
43 labor pool resident in the municipality and nearby areas and (b) an  
44 analysis of the stability and diversity of the economic development to  
45 be promoted;
- 46 (10) A historic preservation plan element: (a) indicating the

1 location and significance of historic sites and historic districts; (b)  
2 identifying the standards used to assess worthiness for historic site or  
3 district identification; and (c) analyzing the impact of each component  
4 and element of the master plan on the preservation of historic sites and  
5 districts;

6 (11) Appendices or separate reports containing the technical  
7 foundation for the master plan and its constituent elements;

8 (12) A recycling plan element which incorporates the State  
9 Recycling Plan goals, including provisions for the collection,  
10 disposition and recycling of recyclable materials designated in the  
11 municipal recycling ordinance, and for the collection, disposition and  
12 recycling of recyclable materials within any development proposal for  
13 the construction of 50 or more units of single-family residential  
14 housing or 25 or more units of multi-family residential housing and any  
15 commercial or industrial development proposal for the utilization of  
16 1,000 square feet or more of land;

17 (13) A farmland preservation plan element, which shall include: an  
18 inventory of farm properties and a map illustrating significant areas of  
19 agricultural land; a statement showing that municipal ordinances  
20 support and promote agriculture as a business; and a plan for  
21 preserving as much farmland as possible in the short term by  
22 leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et  
23 al.) through a variety of mechanisms including, but not limited to,  
24 utilizing option agreements, installment purchases, and encouraging  
25 donations of permanent development easements; and

26 (14) A development transfer plan element which sets forth the  
27 public purposes, the locations of sending and receiving zones and the  
28 technical details of a development transfer program based on the  
29 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141).

30 c. The master plan and its plan elements may be divided into  
31 subplans and subplan elements projected according to periods of time  
32 or staging sequences.

33 d. The master plan shall include a specific policy statement  
34 indicating the relationship of the proposed development of the  
35 municipality, as developed in the master plan to (1) the master plans  
36 of contiguous municipalities, (2) the master plan of the county in  
37 which the municipality is located, (3) the State Development and  
38 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
39 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and  
40 (4) the district solid waste management plan required pursuant to the  
41 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
42 (C.13:1E-1 et seq.) of the county in which the municipality is located.

43 In the case of a municipality situated within the Highlands Region,  
44 as defined in section 3 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now before the  
45 Legislature as this bill), the master plan shall include a specific policy  
46 statement indicating the relationship of the proposed development of

1 the municipality, as developed in the master plan, to the Highlands  
2 regional master plan adopted pursuant to section 8 of P.L. , c.  
3 (C. ) (now before the Legislature as this bill).<sup>1</sup>  
4 (cf: P.L.2004, c.2, s.37)

5  
6 <sup>1</sup>61. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read  
7 as follows:

8 4. The proceeds of the fees collected by the county recording  
9 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be  
10 accounted for and remitted to the county treasurer. An amount equal  
11 to 28.6% of the proceeds from the first \$1.75 for each \$500.00 of  
12 consideration or fractional part thereof recited in the deed collected  
13 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be retained  
14 by the county treasurer for the use of the county and the balance shall  
15 be paid to the State Treasurer for the use of the State; provided  
16 however, that on and after the tenth day following a certification by  
17 the Director of the Division of Budget and Accounting in the  
18 Department of the Treasury pursuant to subsection b. of section 2 of  
19 P.L.1992, c.148 (C.46:15-10.2), 100.0% of the proceeds from the first  
20 \$0.50 for each \$500.00 of consideration or fractional part thereof  
21 recited in the deed so collected shall be retained by the county  
22 treasurer for the use of the county and no amount shall be paid to the  
23 State Treasurer for the use of the State. Payments shall be made to  
24 the State Treasurer on the tenth day of each month following the  
25 month of collection.

26 a. (1) Amounts, not in excess of \$25,000,000, paid during the  
27 State fiscal year to the State Treasurer from the payment of fees  
28 collected by the county recording officer other than the additional fee  
29 of \$0.75 for each \$500.00 of consideration or fractional part thereof  
30 recited in the deed in excess of \$150,000.00 collected pursuant to  
31 section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited to the "Shore  
32 Protection Fund" created pursuant to section 1 of P.L.1992, c.148  
33 (C.13:19-16.1), in the manner established under that section.

34 (2) In addition to the amounts credited to the "Shore Protection  
35 Fund" pursuant to paragraph (1) of this subsection, amounts equal to  
36 \$12,000,000 in each of the first 10 years after the date of enactment  
37 of the "Highlands Water Protection and Planning Act," P.L. , c.  
38 (C. ) (now before the Legislature as this bill) and to \$5,000,000 in  
39 each year thereafter, paid during the State fiscal year to the State  
40 Treasurer from the payment of fees collected by the county recording  
41 officer other than the additional fee of \$0.75 for each \$500.00 of  
42 consideration or fractional part thereof recited in the deed in excess of  
43 \$150,000.00 shall be credited to the "Highlands Protection Fund"  
44 created pursuant to section 21 of P.L. , c. (C. ) (now before the  
45 Legislature as this bill), in the manner established under that section.  
46 No monies shall be credited to the "Highlands Protection Fund"

1 pursuant to this paragraph until and unless the full amount of  
2 \$25,000,000 has first been credited to the "Shore Protection Fund"  
3 pursuant to paragraph (1) of this subsection.

4 b. All amounts paid to the State Treasurer in payment of the  
5 additional fee of \$0.75 for each \$500.00 of consideration or fractional  
6 part thereof recited in the deed in excess of \$150,000.00 collected  
7 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited  
8 to the Neighborhood Preservation Nonlapsing Revolving Fund  
9 established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the  
10 manner established under section 20 thereof (C.52:27D-320).<sup>1</sup>  
11 (cf: P.L.2003, c.113, s.3)

12

13 <sup>1</sup>62. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
14 read as follows:

15 2. a. The annual appropriations act for each State fiscal year shall,  
16 without other conditions, limitations or restrictions on the following:

17 (1) credit amounts paid to the State Treasurer, if any, in payment  
18 of fees collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7),  
19 to the "Shore Protection Fund" created pursuant to section 1 of  
20 P.L.1992, c.148 (C.13:19-16.1), [and] the Neighborhood  
21 Preservation Nonlapsing Revolving Fund established pursuant to  
22 section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands  
23 Protection Fund" created pursuant to section 21 of P.L. , c. (C. )  
24 (now before the Legislature as this bill), pursuant to the requirements  
25 of section 4 of P.L.1968, c.49 (C.46:15-8);

26 (2) appropriate the balance of the "Shore Protection Fund" created  
27 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the  
28 purposes of that fund; [and]

29 (3) appropriate the balance of the Neighborhood Preservation  
30 Nonlapsing Revolving Fund established pursuant to section 20 of  
31 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

32 (4) appropriate the balance of the "Highlands Protection Fund"  
33 created pursuant to section 21 of P.L. , c. (C. ) (now before the  
34 Legislature as this bill), for the purposes of that fund.

35 b. If the requirements of subsection a. of this section are not met  
36 on the effective date of an annual appropriations act for the State fiscal  
37 year, or if an amendment or supplement to an annual appropriations  
38 act for the State fiscal year should violate any of the requirements of  
39 subsection a. of this section, the Director of the Division of Budget  
40 and Accounting in the Department of the Treasury shall, not later than  
41 five days after the enactment of the annual appropriations act, or an  
42 amendment or supplement thereto, that violates any of the  
43 requirements of subsection a. of this section, certify to the Director of  
44 the Division of Taxation that the requirements of subsection a. of this  
45 section have not been met.<sup>1</sup>

46 (cf: P.L.1992, c.148, s.2)

1       <sup>1</sup>[61.] 63.<sup>1</sup> Section 1 of P.L.1985, c.398 (C.52:18A-196) is  
2 amended to read as follows:

3       1. The Legislature finds and declares that:

4       a. New Jersey, the nation's most densely populated State, requires  
5 sound and integrated Statewide planning and the coordination of  
6 Statewide planning with local and regional planning in order to  
7 conserve its natural resources, revitalize its urban centers, protect the  
8 quality of its environment, and provide needed housing and adequate  
9 public services at a reasonable cost while promoting beneficial  
10 economic growth, development and renewal;

11       b. Significant economies, efficiencies and savings in the  
12 development process would be realized by private sector enterprise  
13 and by public sector development agencies if the several levels of  
14 government would cooperate in the preparation of and adherence to  
15 sound and integrated plans;

16       c. It is of urgent importance that the State Development Guide  
17 Plan be replaced by a State Development and Redevelopment Plan  
18 designed for use as a tool for assessing suitable locations for  
19 infrastructure, housing, economic growth and conservation;

20       d. It is in the public interest to encourage development,  
21 redevelopment and economic growth in locations that are well situated  
22 with respect to present or anticipated public services and facilities,  
23 giving appropriate priority to the redevelopment, repair, rehabilitation  
24 or replacement of existing facilities and to discourage development  
25 where it may impair or destroy natural resources or environmental  
26 qualities that are vital to the health and well-being of the present and  
27 future citizens of this State;

28       e. A cooperative planning process that involves the full  
29 participation of State, regional, county and local governments as well  
30 as other public and private sector interests will enhance prudent and  
31 rational development, redevelopment and conservation policies and the  
32 formulation of sound and consistent regional plans and planning  
33 criteria;

34       f. Since the overwhelming majority of New Jersey land use  
35 planning and development review occurs at the local level, it is  
36 important to provide local governments in this State with the technical  
37 resources and guidance necessary to assist them in developing land use  
38 plans and procedures which are based on sound planning information  
39 and practice, and to facilitate the development of local plans which are  
40 consistent with State and regional plans and programs;

41       g. An increasing concentration of the poor and minorities in older  
42 urban areas jeopardizes the future well-being of this State, and a sound  
43 and comprehensive planning process will facilitate the provision of  
44 equal social and economic opportunity so that all of New Jersey's  
45 citizens can benefit from growth, development and redevelopment;

46       h. An adequate response to judicial mandates respecting housing

1 for low- and moderate-income persons requires sound planning to  
2 prevent sprawl and to promote suitable use of land; and

3 i. These purposes can be best achieved through the establishment  
4 of a State planning commission consisting of representatives from the  
5 executive and legislative branches of State government, local  
6 government, the general public and the planning community.

7 (cf: P.L.1985, c.398, s.1)

8

9 <sup>1</sup>[62.] 64.<sup>1</sup> Section 4 of P.L.1985, c.398 (C.52:18A-199) is  
10 amended to read as follows:

11 4. The commission shall:

12 a. Prepare and adopt within 36 months after the enactment of [this  
13 act] P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt  
14 at least every three years thereafter, the State Development and  
15 Redevelopment Plan, which shall provide a coordinated, integrated and  
16 comprehensive plan for the growth, development, renewal and  
17 conservation of the State and its regions and which shall identify areas  
18 for growth, agriculture, open space conservation and other appropriate  
19 designations;

20 b. Prepare and adopt as part of the plan a long-term Infrastructure  
21 Needs Assessment, which shall provide information on present and  
22 prospective conditions, needs and costs with regard to State, county  
23 and municipal capital facilities, including water, sewerage,  
24 transportation, solid waste, drainage, flood protection, shore  
25 protection and related capital facilities;

26 c. Develop and promote procedures to facilitate cooperation and  
27 coordination among State agencies, regional entities, and local  
28 governments with regard to the development of plans, programs and  
29 policies which affect land use, environmental, capital and economic  
30 development issues;

31 d. Provide technical assistance to local governments and regional  
32 entities in order to encourage the use of the most effective and  
33 efficient planning and development review data, tools and procedures;

34 e. Periodically review State, regional, and local government  
35 planning procedures and relationships and recommend to the Governor  
36 and the Legislature administrative or legislative action to promote a  
37 more efficient and effective planning process;

38 f. Review any bill introduced in either house of the Legislature  
39 which appropriates funds for a capital project and may study the  
40 necessity, desirability and relative priority of the appropriation by  
41 reference to the State Development and Redevelopment Plan, and may  
42 make recommendations to the Legislature and to the Governor  
43 concerning the bill; and

44 g. Take all actions necessary and proper to carry out the provisions  
45 of [this act] P.L.1985, c.398 (C.52:18A-196 et al.).

46 (cf: P.L.1987, c.308, s.1)



1       <sup>1</sup>[63.] 65.<sup>1</sup> Section 5 of P.L.1985, c.398 (C.52:18A-200) is  
2 amended to read as follows:

3       5. The State Development and Redevelopment Plan shall be  
4 designed to represent a balance of development and conservation  
5 objectives best suited to meet the needs of the State. The plan shall:

6       a. Protect the natural resources and qualities of the State,  
7 including, but not limited to, agricultural development areas, fresh and  
8 saltwater wetlands, flood plains, stream corridors, aquifer recharge  
9 areas, steep slopes, areas of unique flora and fauna, and areas with  
10 scenic, historic, cultural and recreational values;

11       b. Promote development and redevelopment in a manner consistent  
12 with sound planning and where infrastructure can be provided at  
13 private expense or with reasonable expenditures of public funds. This  
14 should not be construed to give preferential treatment to new  
15 construction;

16       c. Consider input from State, regional, county and municipal  
17 entities concerning their land use, environmental, capital and economic  
18 development plans, including to the extent practicable any State and  
19 regional plans concerning natural resources or infrastructure elements;

20       d. Identify areas for growth, limited growth, agriculture, open  
21 space conservation and other appropriate designations that the  
22 commission may deem necessary;

23       e. Incorporate a reference guide of technical planning standards  
24 and guidelines used in the preparation of the plan; and

25       f. Coordinate planning activities and establish Statewide planning  
26 objectives in the following areas: land use, housing, economic  
27 development, transportation, natural resource conservation,  
28 agriculture and farmland retention, recreation, urban and suburban  
29 redevelopment, historic preservation, public facilities and services, and  
30 intergovernmental coordination.

31 (cf: P.L.1985, c.398, s.5)

32

33       <sup>1</sup>[64.] 66.<sup>1</sup> Section 6 of P.L.1985, c.398 (C.52:18A-201) is  
34 amended to read as follows:

35       6. a. There is established in the Department of the Treasury the  
36 Office of State Planning. The director of the office shall be appointed  
37 by and serve at the pleasure of the Governor. The director shall  
38 supervise and direct the activities of the office and shall serve as the  
39 secretary and principal executive officer of the State Planning  
40 Commission.

41       b. The Office of State Planning shall assist the commission in the  
42 performance of its duties and shall:

43       (1) Publish an annual report on the status of the State Development  
44 and Redevelopment Plan which shall describe the progress towards  
45 achieving the goals of the plan, the degree of consistency achieved  
46 among municipal, county, regional, and State plans, the capital needs

1 of the State, and progress towards providing housing where such need  
2 is indicated;

3 (2) Provide planning service to other agencies or instrumentalities  
4 of State government, review the plans prepared by them, and  
5 coordinate planning to avoid or mitigate conflicts between plans;

6 (3) Provide advice and assistance to regional, county and local  
7 planning units;

8 (4) Review and comment on the plans of interstate agencies where  
9 the plans affect this State;

10 (5) Compile quantitative current estimates and Statewide forecasts  
11 for population, employment, housing and land needs for development  
12 and redevelopment; and

13 (6) Prepare and submit to the State Planning Commission, as an aid  
14 in the preparation of the State Development and Redevelopment Plan,  
15 alternate growth and development strategies which are likely to  
16 produce favorable economic, environmental and social results.

17 c. The director shall ensure that the responsibilities and duties of  
18 the commission are fulfilled, and shall represent the commission and  
19 promote its activities before government agencies, public and private  
20 interest groups and the general public, and shall undertake or direct  
21 such other activities as the commission shall direct or as may be  
22 necessary to carry out the purposes of [this act] P.L.1985, c.398  
23 (C.52:18A-196 et al.).

24 d. With the consent of the commission, the director shall assign to  
25 the commission from the staff of the office at least two full-time  
26 planners, a full-time liaison to local and county governments and  
27 regional entities, and such other staff, clerical, stenographic and expert  
28 assistance as [he] the director shall deem necessary for the fulfillment  
29 of the commission's responsibilities and duties.

30 (cf: P.L.1985, c.398, s.6)

31

32 <sup>1</sup>[65.] 67.<sup>1</sup> Section 7 of P.L.1985, c.398 (C.52:18A-202) is  
33 amended to read as follows:

34 7. a. In preparing, maintaining and revising the State Development  
35 and Redevelopment Plan, the commission shall solicit and give due  
36 consideration to the plans, comments and advice of each county and  
37 municipality, State agencies designated by the commission, the  
38 Highlands Water Protection and Planning Council established pursuant  
39 to section 4 of P.L. , c. (C. ) (now before the Legislature as this  
40 bill), and other local and regional entities. Prior to the adoption of  
41 each plan, the commission shall prepare and distribute a preliminary  
42 plan to each county planning board, municipal planning board and  
43 other requesting parties, including State agencies, the Highlands Water  
44 Protection and Planning Council, and metropolitan planning  
45 organizations. Not less than 45 nor more than 90 days thereafter, the  
46 commission shall conduct a joint public informational meeting with

1 each county planning board in each county and with the Highlands  
2 Water Protection and Planning Council for the purpose of providing  
3 information on the plan, responding to inquiries concerning the plan,  
4 and receiving informal comments and recommendations from county  
5 and municipal planning boards, local public officials, the Highlands  
6 Water Protection and Planning Council, and other interested parties.

7 b. The commission shall negotiate plan cross-acceptance with each  
8 county planning board, which shall solicit and receive any findings,  
9 recommendations and objections concerning the plan from local  
10 planning bodies. Each county planning board shall negotiate plan  
11 cross-acceptance among the local planning bodies within the county,  
12 unless it shall notify the commission in writing within 45 days of the  
13 receipt of the preliminary plan that it waives this responsibility, in  
14 which case the commission shall designate an appropriate entity, or  
15 itself, to assume this responsibility. Each board or designated entity  
16 shall, within ten months of receipt of the preliminary plan, file with the  
17 commission a formal report of findings, recommendations and  
18 objections concerning the plan, including a description of the degree  
19 of consistency and any remaining inconsistency between the  
20 preliminary plan and county and municipal plans. In any event, should  
21 any municipality's plan remain inconsistent with the State Development  
22 and Redevelopment Plan after the completion of the cross-acceptance  
23 process, the municipality may file its own report with the State  
24 Planning Commission, notwithstanding the fact that the [County  
25 Planning Board] county planning board has filed its report with the  
26 State Planning Commission. The term cross-acceptance means a  
27 process of comparison of planning policies among governmental levels  
28 with the purpose of attaining compatibility between local, county,  
29 regional, and State plans. The process is designed to result in a  
30 written statement specifying areas of agreement or disagreement and  
31 areas requiring modification by parties to the cross-acceptance.

32 <sup>1</sup>[Notwithstanding any provision of this section to the contrary, any  
33 municipality or county in the Highlands Region, as defined in section  
34 3 of P.L. , c. (C. ) (now before the Legislature as this bill),  
35 whose municipal master plan and development regulations or county  
36 master plan and associated regulations, respectively, have been  
37 approved by the Highlands Water Protection and Planning Council  
38 pursuant to sections 14 or 15 of P.L. , c. (C. ) (now before the  
39 Legislature as this bill) to be in conformance with the Highlands  
40 regional master plan adopted by the council pursuant to section 8 of  
41 P.L. , c. (C. ) (now before the Legislature as this bill) shall be  
42 exempt from the cross-acceptance process required by this subsection  
43 for those portions of the municipality or county lying within the  
44 Highlands Region.]<sup>1</sup>

45 c. Upon consideration of the formal reports of the county planning  
46 boards, the commission shall prepare and distribute a final plan to

1 county and municipal planning boards, the Highlands Water Protection  
2 and Planning Council, and other interested parties. The commission  
3 shall conduct not less than six public hearings in different locations  
4 throughout the State for the purpose of receiving comments on the  
5 final plan. The commission shall give at least 30 days' public notice of  
6 each hearing in advertisements in at least two newspapers which  
7 circulate in the area served by the hearing and at least 30 days' notice  
8 to the governing body and planning board of each county and  
9 municipality in the area served by the hearing and to the Highlands  
10 Water Protection and Planning Council for any area in the Highlands  
11 Region served by the hearing.

12 d. Taking full account of the testimony presented at the public  
13 hearings, the commission shall make revisions in the plan as it deems  
14 necessary and appropriate and adopt the final plan by a majority vote  
15 of its authorized membership no later than 60 days after the final  
16 public hearing.

17 (cf: P.L.1998, c.109, s.1)

18

19 <sup>1</sup>[66.] 68.<sup>1</sup> Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is  
20 amended to read as follows:

21 2. a. The Office of State Planning in consultation with the Office  
22 of Economic Policy, shall utilize the following:

23 (1) Conduct portions of these studies using its own staff;

24 (2) Contract with other State agencies to conduct portions of these  
25 studies; and

26 (3) Contract with an independent firm or an institution of higher  
27 learning to conduct portions of these studies.

28 b. Any portion of the studies conducted by the Office of State  
29 Planning, or any other State agency, shall be subject to review by an  
30 independent firm or an institution of higher learning.

31 c. The Assessment Study and the oversight review shall be  
32 submitted in the form of a written report to the State Planning  
33 Commission for distribution to the Governor, the Legislature,  
34 appropriate regional entities, and the governing bodies of each county  
35 and municipality in the State during the cross-acceptance process and  
36 prior to the adoption of the Final Plan.

37 d. A period extending from at least 45 days prior to the first of six  
38 public hearings, which are required under the State Planning Act,  
39 P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last  
40 public hearing shall be provided for counties and municipalities to  
41 review and respond to the studies. Requests for revisions to the  
42 Interim Plan shall be considered by the State Planning Commission in  
43 the formulation of the Final Plan.

44 (cf: P.L.1989, c.332, s.2)

45

46 <sup>1</sup>[67.] 69.<sup>1</sup> Section 8 of P.L.1985, c.398 (C.52:18A-203) is

1 amended to read as follows:

2 8. <sup>1</sup>a.<sup>1</sup> The commission shall adopt rules and regulations to carry  
3 out its purposes, including procedures to facilitate the solicitation and  
4 receipt of comments in the preparation of the preliminary and final  
5 plan and to ensure a process for comparison of the plan with county  
6 and municipal master plans and regional plans, and procedures for  
7 coordinating the information collection, storage and retrieval activities  
8 of the various State agencies<sup>1</sup>, and to establish a process for the  
9 endorsement of municipal, county, and regional plans that are  
10 consistent with the State Development and Redevelopment Plan.

11 b. Any municipality or county or portion thereof located in the  
12 Highlands preservation area as defined in section 3 of P.L. , c.  
13 (C. ) (now before the Legislature as this bill) shall be exempt from  
14 the plan endorsement process established in the rules and regulations  
15 adopted pursuant to subsection a. of this section. Upon the State  
16 Planning Commission endorsing the regional master plan adopted by  
17 the Highlands Water Protection and Planning Council pursuant to  
18 section 8 of P.L. , c. (C. ) (now before the Legislature as this  
19 bill), any municipal master plan and development regulations or county  
20 master plan and associated regulations that have been approved by the  
21 Highlands Water Protection and Planning Council pursuant to sections  
22 14 or 15 of P.L. , c. (C. ) (now before the Legislature as this  
23 bill) shall be deemed the equivalent of having those plans endorsed by  
24 the State Planning Commission<sup>1</sup>.

25 (cf: P.L.1985, c.398, s.8)

26

27 <sup>1</sup>[68.] 70.<sup>1</sup> Section 9 of P.L.1985, c.398 (C.52:18A-204) is  
28 amended to read as follows:

29 9. The commission shall be entitled to call to its assistance any  
30 personnel of any State agency, regional entity, or county, municipality  
31 or political subdivision thereof as it may require in order to perform its  
32 duties. The officers and personnel of any State agency, regional  
33 entity, or county, municipality or political subdivision thereof and any  
34 other person may serve at the request of the commission upon any  
35 advisory committee as the commission may create without forfeiture  
36 of office or employment and with no loss or diminution in the  
37 compensation, status, rights and privileges which they otherwise enjoy.  
38 (cf: P.L.1985, c.398, s.9)

39

40 <sup>1</sup>[69.] 71.<sup>1</sup> Section 10 of P.L.1985, c.398 (C.52:18A-205) is  
41 amended to read as follows:

42 10. Each State agency, regional entity, or county, municipality or  
43 political subdivision thereof shall make available to the commission  
44 any studies, surveys, plans, data and other materials or information  
45 concerning the capital, land use, environmental, transportation,  
46 economic development and human services plans and programs of the

1 agency, entity, county, municipality or political subdivision.  
2 (cf: P.L.1985, c.398, s.10)

3  
4 <sup>1</sup>[70.] 72.<sup>1</sup> Section 11 of P.L.1985, c.398 (C.52:18A-206) is  
5 amended to read as follows:

6 11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)  
7 shall not be construed to affect the plans and regulations of the  
8 Pinelands Commission pursuant to the "Pinelands Protection Act,"  
9 P.L. 1979, c.111 (C.13:18A-1 et seq.) [or], the [Hackensack] New  
10 Jersey Meadowlands [Development] Commission pursuant to the  
11 "Hackensack Meadowlands Reclamation and Development Act,"  
12 P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water  
13 Protection and Planning Council pursuant to the "Highlands Water  
14 Protection and Planning Act," P.L. , c. (C. ) (now before the  
15 Legislature as this bill) for that portion of the Highlands Region lying  
16 within the preservation area as defined in section 3 of P.L. , c.  
17 (C. ) (now before the Legislature as this bill) . The State Planning  
18 Commission shall rely on the adopted plans and regulations of these  
19 entities in developing the State Development and Redevelopment Plan.

20 b. The State Planning Commission may adopt, after the enactment  
21 date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning  
22 policies of the rules and regulations adopted pursuant to P.L.1973,  
23 c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and  
24 regulations adopted pursuant to subsection b. of section 17 of  
25 P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of  
26 rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1  
27 et seq.) thereafter as the State Development and Redevelopment Plan  
28 for the coastal area as defined in section 4 of P.L.1973, c.185  
29 (C.13:19-4).

30 (cf: P.L.1993, c.190, s.19)

31

32 <sup>1</sup>[71.] 73.<sup>1</sup> Section 13 of P.L.1981, c.262 (C.58:1A-13) is  
33 amended to read as follows:

34 13. a. The department shall prepare and adopt the New Jersey  
35 Statewide Water Supply Plan, which plan shall be revised and updated  
36 at least once every five years.

37 b. The plan shall include, but need not be limited to, the following:

38 (1) An identification of existing Statewide and regional ground and  
39 surface water supply sources, both interstate and intrastate, and the  
40 current usage thereof;

41 (2) Projections of Statewide and regional water supply demands for  
42 the duration of the plan;

43 (3) Recommendations for improvements to existing State water  
44 supply facilities, the construction of additional State water supply  
45 facilities, and for the interconnection or consolidation of existing water  
46 supply systems;

1 (4) Recommendations for the diversion or use of fresh surface or  
2 ground waters and saline surface or ground waters for aquaculture  
3 purposes;

4 (5) Recommendations for legislative and administrative actions to  
5 provide for the maintenance and protection of watershed areas; and

6 (6) Identification of lands purchased by the State for water supply  
7 facilities that currently are not actively used for water supply purposes,  
8 including, but not limited to, the Six Mile Run Reservoir Site, with  
9 recommendations as to the future use of these lands for water supply  
10 purposes within or outside of the planning horizon for the plan.

11 c. Prior to adopting the plan, including any revisions and updates  
12 thereto, the department shall:

13 (1) Prepare and make available to all interested persons a copy of  
14 the proposed plan or proposed revisions and updates to the current  
15 plan;

16 (2) Conduct public meetings in the several geographic areas of the  
17 State on the proposed plan or proposed revisions and updates to the  
18 current plan; and

19 (3) Consider the comments made at these meetings, make any  
20 revisions to the proposed plan or proposed revisions and updates to  
21 the current plan as it deems necessary, and adopt the plan.

22 d. Prior to the adoption of any revision to the New Jersey  
23 Statewide Water Supply Plan pursuant to this section, the department  
24 shall consult with the Highlands Water Protection and Planning  
25 Council<sup>1</sup>, established pursuant to section 4 of P.L. , c. (C. )  
26 (now before the Legislature as this bill),<sup>1</sup> concerning the possible  
27 effects and impact of the plan upon the Highlands regional master  
28 plan<sup>1</sup>, adopted pursuant to section 8 of P.L. , c. (C. ) (now  
29 before the Legislature as this bill),<sup>1</sup> and the water and other natural  
30 resources of the Highlands Region<sup>1</sup>, as defined in section 3 of P.L. ,  
31 c. (C. ) (now before the Legislature as this bill)<sup>1</sup>.

32 (cf: P.L.2003, c.251, s.2)

33

34 <sup>1</sup>[72.] 74.<sup>1</sup> Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is  
35 amended to read as follows:

36 10. No action taken by the department pursuant to the provisions  
37 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202  
38 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the  
39 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
40 [or], the comprehensive management plan for the pinelands area  
41 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the  
42 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
43 (now before the Legislature as this bill), or the Highlands regional  
44 master plan adopted pursuant to section 8 of P.L. , c. (C. ) (now  
45 before the Legislature as this bill).

46 (cf: P.L.1993, c.202, s.10)

1       <sup>1</sup>[73.] 75.<sup>1</sup> Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended  
2 to read as follows:

3       6. a. The authority is hereby empowered to design, initiate,  
4 acquire, construct, maintain, repair and operate projects or cause the  
5 same to be operated pursuant to a lease, sublease, or agreement with  
6 any person or governmental agency, and to issue bonds of the  
7 authority to finance these projects, payable from the revenues and  
8 other funds of the authority. All projects undertaken by the authority  
9 shall conform to the recommendations of the New Jersey Statewide  
10 Water Supply Plan.

11       b. The authority shall be subject to compliance with all State health  
12 and environmental protection statutes and regulations and any other  
13 statutes and regulations not inconsistent herewith. The authority may,  
14 upon the request of a governmental agency, enter into a contract to  
15 provide services for any project.

16       c. The authority shall consult with the Water Supply Advisory  
17 Council from time to time prior to final action on any project or  
18 undertaking authorized pursuant to this section.

19       d. The authority shall consult with the Highlands Water Protection  
20 and Planning Council, established pursuant to section 4 of P.L. ,  
21 c. (C. ) (now before the Legislature as this bill), from time to time  
22 prior to final action on any project or undertaking authorized pursuant  
23 to this section in the Highlands Region, as defined in section 3 of  
24 P.L. , c. (C. ) (now before the Legislature as this bill). The  
25 provisions of section <sup>1</sup>[17] 16<sup>1</sup> of P.L. , c. (C. ) (now before the  
26 Legislature as this bill) shall apply to the authority.

27 (cf: P.L.1981, c.293, s.6)

28

29       <sup>1</sup>[74.] 76.<sup>1</sup> Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended  
30 to read as follows:

31       7. The Lake Hopatcong Commission shall, in conjunction with  
32 each Lake Hopatcong municipality, develop a stormwater and  
33 nonpoint source pollution management plan for the region. The  
34 stormwater management and nonpoint source pollution plan shall be  
35 designed to reduce siltation and prevent pollution caused by  
36 stormwater runoff or nonpoint sources that would otherwise degrade  
37 the water quality of Lake Hopatcong and its tributaries, interfere with  
38 water-based recreation, or adversely affect aquatic life. The goals and  
39 purposes of the plan shall be to improve the quality of stormwater  
40 runoff entering Lake Hopatcong, identify cost effective measures to  
41 control stormwater runoff and nonpoint source pollution, and identify  
42 funding mechanisms for implementation of such measures. The  
43 commission shall consult with the Highlands Water Protection and  
44 Planning Council, established pursuant to section 4 of P.L. , c.  
45 (C. ) (now before the Legislature as this bill), in developing the  
46 stormwater and nonpoint source pollution management plan pursuant



1 to this section. Any plan developed pursuant to this section that may  
 2 impact upon or otherwise affect the Highlands preservation area, as  
 3 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
 4 as this bill), shall be consistent with the Highlands regional master plan  
 5 adopted by the council pursuant to section 8 of that act.

6 (cf: P.L.2000, c.175, s.7)

7  
 8 <sup>1</sup>[75.] 77.<sup>1</sup> Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended  
 9 to read as follows:

10 9. Each municipality represented on the commission shall provide  
 11 the commission notice of proposed amendments and revisions to  
 12 municipal master plans, zoning and other ordinances governing land  
 13 use and development, and applications for specific development  
 14 projects, and request that the commission review and evaluate the  
 15 proposed amendment, revision, or application to assess its potential  
 16 impact upon Lake Hopatcong and its watershed and provide the  
 17 commission's recommendations for appropriate action thereon. As  
 18 part of the commission's review and evaluation, the commission shall  
 19 consider the consistency of the amendment or revision with the  
 20 Highlands regional master plan<sup>1</sup>, adopted pursuant to section 8 of  
 21 P.L. , c. (C. ) (now before the Legislature as this bill),<sup>1</sup> if it may  
 22 impact upon or otherwise affect the Highlands preservation area, as  
 23 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
 24 as this bill), and shall consult with the Highlands Water Protection and  
 25 Planning Council, established pursuant to section <sup>1</sup>[4of] 4 of<sup>1</sup> P.L. ,  
 26 c. (C. ) (now before the Legislature as this bill), on any such  
 27 matter.

28 (cf: P.L.2000, c.175, s.9)

29  
 30 <sup>1</sup>[76.] 78.<sup>1</sup> R.S.58:5-12 is amended to read as follows:

31 58:5-12. The district water supply commission shall thereupon  
 32 proceed to formulate plans for obtaining a water supply or a new or  
 33 additional water supply for **[such]** the municipality and any other  
 34 municipalities that may desire water from such joint water supply, as  
 35 provided for herein, and to estimate the cost thereof, the annual cost  
 36 of operating the same, the probable share of the cost which each of  
 37 the municipalities will be called upon to pay for its share of water  
 38 supply and plant used in common with the other municipalities, and the  
 39 cost of any distribution system, water supply or plant acquired or  
 40 constructed for its individual use, and shall report **[said]** the plans to  
 41 the municipalities, together with a form of contract, providing for the  
 42 raising and payment of the necessary funds to meet the cost of  
 43 acquisition and operation.

44 If the plans to be formulated pursuant to this section involve  
 45 obtaining water from the Highlands Region, as defined in section 3 of  
 46 P.L. , c. (C. ) (now before the Legislature as this bill), the

1 district water supply commission shall consult with the Highlands  
2 Water Protection and Planning Council established pursuant to section  
3 4 of P.L. , c. (C. ) (now before the Legislature as this bill) prior  
4 to moving forward with any such plans or entering into any such  
5 contracts. The provisions of section <sup>1</sup>[17] <sup>16</sup> of P.L. , c. (C. )  
6 (now before the Legislature as this bill) shall apply to the district water  
7 supply commission.

8 (cf: R.S.58:5-12)

9

10 <sup>1</sup>[77.] <sup>79.</sup><sup>1</sup> Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is  
11 amended to read as follows:

12 1. a. An application for a permit issued by the Department of  
13 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et  
14 seq.) for the discharge of groundwater to surface water involving a  
15 groundwater remedial action necessitated by a discharge from an  
16 underground storage tank containing petroleum products or a  
17 groundwater remedial action involving petroleum products, shall  
18 contain, in addition to a properly filled application form:

19 (1) such documentation or other information on the permit  
20 application as may be prescribed by the department on a checklist  
21 made available to a prospective applicant;

22 (2) if the discharge from the proposed groundwater remedial action  
23 is located within a wastewater service district or area of a local public  
24 entity, a certified statement that a request, dated at least 60 days prior  
25 to the filing of the permit application, had been made to the local  
26 public entity to discharge the groundwater into the wastewater  
27 collection or treatment facilities of that entity, and that no reply has  
28 been received from that entity, or a written statement by the local  
29 public entity, dated not more than 60 days prior to the filing of the  
30 permit application with the department, that the entity has approved  
31 or rejected a written request by the applicant to discharge the treated  
32 groundwater into the wastewater collection or treatment facilities of  
33 that entity. Notwithstanding that a local public entity has approved  
34 the request to discharge groundwater into its facilities, the department  
35 may approve the applicant's permit to discharge the groundwater to  
36 surface water upon a finding that it is in the public interest;

37 (3) a certified statement that a copy of the completed application  
38 form along with a consent request, as prescribed in subsection b. of  
39 this section, have been filed with the clerk of the municipality in which  
40 the site of the proposed groundwater remedial action is located, and  
41 setting forth the date of the filing with the host municipality, which  
42 filing shall be made prior to, or concurrent with, the filing of the  
43 application with the department; [and]

44 (4) within the pinelands area, documentation from the Pinelands  
45 Commission that the application is consistent with the requirements of  
46 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)

1 or any regulations promulgated pursuant thereto and section 502 of  
2 the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and  
3 (5) within the Highlands preservation area, documentation from the  
4 Highlands Water Protection and Planning Council that the application  
5 is consistent with the requirements of the "Highlands Water Protection  
6 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
7 this bill), and any rules and regulations and the Highlands regional  
8 master plan adopted pursuant thereto.

9 b. The department shall prescribe the form and content of a request  
10 for consent filed with a municipality pursuant to paragraph (3) of  
11 subsection a. of this section. The municipal consent request shall be  
12 limited to an identification of all municipal approvals with which the  
13 applicant is required to comply, the status of any applications filed  
14 therefor, and whether or not the municipality consents to the  
15 application and the specific reasons therefor. The request for consent  
16 form shall also advise that documentation and other information  
17 relating to the application have been filed and are available for review  
18 at the department. A municipality receiving a request for consent form  
19 shall have 30 days from the date of receipt of a copy of the application  
20 and request for consent form to file with the department the  
21 information requested, and its consent of, or objections to, the  
22 application. Municipal consent or objection to a groundwater remedial  
23 action shall be by resolution of the governing body of the municipality  
24 unless the governing body has, by resolution, delegated such authority  
25 to a qualified officer or entity thereof, in which case the endorsement  
26 shall be signed by the designated officer or official of the entity.  
27 Notwithstanding that a municipality objects to a permit application or  
28 fails to file a consent or objection to the permit application, the  
29 department may approve the applicant's permit application to  
30 discharge groundwater to surface water.

31 c. An application pursuant to subsection a. of this section shall be  
32 deemed complete, for the purposes of departmental review, within 30  
33 days of the filing of the application with the department unless the  
34 department notifies the applicant, in writing, prior to expiration of the  
35 30 days that the application has failed to satisfy one or more of the  
36 items identified in subsection a. of this section. If an application is  
37 determined to be complete, the department shall review and take final  
38 action on the completed application within 60 days from  
39 commencement of the review, or, if the parties mutually agree to a  
40 30-day extension, within 90 days therefrom. The review period for a  
41 completed application shall commence immediately upon termination  
42 of the 30-day period, or upon determination by the department that the  
43 application is complete, whichever occurs first. If the department fails  
44 to take final action on a permit application for a general permit in the  
45 time frames set forth in this subsection, that general permit shall be  
46 deemed to have been approved by the department. The department

1 shall review an application for a permit pursuant to subsection a. of  
2 this section and shall take action on that application pursuant to the  
3 time frames set forth in this subsection, notwithstanding that all of the  
4 municipal approvals have not been obtained, unless such approvals  
5 would materially affect the terms and conditions of the permit, except  
6 that in such instances the department may condition its approval of the  
7 application on the necessary municipal approvals being subject to the  
8 terms and conditions of the application.

9 d. The department may issue a general permit for the discharge of  
10 groundwater to surface water pursuant to a groundwater remedial  
11 action of discharged petroleum products as provided in subsection a.  
12 of this section.

13 e. (1) The department may not require a municipal consent of a  
14 treatment works application for a groundwater remedial action for  
15 which a permit application is submitted pursuant to subsection a. of  
16 this section.

17 (2) If a completed application for a treatment works approval for  
18 a groundwater remedial action is filed with the department at the same  
19 time as an application for a general permit therefor, the department  
20 shall concurrently review the two applications, except that the review  
21 of the application for the treatment works approval for a groundwater  
22 remedial action shall not be subject to the time frames set forth in  
23 subsection c. of this section.

24 f. The provisions of this section shall apply to applications filed on  
25 or after the effective date of this act, except that the Department of  
26 Environmental Protection may implement any of the provisions of this  
27 section prior to that date.

28 g. The department may, in accordance with the "Administrative  
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
30 regulations to implement the provisions of this act.

31 h. For purposes of this section:

32 "General permit" means a permit issued by the department for  
33 similar discharges.

34 "Groundwater remedial action" means the removal or abatement of  
35 one or more pollutants in a groundwater source.

36 "Local public entity" means a sewerage authority established  
37 pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal  
38 authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et  
39 seq.), the Passaic Valley Sewerage Commissioners continued pursuant  
40 to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68  
41 et seq. or a local unit authorized to operate a sewerage facility  
42 pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

43 "Underground storage tank" shall have the same meaning as in  
44 section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used  
45 herein underground storage tanks shall include:

46 (1) farm underground storage tanks of 1,100 gallons or less

1 capacity used for storing motor fuel for noncommercial purposes;  
2 (2) underground storage tanks used to store heating oil for on-site  
3 consumption in a nonresidential building with a capacity of 2,000  
4 gallons or less; and  
5 (3) underground storage tanks used to store heating oil for on-site  
6 consumption in a residential building.  
7 (cf: P.L.1993, c.351, s.1)

8  
9 <sup>1</sup>[78.] 80.<sup>1</sup> Section 24 of P.L.1993, c.139 (C.58:10B-2) is  
10 amended to read as follows:

11 24. a. The department shall, pursuant to the "Administrative  
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
13 regulations establishing criteria and minimum standards necessary for  
14 the submission, evaluation and approval of plans or results of  
15 preliminary assessments, site investigations, remedial investigations,  
16 and remedial action workplans and for the implementation thereof.  
17 The documents for the preliminary assessment, site investigation,  
18 remedial investigation, and remedial action workplan required to be  
19 submitted for a remediation, shall not be identical to the criteria and  
20 standards used for similar documents submitted pursuant to federal  
21 law, except as may be required by federal law. In establishing criteria  
22 and minimum standards for these terms the department shall strive to  
23 be result oriented, provide for flexibility, and to avoid duplicate or  
24 unnecessarily costly or time consuming conditions or standards.

25 b. The regulations adopted by the department pursuant to  
26 subsection a. of this section shall provide that a person performing a  
27 remediation may deviate from the strict adherence to the regulations,  
28 in a variance procedure or by another method prescribed by the  
29 department, if that person can demonstrate that the deviation and the  
30 resulting remediation would be as protective of human health, safety,  
31 and the environment, as appropriate, as the department's regulations  
32 and that the health risk standards established in subsection d. of  
33 section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable  
34 environmental standards would be met. Factors to be considered in  
35 determining if the deviation should be allowed are whether the  
36 alternative method:

37 (1) has been either used successfully or approved by the  
38 department in writing or similar situations;  
39 (2) reflects current technology as documented in peer-reviewed  
40 professional journals;  
41 (3) can be expected to achieve the same or substantially the same  
42 results or objectives as the method which it is to replace; and  
43 (4) furthers the attainment of the goals of the specific remedial  
44 phase for which it is used.

45 The department shall make available to the public, and shall  
46 periodically update, a list of alternative remediation methods used

1 successfully or approved by the department as provided in paragraph  
2 (1) of this subsection.

3 c. To the extent practicable and in conformance with the standards  
4 for remediations as provided in section 35 of P.L.1993, c.139  
5 (C.58:10-12), the department shall adopt rules and regulations that  
6 allow for certain remedial actions to be undertaken in a manner  
7 prescribed by the department without having to obtain prior approval  
8 from or submit detailed documentation to the department. A person  
9 who performs a remedial action in the manner prescribed in the rules  
10 and regulations of the department, and who certifies this fact to the  
11 department, shall obtain a no further action letter from the department  
12 for that particular remedial action.

13 d. The department shall develop regulatory procedures that  
14 encourage the use of innovative technologies in the performance of  
15 remedial actions and other remediation activities.

16 e. Notwithstanding any other provisions of this section, all  
17 remediation standards and remedial actions that involve real property  
18 located in the pinelands area shall be consistent with the provisions of  
19 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
20 any rules and regulations adopted pursuant thereto, and with section  
21 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C.  
22 s.471i.

23 f. Notwithstanding any other provisions of this section, all  
24 remediation standards and remedial actions that involve real property  
25 located in the Highlands preservation area shall be consistent with the  
26 provisions of the "Highlands Water Protection and Planning Act,"  
27 P.L. , c. (C. ) (now before the Legislature as this bill), and any  
28 rules and regulations and the Highlands regional master plan adopted  
29 pursuant thereto.

30 (cf: P.L.1997, c.278, s.10)

31

32 <sup>1</sup>[79.] §1.<sup>1</sup> Section 35 of P.L.1993, c.139 (C.58:10B-12) is  
33 amended to read as follows:

34 35. a. The Department of Environmental Protection shall adopt  
35 minimum remediation standards for soil, groundwater, and surface  
36 water quality necessary for the remediation of contamination of real  
37 property. The remediation standards shall be developed to ensure that  
38 the potential for harm to public health and safety and to the  
39 environment is minimized to acceptable levels, taking into  
40 consideration the location, the surroundings, the intended use of the  
41 property, the potential exposure to the discharge, and the surrounding  
42 ambient conditions, whether naturally occurring or man-made.

43 Until the minimum remediation standards for the protection of  
44 public health and safety as described herein are adopted, the  
45 department shall apply public health and safety remediation standards  
46 for contamination at a site on a case-by-case basis based upon the

1 considerations and criteria enumerated in this section.

2 The department shall not propose or adopt remediation standards  
3 protective of the environment pursuant to this section, except  
4 standards for groundwater or surface water, until recommendations  
5 are made by the Environment Advisory Task Force created pursuant  
6 to section 37 of P.L.1993, c.139. Until the Environment Advisory  
7 Task Force issues its recommendations and the department adopts  
8 remediation standards protective of the environment as required by  
9 this section, the department shall continue to determine the need for  
10 and the application of remediation standards protective of the  
11 environment on a case-by-case basis in accordance with the guidance  
12 and regulations of the United States Environmental Protection Agency  
13 pursuant to the "Comprehensive Environmental Response,  
14 Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq.  
15 and other statutory authorities as applicable.

16 The department may not require any person to perform an  
17 ecological evaluation of any area of concern that consists of an  
18 underground storage tank storing heating oil for on-site consumption  
19 in a one to four family residential building.

20 b. In developing minimum remediation standards the department  
21 shall:

22 (1) base the standards on generally accepted and peer reviewed  
23 scientific evidence or methodologies;

24 (2) base the standards upon reasonable assumptions of exposure  
25 scenarios as to amounts of contaminants to which humans or other  
26 receptors will be exposed, when and where those exposures will occur,  
27 and the amount of that exposure;

28 (3) avoid the use of redundant conservative assumptions. The  
29 department shall avoid the use of redundant conservative assumptions  
30 by the use of parameters that provide an adequate margin of safety and  
31 which avoid the use of unrealistic conservative exposure parameters  
32 and which guidelines make use of the guidance and regulations for  
33 exposure assessment developed by the United States Environmental  
34 Protection Agency pursuant to the "Comprehensive Environmental  
35 Response, Compensation, and Liability Act of 1980," 42 U.S.C.  
36 s.9601 et seq. and other statutory authorities as applicable;

37 (4) where feasible, establish the remediation standards as numeric  
38 or narrative standards setting forth acceptable levels or concentrations  
39 for particular contaminants; and

40 (5) consider and utilize, in the absence of other standards used or  
41 developed by the Department of Environmental Protection and the  
42 United States Environmental Protection Agency, the toxicity factors,  
43 slope factors for carcinogens and reference doses for non-carcinogens  
44 from the United States Environmental Protection Agency's Integrated  
45 Risk Information System (IRIS).

46 c. (1) The department shall develop residential and nonresidential

1 soil remediation standards that are protective of public health and  
2 safety. For contaminants that are mobile and transportable to  
3 groundwater or surface water, the residential and nonresidential soil  
4 remediation standards shall be protective of groundwater and surface  
5 water. Residential soil remediation standards shall be set at levels or  
6 concentrations of contamination for real property based upon the use  
7 of that property for residential or similar uses and which will allow the  
8 unrestricted use of that property without the need of engineering  
9 devices or any institutional controls and without exceeding a health  
10 risk standard greater than that provided in subsection d. of this  
11 section. Nonresidential soil remediation standards shall be set at levels  
12 or concentrations of contaminants that recognize the lower likelihood  
13 of exposure to contamination on property that will not be used for  
14 residential or similar uses , which will allow for the unrestricted use of  
15 that property for nonresidential purposes, and that can be met without  
16 the need of engineering controls. Whenever real property is  
17 remediated to a nonresidential soil remediation standard, except as  
18 otherwise provided in paragraph (3) of subsection g. of this section,  
19 the department shall require, pursuant to section 36 of P.L.1993, c.139  
20 (C.58:10B-13), that the use of the property be restricted to  
21 nonresidential or other uses compatible with the extent of the  
22 contamination of the soil and that access to that site be restricted in a  
23 manner compatible with the allowable use of that property.

24 (2) The department may develop differential remediation standards  
25 for surface water or groundwater that take into account the current,  
26 planned, or potential use of that water in accordance with the "Clean  
27 Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution  
28 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

29 d. The department shall develop minimum remediation standards  
30 for soil, groundwater, and surface water intended to be protective of  
31 public health and safety taking into account the provisions of this  
32 section. In developing these minimum health risk remediation  
33 standards the department shall identify the hazards posed by a  
34 contaminant to determine whether exposure to that contaminant can  
35 cause an increase in the incidence of an adverse health effect and  
36 whether the adverse health effect may occur in humans. The  
37 department shall set minimum soil remediation health risk standards  
38 for both residential and nonresidential uses that:

39 (1) for human carcinogens, as categorized by the United States  
40 Environmental Protection Agency, will result in an additional cancer  
41 risk of one in one million;

42 (2) for noncarcinogens, will limit the Hazard Index for any given  
43 effect to a value not exceeding one.

44 The health risk standards established in this subsection are for any  
45 particular contaminant and not for the cumulative effects of more than  
46 one contaminant at a site.



1 e. Remediation standards and other remediation requirements  
2 established pursuant to this section and regulations adopted pursuant  
3 thereto shall apply to remediation activities required pursuant to the  
4 "Spill Compensation and Control Act," P.L.1976, c.141  
5 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977,  
6 c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the  
7 "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the  
8 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),  
9 the "Comprehensive Regulated Medical Waste Management Act,"  
10 P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste  
11 Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the  
12 "Sanitary Landfill Facility Closure and Contingency Fund Act,"  
13 P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level  
14 Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333  
15 (C.13:1E-177 et seq.), or any other law or regulation by which the  
16 State may compel a person to perform remediation activities on  
17 contaminated property. However, nothing in this subsection shall be  
18 construed to limit the authority of the department to establish  
19 discharge limits for pollutants or to prescribe penalties for violations  
20 of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to  
21 require the complete removal of nonhazardous solid waste pursuant to  
22 law.

23 f. (1) A person performing a remediation of contaminated real  
24 property, in lieu of using the established minimum soil remediation  
25 standard for either residential use or nonresidential use adopted by the  
26 department pursuant to subsection c. of this section, may submit to the  
27 department a request to use an alternative residential use or  
28 nonresidential use soil remediation standard. The use of an alternative  
29 soil remediation standard shall be based upon site specific factors  
30 which may include (1) physical site characteristics which may vary  
31 from those used by the department in the development of the soil  
32 remediation standards adopted pursuant to this section; or (2) a site  
33 specific risk assessment. If a person performing a remediation  
34 requests to use an alternative soil remediation standard based upon a  
35 site specific risk assessment, that person shall demonstrate to the  
36 department that the requested deviation from the risk assessment  
37 protocol used by the department in the development of soil  
38 remediation standards pursuant to this section is consistent with the  
39 guidance and regulations for exposure assessment developed by the  
40 United States Environmental Protection Agency pursuant to the  
41 "Comprehensive Environmental Response, Compensation, and  
42 Liability Act of 1980," 42 U.S.C. 9601 et seq. and other statutory  
43 authorities as applicable. A site specific risk assessment may consider  
44 exposure scenarios and assumptions that take into account the form of  
45 the contaminant present, natural biodegradation, fate and transport of  
46 the contaminant, available toxicological data that are based upon

1 generally accepted and peer reviewed scientific evidence or  
2 methodologies , and physical characteristics of the site, including, but  
3 not limited to, climatic conditions and topographic conditions.  
4 Nothing in this subsection shall be construed to authorize the use of  
5 an alternative soil remediation standard in those instances where an  
6 engineering control is the appropriate remedial action, as determined  
7 by the department, to prevent exposure to contamination.

8 Upon a determination by the department that the requested  
9 alternative remediation standard satisfies the department's regulations,  
10 is protective of public health and safety, as established in subsection  
11 d. of this section, and is protective of the environment pursuant to  
12 subsection a. of this section, the alternative residential use or  
13 nonresidential use soil remediation standard shall be approved by the  
14 department. The burden to demonstrate that the requested alternative  
15 remediation standard is protective rests with the person requesting the  
16 alternative standard and the department may require the submission of  
17 any documentation as the department determines to be necessary in  
18 order for the person to meet that burden.

19 (2) The department may, upon its own initiative, require an  
20 alternative remediation standard for a particular contaminant for a  
21 specific real property site, in lieu of using the established minimum  
22 residential use or nonresidential use soil remediation standard adopted  
23 by the department for a particular contaminant pursuant to this  
24 section. The department may require an alternative remediation  
25 standard pursuant to this paragraph upon a determination by the  
26 department, based on the weight of the scientific evidence, that due to  
27 specific physical site characteristics of the subject real property,  
28 including, but not limited to, its proximity to surface water, the use of  
29 the adopted residential use or nonresidential use soil remediation  
30 standards would not be protective , or would be unnecessarily  
31 overprotective, of public health or safety or of the environment, as  
32 appropriate.

33 g. The development, selection, and implementation of any  
34 remediation standard or remedial action shall ensure that it is  
35 protective of public health, safety, and the environment, as applicable,  
36 as provided in this section. In determining the appropriate remediation  
37 standard or remedial action that shall occur at a site, the department  
38 and any person performing the remediation, shall base the decision on  
39 the following factors:

40 (1) Unrestricted use remedial actions, limited restricted use  
41 remedial actions and restricted use remedial actions shall be allowed  
42 except that unrestricted use remedial actions and limited restricted use  
43 remedial actions shall be preferred over restricted use remedial actions.  
44 The department, however, may not disapprove the use of a restricted  
45 use remedial action or a limited restricted use remedial action so long  
46 as the selected remedial action meets the health risk standard

1 established in subsection d. of this section, and where, as applicable,  
2 is protective of the environment. The choice of the remedial action to  
3 be implemented shall be made by the person performing the  
4 remediation in accordance with regulations adopted by the department  
5 and that choice of the remedial action shall be approved by the  
6 department if all the criteria for remedial action selection enumerated  
7 in this section , as applicable, are met. The department may not  
8 require a person to compare or investigate any alternative remedial  
9 action as part of its review of the selected remedial action;

10 (2) Contamination may, upon the department's approval, be left  
11 onsite at levels or concentrations that exceed the minimum soil  
12 remediation standards for residential use if the implementation of  
13 institutional or engineering controls at that site will result in the  
14 protection of public health, safety and the environment at the health  
15 risk standard established in subsection d. of this section and if the  
16 requirements established in subsections a., b., c. and d. of section 36  
17 of P.L.1993, c.139 (C.58:10B-13) are met;

18 (3) Real property on which there is soil that has not been  
19 remediated to the residential soil remediation standards, or real  
20 property on which the soil, groundwater, or surface water has been  
21 remediated to meet the required health risk standard by the use of  
22 engineering or institutional controls, may be developed or used for  
23 residential purposes, or for any other similar purpose, if (a) all areas  
24 of that real property at which a person may come into contact with soil  
25 are remediated to meet the residential soil remediation standards and  
26 (b) it is clearly demonstrated that for all areas of the real property,  
27 other than those described in subparagraph (a) above, engineering and  
28 institutional controls can be implemented and maintained on the real  
29 property sufficient to meet the health risk standard as established in  
30 subsection d. of this section;

31 (4) Remediation shall not be required beyond the regional natural  
32 background levels for any particular contaminant. The department  
33 shall develop regulations that set forth a process to identify  
34 background levels of contaminants for a particular region. For the  
35 purpose of this paragraph "regional natural background levels" means  
36 the concentration of a contaminant consistently present in the  
37 environment of the region of the site and which has not been  
38 influenced by localized human activities;

39 (5) Remediation shall not be required of the owner or operator of  
40 real property for contamination coming onto the site from another  
41 property owned and operated by another person, unless the owner or  
42 operator is the person who is liable for cleanup and removal costs  
43 pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

44 (6) Groundwater that is contaminated shall not be required to be  
45 remediated to a level or concentration for any particular contaminant  
46 lower than the level or concentration that is migrating onto the

1 property from another property owned and operated by another  
2 person;

3 (7) The technical performance, effectiveness and reliability of the  
4 proposed remedial action in attaining and maintaining compliance with  
5 applicable remediation standards and required health risk standards  
6 shall be considered. In reviewing a proposed remedial action, the  
7 department shall also consider the ability of the owner or operator to  
8 implement the proposed remedial action within a reasonable time  
9 frame without jeopardizing public health, safety or the environment;

10 (8) The use of a remedial action for soil contamination that is  
11 determined by the department to be effective in its guidance document  
12 created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is  
13 presumed to be an appropriate remedial action if it is to be  
14 implemented on a site in the manner described by the department in the  
15 guidance document and applicable regulations and if all of the  
16 conditions for remedy selection provided for in this section are met.  
17 The burden to prove compliance with the criteria in the guidance  
18 document is with the person performing the remediation;

19 (9) (Deleted by amendment, P.L.1997, c.278).

20 The burden to demonstrate that a remedial action is protective of  
21 public health, safety and the environment, as applicable, and has been  
22 selected in conformance with the provisions of this subsection is with  
23 the person proposing the remedial action.

24 The department may require the person performing the remediation  
25 to supply the information required pursuant to this subsection as is  
26 necessary for the department to make a determination.

27 h. (1) The department shall adopt regulations which establish a  
28 procedure for a person to demonstrate that a particular parcel of land  
29 contains large quantities of historical fill material. Upon a  
30 determination by the department that large quantities of historic fill  
31 material exist on that parcel of land, there is a rebuttable presumption  
32 that the department shall not require any person to remove or treat the  
33 fill material in order to comply with applicable health risk or  
34 environmental standards. In these areas the department shall establish  
35 by regulation the requirement for engineering or institutional controls  
36 that are designed to prevent exposure of these contaminants to  
37 humans, that allow for the continued use of the property, that are less  
38 costly than removal or treatment, which maintain the health risk  
39 standards as established in subsection d. of this section, and, as  
40 applicable, are protective of the environment. The department may  
41 rebut the presumption only upon a finding by the preponderance of the  
42 evidence that the use of engineering or institutional controls would not  
43 be effective in protecting public health, safety, and the environment.  
44 The department may not adopt any rule or regulation that has the  
45 effect of shifting the burden of rebutting the presumption. For the  
46 purposes of this paragraph "historic fill material" means generally large

1 volumes of non-indigenous material, no matter what date they were  
2 emplaced on the site, used to raise the topographic elevation of a site,  
3 which were contaminated prior to emplacement and are in no way  
4 connected with the operations at the location of emplacement and  
5 which include, but are not limited to, construction debris, dredge  
6 spoils, incinerator residue, demolition debris, fly ash, and  
7 non-hazardous solid waste. Historic fill material shall not include any  
8 material which is substantially chromate chemical production waste or  
9 any other chemical production waste or waste from processing of  
10 metal or mineral ores, residues, slags or tailings.

11 (2) The department shall develop recommendations for remedial  
12 actions in large areas of historic industrial contamination. These  
13 recommendations shall be designed to meet the health risk standards  
14 established in subsection d. of this section, and to be protective of the  
15 environment and shall take into account the industrial history of these  
16 sites, the extent of the contamination that may exist, the costs of  
17 remedial actions, the economic impacts of these policies, and the  
18 anticipated uses of these properties. The department shall issue a  
19 report to the Senate Environment Committee and to the Assembly  
20 Agriculture and Waste Management Committee, or their successors,  
21 explaining these recommendations and making any recommendations  
22 for legislative or regulatory action.

23 (3) The department may not, as a condition of allowing the use of  
24 a nonresidential use soil remediation standard, or the use of  
25 institutional or engineering controls, require the owner of that real  
26 property, except as provided in section 36 of P.L.1993, c.139  
27 (C.58:10B-13), to restrict the use of that property through the filing  
28 of a deed easement, covenant, or condition.

29 i. The department may not require a remedial action workplan to  
30 be prepared or implemented or engineering or institutional controls to  
31 be imposed upon any real property unless sampling performed at that  
32 real property demonstrates the existence of contamination above the  
33 applicable remediation standards.

34 j. Upon the approval by the department of a remedial action  
35 workplan, or similar plan that describes the extent of contamination at  
36 a site and the remedial action to be implemented to address that  
37 contamination, the department may not subsequently require a change  
38 to that workplan or similar plan in order to compel a different  
39 remediation standard due to the fact that the established remediation  
40 standards have changed; however, the department may compel a  
41 different remediation standard if the difference between the new  
42 remediation standard and the remediation standard approved in the  
43 workplan or other plan differs by an order of magnitude. The  
44 limitation to the department's authority to change a workplan or  
45 similar plan pursuant to this subsection shall only apply if the workplan  
46 or similar plan is being implemented in a reasonable timeframe, as may

1 be indicated in the approved remedial action workplan or similar plan.

2 k. Notwithstanding any other provisions of this section, all  
3 remediation standards and remedial actions that involve real property  
4 located in the Pinelands area shall be consistent with the provisions of  
5 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
6 any rules and regulations promulgated pursuant thereto, and with  
7 section 502 of the "National Parks and Recreation Act of 1978," 16  
8 U.S.C. s.471i; and all remediation standards and remedial actions that  
9 involve real property located in the Highlands preservation area shall  
10 be consistent with the provisions of the "Highlands Water Protection  
11 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
12 this bill), and any rules and regulations and the Highland regional  
13 master plan adopted pursuant thereto.

14 l. Upon the adoption of a remediation standard for a particular  
15 contaminant in soil, groundwater, or surface water pursuant to this  
16 section, the department may amend that remediation standard only  
17 upon a finding that a new standard is necessary to maintain the health  
18 risk standards established in subsection d. of section 35 of P.L.1993,  
19 c.139 (C.58:10B-12) or to protect the environment, as applicable. The  
20 department may not amend a public health based soil remediation  
21 standard to a level that would result in a health risk standard more  
22 protective than that provided for in subsection d. of section 35 of  
23 P.L.1993, c.139 (C.58:10B-12).

24 m. Nothing in P.L.1993, c.139 shall be construed to restrict or in  
25 any way diminish the public participation which is otherwise provided  
26 under the provisions of the "Spill Compensation and Control Act,"  
27 P.L.1976, c.141 (C.58:10-23.11 et seq.).

28 n. Notwithstanding any provision of subsection a. of section 36 of  
29 P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may  
30 not require a person intending to implement a remedial action at an  
31 underground storage tank facility storing heating oil for on-site  
32 consumption at a one to four family residential dwelling to provide  
33 advance notice to a municipality prior to implementing that remedial  
34 action.

35 o. A person who has remediated a site pursuant to the provisions  
36 of this section, who was liable for the cleanup and removal costs of  
37 that discharge pursuant to the provisions of paragraph (1) of  
38 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and  
39 who remains liable for the discharge on that site due to a possibility  
40 that a remediation standard may change, undiscovered contamination  
41 may be found, or because an engineering control was used to  
42 remediate the discharge, shall maintain with the department a current  
43 address at which that person may be contacted in the event additional  
44 remediation needs to be performed at the site. The requirement to  
45 maintain the current address shall be made part of the conditions of the  
46 no further action letter issued by the department.

1 (cf: P.L.1997, c.278, s.17)

2 <sup>1</sup>[80.] 82.<sup>1</sup> Section 1 of P.L.1999, c.225 (C.58:29-8) is amended  
3 to read as follows:

4 1. <sup>1</sup>[a.]<sup>1</sup> There shall be appropriated each State fiscal year from  
5 the <sup>1</sup>[General Fund] "Highlands Protection Fund" created pursuant to  
6 section 19 of P.L. , c. (C. ) (now before the Legislature as this  
7 bill)<sup>1</sup> to each municipality within which any lands subject to the  
8 moratorium on the conveyance of watershed lands imposed pursuant  
9 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
10 c.19, <sup>1</sup>[or subject to the prohibition on the sale or conveyance of  
11 certain public water supply lands prescribed pursuant to section 27 of  
12 P.L. , c. (C. ) (now before the Legislature as this bill).]<sup>1</sup> are  
13 located an amount of ~~[\$68.50]~~ <sup>1</sup>[\$35] ~~\$47~~<sup>1</sup> per acre of such lands  
14 located within the municipality. Notwithstanding the provisions of this  
15 section to the contrary, the per acre amount of watershed moratorium  
16 <sup>1</sup>[or water supply protection]<sup>1</sup> offset aid prescribed by this section  
17 shall be adjusted annually in direct proportion to the increase or  
18 decrease in the Consumer Price Index for all urban consumers in the  
19 New York City area as reported by the United States Department of  
20 Labor. The adjustment shall become effective on July 1 of the year in  
21 which the adjustment is made.

22 <sup>1</sup>[b. Notwithstanding the provisions of subsection a. of this section  
23 to the contrary, payments shall no longer be made pursuant thereto on  
24 the basis of the location within a municipality of lands subject to the  
25 moratorium on the conveyance of watershed lands imposed pursuant  
26 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
27 c.19, if (1) those sections are repealed by law, or (2) the watershed  
28 land conveyance moratorium imposed pursuant to those sections is  
29 terminated by a final, unappealed order of a court of competent  
30 jurisdiction, whichever is sooner.]<sup>1</sup>

31 (cf: P.L.1999, c.225, s.1)

32

33 <sup>1</sup>[81. Section 3 of P.L.1999, c.225 is amended to read as follows:

34 3. This act shall take effect July 1, 1999 [and shall expire (1) on  
35 the repeal by law of section 1 of P.L.1988, c.163 and section 1 of  
36 P.L.1990, c.19, or (2) upon termination of the watershed land  
37 conveyance moratorium imposed pursuant to section 1 of P.L.1988,  
38 c.163 and section 1 of P.L.1990, c.19, by a final, unappealed order of  
39 a court of competent jurisdiction, whichever is sooner].

40 (cf: P.L.1999, c.225, s.3)]<sup>1</sup>

41

42 <sup>1</sup>[82.] 83.<sup>1</sup> This act shall take effect immediately.

1

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2

3 The "Highlands Water Protection and Planning Act"; creates  
4 Highlands Water Protection and Planning Council; and dedicates a  
5 portion of realty transfer fee revenue annually for certain State aid  
6 purposes in the Highlands Region and the pinelands area.



# SENATE, No. 1

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 29, 2004

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator ROBERT J. MARTIN**

**District 26 (Morris and Passaic)**

**Co-Sponsored by:**

**Senators Codey, Palaia, Vitale, Coniglio and Karcher**

**SYNOPSIS**

The "Highlands Water Protection and Planning Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 4/30/2004)**

1 AN ACT concerning the Highlands Region, creating a Highlands Water  
2 Protection and Planning Council, supplementing Title 13 of the  
3 Revised Statutes, and amending and supplementing various sections  
4 of the statutory law.

5

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

8

9 1. (New section) This act shall be known, and may be cited, as the  
10 "Highlands Water Protection and Planning Act."

11

12 2. (New section) The Legislature finds and declares that the  
13 national Highlands Region is an area that extends from northwestern  
14 Connecticut across the lower Hudson River Valley and northern New  
15 Jersey into east central Pennsylvania; that the national Highlands  
16 region has been recognized as a landscape of special significance by  
17 the United States Forest Service; that the New Jersey portion of the  
18 national Highlands Region is nearly 800,000 acres, or about 1,250  
19 miles, covering portions of 90 municipalities in seven counties; that the  
20 New Jersey Highlands Region is designated as a Special Resource  
21 Area in the State Development and Redevelopment Plan.

22 The Legislature further finds and declares that the New Jersey  
23 Highlands is an essential source of drinking water, providing clean and  
24 plentiful drinking water for one-half of the State's population,  
25 including communities beyond the New Jersey Highlands, from only  
26 13 percent of the State's land area; that the New Jersey Highlands  
27 contains other exceptional natural resources such as clean air,  
28 contiguous forest lands, wetlands, pristine watersheds, and wildlife and  
29 plant species habitats, includes many sites of historic significance, and  
30 provides abundant recreational opportunities for the citizens of the  
31 State.

32 The Legislature further finds and declares that the New Jersey  
33 Highlands provides a desirable quality of life and place where people  
34 live and work; that it is important to ensure the economic viability of  
35 communities throughout the New Jersey Highlands; that residential,  
36 commercial, and industrial development and redevelopment and  
37 economic growth in certain appropriate areas of the New Jersey  
38 Highlands is also in the best interests of all the citizens of the State,  
39 providing enumerable social, cultural, and economic benefits and  
40 opportunities.

41 The Legislature further finds and declares that there are  
42 approximately 110,000 acres of agricultural lands in active production  
43 in the New Jersey Highlands; that these lands are important resources

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 of the State that should be preserved; and that the agricultural industry  
2 in the region is a vital component of the economy and welfare of the  
3 State.

4 The Legislature further finds and declares that, since 1984, 65,000  
5 acres, or over 100 square miles, of the New Jersey Highlands have  
6 been lost to development; that sprawl and the pace of development in  
7 the region has dramatically increased, with the rate of loss of forested  
8 lands and wetlands more than doubling since 1995; that the New  
9 Jersey Highlands, because of its proximity to rapidly expanding  
10 suburban areas, is at serious risk of being fragmented and consumed  
11 by unplanned development; and that the existing land use and  
12 environmental regulation system cannot protect the water and natural  
13 resources of the New Jersey Highlands against the environmental  
14 impacts of sprawl development.

15 The Legislature further finds and declares that the protection of the  
16 New Jersey Highlands, because of its vital link to the future of the  
17 State's drinking water supplies and other key natural resources, is an  
18 issue of State level importance that cannot be left to the uncoordinated  
19 land use decisions of 90 municipalities, seven counties, and a myriad  
20 of private landowners; that the State should take action to delineate  
21 within the New Jersey Highlands a preservation area of exceptional  
22 natural resource value that includes watershed protection and other  
23 environmentally sensitive lands where stringent protection policies  
24 would be implemented; that a regional approach to land use planning  
25 in the preservation area should be established to replace the existing  
26 uncoordinated system; that such a new regional approach to land use  
27 planning should be complemented by increased standards more  
28 protective of the environment established by the Department of  
29 Environmental Protection for development in the preservation area of  
30 the New Jersey Highlands; that the new regional planning approach  
31 and the more stringent environmental regulatory standards should be  
32 accompanied, as a matter of wise public policy and fairness to property  
33 owners, by a strong and significant commitment by the State to fund  
34 the acquisition of exceptional natural resource value lands; and that in  
35 the light of the various pressures now arrayed against the New Jersey  
36 Highlands, these new approaches should be implemented as soon as  
37 possible.

38 The Legislature therefore determines, in the light of these findings  
39 set forth hereinabove, and with the intention of transforming them into  
40 action, that it is in the public interest of all the citizens of the State of  
41 New Jersey to enact legislation setting forth a comprehensive approach  
42 to the protection of the water and other natural resources of the New  
43 Jersey Highlands; that this comprehensive approach should consist of  
44 the identification of a preservation area of the New Jersey Highlands  
45 that would be subjected to stringent water and natural resource  
46 protection, planning, and regulation; that this comprehensive approach

1 should also consist of the establishment of a Highlands Water  
2 Protection and Planning Council charged with the preparation of a  
3 regional master plan for the preservation area in the New Jersey  
4 Highlands as well as for the region in general; that this comprehensive  
5 approach should also include the adoption by the Department of  
6 Environmental Protection of stringent standards governing major  
7 development in the Highlands preservation area; that because of the  
8 imminent peril that the ongoing rush of development poses for the  
9 New Jersey Highlands, immediate, interim standards should be  
10 imposed on the date of enactment of this act on major development in  
11 the preservation area of the New Jersey Highlands, followed  
12 subsequently by adoption by the department of appropriate rules and  
13 regulations; that it is appropriate to encourage in certain areas of the  
14 New Jersey Highlands, consistent with the State Development and  
15 Redevelopment Plan and smart growth strategies and principles,  
16 appropriate patterns of compatible residential, commercial, and  
17 industrial development, redevelopment, and economic growth, in or  
18 adjacent to areas already utilized for such purposes, and to discourage  
19 piecemeal, scattered, and inappropriate development, in order to  
20 accommodate local and regional growth and economic development  
21 in an orderly way while protecting the Highlands environment from the  
22 individual and cumulative adverse impacts thereof; that the  
23 maintenance of agricultural production and a positive agricultural  
24 business climate should be encouraged to the maximum extent possible  
25 wherever appropriate in the New Jersey Highlands; and that all such  
26 aforementioned measures should be guided, in heart, mind, and spirit,  
27 by an abiding and generously given commitment to protecting the  
28 incomparable water resources and natural beauty of the New Jersey  
29 Highlands so as to preserve them intact, in trust, forever for the  
30 pleasure, enjoyment, and use of future generations while also  
31 providing every conceivable opportunity for appropriate economic  
32 growth and development to advance the quality of life of the residents  
33 of the region and the entire State.

34

35 3. (New section) As used in this act:

36 "Application for development" means the application form and all  
37 accompanying documents required for approval of a subdivision plat,  
38 site plan, planned development, conditional use, zoning variance, or  
39 direction of the issuance of a permit pursuant to the "Municipal Land  
40 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et  
41 seq., for any use, development or construction;

42 "Council" means the Highlands Water Protection and Planning  
43 Council established by section 4 of this act;

44 "Department" means the Department of Environmental Protection;

45 "Development regulation" means the same as that term is defined  
46 in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

1 "Disturbance" means the placement of impervious surface, the  
2 exposure or movement of soil or bedrock, or the clearing, cutting, or  
3 removing of vegetation;

4 "Environmental land use or water permit" means a permit, approval,  
5 or other authorization issued by the Department of Environmental  
6 Protection pursuant to the "Freshwater Wetlands Protection Act,"  
7 P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management  
8 Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution  
9 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty  
10 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199  
11 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977,  
12 c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977,  
13 c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act,"  
14 P.L.1962, c.19 (C.58:16A-50 et seq.); or an approval for an individual  
15 subsurface sewage disposal system from a delegated local health  
16 agency pursuant to the "County Environmental Health Act," P.L.1977,  
17 c.443 (C.26:3A2-21 et al.);

18 "Highlands open waters" means all springs, streams, wetlands, and  
19 bodies of surface water, whether natural or artificial, located wholly  
20 or partially within the boundaries of the Highlands Region;

21 "Highlands Region" means that region so designated by subsection  
22 a. of section 7 of this act;

23 "Impervious surface" means any structure, surface, or improvement  
24 that reduces or prevents absorption of stormwater into land, and  
25 includes porous paving, paver blocks, gravel, crushed stone, decks,  
26 patios, elevated structures, and other similar structures, surfaces, or  
27 improvements;

28 "Local government unit" means a municipality, county, or other  
29 political subdivision of the State, or any agency, board, commission,  
30 utilities authority or other authority, or other entity thereof;

31 "Major development" means any non-residential development,  
32 whether or not it also qualifies as a development as defined in the  
33 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.); any  
34 residential development, whether or not it also qualifies as a  
35 development as defined in the "Municipal Land Use Law," P.L.1975,  
36 c.291 (C.40:55D-1 et seq.), that provides for the ultimate disturbance  
37 of one acre or more of land or an increase in impervious surface of  
38 one-quarter acre or more; or any residential development, whether or  
39 not it also qualifies as a development as defined in the "Municipal  
40 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), that requires  
41 an environmental land use or water permit issued by the Department  
42 of Environmental Protection but which does not result in the ultimate  
43 disturbance of one acre or more of land or an increase in impervious  
44 surface by one-quarter acre or more;

45 "Planning area" means that portion of the Highlands Region not  
46 included within the preservation area;

1 "Preservation area" means that portion of the Highlands Region so  
2 designated by subsection b. of section 7 of this act;

3 "Recreation and conservation purposes" means the same as that  
4 term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

5 "Regional master plan" means the Highlands regional master plan  
6 or any revision thereof adopted by the council pursuant to section 8 of  
7 this act;

8 "State entity" means any State department, agency, board,  
9 commission, or other entity, district water supply commission,  
10 independent State authority or commission, or bi-state entity;

11 "State Development and Redevelopment Plan" means the State  
12 Development and Redevelopment Plan adopted pursuant to P.L.1985,  
13 c.398 (C.52:18A-196 et al.); and

14 "Waters of the Highlands" means all springs, streams, and bodies of  
15 surface or ground water, whether natural or artificial, located wholly  
16 or partially within the boundaries of the Highlands Region.

17

18 4. (New section) There is hereby established a public body  
19 corporate and politic, with corporate succession, to be known as the  
20 "Highlands Water Protection and Planning Council." The council shall  
21 constitute a political subdivision of the State established as an  
22 instrumentality exercising public and essential governmental functions,  
23 and the exercise by the council of the powers and duties conferred by  
24 this act shall be deemed and held to be an essential governmental  
25 function of the State. For the purpose of complying with the  
26 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
27 Constitution, the council is hereby allocated within the Department of  
28 Environmental Protection, but, notwithstanding that allocation, the  
29 council shall be independent of any supervision or control by the  
30 department or by the commissioner or any officer or employee thereof.

31

32 5. (New section) a. The council shall consist of 15 voting  
33 members to be appointed and qualified as follows:

34 (1) Eight residents of the counties of Bergen, Hunterdon, Morris,  
35 Passaic, Somerset, Sussex, or Warren, appointed by the Governor,  
36 with the advice and consent of the Senate, (a) of whom five shall be  
37 municipal officials holding elective office at the time of appointment  
38 and three shall be county officials holding elective office at the time of  
39 appointment, and (b) among whom shall be at least one resident from  
40 each of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset,  
41 Sussex, and Warren; and

42 (2) Seven residents of the State, appointed by the Governor, with  
43 the advice and consent of the Senate.

44 b. (1) Council members shall serve for terms of five years;  
45 provided, however, that of the members first appointed, five shall  
46 serve a term of three years, five shall serve a term of four years, and

1 five shall serve a term of five years.

2 (2) Each member shall serve for the term of the appointment and  
3 until a successor shall have been appointed and qualified. Any vacancy  
4 shall be filled in the same manner as the original appointment for the  
5 unexpired term only.

6 c. Any member of the council may be removed by the Governor,  
7 for cause, after a public hearing.

8 d. Each member of the council, before entering upon the member's  
9 duties, shall take and subscribe an oath to perform the duties of the  
10 office faithfully, impartially, and justly to the best of the member's  
11 ability, in addition to any oath that may be required by R.S.41:1-1 et  
12 seq. A record of the oath shall be filed in the Office of the Secretary  
13 of State.

14 e. The members of the council shall serve without compensation,  
15 but the council may, within the limits or funds appropriated or  
16 otherwise made available for such purposes, reimburse its members for  
17 necessary expenses incurred in the discharge of their official duties.

18 f. The powers of the council shall be vested in the members thereof  
19 in office. A majority of the total authorized membership of the council  
20 shall constitute a quorum except that no action may be taken by the  
21 council except upon the affirmative vote of a majority of the quorum.  
22 No alternate or designee of any council member shall exercise any  
23 power to vote on any matter pending before the council.

24 g. The Governor shall designate one of the members of the council  
25 as chairperson. The council shall appoint an executive director, who  
26 shall be the chief administrative officer thereof. The executive director  
27 shall serve at the pleasure of the council, and shall be a person  
28 qualified by training and experience to perform the duties of the office.

29 h. The members and staff of the council shall be subject to the  
30 "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-  
31 12 et seq.).

32 i. The council shall be subject to the provisions of the "Open Public  
33 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

34 j. A true copy of the minutes of every meeting of the council shall  
35 be prepared and forthwith delivered to the Governor. No action taken  
36 at a meeting by the council shall have force or effect until 10 days,  
37 exclusive of Saturdays, Sundays, and public holidays, after a copy of  
38 the minutes shall have been so delivered; provided, however, that no  
39 action taken with respect to the adoption of the regional master plan,  
40 or any portion or revision thereof, shall have force or effect until 30  
41 days, exclusive of Saturdays, Sundays, and public holidays, after a  
42 copy of the minutes shall have been so delivered. If, in the 10-day  
43 period, or 30-day period, as the case may be, the Governor returns the  
44 copy of the minutes with a veto of any action taken by the council at  
45 the meeting, the action shall be null and void and of no force and  
46 effect.

- 1       6. (New section) The council shall have the following powers,  
2 duties, and responsibilities, in addition to those prescribed elsewhere  
3 in this act:
  - 4       a. To adopt and from time to time amend and repeal suitable  
5 bylaws for the management of its affairs;
  - 6       b. To adopt and use an official seal and alter it at the council's  
7 pleasure;
  - 8       c. To maintain an office at such place or places in the Highlands  
9 Region as it may designate;
  - 10      d. To sue and be sued in its own name;
  - 11      e. To appoint, retain and employ, without regard to the provisions  
12 of Title 11A of the New Jersey Statutes but within the limits of funds  
13 appropriated or otherwise made available for those purposes, such  
14 officers, employees, agents, and experts as it may require, and to  
15 determine the qualifications, terms of office, duties, services, and  
16 compensation therefor;
  - 17      f. To apply for, receive, and accept, from any federal, State, or  
18 other public or private source, grants or loans for, or in aid of, the  
19 council's authorized purposes, or the in the carrying out of the  
20 council's powers, duties, and responsibilities;
  - 21      g. To enter into any and all agreements or contracts, execute any  
22 and all instruments, and do and perform any and all acts or things  
23 necessary, convenient, or desirable for the purposes of the council or  
24 to carry out any power, duty, or responsibility expressly given in this  
25 act;
  - 26      h. To call to its assistance and avail itself of the services of such  
27 employees of any State entity or local government unit as may be  
28 required and made available for such purposes;
  - 29      i. To adopt a regional master plan for the Highlands Region as  
30 provided pursuant to section 8 of this act;
  - 31      j. To appoint advisory boards, commissions, councils, or panels to  
32 assist in its activities, including but not limited to a municipal advisory  
33 council consisting of mayors, municipal council members, or other  
34 representatives of municipalities located in the Highlands Region;
  - 35      k. To authorize, if deemed useful, the establishment by appropriate  
36 persons or organizations of a nonprofit organization or organizations  
37 exempt from taxation pursuant to section 501 (c)(3) of the federal  
38 Internal Revenue Code of 1986, 26 U.S.C.s.501 (c)(3), for the  
39 purposes of assisting the council in furthering the purposes of this act  
40 and the regional master plan;
  - 41      l. To solicit and consider public input and comment on the council's  
42 activities, the regional master plan, and other issues and matters of  
43 importance in the Highlands Region by periodically holding public  
44 hearings or conferences and providing other opportunities for such  
45 input and comment by interested parties;
  - 46      m. To conduct examinations and investigations, to hear testimony,



1 taken under oath at public or private hearings, on any material matter,  
2 and to require attendance of witnesses and the production of books  
3 and papers;

4 n. To prepare and transmit to the Commissioner of Environmental  
5 Protection such recommendations for water quality and water supply  
6 standards for surface and ground waters in the Highlands Region, or  
7 in tributaries and watersheds thereof, and for other environmental  
8 protection standards pertaining to the lands and natural resources of  
9 the Highlands Region, as the council deems appropriate;

10 o. To identify and designate in the regional master plan special  
11 areas in the preservation area within which development shall not  
12 occur in order to protect water resources and environmentally  
13 sensitive lands while recognizing the need to provide just  
14 compensation to the owners of those lands when appropriate, whether  
15 through acquisition, transfer of development rights programs, or other  
16 means or strategies;

17 p. To identify any lands in which the public acquisition of a fee  
18 simple or lesser interest therein is necessary or desirable in order to  
19 ensure the preservation thereof, or to provide sites for public  
20 recreation, as well as any lands the beneficial use of which are so  
21 adversely affected by the restrictions imposed pursuant to this act as  
22 to require a guarantee of just compensation therefor, and to transmit  
23 a list of those lands to the Commissioner of Environmental Protection,  
24 affected local government units, and appropriate federal agencies;

25 q. To develop model land use ordinances and other development  
26 regulations, for consideration and possible adoption by municipalities  
27 in the planning area, that would help protect the environment,  
28 including, but not limited to, ordinances and other development  
29 regulations pertaining to steep slopes, forest cover, wellhead and  
30 water supply protection, impervious surface, and clustering; and to  
31 provide guidance and technical assistance in connection therewith to  
32 those municipalities;

33 r. To identify and designate, and accept petitions from  
34 municipalities to designate, special critical environmental areas in high  
35 resource value lands in the planning area, and develop voluntary  
36 standards and guidelines for protection of such special areas for  
37 possible implementation by those municipalities;

38 s. To comment upon any application for development before a  
39 local government unit, on the adoption of any master plan,  
40 development regulation, or other regulation by a local government  
41 unit, or on the enforcement by a local government unit of any  
42 development regulation or other regulation, which power shall be in  
43 addition to any other review, oversight, or intervention powers of the  
44 council prescribed by this act;

45 t. To work with interested municipalities to enter into agreements  
46 to establish, where appropriate, capacity-based development densities,

1 including, but not limited to, appropriate higher densities to support  
2 transit villages or in centers designated by the State Development and  
3 Redevelopment Plan and endorsed by the State Planning Commission;

4 u. To establish and charge, in accordance with a fee schedule to be  
5 set forth by rule or regulation adopted pursuant to the "Administrative  
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees  
7 for services performed relating to the review of applications for  
8 development and other applications filed with or otherwise brought  
9 before the council, or for other services, as may be required by this act  
10 or the regional master plan; and

11 v. To prepare, adopt, amend, or repeal, pursuant to the provisions  
12 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
13 et seq.), such rules and regulations as may be necessary in order to  
14 exercise its powers and perform its duties and responsibilities under  
15 the provisions of this act.

16

17 7. (New section) a. The Highlands Region shall consist of all that  
18 area within the boundaries of the following municipalities:

19 (1) in Bergen County: Mahwah, and Oakland;

20 (2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury,  
21 Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton,  
22 High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford,  
23 Tewksbury, and Union;

24 (3) in Morris County: Boonton Town, Boonton Township, Butler,  
25 Chester Boro, Chester Township, Denville, Dover, Hanover, Harding,  
26 Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill,  
27 Montville, Morris Plains, Morris Township, Morristown, Mount  
28 Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy  
29 Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway  
30 Township, Roxbury, Victory Gardens, Washington, and Wharton;

31 (4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood,  
32 Wanaque, and West Milford;

33 (5) in Somerset County: Bernards, Bernardsville, Far Hills, and  
34 Peapack-Gladstone;

35 (6) in Sussex County: Andover Boro, Andover Township, Byram,  
36 Franklin, Green, Hamburg, Hardyston, Hopatcong, Lafayette,  
37 Ogdensburg, Sparta, Stanhope, and Vernon; and

38 (7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin,  
39 Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope,  
40 Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg,  
41 Pohatcong, Washington Boro, Washington Township, and White.

42 b. The preservation area shall consist of that area described by the  
43 Highlands Task Force, established by Executive Order No. 70 of 2003,  
44 and based upon natural resource data assembled by the United States  
45 Forest Service, Rutgers, The State University, and the New Jersey  
46 Water Supply Authority, which is to be translated, allowing for

1 reasonable variations, by the Highlands Task Force with the assistance  
2 of Rutgers, The State University, the Department of Environmental  
3 Protection, and other appropriate entities, to appropriate and nearest  
4 practicable, on-the-ground, and easily identified reference points, such  
5 as, but not limited to, road descriptions, survey lines, and municipal  
6 boundaries, by May 1, 2004 or as soon thereafter as may be possible.  
7 This narrative description of the preservation area shall be enacted into  
8 law.

9 c. The planning area shall consist of all that area of the Highlands  
10 Region not within the preservation area.

11

12 8. (New section) The council shall, within 18 months after the date  
13 of its first meeting, and after holding at least five public hearings in  
14 various locations in the Highlands Region and at least one public  
15 hearing in Trenton, prepare and adopt a regional master plan for the  
16 Highlands Region. The Highlands regional master plan shall be  
17 periodically revised and updated at least once every five years, after  
18 public hearings.

19

20 9. (New section) a. During the preparation of the regional master  
21 plan or any revision thereof, the council shall consult with the  
22 Department of Environmental Protection, the Department of  
23 Community Affairs, the State Planning Commission, the Department  
24 of Agriculture, the State Agriculture and Development Committee,  
25 and appropriate officials of local governments and State, regional, and  
26 federal agencies with jurisdiction over lands, waters, and natural  
27 resources within the Highlands Region, with interested professional,  
28 scientific, and citizen organizations, and with any advisory groups that  
29 may be established by the council. The council shall review all  
30 relevant federal, State, and private studies of the Highlands Region,  
31 the State Development and Redevelopment Plan, municipal, county,  
32 and regional plans, applicable federal and State laws and rules and  
33 regulations, and other pertinent information on the Highlands Region.

34 b. Prior to adoption of, and in preparing, the regional master plan,  
35 the council may, in conjunction with municipalities in the preservation  
36 area, identify areas in which redevelopment shall be encouraged in  
37 order to promote the economic well-being of the municipality,  
38 provided that the redevelopment conforms to the goals of the  
39 preservation area and this act and with the rules and regulations  
40 adopted by the Department of Environmental Protection pursuant to  
41 sections 32 and 33 of this act.

42 c. Upon adoption of the regional master plan or any revision  
43 thereof, copies thereof shall be transmitted to the Governor and to the  
44 Legislature.

45

46 10. (New section) a. The goal of the regional master plan with

1 respect to the entire Highlands Region shall be to protect and enhance  
2 the significant values of the resources thereof in a manner which is  
3 consistent with the purposes and provisions of this act.

4 b. The goals of the regional master plan with respect to the  
5 preservation area shall be to:

6 (1) protect, restore, and enhance the quality and quantity of surface  
7 and ground waters therein;

8 (2) preserve extensive and, to the maximum extent possible,  
9 contiguous areas of land in its natural state, thereby ensuring the  
10 continuation of a Highlands environment which contains the unique  
11 and significant natural, scenic, and other resources representative of  
12 the Highlands Region;

13 (3) protect the natural, scenic, and other resources of the Highlands  
14 Region, including but not limited to contiguous forests, wetlands,  
15 vegetated stream corridors, steep slopes, and critical habitat for fauna  
16 and flora;

17 (4) preserve farmland and historic sites and other historic resources;

18 (5) promote compatible agricultural, horticultural, recreational, and  
19 cultural uses and opportunities within the framework of protecting the  
20 Highlands environment; and

21 (6) prohibit or limit to the maximum extent possible construction or  
22 development which is incompatible with preservation of this unique  
23 area.

24 c. The goals of the regional master plan with respect to the  
25 planning area shall be to:

26 (1) protect, restore, and enhance the quality and quantity of surface  
27 and ground waters therein;

28 (2) preserve to the maximum extent possible any environmentally  
29 sensitive lands and other lands needed for recreation and conservation  
30 purposes;

31 (3) protect and maintain the essential character of the Highlands  
32 environment;

33 (4) preserve farmland and historic sites and other historic resources;

34 (5) promote the continuation and expansion of agricultural,  
35 horticultural, recreational, and cultural uses and opportunities; and

36 (6) encourage, consistent with the State Development and  
37 Redevelopment Plan and smart growth strategies and principles,  
38 appropriate patterns of compatible residential, commercial, and  
39 industrial development, redevelopment, and economic growth, in or  
40 adjacent to areas already utilized for such purposes, and discourage  
41 piecemeal, scattered, and inappropriate development, in order to  
42 accommodate local and regional growth and economic development  
43 in an orderly way while protecting the Highlands environment from the  
44 individual and cumulative adverse impacts thereof.

45

46 11. (New section) The regional master plan shall include, but

1 need not necessarily be limited to:

2 a. A resource assessment which:

3 (1) determines the amount and type of human development and  
4 activity which the ecosystem of the Highlands Region can sustain  
5 while still maintaining the overall ecological values thereof, with  
6 special reference to surface and ground water quality and supply;  
7 endangered and threatened animals, plants, and biotic communities;  
8 ecological factors relating to the protection and enhancement of  
9 agricultural production or activity; air quality; and other appropriate  
10 considerations affecting the ecological integrity of the Highlands  
11 Region;

12 (2) includes an assessment of scenic, aesthetic, cultural, historic,  
13 open space, farm land, and outdoor recreation resources of the region,  
14 together with a determination of overall policies required to maintain  
15 and enhance such resources; and

16 (3) includes an assessment of opportunities for appropriate  
17 economic growth, development, and redevelopment which shall  
18 include consideration of public investment priorities, infrastructure  
19 investments, economic development, revitalization, housing,  
20 transportation, energy resources, waste management, recycling,  
21 brownfields, and design such as mixed-use, compact design, and  
22 transit villages.

23 b. A financial component, together with a cash flow timetable  
24 which:

25 (1) details the cost of implementing the regional master plan,  
26 including, but not limited to, payments in lieu-of-taxes, acquisition,  
27 within five years and within 10 years after the date of enactment of this  
28 act, of fee simple or other interests in lands for preservation or  
29 recreation and conservation purposes, compensation guarantees,  
30 general administrative costs, and any anticipated extraordinary or  
31 continuing costs; and

32 (2) details the sources of revenue for covering such costs,  
33 including, but not limited to, grants, donations, and loans from local,  
34 State, and federal departments and agencies, and from the private  
35 sector.

36 c. A component to provide for the maximum feasible local  
37 government and public input into the council's operations, which shall  
38 include a framework for developing policies for the planning area in  
39 conjunction with those local government units with jurisdiction over  
40 those lands who choose to conform to the regional master plan.

41 d. A coordination and consistency component which details the  
42 ways in which local, State, and federal programs and policies may best  
43 be coordinated to promote the goals, purposes, policies, and  
44 provisions of the regional master plan, and which details how land,  
45 water, and structures managed by governmental or nongovernmental  
46 entities in the public interest within the Highlands Region may be

1 integrated into the regional master plan.

2

3 12. (New section) In addition to the contents of the regional  
4 master plan described in section 11 of this act, the plan shall also  
5 include, with respect to the preservation area, a land use capability  
6 map and a comprehensive statement of policies for planning and  
7 managing the development and use of land in the preservation area,  
8 which shall be based upon, comply with, and implement the  
9 environmental standards set forth in section 31 of this act and as  
10 adopted by the Department of Environmental Protection pursuant to  
11 sections 32 through 33 of this act.

12 These policies shall include provision for implementing the regional  
13 master plan by the State and local government units in the preservation  
14 area in a manner that will ensure the continued, uniform, and  
15 consistent protection of the Highlands Region in accordance with the  
16 goals, purposes, policies, and provisions of this act, and shall include:

17 a. a preservation zone element that identifies zones within the  
18 preservation area where development shall not occur in order to  
19 protect water resources and environmentally sensitive lands that shall  
20 be permanently preserved through a variety of tools, including  
21 acquisition and transfer of development rights; and

22 b. minimum standards governing municipal and county master  
23 planning, development regulations, and other regulations concerning  
24 the development and use of land in the preservation area, including,  
25 but not limited to, standards for minimum lot sizes and stream  
26 setbacks, construction on steep slopes, maximum appropriate  
27 population densities, and regulated or prohibited uses for specific  
28 portions of the preservation area.

29

30 13. (New section) a. The council shall develop and implement a  
31 transfer of development rights program for the Highlands Region  
32 consistent with any transfer of development rights program created  
33 otherwise by law.

34 b. (1) The council may use the State Transfer of Development  
35 Rights Bank established pursuant to section 3 of P.L.1993, c.339  
36 (C.4:1C-51) for the purposes of facilitating the transfer of  
37 development potential in accordance with subsection a. of this section  
38 and the regional master plan. The council may also establish a  
39 development transfer bank for such purposes.

40 (2) At the request of the council, the Department of Banking and  
41 Insurance, the State Transfer of Developments Right Bank, the State  
42 Agriculture Development Committee, and the Pinelands Development  
43 Credit Bank shall provide technical assistance to the council in  
44 establishing and operating a development transfer bank as authorized  
45 pursuant to paragraph (1) of this subsection.

46 (c) The bank shall operate in accordance with provisions of general

1 law authorizing the creation of development transfer banks by  
2 municipalities and counties.

3  
4 14. (New section) a. Within six months after the date of adoption  
5 of the regional master plan or any revision thereof, each municipality  
6 located wholly or partially in the preservation area shall submit to the  
7 council such revisions of the municipal master plan and development  
8 regulations, as applicable to the development and use of land in the  
9 preservation area, as may be necessary in order to conform them with  
10 the goals, requirements, and provisions of the regional master plan.  
11 After receiving and reviewing the revisions, the council shall approve,  
12 reject, or approve with conditions the revised plan and development  
13 regulations, as it deems appropriate, after public hearing, within 60  
14 days after the date of submission thereof.

15 Upon rejecting or conditionally approving any such revised plan or  
16 development regulations, the council shall identify such changes  
17 therein that it deems necessary for council approval thereof, and the  
18 relevant municipality shall adopt and enforce the plan or development  
19 regulations as so changed.

20 b. Within six months after the date of adoption of the regional  
21 master plan or any revision thereof, each county located wholly or  
22 partially in the preservation area shall submit to the council such  
23 revisions of the county master plan and associated regulations, as  
24 applicable to the development and use of land in the preservation area,  
25 as may be necessary in order to conform them with the goals,  
26 requirements, and provisions of the regional master plan. After  
27 receiving and reviewing the revisions, the council shall approve, reject,  
28 or approve with conditions those revised plans and associated  
29 regulations, as it deems appropriate, after public hearing, within 60  
30 days after the date of submission thereof.

31 Upon rejecting or conditionally approving any such revised plan or  
32 associated regulations, the council shall identify such changes therein  
33 that it deems necessary for council approval thereof, and the relevant  
34 county shall adopt and enforce the plan or associated regulations as so  
35 changed.

36 c. Any approval of an application for development, or use of land,  
37 in the preservation area granted by any local government unit in  
38 violation of the regional master plan or an approved revised municipal  
39 or county master plan, development regulations, or other regulations  
40 pursuant to this act shall be null and void and of no force and effect at  
41 law or equity.

42 d. In the event that any municipality or county fails to adopt or  
43 enforce an approved revised master plan, development regulations, or  
44 other regulations, as the case may be, including any condition thereto  
45 imposed by the council, as required pursuant to subsections a. or b. of  
46 this section, the council shall adopt and enforce such rules and

1 regulations as may be necessary to implement the minimum standards  
2 contained in the regional master plan as applicable to any municipality  
3 or county within the preservation area. If any municipality or county  
4 fails to adopt or enforce an approved revised master plan, development  
5 regulations, or other regulations, as the case may be, including any  
6 condition thereto imposed by the council, as required pursuant to  
7 subsections a. or b. of this section, the council shall have all local  
8 enforcement authority provided pursuant to the "Municipal Land Use  
9 Law," P.L.1975, c.291 (C.40:55D-1 et seq.) and R.S.40:27-1 et seq.,  
10 as well as the authority to issue stop construction orders, as may be  
11 necessary to implement the provisions of this act, any rules and  
12 regulations adopted pursuant thereto, and the requirements and  
13 provisions of the regional master plan.

14 e. A municipality or county may adopt revisions to its master plan,  
15 development regulations, or other regulations for the purposes of this  
16 section that are stricter than the minimum necessary to obtain approval  
17 of conformance with the regional master plan.

18

19 15. (New section) a. For any municipality located wholly in the  
20 planning area or for any portion of a municipality lying within the  
21 planning area, the municipality may, by ordinance, petition the council  
22 of its intention to revise its master plan and development regulations,  
23 as applicable to the development and use of land in the planning area,  
24 to conform with the goals, requirements, and provisions of the  
25 regional master plan.

26 The municipality shall proceed in revising its master plan and  
27 development regulations in accordance with the framework adopted  
28 by the council pursuant to subsection a. of section 14 of this act.

29 After receiving and reviewing those revisions, the council shall  
30 approve, reject, or approve with conditions the revised plan and  
31 development regulations, as it deems appropriate, after public hearing,  
32 within 60 days after the date of submission thereof.

33 b. Upon rejecting or conditionally approving any such revised plan  
34 or development regulations, the council shall identify such changes  
35 therein that it deems necessary for council approval thereof, and the  
36 municipality may adopt and enforce the plan or development  
37 regulations as so changed in order for them to be deemed approved in  
38 conformance with the regional master plan.

39 c. Any municipality approved by the council to be in conformance  
40 with the regional master plan pursuant to this section shall be entitled  
41 to any financial or other assistance or incentives received by a  
42 municipality from the State as a benefit or result of obtaining council  
43 approval pursuant to section 14 of this act.

44 d. Upon the commencement of each reexamination by the  
45 municipality of its master plan and development regulations as  
46 required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), the



1 municipality shall so notify the council and, thereafter, submit to the  
2 council the draft revision of its master plan and development  
3 regulations for review, by the council, of conformance with the  
4 regional master plan.

5 If, after conducting the reexamination, the municipality does not  
6 resubmit to the council its master plan and development regulations as  
7 they pertain to the planning area and obtain reapproval thereof from  
8 the council in accordance with this section, or if the council finds the  
9 reexamined master plan not to be in conformance with the regional  
10 master plan, the council may require the municipality to reimburse the  
11 council or the State, as appropriate, in whole or in part for any  
12 financial or other assistance or incentives received by the municipality  
13 from the State as a benefit or result of obtaining council approval  
14 pursuant to this section.

15 e. A municipality may adopt revisions to its master plan or  
16 development regulations for the purposes of this section that are  
17 stricter than the minimum necessary to obtain approval of conformance  
18 with the regional master plan.

19 f. Each county with lands in the planning area may, by ordinance  
20 or resolution, as appropriate, petition the council of its intention to  
21 revise its master plan and associated regulations, as applicable to the  
22 development and use of land in the planning area, to conform with the  
23 goals, requirements, and provisions of the regional master plan.

24 The county shall proceed in revising its master plan and associated  
25 regulations in accordance with the framework adopted by the council  
26 pursuant to subsection b. of section 14 of this act.

27 After receiving and reviewing those revisions, the council shall  
28 approve, reject, or approve with conditions the revised plan and  
29 associated regulations, as it deems appropriate, after public hearing,  
30 within 60 days after the date of submission thereof.

31 g. Upon rejecting or conditionally approving any such revised plan  
32 or associated regulations, the council shall identify such changes  
33 therein that it deems necessary for council approval thereof, and the  
34 county may adopt and enforce the plan or associated regulations as so  
35 changed in order for them to be deemed approved in conformance with  
36 the regional master plan.

37 h. Any county approved by the council to be in conformance with  
38 the regional master plan pursuant to this section shall be entitled to  
39 any financial or other assistance or incentives received by a county  
40 from the State as a benefit or result of obtaining council approval  
41 pursuant to section 14 of this act.

42

43 16. (New section) a. For the purposes of subsection a. of section  
44 37 of P.L.1975, c.291 (C.40:55D-49), any amendments made to a  
45 major subdivision or a site plan ordinance pursuant to this act to  
46 conform it to the regional master plan shall be construed to relate to

1 public health and safety for any major development that has received  
2 preliminary approval prior to the amendment of a major subdivision or  
3 site plan ordinance pursuant to this act. An amendment made to a  
4 major subdivision or site plan ordinance pursuant to this act shall not  
5 be construed to relate to public health and safety if the major  
6 development is a residential development that requires an  
7 environmental land use or water permit but which does not result in  
8 the ultimate disturbance of one acre or more of land or an increase in  
9 impervious surface by one-quarter acre or more.

10 b. (1) Any final approval of a major development which is  
11 outstanding upon the adoption by a municipality of amendments to its  
12 development regulations pursuant to this act to conform those  
13 development regulations to the regional master plan, shall be reviewed  
14 by the municipality for consistency with the regional master plan. In  
15 the event that the final approval is not consistent with the regional  
16 master plan, any rights otherwise conferred by the final approval shall  
17 expire. The provisions of this subsection shall apply whether the final  
18 approval involves a site plan, major subdivision, or general  
19 development plan pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

20 This paragraph shall not apply to any major development which is  
21 a residential development that requires an environmental land use or  
22 water permit but which does not result in the ultimate disturbance of  
23 one acre or more of land or an increase in impervious surface by  
24 one-quarter acre or more.

25 (2) Notwithstanding any provision of paragraph (1) of this  
26 subsection to the contrary, any major development for which, at the  
27 time of the adoption of amendments to the municipal development  
28 regulations pursuant to this act to conform them to the regional master  
29 plan, a construction permit has been issued, may proceed in  
30 accordance with the terms of the relevant approvals.

31  
32 17. (New section) a. The council may prepare and distribute  
33 suggested guidelines for the location and construction of capital  
34 projects by State entities or local government units within the  
35 Highlands Region.

36 b. Within the preservation area, any capital or other project of a  
37 State entity or local government unit that involves the ultimate  
38 disturbance of two acres or more of land or an increase in impervious  
39 surface by one acre or more shall be submitted to the council for  
40 review. The council shall establish procedures for conducting such  
41 reviews and shall have the power to approve, approve with conditions,  
42 or disapprove the project. No such project shall proceed without the  
43 approval of the council; provided that, in the case of a project of a  
44 State entity, if the council disapproves the project, the head of the  
45 appropriate principal department of State government with primary  
46 responsibility for the project may override the council's disapproval

1 upon making a written finding, which shall be submitted to the council  
2 and the Governor, that the project is necessary for public health,  
3 safety, or welfare and including with that finding a factual basis and  
4 explanation in support thereof. In the case of a project of an  
5 independent State authority or commission or a bi-state entity, any  
6 such finding shall be made by the Governor or such other State  
7 governmental official as the Governor may designate for that purpose.

8 c. Within the planning area, any capital or other project of a State  
9 entity or local government unit that provides for the ultimate  
10 disturbance of two acres or more of land or an increase in impervious  
11 surface by one acre or more shall be submitted to the council for a  
12 nonbinding review and comment. The council shall establish  
13 procedures for conducting such reviews. The failure of the council to  
14 act expeditiously on any such review pursuant to this subsection shall  
15 not be cause for delay of the project, and the project may proceed  
16 whether or not the council has conducted the review.

17  
18 18. (New section) a. Subsequent to adoption of the regional  
19 master plan, the council may review, within 15 days after any final  
20 local government unit approval thereof, any application for  
21 development in the preservation area. Upon determining to exercise  
22 that authority, the council shall transmit, by certified mail, written  
23 notice thereof to the person who submitted the application. The  
24 council shall, after public hearing thereon, approve, reject, or approve  
25 with conditions any such application within 60 days after transmitting  
26 the notice; provided, however, that an application shall not be rejected  
27 or conditionally approved unless the council determines that the  
28 development does not conform with the regional master plan, as  
29 applicable to the local government unit wherein the development is  
30 located, or that the development could result in substantial impairment  
31 of the resources of the Highlands Region. Such approval, rejection,  
32 or conditional approval shall be binding upon the person who  
33 submitted the application, shall supersede any local government unit  
34 approval of any such development, and shall be subject only to judicial  
35 review as provided in section 29 of this act.

36 b. Every person submitting an application for development in the  
37 preservation area shall be required to provide a notice of the  
38 application to the council in accordance with such procedures therefor  
39 as shall be established by the council.

40 c. Notwithstanding any provision of subsections a. or b. of this  
41 section to the contrary, for any municipality or county that has  
42 adopted an approved revised master plan, development regulations, or  
43 other regulations, as the case may be, including any condition thereto  
44 imposed by the council, the requirements of this section shall apply  
45 only to applications for development that provide for the ultimate  
46 disturbance of two acres or more of land or an increase in impervious

1 surface by one acre or more. The council may provide, pursuant to  
2 subsection d. of section 14 of this act, that the requirements of this  
3 section apply to any application for development within the  
4 preservation area in any municipality or county that fails to adopt or  
5 enforce an approved revised master plan, development regulations, or  
6 other regulations, as the case may be, including any condition thereto  
7 imposed by the council.

8 d. Any member of the public may request the council to consider  
9 reviewing an application for development in the preservation area as  
10 provided in this section.

11

12 19. (New section) a. Any municipality in the Highlands Region  
13 whose municipal master plan and development regulations, and any  
14 county in the Highlands Region whose county master plan and  
15 associated regulations, have been approved by the council to be in  
16 conformance with the regional master plan in accordance with sections  
17 14 or 15 of this act shall qualify for State aid, planning assistance,  
18 technical assistance, and other benefits and incentives that may be  
19 awarded or provided by the State to municipalities and counties which  
20 have received plan endorsement pursuant to the "State Planning Act,"  
21 P.L.1985, c.398 (C.52:18A-196 et al.) or which otherwise practice or  
22 implement smart growth strategies and principles. Any such  
23 municipality or county shall also qualify for any State aid that may be  
24 provided for smart growth projects.

25 b. The council may make available grants and other financial and  
26 technical assistance to municipalities and counties for any revision of  
27 their master plans, development regulations, or other regulations  
28 which is designed to bring those plans, development regulations, or  
29 other regulations into conformance with the regional master plan or  
30 for implementation of a transfer of development rights program  
31 pursuant to this act. The council may make the grants and other  
32 financial assistance from any State, federal, or other funds that may be  
33 appropriated or otherwise made available to it for that purpose.

34

35 20. (New section) a. Every municipality located wholly or  
36 partially in the preservation area shall be entitled to State aid to  
37 compensate for any decrease in the aggregate amount of property tax  
38 revenues derived from the taxation of real property in that portion of  
39 the municipality located in the preservation area that is directly  
40 attributable to the implementation of this act. The council shall  
41 establish methods and procedures for calculating the aggregate true  
42 value of the real property and the aggregate amount of property tax  
43 revenues derived therefrom in each municipality in the preservation  
44 area in the year prior to the enactment of this act, and for calculating,  
45 for each year after the enactment of this act, any decrease in the  
46 aggregate true value of the real property, and in the aggregate amount

1 of property tax revenues derived therefrom, that is directly attributable  
2 to the implementation of this act. The council shall annually calculate  
3 the amount to which each municipality is entitled pursuant to this  
4 section, and shall certify and transmit such amounts to the State  
5 Treasurer and to the Director of the Division of Local Government  
6 Services in the Department of Community Affairs.

7 b. Commencing July 1 next following two years after the date of  
8 enactment of this act, or at such other date as may be established by  
9 the council, no municipality shall receive any State aid made available  
10 pursuant to this section unless the municipality's master plan and  
11 development regulations, as applicable to the preservation area, have  
12 been approved by the council to be in conformance with the regional  
13 master plan pursuant to section 14 of this act.

14 c. The State Treasurer shall include in the State Treasurer's annual  
15 budget request for State aid the amounts certified by the council  
16 pursuant to subsection a of this section. The State Treasurer shall pay,  
17 from monies appropriated for the purposes of this section, to each  
18 municipality the amount of State aid appropriated therefor in a manner  
19 and pursuant to a schedule set forth in the rules and regulations  
20 adopted pursuant subsection d. of this section.

21 d. The State Treasurer and the Director of the Division of Local  
22 Government Services, in consultation with the council, shall adopt,  
23 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
24 (C.52:14B-1 et seq.), any rules and regulations necessary to implement  
25 the provisions of this section.

26 e. This section shall expire July 1 next following five years after the  
27 date of enactment of this act.

28  
29 21. (New section) The Attorney General shall provide legal  
30 representation to any requesting local government unit located in the  
31 Highlands Region in any cause of action filed against the local  
32 government unit and contesting an act or decision of the local  
33 government unit taken or made under authority granted pursuant to  
34 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
35 R.S.40:27-1 et seq., the "State Uniform Construction Code Act,"  
36 P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

37 a. the municipal master plan and development regulations, or, in  
38 the case of a county governmental entity, the county master plan and  
39 associated regulations, have been approved by the council to be in  
40 conformance with the regional master plan in accordance with sections  
41 14 or 15 of this act; and

42 b. the council has certified in writing to the Attorney General that  
43 the act or decision of the local government unit which is the subject of  
44 the cause of action is consistent with the regional master plan.

45  
46 22. (New section) Within 10 days after the date of enactment of

1 this act, the Department of Community Affairs, in consultation with  
2 the Department of Environmental Protection, shall provide guidelines  
3 and instructions to all local government units located wholly or  
4 partially within the preservation area with respect to the processing,  
5 review, and enforcement of applications for development after the date  
6 of enactment of this act and before adoption of the regional master  
7 plan.

8  
9 23. (New section) The municipal master plan and development  
10 regulations of any municipality, and the county master plan and  
11 associated regulations of any county, located in the Highlands Region  
12 which have been approved by the council to be in conformance with  
13 the regional master plan in accordance with sections 14 or 15 of this  
14 act shall be entitled to a strong presumption of validity. In any cause  
15 of action filed against such a local government unit and contesting an  
16 act or decision of the local government unit taken or made under  
17 authority granted pursuant to the "Municipal Land Use Law,"  
18 P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State  
19 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et  
20 seq.), or this act, the court shall give extraordinary deference to the  
21 local government unit, provided that the municipal master plan and  
22 development regulations, or, in the case of a county governmental  
23 entity, the county master plan and associated regulations, have been  
24 approved by the council to be in conformance with the regional master  
25 plan in accordance with sections 14 or 15 of this act. The plaintiff  
26 shall have the burden of proof to demonstrate by clear and convincing  
27 evidence that the act or decision of any such local government unit  
28 was arbitrary, capricious, or unreasonable or in patent abuse of  
29 discretion.

30  
31 24. (New section) a. The Council on Affordable Housing shall  
32 take into consideration the regional master plan prior to making any  
33 determination regarding the prospective fair share of the housing need  
34 in any municipality in the Highlands Region under the "Fair Housing  
35 Act," P.L.1985, c.222 (C.52:27D-301 et al.).

36 b. Upon adoption by the Highlands Water Protection and Planning  
37 Council of the regional master plan, any municipality located wholly  
38 or partially in the preservation area, and any municipality in the  
39 Highlands planning area that is approved by the Highlands Water  
40 Protection and Planning Council to be in conformance with the  
41 regional master plan pursuant to section 15 of this act, may petition  
42 the Council on Affordable Housing to have its 1987 to 1999 fair share  
43 obligation adjusted in accordance with any applicable rules and  
44 regulations to reflect the change in circumstances in the municipality  
45 resulting from conformance with the regional master plan. In the  
46 event that the municipality has received substantive certification or is

1 subject to a judgment of repose, that protection shall not be affected  
2 or compromised by the adjustment.

3 c. Any municipality requesting an adjustment pursuant to  
4 subsection b. of this section shall be eligible to apply for planning  
5 assistance grants from the State for the purposes of that subsection.

6

7 25. (New section) Within 90 days after the first meeting of the  
8 Highlands Water Protection and Planning Council, the Site  
9 Improvement Advisory Board established pursuant to section 3 of  
10 P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community  
11 Affairs shall consult with the council and the Commissioner of  
12 Environmental Protection concerning whether the site improvement  
13 standards for residential development adopted pursuant to P.L.1993,  
14 c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently  
15 protective for the Highlands Region, especially for the preservation  
16 area; and if it is determined they are not, those standards shall be  
17 modified accordingly as soon as practicable to meet that objective.

18

19 26. a. Effective on the date of enactment of this act, any person  
20 who is selling any land, or any interest therein or option therefor,  
21 within the preservation area shall give to the Commissioner of  
22 Environmental Protection written notice, by certified mail, that a  
23 contract of sale has been executed for the property. The notice shall  
24 set forth the terms and conditions of the executed contract of sale and  
25 shall have attached a copy of that contract. The notice of executed  
26 contract of sale shall also include any other information that the  
27 commissioner may reasonably require by rule or regulation. The State  
28 shall have the right of first refusal to purchase the land upon  
29 substantially similar terms and conditions, which right shall be  
30 exercisable as provided by this section. The State may exercise its  
31 right of first refusal only if the land, or the interest therein or option  
32 therefor, is to be used for water supply protection purposes or  
33 recreation and conservation purposes, or farmland preservation  
34 purposes. If the State chooses to exercise its right of first refusal, the  
35 State shall give notice of that intent to the landowner within a period  
36 of 30 days following the date of receipt of the notice of executed  
37 contract of sale. The State shall submit its offer to match the terms  
38 and conditions of the executed contract of sale to the landowner  
39 within the 60 days following the expiration of the 30-day period. If no  
40 notice is given within the 30-day period that the State intends to  
41 exercise its right of first refusal, or if no offer is submitted to the  
42 landowner within the 60-day period following the 30-day period, the  
43 owner may at the expiration of the 30-day period or the 60-day period,  
44 as the case may be, convey the land to the proposed purchaser named  
45 in the executed contract of sale upon the terms and conditions  
46 specified therein, or to the proposed purchaser's assignee as provided

1 in that executed contract of sale. If the owner fails to convey the land  
2 to the named proposed purchaser or an assignee thereof pursuant to  
3 the executed contract of sale, the land shall again become subject to  
4 the State's right of first refusal as provided by this section. A  
5 landowner may elect to convey the land to the State upon the exercise  
6 of the State's right of first refusal without breaching the original  
7 contract of sale, notwithstanding that the State's offer is different than,  
8 or provides for lower consideration than, that in the original executed  
9 contract of sale.

10 b. The requirements of this section shall not apply to any sale or  
11 other conveyance of land between immediate family members, to any  
12 sale of a structure that is located on a lot of less than 10 acres, or to  
13 any land that is subject to the State Agriculture Development  
14 Committee's first right and option to purchase as provided pursuant to  
15 section 2 of P.L.1989, c.28 (C.4:1C-39).

16 c. The Commissioner of Environmental Protection shall, within 60  
17 days after the date of enactment of this act, transmit, by certified mail,  
18 written notice of the provisions of this section to the governing body  
19 of every municipality and county located in whole or in part in the  
20 preservation area, and publish a notice in the New Jersey Register and  
21 in at least two newspapers circulating within the preservation area.

22 d. Any contract made in violation of subsection a. of this section  
23 is voidable.

24 e. Nothing in this section shall be construed so as to limit any  
25 authority granted to the Department of Environmental Protection, the  
26 State Agriculture Development Committee, or any other State entity,  
27 or a local government unit, pursuant to law, to acquire any lands, or  
28 interests therein or options therefor, in such manner as may be  
29 provided in any such law.

30 f. For the purposes of this section, "immediate family member"  
31 means spouse, child, sibling, aunt, uncle, niece, nephew, first cousin,  
32 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,  
33 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half  
34 brother, or half sister, whether the individual is related by blood,  
35 marriage, or adoption.

36  
37 27. (New section) No local government unit, public utility, or  
38 State entity shall sell or otherwise convey any land or interest therein  
39 it owns that is located in the Highlands Region and is utilized for the  
40 purpose of protecting a public water supply, as defined and determined  
41 by the Commissioner of Environmental Protection; except that this  
42 section:

43 a. shall not apply to the sale or conveyance of such lands to  
44 another local government unit, public utility, or State entity for the  
45 purpose of protecting a public water supply, or the sale or conveyance  
46 of such lands for permanent preservation and use for recreation and



1 conservation purposes, provided that in either case the sale or  
2 conveyance is approved by the commissioner; or

3 b. shall not prevent the lease or other conveyance of such lands as  
4 authorized pursuant to P.L.2002, c.47 (C.40A:12-17.1 et al.),  
5 provided that the lands so leased or otherwise conveyed shall continue  
6 to be subject to the prohibition prescribed by this section and the  
7 requirements and provisions of that act.

8

9 28. (New section) The council may institute an action or  
10 proceeding in Superior Court for injunctive relief for any violation of  
11 this act, or any rule or regulation adopted pursuant thereto, or, in the  
12 preservation area for any violation of, or nonconformance with, the  
13 regional master plan, and the court may proceed in the action in a  
14 summary manner. In any proceeding brought pursuant to this section,  
15 the court may also grant temporary or interlocutory relief.

16

17 29. (New section) Any decision rendered or action taken by the  
18 council pursuant to this act shall be a final agency action subject to  
19 judicial review in the Appellate Division of the Superior Court of New  
20 Jersey in accordance with the Rules of Court. The court may grant  
21 such relief as it deems just and proper, and to make and enter an order  
22 enforcing, modifying, and enforcing as so modified, remanding for  
23 further specific evidence or findings, or setting aside in whole or in  
24 part, the decision of the council. The findings of fact upon which the  
25 council's decision is based shall be conclusive if supported by  
26 substantial evidence on the record considered as a whole.

27

28 30. (New section) On or before March 31 in each year the council  
29 shall make an annual report of its activities for the preceding calendar  
30 year to the Governor and the Legislature. Each such report shall set  
31 forth a complete operating and financial statement covering its  
32 operations during the year.

33

34 31. (New section) a. Commencing on the date of enactment of  
35 this act and until the effective date of the rules and regulations adopted  
36 by the Department of Environmental Protection pursuant to sections  
37 32 and 33 of this act, all major development in the preservation area  
38 shall require a Highlands Preservation Area approval from the  
39 department. The Highlands Preservation Area approval shall consist  
40 of the related aspects of other regulatory programs which may include,  
41 but need not be limited to, the "Freshwater Wetlands Protection Act,"  
42 P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame  
43 Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the  
44 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
45 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
46 et seq.), "The Realty Improvement Sewerage and Facilities Act

1 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
2 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
3 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the  
4 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
5 seq.), and any rules and regulations adopted pursuant thereto. For the  
6 purposes of this section, the provisions of P.L.1975, c. 232 (C.13:1D-  
7 29 et seq.) shall not apply to an application for a permit pursuant to  
8 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
9 et seq.).

10 b. The Highlands Preservation Area approval shall also require:

11 (1) a prohibition on major development within 300 feet of any  
12 Highlands open waters, and a 300-foot buffer adjacent to all Highlands  
13 open waters. For the purposes of this paragraph, major development  
14 does not include linear development for infrastructure, utilities, and the  
15 rights-of-way therefor, provided that there is no other feasible  
16 alternative for the linear development outside of the buffer. Structures  
17 or land uses in the buffer existing on the date of enactment of this act  
18 may remain, provided that the area of disturbance shall not be  
19 increased. This paragraph shall not be construed to limit the authority  
20 of the department to establish buffers of any size or any other  
21 protections for category one waters designated by the department  
22 pursuant to the "Water Pollution Control Act," P.L.1977, c.74  
23 (C.58:10A-1 et seq.), or any other law, or any rule or regulation  
24 adopted pursuant thereto, for major development or for other  
25 development that does not qualify as major development;

26 (2) the quality of all Highlands open waters and the waters of the  
27 Highlands within the preservation area to be maintained, restored, or  
28 enhanced, and any new or expanded point source discharge, except  
29 discharges from water supply facilities, shall not degrade existing  
30 water quality. In the case of water supply facilities, all reasonable  
31 measures shall be taken to eliminate or minimize water quality impacts;

32 (3) notwithstanding the provisions of subsection a. of section 5 of  
33 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
34 pursuant thereto, to the contrary, any diversion of more than 50,000  
35 gallons per day, and multiple diversions by the same or related entities  
36 for the same or related projects or developments of more than 50,000  
37 gallons per day, of waters of the Highlands shall require a permit  
38 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
39 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be  
40 based on consideration of individual and cumulative impacts of  
41 multiple diversions, maintenance of stream base flows, minimization  
42 of depletive use, maintenance of existing water quality, and protection  
43 of ecological uses;

44 (4) a zero net fill requirement for flood hazard areas pursuant to the  
45 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
46 seq.);

1 (5) the antidegradation provisions of the surface water quality  
2 standards and the stormwater regulations applicable to category one  
3 waters to be applied to Highlands open waters;

4 (6) a prohibition on impervious surfaces of greater than three  
5 percent of the land area of a lot existing on the date of enactment of  
6 this act, except that Highlands open waters shall not be included in the  
7 calculation of that land area;

8 (7) a prohibition on development, except linear development for  
9 infrastructure, utilities, and the rights-of-way therefor, provided that  
10 no other feasible alternative exists for the linear development, on steep  
11 slopes with a grade of 20% or greater; and

12 (8) a prohibition on development that disturbs upland forested  
13 areas, in order to prevent soil erosion and sedimentation, protect water  
14 quality, prevent stormwater runoff, and protect threatened and  
15 endangered animal and plant species sites and designated habitats.  
16 Notwithstanding the provisions of this paragraph to the contrary, if a  
17 major development complies with all other applicable requirements for  
18 a Highlands Preservation Area review pursuant to this subsection and  
19 disturbance to an upland forested area is unavoidable, the department  
20 shall allow the disturbance to an upland forested area of no more than  
21 20 feet directly adjacent to a structure and of no more than 10 feet on  
22 each side of a driveway as necessary to access a non-forested area of  
23 a site.

24 c. The Highlands Preservation Area approval required pursuant to  
25 this section shall include a limited review by the department of an  
26 application for a Highlands Preservation Area approval to a review for  
27 the purpose of locating a single family dwelling on the property based  
28 upon the least environmental impact to the natural resources located  
29 on the property when the application is for the construction of a single  
30 family dwelling on property owned by the individual on the date of  
31 enactment of this act, but only if the construction requires an  
32 environmental land use or water permit and does not result in the  
33 ultimate disturbance of one acre or more of land or an increase in  
34 impervious surface by one-quarter acre or more. This limited review  
35 shall not be construed to authorize the waiver of any other provision  
36 of law, or any rule or regulation adopted pursuant thereto.

37  
38 32. (New section) a. Within 270 days after the date of enactment  
39 of this act, and notwithstanding the provisions of the "Administrative  
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,  
41 the Commissioner of Environmental Protection, after consultation with  
42 the Department of Agriculture, the Department of Community Affairs,  
43 and the State Planning Commission, shall, immediately upon filing  
44 proper notice with the Office of Administrative Law, adopt the rules  
45 and regulations prepared by the department pursuant to section 33 of  
46 this act and any other rules and regulations necessary to establish the

1 Highlands permitting review program established pursuant to section  
2 34 of this act.

3 b. The rules and regulations adopted pursuant to subsection a. of  
4 this section shall be in effect for a period not to exceed one year after  
5 the date of the filing. These rules and regulations shall thereafter be  
6 adopted, amended, or readopted by the commissioner in accordance  
7 with the requirements of the "Administrative Procedure Act," after  
8 consultation with the council, the Department of Agriculture, the  
9 Department of Community Affairs, and the State Planning  
10 Commission.

11 c. The rules and regulations adopted by the commissioner pursuant  
12 to subsection a. of this section and any requirement to obtain a  
13 Highlands permitting review pursuant this act shall not apply to any  
14 major development for which all State environmental land use or water  
15 permits and local permits, approvals, and other authorizations have  
16 been issued.

17

18 33. (New section) The Department of Environmental Protection  
19 shall prepare rules and regulations establishing the environmental  
20 standards for the preservation area upon which the regional master  
21 plan adopted by the council and the Highlands permitting review  
22 program administered by the department pursuant to this act shall be  
23 based. These rules and regulations shall provide for at least the  
24 following:

25 a. a prohibition on major development within 300 feet of any  
26 Highlands open waters, and the establishment of a 300-foot buffer  
27 adjacent to all Highlands open waters. For the purposes of this  
28 subsection, major development does not include linear development  
29 for infrastructure, utilities, and the rights-of-way therefor, provided  
30 that there is no other feasible alternative for the linear development  
31 outside of the buffer. Structures or land uses in the buffer existing on  
32 the date of enactment of this act may remain, provided that the area of  
33 disturbance shall not be increased. This subsection shall not be  
34 construed to limit any authority of the department to establish buffers  
35 of any size or any other protections for category one waters  
36 designated by the department pursuant to the "Water Pollution Control  
37 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any  
38 rule or regulation adopted pursuant thereto, for major development or  
39 for other development that does not qualify as major development;

40 b. measures to ensure that existing water quality shall be  
41 maintained, restored, or enhanced in all Highlands open waters and  
42 waters of the Highlands, and provide that any new or expanded point  
43 source discharge, except discharges from water supply facilities, shall  
44 not degrade existing water quality. In the case of water supply  
45 facilities, all reasonable measures shall be taken to eliminate or  
46 minimize water quality impacts;

- 1 c. notwithstanding the provisions of section 23 of P.L.1987, c.156  
2 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to  
3 the contrary, the criteria for the type of activity or activities eligible  
4 for the use of a general permit for an activity located wholly or  
5 partially within a freshwater wetland or freshwater wetland transition  
6 area located wholly or partially in the preservation area, provided that  
7 these criteria are at least as protective as those provided in section 23  
8 of P.L.1987, c.156 (C.13:9B-23);
- 9 d. notwithstanding the provisions of subsection a. of section 5 of  
10 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
11 pursuant thereto, to the contrary, a system for the regulation of any  
12 diversion of more than 50,000 gallons per day, and multiple diversions  
13 by the same or related entities for the same or related projects or  
14 developments of more than 50,000 gallons per day, of waters of the  
15 Highlands pursuant to the "Water Supply Management Act,"  
16 P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant  
17 thereto shall be based on consideration of individual and cumulative  
18 impacts of multiple diversions, maintenance of stream base flows,  
19 minimization of depletive use, maintenance of existing water quality,  
20 and protection of ecological uses;
- 21 e. a septic system density standard established at a level to prevent  
22 the degradation of water quality, or to require the restoration of water  
23 quality, and to protect ecological uses from individual, secondary, and  
24 cumulative impacts, in consideration of deep aquifer recharge available  
25 for dilution;
- 26 f. a zero net fill requirement for flood hazard areas pursuant to the  
27 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
28 seq.);
- 29 g. the antidegradation provisions of the surface water quality  
30 standards and the stormwater regulations applicable to category one  
31 waters to be applied to Highlands open waters;
- 32 h. a prohibition on impervious surfaces of greater than three  
33 percent of the land area, except that Highlands open waters shall not  
34 be included in the calculation of that land area;
- 35 i. notwithstanding the provisions of the "Safe Drinking Water Act,"  
36 P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation  
37 adopted pursuant thereto, to the contrary, a limitation or prohibition  
38 on the construction of new public water systems or the extension of  
39 existing public water systems, except in the case of a demonstrated  
40 need to protect public health and safety;
- 41 j. a prohibition on development, except linear development for  
42 infrastructure, utilities, and the rights-of-way therefor, provided that  
43 no other feasible alternative exists for the linear development, on steep  
44 slopes in the preservation area with a grade of 20% or greater, and  
45 standards for development on slopes in the preservation area exhibiting  
46 a grade of between 10% and 20%. The standards shall assure that

1 developments on slopes exhibiting a grade of between 10% and 20%  
2 preserve and protect steep slopes from the negative consequences of  
3 development on the site and the cumulative impact in the Highlands  
4 Region. The standards shall be developed to prevent soil erosion and  
5 sedimentation, protect water quality, prevent stormwater runoff,  
6 protect threatened and endangered animal and plant species sites and  
7 designated habitats, provide for minimal practicable degradation of  
8 unique or irreplaceable land types, historical or archeological areas,  
9 and existing scenic attributes at the site and within the surrounding  
10 area, protect upland forest, and restrict impervious surface; and shall  
11 take into consideration differing soil types, soil erodability,  
12 topography, hydrology, geology, and vegetation types; and

13 k. a prohibition on development that disturbs upland forested  
14 areas, in order to prevent soil erosion and sedimentation, protect water  
15 quality, prevent stormwater runoff, and protect threatened and  
16 endangered animal and plant species sites and designated habitats; and  
17 standards to protect upland forested areas that require all appropriate  
18 measures be taken to avoid impacts or disturbance to upland forested  
19 areas, and where avoidance is not possible that all appropriate  
20 measures have been taken to minimize and mitigate impacts to upland  
21 forested areas and to prevent soil erosion and sedimentation, protect  
22 water quality, prevent stormwater runoff, and protect threatened and  
23 endangered animal and plant species sites and designated habitats.

24

25 34. (New section) a. The Department of Environmental  
26 Protection shall establish a Highlands permitting review program to  
27 provide for the coordinated review of any major development in the  
28 preservation area based upon the rules and regulations adopted by the  
29 department pursuant to sections 32 and 33 of this act. The Highlands  
30 permitting review program established pursuant to this section shall  
31 consolidate the related aspects of other regulatory programs which  
32 may include, but need not be limited to, the "Freshwater Wetlands  
33 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The  
34 Endangered and Nongame Species Conservation Act," P.L.1973,  
35 c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act,"  
36 P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control  
37 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement  
38 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et  
39 seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1  
40 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1  
41 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19  
42 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant  
43 thereto, and the rules and regulations adopted pursuant to sections 32  
44 and 33 of this act. For the purposes of this section, the provisions of  
45 P.L.1975, c.232 (C.13:1D-29 et seq.) shall not apply to an application  
46 for a permit pursuant to the "Flood Hazard Area Control Act,"

1 P.L.1962, c.19 (C.58:16A-50 et seq.).

2 b. The Highlands permitting review program established pursuant  
3 to this section shall include:

4 (1) a provision limiting the review by the department of an  
5 application to a review for the purpose of locating a single family  
6 dwelling on the property based upon the least environmental impact to  
7 the natural resources located on the property when the application is  
8 for the construction of a single family dwelling on property owned by  
9 the individual on the date of enactment of this act, but only if the  
10 construction requires an environmental land use or water permit and  
11 does not result in the ultimate disturbance of one acre or more of land  
12 or an increase in impervious surface by one-quarter acre or more;

13 (2) (a) a provision that may allow for the waiver of any provision  
14 of a Highlands permitting review on a case-by-case basis to avoid  
15 undue hardship to an individual owner of residential property for one  
16 single family dwelling that includes the ultimate disturbance of one  
17 acre or more of land or an increase in impervious surface by  
18 one-quarter acre or more, provided that the property was owned by  
19 the individual on the date of enactment of this act;

20 (b) a provision that may allow for a waiver of any provision of a  
21 Highlands permitting review on a case-by-case basis if determined to  
22 be necessary by the department in order to protect public health and  
23 safety;

24 (c) a provision that may allow for a waiver of any provision of a  
25 Highlands permitting review on a case-by-case basis for redevelopment  
26 in certain previously developed areas in the preservation area identified  
27 by the council pursuant to subsection b. of section 9 of this act; and

28 (d) a provision that may allow for a waiver of any provision of the  
29 Highlands permitting review on a case-by-case basis in order to avoid  
30 the taking of property without just compensation.

31 The grant of a waiver pursuant to subparagraphs (a), (b), (c), or (d)  
32 of this paragraph by the department shall be conditioned upon the  
33 department's determination that the major development meets the  
34 requirements prescribed for a finding as listed in subsection a. of  
35 section 35 of this act to the maximum extent possible.

36 c. The limited review provision of paragraph (1) of subsection b.  
37 of this section and the waiver provisions of paragraph (2) of  
38 subsection b. of this section are limited to the provisions of the rules  
39 and regulations adopted pursuant to section 33 of this act, and shall  
40 not limit the department's jurisdiction or authority pursuant to any  
41 other provision of law, or any rule or regulation adopted pursuant  
42 thereto, that is incorporated into the Highlands permitting review  
43 program.

44 d. The Highlands permitting review program established pursuant  
45 to this section may provide for the issuance of a general permit  
46 provided that the department adopts rules and regulations which

1 identify the activities subject to general permit review and establish the  
2 criteria for the approval or disapproval of a general permit.

3 e. Any person proposing to construct or cause to be constructed,  
4 or to undertake or cause to be undertaken, as the case may be, a major  
5 development in the preservation area shall file an application for a  
6 Highlands permitting review with the department, on forms and in a  
7 manner prescribed by the department.

8 f. The department shall, in accordance with a fee schedule adopted  
9 as a rule or regulation, establish and charge reasonable fees necessary  
10 to meet the administrative costs of the department associated with the  
11 processing, review, and enforcement of any application for a Highlands  
12 permitting review. These fees shall be deposited in the "Environmental  
13 Services Fund," established pursuant to section 5 of P.L.1975, c.232  
14 (C.13:1D-33), and kept separate and apart from all other State  
15 receipts and appropriated only as provided herein. There shall be  
16 appropriated annually to the department revenue from that fund  
17 sufficient to defray in full the costs incurred in the processing, review,  
18 and enforcement of applications for Highlands permitting reviews.

19

20 35. (New section) a. The Commissioner of Environmental  
21 Protection shall review filed applications for Highlands permitting  
22 reviews, including any information presented at public hearings or  
23 during a comment period, or submitted during the application review  
24 period.

25 Except as otherwise provided by subsection b. of this section, a  
26 Highlands permitting review approval may be issued only upon a  
27 finding that the proposed major development:

28 (1) would have a de minimis impact on water resources and would  
29 not cause or contribute to a significant degradation of surface or  
30 ground waters. In making this determination, the commissioner shall  
31 consider the extent of any impacts on water resources resulting from  
32 the proposed major development, including, but not limited to, the  
33 regenerative capacity of aquifers or other surface or ground water  
34 supplies, increases in stormwater generated, increases in impervious  
35 surface, increases in stormwater pollutant loading, changes in land use,  
36 and changes in vegetative cover;

37 (2) would cause minimal feasible interference with the natural  
38 functioning of animal, plant, and other natural resources at the site and  
39 within the surrounding area, and minimal feasible individual and  
40 cumulative adverse impacts to the environment both onsite and offsite  
41 of the major development;

42 (3) will result in minimum feasible alteration or impairment of the  
43 aquatic ecosystem including existing contour, vegetation, fish and  
44 wildlife resources, and aquatic circulation of a freshwater wetland;

45 (4) will not jeopardize the continued existence of species listed  
46 pursuant to "The Endangered and Nongame Species Conservation



1 Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant  
2 Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which  
3 appear on the federal endangered or threatened species list, and will  
4 not result in the likelihood of the destruction or adverse modification  
5 of habitat for any rare, threatened, or endangered species of animal or  
6 plant;

7 (5) is located or constructed so as to neither endanger human life  
8 or property nor otherwise impair the public health, safety, and welfare;

9 (6) would result in minimal practicable degradation of unique or  
10 irreplaceable land types, historical or archeological areas, and existing  
11 public scenic attributes at the site and within the surrounding area; and

12 (7) meets all other applicable department standards, rules, and  
13 regulations and State laws.

14 b. A Highlands permitting review approval may be issued to a  
15 major development subject to a limited review pursuant to paragraph  
16 (1) of subsection b. of section 34 of this act or granted a waiver  
17 pursuant to the provisions of paragraph (2) of subsection b. of section  
18 34 of this act notwithstanding the inability to make the finding  
19 required pursuant to subsection a. of this section.

20

21 36. (New section) a. Whenever the Commissioner of  
22 Environmental Protection finds that a person has violated any  
23 provision of section 31 of this act, a Highlands permitting review  
24 approval issued pursuant to section 35 of this act, or any rule or  
25 regulation adopted pursuant to sections 32 and 33 of this act, the  
26 commissioner may:

27 (1) Issue an order requiring any such person to comply in  
28 accordance with subsection b. of this section; or

29 (2) Bring a civil action in accordance with subsection c. of this  
30 section; or

31 (3) Levy a civil administrative penalty in accordance with  
32 subsection d. of this section; or

33 (4) Bring an action for a civil penalty in accordance with subsection  
34 e. of this section; or

35 (5) Petition the Attorney General to bring a criminal action in  
36 accordance with subsection f. of this section.

37 Recourse to any of the remedies available under this section shall  
38 not preclude recourse to any of the other remedies prescribed in this  
39 section or by any other applicable law.

40 b. Whenever, on the basis of available information, the  
41 commissioner finds a person in violation of any provision of section 31  
42 of this act, a Highlands permitting review approval issued pursuant to  
43 section 35 of this act, or any rule or regulation adopted pursuant to  
44 sections 32 and 33 of this act, the commissioner may issue an order:

45 (1) specifying the provision or provisions of the rule, regulation,  
46 permit, approval, or authorization of which the person is in violation;

1 (2) citing the action which constituted the violation; (3) requiring  
2 compliance with the provision or provisions violated; (4) requiring the  
3 restoration of the area which is the site of the violation; and (5)  
4 providing notice to the person of the right to a hearing on the matters  
5 contained in the order.

6 c. The commissioner is authorized to institute a civil action in  
7 Superior Court for appropriate relief from any violation of any  
8 provision of section 31 of this act, a Highlands permitting review  
9 approval issued pursuant to section 35 of this act, or any rule or  
10 regulation adopted pursuant to sections 32 and 33 of this act. Such  
11 relief may include, singly or in combination:

12 (1) A temporary or permanent injunction;

13 (2) Assessment of the violator for the costs of any investigation,  
14 inspection, or monitoring survey which led to the establishment of the  
15 violation, and for the reasonable costs of preparing and bringing legal  
16 action under this subsection;

17 (3) Assessment of the violator for any costs incurred by the State  
18 in removing, correcting, or terminating the adverse effects resulting  
19 from any unauthorized regulated activity for which legal action under  
20 this subsection may have been brought;

21 (4) Assessment against the violator for compensatory damages for  
22 any loss or destruction of wildlife, fish or aquatic life, and for any  
23 other actual damages caused by an unauthorized regulated activity;

24 (5) A requirement that the violator restore the site of the violation  
25 to the maximum extent practicable and feasible.

26 d. The commissioner is authorized to assess a civil administrative  
27 penalty of up to \$25,000 for each violation of any provision of section  
28 31 of this act, a Highlands permitting review approval issued pursuant  
29 to section 35 of this act, or any rule or regulation adopted pursuant to  
30 sections 32 and 33 of this act, and each day during which each  
31 violation continues shall constitute an additional, separate, and distinct  
32 offense. Any amount assessed under this subsection shall fall within  
33 a range established by regulation by the commissioner for violations of  
34 similar type, seriousness, and duration. No assessment shall be levied  
35 pursuant to this section until after the party has been notified by  
36 certified mail or personal service. The notice shall: (1) identify the  
37 section of the rule, regulation, permit, approval, or authorization  
38 violated; (2) recite the facts alleged to constitute a violation; (3) state  
39 the amount of the civil penalties to be imposed; and (4) affirm the  
40 rights of the alleged violator to a hearing. The ordered party shall  
41 have 20 days from receipt of the notice within which to deliver to the  
42 commissioner a written request for a hearing. After the hearing and  
43 upon finding that a violation has occurred, the commissioner may issue  
44 a final order after assessing the amount of the fine specified in the  
45 notice. If no hearing is requested, the notice shall become a final order  
46 after the expiration of the 20-day period. Payment of the assessment

1 is due when a final order is issued or the notice becomes a final order.  
2 The authority to levy an administrative penalty is in addition to all  
3 other enforcement provisions in this act and in any other applicable  
4 law, rule, or regulation, and the payment of any assessment shall not  
5 be deemed to affect the availability of any other enforcement  
6 provisions in connection with the violation for which the assessment  
7 is levied. Any civil administrative penalty assessed under this section  
8 may be compromised by the commissioner upon the posting of a  
9 performance bond by the violator, or upon such terms and conditions  
10 as the commissioner may establish by regulation.

11 e. A person who violates any provision of section 31 of this act, a  
12 Highlands permitting review approval issued pursuant to section 35 of  
13 this act, or any rule or regulation adopted pursuant to sections 32 and  
14 33 of this act, an administrative order issued pursuant to subsection b.  
15 of this section, or a court order issued pursuant to subsection c. of this  
16 section, or who fails to pay a civil administrative penalty in full  
17 pursuant to subsection d. of this section, shall be subject, upon order  
18 of a court, to a civil penalty not to exceed \$10,000 per day of such  
19 violation, and each day during which the violation continues shall  
20 constitute an additional, separate, and distinct offense. Any civil  
21 penalty imposed pursuant to this subsection may be collected with  
22 costs in a summary proceeding pursuant to the "Penalty Enforcement  
23 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior  
24 Court and the municipal court shall have jurisdiction to enforce the  
25 provisions of the "Penalty Enforcement Law of 1999" in connection  
26 with this act.

27 f. A person who purposely or negligently violates any provision of  
28 section 31 of this act, a Highlands permitting review approval issued  
29 pursuant to section 35 of this act, or any rule or regulation adopted  
30 pursuant to sections 32 and 33 of this act, shall be guilty, upon  
31 conviction, of a crime of the fourth degree and, notwithstanding any  
32 provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine  
33 of not less than \$2,500 nor more than \$25,000 per day of violation, in  
34 addition to any other applicable penalties and provisions under Title  
35 2C of the New Jersey Statutes. A second or subsequent offense under  
36 this subsection shall subject the violator to a fine, notwithstanding any  
37 provision of N.J.S.2C:43-3 to the contrary, of not less than \$5,000 nor  
38 more than \$50,000 per day of violation, in addition to any other  
39 applicable penalties and provisions under Title 2C of the New Jersey  
40 Statutes. A person who knowingly makes a false statement,  
41 representation, or certification in any application, record, or other  
42 document filed or required to be maintained under this act shall be  
43 guilty, upon conviction, of a crime of the fourth degree and,  
44 notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall  
45 be subject to a fine of not more than \$10,000, in addition to any other  
46 applicable penalties and provisions under Title 2C of the New Jersey

1 Statutes.

2 g. In addition to the penalties prescribed in this section, a notice of  
3 violation of any provision of section 31 of this act, a Highlands  
4 permitting review approval issued pursuant to section 35 of this act,  
5 or any rule or regulation adopted pursuant to sections 32 and 33 of  
6 this act, shall be recorded on the deed of the property wherein the  
7 violation occurred, on order of the commissioner, by the clerk or  
8 register of deeds and mortgages of the county wherein the affected  
9 property is located and with the clerk of the Superior Court and shall  
10 remain attached thereto until such time as the violation has been  
11 remedied and the commissioner orders the notice of violation  
12 removed.

13 h. The department may require an applicant or permittee to provide  
14 any information the department requires to determine compliance with  
15 any provision of section 31 of this act, a Highlands permitting review  
16 approval issued pursuant to section 35 of this act, or any rule or  
17 regulation adopted pursuant to sections 32 and 33 of this act.

18 i. All penalties collected pursuant to this section shall either be  
19 used, as determined by the council, by the department for the  
20 acquisition of lands in the preservation area or by any development  
21 transfer bank used or established by the council to purchase  
22 development potential in the preservation area.

23

24 37. (New section) Notwithstanding the provisions P.L.1987, c.156  
25 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant  
26 thereto, to the contrary, major development as defined in section 3 of  
27 P.L. , c. (C. ) (now before the Legislature as this bill) that  
28 includes a regulated activity as defined in section 3 of P.L.1987, c.156  
29 (C.13:9B-3) in a freshwater wetland or freshwater wetland transition  
30 area located wholly or partially in the Highlands preservation area as  
31 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
32 as this bill) shall also be regulated pursuant to sections 31 through 36  
33 of P.L. , c. (C. ) (now before the Legislature as this bill).

34

35 38. (New section) Notwithstanding the provisions of subsection  
36 a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or  
37 regulation adopted pursuant thereto, to the contrary, the Department  
38 of Environmental Protection, pursuant to section 33 of P.L. , c.  
39 (C. ) (now before the Legislature as this bill), shall establish a permit  
40 system to provide for review of allocations or reallocations of waters  
41 of the Highlands, as defined in section 3 of P.L. , c. (C. ) (now  
42 before the Legislature as this bill), to provide for the issuance of  
43 permits for diversions either individually or cumulatively of more than  
44 50,000 gallons per day of waters of the Highlands in the Highlands  
45 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
46 before the Legislature as this bill).

1       39. (New section) Notwithstanding the provisions of the "Water  
2 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the  
3 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
4 or any rule or regulation adopted pursuant thereto, to the contrary, the  
5 Department of Environmental Protection, pursuant to section 33 of  
6 P.L. , c. (C. ) (now before the Legislature as this bill), shall  
7 establish a septic system density standard at a level to prevent the  
8 degradation of water quality, or to require the restoration of water  
9 quality, and to protect ecological uses from individual, secondary, and  
10 cumulative impacts, in consideration of deep aquifer recharge available  
11 for dilution, which standard shall be applied to any major development  
12 as defined in section 3 of P.L. , c. (C. ) (now before the  
13 Legislature as this bill) located wholly or partially within the Highlands  
14 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
15 before the Legislature as this bill).

16

17       40. (New section) Notwithstanding the provisions of the "Safe  
18 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any  
19 rule or regulation adopted pursuant thereto, to the contrary, the  
20 Department of Environmental Protection, pursuant to section 33 of  
21 P.L. , c. (C. ) (now before the Legislature as this bill), within the  
22 Highlands preservation area as defined in section 3 of P.L. , c.  
23 (C. ) (now before the Legislature as this bill), shall limit or prohibit  
24 the construction of new public water systems or the extension of  
25 existing public water systems, except in the case of a demonstrated  
26 need to protect public health and safety.

27

28       41. (New section) Notwithstanding the provisions of the "Water  
29 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the  
30 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
31 or any rule or regulation adopted pursuant thereto, to the contrary,  
32 within the Highlands preservation area as defined in section 3 of  
33 P.L. , c. (C. ) (now before the Legislature as this bill),  
34 designated sewer service areas for which wastewater collection  
35 systems have not been installed on the date of enactment of P.L. ,  
36 c. (C. ) (now before the Legislature as this bill) are hereby  
37 revoked, and any associated treatment works approvals in the  
38 impacted areas shall expire on the date of enactment of P.L. , c.  
39 (C. ) (now before the Legislature as this bill), and the Department of  
40 Environmental Protection shall implement measures to amend any  
41 water quality management plan as appropriate to reflect the revocation  
42 of designated sewer service areas pursuant to this section.

43

44       42. (New section) Notwithstanding the provisions of the "Flood  
45 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), or  
46 any rule or regulation adopted pursuant thereto, to the contrary, the

1 Department of Environmental Protection, pursuant to section 33 of  
2 P.L. , c. (C. ) (now before the Legislature as this bill), shall  
3 establish a zero net fill requirement within any flood hazard area  
4 located wholly or partially within the Highlands preservation area as  
5 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
6 as this bill).

7  
8 43. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
9 as follows:

10 24. a. Any landowner applying to the board to sell a development  
11 easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall  
12 offer to sell the development easement at a price which, in the opinion  
13 of the landowner, represents a fair value of the development potential  
14 of the land for nonagricultural purposes, as determined in accordance  
15 with the provisions of [this act] P.L.1983, c.32 (C.4:1C-11 et seq.).

16 b. Any offer shall be reviewed and evaluated by the board and the  
17 committee in order to determine the suitability of the land for  
18 development easement purchase. Decisions regarding suitability shall  
19 be based on the following criteria:

20 (1) Priority consideration shall be given, in any one county, to  
21 offers with higher numerical values obtained by applying the following  
22 formula:

23  
24 nonagricultural - agricultural - landowner's  
25 developmental value value asking price  
26 -----  
27 nonagricultural - agricultural  
28 development value value  
29

30 (2) The degree to which the purchase would encourage the  
31 survivability of the municipally approved program in productive  
32 agriculture; and

33 (3) The degree of imminence of change of the land from productive  
34 agriculture to nonagricultural use.

35 The board and the committee shall reject any offer for the sale of  
36 development easements which is unsuitable according to the above  
37 criteria and which has not been approved by the board and the  
38 municipality.

39 c. Two independent appraisals paid for by the board shall be  
40 conducted for each parcel of land so offered and deemed suitable. The  
41 appraisals shall be conducted by independent, professional appraisers  
42 selected by the board and the committee from among members of  
43 recognized organizations of real estate appraisers. The appraisals shall  
44 determine the current overall value of the parcel for nonagricultural  
45 purposes, as well as the current market value of the parcel for  
46 agricultural purposes. The difference between the two values shall

1 represent an appraisal of the value of the development easement. If  
2 Burlington County or a municipality therein has established a  
3 development transfer bank pursuant to the provisions of P.L.1989,  
4 c.86 (C.40:55D-113 et seq.) or the Highlands Water Protection and  
5 Planning Council has established a development transfer bank pursuant  
6 to section 13 of P.L. , c. (C. ) (now before the Legislature as  
7 this bill), the municipal average of the value of the development  
8 potential of property in a sending zone established by the bank may be  
9 the value used by the board in determining the value of the  
10 development easement. If a development easement is purchased using  
11 moneys appropriated from the fund, the State shall provide no more  
12 than 80%, except 100% under emergency conditions specified by the  
13 committee pursuant to rules or regulations, of the cost of the  
14 appraisals conducted pursuant to this section.

15 d. Upon receiving the results of the appraisals, or in Burlington  
16 county or a municipality therein or elsewhere where a municipal  
17 average has been established under [P.L.1989, c.86 (C.40:55D-113 et  
18 seq.)] subsection c. of this section, upon receiving an application from  
19 the landowners, the board and the committee shall compare the  
20 appraised value, or the municipal average, as the case may be, and the  
21 landowner's offer and, pursuant to the suitability criteria established in  
22 subsection b. of this section:

23 (1) Approve the application to sell the development easement and  
24 rank the application in accordance with the criteria established in  
25 subsection b. of this section; or

26 (2) Disapprove the application, stating the reasons therefor.

27 e. Upon approval by the committee and the board, the secretary is  
28 authorized to provide the board, within the limits of funds  
29 appropriated therefor, an amount equal to no more than 80%, except  
30 100% under emergency conditions specified by the committee  
31 pursuant to rules or regulations, of the purchase price of the  
32 development easement, as determined pursuant to the provisions of  
33 this section. The board shall provide its required share and accept the  
34 landowner's offer to sell the development easement. The acceptance  
35 shall cite the specific terms, contingencies and conditions of the  
36 purchase.

37 f. The landowner shall accept or reject the offer within 30 days of  
38 receipt thereof. Any offer not accepted within that time shall be  
39 deemed rejected.

40 g. Any landowner whose application to sell a development  
41 easement has been rejected for any reason other than insufficient funds  
42 may not reapply to sell a development easement on the same land  
43 within two years of the original application.

44 h. No development easement shall be purchased at a price greater  
45 than the appraised value determined pursuant to subsection c. of this  
46 section or the municipal average, as the case may be.

1 i. The appraisals conducted pursuant to this section or the fair  
2 market value of land restricted to agricultural use shall not be used to  
3 increase the assessment and taxation of agricultural land pursuant to  
4 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
5 et seq.).

6 j. (1) In determining the suitability of land for development  
7 easement purchase, the board and the committee may also include as  
8 additional factors for consideration the presence of a historic building  
9 or structure on the land and the willingness of the landowner to  
10 preserve that building or structure, but only if the committee first  
11 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
12 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
13 subsection. The committee may, by rule or regulation adopted  
14 pursuant to the "Administrative Procedure Act," assign any such  
15 weight it deems appropriate to be given to these factors.

16 (2) The provisions of paragraph (1) of this subsection may also be  
17 applied in determining the suitability of land for fee simple purchase  
18 for farmland preservation purposes as authorized by P.L.1983, c.31  
19 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
20 c.152 (C.13:8C-1 et seq.).

21 (3) (a) For the purposes of paragraph (1) of this subsection:  
22 "historic building or structure" means the same as that term is defined  
23 pursuant to subsection c. of section 2 of P.L.2001, c.405  
24 (C.13:8C-40.2).

25 (b) For the purposes of paragraph (2) of this subsection, "historic  
26 building or structure" means the same as that term is defined pursuant  
27 to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).  
28 (cf: P.L.2001, c.405, s.3)

29  
30 44. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read  
31 as follows:

32 29. Nothing herein contained shall be construed to prohibit the  
33 creation of a municipally approved program or other farmland  
34 preservation program, the purchase of development easements, or the  
35 extension of any other benefit herein provided on land, and to owners  
36 thereof, in the Pinelands area, as defined pursuant to section 3 of P.L.  
37 1979, c. 111 (C. 13:18A-3), or in the Highlands Region, as defined in  
38 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
39 bill) .

40 (cf: P.L.1983, c.32, s.29)

41  
42 45. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read  
43 as follows:

44 4. The board shall have the following powers:

45 a. To purchase, or to provide matching funds for the purchase of  
46 80% of, the value of development potential and to otherwise facilitate



1 development transfers, from the owner of record of the property from  
2 which the development potential is to be transferred or from any  
3 person, or entity, public or private, holding the interest in development  
4 potential that is subject to development transfer; provided that, in the  
5 case of providing matching funds for the purchase of 80% of the value  
6 of development potential, the remaining 20% of that value is  
7 contributed by the affected municipality or county, or both, after  
8 public notice thereof in the New Jersey Register and in one newspaper  
9 of general circulation in the area affected by the purchase. The  
10 remaining 20% of the value of the development potential to be  
11 contributed by the affected municipality or county, or both, to match  
12 funds provided by the board, may be obtained by purchase from, or  
13 donation by, the owner of record of the property from which the  
14 development potential is to be transferred or from any person, or  
15 entity, public or private, holding the interest in development potential  
16 that is subject to development transfer. The value of development  
17 potential may be determined by either appraisal, municipal averaging  
18 based upon appraisal data, or by a formula supported by appraisal  
19 data. The board may also engage in development transfer by sale,  
20 exchange, or other method of conveyance, provided that in doing so,  
21 the board shall not substantially impair the private sale, exchange or  
22 other method of conveyance of development potential. The board may  
23 not, nor shall anything in this act be construed as permitting the board  
24 to, engage in development transfer from one municipality to another,  
25 which transfer is not in accordance with the ordinances of both  
26 municipalities;

27 b. To adopt and, from time to time, amend or repeal suitable  
28 bylaws for the management of its affairs;

29 c. To adopt and use an official seal and alter that seal at its  
30 pleasure;

31 d. To apply for, receive, and accept, from any federal, State, or  
32 other public or private source, grants or loans for, or in aid of, the  
33 board's authorized purposes;

34 e. To enter into any agreement or contract, execute any legal  
35 document, and perform any act or thing necessary, convenient, or  
36 desirable for the purposes of the board or to carry out any power  
37 expressly given in this act;

38 f. To adopt, pursuant to the "Administrative Procedure Act,"  
39 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary  
40 to implement the provisions of this act;

41 g. To call to its assistance and avail itself of the services of the  
42 employees of any State, county, or municipal department, board,  
43 commission, or agency as may be required and made available for  
44 these purposes;

45 h. To retain such staff as may be necessary in the career service  
46 and to appoint an executive director thereof. The executive director

1 shall serve as a member of the senior executive or unclassified service  
2 and may be appointed without regard to the provisions of Title 11A of  
3 the New Jersey Statutes;

4 i. To review and analyze innovative techniques that may be  
5 employed to maximize the total acreage reserved through the use of  
6 perpetual easements;

7 j. To provide, through the State TDR Bank, a financial guarantee  
8 with respect to any loan to be extended to any person that is secured  
9 using development potential as collateral for the loan. Financial  
10 guarantees provided under this act shall be in accordance with  
11 procedures, terms and conditions, and requirements, including rights  
12 and obligations of the parties in the event of default on any loan  
13 secured in whole or in part using development potential as collateral,  
14 to be established by rule or regulation adopted by the board pursuant  
15 to the "Administrative Procedure Act";

16 k. To enter into agreement with the State Agriculture Development  
17 Committee for the purpose of acquiring development potential through  
18 the acquisition of development easements on farmland so that the  
19 board may utilize the existing processes, procedures, and capabilities  
20 of the State Agriculture Development Committee as necessary and  
21 appropriate to accomplish the goals and objectives of the board as  
22 provided for pursuant to this act;

23 l. To enter into agreements with other State agencies or entities  
24 providing services and programs authorized by law so that the board  
25 may utilize the existing processes, procedures, and capabilities of those  
26 other agencies or entities as necessary and appropriate to accomplish  
27 the goals and objectives of the board as provided for pursuant to this  
28 act; [and]

29 m. To provide planning assistance grants to municipalities that  
30 have adopted viable development transfer ordinances, as determined  
31 by the board, for up to 50% of the cost of planning associated with  
32 such an ordinance and incurred by a municipality, or \$10,000,  
33 whichever is less, which grants shall be made utilizing moneys  
34 deposited into the bank pursuant to section 8 of [this act] P.L.1993,  
35 c.339;

36 n. To provide funding to any development transfer bank that may  
37 be established by the Highlands Water Protection and Planning Council  
38 pursuant to section 13 of P.L. , c. (C. ) (now before the  
39 Legislature as this bill), for (1) the purchase of development potential  
40 by the Highlands development transfer bank, and (2) the council to  
41 provide planning assistance grants to municipalities in the Highlands  
42 Region that are participating in a transfer of development rights  
43 program implemented by the council pursuant to section 13 of P.L. ,  
44 c. (C. ) (now before the Legislature as this bill) in such amounts as  
45 the council deems appropriate notwithstanding any provision of  
46 subsection m. of this section or of section 8 of P.L.1993, c.339 to the

1 contrary; and

2 o. To serve as a development transfer bank for the Highlands  
3 Region if requested to do so by the Highlands Water Protection and  
4 Planning Council pursuant to section 13 of P.L. , c. (C. ) (now  
5 before the Legislature as this bill) .

6 (cf: P.L.1993, c.339, s.4)

7

8 46. Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is amended  
9 to read as follows:

10 11. Subject to the provisions of Title [11 of the Revised] 11A of  
11 the New Jersey Statutes, and within the limits of funds appropriated  
12 or otherwise made available, the commissioner may appoint any officer  
13 or employee to the department necessary to carry out the provisions  
14 of [this act] P.L.1983, c.560 (C.13:1B-15.133 et seq.) , fix and  
15 determine their qualifications, which may include a knowledge of and  
16 familiarity with the pinelands area or the Highlands Region and the  
17 residents thereof.

18 (cf: P.L.1983, c.560, s.11)

19

20 47. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to  
21 read as follows:

22 1. The Department of Environmental Protection, in cooperation  
23 with the Division of Travel and Tourism in the [Department of] New  
24 Jersey Commerce and Economic [Development] Growth Commission,  
25 [and] in consultation with the Pinelands Commission as it affects the  
26 pinelands area designated pursuant to section 10 of P.L.1979, c.111  
27 (C.13:18A-11), and in consultation with the Highlands Water  
28 Protection and Planning Council as it affects the Highlands Region  
29 designated pursuant to section 7 of P.L. , c. (C. ) (now before  
30 the Legislature as this bill), shall establish a natural resources  
31 inventory, using the Geographic Information System, for the purpose  
32 of encouraging ecologically based tourism and recreation in New  
33 Jersey. This inventory shall contain information on New Jersey's  
34 natural, historic, and recreational resources, and shall include, to the  
35 greatest extent possible, but need not be limited to, federal, State,  
36 county and local parks, wildlife management areas, hatcheries, natural  
37 areas, historic sites, State forests, recreational areas, ecological and  
38 biological study sites, reservoirs, marinas, boat launches,  
39 campgrounds, waterfront access points, winter sports recreation areas,  
40 and national wildlife refuges.

41 (cf: P.L.1997, c.64, s.1)

42

43 48. Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to read  
44 as follows:

45 1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall  
46 not apply in the case of conveyances by the State or the department

1 involving an exchange of lands within the pinelands area, as defined in  
2 section 10 of P.L.1979, c.111 (C.13:18A-11), or within the  
3 Hackensack Meadowlands District, as defined in section 4 of  
4 P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as  
5 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
6 as this bill), to the federal government or any agency or entity thereof,  
7 another State agency or entity, or a local unit, provided the lands to be  
8 conveyed are used for recreation or conservation purposes, shall  
9 continue to be used for recreation or conservation purposes and it has  
10 been determined pursuant to subsection c. of this section that the  
11 proposed recreation and conservation purposes for the lands do not  
12 significantly alter the ecological and environmental value of the lands  
13 being exchanged.

14 b. Prior to any conveyance of lands that is exempted from the  
15 provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
16 subsection a. of this section, the Department of Environmental  
17 Protection shall conduct at least one public hearing on the proposed  
18 conveyance in the municipality in which the lands proposed to be  
19 conveyed are located. The local unit proposing the recreation or  
20 conservation use of the lands being exchanged shall present its  
21 proposal for the use of the lands being exchanged at the public  
22 hearing, including a description of the proposed recreation or  
23 conservation use of the lands and any proposed alterations to the lands  
24 for the recreation or conservation purposes.

25 c. As a condition of any conveyance of lands that is exempted from  
26 the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
27 subsection a. of this section, and prior to any public hearing required  
28 pursuant to subsection b. of this section, the Pinelands Commission,  
29 **[or] the [Hackensack] New Jersey Meadowlands [Development]**  
30 **Commission, or the Highlands Water Protection and Planning Council,**  
31 as appropriate, after consultation with the local units in which the  
32 lands to be conveyed are located, shall determine that the proposed  
33 recreation or conservation purpose does not significantly alter the  
34 ecological and environmental value of the lands being exchanged. The  
35 appropriate commission or council shall determine that the proposed  
36 recreation or conservation purpose does not significantly alter the  
37 ecological and environmental value of the lands being exchanged, if:

38 (1) the appropriate commission or council determines that any  
39 proposed recreation or conservation use of the lands being exchanged  
40 is consistent with the law, rules and regulations governing the  
41 protection and development of the pinelands area or pinelands  
42 preservation area, as appropriate and as defined in section 10 of  
43 P.L.1979, c.111 (C.13:18A-11), **[or] the Hackensack Meadowlands**  
44 **District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or the**  
45 **Highlands Region, as defined in section 3 of P.L. , c. (C. ) (now**  
46 **before the Legislature as this bill), and the requirements of the law,**

1 rules or regulations have been met to the satisfaction of the  
2 appropriate commission or council; and

3 (2) a portion of the lands would be maintained in an undeveloped  
4 or pre-conveyance state and no wetlands would be negatively affected  
5 in violation of State or federal law, or any rules or regulations adopted  
6 pursuant thereto.

7 The determinations required pursuant to this subsection shall be  
8 made available to the public at the time of the public hearing required  
9 pursuant to subsection b. of this section.

10 d. For the purposes of this section, "local unit" means a  
11 municipality, county, or other political subdivision of the State, or any  
12 agency thereof authorized to administer, protect, develop and maintain  
13 lands for recreation and conservation purposes.

14 (cf: P.L.1995, c.306, s.1)

15

16 49. Section 18 of P.L.1985, c.432 (C.13:1M-18) is amended to  
17 read as follows:

18 18. a. Nothing in this act shall be construed to supersede or  
19 prohibit the adoption, by the governing body of any [county or]  
20 municipality or county, of any ordinance or resolution regulating or  
21 prohibiting the exploration beyond the reconnaissance phase, drilling  
22 for and the extraction of oil and natural gas. As used in this section,  
23 "reconnaissance" means:

24 (1) A geologic and mineral resource appraisal of a region by  
25 searching and analyzing published literature, aerial photography, and  
26 geologic maps;

27 (2) Use of geophysical, geochemical, and remote sensing techniques  
28 that do not involve road building, land clearing or the introduction of  
29 chemicals to a land or water area;

30 (3) Surface geologic, topographic or other mapping and property  
31 surveying; or

32 (4) Sample collections which do not involve excavation or drilling  
33 equipment or the introduction of chemicals to land or water area.

34 b. A municipality or county shall submit a copy of any ordinance  
35 or regulation specifically pertaining to activities regulated by this act,  
36 or a rule or regulation promulgated pursuant to this act, to the  
37 department.

38 c. The department shall, within 90 days of submittal, approve or  
39 disapprove any ordinance or regulation submitted pursuant to  
40 subsection b. of this section. An ordinance or regulation shall be  
41 disapproved only if the department finds it unreasonable and provides  
42 in writing its reasons for the finding. The failure of the department to  
43 act within 90 days of submittal shall constitute approval.

44 d. Nothing in this section shall be construed to limit the authority  
45 of a municipality or county or board of health to enact ordinances or  
46 regulations of general applicability to all industrial or commercial

1 activities, including, but not limited to, ordinances and regulations  
2 limiting noise, light, and odor.

3 e. The department shall not approve any ordinance or regulation  
4 submitted pursuant to subsection b. of this section which governs  
5 activities within the Pinelands area designated in the "Pinelands  
6 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the  
7 Pinelands Commission has approved the ordinance or regulation. The  
8 department shall not disapprove an ordinance or regulation, or portion  
9 thereof, which has been certified by the Pinelands Commission as  
10 consistent with the requirements of the Comprehensive Management  
11 Plan as required by the "Pinelands Protection Act."

12 f. The department shall not approve any ordinance or regulation  
13 submitted pursuant to subsection b. of this section which governs  
14 activities within the Highlands preservation area designated in the  
15 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
16 (now before the Legislature as this bill), unless the Highlands Water  
17 Protection and Planning Council has approved the ordinance or  
18 regulation. The department shall not disapprove an ordinance or  
19 regulation, or portion thereof, which has been certified by the  
20 Highlands Water Protection and Planning Council as consistent with  
21 the requirements of the Highlands regional master plan as required by  
22 the "Highlands Water Protection and Planning Act."

23 (cf: P.L.1985, c.432, s.18)

24

25 50. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to  
26 read as follows:

27 25. Within one year after the date of enactment of this act, and  
28 biennially thereafter until and including 2008, the Garden State  
29 Preservation Trust, after consultation with the Department of  
30 Environmental Protection, the State Agriculture Development  
31 Committee, the New Jersey Historic Trust, the Pinelands Commission,  
32 the Highlands Water Protection and Planning Council, and the Office  
33 of State Planning in the Department of Community Affairs, shall  
34 prepare and submit to the Governor and the Legislature a written  
35 report, which shall:

36 a. Describe the progress being made on achieving the goals and  
37 objectives of Article VIII, Section II, paragraph 7 of the State  
38 Constitution and this act with respect to the acquisition and  
39 development of lands for recreation and conservation purposes, the  
40 preservation of farmland, and the preservation of historic properties,  
41 and provide recommendations with respect to any legislative,  
42 administrative, or local action that may be required to ensure that  
43 those goals and objectives may be met in the future;

44 b. Tabulate, both for the reporting period and cumulatively, the  
45 total acreage for the entire State, and the acreage in each county and  
46 municipality, of lands acquired for recreation and conservation

1 purposes and of farmland preserved for farmland preservation  
2 purposes that have been applied toward meeting the goals and  
3 objectives of Article VIII, Section II, paragraph 7 of the State  
4 Constitution and this act with respect to the acquisition of lands for  
5 recreation and conservation purposes and the preservation of farmland;

6 c. Tabulate, both for the reporting period and cumulatively, the  
7 total acreage for the entire State, and the acreage in each county and  
8 municipality, of any donations of land that have been applied toward  
9 meeting the goals and objectives of Article VIII, Section II, paragraph  
10 7 of the State Constitution and this act with respect to the acquisition  
11 of lands for recreation and conservation purposes and the preservation  
12 of farmland;

13 d. List, both for the reporting period and cumulatively, and by  
14 project name, project sponsor, and location by county and  
15 municipality, all historic preservation projects funded with  
16 constitutionally dedicated moneys in whole or in part;

17 e. Indicate those areas of the State where, as designated by the  
18 Department of Environmental Protection in the Open Space Master  
19 Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1),  
20 the acquisition and development of lands by the State for recreation  
21 and conservation purposes is planned or is most likely to occur, and  
22 those areas of the State where there is a need to protect water  
23 resources, including the identification of lands where protection is  
24 needed to assure adequate quality and quantity of drinking water  
25 supplies in times of drought, indicate those areas of the State where  
26 the allocation of constitutionally dedicated moneys for farmland  
27 preservation purposes is planned or is most likely to occur, and  
28 provide a proposed schedule and expenditure plan for those  
29 acquisitions, developments, and allocations, for the next reporting  
30 period, which shall include an explanation of how those acquisitions,  
31 developments, and allocations will be distributed throughout all  
32 geographic regions of the State to the maximum extent practicable and  
33 feasible;

34 f. List any surplus real property owned by the State or an  
35 independent authority of the State that may be utilizable for recreation  
36 and conservation purposes or farmland preservation purposes, and  
37 indicate what action has been or must be taken to effect a conveyance  
38 of those lands to the department, the committee, local government  
39 units, qualifying tax exempt nonprofit organizations, or other entities  
40 or persons so that the lands may be preserved and used for those  
41 purposes;

42 g. List, for the reporting period, all projects for which applications  
43 for funding under the Green Acres, farmland preservation, and historic  
44 preservation programs were received but not funded with  
45 constitutionally dedicated moneys during the reporting period, and the  
46 reason or reasons why those projects were not funded;

1 h. Provide, for the reporting period, a comparison of the amount  
2 of constitutionally dedicated moneys annually appropriated for local  
3 government unit projects for recreation and conservation purposes in  
4 municipalities eligible to receive State aid pursuant to P.L.1978, c.14  
5 (C.52:27D-178 et seq.) to the average amount of Green Acres bond  
6 act moneys annually appropriated for such projects in the years 1984  
7 through 1998; and

8 i. Tabulate, both for the reporting period and cumulatively, the  
9 total acreage for the entire State, and the acreage in each county and  
10 municipality, of lands acquired for recreation and conservation  
11 purposes that protect water resources and that protect flood-prone  
12 areas.

13 (cf: P.L.2002, c.76, s.3)

14  
15 51. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to read  
16 as follows:

17 5. a. Within one year after the date of enactment of P.L.2002, c.76  
18 (C.13:8C-25.1 et al.), and annually thereafter, the Department of  
19 Environmental Protection, in consultation with the Office of State  
20 Planning in the Department of Community Affairs [and], the Pinelands  
21 Commission, and the Highlands Water Protection and Planning  
22 Council, shall prepare and submit to the Governor and the Legislature  
23 an Open Space Master Plan, which shall indicate those areas of the  
24 State where the acquisition and development of lands by the State for  
25 recreation and conservation purposes is planned or is most likely to  
26 occur, and those areas of the State where there is a need to protect  
27 water resources, including the identification of lands where protection  
28 is needed to assure adequate quality and quantity of drinking water  
29 supplies in times of drought, and which shall provide a proposed  
30 schedule and expenditure plan for those acquisitions and developments  
31 for the next reporting period, which shall include an explanation of  
32 how those acquisitions and developments will be distributed  
33 throughout all geographic regions of the State to the maximum extent  
34 practicable and feasible.

35 b. The department shall provide any information the Garden State  
36 Preservation Trust deems necessary in preparing its biennial report  
37 pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

38 (cf: P.L.2002, c.76, s.5)

39  
40 52. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to  
41 read as follows:

42 26. a. Moneys appropriated from the Garden State Green Acres  
43 Preservation Trust Fund to the Department of Environmental  
44 Protection shall be used by the department to:

45 (1) Pay the cost of acquisition and development of lands by the  
46 State for recreation and conservation purposes;



1 (2) Provide grants and loans to assist local government units to pay  
2 the cost of acquisition and development of lands for recreation and  
3 conservation purposes; and

4 (3) Provide grants to assist qualifying tax exempt nonprofit  
5 organizations to pay the cost of acquisition and development of lands  
6 for recreation and conservation purposes.

7 b. The expenditure and allocation of constitutionally dedicated  
8 moneys for recreation and conservation purposes shall reflect the  
9 geographic diversity of the State to the maximum extent practicable  
10 and feasible.

11 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,  
12 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted  
13 pursuant thereto, to the contrary, the value of a pinelands development  
14 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1  
15 et seq.) and the pinelands comprehensive management plan adopted  
16 pursuant thereto, shall be made utilizing a value to be determined by  
17 either appraisal, regional averaging based upon appraisal data, or a  
18 formula supported by appraisal data. The appraisal and appraisal data  
19 shall consider as appropriate: land values in the pinelands regional  
20 growth areas; land values in counties, municipalities, and other areas  
21 reasonably contiguous to, but outside of, the pinelands area; and other  
22 relevant factors as may be necessary to maintain the environmental,  
23 ecological, and agricultural qualities of the pinelands area.

24 (2) No pinelands development credit allocated to a parcel of land  
25 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands  
26 comprehensive management plan adopted pursuant thereto that is  
27 acquired or obtained in connection with the acquisition of the parcel  
28 for recreation and conservation purposes by the State, a local  
29 government unit, or a qualifying tax exempt nonprofit organization  
30 using constitutionally dedicated moneys in whole or in part may be  
31 conveyed in any manner. All such pinelands development credits shall  
32 be retired permanently.

33 d. (1) (a) For State fiscal years 2000 through 2004 only, when the  
34 department, a local government unit, or a qualifying tax exempt  
35 nonprofit organization seeks to acquire lands for recreation and  
36 conservation purposes using constitutionally dedicated moneys in  
37 whole or in part or Green Acres bond act moneys in whole or in part,  
38 it shall conduct or cause to be conducted an appraisal or appraisals of  
39 the value of the lands that shall be made using the land use zoning of  
40 the lands (i) in effect at the time of proposed acquisition, and (ii) in  
41 effect on November 3, 1998 as if that land use zoning is still in effect  
42 at the time of proposed acquisition. The higher of those two values  
43 shall be utilized by the department, a local government unit, or a  
44 qualifying tax exempt nonprofit organization as the basis for  
45 negotiation with the landowner with respect to the acquisition price  
46 for the lands. The landowner shall be provided with both values

1 determined pursuant to this subparagraph.

2 A landowner may waive any of the requirements of this paragraph  
3 and may agree to sell the lands for less than the values determined  
4 pursuant to this paragraph.

5 (b) After the date of enactment of P.L.2001, c.315 and through  
6 June 30, 2004, in determining the two values required pursuant to  
7 subparagraph (a) of this paragraph, the appraisal shall be made using  
8 not only the land use zoning but also the Department of Environmental  
9 Protection wastewater, water quality and watershed management rules  
10 and regulations and associated requirements and standards applicable  
11 to the lands subject to the appraisal (i) in effect at the time of  
12 proposed acquisition, and (ii) in effect on November 3, 1998 as if  
13 those rules and regulations and associated requirements and standards  
14 are still in effect at the time of proposed acquisition.

15 (2) The requirements of this subsection shall be in addition to any  
16 other requirements of law, rule, or regulation not inconsistent  
17 therewith.

18 (3) This subsection shall not:

19 (a) apply if the land use zoning of the lands at the time of proposed  
20 acquisition, and the Department of Environmental Protection  
21 wastewater, water quality and watershed management rules and  
22 regulations and associated requirements and standards applicable to  
23 the lands at the time of proposed acquisition, have not changed since  
24 November 3, 1998;

25 (b) apply in the case of lands to be acquired with federal moneys  
26 in whole or in part;

27 (c) apply in the case of lands to be acquired in accordance with  
28 subsection c. of this section;

29 (d) apply to projects funded using constitutionally dedicated  
30 moneys appropriated pursuant to the annual appropriations act for  
31 State fiscal year 2000 (P.L.1999, c.138); or

32 (e) alter any requirements to disclose information to a landowner  
33 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
34 (C.20:3-1 et seq.).

35 e. Moneys appropriated from the fund may be used to match  
36 grants, contributions, donations, or reimbursements from federal aid  
37 programs or from other public or private sources established for the  
38 same or similar purposes as the fund.

39 f. Moneys appropriated from the fund shall not be used by local  
40 government units or qualifying tax exempt nonprofit organizations to  
41 acquire lands that are already permanently preserved for recreation and  
42 conservation purposes, as determined by the department.

43 g. Whenever lands are donated to the State by a public utility, as  
44 defined pursuant to Title 48 of the Revised Statutes, for recreation and  
45 conservation purposes, the commissioner may make and keep the lands  
46 accessible to the public, unless the commissioner determines that

1 public accessibility would be detrimental to the lands or any natural  
2 resources associated therewith.

3 h. Whenever the State acquires land for recreation and conservation  
4 purposes, the agency in the Department of Environmental Protection  
5 responsible for administering the land shall, within six months after the  
6 date of acquisition, inspect the land for the presence of any buildings  
7 or structures thereon which are or may be historic properties and,  
8 within 60 days after completion of the inspection, provide to the New  
9 Jersey Historic Preservation Office in the department (1) a written  
10 notice of its findings, and (2) for any buildings or structures which are  
11 or may be historic properties discovered on the land, a request for  
12 determination of potential eligibility for inclusion of the historic  
13 building or structure in the New Jersey Register of Historic Places.  
14 Whenever such a building or structure is discovered, a copy of the  
15 written notice provided to the New Jersey Historic Preservation Office  
16 shall also be sent to the New Jersey Historic Trust and to the county  
17 historical commission or advisory committee, the county historical  
18 society, the local historic preservation commission or advisory  
19 committee, and the local historical society if any of those entities exist  
20 in the county or municipality wherein the land is located.

21 i. (1) Commencing July 1, 2004 and until five years after the date  
22 of enactment of P.L.2001, c.315, when the department, a local  
23 government unit, or a qualifying tax exempt nonprofit organization  
24 seeks to acquire lands for recreation and conservation purposes using  
25 constitutionally dedicated moneys in whole or in part or Green Acres  
26 bond act moneys in whole or in part, it shall conduct or cause to be  
27 conducted an appraisal or appraisals of the value of the lands that shall  
28 be made using the Department of Environmental Protection  
29 wastewater, water quality and watershed management rules and  
30 regulations and associated requirements and standards applicable to  
31 the lands subject to the appraisal (a) in effect at the time of proposed  
32 acquisition, and (b) in effect on November 3, 1998 as if those rules and  
33 regulations and associated requirements and standards are still in effect  
34 at the time of proposed acquisition. The higher of those two values  
35 shall be utilized by the department, a local government unit, or a  
36 qualifying tax exempt nonprofit organization as the basis for  
37 negotiation with the landowner with respect to the acquisition price  
38 for the lands. The landowner shall be provided with both values  
39 determined pursuant to this paragraph. A landowner may waive any  
40 of the requirements of this paragraph and may agree to sell the lands  
41 for less than the values determined pursuant to this paragraph.

42 (2) The requirements of this subsection shall be in addition to any  
43 other requirements of law, rule, or regulation not inconsistent  
44 therewith.

45 (3) This subsection shall not:

46 (a) apply if the Department of Environmental Protection

1 wastewater, water quality and watershed management rules and  
2 regulations and associated requirements and standards applicable to  
3 the lands at the time of proposed acquisition have not changed since  
4 November 3, 1998;

5 (b) apply in the case of lands to be acquired with federal moneys  
6 in whole or in part;

7 (c) apply in the case of lands to be acquired in accordance with  
8 subsection c. of this section; or

9 (d) alter any requirements to disclose information to a landowner  
10 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
11 (C.20:3-1 et seq.).

12 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
13 (now before the Legislature as this bill) and until five years after that  
14 date, when the department, a local government unit, or a qualifying tax  
15 exempt nonprofit organization seeks to acquire lands in the Highlands  
16 preservation area for recreation and conservation purposes using  
17 constitutionally dedicated moneys in whole or in part or Green Acres  
18 bond act moneys in whole or in part, it shall conduct or cause to be  
19 conducted an appraisal or appraisals of the value of the lands that shall  
20 be made using (a) the rules and regulations adopted by the Department  
21 of Environmental Protection pursuant to P.L. , c. (C. ) (now before  
22 the Legislature as this bill) and the provisions of section 31 of that act  
23 applicable to the lands subject to the appraisal and in effect at the time  
24 of proposed acquisition, and (b) the rules and regulations adopted by  
25 the Department of Environmental Protection pursuant to any  
26 environmental land use or water law applicable to the lands subject to  
27 the appraisal and in effect on the day before the date of enactment of  
28 P.L. , c. (C. ) (now before the Legislature as this bill). The  
29 higher of those two values shall be utilized by the department, a local  
30 government unit, or a qualifying tax exempt nonprofit organization as  
31 the basis for negotiation with the landowner with respect to the  
32 acquisition price for the lands. The landowner shall be provided with  
33 both values determined pursuant to this paragraph.

34 A landowner may waive any of the requirements of this paragraph  
35 and may agree to sell the lands for less than the values determined  
36 pursuant to this paragraph.

37 The provisions of this paragraph shall be applicable only to lands  
38 the owner of which at the time of proposed acquisition is the same  
39 person who owned the lands on the date of enactment of P.L. , c.  
40 (C. ) (now before the Legislature as this bill) and who has owned the  
41 lands continuously since that enactment date, or is an immediate family  
42 member of that person.

43 (2) A landowner whose lands are subject to the provisions of  
44 paragraph (1) of this subsection shall choose to have the lands  
45 appraised in accordance with this subsection or in accordance with the  
46 provisions of either subsection d. or subsection i. of this section to the

1 extent that the subsection is applicable and has not expired.

2 (3) The requirements of this subsection shall be in addition to any  
3 other requirements of law, rule, or regulation not inconsistent  
4 therewith.

5 (4) This subsection shall not:

6 (a) apply in the case of lands to be acquired with federal moneys  
7 in whole or in part; or

8 (b) alter any requirements to disclose information to a landowner  
9 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
10 (C.20:3-1 et seq.).

11 (5) For the purposes of this subsection:

12 "Environmental land use or water law" means the "Freshwater  
13 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
14 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
15 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
16 et seq.), "The Realty Improvement Sewerage and Facilities Act  
17 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
18 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
19 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the  
20 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
21 seq.);

22 "Highlands preservation area" means the preservation area in the  
23 Highlands Region as defined pursuant to section of P.L. , c. (C. )  
24 (now before the Legislature as this bill); and

25 "Immediate family member" means spouse, child, sibling, aunt,  
26 uncle, niece, nephew, first cousin, grandparent, grandchild,  
27 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,  
28 stepchild, stepbrother, stepsister, half brother, or half sister, whether  
29 the individual is related by blood, marriage, or adoption.

30 [j.] k. The department shall adopt guidelines for the evaluation and  
31 priority ranking process which shall be used in making decisions  
32 concerning the acquisition of lands by the State for recreation and  
33 conservation purposes using moneys from the Garden State Green  
34 Acres Preservation Trust Fund and from any other source. The  
35 guidelines, and any subsequent revisions thereto, shall be published in  
36 the New Jersey Register. The adoption of the guidelines or of the  
37 revisions thereto, shall not be subject to the requirements of the  
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
39 seq.).

40 [k.] l. In making decisions concerning the acquisition of lands by  
41 the State for recreation and conservation purposes using moneys from  
42 the Garden State Green Acres Preservation Trust Fund, in the  
43 evaluation and priority ranking process the department shall accord  
44 three times the weight to acquisitions of lands that would protect  
45 water resources, and two times the weight to acquisitions of lands that  
46 would protect flood-prone areas, as those criteria are compared to the

1 other criteria in the priority ranking process.

2 [l.] m. The department, pursuant to the "Administrative Procedure  
3 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and  
4 regulations that establish standards and requirements regulating any  
5 activity on lands acquired by the State for recreation and conservation  
6 purposes using constitutionally dedicated moneys to assure that the  
7 activity on those lands does not diminish the protection of surface  
8 water or groundwater resources.

9 Any rules and regulations adopted pursuant to this subsection shall  
10 not apply to activities on lands acquired prior to the adoption of the  
11 rules and regulations.

12 (cf: P.L.2002, c.76, s.4)

13

14 53. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to  
15 read as follows:

16 38. a. All acquisitions or grants made pursuant to section 37 of  
17 this act shall be made with respect to farmland devoted to farmland  
18 preservation under programs established by law.

19 b. The expenditure and allocation of constitutionally dedicated  
20 moneys for farmland preservation purposes shall reflect the geographic  
21 diversity of the State to the maximum extent practicable and feasible.

22 c. The committee shall implement the provisions of section 37 of  
23 this act in accordance with the procedures and criteria established  
24 pursuant to the "Agriculture Retention and Development Act,"  
25 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by  
26 this act.

27 d. The committee shall adopt the same or a substantially similar  
28 method for determining, for the purposes of this act, the committee's  
29 share of the cost of a development easement on farmland to be  
30 acquired by a local government as that which is being used by the  
31 committee on the date of enactment of this act for prior farmland  
32 preservation funding programs.

33 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32  
34 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant  
35 thereto, to the contrary, whenever the value of a development  
36 easement on farmland to be acquired using constitutionally dedicated  
37 moneys in whole or in part is determined based upon the value of any  
38 pinelands development credits allocated to the parcel pursuant to  
39 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
40 management plan adopted pursuant thereto, the committee shall  
41 determine the value of the development easement by:

42 (1) conducting a sufficient number of fair market value appraisals  
43 as it deems appropriate to determine the value for farmland  
44 preservation purposes of the pinelands development credits;

45 (2) considering development easement values in counties,  
46 municipalities, and other areas (a) reasonably contiguous to, but

1 outside of, the pinelands area, which in the sole opinion of the  
2 committee constitute reasonable development easement values in the  
3 pinelands area for the purposes of this subsection, and (b) in the  
4 pinelands area where pinelands development credits are or may be  
5 utilized, which in the sole opinion of the committee constitute  
6 reasonable development easement values in the pinelands area for the  
7 purposes of this subsection;

8 (3) considering land values in the pinelands regional growth areas;

9 (4) considering the importance of preserving agricultural lands in  
10 the pinelands area; and

11 (5) considering such other relevant factors as may be necessary to  
12 increase participation in the farmland preservation program by owners  
13 of agricultural lands located in the pinelands area.

14 f. No pinelands development credit that is acquired or obtained in  
15 connection with the acquisition of a development easement on  
16 farmland or fee simple title to farmland by the State, a local  
17 government unit, or a qualifying tax exempt nonprofit organization  
18 using constitutionally dedicated moneys in whole or in part may be  
19 conveyed in any manner. All such pinelands development credits shall  
20 be retired permanently.

21 g. (1) (a) For State fiscal years 2000 through 2004 only, when the  
22 committee, a local government unit, or a qualifying tax exempt  
23 nonprofit organization seeks to acquire a development easement on  
24 farmland or the fee simple title to farmland for farmland preservation  
25 purposes using constitutionally dedicated moneys in whole or in part,  
26 it shall conduct or cause to be conducted an appraisal or appraisals of  
27 the value of the lands that shall be made using the land use zoning of  
28 the lands (i) in effect at the time of proposed acquisition, and (ii) in  
29 effect on November 3, 1998 as if that land use zoning is still in effect  
30 at the time of proposed acquisition. The higher of those two values  
31 shall be utilized by the committee, a local government unit, or a  
32 qualifying tax exempt nonprofit organization as the basis for  
33 negotiation with the landowner with respect to the acquisition price  
34 for the lands. The landowner shall be provided with both values  
35 determined pursuant to this subparagraph.

36 A landowner may waive any of the requirements of this paragraph  
37 and may agree to sell the lands for less than the values determined  
38 pursuant to this paragraph.

39 (b) After the date of enactment of P.L.2001, c.315 and through  
40 June 30, 2004, in determining the two values required pursuant to  
41 subparagraph (a) of this paragraph, the appraisal shall be made using  
42 not only the land use zoning but also the Department of Environmental  
43 Protection wastewater, water quality and watershed management rules  
44 and regulations and associated requirements and standards applicable  
45 to the lands subject to the appraisal (i) in effect at the time of  
46 proposed acquisition, and (ii) in effect on November 3, 1998 as if

1 those rules and regulations and associated requirements and standards  
2 are still in effect at the time of proposed acquisition.

3 (2) The requirements of this subsection shall be in addition to any  
4 other requirements of law, rule, or regulation not inconsistent  
5 therewith.

6 (3) This subsection shall not:

7 (a) apply if the land use zoning of the lands at the time of proposed  
8 acquisition, and the Department of Environmental Protection  
9 wastewater, water quality and watershed management rules and  
10 regulations and associated requirements and standards applicable to  
11 the lands at the time of proposed acquisition, have not changed since  
12 November 3, 1998;

13 (b) apply in the case of lands to be acquired with federal moneys  
14 in whole or in part;

15 (c) apply in the case of lands to be acquired in accordance with  
16 subsection e. of this section;

17 (d) apply to projects funded using constitutionally dedicated  
18 moneys appropriated pursuant to the annual appropriations act for  
19 State fiscal year 2000 (P.L.1999, c.138); or

20 (e) alter any requirements to disclose information to a landowner  
21 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
22 (C.20:3-1 et seq.).

23 h. Any farmland for which a development easement or fee simple  
24 title has been acquired pursuant to section 37 of this act shall be  
25 entitled to the benefits conferred by the "Right to Farm Act,"  
26 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and  
27 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

28 i. (1) Commencing July 1, 2004 and until five years after the date  
29 of enactment of P.L.2001, c.315, when the committee, a local  
30 government unit, or a qualifying tax exempt nonprofit organization  
31 seeks to acquire a development easement on farmland or the fee simple  
32 title to farmland for farmland preservation purposes using  
33 constitutionally dedicated moneys in whole or in part, it shall conduct  
34 or cause to be conducted an appraisal or appraisals of the value of the  
35 lands that shall be made using the Department of Environmental  
36 Protection wastewater, water quality and watershed management rules  
37 and regulations and associated requirements and standards applicable  
38 to the lands subject to the appraisal (a) in effect at the time of  
39 proposed acquisition, and (b) in effect on November 3, 1998 as if  
40 those rules and regulations and associated requirements and standards  
41 are still in effect at the time of proposed acquisition. The higher of  
42 those two values shall be utilized by the committee, a local  
43 government unit, or a qualifying tax exempt nonprofit organization as  
44 the basis for negotiation with the landowner with respect to the  
45 acquisition price for the lands. The landowner shall be provided with  
46 both values determined pursuant to this paragraph. A landowner may



1 waive any of the requirements of this paragraph and may agree to sell  
2 the lands for less than the values determined pursuant to this  
3 paragraph.

4 (2) The requirements of this subsection shall be in addition to any  
5 other requirements of law, rule, or regulation not inconsistent  
6 therewith.

7 (3) This subsection shall not:

8 (a) apply if the Department of Environmental Protection  
9 wastewater, water quality and watershed management rules and  
10 regulations and associated requirements and standards applicable to  
11 the lands at the time of proposed acquisition have not changed since  
12 November 3, 1998;

13 (b) apply in the case of lands to be acquired with federal moneys  
14 in whole or in part;

15 (c) apply in the case of lands to be acquired in accordance with  
16 subsection e. of this section; or

17 (d) alter any requirements to disclose information to a landowner  
18 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
19 (C.20:3-1 et seq.).

20 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
21 (now before the Legislature as this bill) and until five years after that  
22 date, when the committee, a local government unit, or a qualifying tax  
23 exempt nonprofit organization seeks to acquire a development  
24 easement on farmland or the fee simple title to farmland for farmland  
25 preservation purposes in the Highlands preservation area using  
26 constitutionally dedicated moneys in whole or in part, it shall conduct  
27 or cause to be conducted an appraisal or appraisals of the value of the  
28 lands that shall be made using (a) the rules and regulations adopted by  
29 the Department of Environmental Protection pursuant to P.L. , c.  
30 (C. ) (now before the Legislature as this bill) and the provisions of  
31 section 31 of that act applicable to the lands subject to the appraisal  
32 and in effect at the time of proposed acquisition, and (b) the rules and  
33 regulations adopted by the Department of Environmental Protection  
34 pursuant to any environmental land use or water law applicable to the  
35 lands subject to the appraisal and in effect on the day before the date  
36 of enactment of P.L. , c. (C. ) (now before the Legislature as  
37 this bill). The higher of those two values shall be utilized by the  
38 committee, a local government unit, or a qualifying tax exempt  
39 nonprofit organization as the basis for negotiation with the landowner  
40 with respect to the acquisition price for the lands. The landowner shall  
41 be provided with both values determined pursuant to this paragraph.

42 A landowner may waive any of the requirements of this paragraph  
43 and may agree to sell the lands for less than the values determined  
44 pursuant to this paragraph.

45 The provisions of this paragraph shall be applicable only to lands  
46 the owner of which at the time of proposed acquisition is the same

1 person who owned the lands on the date of enactment of P.L. , c.  
2 (C. ) (now before the Legislature as this bill) and who has owned the  
3 lands continuously since that enactment date, is an immediate family  
4 member of that person, or is a farmer as defined by the committee.

5 (2) A landowner whose lands are subject to the provisions of  
6 paragraph (1) of this subsection shall choose to have the lands  
7 appraised in accordance with this subsection or in accordance with the  
8 provisions of either subsection g. or subsection i. of this section to the  
9 extent that the subsection is applicable and has not expired.

10 (3) The requirements of this subsection shall be in addition to any  
11 other requirements of law, rule, or regulation not inconsistent  
12 therewith.

13 (4) This subsection shall not:

14 (a) apply in the case of lands to be acquired with federal moneys in  
15 whole or in part; or

16 (b) alter any requirements to disclose information to a landowner  
17 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
18 (C.20:3-1 et seq.).

19 (5) For the purposes of this subsection:

20 "Environmental land use or water law" means the "Freshwater  
21 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
22 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
23 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
24 et seq.), "The Realty Improvement Sewerage and Facilities Act  
25 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
26 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
27 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the  
28 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
29 seq.);

30 "Highlands preservation area" means the preservation area in the  
31 Highlands Region as defined pursuant to section of P.L. , c. (C. )  
32 (now before the Legislature as this bill); and

33 "Immediate family member" means spouse, child, sibling, aunt,  
34 uncle, niece, nephew, first cousin, grandparent, grandchild,  
35 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,  
36 stepchild, stepbrother, stepsister, half brother, or half sister, whether  
37 the individual is related by blood, marriage, or adoption.

38 [j.] k. The committee and the Department of Environmental  
39 Protection, pursuant to the "Administrative Procedure Act," P.L.1968,  
40 c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations  
41 that establish standards and requirements regulating any improvement  
42 on lands acquired by the State for farmland preservation purposes  
43 using constitutionally dedicated moneys to assure that any  
44 improvement does not diminish the protection of surface water or  
45 groundwater resources.

46 Any rules and regulations adopted pursuant to this subsection shall

1 not apply to improvements on lands acquired prior to the adoption of  
2 the rules and regulations.

3 1. The committee shall consult with and solicit recommendations  
4 from the Highland Water Protection and Planning Council established  
5 pursuant to section 4 of P.L. , c. (C. ) (now before the  
6 Legislature as this bill) concerning farmland preservation strategies  
7 and acquisition plans in the Highlands Region as defined in section 3  
8 of P.L. , c. (C. ) (now before the Legislature as this bill).  
9 (cf: P.L.2002, c.76, s.6)

10

11 54. Section 13 of P.L.1974, c.118 (C.13:13A-13) is amended to  
12 read as follows:

13 13. a. The commission shall prepare, or cause to be prepared, and,  
14 after a public hearing, or public hearings, and pursuant to the  
15 provisions provided for in subsection 13 b. of this act, adopt a master  
16 plan or portion thereof for the physical development of the park, which  
17 plan may include proposals for various stages in the future  
18 development of the park, or amend the master plan. The master plan  
19 shall include a report presenting the objectives, assumptions,  
20 standards and principles which are embodied in the various  
21 interlocking portions of the master plan. The master plan shall be a  
22 composite of the one or more written proposals recommending the  
23 physical development and expansion of the park either in its entirety  
24 or a portion thereof which the commission shall prepare after meetings  
25 with the governing bodies of the affected municipalities and counties,  
26 and any agencies and instrumentalities thereof.

27 b. In preparing the master plan or any portion thereof or  
28 amendment thereto the commission shall give due consideration to:  
29 (1) the function of the canal as a major water supply facility in the  
30 State; (2) the necessity to provide recreational activities to the citizens  
31 of this State, including but not limited to, facilities, design capacities,  
32 and relationship to other available recreational areas; (3) existing  
33 historical sites and potential restorations or compatible development;  
34 (4) the range of uses and potential uses of the canal in the urban  
35 environments of the older, intensively developed communities through  
36 which it passes; and (5) designated wilderness areas to be kept as  
37 undeveloped, limited-access areas restricted to canoeing and hiking.  
38 In preparing the master plan or any portion thereof or amendment  
39 thereto the commission shall consider existing patterns of development  
40 and any relevant master plan or other plan of development, and shall  
41 insure widespread citizen involvement and participation in the planning  
42 process.

43 c. The commission shall act in support of local suggestions or  
44 desires to complement the park master plan. Consultation, planning,  
45 and technical expertise will be made available to local planning bodies  
46 that wish to implement land-use policy to enhance the park area. The

1 commission shall act on or refer complaints by citizens' groups or  
2 private residents who discover hazardous situations, pollution, or  
3 evidence of noncompliance with use regulations.

4 d. The commission shall review and approve, reject or modify, any  
5 State project planned or State permits issued in the park, and submit  
6 its decision to the Governor.

7 e. The commission shall consult with the Highlands Water  
8 Protection and Planning Council, established pursuant to section 4 of  
9 P.L. , c. (C. ) (now before the Legislature as this bill), on any  
10 provision of the park master plan that may impact upon or otherwise  
11 affect the Highlands Region or the Highlands regional master plan, as  
12 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
13 as this bill), and any such provision shall be consistent with the  
14 Highlands regional master plan adopted by the council pursuant to that  
15 act.

16 (cf: P.L.1974, c.118, s.13)

17

18 55. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to  
19 read as follows:

20 14. a. The commission shall determine, after a public hearing, or  
21 public hearings held in Hunterdon, Somerset, Mercer, and Middlesex  
22 counties respectively, the extent and limits of the region to be  
23 designated the review zone. Any subsequent modification of [said]  
24 the review zone shall be made by the commission only after public  
25 hearings in the county or counties in which [such] the modification is  
26 to be made. All public hearings required pursuant to this section shall  
27 be held only after giving prior notice thereof by public advertisement  
28 once each week for [2] two consecutive weeks in such newspaper or  
29 newspapers selected by the chairman of the commission as will best  
30 give notice thereof. The last publication of such notice shall be not  
31 less than 10 days prior to the date set for the hearing.

32 b. The commission shall approve all State actions within the review  
33 zone that impact on the park, and insure that these actions conform as  
34 nearly as possible to the commission's master plan and relevant local  
35 plans or initiatives. The State actions which the commission shall  
36 review will include the operations of the Division of Water Resources  
37 concerning water supply and quality; the Division of Parks and  
38 Forestry in developing recreation facilities; and the activities of any  
39 other State department or agency that might affect the park.

40 c. The commission shall review and approve, reject, or modify any  
41 project within the review zone. The initial application for a proposed  
42 project within the zone shall be submitted by the applicant to the  
43 appropriate municipal reviewing agency. If approved by the agency,  
44 the application shall be sent to the commission for review. The  
45 commission shall review each proposed project in terms of its  
46 conformity with, or divergence from, the objectives of the

1 commission's master plan and shall: (1) advise the appropriate  
2 municipal reviewing agency that the project can proceed as proposed;  
3 (2) reject the application and so advise the appropriate municipal  
4 reviewing agency and the governing body of the municipality; or (3)  
5 require modifications or additional safeguards on the part of the  
6 applicant, and return the application to the appropriate municipal  
7 reviewing agency, which shall be responsible for insuring that these  
8 conditions are satisfied before issuing a permit. If no action is taken  
9 by the commission within a period of 45 days from the date of  
10 submission of the application to the commission by the municipal  
11 reviewing agency, this shall constitute an approval by the commission.  
12 The commission's decision shall be final and binding on the  
13 municipality, and the commission may, in the case of any violation or  
14 threat of a violation of a commission's decision by a municipality, or  
15 by the appropriate municipal reviewing agency, as the case may be,  
16 institute civil action (1) for injunctive relief; (2) to set aside and  
17 invalidate a decision made by a municipality in violation of this  
18 subsection; or (3) to restrain, correct or abate such violation. As used  
19 herein: (1) "project" means any structure, land use change, or public  
20 improvements for which a permit from, or determination by, the  
21 municipality is required, which shall include, but not be limited to,  
22 building permits, zoning variances, and excavation permits; and (2)  
23 "agency" means any body or instrumentality of the municipality  
24 responsible for the issuance of permits or the approval of projects, as  
25 herein defined, which shall include, but not be limited to, governing  
26 bodies, planning and zoning boards, building inspectors, managers and  
27 municipal engineers.

28 d. To the extent that any action the commission takes pursuant to  
29 this section may impact upon or otherwise affect the Highlands Region  
30 or the Highlands regional master plan, as defined in section 3 of  
31 P.L. , c. (C. ) (now before the Legislature as this bill), the  
32 commission shall consult with the Highlands Water Protection and  
33 Planning Council, established pursuant to section 4 of P.L. , c.  
34 (C. ) (now before the Legislature as this bill), and any such action  
35 taken shall be consistent with Highland regional master plan adopted  
36 by the council pursuant to that act.

37 (cf: P.L.1974, c.118, s.14)

38

39 56. Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended to read  
40 as follows:

41 2. Any billboard or outdoor advertising sign licensed and permitted  
42 pursuant to the "Roadside Sign Control and Outdoor Advertising  
43 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected  
44 on or above any State right-of-way or any real property of the  
45 department shall be subject to local government zoning ordinances,  
46 applicable local government building permit requirements, and in the

1 pinelands area, shall be subject to the provisions of the comprehensive  
2 management plan prepared and adopted by the Pinelands Commission  
3 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the  
4 Highlands Region, shall be subject to the provisions of the "Highland  
5 Water Protection and Planning Act," P.L. , c. (C. ) (now before  
6 the Legislature as this bill), any rules and regulations adopted pursuant  
7 thereto, and the Highlands regional master plan adopted by the  
8 Highlands Water Protection and Planning Council pursuant to section  
9 8 of that act .

10 (cf: P.L.1997, c.144, s.2)

11

12 57. R.S.32:14-5 is amended to read as follows:

13 32:14-5. a. Palisades Interstate Park Commission shall, from time  
14 to time, select and locate such lands lying between the top or steep  
15 edge of the Palisades or the crest of the slope in places where the steep  
16 Palisade rocks are absent and the high-water line of the Hudson river,  
17 from the New York State line on the north, to a line beginning at the  
18 intersection of the southern line of the old Fort Lee dock or landing  
19 with the high-water line of the Hudson river and running thence in a  
20 westerly direction and at right angles to said high-water line of the  
21 Hudson river to the east side of the river road running from Edgewater  
22 to Fort Lee, in Bergen county, on the south, and such lands or rights  
23 in lands belonging to persons other than the State, as may lie between  
24 the exterior bulkhead line established in the Hudson river and the  
25 high-water line of the Hudson river, as may, in the opinion of the  
26 Palisades Interstate Park Commission, be proper and necessary to be  
27 reserved for the purpose of establishing a park and thereby preserving  
28 the scenic beauty of the Palisades.

29 b. The Palisades Interstate Park Commission, in cooperation with  
30 the North Jersey District Water Supply Commission and in  
31 consultation with the New Jersey Department of Environmental  
32 Protection and the Highlands Water Protection and Planning Council,  
33 may, from time to time, select and locate such lands lying within the  
34 Highlands or Skylands areas of Bergen, Hunterdon, Morris, Passaic,  
35 Somerset and Warren counties in the State of New Jersey, including  
36 lands in those areas lying within the North Jersey Water Supply  
37 District, as may, in the opinion of the Palisades Interstate Park  
38 Commission and the North Jersey District Water Supply Commission,  
39 in consultation with the department and the Highlands Water  
40 Protection and Planning Council, be proper and necessary to be  
41 reserved for establishing a park:

42 (1) to preserve the scenic beauty of those areas;

43 (2) for the purposes of recreation and conservation, which shall  
44 include hunting and fishing, or historic preservation; or

45 (3) for the purposes of watershed conservation or protecting,  
46 maintaining, or enhancing the quality and quantity of water supplies.

1 c. Except as authorized for the purposes specified by R.S.32:15-1  
2 et seq. and R.S.32:16-1 et seq. with regard to the location,  
3 construction, maintenance, and operation of the Henry Hudson Drive  
4 and the Palisades Interstate Parkway in Bergen county, the Palisades  
5 Interstate Park Commission shall not acquire by condemnation any  
6 lands described in subsections a. and b. of this section. Any such lands  
7 shall be acquired by the Palisades Interstate Park Commission only  
8 through a sale by a willing seller.

9 (cf: P.L.1995, c.274, s.2)

10  
11 58. Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended to read  
12 as follows:

13 5. a. The duties of the commission shall be to:

14 [a.] (1) assess present and projected development, land use, and  
15 land management practices and patterns, and identify actual and  
16 potential environmental threats and problems, around Greenwood  
17 Lake and within its watershed, and determine the effects of those  
18 practices and patterns, threats, and problems upon the natural, scenic,  
19 and recreational resources of Greenwood Lake and its watershed;

20 [b.] (2) develop recommended regulations, procedures, policies,  
21 planning strategies, and model ordinances and resolutions pertaining  
22 to the protection, preservation, maintenance, management, and  
23 enhancement of Greenwood Lake and its watershed, which would be  
24 implemented as appropriate on a voluntary basis by those entities with  
25 representatives on the commission;

26 [c.] (3) coordinate environmental clean up, maintenance, and  
27 protection efforts undertaken, for the benefit of Greenwood Lake and  
28 its watershed, by those entities with representatives on the  
29 commission;

30 [d.] (4) coordinate with the New Jersey Department of  
31 Environmental Protection's watershed management program for the  
32 area that includes Greenwood Lake;

33 [e.] (5) recommend appropriate state legislation and administrative  
34 action pertaining to the protection, preservation, maintenance,  
35 management, and enhancement of Greenwood Lake and its watershed;

36 [f.] (6) advocate, and where appropriate, act as a coordinating,  
37 distributing, or recipient agency for, federal, state, or private funding  
38 of environmental cleanup, maintenance, and protection projects for  
39 Greenwood Lake and its watershed, which projects may include the  
40 work of the commission; and

41 [g.] (7) take such other action as may be appropriate or necessary  
42 to further the purpose of this act.

43 b. The commission shall consult with the Highlands Water  
44 Protection and Planning Council, established pursuant to section 4 of  
45 P.L. , c. (C. ) (now before the Legislature as this bill), in carrying  
46 out its duties as prescribed pursuant to subsection a. of this section.

1 Any action taken by the commission that may impact upon or  
2 otherwise affect the Highlands preservation area, as defined in section  
3 3 of P.L. , c. (C. ) (now before the Legislature as this bill), shall  
4 be consistent with the Highlands regional master plan adopted by the  
5 council pursuant to section 8 of that act.

6 (cf: P.L.1999, c.402, s.5)

7

8 59. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
9 read as follows:

10 19. Preparation; contents; modification.

11 a. The planning board may prepare and, after public hearing, adopt  
12 or amend a master plan or component parts thereof, to guide the use  
13 of lands within the municipality in a manner which protects public  
14 health and safety and promotes the general welfare.

15 b. The master plan shall generally comprise a report or statement  
16 and land use and development proposals, with maps, diagrams and  
17 text, presenting, at least the following elements (1) and (2) and, where  
18 appropriate, the following elements (3) through (13):

19 (1) A statement of objectives, principles, assumptions, policies and  
20 standards upon which the constituent proposals for the physical,  
21 economic and social development of the municipality are based;

22 (2) A land use plan element (a) taking into account and stating its  
23 relationship to the statement provided for in paragraph (1) hereof, and  
24 other master plan elements provided for in paragraphs (3) through (13)  
25 hereof and natural conditions, including, but not necessarily limited to,  
26 topography, soil conditions, water supply, drainage, flood plain areas,  
27 marshes, and woodlands; (b) showing the existing and proposed  
28 location, extent and intensity of development of land to be used in the  
29 future for varying types of residential, commercial, industrial,  
30 agricultural, recreational, educational and other public and private  
31 purposes or combination of purposes; and stating the relationship  
32 thereof to the existing and any proposed zone plan and zoning  
33 ordinance; and (c) showing the existing and proposed location of any  
34 airports and the boundaries of any airport safety zones delineated  
35 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260  
36 (C.6:1-80 et seq.); and (d) including a statement of the standards of  
37 population density and development intensity recommended for the  
38 municipality;

39 (3) A housing plan element pursuant to section 10 of P.L.1985,  
40 c.222 (C.52:27D-310), including, but not limited to, residential  
41 standards and proposals for the construction and improvement of  
42 housing;

43 (4) A circulation plan element showing the location and types of  
44 facilities for all modes of transportation required for the efficient  
45 movement of people and goods into, about, and through the  
46 municipality, taking into account the functional highway classification



1 system of the Federal Highway Administration and the types,  
2 locations, conditions and availability of existing and proposed  
3 transportation facilities, including air, water, road and rail;

4 (5) A utility service plan element analyzing the need for and  
5 showing the future general location of water supply and distribution  
6 facilities, drainage and flood control facilities, sewerage and waste  
7 treatment, solid waste disposal and provision for other related utilities,  
8 and including any storm water management plan required pursuant to  
9 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.);

10 (6) A community facilities plan element showing the existing and  
11 proposed location and type of educational or cultural facilities, historic  
12 sites, libraries, hospitals, firehouses, police stations and other related  
13 facilities, including their relation to the surrounding areas;

14 (7) A recreation plan element showing a comprehensive system of  
15 areas and public sites for recreation;

16 (8) A conservation plan element providing for the preservation,  
17 conservation, and utilization of natural resources, including, to the  
18 extent appropriate, energy, open space, water supply, forests, soil,  
19 marshes, wetlands, harbors, rivers and other waters, fisheries,  
20 endangered or threatened species wildlife and other resources, and  
21 which systemically analyzes the impact of each other component and  
22 element of the master plan on the present and future preservation,  
23 conservation and utilization of those resources;

24 (9) An economic plan element considering all aspects of economic  
25 development and sustained economic vitality, including (a) a  
26 comparison of the types of employment expected to be provided by the  
27 economic development to be promoted with the characteristics of the  
28 labor pool resident in the municipality and nearby areas and (b) an  
29 analysis of the stability and diversity of the economic development to  
30 be promoted;

31 (10) A historic preservation plan element: (a) indicating the location  
32 and significance of historic sites and historic districts; (b) identifying  
33 the standards used to assess worthiness for historic site or district  
34 identification; and (c) analyzing the impact of each component and  
35 element of the master plan on the preservation of historic sites and  
36 districts;

37 (11) Appendices or separate reports containing the technical  
38 foundation for the master plan and its constituent elements;

39 (12) A recycling plan element which incorporates the State  
40 Recycling Plan goals, including provisions for the collection,  
41 disposition and recycling of recyclable materials designated in the  
42 municipal recycling ordinance, and for the collection, disposition and  
43 recycling of recyclable materials within any development proposal for  
44 the construction of 50 or more units of single-family residential  
45 housing or 25 or more units of multi-family residential housing and any  
46 commercial or industrial development proposal for the utilization of

1 1,000 square feet or more of land; and

2 (13) A farmland preservation plan element, which shall include: an  
3 inventory of farm properties and a map illustrating significant areas of  
4 agricultural land; a statement showing that municipal ordinances  
5 support and promote agriculture as a business; and a plan for  
6 preserving as much farmland as possible in the short term by  
7 leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et  
8 al.) through a variety of mechanisms including, but not limited to,  
9 utilizing option agreements, installment purchases, and encouraging  
10 donations of permanent development easements.

11 c. The master plan and its plan elements may be divided into  
12 subplans and subplan elements projected according to periods of time  
13 or staging sequences.

14 d. The master plan shall include a specific policy statement  
15 indicating the relationship of the proposed development of the  
16 municipality, as developed in the master plan to (1) the master plans  
17 of contiguous municipalities, (2) the master plan of the county in  
18 which the municipality is located, (3) the State Development and  
19 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
20 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and  
21 (4) the district solid waste management plan required pursuant to the  
22 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
23 (C.13:1E-1 et seq.) of the county in which the municipality is located.

24 In the case of a municipality situated within the Highlands Region,  
25 as defined pursuant to section 3 of P.L. , c. (C. ) (now before  
26 the Legislature as this bill), the master plan shall include a specific  
27 policy statement indicating the relationship of the proposed  
28 development of the municipality, as developed in the master plan, to  
29 the Highlands regional master plan adopted pursuant to section 4 of  
30 P.L. , c. (C. ) (now before the Legislature as this bill).

31 (cf: P.L.1999, c.180, s.2)

32

33 60. R.S.48:3-7 is amended to read as follow:

34 48:3-7. a. No public utility shall, without the approval of the  
35 board, sell, lease, mortgage or otherwise dispose of or encumber its  
36 property, franchises, privileges or rights, or any part thereof; or merge  
37 or consolidate its property, franchises, privileges or rights, or any part  
38 thereof, with that of any other public utility.

39 Where, by the proposed sale, lease or other disposition of all or a  
40 substantial portion of its property, any franchise or franchises,  
41 privileges or rights, or any part thereof or merger or consolidation  
42 thereof as set forth herein, it appears that the public utility or a wholly  
43 owned subsidiary thereof may be unable to fulfill its obligation to any  
44 employees thereof with respect to pension benefits previously enjoyed,  
45 whether vested or contingent, the board shall not grant its approval  
46 unless the public utility seeking the board's approval for such sale,

1 lease or other disposition assumes such responsibility as will be  
2 sufficient to provide that all such obligations to employees will be  
3 satisfied as they become due.

4 Every sale, mortgage, lease, disposition, encumbrance, merger or  
5 consolidation made in violation of this section shall be void.

6 Nothing herein shall prevent the sale, lease or other disposition by  
7 any public utility of any of its property in the ordinary course of  
8 business, nor require the approval of the board to any grant,  
9 conveyance or release of any property or interest therein heretofore  
10 made or hereafter to be made by any public utility to the United States,  
11 State or any county or municipality or any agency, authority or  
12 subdivision thereof, for public use.

13 The approval of the board shall not be required to validate the title  
14 of the United States, State or any county or municipality or any  
15 agency, authority or subdivision thereof, to any lands or interest  
16 therein heretofore condemned or hereafter to be condemned by the  
17 United States, State or any county or municipality or any agency,  
18 authority or subdivision thereof for public use.

19 b. Notwithstanding any law, rule, regulation or order to the  
20 contrary, an autobus public utility regulated by and subject to the  
21 provisions of Title 48 of the Revised Statutes may, without the  
22 approval of the Department of Transportation, sell, lease, mortgage or  
23 otherwise dispose of or encumber its property, or any part thereof,  
24 except that approval of the Department of Transportation shall be  
25 required for the following:

26 (1) the sale of 60% or more of its property within a 12-month  
27 period;

28 (2) a merger or consolidation of its property, franchises, privileges  
29 or rights; or

30 (3) the sale of any of its franchises, privileges or rights.

31 Notice of the sale, purchase or lease of any autobus or other vehicle  
32 subject to regulation under Title 48 of the Revised Statutes shall be  
33 provided to the Department of Transportation as the department shall  
34 require.

35 c. Except as otherwise provided in subsection e. of this section, no  
36 solid waste collector as defined in section 3 of P.L.1970, c.40  
37 (C.48:13A-3) shall, without the approval of the Department of  
38 Environmental Protection:

39 (1) sell, lease, mortgage or otherwise dispose of or encumber its  
40 property, including customer lists; or

41 (2) merge or consolidate its property, including customer lists, with  
42 that of any other person or business concern, whether or not that  
43 person or business concern is engaged in the business of solid waste  
44 collection or solid waste disposal pursuant to the provisions of  
45 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et  
46 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

1 d. Any solid waste collector seeking approval for any transaction  
2 enumerated in subsection c. of this section shall file with the  
3 department, on forms and in a manner prescribed by the department,  
4 a notice of intent at least 30 days prior to the completion of the  
5 transaction.

6 (1) The department shall promptly review all notices filed pursuant  
7 to this subsection. The department may, within 30 days of receipt of  
8 a notice of intent, request that the solid waste collector submit  
9 additional information to assist in its review if it deems that such  
10 information is necessary. If no such request is made, the transaction  
11 shall be deemed to have been approved. In the event that additional  
12 information is requested, the department shall outline, in writing, why  
13 it deems such information necessary to make an informed decision on  
14 the impact of the transaction on effective competition.

15 (2) The department shall approve or deny a transaction within 60  
16 days of receipt of all requested information. In the event that the  
17 department fails to take action on a transaction within the 60-day  
18 period specified herein, then the transaction shall be deemed to have  
19 been approved.

20 (3) The department shall approve a transaction unless it makes a  
21 determination pursuant to the provisions of section 19 of P.L.1991,  
22 c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage,  
23 disposition, encumbrance, merger or consolidation would result in a  
24 lack of effective competition.

25 The department shall prescribe and provide upon request all  
26 necessary forms for the implementation of the notification  
27 requirements of this subsection.

28 e. (1) Any solid waste collector may, without the approval of the  
29 department, purchase, finance or lease any equipment, including  
30 collection or haulage vehicles.

31 (2) Any solid waste collector may, without the approval of the  
32 department, sell or otherwise dispose of its collection or haulage  
33 vehicles; except that no solid waste collector shall, without the  
34 approval of the department in the manner provided in subsection d. of  
35 this section, sell or dispose of 33% or more of its collection or haulage  
36 vehicles within a 12-month period.

37 f. (1) The owner or operator of a privately-owned sanitary landfill  
38 facility may, without the approval of the Department of Environmental  
39 Protection, sell or otherwise dispose of its assets except that the prior  
40 approval of the department shall be required (a) to sell all assets  
41 associated with the sanitary landfill facility or a portion thereof  
42 sufficient to transfer the operation of the sanitary landfill facility to a  
43 new owner or operator; (b) to sell a controlling ownership interest in  
44 the sanitary landfill facility; or (c) to merge or consolidate its property  
45 with that of any other person or business concern, whether or not that  
46 person or business concern is engaged in the business of solid waste

1 disposal pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et  
2 seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act.

3 (2) Any owner or operator seeking approval for any transaction  
4 enumerated in this subsection shall file with the department an  
5 application therefor, on forms and in a manner prescribed by the  
6 department. The department shall promptly review all applications  
7 filed pursuant to this subsection and shall serve requests for  
8 information regarding any transaction within 30 days following the  
9 filing of an application if the department deems that such information  
10 is necessary. The department shall approve or deny the transaction  
11 within 60 days of receipt of all requested information. In the event  
12 that the department fails to take action on a transaction within the  
13 60-day period specified herein, then the transaction shall be deemed to  
14 have been approved.

15 As used in this section, "business concern" means any corporation,  
16 association, firm, partnership, sole proprietorship, trust or other form  
17 of commercial organization; and "privately-owned sanitary landfill  
18 facility" means a commercial sanitary landfill facility which is owned  
19 and operated by a private person, corporation or other organization  
20 and includes all appurtenances and related improvements used at the  
21 site for the transfer, processing or disposal of solid waste.

22 g. No public water utility shall sell or otherwise convey any land  
23 it owns that is located in the Highlands Region, as defined in section  
24 3 of P.L. , c. (C. ) (now before the Legislature as this bill), and  
25 is utilized for the purpose of protecting a public water supply, except  
26 as may be allowed by the Commissioner of Environmental Protection,  
27 with the concurrence of the board, only for the purposes authorized  
28 pursuant to section 27 of P.L. , c. (C. ) (now before the  
29 Legislature as this bill).

30 (cf: P.L.2003, c.169, s.17)

31

32 61. Section 1 of P.L.1985, c.398 (C.52:18A-196) is amended to  
33 read as follows:

34 1. The Legislature finds and declares that:

35 a. New Jersey, the nation's most densely populated State, requires  
36 sound and integrated Statewide planning and the coordination of  
37 Statewide planning with local and regional planning in order to  
38 conserve its natural resources, revitalize its urban centers, protect the  
39 quality of its environment, and provide needed housing and adequate  
40 public services at a reasonable cost while promoting beneficial  
41 economic growth, development and renewal;

42 b. Significant economies, efficiencies and savings in the  
43 development process would be realized by private sector enterprise  
44 and by public sector development agencies if the several levels of  
45 government would cooperate in the preparation of and adherence to  
46 sound and integrated plans;

1 c. It is of urgent importance that the State Development Guide  
2 Plan be replaced by a State Development and Redevelopment Plan  
3 designed for use as a tool for assessing suitable locations for  
4 infrastructure, housing, economic growth and conservation;

5 d. It is in the public interest to encourage development,  
6 redevelopment and economic growth in locations that are well situated  
7 with respect to present or anticipated public services and facilities,  
8 giving appropriate priority to the redevelopment, repair, rehabilitation  
9 or replacement of existing facilities and to discourage development  
10 where it may impair or destroy natural resources or environmental  
11 qualities that are vital to the health and well-being of the present and  
12 future citizens of this State;

13 e. A cooperative planning process that involves the full  
14 participation of State, regional, county and local governments as well  
15 as other public and private sector interests will enhance prudent and  
16 rational development, redevelopment and conservation policies and the  
17 formulation of sound and consistent regional plans and planning  
18 criteria;

19 f. Since the overwhelming majority of New Jersey land use  
20 planning and development review occurs at the local level, it is  
21 important to provide local governments in this State with the technical  
22 resources and guidance necessary to assist them in developing land use  
23 plans and procedures which are based on sound planning information  
24 and practice, and to facilitate the development of local plans which are  
25 consistent with State and regional plans and programs;

26 g. An increasing concentration of the poor and minorities in older  
27 urban areas jeopardizes the future well-being of this State, and a sound  
28 and comprehensive planning process will facilitate the provision of  
29 equal social and economic opportunity so that all of New Jersey's  
30 citizens can benefit from growth, development and redevelopment;

31 h. An adequate response to judicial mandates respecting housing  
32 for low- and moderate-income persons requires sound planning to  
33 prevent sprawl and to promote suitable use of land; and

34 i. These purposes can be best achieved through the establishment  
35 of a State planning commission consisting of representatives from the  
36 executive and legislative branches of State government, local  
37 government, the general public and the planning community.

38 (cf: P.L.1985, c.398, s.1)

39  
40 62. Section 4 of P.L.1985, c.398 (C.52:18A-199) is amended to  
41 read as follows:

42 4. The commission shall:

43 a. Prepare and adopt within 36 months after the enactment of [this  
44 act] P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt  
45 at least every three years thereafter, the State Development and  
46 Redevelopment Plan, which shall provide a coordinated, integrated and

1 comprehensive plan for the growth, development, renewal and  
2 conservation of the State and its regions and which shall identify areas  
3 for growth, agriculture, open space conservation and other appropriate  
4 designations;

5 b. Prepare and adopt as part of the plan a long-term Infrastructure  
6 Needs Assessment, which shall provide information on present and  
7 prospective conditions, needs and costs with regard to State, county  
8 and municipal capital facilities, including water, sewerage,  
9 transportation, solid waste, drainage, flood protection, shore  
10 protection and related capital facilities;

11 c. Develop and promote procedures to facilitate cooperation and  
12 coordination among State agencies, regional entities, and local  
13 governments with regard to the development of plans, programs and  
14 policies which affect land use, environmental, capital and economic  
15 development issues;

16 d. Provide technical assistance to local governments and regional  
17 entities in order to encourage the use of the most effective and  
18 efficient planning and development review data, tools and procedures;

19 e. Periodically review State, regional, and local government  
20 planning procedures and relationships and recommend to the Governor  
21 and the Legislature administrative or legislative action to promote a  
22 more efficient and effective planning process;

23 f. Review any bill introduced in either house of the Legislature  
24 which appropriates funds for a capital project and may study the  
25 necessity, desirability and relative priority of the appropriation by  
26 reference to the State Development and Redevelopment Plan, and may  
27 make recommendations to the Legislature and to the Governor  
28 concerning the bill; and

29 g. Take all actions necessary and proper to carry out the provisions  
30 of **[this act] P.L.1985, c.398 (C.52:18A-196 et al.)**.  
31 (cf: P.L.1987, c.308, s.1)

32  
33 63. Section 5 of P.L.1985, c.398 (C.52:18A-200) is amended to  
34 read as follows:

35 5. The State Development and Redevelopment Plan shall be  
36 designed to represent a balance of development and conservation  
37 objectives best suited to meet the needs of the State. The plan shall:

38 a. Protect the natural resources and qualities of the State,  
39 including, but not limited to, agricultural development areas, fresh and  
40 saltwater wetlands, flood plains, stream corridors, aquifer recharge  
41 areas, steep slopes, areas of unique flora and fauna, and areas with  
42 scenic, historic, cultural and recreational values;

43 b. Promote development and redevelopment in a manner consistent  
44 with sound planning and where infrastructure can be provided at  
45 private expense or with reasonable expenditures of public funds. This  
46 should not be construed to give preferential treatment to new

1 construction;

2 c. Consider input from State, regional, county and municipal  
3 entities concerning their land use, environmental, capital and economic  
4 development plans, including to the extent practicable any State and  
5 regional plans concerning natural resources or infrastructure elements;

6 d. Identify areas for growth, limited growth, agriculture, open  
7 space conservation and other appropriate designations that the  
8 commission may deem necessary;

9 e. Incorporate a reference guide of technical planning standards  
10 and guidelines used in the preparation of the plan; and

11 f. Coordinate planning activities and establish Statewide planning  
12 objectives in the following areas: land use, housing, economic  
13 development, transportation, natural resource conservation,  
14 agriculture and farmland retention, recreation, urban and suburban  
15 redevelopment, historic preservation, public facilities and services, and  
16 intergovernmental coordination.

17 (cf: P.L.1985, c.398, s.5)

18

19 64. Section 6 of P.L.1985, c.398 (C.52:18A-201) is amended to  
20 read as follows:

21 6. a. There is established in the Department of the Treasury the  
22 Office of State Planning. The director of the office shall be appointed  
23 by and serve at the pleasure of the Governor. The director shall  
24 supervise and direct the activities of the office and shall serve as the  
25 secretary and principal executive officer of the State Planning  
26 Commission.

27 b. The Office of State Planning shall assist the commission in the  
28 performance of its duties and shall:

29 (1) Publish an annual report on the status of the State Development  
30 and Redevelopment Plan which shall describe the progress towards  
31 achieving the goals of the plan, the degree of consistency achieved  
32 among municipal, county, regional, and State plans, the capital needs  
33 of the State, and progress towards providing housing where such need  
34 is indicated;

35 (2) Provide planning service to other agencies or instrumentalities  
36 of State government, review the plans prepared by them, and  
37 coordinate planning to avoid or mitigate conflicts between plans;

38 (3) Provide advice and assistance to regional, county and local  
39 planning units;

40 (4) Review and comment on the plans of interstate agencies where  
41 the plans affect this State;

42 (5) Compile quantitative current estimates and Statewide forecasts  
43 for population, employment, housing and land needs for development  
44 and redevelopment; and

45 (6) Prepare and submit to the State Planning Commission, as an aid  
46 in the preparation of the State Development and Redevelopment Plan,



1 alternate growth and development strategies which are likely to  
2 produce favorable economic, environmental and social results.

3 c. The director shall ensure that the responsibilities and duties of  
4 the commission are fulfilled, and shall represent the commission and  
5 promote its activities before government agencies, public and private  
6 interest groups and the general public, and shall undertake or direct  
7 such other activities as the commission shall direct or as may be  
8 necessary to carry out the purposes of [this act] P.L.1985, c.398  
9 (C.52:18A-196 et al.).

10 d. With the consent of the commission, the director shall assign to  
11 the commission from the staff of the office at least two full-time  
12 planners, a full-time liaison to local and county governments and  
13 regional entities, and such other staff, clerical, stenographic and expert  
14 assistance as [he] the director shall deem necessary for the fulfillment  
15 of the commission's responsibilities and duties.

16 (cf: P.L.1985, c.398, s.6)

17

18 65. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to  
19 read as follows:

20 7. a. In preparing, maintaining and revising the State Development  
21 and Redevelopment Plan, the commission shall solicit and give due  
22 consideration to the plans, comments and advice of each county and  
23 municipality, State agencies designated by the commission, the  
24 Highlands Water Protection and Planning Council established pursuant  
25 to section 4 of P.L. , c. (C. ) (now before the Legislature as this  
26 bill), and other local and regional entities. Prior to the adoption of  
27 each plan, the commission shall prepare and distribute a preliminary  
28 plan to each county planning board, municipal planning board and  
29 other requesting parties, including State agencies, the Highlands Water  
30 Protection and Planning Council, and metropolitan planning  
31 organizations. Not less than 45 nor more than 90 days thereafter, the  
32 commission shall conduct a joint public informational meeting with  
33 each county planning board in each county and with the Highlands  
34 Water Protection and Planning Council for the purpose of providing  
35 information on the plan, responding to inquiries concerning the plan,  
36 and receiving informal comments and recommendations from county  
37 and municipal planning boards, local public officials, the Highlands  
38 Water Protection and Planning Council, and other interested parties.

39 b. The commission shall negotiate plan cross-acceptance with each  
40 county planning board, which shall solicit and receive any findings,  
41 recommendations and objections concerning the plan from local  
42 planning bodies. Each county planning board shall negotiate plan  
43 cross-acceptance among the local planning bodies within the county,  
44 unless it shall notify the commission in writing within 45 days of the  
45 receipt of the preliminary plan that it waives this responsibility, in  
46 which case the commission shall designate an appropriate entity, or

1 itself, to assume this responsibility. Each board or designated entity  
2 shall, within ten months of receipt of the preliminary plan, file with the  
3 commission a formal report of findings, recommendations and  
4 objections concerning the plan, including a description of the degree  
5 of consistency and any remaining inconsistency between the  
6 preliminary plan and county and municipal plans. In any event, should  
7 any municipality's plan remain inconsistent with the State Development  
8 and Redevelopment Plan after the completion of the cross-acceptance  
9 process, the municipality may file its own report with the State  
10 Planning Commission, notwithstanding the fact that the [County  
11 Planning Board] county planning board has filed its report with the  
12 State Planning Commission. The term cross-acceptance means a  
13 process of comparison of planning policies among governmental levels  
14 with the purpose of attaining compatibility between local, county,  
15 regional, and State plans. The process is designed to result in a  
16 written statement specifying areas of agreement or disagreement and  
17 areas requiring modification by parties to the cross-acceptance.

18 Notwithstanding any provision of this section to the contrary, any  
19 municipality or county in the Highlands Region, as defined in section  
20 3 of P.L. , c. (C. ) (now before the Legislature as this bill),  
21 whose municipal master plan and development regulations or county  
22 master plan and associated regulations, respectively, have been  
23 approved by the Highlands Water Protection and Planning Council  
24 pursuant to sections 14 or 15 of P.L. , c. (C. ) (now before the  
25 Legislature as this bill) to be in conformance with the Highlands  
26 regional master plan adopted by the council pursuant to section 8 of  
27 P.L. , c. (C. ) (now before the Legislature as this bill) shall be  
28 exempt from the cross-acceptance process required by this subsection  
29 for those portions of the municipality or county lying within the  
30 Highlands Region.

31 c. Upon consideration of the formal reports of the county planning  
32 boards, the commission shall prepare and distribute a final plan to  
33 county and municipal planning boards, the Highlands Water Protection  
34 and Planning Council, and other interested parties. The commission  
35 shall conduct not less than six public hearings in different locations  
36 throughout the State for the purpose of receiving comments on the  
37 final plan. The commission shall give at least 30 days' public notice of  
38 each hearing in advertisements in at least two newspapers which  
39 circulate in the area served by the hearing and at least 30 days' notice  
40 to the governing body and planning board of each county and  
41 municipality in the area served by the hearing and to the Highlands  
42 Water Protection and Planning Council for any area in the Highlands  
43 Region served by the hearing.

44 d. Taking full account of the testimony presented at the public  
45 hearings, the commission shall make revisions in the plan as it deems  
46 necessary and appropriate and adopt the final plan by a majority vote

1 of its authorized membership no later than 60 days after the final  
2 public hearing.

3 (cf: P.L.1998, c.109, s.1)

4

5 66. Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is amended to  
6 read as follows:

7 2. a. The Office of State Planning in consultation with the Office  
8 of Economic Policy, shall utilize the following:

9 (1) Conduct portions of these studies using its own staff;

10 (2) Contract with other State agencies to conduct portions of these  
11 studies; and

12 (3) Contract with an independent firm or an institution of higher  
13 learning to conduct portions of these studies.

14 b. Any portion of the studies conducted by the Office of State  
15 Planning, or any other State agency, shall be subject to review by an  
16 independent firm or an institution of higher learning.

17 c. The Assessment Study and the oversight review shall be  
18 submitted in the form of a written report to the State Planning  
19 Commission for distribution to the Governor, the Legislature,  
20 appropriate regional entities, and the governing bodies of each county  
21 and municipality in the State during the cross-acceptance process and  
22 prior to the adoption of the Final Plan.

23 d. A period extending from at least 45 days prior to the first of six  
24 public hearings, which are required under the State Planning Act,  
25 P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last  
26 public hearing shall be provided for counties and municipalities to  
27 review and respond to the studies. Requests for revisions to the  
28 Interim Plan shall be considered by the State Planning Commission in  
29 the formulation of the Final Plan.

30 (cf: P.L.1989, c.332, s.2)

31

32 67. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to  
33 read as follows:

34 8. The commission shall adopt rules and regulations to carry out  
35 its purposes, including procedures to facilitate the solicitation and  
36 receipt of comments in the preparation of the preliminary and final  
37 plan and to ensure a process for comparison of the plan with county  
38 and municipal master plans and regional plans, and procedures for  
39 coordinating the information collection, storage and retrieval activities  
40 of the various State agencies.

41 (cf: P.L.1985, c.398, s.8)

42

43 68. Section 9 of P.L.1985, c.398 (C.52:18A-204) is amended to  
44 read as follows:

45 9. The commission shall be entitled to call to its assistance any  
46 personnel of any State agency, regional entity, or county, municipality

1 or political subdivision thereof as it may require in order to perform its  
2 duties. The officers and personnel of any State agency, regional  
3 entity, or county, municipality or political subdivision thereof and any  
4 other person may serve at the request of the commission upon any  
5 advisory committee as the commission may create without forfeiture  
6 of office or employment and with no loss or diminution in the  
7 compensation, status, rights and privileges which they otherwise enjoy.  
8 (cf: P.L.1985, c.398, s.9)

9  
10 69. Section 10 of P.L.1985, c.398 (C.52:18A-205) is amended to  
11 read as follows:

12 10. Each State agency, regional entity, or county, municipality or  
13 political subdivision thereof shall make available to the commission  
14 any studies, surveys, plans, data and other materials or information  
15 concerning the capital, land use, environmental, transportation,  
16 economic development and human services plans and programs of the  
17 agency, entity, county, municipality or political subdivision.  
18 (cf: P.L.1985, c.398, s.10)

19  
20 70. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended to  
21 read as follows:

22 11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)  
23 shall not be construed to affect the plans and regulations of the  
24 Pinelands Commission pursuant to the "Pinelands Protection Act,"  
25 P.L. 1979, c.111 (C.13:18A-1 et seq.) [or], the [Hackensack] New  
26 Jersey Meadowlands [Development] Commission pursuant to the  
27 "Hackensack Meadowlands Reclamation and Development Act,"  
28 P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water  
29 Protection and Planning Council pursuant to the "Highlands Water  
30 Protection and Planning Act," P.L. , c. (C. ) (now before the  
31 Legislature as this bill) for that portion of the Highlands Region lying  
32 within the preservation area as defined in section 3 of P.L. , c.  
33 (C. ) (now before the Legislature as this bill) . The State Planning  
34 Commission shall rely on the adopted plans and regulations of these  
35 entities in developing the State Development and Redevelopment Plan.

36 b. The State Planning Commission may adopt, after the enactment  
37 date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning  
38 policies of the rules and regulations adopted pursuant to P.L.1973,  
39 c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and  
40 regulations adopted pursuant to subsection b. of section 17 of  
41 P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of  
42 rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1  
43 et seq.) thereafter as the State Development and Redevelopment Plan  
44 for the coastal area as defined in section 4 of P.L.1973, c.185  
45 (C.13:19-4).

46 (cf: P.L.1993, c.190, s.19)

1 71. Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to  
2 read as follows:

3 13. a. The department shall prepare and adopt the New Jersey  
4 Statewide Water Supply Plan, which plan shall be revised and updated  
5 at least once every five years.

6 b. The plan shall include, but need not be limited to, the following:

7 (1) An identification of existing Statewide and regional ground and  
8 surface water supply sources, both interstate and intrastate, and the  
9 current usage thereof;

10 (2) Projections of Statewide and regional water supply demands  
11 for the duration of the plan;

12 (3) Recommendations for improvements to existing State water  
13 supply facilities, the construction of additional State water supply  
14 facilities, and for the interconnection or consolidation of existing water  
15 supply systems;

16 (4) Recommendations for the diversion or use of fresh surface or  
17 ground waters and saline surface or ground waters for aquaculture  
18 purposes;

19 (5) Recommendations for legislative and administrative actions to  
20 provide for the maintenance and protection of watershed areas; and

21 (6) Identification of lands purchased by the State for water supply  
22 facilities that currently are not actively used for water supply purposes,  
23 including, but not limited to, the Six Mile Run Reservoir Site, with  
24 recommendations as to the future use of these lands for water supply  
25 purposes within or outside of the planning horizon for the plan.

26 c. Prior to adopting the plan, including any revisions and updates  
27 thereto, the department shall:

28 (1) Prepare and make available to all interested persons a copy of  
29 the proposed plan or proposed revisions and updates to the current  
30 plan;

31 (2) Conduct public meetings in the several geographic areas of the  
32 State on the proposed plan or proposed revisions and updates to the  
33 current plan; and

34 (3) Consider the comments made at these meetings, make any  
35 revisions to the proposed plan or proposed revisions and updates to  
36 the current plan as it deems necessary, and adopt the plan.

37 d. Prior to the adoption of any revision to the New Jersey  
38 Statewide Water Supply Plan pursuant to this section, the department  
39 shall consult with the Highlands Water Protection and Planning  
40 Council concerning the possible effects and impact of the plan upon  
41 the Highlands regional master plan and the water and other natural  
42 resources of the Highlands Region.

43 (cf: P.L.2003, c.251, s.2)

44

45 72. Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is amended to  
46 read as follows:

1 10. No action taken by the department pursuant to the provisions  
2 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202  
3 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the  
4 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
5 ~~[or],~~ the comprehensive management plan for the pinelands area  
6 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the  
7 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
8 (now before the Legislature as this bill), or the Highlands regional  
9 master plan adopted pursuant to section 8 of P.L. , c. (C. ) (now  
10 before the Legislature as this bill).

11 (cf: P.L.1993, c.202, s.10)

12

13 73. Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read  
14 as follows:

15 6. a. The authority is hereby empowered to design, initiate,  
16 acquire, construct, maintain, repair and operate projects or cause the  
17 same to be operated pursuant to a lease, sublease, or agreement with  
18 any person or governmental agency, and to issue bonds of the  
19 authority to finance these projects, payable from the revenues and  
20 other funds of the authority. All projects undertaken by the authority  
21 shall conform to the recommendations of the New Jersey Statewide  
22 Water Supply Plan.

23 b. The authority shall be subject to compliance with all State health  
24 and environmental protection statutes and regulations and any other  
25 statutes and regulations not inconsistent herewith. The authority may,  
26 upon the request of a governmental agency, enter into a contract to  
27 provide services for any project.

28 c. The authority shall consult with the Water Supply Advisory  
29 Council from time to time prior to final action on any project or  
30 undertaking authorized pursuant to this section.

31 d. The authority shall consult with the Highlands Water Protection  
32 and Planning Council, established pursuant to section 4 of P.L. ,  
33 c. (C. ) (now before the Legislature as this bill), from time to time  
34 prior to final action on any project or undertaking authorized pursuant  
35 to this section in the Highlands Region, as defined in section 3 of  
36 P.L. , c. (C. ) (now before the Legislature as this bill). The  
37 provisions of section 17 of P.L. , c. (C. ) (now before the  
38 Legislature as this bill) shall apply to the authority.

39 (cf: P.L.1981, c.293, s.6)

40

41 74. Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended to read  
42 as follows:

43 7. The Lake Hopatcong Commission shall, in conjunction with  
44 each Lake Hopatcong municipality, develop a stormwater and  
45 nonpoint source pollution management plan for the region. The  
46 stormwater management and nonpoint source pollution plan shall be

1 designed to reduce siltation and prevent pollution caused by  
2 stormwater runoff or nonpoint sources that would otherwise degrade  
3 the water quality of Lake Hopatcong and its tributaries, interfere with  
4 water-based recreation, or adversely affect aquatic life. The goals and  
5 purposes of the plan shall be to improve the quality of stormwater  
6 runoff entering Lake Hopatcong, identify cost effective measures to  
7 control stormwater runoff and nonpoint source pollution, and identify  
8 funding mechanisms for implementation of such measures. The  
9 commission shall consult with the Highlands Water Protection and  
10 Planning Council, established pursuant to section 4 of P.L. , c.  
11 (C. ) (now before the Legislature as this bill), in developing the  
12 stormwater and nonpoint source pollution management plan pursuant  
13 to this section. Any plan developed pursuant to this section that may  
14 impact upon or otherwise affect the Highlands preservation area, as  
15 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
16 as this bill), shall be consistent with the Highlands regional master plan  
17 adopted by the council pursuant to section 8 of that act.  
18 (cf: P.L.2000, c.175, s.7)

19

20 75. Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read  
21 as follows:

22 9. Each municipality represented on the commission shall provide  
23 the commission notice of proposed amendments and revisions to  
24 municipal master plans, zoning and other ordinances governing land  
25 use and development, and applications for specific development  
26 projects, and request that the commission review and evaluate the  
27 proposed amendment, revision, or application to assess its potential  
28 impact upon Lake Hopatcong and its watershed and provide the  
29 commission's recommendations for appropriate action thereon. As  
30 part of the commission's review and evaluation, the commission shall  
31 consider the consistency of the amendment or revision with the  
32 Highlands regional master plan if it may impact upon or otherwise  
33 affect the Highlands preservation area, as defined in section 3 of  
34 P.L. , c. (C. ) (now before the Legislature as this bill), and shall  
35 consult with the Highlands Water Protection and Planning Council,  
36 established pursuant to section 4 of P.L. , c. (C. ) (now before  
37 the Legislature as this bill), on any such matter.

38 (cf: P.L.2000, c.175, s.9)

39

40 76. R.S.58:5-12 is amended to read as follows:

41 58:5-12. The district water supply commission shall thereupon  
42 proceed to formulate plans for obtaining a water supply or a new or  
43 additional water supply for [such] the municipality and any other  
44 municipalities that may desire water from such joint water supply, as  
45 provided for herein, and to estimate the cost thereof, the annual cost  
46 of operating the same, the probable share of the cost which each of

1 the municipalities will be called upon to pay for its share of water  
2 supply and plant used in common with the other municipalities, and the  
3 cost of any distribution system, water supply or plant acquired or  
4 constructed for its individual use, and shall report [said] the plans to  
5 the municipalities, together with a form of contract, providing for the  
6 raising and payment of the necessary funds to meet the cost of  
7 acquisition and operation.

8 If the plans to be formulated pursuant to this section involve  
9 obtaining water from the Highlands Region, as defined in section 3 of  
10 P.L. , c. (C. ) (now before the Legislature as this bill), the  
11 district water supply commission shall consult with the Highlands  
12 Water Protection and Planning Council established pursuant to section  
13 4 of P.L. , c. (C. ) (now before the Legislature as this bill) prior  
14 to moving forward with any such plans or entering into any such  
15 contracts. The provisions of section 17 of P.L. , c. (C. ) (now  
16 before the Legislature as this bill) shall apply to the district water  
17 supply commission.

18 (cf: R.S.58:5-12)

19

20 77. Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is amended to  
21 read as follows:

22 1. a. An application for a permit issued by the Department of  
23 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et  
24 seq.) for the discharge of groundwater to surface water involving a  
25 groundwater remedial action necessitated by a discharge from an  
26 underground storage tank containing petroleum products or a  
27 groundwater remedial action involving petroleum products, shall  
28 contain, in addition to a properly filled application form:

29 (1) such documentation or other information on the permit  
30 application as may be prescribed by the department on a checklist  
31 made available to a prospective applicant;

32 (2) if the discharge from the proposed groundwater remedial action  
33 is located within a wastewater service district or area of a local public  
34 entity, a certified statement that a request, dated at least 60 days prior  
35 to the filing of the permit application, had been made to the local  
36 public entity to discharge the groundwater into the wastewater  
37 collection or treatment facilities of that entity, and that no reply has  
38 been received from that entity, or a written statement by the local  
39 public entity, dated not more than 60 days prior to the filing of the  
40 permit application with the department, that the entity has approved  
41 or rejected a written request by the applicant to discharge the treated  
42 groundwater into the wastewater collection or treatment facilities of  
43 that entity. Notwithstanding that a local public entity has approved  
44 the request to discharge groundwater into its facilities, the department  
45 may approve the applicant's permit to discharge the groundwater to  
46 surface water upon a finding that it is in the public interest;



1 (3) a certified statement that a copy of the completed application  
2 form along with a consent request, as prescribed in subsection b. of  
3 this section, have been filed with the clerk of the municipality in which  
4 the site of the proposed groundwater remedial action is located, and  
5 setting forth the date of the filing with the host municipality, which  
6 filing shall be made prior to, or concurrent with, the filing of the  
7 application with the department; [and]

8 (4) within the pinelands area, documentation from the Pinelands  
9 Commission that the application is consistent with the requirements of  
10 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
11 or any regulations promulgated pursuant thereto and section 502 of  
12 the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and

13 (5) within the Highlands preservation area, documentation from the  
14 Highlands Water Protection and Planning Council that the application  
15 is consistent with the requirements of the "Highlands Water Protection  
16 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
17 this bill), and any rules and regulations and the Highlands regional  
18 master plan adopted pursuant thereto.

19 b. The department shall prescribe the form and content of a request  
20 for consent filed with a municipality pursuant to paragraph (3) of  
21 subsection a. of this section. The municipal consent request shall be  
22 limited to an identification of all municipal approvals with which the  
23 applicant is required to comply, the status of any applications filed  
24 therefor, and whether or not the municipality consents to the  
25 application and the specific reasons therefor. The request for consent  
26 form shall also advise that documentation and other information  
27 relating to the application have been filed and are available for review  
28 at the department. A municipality receiving a request for consent form  
29 shall have 30 days from the date of receipt of a copy of the application  
30 and request for consent form to file with the department the  
31 information requested, and its consent of, or objections to, the  
32 application. Municipal consent or objection to a groundwater remedial  
33 action shall be by resolution of the governing body of the municipality  
34 unless the governing body has, by resolution, delegated such authority  
35 to a qualified officer or entity thereof, in which case the endorsement  
36 shall be signed by the designated officer or official of the entity.  
37 Notwithstanding that a municipality objects to a permit application or  
38 fails to file a consent or objection to the permit application, the  
39 department may approve the applicant's permit application to  
40 discharge groundwater to surface water.

41 c. An application pursuant to subsection a. of this section shall be  
42 deemed complete, for the purposes of departmental review, within 30  
43 days of the filing of the application with the department unless the  
44 department notifies the applicant, in writing, prior to expiration of the  
45 30 days that the application has failed to satisfy one or more of the  
46 items identified in subsection a. of this section. If an application is

1 determined to be complete, the department shall review and take final  
2 action on the completed application within 60 days from  
3 commencement of the review, or, if the parties mutually agree to a  
4 30-day extension, within 90 days therefrom. The review period for a  
5 completed application shall commence immediately upon termination  
6 of the 30-day period, or upon determination by the department that the  
7 application is complete, whichever occurs first. If the department fails  
8 to take final action on a permit application for a general permit in the  
9 time frames set forth in this subsection, that general permit shall be  
10 deemed to have been approved by the department. The department  
11 shall review an application for a permit pursuant to subsection a. of  
12 this section and shall take action on that application pursuant to the  
13 time frames set forth in this subsection, notwithstanding that all of the  
14 municipal approvals have not been obtained, unless such approvals  
15 would materially affect the terms and conditions of the permit, except  
16 that in such instances the department may condition its approval of the  
17 application on the necessary municipal approvals being subject to the  
18 terms and conditions of the application.

19 d. The department may issue a general permit for the discharge of  
20 groundwater to surface water pursuant to a groundwater remedial  
21 action of discharged petroleum products as provided in subsection a.  
22 of this section.

23 e. (1) The department may not require a municipal consent of a  
24 treatment works application for a groundwater remedial action for  
25 which a permit application is submitted pursuant to subsection a. of  
26 this section.

27 (2) If a completed application for a treatment works approval for  
28 a groundwater remedial action is filed with the department at the same  
29 time as an application for a general permit therefor, the department  
30 shall concurrently review the two applications, except that the review  
31 of the application for the treatment works approval for a groundwater  
32 remedial action shall not be subject to the time frames set forth in  
33 subsection c. of this section.

34 f. The provisions of this section shall apply to applications filed on  
35 or after the effective date of this act, except that the Department of  
36 Environmental Protection may implement any of the provisions of this  
37 section prior to that date.

38 g. The department may, in accordance with the "Administrative  
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
40 regulations to implement the provisions of this act.

41 h. For purposes of this section:

42 "General permit" means a permit issued by the department for  
43 similar discharges.

44 "Groundwater remedial action" means the removal or abatement of  
45 one or more pollutants in a groundwater source.

46 "Local public entity" means a sewerage authority established

1 pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal  
2 authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et  
3 seq.), the Passaic Valley Sewerage Commissioners continued pursuant  
4 to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68  
5 et seq. or a local unit authorized to operate a sewerage facility  
6 pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

7 "Underground storage tank" shall have the same meaning as in  
8 section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used  
9 herein underground storage tanks shall include:

10 (1) farm underground storage tanks of 1,100 gallons or less  
11 capacity used for storing motor fuel for noncommercial purposes;

12 (2) underground storage tanks used to store heating oil for on-site  
13 consumption in a nonresidential building with a capacity of 2,000  
14 gallons or less; and

15 (3) underground storage tanks used to store heating oil for on-site  
16 consumption in a residential building.

17 (cf: P.L.1993, c.351, s.1)

18  
19 78. Section 24 of P.L.1993, c.139 (C.58:10B-2) is amended to  
20 read as follows:

21 24. a. The department shall, pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
23 regulations establishing criteria and minimum standards necessary for  
24 the submission, evaluation and approval of plans or results of  
25 preliminary assessments, site investigations, remedial investigations,  
26 and remedial action workplans and for the implementation thereof.  
27 The documents for the preliminary assessment, site investigation,  
28 remedial investigation, and remedial action workplan required to be  
29 submitted for a remediation, shall not be identical to the criteria and  
30 standards used for similar documents submitted pursuant to federal  
31 law, except as may be required by federal law. In establishing criteria  
32 and minimum standards for these terms the department shall strive to  
33 be result oriented, provide for flexibility, and to avoid duplicate or  
34 unnecessarily costly or time consuming conditions or standards.

35 b. The regulations adopted by the department pursuant to  
36 subsection a. of this section shall provide that a person performing a  
37 remediation may deviate from the strict adherence to the regulations,  
38 in a variance procedure or by another method prescribed by the  
39 department, if that person can demonstrate that the deviation and the  
40 resulting remediation would be as protective of human health, safety,  
41 and the environment, as appropriate, as the department's regulations  
42 and that the health risk standards established in subsection d. of  
43 section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable  
44 environmental standards would be met. Factors to be considered in  
45 determining if the deviation should be allowed are whether the  
46 alternative method:

1 (1) has been either used successfully or approved by the  
2 department in writing or similar situations;

3 (2) reflects current technology as documented in peer-reviewed  
4 professional journals;

5 (3) can be expected to achieve the same or substantially the same  
6 results or objectives as the method which it is to replace; and

7 (4) furthers the attainment of the goals of the specific remedial  
8 phase for which it is used.

9 The department shall make available to the public, and shall  
10 periodically update, a list of alternative remediation methods used  
11 successfully or approved by the department as provided in paragraph  
12 (1) of this subsection.

13 c. To the extent practicable and in conformance with the standards  
14 for remediations as provided in section 35 of P.L.1993, c.139  
15 (C.58:10-12), the department shall adopt rules and regulations that  
16 allow for certain remedial actions to be undertaken in a manner  
17 prescribed by the department without having to obtain prior approval  
18 from or submit detailed documentation to the department. A person  
19 who performs a remedial action in the manner prescribed in the rules  
20 and regulations of the department, and who certifies this fact to the  
21 department, shall obtain a no further action letter from the department  
22 for that particular remedial action.

23 d. The department shall develop regulatory procedures that  
24 encourage the use of innovative technologies in the performance of  
25 remedial actions and other remediation activities.

26 e. Notwithstanding any other provisions of this section, all  
27 remediation standards and remedial actions that involve real property  
28 located in the pinelands area shall be consistent with the provisions of  
29 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
30 any rules and regulations adopted pursuant thereto, and with section  
31 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C.  
32 s.471i.

33 f. Notwithstanding any other provisions of this section, all  
34 remediation standards and remedial actions that involve real property  
35 located in the Highlands preservation area shall be consistent with the  
36 provisions of the "Highlands Water Protection and Planning Act,"  
37 P.L. , c. (C. ) (now before the Legislature as this bill), and any  
38 rules and regulations and the Highlands regional master plan adopted  
39 pursuant thereto.

40 (cf: P.L.1997, c.278, s.10)

41

42 79. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
43 read as follows:

44 35. a. The Department of Environmental Protection shall adopt  
45 minimum remediation standards for soil, groundwater, and surface  
46 water quality necessary for the remediation of contamination of real

1 property. The remediation standards shall be developed to ensure that  
2 the potential for harm to public health and safety and to the  
3 environment is minimized to acceptable levels, taking into  
4 consideration the location, the surroundings, the intended use of the  
5 property, the potential exposure to the discharge, and the surrounding  
6 ambient conditions, whether naturally occurring or man-made.

7 Until the minimum remediation standards for the protection of  
8 public health and safety as described herein are adopted, the  
9 department shall apply public health and safety remediation standards  
10 for contamination at a site on a case-by-case basis based upon the  
11 considerations and criteria enumerated in this section.

12 The department shall not propose or adopt remediation standards  
13 protective of the environment pursuant to this section, except  
14 standards for groundwater or surface water, until recommendations  
15 are made by the Environment Advisory Task Force created pursuant  
16 to section 37 of P.L.1993, c.139. Until the Environment Advisory  
17 Task Force issues its recommendations and the department adopts  
18 remediation standards protective of the environment as required by  
19 this section, the department shall continue to determine the need for  
20 and the application of remediation standards protective of the  
21 environment on a case-by-case basis in accordance with the guidance  
22 and regulations of the United States Environmental Protection Agency  
23 pursuant to the "Comprehensive Environmental Response,  
24 Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq.  
25 and other statutory authorities as applicable.

26 The department may not require any person to perform an  
27 ecological evaluation of any area of concern that consists of an  
28 underground storage tank storing heating oil for on-site consumption  
29 in a one to four family residential building.

30 b. In developing minimum remediation standards the department  
31 shall:

32 (1) base the standards on generally accepted and peer reviewed  
33 scientific evidence or methodologies;

34 (2) base the standards upon reasonable assumptions of exposure  
35 scenarios as to amounts of contaminants to which humans or other  
36 receptors will be exposed, when and where those exposures will occur,  
37 and the amount of that exposure;

38 (3) avoid the use of redundant conservative assumptions. The  
39 department shall avoid the use of redundant conservative assumptions  
40 by the use of parameters that provide an adequate margin of safety and  
41 which avoid the use of unrealistic conservative exposure parameters  
42 and which guidelines make use of the guidance and regulations for  
43 exposure assessment developed by the United States Environmental  
44 Protection Agency pursuant to the "Comprehensive Environmental  
45 Response, Compensation, and Liability Act of 1980," 42 U.S.C.  
46 s.9601 et seq. and other statutory authorities as applicable;

1 (4) where feasible, establish the remediation standards as numeric  
2 or narrative standards setting forth acceptable levels or concentrations  
3 for particular contaminants; and

4 (5) consider and utilize, in the absence of other standards used or  
5 developed by the Department of Environmental Protection and the  
6 United States Environmental Protection Agency, the toxicity factors,  
7 slope factors for carcinogens and reference doses for non-carcinogens  
8 from the United States Environmental Protection Agency's Integrated  
9 Risk Information System (IRIS).

10 c. (1) The department shall develop residential and nonresidential  
11 soil remediation standards that are protective of public health and  
12 safety. For contaminants that are mobile and transportable to  
13 groundwater or surface water, the residential and nonresidential soil  
14 remediation standards shall be protective of groundwater and surface  
15 water. Residential soil remediation standards shall be set at levels or  
16 concentrations of contamination for real property based upon the use  
17 of that property for residential or similar uses and which will allow the  
18 unrestricted use of that property without the need of engineering  
19 devices or any institutional controls and without exceeding a health  
20 risk standard greater than that provided in subsection d. of this  
21 section. Nonresidential soil remediation standards shall be set at levels  
22 or concentrations of contaminants that recognize the lower likelihood  
23 of exposure to contamination on property that will not be used for  
24 residential or similar uses, which will allow for the unrestricted use of  
25 that property for nonresidential purposes, and that can be met without  
26 the need of engineering controls. Whenever real property is  
27 remediated to a nonresidential soil remediation standard, except as  
28 otherwise provided in paragraph (3) of subsection g. of this section,  
29 the department shall require, pursuant to section 36 of P.L.1993, c.139  
30 (C.58:10B-13), that the use of the property be restricted to  
31 nonresidential or other uses compatible with the extent of the  
32 contamination of the soil and that access to that site be restricted in a  
33 manner compatible with the allowable use of that property.

34 (2) The department may develop differential remediation standards  
35 for surface water or groundwater that take into account the current,  
36 planned, or potential use of that water in accordance with the "Clean  
37 Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution  
38 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

39 d. The department shall develop minimum remediation standards  
40 for soil, groundwater, and surface water intended to be protective of  
41 public health and safety taking into account the provisions of this  
42 section. In developing these minimum health risk remediation  
43 standards the department shall identify the hazards posed by a  
44 contaminant to determine whether exposure to that contaminant can  
45 cause an increase in the incidence of an adverse health effect and  
46 whether the adverse health effect may occur in humans. The

1 department shall set minimum soil remediation health risk standards  
2 for both residential and nonresidential uses that:

3 (1) for human carcinogens, as categorized by the United States  
4 Environmental Protection Agency, will result in an additional cancer  
5 risk of one in one million;

6 (2) for noncarcinogens, will limit the Hazard Index for any given  
7 effect to a value not exceeding one.

8 The health risk standards established in this subsection are for any  
9 particular contaminant and not for the cumulative effects of more than  
10 one contaminant at a site.

11 e. Remediation standards and other remediation requirements  
12 established pursuant to this section and regulations adopted pursuant  
13 thereto shall apply to remediation activities required pursuant to the  
14 "Spill Compensation and Control Act," P.L.1976, c.141  
15 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977,  
16 c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the  
17 "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the  
18 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),  
19 the "Comprehensive Regulated Medical Waste Management Act,"  
20 P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste  
21 Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the  
22 "Sanitary Landfill Facility Closure and Contingency Fund Act,"  
23 P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level  
24 Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333  
25 (C.13:1E-177 et seq.), or any other law or regulation by which the  
26 State may compel a person to perform remediation activities on  
27 contaminated property. However, nothing in this subsection shall be  
28 construed to limit the authority of the department to establish  
29 discharge limits for pollutants or to prescribe penalties for violations  
30 of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to  
31 require the complete removal of nonhazardous solid waste pursuant to  
32 law.

33 f. (1) A person performing a remediation of contaminated real  
34 property, in lieu of using the established minimum soil remediation  
35 standard for either residential use or nonresidential use adopted by the  
36 department pursuant to subsection c. of this section, may submit to the  
37 department a request to use an alternative residential use or  
38 nonresidential use soil remediation standard. The use of an alternative  
39 soil remediation standard shall be based upon site specific factors  
40 which may include (1) physical site characteristics which may vary  
41 from those used by the department in the development of the soil  
42 remediation standards adopted pursuant to this section; or (2) a site  
43 specific risk assessment. If a person performing a remediation  
44 requests to use an alternative soil remediation standard based upon a  
45 site specific risk assessment, that person shall demonstrate to the  
46 department that the requested deviation from the risk assessment

1 protocol used by the department in the development of soil  
2 remediation standards pursuant to this section is consistent with the  
3 guidance and regulations for exposure assessment developed by the  
4 United States Environmental Protection Agency pursuant to the  
5 "Comprehensive Environmental Response, Compensation, and  
6 Liability Act of 1980," 42 U.S.C. 9601 et seq. and other statutory  
7 authorities as applicable. A site specific risk assessment may consider  
8 exposure scenarios and assumptions that take into account the form of  
9 the contaminant present, natural biodegradation, fate and transport of  
10 the contaminant, available toxicological data that are based upon  
11 generally accepted and peer reviewed scientific evidence or  
12 methodologies , and physical characteristics of the site, including, but  
13 not limited to, climatic conditions and topographic conditions.  
14 Nothing in this subsection shall be construed to authorize the use of  
15 an alternative soil remediation standard in those instances where an  
16 engineering control is the appropriate remedial action, as determined  
17 by the department, to prevent exposure to contamination.

18 Upon a determination by the department that the requested  
19 alternative remediation standard satisfies the department's regulations,  
20 is protective of public health and safety, as established in subsection  
21 d. of this section, and is protective of the environment pursuant to  
22 subsection a. of this section, the alternative residential use or  
23 nonresidential use soil remediation standard shall be approved by the  
24 department. The burden to demonstrate that the requested alternative  
25 remediation standard is protective rests with the person requesting the  
26 alternative standard and the department may require the submission of  
27 any documentation as the department determines to be necessary in  
28 order for the person to meet that burden.

29 (2) The department may, upon its own initiative, require an  
30 alternative remediation standard for a particular contaminant for a  
31 specific real property site, in lieu of using the established minimum  
32 residential use or nonresidential use soil remediation standard adopted  
33 by the department for a particular contaminant pursuant to this  
34 section. The department may require an alternative remediation  
35 standard pursuant to this paragraph upon a determination by the  
36 department, based on the weight of the scientific evidence, that due to  
37 specific physical site characteristics of the subject real property,  
38 including, but not limited to, its proximity to surface water, the use of  
39 the adopted residential use or nonresidential use soil remediation  
40 standards would not be protective , or would be unnecessarily  
41 overprotective, of public health or safety or of the environment, as  
42 appropriate.

43 g. The development, selection, and implementation of any  
44 remediation standard or remedial action shall ensure that it is  
45 protective of public health, safety, and the environment, as applicable,  
46 as provided in this section. In determining the appropriate remediation



1 standard or remedial action that shall occur at a site, the department  
2 and any person performing the remediation, shall base the decision on  
3 the following factors:

4 (1) Unrestricted use remedial actions, limited restricted use  
5 remedial actions and restricted use remedial actions shall be allowed  
6 except that unrestricted use remedial actions and limited restricted use  
7 remedial actions shall be preferred over restricted use remedial actions.  
8 The department, however, may not disapprove the use of a restricted  
9 use remedial action or a limited restricted use remedial action so long  
10 as the selected remedial action meets the health risk standard  
11 established in subsection d. of this section, and where, as applicable,  
12 is protective of the environment. The choice of the remedial action to  
13 be implemented shall be made by the person performing the  
14 remediation in accordance with regulations adopted by the department  
15 and that choice of the remedial action shall be approved by the  
16 department if all the criteria for remedial action selection enumerated  
17 in this section , as applicable, are met. The department may not  
18 require a person to compare or investigate any alternative remedial  
19 action as part of its review of the selected remedial action;

20 (2) Contamination may, upon the department's approval, be left  
21 onsite at levels or concentrations that exceed the minimum soil  
22 remediation standards for residential use if the implementation of  
23 institutional or engineering controls at that site will result in the  
24 protection of public health, safety and the environment at the health  
25 risk standard established in subsection d. of this section and if the  
26 requirements established in subsections a., b., c. and d. of section 36  
27 of P.L.1993, c.139 (C.58:10B-13) are met;

28 (3) Real property on which there is soil that has not been  
29 remediated to the residential soil remediation standards, or real  
30 property on which the soil, groundwater, or surface water has been  
31 remediated to meet the required health risk standard by the use of  
32 engineering or institutional controls, may be developed or used for  
33 residential purposes, or for any other similar purpose, if (a) all areas  
34 of that real property at which a person may come into contact with soil  
35 are remediated to meet the residential soil remediation standards and  
36 (b) it is clearly demonstrated that for all areas of the real property,  
37 other than those described in subparagraph (a) above, engineering and  
38 institutional controls can be implemented and maintained on the real  
39 property sufficient to meet the health risk standard as established in  
40 subsection d. of this section;

41 (4) Remediation shall not be required beyond the regional natural  
42 background levels for any particular contaminant. The department  
43 shall develop regulations that set forth a process to identify  
44 background levels of contaminants for a particular region. For the  
45 purpose of this paragraph "regional natural background levels" means  
46 the concentration of a contaminant consistently present in the

1 environment of the region of the site and which has not been  
2 influenced by localized human activities;

3 (5) Remediation shall not be required of the owner or operator of  
4 real property for contamination coming onto the site from another  
5 property owned and operated by another person, unless the owner or  
6 operator is the person who is liable for cleanup and removal costs  
7 pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

8 (6) Groundwater that is contaminated shall not be required to be  
9 remediated to a level or concentration for any particular contaminant  
10 lower than the level or concentration that is migrating onto the  
11 property from another property owned and operated by another  
12 person;

13 (7) The technical performance, effectiveness and reliability of the  
14 proposed remedial action in attaining and maintaining compliance with  
15 applicable remediation standards and required health risk standards  
16 shall be considered. In reviewing a proposed remedial action, the  
17 department shall also consider the ability of the owner or operator to  
18 implement the proposed remedial action within a reasonable time  
19 frame without jeopardizing public health, safety or the environment;

20 (8) The use of a remedial action for soil contamination that is  
21 determined by the department to be effective in its guidance document  
22 created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is  
23 presumed to be an appropriate remedial action if it is to be  
24 implemented on a site in the manner described by the department in the  
25 guidance document and applicable regulations and if all of the  
26 conditions for remedy selection provided for in this section are met.  
27 The burden to prove compliance with the criteria in the guidance  
28 document is with the person performing the remediation;

29 (9) (Deleted by amendment, P.L.1997, c.278).

30 The burden to demonstrate that a remedial action is protective of  
31 public health, safety and the environment, as applicable, and has been  
32 selected in conformance with the provisions of this subsection is with  
33 the person proposing the remedial action.

34 The department may require the person performing the remediation  
35 to supply the information required pursuant to this subsection as is  
36 necessary for the department to make a determination.

37 h. (1) The department shall adopt regulations which establish a  
38 procedure for a person to demonstrate that a particular parcel of land  
39 contains large quantities of historical fill material. Upon a  
40 determination by the department that large quantities of historic fill  
41 material exist on that parcel of land, there is a rebuttable presumption  
42 that the department shall not require any person to remove or treat the  
43 fill material in order to comply with applicable health risk or  
44 environmental standards. In these areas the department shall establish  
45 by regulation the requirement for engineering or institutional controls  
46 that are designed to prevent exposure of these contaminants to

1 humans, that allow for the continued use of the property, that are less  
2 costly than removal or treatment, which maintain the health risk  
3 standards as established in subsection d. of this section, and, as  
4 applicable, are protective of the environment. The department may  
5 rebut the presumption only upon a finding by the preponderance of the  
6 evidence that the use of engineering or institutional controls would not  
7 be effective in protecting public health, safety, and the environment.  
8 The department may not adopt any rule or regulation that has the  
9 effect of shifting the burden of rebutting the presumption. For the  
10 purposes of this paragraph "historic fill material" means generally large  
11 volumes of non-indigenous material, no matter what date they were  
12 emplaced on the site, used to raise the topographic elevation of a site,  
13 which were contaminated prior to emplacement and are in no way  
14 connected with the operations at the location of emplacement and  
15 which include, but are not limited to, construction debris, dredge  
16 spoils, incinerator residue, demolition debris, fly ash, and  
17 non-hazardous solid waste. Historic fill material shall not include any  
18 material which is substantially chromate chemical production waste or  
19 any other chemical production waste or waste from processing of  
20 metal or mineral ores, residues, slags or tailings.

21 (2) The department shall develop recommendations for remedial  
22 actions in large areas of historic industrial contamination. These  
23 recommendations shall be designed to meet the health risk standards  
24 established in subsection d. of this section, and to be protective of the  
25 environment and shall take into account the industrial history of these  
26 sites, the extent of the contamination that may exist, the costs of  
27 remedial actions, the economic impacts of these policies, and the  
28 anticipated uses of these properties. The department shall issue a  
29 report to the Senate Environment Committee and to the Assembly  
30 Agriculture and Waste Management Committee, or their successors,  
31 explaining these recommendations and making any recommendations  
32 for legislative or regulatory action.

33 (3) The department may not, as a condition of allowing the use of  
34 a nonresidential use soil remediation standard, or the use of  
35 institutional or engineering controls, require the owner of that real  
36 property, except as provided in section 36 of P.L.1993, c.139  
37 (C.58:10B-13), to restrict the use of that property through the filing  
38 of a deed easement, covenant, or condition.

39 i. The department may not require a remedial action workplan to  
40 be prepared or implemented or engineering or institutional controls to  
41 be imposed upon any real property unless sampling performed at that  
42 real property demonstrates the existence of contamination above the  
43 applicable remediation standards.

44 j. Upon the approval by the department of a remedial action  
45 workplan, or similar plan that describes the extent of contamination at  
46 a site and the remedial action to be implemented to address that

1 contamination, the department may not subsequently require a change  
2 to that workplan or similar plan in order to compel a different  
3 remediation standard due to the fact that the established remediation  
4 standards have changed; however, the department may compel a  
5 different remediation standard if the difference between the new  
6 remediation standard and the remediation standard approved in the  
7 workplan or other plan differs by an order of magnitude. The  
8 limitation to the department's authority to change a workplan or  
9 similar plan pursuant to this subsection shall only apply if the workplan  
10 or similar plan is being implemented in a reasonable timeframe, as may  
11 be indicated in the approved remedial action workplan or similar plan.

12 k. Notwithstanding any other provisions of this section, all  
13 remediation standards and remedial actions that involve real property  
14 located in the Pinelands area shall be consistent with the provisions of  
15 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
16 any rules and regulations promulgated pursuant thereto, and with  
17 section 502 of the "National Parks and Recreation Act of 1978," 16  
18 U.S.C. s.471i; and all remediation standards and remedial actions that  
19 involve real property located in the Highlands preservation area shall  
20 be consistent with the provisions of the "Highlands Water Protection  
21 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
22 this bill), and any rules and regulations and the Highland regional  
23 master plan adopted pursuant thereto.

24 l. Upon the adoption of a remediation standard for a particular  
25 contaminant in soil, groundwater, or surface water pursuant to this  
26 section, the department may amend that remediation standard only  
27 upon a finding that a new standard is necessary to maintain the health  
28 risk standards established in subsection d. of section 35 of P.L.1993,  
29 c.139 (C.58:10B-12) or to protect the environment, as applicable. The  
30 department may not amend a public health based soil remediation  
31 standard to a level that would result in a health risk standard more  
32 protective than that provided for in subsection d. of section 35 of  
33 P.L.1993, c.139 (C.58:10B-12).

34 m. Nothing in P.L.1993, c.139 shall be construed to restrict or in  
35 any way diminish the public participation which is otherwise provided  
36 under the provisions of the "Spill Compensation and Control Act,"  
37 P.L.1976, c.141 (C.58:10-23.11 et seq.).

38 n. Notwithstanding any provision of subsection a. of section 36 of  
39 P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may  
40 not require a person intending to implement a remedial action at an  
41 underground storage tank facility storing heating oil for on-site  
42 consumption at a one to four family residential dwelling to provide  
43 advance notice to a municipality prior to implementing that remedial  
44 action.

45 o. A person who has remediated a site pursuant to the provisions  
46 of this section, who was liable for the cleanup and removal costs of

1 that discharge pursuant to the provisions of paragraph (1) of  
2 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and  
3 who remains liable for the discharge on that site due to a possibility  
4 that a remediation standard may change, undiscovered contamination  
5 may be found, or because an engineering control was used to  
6 remediate the discharge, shall maintain with the department a current  
7 address at which that person may be contacted in the event additional  
8 remediation needs to be performed at the site. The requirement to  
9 maintain the current address shall be made part of the conditions of the  
10 no further action letter issued by the department.

11 (cf: P.L.1997, c.278, s.17)

12

13 80. Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read  
14 as follows:

15 1. a. There shall be appropriated each State fiscal year from the  
16 General Fund to each municipality within which any lands subject to  
17 the moratorium on the conveyance of watershed lands imposed  
18 pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of  
19 P.L.1990, c.19, or subject to the prohibition on the sale or conveyance  
20 of certain public water supply lands prescribed pursuant to section 27  
21 of P.L. , c. (C. ) (now before the Legislature as this bill), are  
22 located an amount of ~~[\$68.50]~~ \$35 per acre of such lands located  
23 within the municipality. Notwithstanding the provisions of this section  
24 to the contrary, the per acre amount of watershed moratorium or  
25 water supply protection offset aid prescribed by this section shall be  
26 adjusted annually in direct proportion to the increase or decrease in the  
27 Consumer Price Index for all urban consumers in the New York City  
28 area as reported by the United States Department of Labor. The  
29 adjustment shall become effective on July 1 of the year in which the  
30 adjustment is made.

31 b. Notwithstanding the provisions of subsection a. of this section  
32 to the contrary, payments shall no longer be made pursuant thereto on  
33 the basis of the location within a municipality of lands subject to the  
34 moratorium on the conveyance of watershed lands imposed pursuant  
35 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
36 c.19, if (1) those sections are repealed by law, or (2) the watershed  
37 land conveyance moratorium imposed pursuant to those sections is  
38 terminated by a final, unappealed order of a court of competent  
39 jurisdiction, whichever is sooner.

40 (cf: P.L.1999, c.225, s.1)

41

42 81. Section 3 of P.L.1999, c.225 is amended to read as follows:

43 3. This act shall take effect July 1, 1999 [and shall expire (1) on  
44 the repeal by law of section 1 of P.L.1988, c.163 and section 1 of  
45 P.L.1990, c.19, or (2) upon termination of the watershed land  
46 conveyance moratorium imposed pursuant to section 1 of P.L.1988,

1 c.163 and section 1 of P.L.1990, c.19, by a final, unappealed order of  
2 a court of competent jurisdiction, whichever is sooner].  
3 (cf: P.L.1999, c.225, s.3)

4

5 82. This act shall take effect immediately.

6

7

8

## STATEMENT

9

10

### I

11

12 This bill would establish a comprehensive approach to the  
13 protection and preservation of the drinking water and natural  
14 resources of the New Jersey Highlands Region, which is the source of  
15 the drinking water of over half of the residents of New Jersey.

16 The approach set forth in this bill consists essentially of four major  
17 components. First, the bill defines the New Jersey Highlands Region  
18 and divides it into a preservation area, in which development would  
19 be strictly regulated, and a planning area. Secondly, the bill establishes  
20 the Highlands Water Protection and Planning Council, which would be  
21 charged with preparing and implementing a regional master plan for  
22 the Highlands Region, with which municipalities and counties in the  
23 preservation area would be required to conform their master plans.  
24 Thirdly, the bill would require, upon the date of enactment, that any  
25 major development in the preservation area receive from the  
26 Department of Environmental Protection (DEP) a Highlands  
27 Preservation Area approval, which would consist of the related aspects  
28 of existing environmental land use and water permits as well as  
29 additional, statutorily prescribed environmentally protective land use  
30 and water protection requirements. This system would be in effect for  
31 nine months. Lastly, the bill would require the DEP to adopt, within  
32 nine months, immediately effective rules and regulations establishing  
33 a permanent Highlands permitting review program, incorporating the  
34 provisions of the Highlands Preservation Area approval program, and  
35 setting strict standards for reviewing major development in the  
36 preservation area.

37 The bill also contains land owner equity provisions and a provision  
38 to provide State aid to offset decreases in property tax revenues in  
39 municipalities with land located in the preservation area, and  
40 authorizes the Highlands Water Protection and Planning Council to  
41 establish and implement a transfer of development rights program. In  
42 addition, this bill prohibits any State or local public entity or public  
43 utility from selling any water supply protection lands in the Highlands  
44 Region, with certain exceptions.

1

II

2

3 The New Jersey Highlands Region consists of about 800,000 acres,  
4 or about 1,250 square miles, of forests and hills stretching from  
5 Ringwood in the northeast to Phillipsburg in the southwest, across  
6 portions of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex,  
7 and Warren counties and 90 municipalities, and offers unparalleled  
8 opportunities for hiking, bird watching, fishing, and other naturalist  
9 and recreational activities.

10 The Highlands Region is the location of a majority of the State's  
11 reservoirs, and its surface and ground water resources together  
12 provide drinking water for over half of the residents in New Jersey,  
13 many of whom do not live in the Highlands. The Highlands Region,  
14 because of its proximity to rapidly expanding suburban areas, is at  
15 serious risk of being fragmented and consumed by hop-scotch  
16 suburban development, with more than 3,000 acres per year being lost  
17 to development. The existing land use and environmental regulation  
18 system has shown itself to be unable to protect the water and natural  
19 resources of the Highlands Region against the environmental impacts  
20 of sprawl development. The comprehensive approach set forth in this  
21 bill would set the stage for the long-term protection of the potable  
22 water supplies of the Highlands Region.

23

24

III

25

26 For the purposes of this bill the Highlands Region is defined as all  
27 the area within the 90 municipalities in Bergen, Hunterdon, Morris,  
28 Passaic, Somerset, Sussex, and Warren counties enumerated in section  
29 7 of the bill. The preservation area of the Highlands Region, in which  
30 municipalities would be required to conform their master plans and  
31 development ordinances with the regional master plan developed by  
32 the Highlands Water Protection and Planning Council and in which the  
33 strict DEP permitting requirements would apply, will be delineated  
34 based upon natural resource data assembled by the United States  
35 Forest Service, Rutgers, The State University, and the New Jersey  
36 Water Supply Authority. That area will be translated to on-the-  
37 ground, and easily identified reference points, such as road  
38 descriptions, survey lines, and municipal boundaries, by May 1, 2004,  
39 or as soon thereafter as may be possible. This legislation will be  
40 amended before it is enacted into law to incorporate this narrative  
41 description of the preservation area as part of the Highlands Water  
42 Protection and Planning Act.

43

44 The planning area of the Highlands Region, in which municipal  
45 conformance with the council's regional master plan is optional, and  
46 in which the strict DEP permitting requirements would not apply,  
would consist of all that area of the Highlands Region not within the

1 preservation area.

2

3

IV

4

5 The first tier of water and natural resource protection for the  
6 Highlands Region established in this bill consists of a planning and  
7 preservation strategy developed and implemented at the local and  
8 regional level. In this light, the bill would establish the Highlands  
9 Water Protection and Planning Council, a 15-member body appointed  
10 by the Governor, with the advice and consent of the Senate, and  
11 charged with preparing and implementing a regional master plan for  
12 the Highlands Region. The membership of the council would consist  
13 of eight residents of the counties of Bergen, Hunterdon, Morris,  
14 Passaic, Somerset, Sussex, or Warren, five of whom would be elected  
15 municipal officials and three of whom would be elected county  
16 officials. Of these eight people, there would be at least one resident  
17 from each of the counties. The other seven members of the council  
18 would consist of seven residents of the State. Members of the council  
19 would serve for terms of five years, and without compensation. The  
20 Governor would appoint the chairperson of the council, and the  
21 council would appoint an executive director. This bill allows the  
22 Governor to veto any action taken by the council.

23 The Highlands Water Protection and Planning Council would be  
24 required to adopt a regional master plan for the Highlands Region  
25 within 18 months of the council's first meeting. The goals of the  
26 regional master plan with respect to the preservation area would be to:  
27 protect, restore, and enhance the quality and quantity of surface and  
28 ground waters; preserve extensive and contiguous areas of land in  
29 their natural state, protect the contiguous forests, wetlands, vegetated  
30 stream corridors, steep slopes, and critical habitats; preserve farmland  
31 and historic resources; promote compatible agricultural, horticultural,  
32 recreational, and cultural land uses; and prohibit or limit to the  
33 maximum extent possible construction or development which is  
34 incompatible with the preservation of the Highlands.

35 With respect to the planning area the goals of the regional master  
36 plan would be to: protect surface and ground waters; preserve to the  
37 maximum extent possible any environmentally sensitive lands; protect  
38 the essential character of the Highlands environment; preserve  
39 farmland and historic resources; and encourage appropriate  
40 development, redevelopment, and economic growth consistent with  
41 the State Development and Redevelopment Plan and smart growth  
42 strategies and principles.

43 The regional master plan would consist of several components.  
44 Among these would be: a resource assessment which determines the  
45 amount and type of human development and activity which the  
46 ecosystem of the Highlands Region can sustain; a land use capability



1 map for the preservation area based on the standards adopted by the  
2 DEP for the review of development in the preservation area; a  
3 preservation zone element identifying areas in the preservation area  
4 in which development would be prohibited; an element detailing  
5 minimum standards for municipal and county master plans and  
6 development regulations in the preservation area; an assessment which  
7 determines the amount and type of human development and activity  
8 which the ecosystem of the Highlands Region can sustain while still  
9 maintaining the overall ecological values thereof; an assessment of  
10 scenic, aesthetic, cultural, historic, open space, farm land, and outdoor  
11 recreation resources of the region; an assessment of opportunities for  
12 appropriate economic growth, development, and redevelopment; a  
13 financial component detailing the cost of implementing the regional  
14 master plan, including payments in lieu-of-taxes, and acquisition of  
15 lands for preservation or recreation and conservation purposes; a  
16 component to provide for local government and public input into the  
17 council's operations; and a coordination and consistency component  
18 which details the ways in which local, State, and federal programs and  
19 policies may best be coordinated to promote the goals and policies of  
20 the regional master plan.

21 Within six months after the Highlands Water Protection and  
22 Planning Council adopts the regional master plan, the governing body  
23 of each municipality and county located wholly or partially in the  
24 preservation area would be required to revise its master plan and  
25 development regulations to conform them with the requirements of the  
26 regional plan and to submit the revisions to the council. The council  
27 would be authorized to approve or disapprove the revisions and to  
28 require additional changes. If such a municipality or county in the  
29 preservation area does not conform its master plan and development  
30 regulations to the regional master plan, the council would be  
31 authorized to enforce the provisions of the regional master plan and to  
32 essentially enforce the "Municipal Land Use Law" in the municipality  
33 or county and issue stop construction orders. In addition, the council  
34 would have call up review authority over any local application for  
35 development in a municipality or county in the preservation area. Any  
36 municipality or county in the planning area may elect to conform its  
37 master plan and development regulations to the appropriate provisions  
38 of the regional master plan.

39 In addition to the adoption of the regional master plan, the  
40 Highlands Water Protection and Planning Council would be required  
41 to develop and implement a transfer of development rights program.  
42 This bill authorizes the council to use the existing State Transfer of  
43 Developments Rights Bank or to establish a bank specifically for the  
44 Highlands Region. The council would also be authorized to review  
45 significant capital projects of the State or local governments in the  
46 preservation area.

1 This bill also establishes a mechanism under which any municipality  
2 in the preservation area would be entitled to State aid to compensate  
3 for any decrease in the aggregate amount of property tax revenues  
4 derived from the taxation of real property in that portion of the  
5 municipality located in the preservation area that is directly  
6 attributable to the implementation of the provisions of this bill. The  
7 council would annually calculate the amount to which each  
8 municipality is entitled, and would certify and transmit these amounts  
9 to the State Treasurer and to the Director of the Division of Local  
10 Government Services in the Department of Community Affairs. The  
11 State Treasurer would then include within the State Treasurer's annual  
12 budget request for State aid the amounts certified by the council.

13 This bill would also direct the Attorney General to provide, when  
14 certain requirements have been met, legal representation to any  
15 requesting local government unit located in the Highlands Region in  
16 any cause of action filed against the local government unit and  
17 contesting an act or decision of the local government unit taken or  
18 made under authority granted pursuant to any provision of this bill or  
19 to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
20 seq.), R.S.40:27-1 et seq., or the "State Uniform Construction Code  
21 Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

22

23

V

24

25 The second tier of water and natural resource protection for the  
26 preservation area of the Highlands Region established in this bill  
27 consists of the imposition of environmentally protective standards for  
28 the review and permitting of major development by the DEP. Most  
29 development of any significant impact currently requires one or more  
30 State level water and land use permits issued by the DEP under the  
31 authority of a wide umbrella of environmental laws and their  
32 accompanying rules and regulations. This bill would increase the  
33 standards imposed for the issuance of, and would coordinate and  
34 consolidate the review of, these permits for development in the  
35 preservation area of the Highlands Region. These more stringent  
36 standards would also be incorporated into the land use capability  
37 component of the regional master plan adopted by the Highlands  
38 Water Protection and Planning Council, which would in turn be  
39 reflected in the revised municipal and county master plans and  
40 development regulations. Thus, in terms of the overall structure of  
41 this bill, these standards (the authorization for which is set forth in  
42 sections 31 to 35 of this bill) form a tie between the State and regional  
43 preservation approaches in this bill.

44 This bill essentially directs the DEP to develop and enforce two  
45 chronologically sequential environmental permitting programs and  
46 standards in the preservation area of the Highlands. Both permitting

1 programs and standards would apply to permits for major  
2 development. As used in this bill, "major development" means any  
3 non-residential development, any residential development disturbing  
4 one acre or more of land or increasing impervious surface by a quarter  
5 acre or more, and any residential development that does not meet  
6 these requirements but which does require an environmental land use  
7 or water permit. This bill defines an environmental land use or water  
8 permit to include a permit, approval, or other authorization issued  
9 pursuant to the "Freshwater Wetlands Protection Act," the "Water  
10 Supply Management Act," the "Water Pollution Control Act," "The  
11 Realty Improvement Sewerage and Facilities Act (1954)," the "Water  
12 Quality Planning Act," the "Safe Drinking Water Act," or the "Flood  
13 Hazard Area Control Act;" or an approval for an individual subsurface  
14 sewage disposal system from a delegated local health agency pursuant  
15 to the "County Environmental Health Act."

16 The first DEP permitting program would take effect upon  
17 enactment of the bill. Thereafter, any person proposing a major  
18 development in the preservation area would be required to receive a  
19 Highlands Preservation Area approval. This new approval would  
20 consist of the appropriate aspects of the regulatory requirements of  
21 existing environmental land use and water permits, as well as  
22 additional statutorily established standards in the bill that are self  
23 executing, which is to say that no rules and regulations would be  
24 required to implement them. These new requirements would require:  
25 that a 300-foot buffer, in which major development would be  
26 prohibited, be established adjacent to all Highlands open waters (which  
27 includes streams, wetlands, and other bodies of surface water); that the  
28 quality of all Highlands open waters be maintained and not degraded;  
29 that the review of a water diversion permit be triggered by a more than  
30 50,000 gallon per day diversion (the current threshold for the rest of  
31 the State is more than 100,000 gallons); that a zero net fill requirement  
32 be met for flood hazard areas; that the antidegradation and other  
33 provisions applicable to category one waters be applied to Highlands  
34 open waters; that impervious surface of more than three percent of the  
35 land area of a site would be prohibited on existing lots; that  
36 development, excluding linear development, would be prohibited on  
37 steep slopes with a grade of 20% or greater; and that upland forest  
38 areas would not be disturbed, with certain exceptions . The Highlands  
39 Preservation Area approval program would be in effect for the first  
40 nine months following enactment of the bill.

41 The second and permanent DEP permitting program for the  
42 preservation area, the Highlands permitting review program, would be  
43 adopted as immediately effective rules and regulations within nine  
44 months after enactment of the bill. These rules and regulations would  
45 be adopted without following the usual notice and comment provisions  
46 of the "Administrative Procedure Act," would be in effect for not more

1 than one year, and would thereafter be adopted pursuant to the normal  
2 notice and comment provisions of the "Administrative Procedure Act."  
3 These rules and regulations would establish a Highlands permitting  
4 review program, the structure and requirements for which would  
5 essentially track the requirements for the statutorily established  
6 Highlands Preservation Area approval. The bill provides, however, for  
7 special treatment by the Highlands permitting program of certain single  
8 family dwellings and for hardship waivers for certain single family  
9 dwellings. In addition, this bill would exempt from the requirement to  
10 obtain a Highlands permitting review any major development for which  
11 all DEP environmental land use and water permits and local permits  
12 and approvals have been obtained. This bill would authorize the DEP  
13 to issue general permits under the Highlands permitting review  
14 program, and authorizes the DEP to charge an application fee. This  
15 bill also sets forth detailed and environmentally protective guidelines  
16 that DEP must follow when reviewing and issuing a Highlands  
17 permitting review approval. This bill also includes a penalty section  
18 which allows the DEP to impose civil administrative penalties for  
19 certain violations of the bill or DEP's rules and regulations adopted  
20 pursuant thereto. A person who violates certain provisions of the bill  
21 or the DEP's rules and regulations adopted pursuant thereto could also  
22 be subject to civil and criminal penalties.

23

24

## VI

25

26 This bill also contains provisions providing protection for the equity  
27 in land of landowners or farmers who decide to sell their property, or  
28 in the case of farmers a development easement, to the State, the State  
29 Agriculture Development Committee in the case of farmland, or a local  
30 government unit or a non-profit organization. In such cases this bill  
31 provides for a special appraisal process to account for any decrease  
32 in the value of the property which may have been caused by the  
33 regulatory requirements imposed by the bill. This appraisal system is  
34 modeled after that already provided for in law for the Green Acres and  
35 farmland preservation programs. Only landowners who have owned  
36 the subject land continuously from the date of enactment of this bill  
37 until the date of the proposed acquisition, with certain exceptions,  
38 would be eligible for the special appraisal system. In addition, any  
39 landowner would be required to choose between the appraisal system  
40 established in this bill or the two other existing appraisal systems  
41 currently in law.

# SENATE ENVIRONMENT COMMITTEE

## STATEMENT TO

### **SENATE, No. 1**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 7, 2004

The Senate Environment Committee reports favorably and with committee amendments Senate Bill No. 1.

As amended, this bill, to be known as the "Highlands Water Protection and Planning Act," would establish a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region, which is the source of the drinking water of more than half of the residents of New Jersey and offers unique hiking, bird watching, fishing, and other naturalist and recreational activities.

The approach set forth in the bill, as amended, consists essentially of four major parts. First, the bill defines the New Jersey Highlands Region and divides it into a preservation area, in which development would be strictly regulated, and a planning area, in which development would be monitored but not as strictly controlled. Secondly, the bill establishes the Highlands Water Protection and Planning Council, which would be charged with preparing and implementing a regional master plan for the Highlands Region, with which municipalities and counties in the preservation area would be required to conform their master plans. Thirdly, the bill would require, upon the date of enactment, that most major Highlands development in the preservation area receive from the Department of Environmental Protection (DEP) a Highlands Preservation Area approval, which would consist of the related aspects of existing environmental land use and water permits as well as additional, statutorily prescribed environmentally protective land use and water protection requirements. This system would be in effect for nine months. Lastly, the bill would require the DEP to adopt, within nine months, immediately effective rules and regulations establishing a permanent Highlands permitting review program, incorporating the provisions of the Highlands Preservation Area approval program, and setting strict standards for reviewing major Highlands development in the preservation area.

The bill, as amended, exempts some activities and types of development in the preservation area from complying with the provisions of the regional master plan, the Highlands Preservation

Area approval, and the permanent Highlands permitting review program. The bill, as amended, also contains land owner equity provisions and a provision to provide State aid to offset decreases in property tax revenues in municipalities with land located in the preservation area, makes changes to statutorily provided watershed aid, establishes a "Highlands Protection Fund," and requires the Highlands Water Protection and Planning Council to establish and implement a transfer of development rights program.

## I

The New Jersey Highlands Region consists of about 800,000 acres, or about 1,250 square miles, stretching from Ringwood in the northeast to Phillipsburg in the southwest, across portions of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren counties. Under the bill as amended, the Highlands Region is defined as all of the area within the 88 municipalities in Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren counties enumerated in section 7 of the bill. The bill, as amended, would exclude Andover Borough, Andover Township, and Lafayette from the Highlands Region, and would include Bedminster.

The preservation area of the Highlands Region, in which municipalities would be required to conform their master plans and development ordinances with the regional master plan developed by the Highlands Water Protection and Planning Council and in which the strict DEP permitting requirements would apply, is delineated in the bill, as amended, based upon natural resource data assembled by the United States Forest Service, Rutgers, The State University, and the New Jersey Water Supply Authority. The bill, as amended, contains a narrative description of the preservation area, translated into on-the-ground, identifiable reference points, such as road descriptions, survey lines, and municipal boundaries. The bill, as amended, provides that the planning area of the Highlands Region, in which municipal conformance with the council's regional master plan is optional, and in which the strict DEP permitting requirements would not apply, would consist of all that area of the Highlands Region not within the preservation area. The bill, as amended, would not include town and regional centers designated pursuant to the State Plan in the preservation area.

Under the bill, as amended, any road, railroad, or railroad right of way that constitutes part of the preservation area boundary would be considered outside the preservation area, and any stream, river or brook that constitutes part of the preservation area boundary would be considered to lie within the preservation area.

In addition to the formal designation of the preservation area in the bill, municipalities, in whole or in part in the planning area, are authorized under the bill, as amended, to opt into the regional master

plan by choosing to conform their master plans and other development regulations with the regional master plan to be adopted by the Highlands Water Protection and Planning Council.

## II

The bill, as amended, would establish the Highlands Water Protection and Planning Council, a 15-member body appointed by the Governor, with the advice and consent of the Senate, and charged with preparing and implementing a regional master plan for the Highlands Region. Members of the council would serve for terms of five years, and without compensation. The Governor would appoint the chairperson of the council, and the council would appoint an executive director. The bill, as amended, provides that no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council, and allows the Governor to veto any action taken by the council.

The bill, as amended, further specifies the following concerning the members of the council:

- 1) No more than four of the eight elected officials appointed to the council would be from the same political party;
- 2) The five municipal officials would be required to be Highlands Region residents;
- 3) Two of the eight county residents appointed by the Governor to the council would be residents of the county with the largest population in the Highlands Region;
- 4) Two of the seven residents of the State appointed by the Governor to the council would be recommended by the Legislature - one by the Senate President and one by the Speaker of the General Assembly;
- 5) Nonelected officials who are members of the council, to the maximum extent practicable, would have expertise, knowledge or experience in water quality protection, natural resources protection, environmental protection, agriculture, land use, or economic development; and
- 6) At least four of the members of the council would be property owners, business owners, or farmers in the Highlands Region or residents or nonresidents of the Highlands Region who benefit from or consume water from the Highlands Region.

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In addition to and among the extensive powers of the council enumerated in section 6 of the bill as it was introduced, the committee amended the bill to empower the council to:

- 1) develop model land use ordinances and other regulations for water conservation, and promote, in conjunction with the DEP and the

Department of Agriculture, water conservation of water resources both in the Highlands Region and in areas outside of the Highlands Region for which the Highlands is a source of drinking water;

2) establish and implement a road signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region;

3) promote brownfield remediation and redevelopment in the Highlands Region; and

4) work with the State Agriculture Development Committee and the Garden State Preservation Trust to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface or agricultural impervious cover on the farm to a maximum of 5% of the total land area of the farm.

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Under section 8 of the bill, as amended, the Highlands Water Protection and Planning Council would be required to adopt a regional master plan within 18 months after the council's first meeting. The council may not adopt the regional master plan unless the regional master plan includes recommended receiving zones in the planning area and the capacity therefor, pursuant to the transfer of development rights program authorized under the bill, as amended.

The regional master plan would also be required to recognize and not compromise the provisions of the "Right to Farm Act" and the protections to farmers it affords. In the preservation area, the regional master plan would also limit redevelopment to DEP designated brownfield sites and sites that are at least 70% covered with impervious surface. Within the 60 days after the council adopts the regional master plan, the council would submit the plan to the State Planning Commission for review and endorsement, and the commission's review would be limited to the parts of the regional master plan concerning the planning area. Any municipality or county or portion thereof located within the preservation area would be exempted from the State Development and Redevelopment Plan endorsement process. The bill, as amended, also directs the Department of Community Affairs, in consultation with the DEP, to provide guidelines and instructions to all local government units wholly or partially in the preservation area with respect to the processing, review and enforcement of applications for development after the date of enactment and before the adoption of the regional master plan.



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The bill, as amended, provides that the goals of the regional master plan in both the preservation area and planning area would be to protect, restore, and enhance the quality and quantity of surface and ground waters; preserve extensive and contiguous areas of land in their natural state; protect the contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitats; preserve farmland and historic resources; preserve recreational opportunities on publicly owned land; promote conservation of water resources; promote brownfield remediation and redevelopment; and promote compatible agricultural, horticultural, recreational, and cultural land uses. In the preservation area, the regional master plan would have the additional goal to prohibit or limit to the maximum extent possible construction or development which is incompatible with the preservation of the Highlands. In the planning area, the additional goals of the regional master plan would be to encourage appropriate development, redevelopment, and economic growth consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, and to promote a sound, balanced transportation system that is consistent with smart growth and preserves mobility in the Highlands Region.

The bill, as amended, provides under section 11 that the regional master plan would consist of several components. Among these would be:

1) a resource assessment - binding in the preservation area and for advisory purposes only in the planning area - that determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain;

2) a financial component detailing the cost of implementing the regional master plan, including property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for any development transfer bank, payments in lieu-of-taxes, and acquisition of lands for preservation or recreation and conservation purposes;

3) a component to provide for local government and public input into the council's operations;

4) a coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals and policies of the regional master plan;

5) a transportation component that provides a plan for transportation system preservation, includes all federally mandated projects or programs, and recognizes smart growth strategies and principles; and

6) a smart growth component that would provide for, among other components described in the bill as amended, redevelopment, transfer

of development rights, a land use capacity map, and model minimum standards for municipal and county master planning and development regulations outside the preservation area.

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Under the bill, as amended, within nine to 15 months after the Highlands Water Protection and Planning Council adopts the regional master plan, the governing body of each municipality and county located wholly or partially in the preservation area would be required to revise its master plan and development regulations to conform them with the requirements of the regional master plan and to submit the revisions to the council. The cost of making these revisions would be reimbursable by the council. The council would be authorized to approve or disapprove the revisions and to require additional changes. If such a municipality or county in the preservation area does not conform its master plan and development regulations to the regional master plan, the council would be authorized to enforce the provisions of the regional master plan and to essentially enforce the "Municipal Land Use Law" in the municipality or county and issue stop construction orders. In addition, the council would have call up review authority over any local application for development in a municipality or county in the preservation area. Any municipality or county in the planning area may elect to conform its master plan and development regulations to the appropriate provisions of the regional master plan. Finally, the council would also be authorized to review significant capital projects of the State or local governments in the preservation area. The council would be required to process any reviews of State, county, or municipal capital projects and other projects that are not exempt from council review within 30 days after their submission.

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The bill, as amended, contains a number of specific provisions concerning the transfer of development rights program for which the council must recommend growth receiving zones in the regional master plan before the regional master plan can be adopted. The bill, as amended, authorizes the council to use the existing State Transfer of Developments Rights Bank or to establish a bank specifically for the Highlands Region. Otherwise, as provided under the bill as amended, the authorized transfer of development rights program would be consistent with the recently enacted "State Transfer of Development Rights Act," P.L.2004, c.2 (C.40:55D-137 et seq.), except for the following provisions:

- 1) The council would perform the real estate analysis for the Highlands Region that is required to be performed by a municipality prior to the adoption or amendment of any development transfer

ordinance under the "State Transfer of Development Rights Act";

2) No later than 18 months after the bill is enacted, and from time to time thereafter as the council determines is appropriate, the council, in consultation with municipal, county and State entities, would be required to:

a) identify areas within the preservation area that are appropriate as sending zones pursuant to the "State Transfer of Development Rights Act,"

b) identify areas within the planning area that are appropriate for development as voluntary receiving zones pursuant to the "State Transfer of Development Rights Act"; and

c) set a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area;

3) The first time the council prepares a regional master plan and initially establishes the transfer of development rights program, the council should consider any supporting information for the regional master plan but would not be required to wait to create the transfer of development rights program until the first regional master plan has been prepared;

4) The council would be required to work with municipalities and the State Planning Commission to identify centers designated by the State Planning Commission as voluntary receiving zones for the transfer of development rights program;

5) In consultation with municipal, county and State entities, the council would be required to:

a) assist municipalities or counties in analyzing voluntary receiving zone capacity;

b) work with municipalities outside the preservation area to assist these municipalities in developing ordinances necessary to implement the transfer of development rights; and

c) establish advisory or model ordinances and other information for this purpose;

6) The council would establish the initial value of a development right considering the DEP rules and regulations in effect the day before the date of enactment. In addition, the council would give priority consideration for inclusion in a transfer of development rights program any lands that comprise a major Highlands development that would have qualified for an exemption under the grandfather provision but for the lack of a necessary State permit as specified in that exemption provision, and for which an application for such a permit had been submitted to and deemed by the DEP to be complete for review on or before March 29, 2004;

7) The council would make assistance available to municipalities that desire to create additional sending zones on any lands within their

boundaries which lie within the planning area and are designated for conservation in the regional master plan;

8) The Office of Green Acres and the State Agriculture Development Committee would be required to provide support and technical assistance to the council to operate the transfer of development rights program;

9) The Department of Banking and Insurance, the State Transfer of Developments Right Bank, the State Agriculture Development Committee, and the Pinelands Development Credit Bank would be required to provide technical assistance to the council in establishing and operating a development transfer bank, at the request of the council;

10) The Office of Smart Growth would be directed to review and coordinate State infrastructure capital investment, community development and financial assistance in the planning area in furtherance of the regional master plan;

11) Any municipality in the planning area whose municipal master plan and development regulations have been approved by the council to be in conformance with the regional master plan and that amends its development regulations to accommodate voluntary receiving zones within its boundaries identified by the council to provide for a minimum residential density of 5 dwelling units per acre, would be:

a) eligible for an enhanced planning grant of up to \$250,000 from the council;

b) eligible for a grant to reimburse the reasonable costs of amending the municipal development regulations;

c) authorized to impose impact fees, pursuant to an impact fee ordinance that would be adopted by the municipality, at a rate of up to \$15,000 per dwelling unit unless and until impact fees are otherwise established by law at which time the impact fee would be 200% of the calculated impact fee;

d) entitled to legal representation as provided elsewhere under the bill;

e) accorded priority status in the Highlands Region for any State capital improvement or infrastructure programs; and

f) eligible for any other appropriate assistance or incentives;

12) Any municipality located outside of the Highlands Region in any county that has a municipality in the Highlands Region that establishes a receiving zone that provides for a minimum residential density of five dwelling units per acre for the transfer of development rights from a sending zone in the Highlands Region, and that accepts that transfer of development rights shall, for those receiving zones, be eligible for the same grants, authority, and other assistance, incentives, and benefits as listed above, except such a municipality would not be eligible for legal representation or for priority status in the Highlands Region for State capital or infrastructure programs; and

13) Any municipality authorized to impose impact fees would exercise that authority by an impact fee ordinance in accordance with

the provisions of the bill, as amended.

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The bill, as amended, also establishes a mechanism under which any municipality in the preservation area would be entitled to State aid to compensate for any decrease in the aggregate amount of property tax revenues derived from the taxation of real property in that portion of the municipality located in the preservation area that is directly attributable to the implementation of the provisions of the bill as amended. The "Highlands Municipal Property Tax Stabilization Board," established in the bill as amended, and the county tax board would annually calculate the amount to which each municipality is entitled, and would certify and transmit these amounts to the State Treasurer and to the Director of the Division of Local Government Services in the Department of Community Affairs. The State Treasurer would then pay to each qualified municipality its entitled amount in two equal installments.

The bill, as amended, would create a "Highlands Protection Fund," and dedicate \$12 million of the realty transfer fee revenue annually for 10 years, and \$5 million annually thereafter, for (1) payments to the "Highlands Municipal Property Tax Stabilization Fund"; (2) the payment of watershed moratorium offset aid pursuant to section 1 of P.L.1999, c.225 (C.58:29-8); (3) the making of grants by the council pursuant to the bill; and (4) allocations to the "Pinelands Property Tax Assistance Fund."

The bill, as amended, would also establish the "Pinelands Property Tax Assistance Fund" to which would be allocated \$1.8 million annually from the "Highlands Protection Fund" for five years. Moneys in the fund would be distributed to municipalities in the pinelands area in the same percentage of the total that the municipality received from the "Pinelands Municipal Tax Stabilization Fund" pursuant to P.L.1983, c.551. The moneys made available would be used to offset the amount to be raised as property taxes.

Also, under the bill, as amended, when certain requirements provided under section 21 of the bill, as amended, have been met, the council would provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to any provision of the bill as amended, or to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., or the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

## III

The second level of water and natural resource protection for the preservation area of the Highlands Region established in the bill, as amended, consists of the imposition of environmentally protective standards for the review and permitting of major Highlands development by the DEP. Most development of any significant impact currently requires one or more State level water and land use permits issued by the DEP under the authority of a wide umbrella of environmental laws and their accompanying rules and regulations. The bill, as amended, would increase the standards imposed for the issuance of, and would coordinate and consolidate the review of, these permits for development in the preservation area of the Highlands Region. These more stringent standards would also be incorporated into the land use capability component of the regional master plan adopted by the Highlands Water Protection and Planning Council. In turn, municipalities and counties in the preservation area would revise their respective master plans and development regulations to conform with the regional master plan, and thereby reflect the more stringent standards in their respective master plans and development regulations. In this way, the standards authorized by sections 32 through 36 of the bill, as amended, create a tie between the State and regional preservation approaches in the bill.

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The bill, as amended, essentially directs the DEP to develop and enforce two chronologically sequential environmental permitting programs and standards in the preservation area of the Highlands. Both permitting programs and standards would apply to permits for major Highlands development.

As used in the bill, as amended, "major Highlands development," except as otherwise exempted under section 30 of the bill, as amended, means: (1) any non-residential development in the preservation area; (2) any residential development in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity in the preservation area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. As amended, the definition of "major Highlands development" does not

include an agricultural or horticultural development or agricultural or horticultural use in the preservation area. The bill, as amended, defines an environmental land use or water permit to include a permit, approval, or other authorization issued pursuant to the "Freshwater Wetlands Protection Act," the "Water Supply Management Act," the "Water Pollution Control Act," "The Realty Improvement Sewerage and Facilities Act (1954)," the "Water Quality Planning Act," the "Safe Drinking Water Act," or the "Flood Hazard Area Control Act."

The first DEP permitting program would take effect upon enactment of the bill, and would be in effect for the first nine months following enactment of the bill, after which the second DEP permitting program would go into effect. While the first permitting program would be in effect, any person proposing a major Highlands development in the preservation area would be required to receive a Highlands Preservation Area approval. This new approval would consist of the appropriate aspects of the regulatory requirements of existing environmental land use and water permits, as well as the additional, self-executing, statutorily established standards established in the bill as amended. No rules or regulations would be required to implement these standards. These new requirements would require that:

1) a 300-foot buffer, in which major Highlands development would be prohibited, be established adjacent to all Highlands open waters (which includes streams, wetlands, and other bodies of surface water);

2) the quality of all Highlands open waters be maintained and not degraded;

3) the review of a water diversion permit be triggered by a diversion of more than 50,000 gallon per day (the current threshold for the rest of the State is more than 100,000 gallons);

4) any new or increased diversion for all nonpotable purposes that is more than 50% consumptive would be required to demonstrate an equivalent reduction in water demand within the same subdrainage area through means such as groundwater recharge of stormwater or reuse, the existing unused allocation or allocations used for all nonpotable purposes may be revoked where measures to the maximum extent practicable are not implemented to reduce demand, and all new or increased diversions would be required to implement water conservation measures to the maximum extent practicable;

5) a zero net fill requirement be met for flood hazard areas;

6) the antidegradation and other provisions applicable to category one waters be applied to Highlands open waters;

7) more than three percent of the land area of a site as impervious surface - defined as "any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements" - would be prohibited on existing lots;

8) development, excluding linear development, would be prohibited

on steep slopes with a grade of 20% or greater; and

9) upland forest areas would not be disturbed, with certain exceptions.

The second and permanent DEP permitting program for the preservation area, the Highlands permitting review program, would be adopted as immediately effective rules and regulations within nine months after enactment of the bill as amended. These rules and regulations would be adopted without following the usual notice and comment provisions of the "Administrative Procedure Act," would be in effect for not more than one year, and would thereafter be adopted pursuant to the normal notice and comment provisions of the "Administrative Procedure Act." These rules and regulations would establish a Highlands permitting review program, the structure and requirements for which would essentially track the requirements for the statutorily established Highlands Preservation Area approval, with the addition of a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses.

The bill, as amended, would authorize the DEP to issue general permits under the Highlands permitting review program, and would authorize the DEP to charge an application fee. The bill, as amended, also sets forth detailed and environmentally protective guidelines that DEP must follow when reviewing and issuing a Highlands permitting review approval. The bill, as amended, also includes a penalty section which allows the DEP to impose civil administrative penalties for certain violations of the bill or DEP rules and regulations adopted pursuant thereto. A person who violates certain provisions of the bill or the DEP rules and regulations adopted pursuant thereto could also be subject to civil and criminal penalties.

In addition, the bill, as amended, requires the DEP to limit or prohibit the construction of new public water systems or the extension of existing public water systems to serve development in the preservation area, except in the case of a demonstrated need to protect public health and safety, and except to serve development in the preservation area that is exempt under the provisions of the bill. The bill, as amended, would revoke designated sewer service areas within the preservation area for which wastewater collection systems have not been installed on the date of enactment, and any associated treatment works approvals in the impacted areas would expire on the date of enactment, except that any designated sewer service area would not be revoked and any associated treatment works approvals would not expire if necessary to serve development in the preservation area that is exempt under the provisions of the bill.



## IV

There are a number of exemptions provided in section 30 of the bill, as amended. The exemptions provide that the requirements and other provisions of the bill after it is enacted into law, the regional master plan, any rules or regulations adopted by the DEP pursuant to the bill, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan, cannot be applied to the following:

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

2) the construction of a single family dwelling on a lot in existence on the date of enactment, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase by one-quarter acre or more in impervious surface (defined as "any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements");

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

(a) one of the following "Municipal Land Use Law" approvals:

(i) preliminary or final site plan approval;

(ii) final municipal building or construction permit;

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

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

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

(b) at least one of the following permits from the DEP, if applicable to the proposed major Highlands development:

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

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

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

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

(c) one of the following permits from the DEP, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the DEP water permits listed in subparagraphs (i) through (iv) of subparagraph (b) above:

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

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

This exemption only applies to the land area and the scope of the major Highlands development addressed by the qualifying approvals provided, before those qualifying approvals expire, if construction beyond site preparation begins within three years after the date of enactment;

4) the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use;

5) any improvement to a single family dwelling in existence on the date of enactment of the bill as amended, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

6) any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of the bill, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

7) an activity conducted in accordance with an approved woodland management plan as provided by current law or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;

8) the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;

9) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of the bill and does not result in the construction of any new through-capacity travel lanes;

10) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any

new through-capacity travel lanes;

11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of the bill;

12) the reactivation of rail lines and rail beds existing on the date of enactment;

13) the construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;

14) the mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;

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

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

17) a major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to the "State Planning Act" as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. The exemption provided pursuant to this paragraph would expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law."

Although the bill, as amended, would provide these exemptions, it also provides that the exemptions to the provisions of the law established by the enactment of the bill and the exemptions from the various regulatory requirements created under the bill, as amended, do not exempt the activities and types of development listed above from other applicable State or local laws, rules, regulations, development regulations, or ordinances. The bill, as amended, provides that none of its provisions alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.). Furthermore, the bill, as amended, provides that none of its provisions shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3.

The bill, as amended, also excludes "agricultural or horticultural development" and "agricultural or horticultural use" from the

definition of major Highlands development and therefore those uses and activities would not be subject to the Highlands approval and permit review program established in the bill as amended. Instead, agricultural or horticultural development in the preservation area that would increase agricultural impervious cover would be subject to review by the local soil conservation district. If an agricultural or horticultural development would increase agricultural impervious cover (either individually or cumulatively) by three percent or more of the total land area of the farm management unit, the owner or operator would be required to submit a farm conservation plan to the local soil conservation district. If the agricultural or horticultural development would increase agricultural impervious cover by nine percent or more, a more detailed resource management systems plan would be required to be submitted to the local soil conservation district and to the DEP. The Department of Agriculture, in consultation with the DEP, would be required to adopt rules and regulations establishing scientific standards to guide the preparation and implementation of the farm conservation plans and resource management systems plans prepared by farmers pursuant to the bill, as amended.

## V

The bill, as amended, also contains provisions providing protection for the equity in land of landowners or farmers who decide to sell their property, or in the case of farmers a development easement, to the State, the State Agriculture Development Committee in the case of farmland, or a local government unit or a non-profit organization. In such cases, the bill, as amended, would provide for a special appraisal process commencing on the date of enactment or July 1, 2004, whichever is later, and through June 30, 2009. This appraisal system is modeled after the system currently provided for in the law for the Green Acres and farmland preservation programs. As amended, the first part of the appraisal would be based on the land use zoning of the lands, and any State environmental laws or DEP rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and the second part of the appraisal would be based on the land use zoning of the lands, and any State environmental laws or DEP rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. Only landowners who have owned the subject land continuously from the date of enactment of the bill until the date of the proposed acquisition, with certain exceptions, would be eligible for the special appraisal system. In addition, any landowner would be required to choose between the appraisal system established in this bill, as amended, or the two other existing statutory appraisal systems.

The bill, as amended, provides that the Highlands Water Protection and Planning Council would make recommendations to the DEP

concerning prioritizing the acquisition of land in the preservation area for conservation purposes, especially lands that have declined substantially in value due to the implementation of the bill, and for any major Highlands development that would have qualified for an exemption under the grandfather provision but for the lack of a necessary State permit, and for which an application for such a permit had been submitted to the DEP and deemed to be complete for review on or before March 29, 2004. The council would make similar recommendations concerning farmland preservation to the State Agriculture Development Committee for lands that have declined substantially in value due to the implementation of the bill. However, the provisions of the bill, as amended, would not change the formulas or procedures currently used to prioritize properties for preservation under the Green Acres and farmland preservation programs. Current law requires the DEP to adopt guidelines for evaluation and priority ranking of land acquisition under the Green Acres program. Under the bill as amended, these guidelines would be required to be designed to provide, to the maximum extent practicable and feasible, for the equitable spending of moneys among the geographic areas of the State. In addition, the bill, as amended, requires that the amount of money spent by the State for State Green Acres acquisitions and State purchases of farmland and farmland easements in the fiscal years 2005-2009 in each county in the State would be at least as much as the average annual amount spent in each county for State fiscal years 2002-2004, provided that there are sufficient and appropriate lands within the county to be so acquired by the State.

Finally, the bill, as amended, contains a number of provisions amending current law to provide for the independent commissions and authorities in and near the Highland Region to coordinate planning with the Highlands Water Protection and Planning Council, and giving the DEP the necessary authority to implement the provisions of the bill.

The bill, as amended, contains no provision concerning the State's right of first refusal for lands being sold or conveyed in the Highlands Region, no provision negating preliminary and final "Municipal Land Use Law" approvals of major development that were inconsistent with the Highlands regional master plan, and no provisions concerning prohibitions against local government units, public utilities, or public water utilities from selling lands in the Highlands Region that may protect the water supply.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill:

- 1) Change the definition of "major development" to "major Highlands development" and revise the scope of the definition (Section 3);
- 2) Add definitions of "agricultural or horticultural development,"

"agricultural impervious cover," "agricultural or horticultural use," "construction beyond site preparation," "development," "farm conservation plan," "farm management unit," "immediate family member," "Office of Smart Growth," "public utility," "resource management systems plan," "soil conservation district," "State entity," "State Soil Conservation Committee," and "temporary coverings" (Section 3);

3) Add definitions of "construction materials facility," "mine," and "mine site," which definitions are related to an exemption for mining and quarrying provided in section 30 of the bill (Section 3);

4) Clarify the definitions of "Highlands open waters" and "waters of the Highlands" (Section 3);

5) Add definitions of "capital improvement," "facility expansion," "impact fee," "individual unit of development," "service area" and "service unit," which are related to the transfer of development rights program to be established by the council (Section 3);

6) Make changes to the qualification and residency requirements of the 15 council members, and provide that no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council (Section 5);

7) Authorize the council to: hire attorneys, develop model land use ordinances and other development regulations for planning area municipalities concerning water conservation, establish a Highlands Region road signage program, promote water conservation in and outside of the Highlands Region, promote brownfield remediation and redevelopment, and work with the State Agriculture and Development Committee and the Garden State Preservation Trust to establish incentives under the farmland preservation program that would be provided in exchange for a landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on farmland (Section 6);

8) Include a metes and bounds description of the boundaries of the preservation area (Section 7);

9) Specify that any road, railroad, or railroad right of way that constitutes part of the preservation area boundary would be considered outside the preservation area, and any stream, river or brook that constitutes part of the preservation area boundary would be considered to lie within the preservation area (Section 7);

10) Specify that town and regional centers designated pursuant to the State Plan would not be included in the preservation area (Section 7);

11) Prohibit council adoption of the regional master plan unless the regional master plan includes recommended receiving zones in the planning area pursuant to the transfer of development rights program (Section 8);

12) Require the regional master plan to be submitted to the State Planning Commission for endorsement, and limit the commission's review to the planning area only (Section 8);

13) Provide for council and DEP consultation with the Department of Transportation wherever appropriate;

14) Limit redevelopment to brownfield sites or to sites with at least 70% impervious surface (Section 9);

15) Direct the council to ensure the regional master plan recognizes and does not compromise the provisions of the "Right to Farm Act" (Section 9);

16) Expand the goals of the regional master plan in the preservation area and the planning area (Section 10);

17) Specify the resource assessment, transportation component, and smart growth component is only for advisory purposes in the planning area (Section 11);

18) Expand the required components of the regional master plan to include a transportation component and a smart growth component (Section 11);

19) Provide certain requirements and provisions for the transfer of development rights program to be established by the council (Section 13);

20) Provide that the goals and elements of the regional master plan, including the resource assessment and the smart growth component, be used to develop the transfer of development rights program (Section 13);

21) Provide that prior to the establishment of the transfer of development rights program by the council, the Office of Smart Growth shall establish a pilot transfer of development rights program that includes Highlands Region municipalities (Section 13);

22) Empower the council to revoke conformance approval for a preservation area municipality if the local government takes action inconsistent with the regional master plan (Section 14);

23) Delete section 16 of the bill as introduced, which concerned vested rights under the "Municipal Land Use Law";

24) Provide preservation area municipalities with additional time to revise ordinances to conform to the regional master plan (Sections 14 and 18);

25) Include provisions concerning cases in which local government development decisions are contested in the preservation area (Section 17);

26) Provide reasonable expenses incurred by municipalities and counties for conforming with the regional master plan would be payable from grants and other financial aid (Section 18);

27) Delete section 20 of the bill as introduced, and revise the property tax stabilization provisions to address decline in taxes paid for vacant land and other issues (Section 19);

28) Create a "Highlands Protection Fund," and dedicate a portion of the realty transfer fee revenue annually for certain State aid purposes in the Highlands Region (Sections 21, 61 and 62);

29) Create the "Pinelands Property Tax Assistance Fund" to which would be allocated \$1.8 million annually from the "Highlands

Protection Fund" for five years for property tax stabilization moneys for certain pinelands area municipalities (Section 20);

30) Provide that the council, rather than the Attorney General, would provide legal representation to local governments in the preservation area whose development decisions are challenged in court (Section 22);

31) Revise section 24 of the bill as introduced, which concerns the Council on Affordable Housing and adjustments to fair share obligations in consideration of the regional master plan (Section 25);

32) Delete section 26 of the bill as introduced, which concerned the State's right of first refusal to purchase property from the bill;

33) Delete section 27 of the bill as introduced, which concerned the sale of water supply protection lands in the Highlands Region by any State or local public entity or public utility;

34) Provide exemptions for certain activities and types of development to the provisions of the bill after it is enacted into law, the regional master plan, any rules or regulations adopted by the DEP pursuant to the bill, or any amendments to a master plan (Section 30);

35) Specify that the provisions of the bill would not affect the funding allocations in the "Garden State Preservation Trust Act" (Section 30);

36) Add a new section concerning agricultural or horticultural development in the preservation area (Section 31);

37) Provide for specifics connected to administration of the Highlands Preservation Area approval, including exempting the establishment of the fee schedule from the provisions of the "Administrative Procedure Act" (Section 32);

38) Require demonstration of equivalent reductions in water demand and implementation of water conservation connected with new or increased water allocations for nonpotable purposes, and authorize revocation of unused allocations (Section 32 and 34);

39) Add language to provide that the provisions of sections 41 and 42 in the bill, concerning public water systems and designated sewer service areas, would not apply to development in the preservation area that is exempt pursuant to section 30 of the bill (Sections 41 and 42);

40) Add language to provide that moneys for State open space acquisition be spent equitably among the geographic areas of the State (Section 53);

41) Provide a special appraisal process for open space and farmland preservation (Sections 53 and 54);

42) Require that the amount of money spent annually by the State for State Green Acres acquisitions and State purchases of farmland and farmland easements in the fiscal years 2005-2009 in each county in the State would be at least as much as the average annual amount spent in each county for State fiscal years 2002-2004 (Sections 53 and 54);

43) Exempt any municipality or county or portion thereof located within the Highlands preservation area from the State Development



and Redevelopment Plan endorsement process (Section 69);

44) Change the amount of watershed aid to municipalities who host lands on which there is a moratorium from \$35 per acre to \$47 per acre (Section 82);

45) Delete sections 27, 60, and 81 of the bill as introduced, which concerned the sale of water supply lands;

46) Delete subsection k. of section 6 regarding the council's authority to establish a nonprofit corporation;

47) Specify that none of the bill's provisions shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3; and

48) Make technical and clarifying changes to the bill.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 1

### STATE OF NEW JERSEY

### 211th LEGISLATURE

DATED: JUNE 16, 2004

#### SUMMARY

- Synopsis:** The "Highlands Water Protection and Planning Act"; creates Highlands Water Protection and Planning Council; and dedicates a portion of realty transfer fee revenue annually for certain State aid purposes in the Highlands Region and the Pinelands area.
- Type of Impact:** Expenditure increase from the General Fund.
- Agencies Affected:** Departments of Environmental Protection, Agriculture, Community Affairs, Transportation, and Treasury; State Planning Commission; and affected municipalities and counties.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost - Undedicated</b>	\$3,000,000 to \$4,000,000 annually		
<b>State Cost - Dedicated</b>	\$12,000,000 annually		
<b>Local Cost</b>	Indeterminate		

- ! The bill establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. This area comprises nearly 800,000 acres in northern New Jersey, covering 88 municipalities.
- ! The Highlands Water Protection and Planning Council is established to develop a regional master plan, help manage the regulatory provisions of the bill, create a transfer of development rights (TDR) program, and provide financial assistance when needed.
- ! The bill annually dedicates \$12 million for 10 years and \$5 million thereafter from realty transfer fees to (1) compensate towns adversely affected by decreased property values; (2) support watershed moratorium offset aid; (3) award local grants; and (4) make five annual allocations of \$1.8 million to Pinelands communities to offset property tax increases. Other financial incentives are also provided to landowners and municipalities.

- ! The Office of Legislative Services (OLS) estimates that an annual State appropriation of \$3 million to \$4 million may be required to support the Council's operating budget. More funds may also be needed for startup costs, development of the regional master plan, and TDR development expenses.

## **BILL DESCRIPTION**

Senate Bill No. 1 (1R) of 2004, the "Highlands Water Protection and Planning Act," establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. The bill defines the Highlands Region and divides it into a preservation area, where development would be strictly regulated, and a planning area where development would not be as strictly controlled.

The bill establishes the Highlands Water Protection and Planning Council, an independent agency "in, but not of" the Department of Environmental Protection (DEP). Its major responsibilities would include preparing and implementing a regional master plan for the Highlands Region, exercising review authority over any local application for development within the preservation area, and reviewing publicly-funded capital projects. Pursuant to Council review and approval, municipalities and counties in the preservation area would be required to amend their master plans to conform with the regional master plan. The cost of making these revisions would be reimbursable by the State through the Council.

For the first nine months following enactment, the bill requires that most major development in the preservation area receive from the DEP a Highlands Preservation Area approval, a permit consisting of existing and new environmentally protective land use and water protection requirements. After that time period, the bill requires the DEP to adopt rules and regulations establishing a permanent Highlands permitting review and permit program.

The bill requires the Council to establish a transfer of development rights (TDR) program, which would include recommendations regarding receiving zones in the planning area, prior to the adoption of the regional master plan. The Council is authorized to use the existing State TDR Bank or to establish such a bank specifically for the Highlands Region. The bill provides financial incentives to municipalities in or outside the planning area that permit voluntary receiving zones within their boundaries. These incentives include planning grants up to \$250,000, reimbursement of costs to amend municipal development regulations, authorization to impose impact fees, and eligibility for State financial assistance. The bill also directs the State Office of Smart Growth to establish a pilot TDR program.

The bill establishes a funding mechanism under which a municipality in the preservation area could receive State aid to compensate for any decrease in the aggregate amount of property tax revenue that is directly attributable to the bill's implementation. Specifically, a newly created Highlands Municipal Property Tax Stabilization Board, along with county tax boards, would annually calculate and certify the amount to which each municipality is entitled. The certified sum would then be paid by the State Treasurer to each qualified municipality.

These particular State payments would be derived from the Highlands Municipal Property Tax Stabilization Fund, an account financed by the Highlands Protection Fund. The bill capitalizes the Highlands Protection Fund by dedicating to it \$12 million per year from State realty transfer fee revenues for the first 10 years following enactment, with \$5 million annually dedicated thereafter. The bill also directs the Highlands Protection Fund to annually allocate money for a revised watershed moratorium offset aid program, for any local grants awarded by the Council, and for Pinelands municipalities through a newly created Pinelands Property Tax

Assistance Fund. Under the bill, this fund would receive \$1.8 million annually for five years to help offset property tax increases in qualified Pinelands region communities.

Last, the bill contains landowner equity provisions designed to compensate landowners within the preservation area who decide to sell land or development rights to the State's Green Acres or farmland preservation programs. The bill provides that such lands could receive fair market compensation by using a two-part appraisal system modeled after the system used by these two programs. A hold harmless provision is also included to ensure that all counties receive equitable funding from these programs from fiscal years 2005-2009.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) estimates that the annual dedication of realty transfer fund monies for the purposes described therein will result in a proportional decrease in available balances in the General Fund. Notwithstanding this fact, the cost of implementing the bill will require State funding on an annual basis to support the basic operations of the Council, staff, offices and support services. Although staff size and needs are uncertain, the OLS estimates regular operating costs could approach \$3 million to \$4 million annually.

This projection is based on comparing the Council budget with the budgets of two other public entities that have missions similar to the proposed Council: the Pinelands Commission and the New Jersey (Hackensack) Meadowlands Commission. Both agencies receive approximately \$3 million annually for operational expenses. The Council budget may prove to be even higher due to the bill's requirement that it provide legal representation to any Highlands town having legal actions filed against it as a result of the act, and its role in developing a transfer of development rights (TDR) program. This last responsibility could incur significant expenses because it would require the Council to conduct real estate analyses and other related duties during the process of identifying so-called "sending and receiving" zones. Affected municipalities may also incur costs during this exercise. Financial assistance to offset some or all of such costs may be available from the State TDR Bank, which currently has a balance of approximately \$20 million, or from grants awarded by the Council.

With respect to the Council's one-time implementation costs, the OLS does not have sufficient information to provide a cost estimate at this time. Such costs could include capital and other start-up expenses for leases or rent, furniture, vehicles, etc. In addition, significant one-time costs may be incurred in the development of the regional master plan. On the plus side, the Council could eventually supplement its budget through application review fees, compensation for other regulatory duties performed on behalf of the State, or contributions from non-state funding sources such as the federal government, nonprofit organizations, or private donations.

The requirement that municipalities and counties in the Highlands preservation area adopt and submit revisions to their master plans and development regulations in order to conform to the regional master plan will incur certain costs. Cost estimates will vary widely depending on

the degree of difference between the local and regional plans. However, under the bill, these costs would be recouped through planning grants supported by the realty transfer fee dedication. It is unclear, however, whether all such costs will ultimately be covered by these grants, or whether there will be sufficient funding to meet all reimbursement claims from communities in both the preservation and planning areas.

The bill's potential fiscal impact on property tax values is addressed by the proposed Highlands Municipal Property Tax Stabilization Fund, which is established to compensate municipalities that experience decreased property tax collections as a result of the bill. Local fiscal impacts may also be mitigated by the bill's restoration (albeit revised) of the Watershed Moratorium Offset Aid program, which was discontinued in FY 2003. For comparison purposes, the State provided over \$16 million for this program from FY 1997 to FY 2002.

The Highlands Protection Fund will also provide property tax relief to certain Pinelands communities by allocating \$1.8 million annually for five years to the proposed Pinelands Property Tax Assistance Fund. For comparison purposes, the State has intermittently provided over \$9 million in property tax-related aid in the Pinelands area from FY 1985 through FY 2002.

With respect to the bill's fiscal impact on State agencies, the DEP is directed to establish upon enactment a Highlands Preservation Area approval process that would be required of all major development applicants. This approval process would consist mostly of existing permits plus some new regulatory requirements included in the bill. It would provide immediate review of development applications until a permanent Highlands permitting review program is established nine months later.

The bill allows the DEP to establish fees to meet all administrative costs of the new permitting program. For existing and future permit review functions under the bill, the DEP is allowed to charge appropriate fees to cover most or all of its administrative costs. Assuming that some additional staff may have to be hired to handle increased, first-year work levels under the new program, administrative costs may exceed review fee revenues for several years. State funding liability should eventually decrease, however, as the program stabilizes.

As to the potential costs incurred by the Department of Community Affairs (DCA) and other affected State agencies, the OLS does not have enough data to formulate an estimate of such expenses at this time.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

# ASSEMBLY, No. 2635

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 3, 2004

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman LOUIS MANZO**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblymen Hackett and Connors**

**SYNOPSIS**

The "Highlands Water Protection and Planning Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/7/2004)**

1 AN ACT concerning the Highlands Region, creating a Highlands Water  
2 Protection and Planning Council, supplementing Title 13 of the  
3 Revised Statutes, and amending and supplementing various sections  
4 of the statutory law.

5

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

8

9 1. (New section) This act shall be known, and may be cited, as the  
10 "Highlands Water Protection and Planning Act."

11

12 2. (New section) The Legislature finds and declares that the  
13 national Highlands Region is an area that extends from northwestern  
14 Connecticut across the lower Hudson River Valley and northern New  
15 Jersey into east central Pennsylvania; that the national Highlands  
16 region has been recognized as a landscape of special significance by  
17 the United States Forest Service; that the New Jersey portion of the  
18 national Highlands Region is nearly 800,000 acres, or about 1,250  
19 miles, covering portions of 90 municipalities in seven counties; that the  
20 New Jersey Highlands Region is designated as a Special Resource  
21 Area in the State Development and Redevelopment Plan.

22 The Legislature further finds and declares that the New Jersey  
23 Highlands is an essential source of drinking water, providing clean and  
24 plentiful drinking water for one-half of the State's population,  
25 including communities beyond the New Jersey Highlands, from only  
26 13 percent of the State's land area; that the New Jersey Highlands  
27 contains other exceptional natural resources such as clean air,  
28 contiguous forest lands, wetlands, pristine watersheds, and wildlife and  
29 plant species habitats, includes many sites of historic significance, and  
30 provides abundant recreational opportunities for the citizens of the  
31 State.

32 The Legislature further finds and declares that the New Jersey  
33 Highlands provides a desirable quality of life and place where people  
34 live and work; that it is important to ensure the economic viability of  
35 communities throughout the New Jersey Highlands; that residential,  
36 commercial, and industrial development and redevelopment and  
37 economic growth in certain appropriate areas of the New Jersey  
38 Highlands is also in the best interests of all the citizens of the State,  
39 providing enumerable social, cultural, and economic benefits and  
40 opportunities.

41 The Legislature further finds and declares that there are  
42 approximately 110,000 acres of agricultural lands in active production  
43 in the New Jersey Highlands; that these lands are important resources

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 of the State that should be preserved; and that the agricultural industry  
2 in the region is a vital component of the economy and welfare of the  
3 State.

4 The Legislature further finds and declares that, since 1984, 65,000  
5 acres, or over 100 square miles, of the New Jersey Highlands have  
6 been lost to development; that sprawl and the pace of development in  
7 the region has dramatically increased, with the rate of loss of forested  
8 lands and wetlands more than doubling since 1995; that the New  
9 Jersey Highlands, because of its proximity to rapidly expanding  
10 suburban areas, is at serious risk of being fragmented and consumed  
11 by unplanned development; and that the existing land use and  
12 environmental regulation system cannot protect the water and natural  
13 resources of the New Jersey Highlands against the environmental  
14 impacts of sprawl development.

15 The Legislature further finds and declares that the protection of the  
16 New Jersey Highlands, because of its vital link to the future of the  
17 State's drinking water supplies and other key natural resources, is an  
18 issue of State level importance that cannot be left to the uncoordinated  
19 land use decisions of 90 municipalities, seven counties, and a myriad  
20 of private landowners; that the State should take action to delineate  
21 within the New Jersey Highlands a preservation area of exceptional  
22 natural resource value that includes watershed protection and other  
23 environmentally sensitive lands where stringent protection policies  
24 would be implemented; that a regional approach to land use planning  
25 in the preservation area should be established to replace the existing  
26 uncoordinated system; that such a new regional approach to land use  
27 planning should be complemented by increased standards more  
28 protective of the environment established by the Department of  
29 Environmental Protection for development in the preservation area of  
30 the New Jersey Highlands; that the new regional planning approach  
31 and the more stringent environmental regulatory standards should be  
32 accompanied, as a matter of wise public policy and fairness to property  
33 owners, by a strong and significant commitment by the State to fund  
34 the acquisition of exceptional natural resource value lands; and that in  
35 the light of the various pressures now arrayed against the New Jersey  
36 Highlands, these new approaches should be implemented as soon as  
37 possible.

38 The Legislature therefore determines, in the light of these findings  
39 set forth hereinabove, and with the intention of transforming them into  
40 action, that it is in the public interest of all the citizens of the State of  
41 New Jersey to enact legislation setting forth a comprehensive approach  
42 to the protection of the water and other natural resources of the New  
43 Jersey Highlands; that this comprehensive approach should consist of  
44 the identification of a preservation area of the New Jersey Highlands  
45 that would be subjected to stringent water and natural resource  
46 protection, planning, and regulation; that this comprehensive approach



1 should also consist of the establishment of a Highlands Water  
2 Protection and Planning Council charged with the preparation of a  
3 regional master plan for the preservation area in the New Jersey  
4 Highlands as well as for the region in general; that this comprehensive  
5 approach should also include the adoption by the Department of  
6 Environmental Protection of stringent standards governing major  
7 development in the Highlands preservation area; that because of the  
8 imminent peril that the ongoing rush of development poses for the  
9 New Jersey Highlands, immediate, interim standards should be  
10 imposed on the date of enactment of this act on major development in  
11 the preservation area of the New Jersey Highlands, followed  
12 subsequently by adoption by the department of appropriate rules and  
13 regulations; that it is appropriate to encourage in certain areas of the  
14 New Jersey Highlands, consistent with the State Development and  
15 Redevelopment Plan and smart growth strategies and principles,  
16 appropriate patterns of compatible residential, commercial, and  
17 industrial development, redevelopment, and economic growth, in or  
18 adjacent to areas already utilized for such purposes, and to discourage  
19 piecemeal, scattered, and inappropriate development, in order to  
20 accommodate local and regional growth and economic development  
21 in an orderly way while protecting the Highlands environment from the  
22 individual and cumulative adverse impacts thereof; that the  
23 maintenance of agricultural production and a positive agricultural  
24 business climate should be encouraged to the maximum extent possible  
25 wherever appropriate in the New Jersey Highlands; and that all such  
26 aforementioned measures should be guided, in heart, mind, and spirit,  
27 by an abiding and generously given commitment to protecting the  
28 incomparable water resources and natural beauty of the New Jersey  
29 Highlands so as to preserve them intact, in trust, forever for the  
30 pleasure, enjoyment, and use of future generations while also  
31 providing every conceivable opportunity for appropriate economic  
32 growth and development to advance the quality of life of the residents  
33 of the region and the entire State.

34

35 3. (New section) As used in this act:

36 "Application for development" means the application form and all  
37 accompanying documents required for approval of a subdivision plat,  
38 site plan, planned development, conditional use, zoning variance, or  
39 direction of the issuance of a permit pursuant to the "Municipal Land  
40 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et  
41 seq., for any use, development or construction;

42 "Council" means the Highlands Water Protection and Planning  
43 Council established by section 4 of this act;

44 "Department" means the Department of Environmental Protection;

45 "Development regulation" means the same as that term is defined  
46 in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

1 "Disturbance" means the placement of impervious surface, the  
2 exposure or movement of soil or bedrock, or the clearing, cutting, or  
3 removing of vegetation;

4 "Environmental land use or water permit" means a permit, approval,  
5 or other authorization issued by the Department of Environmental  
6 Protection pursuant to the "Freshwater Wetlands Protection Act,"  
7 P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management  
8 Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution  
9 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty  
10 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199  
11 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977,  
12 c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977,  
13 c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act,"  
14 P.L.1962, c.19 (C.58:16A-50 et seq.); or an approval for an individual  
15 subsurface sewage disposal system from a delegated local health  
16 agency pursuant to the "County Environmental Health Act," P.L.1977,  
17 c.443 (C.26:3A2-21 et al.);

18 "Highlands open waters" means all springs, streams, wetlands, and  
19 bodies of surface water, whether natural or artificial, located wholly  
20 or partially within the boundaries of the Highlands Region;

21 "Highlands Region" means that region so designated by subsection  
22 a. of section 7 of this act;

23 "Impervious surface" means any structure, surface, or improvement  
24 that reduces or prevents absorption of stormwater into land, and  
25 includes porous paving, paver blocks, gravel, crushed stone, decks,  
26 patios, elevated structures, and other similar structures, surfaces, or  
27 improvements;

28 "Local government unit" means a municipality, county, or other  
29 political subdivision of the State, or any agency, board, commission,  
30 utilities authority or other authority, or other entity thereof;

31 "Major development" means any non-residential development,  
32 whether or not it also qualifies as a development as defined in the  
33 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.); any  
34 residential development, whether or not it also qualifies as a  
35 development as defined in the "Municipal Land Use Law," P.L.1975,  
36 c.291 (C.40:55D-1 et seq.), that provides for the ultimate disturbance  
37 of one acre or more of land or an increase in impervious surface of  
38 one-quarter acre or more; or any residential development, whether or  
39 not it also qualifies as a development as defined in the "Municipal  
40 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), that requires  
41 an environmental land use or water permit issued by the Department  
42 of Environmental Protection but which does not result in the ultimate  
43 disturbance of one acre or more of land or an increase in impervious  
44 surface by one-quarter acre or more;

45 "Planning area" means that portion of the Highlands Region not  
46 included within the preservation area;

1 "Preservation area" means that portion of the Highlands Region so  
2 designated by subsection b. of section 7 of this act;

3 "Recreation and conservation purposes" means the same as that  
4 term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

5 "Regional master plan" means the Highlands regional master plan  
6 or any revision thereof adopted by the council pursuant to section 8 of  
7 this act;

8 "State entity" means any State department, agency, board,  
9 commission, or other entity, district water supply commission,  
10 independent State authority or commission, or bi-state entity;

11 "State Development and Redevelopment Plan" means the State  
12 Development and Redevelopment Plan adopted pursuant to P.L.1985,  
13 c.398 (C.52:18A-196 et al.); and

14 "Waters of the Highlands" means all springs, streams, and bodies of  
15 surface or ground water, whether natural or artificial, located wholly  
16 or partially within the boundaries of the Highlands Region.

17

18 4. (New section) There is hereby established a public body  
19 corporate and politic, with corporate succession, to be known as the  
20 "Highlands Water Protection and Planning Council." The council shall  
21 constitute a political subdivision of the State established as an  
22 instrumentality exercising public and essential governmental functions,  
23 and the exercise by the council of the powers and duties conferred by  
24 this act shall be deemed and held to be an essential governmental  
25 function of the State. For the purpose of complying with the  
26 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
27 Constitution, the council is hereby allocated within the Department of  
28 Environmental Protection, but, notwithstanding that allocation, the  
29 council shall be independent of any supervision or control by the  
30 department or by the commissioner or any officer or employee thereof.

31

32 5. (New section) a. The council shall consist of 15 voting  
33 members to be appointed and qualified as follows:

34 (1) Eight residents of the counties of Bergen, Hunterdon, Morris,  
35 Passaic, Somerset, Sussex, or Warren, appointed by the Governor,  
36 with the advice and consent of the Senate, (a) of whom five shall be  
37 municipal officials holding elective office at the time of appointment  
38 and three shall be county officials holding elective office at the time of  
39 appointment, and (b) among whom shall be at least one resident from  
40 each of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset,  
41 Sussex, and Warren; and

42 (2) Seven residents of the State, appointed by the Governor, with  
43 the advice and consent of the Senate.

44 b. (1) Council members shall serve for terms of five years;  
45 provided, however, that of the members first appointed, five shall  
46 serve a term of three years, five shall serve a term of four years, and

1 five shall serve a term of five years.

2 (2) Each member shall serve for the term of the appointment and  
3 until a successor shall have been appointed and qualified. Any vacancy  
4 shall be filled in the same manner as the original appointment for the  
5 unexpired term only.

6 c. Any member of the council may be removed by the Governor,  
7 for cause, after a public hearing.

8 d. Each member of the council, before entering upon the member's  
9 duties, shall take and subscribe an oath to perform the duties of the  
10 office faithfully, impartially, and justly to the best of the member's  
11 ability, in addition to any oath that may be required by R.S.41:1-1 et  
12 seq. A record of the oath shall be filed in the Office of the Secretary  
13 of State.

14 e. The members of the council shall serve without compensation,  
15 but the council may, within the limits or funds appropriated or  
16 otherwise made available for such purposes, reimburse its members for  
17 necessary expenses incurred in the discharge of their official duties.

18 f. The powers of the council shall be vested in the members thereof  
19 in office. A majority of the total authorized membership of the council  
20 shall constitute a quorum except that no action may be taken by the  
21 council except upon the affirmative vote of a majority of the quorum.  
22 No alternate or designee of any council member shall exercise any  
23 power to vote on any matter pending before the council.

24 g. The Governor shall designate one of the members of the council  
25 as chairperson. The council shall appoint an executive director, who  
26 shall be the chief administrative officer thereof. The executive director  
27 shall serve at the pleasure of the council, and shall be a person  
28 qualified by training and experience to perform the duties of the office.

29 h. The members and staff of the council shall be subject to the  
30 "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-  
31 12 et seq.).

32 i. The council shall be subject to the provisions of the "Open Public  
33 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

34 j. A true copy of the minutes of every meeting of the council shall  
35 be prepared and forthwith delivered to the Governor. No action taken  
36 at a meeting by the council shall have force or effect until 10 days,  
37 exclusive of Saturdays, Sundays, and public holidays, after a copy of  
38 the minutes shall have been so delivered; provided, however, that no  
39 action taken with respect to the adoption of the regional master plan,  
40 or any portion or revision thereof, shall have force or effect until 30  
41 days, exclusive of Saturdays, Sundays, and public holidays, after a  
42 copy of the minutes shall have been so delivered. If, in the 10-day  
43 period, or 30-day period, as the case may be, the Governor returns the  
44 copy of the minutes with a veto of any action taken by the council at  
45 the meeting, the action shall be null and void and of no force and  
46 effect.

- 1       6. (New section) The council shall have the following powers,  
2 duties, and responsibilities, in addition to those prescribed elsewhere  
3 in this act:
- 4       a. To adopt and from time to time amend and repeal suitable  
5 bylaws for the management of its affairs;
- 6       b. To adopt and use an official seal and alter it at the council's  
7 pleasure;
- 8       c. To maintain an office at such place or places in the Highlands  
9 Region as it may designate;
- 10       d. To sue and be sued in its own name;
- 11       e. To appoint, retain and employ, without regard to the provisions  
12 of Title 11A of the New Jersey Statutes but within the limits of funds  
13 appropriated or otherwise made available for those purposes, such  
14 officers, employees, agents, and experts as it may require, and to  
15 determine the qualifications, terms of office, duties, services, and  
16 compensation therefor;
- 17       f. To apply for, receive, and accept, from any federal, State, or  
18 other public or private source, grants or loans for, or in aid of, the  
19 council's authorized purposes, or the in the carrying out of the  
20 council's powers, duties, and responsibilities;
- 21       g. To enter into any and all agreements or contracts, execute any  
22 and all instruments, and do and perform any and all acts or things  
23 necessary, convenient, or desirable for the purposes of the council or  
24 to carry out any power, duty, or responsibility expressly given in this  
25 act;
- 26       h. To call to its assistance and avail itself of the services of such  
27 employees of any State entity or local government unit as may be  
28 required and made available for such purposes;
- 29       i. To adopt a regional master plan for the Highlands Region as  
30 provided pursuant to section 8 of this act;
- 31       j. To appoint advisory boards, commissions, councils, or panels to  
32 assist in its activities, including but not limited to a municipal advisory  
33 council consisting of mayors, municipal council members, or other  
34 representatives of municipalities located in the Highlands Region;
- 35       k. To authorize, if deemed useful, the establishment by appropriate  
36 persons or organizations of a nonprofit organization or organizations  
37 exempt from taxation pursuant to section 501 (c)(3) of the federal  
38 Internal Revenue Code of 1986, 26 U.S.C.s.501 (c)(3), for the  
39 purposes of assisting the council in furthering the purposes of this act  
40 and the regional master plan;
- 41       l. To solicit and consider public input and comment on the council's  
42 activities, the regional master plan, and other issues and matters of  
43 importance in the Highlands Region by periodically holding public  
44 hearings or conferences and providing other opportunities for such  
45 input and comment by interested parties;
- 46       m. To conduct examinations and investigations, to hear testimony,

- 1 taken under oath at public or private hearings, on any material matter,  
2 and to require attendance of witnesses and the production of books  
3 and papers;
- 4 n. To prepare and transmit to the Commissioner of Environmental  
5 Protection such recommendations for water quality and water supply  
6 standards for surface and ground waters in the Highlands Region, or  
7 in tributaries and watersheds thereof, and for other environmental  
8 protection standards pertaining to the lands and natural resources of  
9 the Highlands Region, as the council deems appropriate;
- 10 o. To identify and designate in the regional master plan special  
11 areas in the preservation area within which development shall not  
12 occur in order to protect water resources and environmentally  
13 sensitive lands while recognizing the need to provide just  
14 compensation to the owners of those lands when appropriate, whether  
15 through acquisition, transfer of development rights programs, or other  
16 means or strategies;
- 17 p. To identify any lands in which the public acquisition of a fee  
18 simple or lesser interest therein is necessary or desirable in order to  
19 ensure the preservation thereof, or to provide sites for public  
20 recreation, as well as any lands the beneficial use of which are so  
21 adversely affected by the restrictions imposed pursuant to this act as  
22 to require a guarantee of just compensation therefor, and to transmit  
23 a list of those lands to the Commissioner of Environmental Protection,  
24 affected local government units, and appropriate federal agencies;
- 25 q. To develop model land use ordinances and other development  
26 regulations, for consideration and possible adoption by municipalities  
27 in the planning area, that would help protect the environment,  
28 including, but not limited to, ordinances and other development  
29 regulations pertaining to steep slopes, forest cover, wellhead and  
30 water supply protection, impervious surface, and clustering; and to  
31 provide guidance and technical assistance in connection therewith to  
32 those municipalities;
- 33 r. To identify and designate, and accept petitions from  
34 municipalities to designate, special critical environmental areas in high  
35 resource value lands in the planning area, and develop voluntary  
36 standards and guidelines for protection of such special areas for  
37 possible implementation by those municipalities;
- 38 s. To comment upon any application for development before a  
39 local government unit, on the adoption of any master plan,  
40 development regulation, or other regulation by a local government  
41 unit, or on the enforcement by a local government unit of any  
42 development regulation or other regulation, which power shall be in  
43 addition to any other review, oversight, or intervention powers of the  
44 council prescribed by this act;
- 45 t. To work with interested municipalities to enter into agreements  
46 to establish, where appropriate, capacity-based development densities,

1 including, but not limited to, appropriate higher densities to support  
2 transit villages or in centers designated by the State Development and  
3 Redevelopment Plan and endorsed by the State Planning Commission;

4 u. To establish and charge, in accordance with a fee schedule to be  
5 set forth by rule or regulation adopted pursuant to the "Administrative  
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees  
7 for services performed relating to the review of applications for  
8 development and other applications filed with or otherwise brought  
9 before the council, or for other services, as may be required by this act  
10 or the regional master plan; and

11 v. To prepare, adopt, amend, or repeal, pursuant to the provisions  
12 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
13 et seq.), such rules and regulations as may be necessary in order to  
14 exercise its powers and perform its duties and responsibilities under  
15 the provisions of this act.

16

17 7. (New section) a. The Highlands Region shall consist of all that  
18 area within the boundaries of the following municipalities:

19 (1) in Bergen County: Mahwah, and Oakland;

20 (2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury,  
21 Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton,  
22 High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford,  
23 Tewksbury, and Union;

24 (3) in Morris County: Boonton Town, Boonton Township, Butler,  
25 Chester Boro, Chester Township, Denville, Dover, Hanover, Harding,  
26 Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill,  
27 Montville, Morris Plains, Morris Township, Morristown, Mount  
28 Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy  
29 Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway  
30 Township, Roxbury, Victory Gardens, Washington, and Wharton;

31 (4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood,  
32 Wanaque, and West Milford;

33 (5) in Somerset County: Bernards, Bernardsville, Far Hills, and  
34 Peapack-Gladstone;

35 (6) in Sussex County: Andover Boro, Andover Township, Byram,  
36 Franklin, Green, Hamburg, Hardyston, Hopatcong, Lafayette,  
37 Ogdensburg, Sparta, Stanhope, and Vernon; and

38 (7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin,  
39 Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope,  
40 Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg,  
41 Pohatcong, Washington Boro, Washington Township, and White.

42 b. The preservation area shall consist of that area described by the  
43 Highlands Task Force, established by Executive Order No. 70 of 2003,  
44 and based upon natural resource data assembled by the United States  
45 Forest Service, Rutgers, The State University, and the New Jersey  
46 Water Supply Authority, which is to be translated, allowing for

1 reasonable variations, by the Highlands Task Force with the assistance  
2 of Rutgers, The State University, the Department of Environmental  
3 Protection, and other appropriate entities, to appropriate and nearest  
4 practicable, on-the-ground, and easily identified reference points, such  
5 as, but not limited to, road descriptions, survey lines, and municipal  
6 boundaries, by May 1, 2004 or as soon thereafter as may be possible.  
7 This narrative description of the preservation area shall be enacted into  
8 law.

9 c. The planning area shall consist of all that area of the Highlands  
10 Region not within the preservation area.

11

12 8. (New section) The council shall, within 18 months after the date  
13 of its first meeting, and after holding at least five public hearings in  
14 various locations in the Highlands Region and at least one public  
15 hearing in Trenton, prepare and adopt a regional master plan for the  
16 Highlands Region. The Highlands regional master plan shall be  
17 periodically revised and updated at least once every five years, after  
18 public hearings.

19

20 9. (New section) a. During the preparation of the regional master  
21 plan or any revision thereof, the council shall consult with the  
22 Department of Environmental Protection, the Department of  
23 Community Affairs, the State Planning Commission, the Department  
24 of Agriculture, the State Agriculture and Development Committee,  
25 and appropriate officials of local governments and State, regional, and  
26 federal agencies with jurisdiction over lands, waters, and natural  
27 resources within the Highlands Region, with interested professional,  
28 scientific, and citizen organizations, and with any advisory groups that  
29 may be established by the council. The council shall review all  
30 relevant federal, State, and private studies of the Highlands Region,  
31 the State Development and Redevelopment Plan, municipal, county,  
32 and regional plans, applicable federal and State laws and rules and  
33 regulations, and other pertinent information on the Highlands Region.

34 b. Prior to adoption of, and in preparing, the regional master plan,  
35 the council may, in conjunction with municipalities in the preservation  
36 area, identify areas in which redevelopment shall be encouraged in  
37 order to promote the economic well-being of the municipality,  
38 provided that the redevelopment conforms to the goals of the  
39 preservation area and this act and with the rules and regulations  
40 adopted by the Department of Environmental Protection pursuant to  
41 sections 32 and 33 of this act.

42 c. Upon adoption of the regional master plan or any revision  
43 thereof, copies thereof shall be transmitted to the Governor and to the  
44 Legislature.

45

46 10. (New section) a. The goal of the regional master plan with



1 respect to the entire Highlands Region shall be to protect and enhance  
2 the significant values of the resources thereof in a manner which is  
3 consistent with the purposes and provisions of this act.

4 b. The goals of the regional master plan with respect to the  
5 preservation area shall be to:

6 (1) protect, restore, and enhance the quality and quantity of surface  
7 and ground waters therein;

8 (2) preserve extensive and, to the maximum extent possible,  
9 contiguous areas of land in its natural state, thereby ensuring the  
10 continuation of a Highlands environment which contains the unique  
11 and significant natural, scenic, and other resources representative of  
12 the Highlands Region;

13 (3) protect the natural, scenic, and other resources of the Highlands  
14 Region, including but not limited to contiguous forests, wetlands,  
15 vegetated stream corridors, steep slopes, and critical habitat for fauna  
16 and flora;

17 (4) preserve farmland and historic sites and other historic resources;

18 (5) promote compatible agricultural, horticultural, recreational, and  
19 cultural uses and opportunities within the framework of protecting the  
20 Highlands environment; and

21 (6) prohibit or limit to the maximum extent possible construction or  
22 development which is incompatible with preservation of this unique  
23 area.

24 c. The goals of the regional master plan with respect to the  
25 planning area shall be to:

26 (1) protect, restore, and enhance the quality and quantity of surface  
27 and ground waters therein;

28 (2) preserve to the maximum extent possible any environmentally  
29 sensitive lands and other lands needed for recreation and conservation  
30 purposes;

31 (3) protect and maintain the essential character of the Highlands  
32 environment;

33 (4) preserve farmland and historic sites and other historic resources;

34 (5) promote the continuation and expansion of agricultural,  
35 horticultural, recreational, and cultural uses and opportunities; and

36 (6) encourage, consistent with the State Development and  
37 Redevelopment Plan and smart growth strategies and principles,  
38 appropriate patterns of compatible residential, commercial, and  
39 industrial development, redevelopment, and economic growth, in or  
40 adjacent to areas already utilized for such purposes, and discourage  
41 piecemeal, scattered, and inappropriate development, in order to  
42 accommodate local and regional growth and economic development  
43 in an orderly way while protecting the Highlands environment from the  
44 individual and cumulative adverse impacts thereof.

45

46 11. (New section) The regional master plan shall include, but

1 need not necessarily be limited to:

2 a. A resource assessment which:

3 (1) determines the amount and type of human development and  
4 activity which the ecosystem of the Highlands Region can sustain  
5 while still maintaining the overall ecological values thereof, with  
6 special reference to surface and ground water quality and supply;  
7 endangered and threatened animals, plants, and biotic communities;  
8 ecological factors relating to the protection and enhancement of  
9 agricultural production or activity; air quality; and other appropriate  
10 considerations affecting the ecological integrity of the Highlands  
11 Region;

12 (2) includes an assessment of scenic, aesthetic, cultural, historic,  
13 open space, farm land, and outdoor recreation resources of the region,  
14 together with a determination of overall policies required to maintain  
15 and enhance such resources; and

16 (3) includes an assessment of opportunities for appropriate  
17 economic growth, development, and redevelopment which shall  
18 include consideration of public investment priorities, infrastructure  
19 investments, economic development, revitalization, housing,  
20 transportation, energy resources, waste management, recycling,  
21 brownfields, and design such as mixed-use, compact design, and  
22 transit villages.

23 b. A financial component, together with a cash flow timetable  
24 which:

25 (1) details the cost of implementing the regional master plan,  
26 including, but not limited to, payments in lieu-of-taxes, acquisition,  
27 within five years and within 10 years after the date of enactment of this  
28 act, of fee simple or other interests in lands for preservation or  
29 recreation and conservation purposes, compensation guarantees,  
30 general administrative costs, and any anticipated extraordinary or  
31 continuing costs; and

32 (2) details the sources of revenue for covering such costs,  
33 including, but not limited to, grants, donations, and loans from local,  
34 State, and federal departments and agencies, and from the private  
35 sector.

36 c. A component to provide for the maximum feasible local  
37 government and public input into the council's operations, which shall  
38 include a framework for developing policies for the planning area in  
39 conjunction with those local government units with jurisdiction over  
40 those lands who choose to conform to the regional master plan.

41 d. A coordination and consistency component which details the  
42 ways in which local, State, and federal programs and policies may best  
43 be coordinated to promote the goals, purposes, policies, and  
44 provisions of the regional master plan, and which details how land,  
45 water, and structures managed by governmental or nongovernmental  
46 entities in the public interest within the Highlands Region may be

1 integrated into the regional master plan.

2

3 12. (New section) In addition to the contents of the regional  
4 master plan described in section 11 of this act, the plan shall also  
5 include, with respect to the preservation area, a land use capability  
6 map and a comprehensive statement of policies for planning and  
7 managing the development and use of land in the preservation area,  
8 which shall be based upon, comply with, and implement the  
9 environmental standards set forth in section 31 of this act and as  
10 adopted by the Department of Environmental Protection pursuant to  
11 sections 32 through 33 of this act.

12 These policies shall include provision for implementing the regional  
13 master plan by the State and local government units in the preservation  
14 area in a manner that will ensure the continued, uniform, and  
15 consistent protection of the Highlands Region in accordance with the  
16 goals, purposes, policies, and provisions of this act, and shall include:

17 a. a preservation zone element that identifies zones within the  
18 preservation area where development shall not occur in order to  
19 protect water resources and environmentally sensitive lands that shall  
20 be permanently preserved through a variety of tools, including  
21 acquisition and transfer of development rights; and

22 b. minimum standards governing municipal and county master  
23 planning, development regulations, and other regulations concerning  
24 the development and use of land in the preservation area, including,  
25 but not limited to, standards for minimum lot sizes and stream  
26 setbacks, construction on steep slopes, maximum appropriate  
27 population densities, and regulated or prohibited uses for specific  
28 portions of the preservation area.

29

30 13. (New section) a. The council shall develop and implement a  
31 transfer of development rights program for the Highlands Region  
32 consistent with any transfer of development rights program created  
33 otherwise by law.

34 b. (1) The council may use the State Transfer of Development  
35 Rights Bank established pursuant to section 3 of P.L.1993, c.339  
36 (C.4:1C-51) for the purposes of facilitating the transfer of  
37 development potential in accordance with subsection a. of this section  
38 and the regional master plan. The council may also establish a  
39 development transfer bank for such purposes.

40 (2) At the request of the council, the Department of Banking and  
41 Insurance, the State Transfer of Developments Right Bank, the State  
42 Agriculture Development Committee, and the Pinelands Development  
43 Credit Bank shall provide technical assistance to the council in  
44 establishing and operating a development transfer bank as authorized  
45 pursuant to paragraph (1) of this subsection.

46 (c) The bank shall operate in accordance with provisions of general

1 law authorizing the creation of development transfer banks by  
2 municipalities and counties.

3  
4 14. (New section) a. Within six months after the date of adoption  
5 of the regional master plan or any revision thereof, each municipality  
6 located wholly or partially in the preservation area shall submit to the  
7 council such revisions of the municipal master plan and development  
8 regulations, as applicable to the development and use of land in the  
9 preservation area, as may be necessary in order to conform them with  
10 the goals, requirements, and provisions of the regional master plan.  
11 After receiving and reviewing the revisions, the council shall approve,  
12 reject, or approve with conditions the revised plan and development  
13 regulations, as it deems appropriate, after public hearing, within 60  
14 days after the date of submission thereof.

15 Upon rejecting or conditionally approving any such revised plan or  
16 development regulations, the council shall identify such changes  
17 therein that it deems necessary for council approval thereof, and the  
18 relevant municipality shall adopt and enforce the plan or development  
19 regulations as so changed.

20 b. Within six months after the date of adoption of the regional  
21 master plan or any revision thereof, each county located wholly or  
22 partially in the preservation area shall submit to the council such  
23 revisions of the county master plan and associated regulations, as  
24 applicable to the development and use of land in the preservation area,  
25 as may be necessary in order to conform them with the goals,  
26 requirements, and provisions of the regional master plan. After  
27 receiving and reviewing the revisions, the council shall approve, reject,  
28 or approve with conditions those revised plans and associated  
29 regulations, as it deems appropriate, after public hearing, within 60  
30 days after the date of submission thereof.

31 Upon rejecting or conditionally approving any such revised plan or  
32 associated regulations, the council shall identify such changes therein  
33 that it deems necessary for council approval thereof, and the relevant  
34 county shall adopt and enforce the plan or associated regulations as so  
35 changed.

36 c. Any approval of an application for development, or use of land,  
37 in the preservation area granted by any local government unit in  
38 violation of the regional master plan or an approved revised municipal  
39 or county master plan, development regulations, or other regulations  
40 pursuant to this act shall be null and void and of no force and effect at  
41 law or equity.

42 d. In the event that any municipality or county fails to adopt or  
43 enforce an approved revised master plan, development regulations, or  
44 other regulations, as the case may be, including any condition thereto  
45 imposed by the council, as required pursuant to subsections a. or b. of  
46 this section, the council shall adopt and enforce such rules and

1 regulations as may be necessary to implement the minimum standards  
2 contained in the regional master plan as applicable to any municipality  
3 or county within the preservation area. If any municipality or county  
4 fails to adopt or enforce an approved revised master plan, development  
5 regulations, or other regulations, as the case may be, including any  
6 condition thereto imposed by the council, as required pursuant to  
7 subsections a. or b. of this section, the council shall have all local  
8 enforcement authority provided pursuant to the "Municipal Land Use  
9 Law," P.L.1975, c.291 (C.40:55D-1 et seq.) and R.S.40:27-1 et seq.,  
10 as well as the authority to issue stop construction orders, as may be  
11 necessary to implement the provisions of this act, any rules and  
12 regulations adopted pursuant thereto, and the requirements and  
13 provisions of the regional master plan.

14 e. A municipality or county may adopt revisions to its master plan,  
15 development regulations, or other regulations for the purposes of this  
16 section that are stricter than the minimum necessary to obtain approval  
17 of conformance with the regional master plan.

18

19 15. (New section) a. For any municipality located wholly in the  
20 planning area or for any portion of a municipality lying within the  
21 planning area, the municipality may, by ordinance, petition the council  
22 of its intention to revise its master plan and development regulations,  
23 as applicable to the development and use of land in the planning area,  
24 to conform with the goals, requirements, and provisions of the  
25 regional master plan.

26 The municipality shall proceed in revising its master plan and  
27 development regulations in accordance with the framework adopted  
28 by the council pursuant to subsection a. of section 14 of this act.

29 After receiving and reviewing those revisions, the council shall  
30 approve, reject, or approve with conditions the revised plan and  
31 development regulations, as it deems appropriate, after public hearing,  
32 within 60 days after the date of submission thereof.

33 b. Upon rejecting or conditionally approving any such revised plan  
34 or development regulations, the council shall identify such changes  
35 therein that it deems necessary for council approval thereof, and the  
36 municipality may adopt and enforce the plan or development  
37 regulations as so changed in order for them to be deemed approved in  
38 conformance with the regional master plan.

39 c. Any municipality approved by the council to be in conformance  
40 with the regional master plan pursuant to this section shall be entitled  
41 to any financial or other assistance or incentives received by a  
42 municipality from the State as a benefit or result of obtaining council  
43 approval pursuant to section 14 of this act.

44 d. Upon the commencement of each reexamination by the  
45 municipality of its master plan and development regulations as  
46 required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), the

1 municipality shall so notify the council and, thereafter, submit to the  
2 council the draft revision of its master plan and development  
3 regulations for review, by the council, of conformance with the  
4 regional master plan.

5 If, after conducting the reexamination, the municipality does not  
6 resubmit to the council its master plan and development regulations as  
7 they pertain to the planning area and obtain reapproval thereof from  
8 the council in accordance with this section, or if the council finds the  
9 reexamined master plan not to be in conformance with the regional  
10 master plan, the council may require the municipality to reimburse the  
11 council or the State, as appropriate, in whole or in part for any  
12 financial or other assistance or incentives received by the municipality  
13 from the State as a benefit or result of obtaining council approval  
14 pursuant to this section.

15 e. A municipality may adopt revisions to its master plan or  
16 development regulations for the purposes of this section that are  
17 stricter than the minimum necessary to obtain approval of conformance  
18 with the regional master plan.

19 f. Each county with lands in the planning area may, by ordinance  
20 or resolution, as appropriate, petition the council of its intention to  
21 revise its master plan and associated regulations, as applicable to the  
22 development and use of land in the planning area, to conform with the  
23 goals, requirements, and provisions of the regional master plan.

24 The county shall proceed in revising its master plan and associated  
25 regulations in accordance with the framework adopted by the council  
26 pursuant to subsection b. of section 14 of this act.

27 After receiving and reviewing those revisions, the council shall  
28 approve, reject, or approve with conditions the revised plan and  
29 associated regulations, as it deems appropriate, after public hearing,  
30 within 60 days after the date of submission thereof.

31 g. Upon rejecting or conditionally approving any such revised plan  
32 or associated regulations, the council shall identify such changes  
33 therein that it deems necessary for council approval thereof, and the  
34 county may adopt and enforce the plan or associated regulations as so  
35 changed in order for them to be deemed approved in conformance with  
36 the regional master plan.

37 h. Any county approved by the council to be in conformance with  
38 the regional master plan pursuant to this section shall be entitled to  
39 any financial or other assistance or incentives received by a county  
40 from the State as a benefit or result of obtaining council approval  
41 pursuant to section 14 of this act.

42

43 16. (New section) a. For the purposes of subsection a. of section  
44 37 of P.L.1975, c.291 (C.40:55D-49), any amendments made to a  
45 major subdivision or a site plan ordinance pursuant to this act to  
46 conform it to the regional master plan shall be construed to relate to

1 public health and safety for any major development that has received  
2 preliminary approval prior to the amendment of a major subdivision or  
3 site plan ordinance pursuant to this act. An amendment made to a  
4 major subdivision or site plan ordinance pursuant to this act shall not  
5 be construed to relate to public health and safety if the major  
6 development is a residential development that requires an  
7 environmental land use or water permit but which does not result in  
8 the ultimate disturbance of one acre or more of land or an increase in  
9 impervious surface by one-quarter acre or more.

10 b. (1) Any final approval of a major development which is  
11 outstanding upon the adoption by a municipality of amendments to its  
12 development regulations pursuant to this act to conform those  
13 development regulations to the regional master plan, shall be reviewed  
14 by the municipality for consistency with the regional master plan. In  
15 the event that the final approval is not consistent with the regional  
16 master plan, any rights otherwise conferred by the final approval shall  
17 expire. The provisions of this subsection shall apply whether the final  
18 approval involves a site plan, major subdivision, or general  
19 development plan pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

20 This paragraph shall not apply to any major development which is  
21 a residential development that requires an environmental land use or  
22 water permit but which does not result in the ultimate disturbance of  
23 one acre or more of land or an increase in impervious surface by  
24 one-quarter acre or more.

25 (2) Notwithstanding any provision of paragraph (1) of this  
26 subsection to the contrary, any major development for which, at the  
27 time of the adoption of amendments to the municipal development  
28 regulations pursuant to this act to conform them to the regional master  
29 plan, a construction permit has been issued, may proceed in  
30 accordance with the terms of the relevant approvals.

31  
32 17. (New section) a. The council may prepare and distribute  
33 suggested guidelines for the location and construction of capital  
34 projects by State entities or local government units within the  
35 Highlands Region.

36 b. Within the preservation area, any capital or other project of a  
37 State entity or local government unit that involves the ultimate  
38 disturbance of two acres or more of land or an increase in impervious  
39 surface by one acre or more shall be submitted to the council for  
40 review. The council shall establish procedures for conducting such  
41 reviews and shall have the power to approve, approve with conditions,  
42 or disapprove the project. No such project shall proceed without the  
43 approval of the council; provided that, in the case of a project of a  
44 State entity, if the council disapproves the project, the head of the  
45 appropriate principal department of State government with primary  
46 responsibility for the project may override the council's disapproval

1 upon making a written finding, which shall be submitted to the council  
2 and the Governor, that the project is necessary for public health,  
3 safety, or welfare and including with that finding a factual basis and  
4 explanation in support thereof. In the case of a project of an  
5 independent State authority or commission or a bi-state entity, any  
6 such finding shall be made by the Governor or such other State  
7 governmental official as the Governor may designate for that purpose.

8 c. Within the planning area, any capital or other project of a State  
9 entity or local government unit that provides for the ultimate  
10 disturbance of two acres or more of land or an increase in impervious  
11 surface by one acre or more shall be submitted to the council for a  
12 nonbinding review and comment. The council shall establish  
13 procedures for conducting such reviews. The failure of the council to  
14 act expeditiously on any such review pursuant to this subsection shall  
15 not be cause for delay of the project, and the project may proceed  
16 whether or not the council has conducted the review.

17  
18 18. (New section) a. Subsequent to adoption of the regional  
19 master plan, the council may review, within 15 days after any final  
20 local government unit approval thereof, any application for  
21 development in the preservation area. Upon determining to exercise  
22 that authority, the council shall transmit, by certified mail, written  
23 notice thereof to the person who submitted the application. The  
24 council shall, after public hearing thereon, approve, reject, or approve  
25 with conditions any such application within 60 days after transmitting  
26 the notice; provided, however, that an application shall not be rejected  
27 or conditionally approved unless the council determines that the  
28 development does not conform with the regional master plan, as  
29 applicable to the local government unit wherein the development is  
30 located, or that the development could result in substantial impairment  
31 of the resources of the Highlands Region. Such approval, rejection,  
32 or conditional approval shall be binding upon the person who  
33 submitted the application, shall supersede any local government unit  
34 approval of any such development, and shall be subject only to judicial  
35 review as provided in section 29 of this act.

36 b. Every person submitting an application for development in the  
37 preservation area shall be required to provide a notice of the  
38 application to the council in accordance with such procedures therefor  
39 as shall be established by the council.

40 c. Notwithstanding any provision of subsections a. or b. of this  
41 section to the contrary, for any municipality or county that has  
42 adopted an approved revised master plan, development regulations, or  
43 other regulations, as the case may be, including any condition thereto  
44 imposed by the council, the requirements of this section shall apply  
45 only to applications for development that provide for the ultimate  
46 disturbance of two acres or more of land or an increase in impervious



1 surface by one acre or more. The council may provide, pursuant to  
2 subsection d. of section 14 of this act, that the requirements of this  
3 section apply to any application for development within the  
4 preservation area in any municipality or county that fails to adopt or  
5 enforce an approved revised master plan, development regulations, or  
6 other regulations, as the case may be, including any condition thereto  
7 imposed by the council.

8 d. Any member of the public may request the council to consider  
9 reviewing an application for development in the preservation area as  
10 provided in this section.

11

12 19. (New section) a. Any municipality in the Highlands Region  
13 whose municipal master plan and development regulations, and any  
14 county in the Highlands Region whose county master plan and  
15 associated regulations, have been approved by the council to be in  
16 conformance with the regional master plan in accordance with sections  
17 14 or 15 of this act shall qualify for State aid, planning assistance,  
18 technical assistance, and other benefits and incentives that may be  
19 awarded or provided by the State to municipalities and counties which  
20 have received plan endorsement pursuant to the "State Planning Act,"  
21 P.L.1985, c.398 (C.52:18A-196 et al.) or which otherwise practice or  
22 implement smart growth strategies and principles. Any such  
23 municipality or county shall also qualify for any State aid that may be  
24 provided for smart growth projects.

25 b. The council may make available grants and other financial and  
26 technical assistance to municipalities and counties for any revision of  
27 their master plans, development regulations, or other regulations  
28 which is designed to bring those plans, development regulations, or  
29 other regulations into conformance with the regional master plan or  
30 for implementation of a transfer of development rights program  
31 pursuant to this act. The council may make the grants and other  
32 financial assistance from any State, federal, or other funds that may be  
33 appropriated or otherwise made available to it for that purpose.

34

35 20. (New section) a. Every municipality located wholly or  
36 partially in the preservation area shall be entitled to State aid to  
37 compensate for any decrease in the aggregate amount of property tax  
38 revenues derived from the taxation of real property in that portion of  
39 the municipality located in the preservation area that is directly  
40 attributable to the implementation of this act. The council shall  
41 establish methods and procedures for calculating the aggregate true  
42 value of the real property and the aggregate amount of property tax  
43 revenues derived therefrom in each municipality in the preservation  
44 area in the year prior to the enactment of this act, and for calculating,  
45 for each year after the enactment of this act, any decrease in the  
46 aggregate true value of the real property, and in the aggregate amount

1 of property tax revenues derived therefrom, that is directly attributable  
2 to the implementation of this act. The council shall annually calculate  
3 the amount to which each municipality is entitled pursuant to this  
4 section, and shall certify and transmit such amounts to the State  
5 Treasurer and to the Director of the Division of Local Government  
6 Services in the Department of Community Affairs.

7 b. Commencing July 1 next following two years after the date of  
8 enactment of this act, or at such other date as may be established by  
9 the council, no municipality shall receive any State aid made available  
10 pursuant to this section unless the municipality's master plan and  
11 development regulations, as applicable to the preservation area, have  
12 been approved by the council to be in conformance with the regional  
13 master plan pursuant to section 14 of this act.

14 c. The State Treasurer shall include in the State Treasurer's annual  
15 budget request for State aid the amounts certified by the council  
16 pursuant to subsection a of this section. The State Treasurer shall pay,  
17 from monies appropriated for the purposes of this section, to each  
18 municipality the amount of State aid appropriated therefor in a manner  
19 and pursuant to a schedule set forth in the rules and regulations  
20 adopted pursuant subsection d. of this section.

21 d. The State Treasurer and the Director of the Division of Local  
22 Government Services, in consultation with the council, shall adopt,  
23 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
24 (C.52:14B-1 et seq.), any rules and regulations necessary to implement  
25 the provisions of this section.

26 e. This section shall expire July 1 next following five years after the  
27 date of enactment of this act.

28

29 21. (New section) The Attorney General shall provide legal  
30 representation to any requesting local government unit located in the  
31 Highlands Region in any cause of action filed against the local  
32 government unit and contesting an act or decision of the local  
33 government unit taken or made under authority granted pursuant to  
34 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
35 R.S.40:27-1 et seq., the "State Uniform Construction Code Act,"  
36 P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

37 a. the municipal master plan and development regulations, or, in  
38 the case of a county governmental entity, the county master plan and  
39 associated regulations, have been approved by the council to be in  
40 conformance with the regional master plan in accordance with sections  
41 14 or 15 of this act; and

42 b. the council has certified in writing to the Attorney General that  
43 the act or decision of the local government unit which is the subject of  
44 the cause of action is consistent with the regional master plan.

45

46 22. (New section) Within 10 days after the date of enactment of

1 this act, the Department of Community Affairs, in consultation with  
2 the Department of Environmental Protection, shall provide guidelines  
3 and instructions to all local government units located wholly or  
4 partially within the preservation area with respect to the processing,  
5 review, and enforcement of applications for development after the date  
6 of enactment of this act and before adoption of the regional master  
7 plan.

8  
9 23. (New section) The municipal master plan and development  
10 regulations of any municipality, and the county master plan and  
11 associated regulations of any county, located in the Highlands Region  
12 which have been approved by the council to be in conformance with  
13 the regional master plan in accordance with sections 14 or 15 of this  
14 act shall be entitled to a strong presumption of validity. In any cause  
15 of action filed against such a local government unit and contesting an  
16 act or decision of the local government unit taken or made under  
17 authority granted pursuant to the "Municipal Land Use Law,"  
18 P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State  
19 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et  
20 seq.), or this act, the court shall give extraordinary deference to the  
21 local government unit, provided that the municipal master plan and  
22 development regulations, or, in the case of a county governmental  
23 entity, the county master plan and associated regulations, have been  
24 approved by the council to be in conformance with the regional master  
25 plan in accordance with sections 14 or 15 of this act. The plaintiff  
26 shall have the burden of proof to demonstrate by clear and convincing  
27 evidence that the act or decision of any such local government unit  
28 was arbitrary, capricious, or unreasonable or in patent abuse of  
29 discretion.

30  
31 24. (New section) a. The Council on Affordable Housing shall  
32 take into consideration the regional master plan prior to making any  
33 determination regarding the prospective fair share of the housing need  
34 in any municipality in the Highlands Region under the "Fair Housing  
35 Act," P.L.1985, c.222 (C.52:27D-301 et al.).

36 b. Upon adoption by the Highlands Water Protection and Planning  
37 Council of the regional master plan, any municipality located wholly  
38 or partially in the preservation area, and any municipality in the  
39 Highlands planning area that is approved by the Highlands Water  
40 Protection and Planning Council to be in conformance with the  
41 regional master plan pursuant to section 15 of this act, may petition  
42 the Council on Affordable Housing to have its 1987 to 1999 fair share  
43 obligation adjusted in accordance with any applicable rules and  
44 regulations to reflect the change in circumstances in the municipality  
45 resulting from conformance with the regional master plan. In the  
46 event that the municipality has received substantive certification or is

1 subject to a judgment of repose, that protection shall not be affected  
2 or compromised by the adjustment.

3 c. Any municipality requesting an adjustment pursuant to  
4 subsection b. of this section shall be eligible to apply for planning  
5 assistance grants from the State for the purposes of that subsection.

6

7 25. (New section) Within 90 days after the first meeting of the  
8 Highlands Water Protection and Planning Council, the Site  
9 Improvement Advisory Board established pursuant to section 3 of  
10 P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community  
11 Affairs shall consult with the council and the Commissioner of  
12 Environmental Protection concerning whether the site improvement  
13 standards for residential development adopted pursuant to P.L.1993,  
14 c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently  
15 protective for the Highlands Region, especially for the preservation  
16 area; and if it is determined they are not, those standards shall be  
17 modified accordingly as soon as practicable to meet that objective.

18

19 26. a. Effective on the date of enactment of this act, any person  
20 who is selling any land, or any interest therein or option therefor,  
21 within the preservation area shall give to the Commissioner of  
22 Environmental Protection written notice, by certified mail, that a  
23 contract of sale has been executed for the property. The notice shall  
24 set forth the terms and conditions of the executed contract of sale and  
25 shall have attached a copy of that contract. The notice of executed  
26 contract of sale shall also include any other information that the  
27 commissioner may reasonably require by rule or regulation. The State  
28 shall have the right of first refusal to purchase the land upon  
29 substantially similar terms and conditions, which right shall be  
30 exercisable as provided by this section. The State may exercise its  
31 right of first refusal only if the land, or the interest therein or option  
32 therefor, is to be used for water supply protection purposes or  
33 recreation and conservation purposes, or farmland preservation  
34 purposes. If the State chooses to exercise its right of first refusal, the  
35 State shall give notice of that intent to the landowner within a period  
36 of 30 days following the date of receipt of the notice of executed  
37 contract of sale. The State shall submit its offer to match the terms  
38 and conditions of the executed contract of sale to the landowner  
39 within the 60 days following the expiration of the 30-day period. If no  
40 notice is given within the 30-day period that the State intends to  
41 exercise its right of first refusal, or if no offer is submitted to the  
42 landowner within the 60-day period following the 30-day period, the  
43 owner may at the expiration of the 30-day period or the 60-day period,  
44 as the case may be, convey the land to the proposed purchaser named  
45 in the executed contract of sale upon the terms and conditions  
46 specified therein, or to the proposed purchaser's assignee as provided

1 in that executed contract of sale. If the owner fails to convey the land  
2 to the named proposed purchaser or an assignee thereof pursuant to  
3 the executed contract of sale, the land shall again become subject to  
4 the State's right of first refusal as provided by this section. A  
5 landowner may elect to convey the land to the State upon the exercise  
6 of the State's right of first refusal without breaching the original  
7 contract of sale, notwithstanding that the State's offer is different than,  
8 or provides for lower consideration than, that in the original executed  
9 contract of sale.

10 b. The requirements of this section shall not apply to any sale or  
11 other conveyance of land between immediate family members, to any  
12 sale of a structure that is located on a lot of less than 10 acres, or to  
13 any land that is subject to the State Agriculture Development  
14 Committee's first right and option to purchase as provided pursuant to  
15 section 2 of P.L.1989, c.28 (C.4:1C-39).

16 c. The Commissioner of Environmental Protection shall, within 60  
17 days after the date of enactment of this act, transmit, by certified mail,  
18 written notice of the provisions of this section to the governing body  
19 of every municipality and county located in whole or in part in the  
20 preservation area, and publish a notice in the New Jersey Register and  
21 in at least two newspapers circulating within the preservation area.

22 d. Any contract made in violation of subsection a. of this section  
23 is voidable.

24 e. Nothing in this section shall be construed so as to limit any  
25 authority granted to the Department of Environmental Protection, the  
26 State Agriculture Development Committee, or any other State entity,  
27 or a local government unit, pursuant to law, to acquire any lands, or  
28 interests therein or options therefor, in such manner as may be  
29 provided in any such law.

30 f. For the purposes of this section, "immediate family member"  
31 means spouse, child, sibling, aunt, uncle, niece, nephew, first cousin,  
32 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,  
33 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half  
34 brother, or half sister, whether the individual is related by blood,  
35 marriage, or adoption.

36  
37 27. (New section) No local government unit, public utility, or  
38 State entity shall sell or otherwise convey any land or interest therein  
39 it owns that is located in the Highlands Region and is utilized for the  
40 purpose of protecting a public water supply, as defined and determined  
41 by the Commissioner of Environmental Protection; except that this  
42 section:

43 a. shall not apply to the sale or conveyance of such lands to  
44 another local government unit, public utility, or State entity for the  
45 purpose of protecting a public water supply, or the sale or conveyance  
46 of such lands for permanent preservation and use for recreation and

1 conservation purposes, provided that in either case the sale or  
2 conveyance is approved by the commissioner; or

3 b. shall not prevent the lease or other conveyance of such lands as  
4 authorized pursuant to P.L.2002, c.47 (C.40A:12-17.1 et al.),  
5 provided that the lands so leased or otherwise conveyed shall continue  
6 to be subject to the prohibition prescribed by this section and the  
7 requirements and provisions of that act.

8

9 28. (New section) The council may institute an action or  
10 proceeding in Superior Court for injunctive relief for any violation of  
11 this act, or any rule or regulation adopted pursuant thereto, or, in the  
12 preservation area for any violation of, or nonconformance with, the  
13 regional master plan, and the court may proceed in the action in a  
14 summary manner. In any proceeding brought pursuant to this section,  
15 the court may also grant temporary or interlocutory relief.

16

17 29. (New section) Any decision rendered or action taken by the  
18 council pursuant to this act shall be a final agency action subject to  
19 judicial review in the Appellate Division of the Superior Court of New  
20 Jersey in accordance with the Rules of Court. The court may grant  
21 such relief as it deems just and proper, and to make and enter an order  
22 enforcing, modifying, and enforcing as so modified, remanding for  
23 further specific evidence or findings, or setting aside in whole or in  
24 part, the decision of the council. The findings of fact upon which the  
25 council's decision is based shall be conclusive if supported by  
26 substantial evidence on the record considered as a whole.

27

28 30. (New section) On or before March 31 in each year the council  
29 shall make an annual report of its activities for the preceding calendar  
30 year to the Governor and the Legislature. Each such report shall set  
31 forth a complete operating and financial statement covering its  
32 operations during the year.

33

34 31. (New section) a. Commencing on the date of enactment of  
35 this act and until the effective date of the rules and regulations adopted  
36 by the Department of Environmental Protection pursuant to sections  
37 32 and 33 of this act, all major development in the preservation area  
38 shall require a Highlands Preservation Area approval from the  
39 department. The Highlands Preservation Area approval shall consist  
40 of the related aspects of other regulatory programs which may include,  
41 but need not be limited to, the "Freshwater Wetlands Protection Act,"  
42 P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame  
43 Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the  
44 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
45 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
46 et seq.), "The Realty Improvement Sewerage and Facilities Act

1 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
2 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
3 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the  
4 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
5 seq.), and any rules and regulations adopted pursuant thereto. For the  
6 purposes of this section, the provisions of P.L.1975, c. 232 (C.13:1D-  
7 29 et seq.) shall not apply to an application for a permit pursuant to  
8 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
9 et seq.).

10 b. The Highlands Preservation Area approval shall also require:

11 (1) a prohibition on major development within 300 feet of any  
12 Highlands open waters, and a 300-foot buffer adjacent to all Highlands  
13 open waters. For the purposes of this paragraph, major development  
14 does not include linear development for infrastructure, utilities, and the  
15 rights-of-way therefor, provided that there is no other feasible  
16 alternative for the linear development outside of the buffer. Structures  
17 or land uses in the buffer existing on the date of enactment of this act  
18 may remain, provided that the area of disturbance shall not be  
19 increased. This paragraph shall not be construed to limit the authority  
20 of the department to establish buffers of any size or any other  
21 protections for category one waters designated by the department  
22 pursuant to the "Water Pollution Control Act," P.L.1977, c.74  
23 (C.58:10A-1 et seq.), or any other law, or any rule or regulation  
24 adopted pursuant thereto, for major development or for other  
25 development that does not qualify as major development;

26 (2) the quality of all Highlands open waters and the waters of the  
27 Highlands within the preservation area to be maintained, restored, or  
28 enhanced, and any new or expanded point source discharge, except  
29 discharges from water supply facilities, shall not degrade existing  
30 water quality. In the case of water supply facilities, all reasonable  
31 measures shall be taken to eliminate or minimize water quality impacts;

32 (3) notwithstanding the provisions of subsection a. of section 5 of  
33 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
34 pursuant thereto, to the contrary, any diversion of more than 50,000  
35 gallons per day, and multiple diversions by the same or related entities  
36 for the same or related projects or developments of more than 50,000  
37 gallons per day, of waters of the Highlands shall require a permit  
38 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
39 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be  
40 based on consideration of individual and cumulative impacts of  
41 multiple diversions, maintenance of stream base flows, minimization  
42 of depletive use, maintenance of existing water quality, and protection  
43 of ecological uses;

44 (4) a zero net fill requirement for flood hazard areas pursuant to the  
45 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
46 seq.);

1 (5) the antidegradation provisions of the surface water quality  
2 standards and the stormwater regulations applicable to category one  
3 waters to be applied to Highlands open waters;

4 (6) a prohibition on impervious surfaces of greater than three  
5 percent of the land area of a lot existing on the date of enactment of  
6 this act, except that Highlands open waters shall not be included in the  
7 calculation of that land area;

8 (7) a prohibition on development, except linear development for  
9 infrastructure, utilities, and the rights-of-way therefor, provided that  
10 no other feasible alternative exists for the linear development, on steep  
11 slopes with a grade of 20% or greater; and

12 (8) a prohibition on development that disturbs upland forested  
13 areas, in order to prevent soil erosion and sedimentation, protect water  
14 quality, prevent stormwater runoff, and protect threatened and  
15 endangered animal and plant species sites and designated habitats.  
16 Notwithstanding the provisions of this paragraph to the contrary, if a  
17 major development complies with all other applicable requirements for  
18 a Highlands Preservation Area review pursuant to this subsection and  
19 disturbance to an upland forested area is unavoidable, the department  
20 shall allow the disturbance to an upland forested area of no more than  
21 20 feet directly adjacent to a structure and of no more than 10 feet on  
22 each side of a driveway as necessary to access a non-forested area of  
23 a site.

24 c. The Highlands Preservation Area approval required pursuant to  
25 this section shall include a limited review by the department of an  
26 application for a Highlands Preservation Area approval to a review for  
27 the purpose of locating a single family dwelling on the property based  
28 upon the least environmental impact to the natural resources located  
29 on the property when the application is for the construction of a single  
30 family dwelling on property owned by the individual on the date of  
31 enactment of this act, but only if the construction requires an  
32 environmental land use or water permit and does not result in the  
33 ultimate disturbance of one acre or more of land or an increase in  
34 impervious surface by one-quarter acre or more. This limited review  
35 shall not be construed to authorize the waiver of any other provision  
36 of law, or any rule or regulation adopted pursuant thereto.

37  
38 32. (New section) a. Within 270 days after the date of enactment  
39 of this act, and notwithstanding the provisions of the "Administrative  
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,  
41 the Commissioner of Environmental Protection, after consultation with  
42 the Department of Agriculture, the Department of Community Affairs,  
43 and the State Planning Commission, shall, immediately upon filing  
44 proper notice with the Office of Administrative Law, adopt the rules  
45 and regulations prepared by the department pursuant to section 33 of  
46 this act and any other rules and regulations necessary to establish the



1 Highlands permitting review program established pursuant to section  
2 34 of this act.

3 b. The rules and regulations adopted pursuant to subsection a. of  
4 this section shall be in effect for a period not to exceed one year after  
5 the date of the filing. These rules and regulations shall thereafter be  
6 adopted, amended, or readopted by the commissioner in accordance  
7 with the requirements of the "Administrative Procedure Act," after  
8 consultation with the council, the Department of Agriculture, the  
9 Department of Community Affairs, and the State Planning  
10 Commission.

11 c. The rules and regulations adopted by the commissioner pursuant  
12 to subsection a. of this section and any requirement to obtain a  
13 Highlands permitting review pursuant this act shall not apply to any  
14 major development for which all State environmental land use or water  
15 permits and local permits, approvals, and other authorizations have  
16 been issued.

17

18 33. (New section) The Department of Environmental Protection  
19 shall prepare rules and regulations establishing the environmental  
20 standards for the preservation area upon which the regional master  
21 plan adopted by the council and the Highlands permitting review  
22 program administered by the department pursuant to this act shall be  
23 based. These rules and regulations shall provide for at least the  
24 following:

25 a. a prohibition on major development within 300 feet of any  
26 Highlands open waters, and the establishment of a 300-foot buffer  
27 adjacent to all Highlands open waters. For the purposes of this  
28 subsection, major development does not include linear development  
29 for infrastructure, utilities, and the rights-of-way therefor, provided  
30 that there is no other feasible alternative for the linear development  
31 outside of the buffer. Structures or land uses in the buffer existing on  
32 the date of enactment of this act may remain, provided that the area of  
33 disturbance shall not be increased. This subsection shall not be  
34 construed to limit any authority of the department to establish buffers  
35 of any size or any other protections for category one waters  
36 designated by the department pursuant to the "Water Pollution Control  
37 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any  
38 rule or regulation adopted pursuant thereto, for major development or  
39 for other development that does not qualify as major development;

40 b. measures to ensure that existing water quality shall be  
41 maintained, restored, or enhanced in all Highlands open waters and  
42 waters of the Highlands, and provide that any new or expanded point  
43 source discharge, except discharges from water supply facilities, shall  
44 not degrade existing water quality. In the case of water supply  
45 facilities, all reasonable measures shall be taken to eliminate or  
46 minimize water quality impacts;

- 1 c. notwithstanding the provisions of section 23 of P.L.1987, c.156  
2 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to  
3 the contrary, the criteria for the type of activity or activities eligible  
4 for the use of a general permit for an activity located wholly or  
5 partially within a freshwater wetland or freshwater wetland transition  
6 area located wholly or partially in the preservation area, provided that  
7 these criteria are at least as protective as those provided in section 23  
8 of P.L.1987, c.156 (C.13:9B-23);
- 9 d. notwithstanding the provisions of subsection a. of section 5 of  
10 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
11 pursuant thereto, to the contrary, a system for the regulation of any  
12 diversion of more than 50,000 gallons per day, and multiple diversions  
13 by the same or related entities for the same or related projects or  
14 developments of more than 50,000 gallons per day, of waters of the  
15 Highlands pursuant to the "Water Supply Management Act,"  
16 P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant  
17 thereto shall be based on consideration of individual and cumulative  
18 impacts of multiple diversions, maintenance of stream base flows,  
19 minimization of depletive use, maintenance of existing water quality,  
20 and protection of ecological uses;
- 21 e. a septic system density standard established at a level to prevent  
22 the degradation of water quality, or to require the restoration of water  
23 quality, and to protect ecological uses from individual, secondary, and  
24 cumulative impacts, in consideration of deep aquifer recharge available  
25 for dilution;
- 26 f. a zero net fill requirement for flood hazard areas pursuant to the  
27 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
28 seq.);
- 29 g. the antidegradation provisions of the surface water quality  
30 standards and the stormwater regulations applicable to category one  
31 waters to be applied to Highlands open waters;
- 32 h. a prohibition on impervious surfaces of greater than three  
33 percent of the land area, except that Highlands open waters shall not  
34 be included in the calculation of that land area;
- 35 i. notwithstanding the provisions of the "Safe Drinking Water Act,"  
36 P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation  
37 adopted pursuant thereto, to the contrary, a limitation or prohibition  
38 on the construction of new public water systems or the extension of  
39 existing public water systems, except in the case of a demonstrated  
40 need to protect public health and safety;
- 41 j. a prohibition on development, except linear development for  
42 infrastructure, utilities, and the rights-of-way therefor, provided that  
43 no other feasible alternative exists for the linear development, on steep  
44 slopes in the preservation area with a grade of 20% or greater, and  
45 standards for development on slopes in the preservation area exhibiting  
46 a grade of between 10% and 20%. The standards shall assure that

1 developments on slopes exhibiting a grade of between 10% and 20%  
2 preserve and protect steep slopes from the negative consequences of  
3 development on the site and the cumulative impact in the Highlands  
4 Region. The standards shall be developed to prevent soil erosion and  
5 sedimentation, protect water quality, prevent stormwater runoff,  
6 protect threatened and endangered animal and plant species sites and  
7 designated habitats, provide for minimal practicable degradation of  
8 unique or irreplaceable land types, historical or archeological areas,  
9 and existing scenic attributes at the site and within the surrounding  
10 area, protect upland forest, and restrict impervious surface; and shall  
11 take into consideration differing soil types, soil erodability,  
12 topography, hydrology, geology, and vegetation types; and

13 k. a prohibition on development that disturbs upland forested  
14 areas, in order to prevent soil erosion and sedimentation, protect water  
15 quality, prevent stormwater runoff, and protect threatened and  
16 endangered animal and plant species sites and designated habitats; and  
17 standards to protect upland forested areas that require all appropriate  
18 measures be taken to avoid impacts or disturbance to upland forested  
19 areas, and where avoidance is not possible that all appropriate  
20 measures have been taken to minimize and mitigate impacts to upland  
21 forested areas and to prevent soil erosion and sedimentation, protect  
22 water quality, prevent stormwater runoff, and protect threatened and  
23 endangered animal and plant species sites and designated habitats.

24

25 34. (New section) a. The Department of Environmental  
26 Protection shall establish a Highlands permitting review program to  
27 provide for the coordinated review of any major development in the  
28 preservation area based upon the rules and regulations adopted by the  
29 department pursuant to sections 32 and 33 of this act. The Highlands  
30 permitting review program established pursuant to this section shall  
31 consolidate the related aspects of other regulatory programs which  
32 may include, but need not be limited to, the "Freshwater Wetlands  
33 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The  
34 Endangered and Nongame Species Conservation Act," P.L.1973,  
35 c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act,"  
36 P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control  
37 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement  
38 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et  
39 seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1  
40 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1  
41 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19  
42 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant  
43 thereto, and the rules and regulations adopted pursuant to sections 32  
44 and 33 of this act. For the purposes of this section, the provisions of  
45 P.L.1975, c.232 (C.13:1D-29 et seq.) shall not apply to an application  
46 for a permit pursuant to the "Flood Hazard Area Control Act,"

1 P.L.1962, c.19 (C.58:16A-50 et seq.).

2 b. The Highlands permitting review program established pursuant  
3 to this section shall include:

4 (1) a provision limiting the review by the department of an  
5 application to a review for the purpose of locating a single family  
6 dwelling on the property based upon the least environmental impact to  
7 the natural resources located on the property when the application is  
8 for the construction of a single family dwelling on property owned by  
9 the individual on the date of enactment of this act, but only if the  
10 construction requires an environmental land use or water permit and  
11 does not result in the ultimate disturbance of one acre or more of land  
12 or an increase in impervious surface by one-quarter acre or more;

13 (2) (a) a provision that may allow for the waiver of any provision  
14 of a Highlands permitting review on a case-by-case basis to avoid  
15 undue hardship to an individual owner of residential property for one  
16 single family dwelling that includes the ultimate disturbance of one  
17 acre or more of land or an increase in impervious surface by  
18 one-quarter acre or more, provided that the property was owned by  
19 the individual on the date of enactment of this act;

20 (b) a provision that may allow for a waiver of any provision of a  
21 Highlands permitting review on a case-by-case basis if determined to  
22 be necessary by the department in order to protect public health and  
23 safety;

24 (c) a provision that may allow for a waiver of any provision of a  
25 Highlands permitting review on a case-by-case basis for redevelopment  
26 in certain previously developed areas in the preservation area identified  
27 by the council pursuant to subsection b. of section 9 of this act; and

28 (d) a provision that may allow for a waiver of any provision of the  
29 Highlands permitting review on a case-by-case basis in order to avoid  
30 the taking of property without just compensation.

31 The grant of a waiver pursuant to subparagraphs (a), (b), (c), or (d)  
32 of this paragraph by the department shall be conditioned upon the  
33 department's determination that the major development meets the  
34 requirements prescribed for a finding as listed in subsection a. of  
35 section 35 of this act to the maximum extent possible.

36 c. The limited review provision of paragraph (1) of subsection b.  
37 of this section and the waiver provisions of paragraph (2) of  
38 subsection b. of this section are limited to the provisions of the rules  
39 and regulations adopted pursuant to section 33 of this act, and shall  
40 not limit the department's jurisdiction or authority pursuant to any  
41 other provision of law, or any rule or regulation adopted pursuant  
42 thereto, that is incorporated into the Highlands permitting review  
43 program.

44 d. The Highlands permitting review program established pursuant  
45 to this section may provide for the issuance of a general permit  
46 provided that the department adopts rules and regulations which

1 identify the activities subject to general permit review and establish the  
2 criteria for the approval or disapproval of a general permit.

3 e. Any person proposing to construct or cause to be constructed,  
4 or to undertake or cause to be undertaken, as the case may be, a major  
5 development in the preservation area shall file an application for a  
6 Highlands permitting review with the department, on forms and in a  
7 manner prescribed by the department.

8 f. The department shall, in accordance with a fee schedule adopted  
9 as a rule or regulation, establish and charge reasonable fees necessary  
10 to meet the administrative costs of the department associated with the  
11 processing, review, and enforcement of any application for a Highlands  
12 permitting review. These fees shall be deposited in the "Environmental  
13 Services Fund," established pursuant to section 5 of P.L.1975, c.232  
14 (C.13:1D-33), and kept separate and apart from all other State  
15 receipts and appropriated only as provided herein. There shall be  
16 appropriated annually to the department revenue from that fund  
17 sufficient to defray in full the costs incurred in the processing, review,  
18 and enforcement of applications for Highlands permitting reviews.

19

20 35. (New section) a. The Commissioner of Environmental  
21 Protection shall review filed applications for Highlands permitting  
22 reviews, including any information presented at public hearings or  
23 during a comment period, or submitted during the application review  
24 period.

25 Except as otherwise provided by subsection b. of this section, a  
26 Highlands permitting review approval may be issued only upon a  
27 finding that the proposed major development:

28 (1) would have a de minimis impact on water resources and would  
29 not cause or contribute to a significant degradation of surface or  
30 ground waters. In making this determination, the commissioner shall  
31 consider the extent of any impacts on water resources resulting from  
32 the proposed major development, including, but not limited to, the  
33 regenerative capacity of aquifers or other surface or ground water  
34 supplies, increases in stormwater generated, increases in impervious  
35 surface, increases in stormwater pollutant loading, changes in land use,  
36 and changes in vegetative cover;

37 (2) would cause minimal feasible interference with the natural  
38 functioning of animal, plant, and other natural resources at the site and  
39 within the surrounding area, and minimal feasible individual and  
40 cumulative adverse impacts to the environment both onsite and offsite  
41 of the major development;

42 (3) will result in minimum feasible alteration or impairment of the  
43 aquatic ecosystem including existing contour, vegetation, fish and  
44 wildlife resources, and aquatic circulation of a freshwater wetland;

45 (4) will not jeopardize the continued existence of species listed  
46 pursuant to "The Endangered and Nongame Species Conservation

1 Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant  
2 Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which  
3 appear on the federal endangered or threatened species list, and will  
4 not result in the likelihood of the destruction or adverse modification  
5 of habitat for any rare, threatened, or endangered species of animal or  
6 plant;

7 (5) is located or constructed so as to neither endanger human life  
8 or property nor otherwise impair the public health, safety, and welfare;

9 (6) would result in minimal practicable degradation of unique or  
10 irreplaceable land types, historical or archeological areas, and existing  
11 public scenic attributes at the site and within the surrounding area; and

12 (7) meets all other applicable department standards, rules, and  
13 regulations and State laws.

14 b. A Highlands permitting review approval may be issued to a  
15 major development subject to a limited review pursuant to paragraph  
16 (1) of subsection b. of section 34 of this act or granted a waiver  
17 pursuant to the provisions of paragraph (2) of subsection b. of section  
18 34 of this act notwithstanding the inability to make the finding  
19 required pursuant to subsection a. of this section.

20

21 36. (New section) a. Whenever the Commissioner of  
22 Environmental Protection finds that a person has violated any  
23 provision of section 31 of this act, a Highlands permitting review  
24 approval issued pursuant to section 35 of this act, or any rule or  
25 regulation adopted pursuant to sections 32 and 33 of this act, the  
26 commissioner may:

27 (1) Issue an order requiring any such person to comply in  
28 accordance with subsection b. of this section; or

29 (2) Bring a civil action in accordance with subsection c. of this  
30 section; or

31 (3) Levy a civil administrative penalty in accordance with  
32 subsection d. of this section; or

33 (4) Bring an action for a civil penalty in accordance with subsection  
34 e. of this section; or

35 (5) Petition the Attorney General to bring a criminal action in  
36 accordance with subsection f. of this section.

37 Recourse to any of the remedies available under this section shall  
38 not preclude recourse to any of the other remedies prescribed in this  
39 section or by any other applicable law.

40 b. Whenever, on the basis of available information, the  
41 commissioner finds a person in violation of any provision of section 31  
42 of this act, a Highlands permitting review approval issued pursuant to  
43 section 35 of this act, or any rule or regulation adopted pursuant to  
44 sections 32 and 33 of this act, the commissioner may issue an order:

45 (1) specifying the provision or provisions of the rule, regulation,  
46 permit, approval, or authorization of which the person is in violation;

1 (2) citing the action which constituted the violation; (3) requiring  
2 compliance with the provision or provisions violated; (4) requiring the  
3 restoration of the area which is the site of the violation; and (5)  
4 providing notice to the person of the right to a hearing on the matters  
5 contained in the order.

6 c. The commissioner is authorized to institute a civil action in  
7 Superior Court for appropriate relief from any violation of any  
8 provision of section 31 of this act, a Highlands permitting review  
9 approval issued pursuant to section 35 of this act, or any rule or  
10 regulation adopted pursuant to sections 32 and 33 of this act. Such  
11 relief may include, singly or in combination:

12 (1) A temporary or permanent injunction;

13 (2) Assessment of the violator for the costs of any investigation,  
14 inspection, or monitoring survey which led to the establishment of the  
15 violation, and for the reasonable costs of preparing and bringing legal  
16 action under this subsection;

17 (3) Assessment of the violator for any costs incurred by the State  
18 in removing, correcting, or terminating the adverse effects resulting  
19 from any unauthorized regulated activity for which legal action under  
20 this subsection may have been brought;

21 (4) Assessment against the violator for compensatory damages for  
22 any loss or destruction of wildlife, fish or aquatic life, and for any  
23 other actual damages caused by an unauthorized regulated activity;

24 (5) A requirement that the violator restore the site of the violation  
25 to the maximum extent practicable and feasible.

26 d. The commissioner is authorized to assess a civil administrative  
27 penalty of up to \$25,000 for each violation of any provision of section  
28 31 of this act, a Highlands permitting review approval issued pursuant  
29 to section 35 of this act, or any rule or regulation adopted pursuant to  
30 sections 32 and 33 of this act, and each day during which each  
31 violation continues shall constitute an additional, separate, and distinct  
32 offense. Any amount assessed under this subsection shall fall within  
33 a range established by regulation by the commissioner for violations of  
34 similar type, seriousness, and duration. No assessment shall be levied  
35 pursuant to this section until after the party has been notified by  
36 certified mail or personal service. The notice shall: (1) identify the  
37 section of the rule, regulation, permit, approval, or authorization  
38 violated; (2) recite the facts alleged to constitute a violation; (3) state  
39 the amount of the civil penalties to be imposed; and (4) affirm the  
40 rights of the alleged violator to a hearing. The ordered party shall  
41 have 20 days from receipt of the notice within which to deliver to the  
42 commissioner a written request for a hearing. After the hearing and  
43 upon finding that a violation has occurred, the commissioner may issue  
44 a final order after assessing the amount of the fine specified in the  
45 notice. If no hearing is requested, the notice shall become a final order  
46 after the expiration of the 20-day period. Payment of the assessment

1 is due when a final order is issued or the notice becomes a final order.  
2 The authority to levy an administrative penalty is in addition to all  
3 other enforcement provisions in this act and in any other applicable  
4 law, rule, or regulation, and the payment of any assessment shall not  
5 be deemed to affect the availability of any other enforcement  
6 provisions in connection with the violation for which the assessment  
7 is levied. Any civil administrative penalty assessed under this section  
8 may be compromised by the commissioner upon the posting of a  
9 performance bond by the violator, or upon such terms and conditions  
10 as the commissioner may establish by regulation.

11 e. A person who violates any provision of section 31 of this act, a  
12 Highlands permitting review approval issued pursuant to section 35 of  
13 this act, or any rule or regulation adopted pursuant to sections 32 and  
14 33 of this act, an administrative order issued pursuant to subsection b.  
15 of this section, or a court order issued pursuant to subsection c. of this  
16 section, or who fails to pay a civil administrative penalty in full  
17 pursuant to subsection d. of this section, shall be subject, upon order  
18 of a court, to a civil penalty not to exceed \$10,000 per day of such  
19 violation, and each day during which the violation continues shall  
20 constitute an additional, separate, and distinct offense. Any civil  
21 penalty imposed pursuant to this subsection may be collected with  
22 costs in a summary proceeding pursuant to the "Penalty Enforcement  
23 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior  
24 Court and the municipal court shall have jurisdiction to enforce the  
25 provisions of the "Penalty Enforcement Law of 1999" in connection  
26 with this act.

27 f. A person who purposely or negligently violates any provision of  
28 section 31 of this act, a Highlands permitting review approval issued  
29 pursuant to section 35 of this act, or any rule or regulation adopted  
30 pursuant to sections 32 and 33 of this act, shall be guilty, upon  
31 conviction, of a crime of the fourth degree and, notwithstanding any  
32 provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine  
33 of not less than \$2,500 nor more than \$25,000 per day of violation, in  
34 addition to any other applicable penalties and provisions under Title  
35 2C of the New Jersey Statutes. A second or subsequent offense under  
36 this subsection shall subject the violator to a fine, notwithstanding any  
37 provision of N.J.S.2C:43-3 to the contrary, of not less than \$5,000 nor  
38 more than \$50,000 per day of violation, in addition to any other  
39 applicable penalties and provisions under Title 2C of the New Jersey  
40 Statutes. A person who knowingly makes a false statement,  
41 representation, or certification in any application, record, or other  
42 document filed or required to be maintained under this act shall be  
43 guilty, upon conviction, of a crime of the fourth degree and,  
44 notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall  
45 be subject to a fine of not more than \$10,000, in addition to any other  
46 applicable penalties and provisions under Title 2C of the New Jersey



1 Statutes.

2 g. In addition to the penalties prescribed in this section, a notice of  
3 violation of any provision of section 31 of this act, a Highlands  
4 permitting review approval issued pursuant to section 35 of this act,  
5 or any rule or regulation adopted pursuant to sections 32 and 33 of  
6 this act, shall be recorded on the deed of the property wherein the  
7 violation occurred, on order of the commissioner, by the clerk or  
8 register of deeds and mortgages of the county wherein the affected  
9 property is located and with the clerk of the Superior Court and shall  
10 remain attached thereto until such time as the violation has been  
11 remedied and the commissioner orders the notice of violation  
12 removed.

13 h. The department may require an applicant or permittee to provide  
14 any information the department requires to determine compliance with  
15 any provision of section 31 of this act, a Highlands permitting review  
16 approval issued pursuant to section 35 of this act, or any rule or  
17 regulation adopted pursuant to sections 32 and 33 of this act.

18 i. All penalties collected pursuant to this section shall either be  
19 used, as determined by the council, by the department for the  
20 acquisition of lands in the preservation area or by any development  
21 transfer bank used or established by the council to purchase  
22 development potential in the preservation area.

23

24 37. (New section) Notwithstanding the provisions P.L.1987, c.156  
25 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant  
26 thereto, to the contrary, major development as defined in section 3 of  
27 P.L. , c. (C. ) (now before the Legislature as this bill) that  
28 includes a regulated activity as defined in section 3 of P.L.1987, c.156  
29 (C.13:9B-3) in a freshwater wetland or freshwater wetland transition  
30 area located wholly or partially in the Highlands preservation area as  
31 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
32 as this bill) shall also be regulated pursuant to sections 31 through 36  
33 of P.L. , c. (C. ) (now before the Legislature as this bill).

34

35 38. (New section) Notwithstanding the provisions of subsection  
36 a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or  
37 regulation adopted pursuant thereto, to the contrary, the Department  
38 of Environmental Protection, pursuant to section 33 of P.L. , c.  
39 (C. ) (now before the Legislature as this bill), shall establish a permit  
40 system to provide for review of allocations or reallocations of waters  
41 of the Highlands, as defined in section 3 of P.L. , c. (C. ) (now  
42 before the Legislature as this bill), to provide for the issuance of  
43 permits for diversions either individually or cumulatively of more than  
44 50,000 gallons per day of waters of the Highlands in the Highlands  
45 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
46 before the Legislature as this bill).

1 39. (New section) Notwithstanding the provisions of the "Water  
2 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the  
3 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
4 or any rule or regulation adopted pursuant thereto, to the contrary, the  
5 Department of Environmental Protection, pursuant to section 33 of  
6 P.L. , c. (C. ) (now before the Legislature as this bill), shall  
7 establish a septic system density standard at a level to prevent the  
8 degradation of water quality, or to require the restoration of water  
9 quality, and to protect ecological uses from individual, secondary, and  
10 cumulative impacts, in consideration of deep aquifer recharge available  
11 for dilution, which standard shall be applied to any major development  
12 as defined in section 3 of P.L. , c. (C. ) (now before the  
13 Legislature as this bill) located wholly or partially within the Highlands  
14 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
15 before the Legislature as this bill).

16

17 40. (New section) Notwithstanding the provisions of the "Safe  
18 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any  
19 rule or regulation adopted pursuant thereto, to the contrary, the  
20 Department of Environmental Protection, pursuant to section 33 of  
21 P.L. , c. (C. ) (now before the Legislature as this bill), within the  
22 Highlands preservation area as defined in section 3 of P.L. , c.  
23 (C. ) (now before the Legislature as this bill), shall limit or prohibit  
24 the construction of new public water systems or the extension of  
25 existing public water systems, except in the case of a demonstrated  
26 need to protect public health and safety.

27

28 41. (New section) Notwithstanding the provisions of the "Water  
29 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the  
30 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
31 or any rule or regulation adopted pursuant thereto, to the contrary,  
32 within the Highlands preservation area as defined in section 3 of  
33 P.L. , c. (C. ) (now before the Legislature as this bill),  
34 designated sewer service areas for which wastewater collection  
35 systems have not been installed on the date of enactment of P.L. ,  
36 c. (C. ) (now before the Legislature as this bill) are hereby  
37 revoked, and any associated treatment works approvals in the  
38 impacted areas shall expire on the date of enactment of P.L. , c.  
39 (C. ) (now before the Legislature as this bill), and the Department of  
40 Environmental Protection shall implement measures to amend any  
41 water quality management plan as appropriate to reflect the revocation  
42 of designated sewer service areas pursuant to this section.

43

44 42. (New section) Notwithstanding the provisions of the "Flood  
45 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), or  
46 any rule or regulation adopted pursuant thereto, to the contrary, the

1 Department of Environmental Protection, pursuant to section 33 of  
2 P.L. , c. (C. ) (now before the Legislature as this bill), shall  
3 establish a zero net fill requirement within any flood hazard area  
4 located wholly or partially within the Highlands preservation area as  
5 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
6 as this bill).

7  
8 43. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
9 as follows:

10 24. a. Any landowner applying to the board to sell a development  
11 easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall  
12 offer to sell the development easement at a price which, in the opinion  
13 of the landowner, represents a fair value of the development potential  
14 of the land for nonagricultural purposes, as determined in accordance  
15 with the provisions of [this act] P.L.1983, c.32 (C.4:1C-11 et seq.).

16 b. Any offer shall be reviewed and evaluated by the board and the  
17 committee in order to determine the suitability of the land for  
18 development easement purchase. Decisions regarding suitability shall  
19 be based on the following criteria:

20 (1) Priority consideration shall be given, in any one county, to  
21 offers with higher numerical values obtained by applying the following  
22 formula:

23  
24 nonagricultural - agricultural - landowner's  
25 developmental value value asking price  
26 -----  
27 nonagricultural - agricultural  
28 development value value  
29

30 (2) The degree to which the purchase would encourage the  
31 survivability of the municipally approved program in productive  
32 agriculture; and

33 (3) The degree of imminence of change of the land from productive  
34 agriculture to nonagricultural use.

35 The board and the committee shall reject any offer for the sale of  
36 development easements which is unsuitable according to the above  
37 criteria and which has not been approved by the board and the  
38 municipality.

39 c. Two independent appraisals paid for by the board shall be  
40 conducted for each parcel of land so offered and deemed suitable. The  
41 appraisals shall be conducted by independent, professional appraisers  
42 selected by the board and the committee from among members of  
43 recognized organizations of real estate appraisers. The appraisals shall  
44 determine the current overall value of the parcel for nonagricultural  
45 purposes, as well as the current market value of the parcel for  
46 agricultural purposes. The difference between the two values shall

1 represent an appraisal of the value of the development easement. If  
2 Burlington County or a municipality therein has established a  
3 development transfer bank pursuant to the provisions of P.L.1989,  
4 c.86 (C.40:55D-113 et seq.) or the Highlands Water Protection and  
5 Planning Council has established a development transfer bank pursuant  
6 to section 13 of P.L. , c. (C. ) (now before the Legislature as  
7 this bill), the municipal average of the value of the development  
8 potential of property in a sending zone established by the bank may be  
9 the value used by the board in determining the value of the  
10 development easement. If a development easement is purchased using  
11 moneys appropriated from the fund, the State shall provide no more  
12 than 80%, except 100% under emergency conditions specified by the  
13 committee pursuant to rules or regulations, of the cost of the  
14 appraisals conducted pursuant to this section.

15 d. Upon receiving the results of the appraisals, or in Burlington  
16 county or a municipality therein or elsewhere where a municipal  
17 average has been established under [P.L.1989, c.86 (C.40:55D-113 et  
18 seq.)] subsection c. of this section, upon receiving an application from  
19 the landowners, the board and the committee shall compare the  
20 appraised value, or the municipal average, as the case may be, and the  
21 landowner's offer and, pursuant to the suitability criteria established in  
22 subsection b. of this section:

23 (1) Approve the application to sell the development easement and  
24 rank the application in accordance with the criteria established in  
25 subsection b. of this section; or

26 (2) Disapprove the application, stating the reasons therefor.

27 e. Upon approval by the committee and the board, the secretary is  
28 authorized to provide the board, within the limits of funds  
29 appropriated therefor, an amount equal to no more than 80%, except  
30 100% under emergency conditions specified by the committee  
31 pursuant to rules or regulations, of the purchase price of the  
32 development easement, as determined pursuant to the provisions of  
33 this section. The board shall provide its required share and accept the  
34 landowner's offer to sell the development easement. The acceptance  
35 shall cite the specific terms, contingencies and conditions of the  
36 purchase.

37 f. The landowner shall accept or reject the offer within 30 days of  
38 receipt thereof. Any offer not accepted within that time shall be  
39 deemed rejected.

40 g. Any landowner whose application to sell a development  
41 easement has been rejected for any reason other than insufficient funds  
42 may not reapply to sell a development easement on the same land  
43 within two years of the original application.

44 h. No development easement shall be purchased at a price greater  
45 than the appraised value determined pursuant to subsection c. of this  
46 section or the municipal average, as the case may be.

1 i. The appraisals conducted pursuant to this section or the fair  
2 market value of land restricted to agricultural use shall not be used to  
3 increase the assessment and taxation of agricultural land pursuant to  
4 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
5 et seq.).

6 j. (1) In determining the suitability of land for development  
7 easement purchase, the board and the committee may also include as  
8 additional factors for consideration the presence of a historic building  
9 or structure on the land and the willingness of the landowner to  
10 preserve that building or structure, but only if the committee first  
11 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
12 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
13 subsection. The committee may, by rule or regulation adopted  
14 pursuant to the "Administrative Procedure Act," assign any such  
15 weight it deems appropriate to be given to these factors.

16 (2) The provisions of paragraph (1) of this subsection may also be  
17 applied in determining the suitability of land for fee simple purchase  
18 for farmland preservation purposes as authorized by P.L.1983, c.31  
19 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
20 c.152 (C.13:8C-1 et seq.).

21 (3) (a) For the purposes of paragraph (1) of this subsection:  
22 "historic building or structure" means the same as that term is defined  
23 pursuant to subsection c. of section 2 of P.L.2001, c.405  
24 (C.13:8C-40.2).

25 (b) For the purposes of paragraph (2) of this subsection, "historic  
26 building or structure" means the same as that term is defined pursuant  
27 to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).  
28 (cf: P.L.2001, c.405, s.3)

29

30 44. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read  
31 as follows:

32 29. Nothing herein contained shall be construed to prohibit the  
33 creation of a municipally approved program or other farmland  
34 preservation program, the purchase of development easements, or the  
35 extension of any other benefit herein provided on land, and to owners  
36 thereof, in the Pinelands area, as defined pursuant to section 3 of  
37 P.L.1979, c.111 (C.13:18A-3), or in the Highlands Region, as defined  
38 in section 3 of P.L. , c. (C. ) (now before the Legislature as this  
39 bill) .

40 (cf: P.L.1983, c.32, s.29)

41

42 45. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read  
43 as follows:

44 4. The board shall have the following powers:

45 a. To purchase, or to provide matching funds for the purchase of  
46 80% of, the value of development potential and to otherwise facilitate

1 development transfers, from the owner of record of the property from  
2 which the development potential is to be transferred or from any  
3 person, or entity, public or private, holding the interest in development  
4 potential that is subject to development transfer; provided that, in the  
5 case of providing matching funds for the purchase of 80% of the value  
6 of development potential, the remaining 20% of that value is  
7 contributed by the affected municipality or county, or both, after  
8 public notice thereof in the New Jersey Register and in one newspaper  
9 of general circulation in the area affected by the purchase. The  
10 remaining 20% of the value of the development potential to be  
11 contributed by the affected municipality or county, or both, to match  
12 funds provided by the board, may be obtained by purchase from, or  
13 donation by, the owner of record of the property from which the  
14 development potential is to be transferred or from any person, or  
15 entity, public or private, holding the interest in development potential  
16 that is subject to development transfer. The value of development  
17 potential may be determined by either appraisal, municipal averaging  
18 based upon appraisal data, or by a formula supported by appraisal  
19 data. The board may also engage in development transfer by sale,  
20 exchange, or other method of conveyance, provided that in doing so,  
21 the board shall not substantially impair the private sale, exchange or  
22 other method of conveyance of development potential. The board may  
23 not, nor shall anything in this act be construed as permitting the board  
24 to, engage in development transfer from one municipality to another,  
25 which transfer is not in accordance with the ordinances of both  
26 municipalities;

27 b. To adopt and, from time to time, amend or repeal suitable  
28 bylaws for the management of its affairs;

29 c. To adopt and use an official seal and alter that seal at its  
30 pleasure;

31 d. To apply for, receive, and accept, from any federal, State, or  
32 other public or private source, grants or loans for, or in aid of, the  
33 board's authorized purposes;

34 e. To enter into any agreement or contract, execute any legal  
35 document, and perform any act or thing necessary, convenient, or  
36 desirable for the purposes of the board or to carry out any power  
37 expressly given in this act;

38 f. To adopt, pursuant to the "Administrative Procedure Act,"  
39 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary  
40 to implement the provisions of this act;

41 g. To call to its assistance and avail itself of the services of the  
42 employees of any State, county, or municipal department, board,  
43 commission, or agency as may be required and made available for  
44 these purposes;

45 h. To retain such staff as may be necessary in the career service  
46 and to appoint an executive director thereof. The executive director

1 shall serve as a member of the senior executive or unclassified service  
2 and may be appointed without regard to the provisions of Title 11A of  
3 the New Jersey Statutes;

4 i. To review and analyze innovative techniques that may be  
5 employed to maximize the total acreage reserved through the use of  
6 perpetual easements;

7 j. To provide, through the State TDR Bank, a financial guarantee  
8 with respect to any loan to be extended to any person that is secured  
9 using development potential as collateral for the loan. Financial  
10 guarantees provided under this act shall be in accordance with  
11 procedures, terms and conditions, and requirements, including rights  
12 and obligations of the parties in the event of default on any loan  
13 secured in whole or in part using development potential as collateral,  
14 to be established by rule or regulation adopted by the board pursuant  
15 to the "Administrative Procedure Act";

16 k. To enter into agreement with the State Agriculture Development  
17 Committee for the purpose of acquiring development potential through  
18 the acquisition of development easements on farmland so that the  
19 board may utilize the existing processes, procedures, and capabilities  
20 of the State Agriculture Development Committee as necessary and  
21 appropriate to accomplish the goals and objectives of the board as  
22 provided for pursuant to this act;

23 l. To enter into agreements with other State agencies or entities  
24 providing services and programs authorized by law so that the board  
25 may utilize the existing processes, procedures, and capabilities of those  
26 other agencies or entities as necessary and appropriate to accomplish  
27 the goals and objectives of the board as provided for pursuant to this  
28 act; [and]

29 m. To provide planning assistance grants to municipalities that  
30 have adopted viable development transfer ordinances, as determined  
31 by the board, for up to 50% of the cost of planning associated with  
32 such an ordinance and incurred by a municipality, or \$10,000,  
33 whichever is less, which grants shall be made utilizing moneys  
34 deposited into the bank pursuant to section 8 of [this act] P.L.1993,  
35 c.339;

36 n. To provide funding to any development transfer bank that may  
37 be established by the Highlands Water Protection and Planning Council  
38 pursuant to section 13 of P.L. , c. (C. ) (now before the  
39 Legislature as this bill), for (1) the purchase of development potential  
40 by the Highlands development transfer bank, and (2) the council to  
41 provide planning assistance grants to municipalities in the Highlands  
42 Region that are participating in a transfer of development rights  
43 program implemented by the council pursuant to section 13 of P.L. ,  
44 c. (C. ) (now before the Legislature as this bill) in such amounts as  
45 the council deems appropriate notwithstanding any provision of  
46 subsection m. of this section or of section 8 of P.L.1993, c.339 to the

1 contrary; and

2 o. To serve as a development transfer bank for the Highlands  
3 Region if requested to do so by the Highlands Water Protection and  
4 Planning Council pursuant to section 13 of P.L. , c. (C. ) (now  
5 before the Legislature as this bill) .

6 (cf: P.L.1993, c.339, s.4)

7

8 46. Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is amended  
9 to read as follows:

10 11. Subject to the provisions of Title [11 of the Revised] 11A of  
11 the New Jersey Statutes, and within the limits of funds appropriated  
12 or otherwise made available, the commissioner may appoint any officer  
13 or employee to the department necessary to carry out the provisions  
14 of [this act] P.L.1983, c.560 (C.13:1B-15.133 et seq.) , fix and  
15 determine their qualifications, which may include a knowledge of and  
16 familiarity with the pinelands area or the Highlands Region and the  
17 residents thereof.

18 (cf: P.L.1983, c.560, s.11)

19

20 47. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to  
21 read as follows:

22 1. The Department of Environmental Protection, in cooperation  
23 with the Division of Travel and Tourism in the [Department of] New  
24 Jersey Commerce and Economic [Development] Growth Commission,  
25 [and] in consultation with the Pinelands Commission as it affects the  
26 pinelands area designated pursuant to section 10 of P.L.1979, c.111  
27 (C.13:18A-11), and in consultation with the Highlands Water  
28 Protection and Planning Council as it affects the Highlands Region  
29 designated pursuant to section 7 of P.L. , c. (C. ) (now before  
30 the Legislature as this bill), shall establish a natural resources  
31 inventory, using the Geographic Information System, for the purpose  
32 of encouraging ecologically based tourism and recreation in New  
33 Jersey. This inventory shall contain information on New Jersey's  
34 natural, historic, and recreational resources, and shall include, to the  
35 greatest extent possible, but need not be limited to, federal, State,  
36 county and local parks, wildlife management areas, hatcheries, natural  
37 areas, historic sites, State forests, recreational areas, ecological and  
38 biological study sites, reservoirs, marinas, boat launches,  
39 campgrounds, waterfront access points, winter sports recreation areas,  
40 and national wildlife refuges.

41 (cf: P.L.1997, c.64, s.1)

42

43 48. Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to read  
44 as follows:

45 1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall  
46 not apply in the case of conveyances by the State or the department



1 involving an exchange of lands within the pinelands area, as defined in  
2 section 10 of P.L.1979, c.111 (C.13:18A-11), or within the  
3 Hackensack Meadowlands District, as defined in section 4 of  
4 P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as  
5 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
6 as this bill), to the federal government or any agency or entity thereof,  
7 another State agency or entity, or a local unit, provided the lands to be  
8 conveyed are used for recreation or conservation purposes, shall  
9 continue to be used for recreation or conservation purposes and it has  
10 been determined pursuant to subsection c. of this section that the  
11 proposed recreation and conservation purposes for the lands do not  
12 significantly alter the ecological and environmental value of the lands  
13 being exchanged.

14 b. Prior to any conveyance of lands that is exempted from the  
15 provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
16 subsection a. of this section, the Department of Environmental  
17 Protection shall conduct at least one public hearing on the proposed  
18 conveyance in the municipality in which the lands proposed to be  
19 conveyed are located. The local unit proposing the recreation or  
20 conservation use of the lands being exchanged shall present its  
21 proposal for the use of the lands being exchanged at the public  
22 hearing, including a description of the proposed recreation or  
23 conservation use of the lands and any proposed alterations to the lands  
24 for the recreation or conservation purposes.

25 c. As a condition of any conveyance of lands that is exempted from  
26 the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
27 subsection a. of this section, and prior to any public hearing required  
28 pursuant to subsection b. of this section, the Pinelands Commission,  
29 **[or] the [Hackensack] New Jersey Meadowlands [Development]**  
30 **Commission, or the Highlands Water Protection and Planning Council,**  
31 as appropriate, after consultation with the local units in which the  
32 lands to be conveyed are located, shall determine that the proposed  
33 recreation or conservation purpose does not significantly alter the  
34 ecological and environmental value of the lands being exchanged. The  
35 appropriate commission or council shall determine that the proposed  
36 recreation or conservation purpose does not significantly alter the  
37 ecological and environmental value of the lands being exchanged, if:

38 (1) the appropriate commission or council determines that any  
39 proposed recreation or conservation use of the lands being exchanged  
40 is consistent with the law, rules and regulations governing the  
41 protection and development of the pinelands area or pinelands  
42 preservation area, as appropriate and as defined in section 10 of  
43 P.L.1979, c.111 (C.13:18A-11), **[or] the Hackensack Meadowlands**  
44 **District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or the**  
45 **Highlands Region, as defined in section 3 of P.L. , c. (C. ) (now**  
46 **before the Legislature as this bill)**, and the requirements of the law,

1 rules or regulations have been met to the satisfaction of the  
2 appropriate commission or council; and

3 (2) a portion of the lands would be maintained in an undeveloped  
4 or pre-conveyance state and no wetlands would be negatively affected  
5 in violation of State or federal law, or any rules or regulations adopted  
6 pursuant thereto.

7 The determinations required pursuant to this subsection shall be  
8 made available to the public at the time of the public hearing required  
9 pursuant to subsection b. of this section.

10 d. For the purposes of this section, "local unit" means a  
11 municipality, county, or other political subdivision of the State, or any  
12 agency thereof authorized to administer, protect, develop and maintain  
13 lands for recreation and conservation purposes.

14 (cf: P.L.1995, c.306, s.1)

15

16 49. Section 18 of P.L.1985, c.432 (C.13:1M-18) is amended to  
17 read as follows:

18 18. a. Nothing in this act shall be construed to supersede or  
19 prohibit the adoption, by the governing body of any [county or]  
20 municipality or county, of any ordinance or resolution regulating or  
21 prohibiting the exploration beyond the reconnaissance phase, drilling  
22 for and the extraction of oil and natural gas. As used in this section,  
23 "reconnaissance" means:

24 (1) A geologic and mineral resource appraisal of a region by  
25 searching and analyzing published literature, aerial photography, and  
26 geologic maps;

27 (2) Use of geophysical, geochemical, and remote sensing techniques  
28 that do not involve road building, land clearing or the introduction of  
29 chemicals to a land or water area;

30 (3) Surface geologic, topographic or other mapping and property  
31 surveying; or

32 (4) Sample collections which do not involve excavation or drilling  
33 equipment or the introduction of chemicals to land or water area.

34 b. A municipality or county shall submit a copy of any ordinance  
35 or regulation specifically pertaining to activities regulated by this act,  
36 or a rule or regulation promulgated pursuant to this act, to the  
37 department.

38 c. The department shall, within 90 days of submittal, approve or  
39 disapprove any ordinance or regulation submitted pursuant to  
40 subsection b. of this section. An ordinance or regulation shall be  
41 disapproved only if the department finds it unreasonable and provides  
42 in writing its reasons for the finding. The failure of the department to  
43 act within 90 days of submittal shall constitute approval.

44 d. Nothing in this section shall be construed to limit the authority  
45 of a municipality or county or board of health to enact ordinances or  
46 regulations of general applicability to all industrial or commercial

1 activities, including, but not limited to, ordinances and regulations  
2 limiting noise, light, and odor.

3 e. The department shall not approve any ordinance or regulation  
4 submitted pursuant to subsection b. of this section which governs  
5 activities within the Pinelands area designated in the "Pinelands  
6 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the  
7 Pinelands Commission has approved the ordinance or regulation. The  
8 department shall not disapprove an ordinance or regulation, or portion  
9 thereof, which has been certified by the Pinelands Commission as  
10 consistent with the requirements of the Comprehensive Management  
11 Plan as required by the "Pinelands Protection Act."

12 f. The department shall not approve any ordinance or regulation  
13 submitted pursuant to subsection b. of this section which governs  
14 activities within the Highlands preservation area designated in the  
15 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
16 (now before the Legislature as this bill), unless the Highlands Water  
17 Protection and Planning Council has approved the ordinance or  
18 regulation. The department shall not disapprove an ordinance or  
19 regulation, or portion thereof, which has been certified by the  
20 Highlands Water Protection and Planning Council as consistent with  
21 the requirements of the Highlands regional master plan as required by  
22 the "Highlands Water Protection and Planning Act."

23 (cf: P.L.1985, c.432, s.18)

24

25 50. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to  
26 read as follows:

27 25. Within one year after the date of enactment of this act, and  
28 biennially thereafter until and including 2008, the Garden State  
29 Preservation Trust, after consultation with the Department of  
30 Environmental Protection, the State Agriculture Development  
31 Committee, the New Jersey Historic Trust, the Pinelands Commission,  
32 the Highlands Water Protection and Planning Council, and the Office  
33 of State Planning in the Department of Community Affairs, shall  
34 prepare and submit to the Governor and the Legislature a written  
35 report, which shall:

36 a. Describe the progress being made on achieving the goals and  
37 objectives of Article VIII, Section II, paragraph 7 of the State  
38 Constitution and this act with respect to the acquisition and  
39 development of lands for recreation and conservation purposes, the  
40 preservation of farmland, and the preservation of historic properties,  
41 and provide recommendations with respect to any legislative,  
42 administrative, or local action that may be required to ensure that  
43 those goals and objectives may be met in the future;

44 b. Tabulate, both for the reporting period and cumulatively, the  
45 total acreage for the entire State, and the acreage in each county and  
46 municipality, of lands acquired for recreation and conservation

1 purposes and of farmland preserved for farmland preservation  
2 purposes that have been applied toward meeting the goals and  
3 objectives of Article VIII, Section II, paragraph 7 of the State  
4 Constitution and this act with respect to the acquisition of lands for  
5 recreation and conservation purposes and the preservation of farmland;

6 c. Tabulate, both for the reporting period and cumulatively, the  
7 total acreage for the entire State, and the acreage in each county and  
8 municipality, of any donations of land that have been applied toward  
9 meeting the goals and objectives of Article VIII, Section II, paragraph  
10 7 of the State Constitution and this act with respect to the acquisition  
11 of lands for recreation and conservation purposes and the preservation  
12 of farmland;

13 d. List, both for the reporting period and cumulatively, and by  
14 project name, project sponsor, and location by county and  
15 municipality, all historic preservation projects funded with  
16 constitutionally dedicated moneys in whole or in part;

17 e. Indicate those areas of the State where, as designated by the  
18 Department of Environmental Protection in the Open Space Master  
19 Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1),  
20 the acquisition and development of lands by the State for recreation  
21 and conservation purposes is planned or is most likely to occur, and  
22 those areas of the State where there is a need to protect water  
23 resources, including the identification of lands where protection is  
24 needed to assure adequate quality and quantity of drinking water  
25 supplies in times of drought, indicate those areas of the State where  
26 the allocation of constitutionally dedicated moneys for farmland  
27 preservation purposes is planned or is most likely to occur, and  
28 provide a proposed schedule and expenditure plan for those  
29 acquisitions, developments, and allocations, for the next reporting  
30 period, which shall include an explanation of how those acquisitions,  
31 developments, and allocations will be distributed throughout all  
32 geographic regions of the State to the maximum extent practicable and  
33 feasible;

34 f. List any surplus real property owned by the State or an  
35 independent authority of the State that may be utilizable for recreation  
36 and conservation purposes or farmland preservation purposes, and  
37 indicate what action has been or must be taken to effect a conveyance  
38 of those lands to the department, the committee, local government  
39 units, qualifying tax exempt nonprofit organizations, or other entities  
40 or persons so that the lands may be preserved and used for those  
41 purposes;

42 g. List, for the reporting period, all projects for which applications  
43 for funding under the Green Acres, farmland preservation, and historic  
44 preservation programs were received but not funded with  
45 constitutionally dedicated moneys during the reporting period, and the  
46 reason or reasons why those projects were not funded;

1 h. Provide, for the reporting period, a comparison of the amount  
2 of constitutionally dedicated moneys annually appropriated for local  
3 government unit projects for recreation and conservation purposes in  
4 municipalities eligible to receive State aid pursuant to P.L.1978, c.14  
5 (C.52:27D-178 et seq.) to the average amount of Green Acres bond  
6 act moneys annually appropriated for such projects in the years 1984  
7 through 1998; and

8 i. Tabulate, both for the reporting period and cumulatively, the  
9 total acreage for the entire State, and the acreage in each county and  
10 municipality, of lands acquired for recreation and conservation  
11 purposes that protect water resources and that protect flood-prone  
12 areas.

13 (cf: P.L.2002, c.76, s.3)

14

15 51. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to read  
16 as follows:

17 5. a. Within one year after the date of enactment of P.L.2002, c.76  
18 (C.13:8C-25.1 et al.), and annually thereafter, the Department of  
19 Environmental Protection, in consultation with the Office of State  
20 Planning in the Department of Community Affairs [and], the Pinelands  
21 Commission, and the Highlands Water Protection and Planning  
22 Council, shall prepare and submit to the Governor and the Legislature  
23 an Open Space Master Plan, which shall indicate those areas of the  
24 State where the acquisition and development of lands by the State for  
25 recreation and conservation purposes is planned or is most likely to  
26 occur, and those areas of the State where there is a need to protect  
27 water resources, including the identification of lands where protection  
28 is needed to assure adequate quality and quantity of drinking water  
29 supplies in times of drought, and which shall provide a proposed  
30 schedule and expenditure plan for those acquisitions and developments  
31 for the next reporting period, which shall include an explanation of  
32 how those acquisitions and developments will be distributed  
33 throughout all geographic regions of the State to the maximum extent  
34 practicable and feasible.

35 b. The department shall provide any information the Garden State  
36 Preservation Trust deems necessary in preparing its biennial report  
37 pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

38 (cf: P.L.2002, c.76, s.5)

39

40 52. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to  
41 read as follows:

42 26. a. Moneys appropriated from the Garden State Green Acres  
43 Preservation Trust Fund to the Department of Environmental  
44 Protection shall be used by the department to:

45 (1) Pay the cost of acquisition and development of lands by the  
46 State for recreation and conservation purposes;

1 (2) Provide grants and loans to assist local government units to pay  
2 the cost of acquisition and development of lands for recreation and  
3 conservation purposes; and

4 (3) Provide grants to assist qualifying tax exempt nonprofit  
5 organizations to pay the cost of acquisition and development of lands  
6 for recreation and conservation purposes.

7 b. The expenditure and allocation of constitutionally dedicated  
8 moneys for recreation and conservation purposes shall reflect the  
9 geographic diversity of the State to the maximum extent practicable  
10 and feasible.

11 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,  
12 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted  
13 pursuant thereto, to the contrary, the value of a pinelands development  
14 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1  
15 et seq.) and the pinelands comprehensive management plan adopted  
16 pursuant thereto, shall be made utilizing a value to be determined by  
17 either appraisal, regional averaging based upon appraisal data, or a  
18 formula supported by appraisal data. The appraisal and appraisal data  
19 shall consider as appropriate: land values in the pinelands regional  
20 growth areas; land values in counties, municipalities, and other areas  
21 reasonably contiguous to, but outside of, the pinelands area; and other  
22 relevant factors as may be necessary to maintain the environmental,  
23 ecological, and agricultural qualities of the pinelands area.

24 (2) No pinelands development credit allocated to a parcel of land  
25 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands  
26 comprehensive management plan adopted pursuant thereto that is  
27 acquired or obtained in connection with the acquisition of the parcel  
28 for recreation and conservation purposes by the State, a local  
29 government unit, or a qualifying tax exempt nonprofit organization  
30 using constitutionally dedicated moneys in whole or in part may be  
31 conveyed in any manner. All such pinelands development credits shall  
32 be retired permanently.

33 d. (1) (a) For State fiscal years 2000 through 2004 only, when the  
34 department, a local government unit, or a qualifying tax exempt  
35 nonprofit organization seeks to acquire lands for recreation and  
36 conservation purposes using constitutionally dedicated moneys in  
37 whole or in part or Green Acres bond act moneys in whole or in part,  
38 it shall conduct or cause to be conducted an appraisal or appraisals of  
39 the value of the lands that shall be made using the land use zoning of  
40 the lands (i) in effect at the time of proposed acquisition, and (ii) in  
41 effect on November 3, 1998 as if that land use zoning is still in effect  
42 at the time of proposed acquisition. The higher of those two values  
43 shall be utilized by the department, a local government unit, or a  
44 qualifying tax exempt nonprofit organization as the basis for  
45 negotiation with the landowner with respect to the acquisition price  
46 for the lands. The landowner shall be provided with both values

1 determined pursuant to this subparagraph.

2 A landowner may waive any of the requirements of this paragraph  
3 and may agree to sell the lands for less than the values determined  
4 pursuant to this paragraph.

5 (b) After the date of enactment of P.L.2001, c.315 and through  
6 June 30, 2004, in determining the two values required pursuant to  
7 subparagraph (a) of this paragraph, the appraisal shall be made using  
8 not only the land use zoning but also the Department of Environmental  
9 Protection wastewater, water quality and watershed management rules  
10 and regulations and associated requirements and standards applicable  
11 to the lands subject to the appraisal (i) in effect at the time of  
12 proposed acquisition, and (ii) in effect on November 3, 1998 as if  
13 those rules and regulations and associated requirements and standards  
14 are still in effect at the time of proposed acquisition.

15 (2) The requirements of this subsection shall be in addition to any  
16 other requirements of law, rule, or regulation not inconsistent  
17 therewith.

18 (3) This subsection shall not:

19 (a) apply if the land use zoning of the lands at the time of proposed  
20 acquisition, and the Department of Environmental Protection  
21 wastewater, water quality and watershed management rules and  
22 regulations and associated requirements and standards applicable to  
23 the lands at the time of proposed acquisition, have not changed since  
24 November 3, 1998;

25 (b) apply in the case of lands to be acquired with federal moneys  
26 in whole or in part;

27 (c) apply in the case of lands to be acquired in accordance with  
28 subsection c. of this section;

29 (d) apply to projects funded using constitutionally dedicated  
30 moneys appropriated pursuant to the annual appropriations act for  
31 State fiscal year 2000 (P.L.1999, c.138); or

32 (e) alter any requirements to disclose information to a landowner  
33 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
34 (C.20:3-1 et seq.).

35 e. Moneys appropriated from the fund may be used to match  
36 grants, contributions, donations, or reimbursements from federal aid  
37 programs or from other public or private sources established for the  
38 same or similar purposes as the fund.

39 f. Moneys appropriated from the fund shall not be used by local  
40 government units or qualifying tax exempt nonprofit organizations to  
41 acquire lands that are already permanently preserved for recreation and  
42 conservation purposes, as determined by the department.

43 g. Whenever lands are donated to the State by a public utility, as  
44 defined pursuant to Title 48 of the Revised Statutes, for recreation and  
45 conservation purposes, the commissioner may make and keep the lands  
46 accessible to the public, unless the commissioner determines that

1 public accessibility would be detrimental to the lands or any natural  
2 resources associated therewith.

3 h. Whenever the State acquires land for recreation and conservation  
4 purposes, the agency in the Department of Environmental Protection  
5 responsible for administering the land shall, within six months after the  
6 date of acquisition, inspect the land for the presence of any buildings  
7 or structures thereon which are or may be historic properties and,  
8 within 60 days after completion of the inspection, provide to the New  
9 Jersey Historic Preservation Office in the department (1) a written  
10 notice of its findings, and (2) for any buildings or structures which are  
11 or may be historic properties discovered on the land, a request for  
12 determination of potential eligibility for inclusion of the historic  
13 building or structure in the New Jersey Register of Historic Places.  
14 Whenever such a building or structure is discovered, a copy of the  
15 written notice provided to the New Jersey Historic Preservation Office  
16 shall also be sent to the New Jersey Historic Trust and to the county  
17 historical commission or advisory committee, the county historical  
18 society, the local historic preservation commission or advisory  
19 committee, and the local historical society if any of those entities exist  
20 in the county or municipality wherein the land is located.

21 i. (1) Commencing July 1, 2004 and until five years after the date  
22 of enactment of P.L.2001, c.315, when the department, a local  
23 government unit, or a qualifying tax exempt nonprofit organization  
24 seeks to acquire lands for recreation and conservation purposes using  
25 constitutionally dedicated moneys in whole or in part or Green Acres  
26 bond act moneys in whole or in part, it shall conduct or cause to be  
27 conducted an appraisal or appraisals of the value of the lands that shall  
28 be made using the Department of Environmental Protection  
29 wastewater, water quality and watershed management rules and  
30 regulations and associated requirements and standards applicable to  
31 the lands subject to the appraisal (a) in effect at the time of proposed  
32 acquisition, and (b) in effect on November 3, 1998 as if those rules and  
33 regulations and associated requirements and standards are still in effect  
34 at the time of proposed acquisition. The higher of those two values  
35 shall be utilized by the department, a local government unit, or a  
36 qualifying tax exempt nonprofit organization as the basis for  
37 negotiation with the landowner with respect to the acquisition price  
38 for the lands. The landowner shall be provided with both values  
39 determined pursuant to this paragraph. A landowner may waive any  
40 of the requirements of this paragraph and may agree to sell the lands  
41 for less than the values determined pursuant to this paragraph.

42 (2) The requirements of this subsection shall be in addition to any  
43 other requirements of law, rule, or regulation not inconsistent  
44 therewith.

45 (3) This subsection shall not:

46 (a) apply if the Department of Environmental Protection



1 wastewater, water quality and watershed management rules and  
2 regulations and associated requirements and standards applicable to  
3 the lands at the time of proposed acquisition have not changed since  
4 November 3, 1998;

5 (b) apply in the case of lands to be acquired with federal moneys  
6 in whole or in part;

7 (c) apply in the case of lands to be acquired in accordance with  
8 subsection c. of this section; or

9 (d) alter any requirements to disclose information to a landowner  
10 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
11 (C.20:3-1 et seq.).

12 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
13 (now before the Legislature as this bill) and until five years after that  
14 date, when the department, a local government unit, or a qualifying tax  
15 exempt nonprofit organization seeks to acquire lands in the Highlands  
16 preservation area for recreation and conservation purposes using  
17 constitutionally dedicated moneys in whole or in part or Green Acres  
18 bond act moneys in whole or in part, it shall conduct or cause to be  
19 conducted an appraisal or appraisals of the value of the lands that shall  
20 be made using (a) the rules and regulations adopted by the Department  
21 of Environmental Protection pursuant to P.L. , c. (C. ) (now before  
22 the Legislature as this bill) and the provisions of section 31 of that act  
23 applicable to the lands subject to the appraisal and in effect at the time  
24 of proposed acquisition, and (b) the rules and regulations adopted by  
25 the Department of Environmental Protection pursuant to any  
26 environmental land use or water law applicable to the lands subject to  
27 the appraisal and in effect on the day before the date of enactment of  
28 P.L. , c. (C. ) (now before the Legislature as this bill). The  
29 higher of those two values shall be utilized by the department, a local  
30 government unit, or a qualifying tax exempt nonprofit organization as  
31 the basis for negotiation with the landowner with respect to the  
32 acquisition price for the lands. The landowner shall be provided with  
33 both values determined pursuant to this paragraph.

34 A landowner may waive any of the requirements of this paragraph  
35 and may agree to sell the lands for less than the values determined  
36 pursuant to this paragraph.

37 The provisions of this paragraph shall be applicable only to lands  
38 the owner of which at the time of proposed acquisition is the same  
39 person who owned the lands on the date of enactment of P.L. , c.  
40 (C. ) (now before the Legislature as this bill) and who has owned the  
41 lands continuously since that enactment date, or is an immediate family  
42 member of that person.

43 (2) A landowner whose lands are subject to the provisions of  
44 paragraph (1) of this subsection shall choose to have the lands  
45 appraised in accordance with this subsection or in accordance with the  
46 provisions of either subsection d. or subsection i. of this section to the

1 extent that the subsection is applicable and has not expired.

2 (3) The requirements of this subsection shall be in addition to any  
3 other requirements of law, rule, or regulation not inconsistent  
4 therewith.

5 (4) This subsection shall not:

6 (a) apply in the case of lands to be acquired with federal moneys  
7 in whole or in part; or

8 (b) alter any requirements to disclose information to a landowner  
9 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
10 (C.20:3-1 et seq.).

11 (5) For the purposes of this subsection:

12 "Environmental land use or water law" means the "Freshwater  
13 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
14 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
15 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
16 et seq.), "The Realty Improvement Sewerage and Facilities Act  
17 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
18 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
19 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the  
20 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
21 seq.);

22 "Highlands preservation area" means the preservation area in the  
23 Highlands Region as defined pursuant to section of P.L. , c. (C. )  
24 (now before the Legislature as this bill); and

25 "Immediate family member" means spouse, child, sibling, aunt,  
26 uncle, niece, nephew, first cousin, grandparent, grandchild,  
27 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,  
28 stepchild, stepbrother, stepsister, half brother, or half sister, whether  
29 the individual is related by blood, marriage, or adoption.

30 [j.] k. The department shall adopt guidelines for the evaluation and  
31 priority ranking process which shall be used in making decisions  
32 concerning the acquisition of lands by the State for recreation and  
33 conservation purposes using moneys from the Garden State Green  
34 Acres Preservation Trust Fund and from any other source. The  
35 guidelines, and any subsequent revisions thereto, shall be published in  
36 the New Jersey Register. The adoption of the guidelines or of the  
37 revisions thereto, shall not be subject to the requirements of the  
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
39 seq.).

40 [k.] l. In making decisions concerning the acquisition of lands by  
41 the State for recreation and conservation purposes using moneys from  
42 the Garden State Green Acres Preservation Trust Fund, in the  
43 evaluation and priority ranking process the department shall accord  
44 three times the weight to acquisitions of lands that would protect  
45 water resources, and two times the weight to acquisitions of lands that  
46 would protect flood-prone areas, as those criteria are compared to the

1 other criteria in the priority ranking process.

2 [l.] m. The department, pursuant to the "Administrative Procedure  
3 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and  
4 regulations that establish standards and requirements regulating any  
5 activity on lands acquired by the State for recreation and conservation  
6 purposes using constitutionally dedicated moneys to assure that the  
7 activity on those lands does not diminish the protection of surface  
8 water or groundwater resources.

9 Any rules and regulations adopted pursuant to this subsection shall  
10 not apply to activities on lands acquired prior to the adoption of the  
11 rules and regulations.

12 (cf: P.L.2002, c.76, s.4)

13

14 53. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to  
15 read as follows:

16 38. a. All acquisitions or grants made pursuant to section 37 of  
17 this act shall be made with respect to farmland devoted to farmland  
18 preservation under programs established by law.

19 b. The expenditure and allocation of constitutionally dedicated  
20 moneys for farmland preservation purposes shall reflect the geographic  
21 diversity of the State to the maximum extent practicable and feasible.

22 c. The committee shall implement the provisions of section 37 of  
23 this act in accordance with the procedures and criteria established  
24 pursuant to the "Agriculture Retention and Development Act,"  
25 P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by  
26 this act.

27 d. The committee shall adopt the same or a substantially similar  
28 method for determining, for the purposes of this act, the committee's  
29 share of the cost of a development easement on farmland to be  
30 acquired by a local government as that which is being used by the  
31 committee on the date of enactment of this act for prior farmland  
32 preservation funding programs.

33 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32  
34 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant  
35 thereto, to the contrary, whenever the value of a development  
36 easement on farmland to be acquired using constitutionally dedicated  
37 moneys in whole or in part is determined based upon the value of any  
38 pinelands development credits allocated to the parcel pursuant to  
39 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
40 management plan adopted pursuant thereto, the committee shall  
41 determine the value of the development easement by:

42 (1) conducting a sufficient number of fair market value appraisals  
43 as it deems appropriate to determine the value for farmland  
44 preservation purposes of the pinelands development credits;

45 (2) considering development easement values in counties,  
46 municipalities, and other areas (a) reasonably contiguous to, but

1 outside of, the pinelands area, which in the sole opinion of the  
2 committee constitute reasonable development easement values in the  
3 pinelands area for the purposes of this subsection, and (b) in the  
4 pinelands area where pinelands development credits are or may be  
5 utilized, which in the sole opinion of the committee constitute  
6 reasonable development easement values in the pinelands area for the  
7 purposes of this subsection;

8 (3) considering land values in the pinelands regional growth areas;

9 (4) considering the importance of preserving agricultural lands in  
10 the pinelands area; and

11 (5) considering such other relevant factors as may be necessary to  
12 increase participation in the farmland preservation program by owners  
13 of agricultural lands located in the pinelands area.

14 f. No pinelands development credit that is acquired or obtained in  
15 connection with the acquisition of a development easement on  
16 farmland or fee simple title to farmland by the State, a local  
17 government unit, or a qualifying tax exempt nonprofit organization  
18 using constitutionally dedicated moneys in whole or in part may be  
19 conveyed in any manner. All such pinelands development credits shall  
20 be retired permanently.

21 g. (1) (a) For State fiscal years 2000 through 2004 only, when the  
22 committee, a local government unit, or a qualifying tax exempt  
23 nonprofit organization seeks to acquire a development easement on  
24 farmland or the fee simple title to farmland for farmland preservation  
25 purposes using constitutionally dedicated moneys in whole or in part,  
26 it shall conduct or cause to be conducted an appraisal or appraisals of  
27 the value of the lands that shall be made using the land use zoning of  
28 the lands (i) in effect at the time of proposed acquisition, and (ii) in  
29 effect on November 3, 1998 as if that land use zoning is still in effect  
30 at the time of proposed acquisition. The higher of those two values  
31 shall be utilized by the committee, a local government unit, or a  
32 qualifying tax exempt nonprofit organization as the basis for  
33 negotiation with the landowner with respect to the acquisition price  
34 for the lands. The landowner shall be provided with both values  
35 determined pursuant to this subparagraph.

36 A landowner may waive any of the requirements of this paragraph  
37 and may agree to sell the lands for less than the values determined  
38 pursuant to this paragraph.

39 (b) After the date of enactment of P.L.2001, c.315 and through  
40 June 30, 2004, in determining the two values required pursuant to  
41 subparagraph (a) of this paragraph, the appraisal shall be made using  
42 not only the land use zoning but also the Department of Environmental  
43 Protection wastewater, water quality and watershed management rules  
44 and regulations and associated requirements and standards applicable  
45 to the lands subject to the appraisal (i) in effect at the time of  
46 proposed acquisition, and (ii) in effect on November 3, 1998 as if

1 those rules and regulations and associated requirements and standards  
2 are still in effect at the time of proposed acquisition.

3 (2) The requirements of this subsection shall be in addition to any  
4 other requirements of law, rule, or regulation not inconsistent  
5 therewith.

6 (3) This subsection shall not:

7 (a) apply if the land use zoning of the lands at the time of proposed  
8 acquisition, and the Department of Environmental Protection  
9 wastewater, water quality and watershed management rules and  
10 regulations and associated requirements and standards applicable to  
11 the lands at the time of proposed acquisition, have not changed since  
12 November 3, 1998;

13 (b) apply in the case of lands to be acquired with federal moneys  
14 in whole or in part;

15 (c) apply in the case of lands to be acquired in accordance with  
16 subsection e. of this section;

17 (d) apply to projects funded using constitutionally dedicated  
18 moneys appropriated pursuant to the annual appropriations act for  
19 State fiscal year 2000 (P.L.1999, c.138); or

20 (e) alter any requirements to disclose information to a landowner  
21 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
22 (C.20:3-1 et seq.).

23 h. Any farmland for which a development easement or fee simple  
24 title has been acquired pursuant to section 37 of this act shall be  
25 entitled to the benefits conferred by the "Right to Farm Act,"  
26 P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and  
27 Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

28 i. (1) Commencing July 1, 2004 and until five years after the date  
29 of enactment of P.L.2001, c.315, when the committee, a local  
30 government unit, or a qualifying tax exempt nonprofit organization  
31 seeks to acquire a development easement on farmland or the fee simple  
32 title to farmland for farmland preservation purposes using  
33 constitutionally dedicated moneys in whole or in part, it shall conduct  
34 or cause to be conducted an appraisal or appraisals of the value of the  
35 lands that shall be made using the Department of Environmental  
36 Protection wastewater, water quality and watershed management rules  
37 and regulations and associated requirements and standards applicable  
38 to the lands subject to the appraisal (a) in effect at the time of  
39 proposed acquisition, and (b) in effect on November 3, 1998 as if  
40 those rules and regulations and associated requirements and standards  
41 are still in effect at the time of proposed acquisition. The higher of  
42 those two values shall be utilized by the committee, a local  
43 government unit, or a qualifying tax exempt nonprofit organization as  
44 the basis for negotiation with the landowner with respect to the  
45 acquisition price for the lands. The landowner shall be provided with  
46 both values determined pursuant to this paragraph. A landowner may

1 waive any of the requirements of this paragraph and may agree to sell  
2 the lands for less than the values determined pursuant to this  
3 paragraph.

4 (2) The requirements of this subsection shall be in addition to any  
5 other requirements of law, rule, or regulation not inconsistent  
6 therewith.

7 (3) This subsection shall not:

8 (a) apply if the Department of Environmental Protection  
9 wastewater, water quality and watershed management rules and  
10 regulations and associated requirements and standards applicable to  
11 the lands at the time of proposed acquisition have not changed since  
12 November 3, 1998;

13 (b) apply in the case of lands to be acquired with federal moneys  
14 in whole or in part;

15 (c) apply in the case of lands to be acquired in accordance with  
16 subsection e. of this section; or

17 (d) alter any requirements to disclose information to a landowner  
18 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
19 (C.20:3-1 et seq.).

20 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
21 (now before the Legislature as this bill) and until five years after that  
22 date, when the committee, a local government unit, or a qualifying tax  
23 exempt nonprofit organization seeks to acquire a development  
24 easement on farmland or the fee simple title to farmland for farmland  
25 preservation purposes in the Highlands preservation area using  
26 constitutionally dedicated moneys in whole or in part, it shall conduct  
27 or cause to be conducted an appraisal or appraisals of the value of the  
28 lands that shall be made using (a) the rules and regulations adopted by  
29 the Department of Environmental Protection pursuant to P.L. , c.  
30 (C. ) (now before the Legislature as this bill) and the provisions of  
31 section 31 of that act applicable to the lands subject to the appraisal  
32 and in effect at the time of proposed acquisition, and (b) the rules and  
33 regulations adopted by the Department of Environmental Protection  
34 pursuant to any environmental land use or water law applicable to the  
35 lands subject to the appraisal and in effect on the day before the date  
36 of enactment of P.L. , c. (C. ) (now before the Legislature as  
37 this bill). The higher of those two values shall be utilized by the  
38 committee, a local government unit, or a qualifying tax exempt  
39 nonprofit organization as the basis for negotiation with the landowner  
40 with respect to the acquisition price for the lands. The landowner shall  
41 be provided with both values determined pursuant to this paragraph.

42 A landowner may waive any of the requirements of this paragraph  
43 and may agree to sell the lands for less than the values determined  
44 pursuant to this paragraph.

45 The provisions of this paragraph shall be applicable only to lands  
46 the owner of which at the time of proposed acquisition is the same

1 person who owned the lands on the date of enactment of P.L. , c.  
2 (C. ) (now before the Legislature as this bill) and who has owned the  
3 lands continuously since that enactment date, is an immediate family  
4 member of that person, or is a farmer as defined by the committee.

5 (2) A landowner whose lands are subject to the provisions of  
6 paragraph (1) of this subsection shall choose to have the lands  
7 appraised in accordance with this subsection or in accordance with the  
8 provisions of either subsection g. or subsection i. of this section to the  
9 extent that the subsection is applicable and has not expired.

10 (3) The requirements of this subsection shall be in addition to any  
11 other requirements of law, rule, or regulation not inconsistent  
12 therewith.

13 (4) This subsection shall not:

14 (a) apply in the case of lands to be acquired with federal moneys in  
15 whole or in part; or

16 (b) alter any requirements to disclose information to a landowner  
17 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
18 (C.20:3-1 et seq.).

19 (5) For the purposes of this subsection:

20 "Environmental land use or water law" means the "Freshwater  
21 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the  
22 "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et  
23 seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
24 et seq.), "The Realty Improvement Sewerage and Facilities Act  
25 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality  
26 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe  
27 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the  
28 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
29 seq.);

30 "Highlands preservation area" means the preservation area in the  
31 Highlands Region as defined pursuant to section of P.L. , c. (C. )  
32 (now before the Legislature as this bill); and

33 "Immediate family member" means spouse, child, sibling, aunt,  
34 uncle, niece, nephew, first cousin, grandparent, grandchild,  
35 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,  
36 stepchild, stepbrother, stepsister, half brother, or half sister, whether  
37 the individual is related by blood, marriage, or adoption.

38 [j.] k. The committee and the Department of Environmental  
39 Protection, pursuant to the "Administrative Procedure Act," P.L.1968,  
40 c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations  
41 that establish standards and requirements regulating any improvement  
42 on lands acquired by the State for farmland preservation purposes  
43 using constitutionally dedicated moneys to assure that any  
44 improvement does not diminish the protection of surface water or  
45 groundwater resources.

46 Any rules and regulations adopted pursuant to this subsection shall

1 not apply to improvements on lands acquired prior to the adoption of  
2 the rules and regulations.

3 1. The committee shall consult with and solicit recommendations  
4 from the Highland Water Protection and Planning Council established  
5 pursuant to section 4 of P.L. , c. (C. ) (now before the  
6 Legislature as this bill) concerning farmland preservation strategies  
7 and acquisition plans in the Highlands Region as defined in section 3  
8 of P.L. , c. (C. ) (now before the Legislature as this bill).  
9 (cf: P.L.2002, c.76, s.6)

10

11 54. Section 13 of P.L.1974, c.118 (C.13:13A-13) is amended to  
12 read as follows:

13 13. a. The commission shall prepare, or cause to be prepared, and,  
14 after a public hearing, or public hearings, and pursuant to the  
15 provisions provided for in subsection 13 b. of this act, adopt a master  
16 plan or portion thereof for the physical development of the park, which  
17 plan may include proposals for various stages in the future  
18 development of the park, or amend the master plan. The master plan  
19 shall include a report presenting the objectives, assumptions,  
20 standards and principles which are embodied in the various  
21 interlocking portions of the master plan. The master plan shall be a  
22 composite of the one or more written proposals recommending the  
23 physical development and expansion of the park either in its entirety  
24 or a portion thereof which the commission shall prepare after meetings  
25 with the governing bodies of the affected municipalities and counties,  
26 and any agencies and instrumentalities thereof.

27 b. In preparing the master plan or any portion thereof or  
28 amendment thereto the commission shall give due consideration to:  
29 (1) the function of the canal as a major water supply facility in the  
30 State; (2) the necessity to provide recreational activities to the citizens  
31 of this State, including but not limited to, facilities, design capacities,  
32 and relationship to other available recreational areas; (3) existing  
33 historical sites and potential restorations or compatible development;  
34 (4) the range of uses and potential uses of the canal in the urban  
35 environments of the older, intensively developed communities through  
36 which it passes; and (5) designated wilderness areas to be kept as  
37 undeveloped, limited-access areas restricted to canoeing and hiking.  
38 In preparing the master plan or any portion thereof or amendment  
39 thereto the commission shall consider existing patterns of development  
40 and any relevant master plan or other plan of development, and shall  
41 insure widespread citizen involvement and participation in the planning  
42 process.

43 c. The commission shall act in support of local suggestions or  
44 desires to complement the park master plan. Consultation, planning,  
45 and technical expertise will be made available to local planning bodies  
46 that wish to implement land-use policy to enhance the park area. The



1 commission shall act on or refer complaints by citizens' groups or  
2 private residents who discover hazardous situations, pollution, or  
3 evidence of noncompliance with use regulations.

4 d. The commission shall review and approve, reject or modify, any  
5 State project planned or State permits issued in the park, and submit  
6 its decision to the Governor.

7 e. The commission shall consult with the Highlands Water  
8 Protection and Planning Council, established pursuant to section 4 of  
9 P.L. , c. (C. ) (now before the Legislature as this bill), on any  
10 provision of the park master plan that may impact upon or otherwise  
11 affect the Highlands Region or the Highlands regional master plan, as  
12 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
13 as this bill), and any such provision shall be consistent with the  
14 Highlands regional master plan adopted by the council pursuant to that  
15 act.

16 (cf: P.L.1974, c.118, s.13)

17

18 55. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to  
19 read as follows:

20 14. a. The commission shall determine, after a public hearing, or  
21 public hearings held in Hunterdon, Somerset, Mercer, and Middlesex  
22 counties respectively, the extent and limits of the region to be  
23 designated the review zone. Any subsequent modification of [said]  
24 the review zone shall be made by the commission only after public  
25 hearings in the county or counties in which [such] the modification is  
26 to be made. All public hearings required pursuant to this section shall  
27 be held only after giving prior notice thereof by public advertisement  
28 once each week for [2] two consecutive weeks in such newspaper or  
29 newspapers selected by the chairman of the commission as will best  
30 give notice thereof. The last publication of such notice shall be not  
31 less than 10 days prior to the date set for the hearing.

32 b. The commission shall approve all State actions within the review  
33 zone that impact on the park, and insure that these actions conform as  
34 nearly as possible to the commission's master plan and relevant local  
35 plans or initiatives. The State actions which the commission shall  
36 review will include the operations of the Division of Water Resources  
37 concerning water supply and quality; the Division of Parks and  
38 Forestry in developing recreation facilities; and the activities of any  
39 other State department or agency that might affect the park.

40 c. The commission shall review and approve, reject, or modify any  
41 project within the review zone. The initial application for a proposed  
42 project within the zone shall be submitted by the applicant to the  
43 appropriate municipal reviewing agency. If approved by the agency,  
44 the application shall be sent to the commission for review. The  
45 commission shall review each proposed project in terms of its  
46 conformity with, or divergence from, the objectives of the

1 commission's master plan and shall: (1) advise the appropriate  
2 municipal reviewing agency that the project can proceed as proposed;  
3 (2) reject the application and so advise the appropriate municipal  
4 reviewing agency and the governing body of the municipality; or (3)  
5 require modifications or additional safeguards on the part of the  
6 applicant, and return the application to the appropriate municipal  
7 reviewing agency, which shall be responsible for insuring that these  
8 conditions are satisfied before issuing a permit. If no action is taken  
9 by the commission within a period of 45 days from the date of  
10 submission of the application to the commission by the municipal  
11 reviewing agency, this shall constitute an approval by the commission.  
12 The commission's decision shall be final and binding on the  
13 municipality, and the commission may, in the case of any violation or  
14 threat of a violation of a commission's decision by a municipality, or  
15 by the appropriate municipal reviewing agency, as the case may be,  
16 institute civil action (1) for injunctive relief; (2) to set aside and  
17 invalidate a decision made by a municipality in violation of this  
18 subsection; or (3) to restrain, correct or abate such violation. As used  
19 herein: (1) "project" means any structure, land use change, or public  
20 improvements for which a permit from, or determination by, the  
21 municipality is required, which shall include, but not be limited to,  
22 building permits, zoning variances, and excavation permits; and (2)  
23 "agency" means any body or instrumentality of the municipality  
24 responsible for the issuance of permits or the approval of projects, as  
25 herein defined, which shall include, but not be limited to, governing  
26 bodies, planning and zoning boards, building inspectors, managers and  
27 municipal engineers.

28 d. To the extent that any action the commission takes pursuant to  
29 this section may impact upon or otherwise affect the Highlands Region  
30 or the Highlands regional master plan, as defined in section 3 of  
31 P.L. , c. (C. ) (now before the Legislature as this bill), the  
32 commission shall consult with the Highlands Water Protection and  
33 Planning Council, established pursuant to section 4 of P.L. , c.  
34 (C. ) (now before the Legislature as this bill), and any such action  
35 taken shall be consistent with Highland regional master plan adopted  
36 by the council pursuant to that act.

37 (cf: P.L.1974, c.118, s.14)

38

39 56. Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended to read  
40 as follows:

41 2. Any billboard or outdoor advertising sign licensed and permitted  
42 pursuant to the "Roadside Sign Control and Outdoor Advertising  
43 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected  
44 on or above any State right-of-way or any real property of the  
45 department shall be subject to local government zoning ordinances,  
46 applicable local government building permit requirements, and in the

1 pinelands area, shall be subject to the provisions of the comprehensive  
2 management plan prepared and adopted by the Pinelands Commission  
3 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the  
4 Highlands Region, shall be subject to the provisions of the "Highland  
5 Water Protection and Planning Act," P.L. , c. (C. ) (now before  
6 the Legislature as this bill), any rules and regulations adopted pursuant  
7 thereto, and the Highlands regional master plan adopted by the  
8 Highlands Water Protection and Planning Council pursuant to section  
9 8 of that act.

10 (cf: P.L.1997, c.144, s.2)

11

12 57. R.S.32:14-5 is amended to read as follows:

13 32:14-5. a. Palisades Interstate Park Commission shall, from time  
14 to time, select and locate such lands lying between the top or steep  
15 edge of the Palisades or the crest of the slope in places where the steep  
16 Palisade rocks are absent and the high-water line of the Hudson river,  
17 from the New York State line on the north, to a line beginning at the  
18 intersection of the southern line of the old Fort Lee dock or landing  
19 with the high-water line of the Hudson river and running thence in a  
20 westerly direction and at right angles to said high-water line of the  
21 Hudson river to the east side of the river road running from Edgewater  
22 to Fort Lee, in Bergen county, on the south, and such lands or rights  
23 in lands belonging to persons other than the State, as may lie between  
24 the exterior bulkhead line established in the Hudson river and the  
25 high-water line of the Hudson river, as may, in the opinion of the  
26 Palisades Interstate Park Commission, be proper and necessary to be  
27 reserved for the purpose of establishing a park and thereby preserving  
28 the scenic beauty of the Palisades.

29 b. The Palisades Interstate Park Commission, in cooperation with  
30 the North Jersey District Water Supply Commission and in  
31 consultation with the New Jersey Department of Environmental  
32 Protection and the Highlands Water Protection and Planning Council,  
33 may, from time to time, select and locate such lands lying within the  
34 Highlands or Skylands areas of Bergen, Hunterdon, Morris, Passaic,  
35 Somerset and Warren counties in the State of New Jersey, including  
36 lands in those areas lying within the North Jersey Water Supply  
37 District, as may, in the opinion of the Palisades Interstate Park  
38 Commission and the North Jersey District Water Supply Commission,  
39 in consultation with the department and the Highlands Water  
40 Protection and Planning Council, be proper and necessary to be  
41 reserved for establishing a park:

42 (1) to preserve the scenic beauty of those areas;

43 (2) for the purposes of recreation and conservation, which shall  
44 include hunting and fishing, or historic preservation; or

45 (3) for the purposes of watershed conservation or protecting,  
46 maintaining, or enhancing the quality and quantity of water supplies.

1 c. Except as authorized for the purposes specified by R.S.32:15-1  
2 et seq. and R.S.32:16-1 et seq. with regard to the location,  
3 construction, maintenance, and operation of the Henry Hudson Drive  
4 and the Palisades Interstate Parkway in Bergen county, the Palisades  
5 Interstate Park Commission shall not acquire by condemnation any  
6 lands described in subsections a. and b. of this section. Any such lands  
7 shall be acquired by the Palisades Interstate Park Commission only  
8 through a sale by a willing seller.

9 (cf: P.L.1995, c.274, s.2)

10  
11 58. Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended to read  
12 as follows:

13 5. a. The duties of the commission shall be to:

14 [a.] (1) assess present and projected development, land use, and  
15 land management practices and patterns, and identify actual and  
16 potential environmental threats and problems, around Greenwood  
17 Lake and within its watershed, and determine the effects of those  
18 practices and patterns, threats, and problems upon the natural, scenic,  
19 and recreational resources of Greenwood Lake and its watershed;

20 [b.] (2) develop recommended regulations, procedures, policies,  
21 planning strategies, and model ordinances and resolutions pertaining  
22 to the protection, preservation, maintenance, management, and  
23 enhancement of Greenwood Lake and its watershed, which would be  
24 implemented as appropriate on a voluntary basis by those entities with  
25 representatives on the commission;

26 [c.] (3) coordinate environmental clean up, maintenance, and  
27 protection efforts undertaken, for the benefit of Greenwood Lake and  
28 its watershed, by those entities with representatives on the  
29 commission;

30 [d.] (4) coordinate with the New Jersey Department of  
31 Environmental Protection's watershed management program for the  
32 area that includes Greenwood Lake;

33 [e.] (5) recommend appropriate state legislation and administrative  
34 action pertaining to the protection, preservation, maintenance,  
35 management, and enhancement of Greenwood Lake and its watershed;

36 [f.] (6) advocate, and where appropriate, act as a coordinating,  
37 distributing, or recipient agency for, federal, state, or private funding  
38 of environmental cleanup, maintenance, and protection projects for  
39 Greenwood Lake and its watershed, which projects may include the  
40 work of the commission; and

41 [g.] (7) take such other action as may be appropriate or necessary  
42 to further the purpose of this act.

43 b. The commission shall consult with the Highlands Water  
44 Protection and Planning Council, established pursuant to section 4 of  
45 P.L. , c. (C. ) (now before the Legislature as this bill), in carrying  
46 out its duties as prescribed pursuant to subsection a. of this section.

1 Any action taken by the commission that may impact upon or  
2 otherwise affect the Highlands preservation area, as defined in section  
3 3 of P.L. , c. (C. ) (now before the Legislature as this bill), shall  
4 be consistent with the Highlands regional master plan adopted by the  
5 council pursuant to section 8 of that act.

6 (cf: P.L.1999, c.402, s.5)

7

8 59. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
9 read as follows:

10 19. Preparation; contents; modification.

11 a. The planning board may prepare and, after public hearing, adopt  
12 or amend a master plan or component parts thereof, to guide the use  
13 of lands within the municipality in a manner which protects public  
14 health and safety and promotes the general welfare.

15 b. The master plan shall generally comprise a report or statement  
16 and land use and development proposals, with maps, diagrams and  
17 text, presenting, at least the following elements (1) and (2) and, where  
18 appropriate, the following elements (3) through (13):

19 (1) A statement of objectives, principles, assumptions, policies and  
20 standards upon which the constituent proposals for the physical,  
21 economic and social development of the municipality are based;

22 (2) A land use plan element (a) taking into account and stating its  
23 relationship to the statement provided for in paragraph (1) hereof, and  
24 other master plan elements provided for in paragraphs (3) through (13)  
25 hereof and natural conditions, including, but not necessarily limited to,  
26 topography, soil conditions, water supply, drainage, flood plain areas,  
27 marshes, and woodlands; (b) showing the existing and proposed  
28 location, extent and intensity of development of land to be used in the  
29 future for varying types of residential, commercial, industrial,  
30 agricultural, recreational, educational and other public and private  
31 purposes or combination of purposes; and stating the relationship  
32 thereof to the existing and any proposed zone plan and zoning  
33 ordinance; and (c) showing the existing and proposed location of any  
34 airports and the boundaries of any airport safety zones delineated  
35 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260  
36 (C.6:1-80 et seq.); and (d) including a statement of the standards of  
37 population density and development intensity recommended for the  
38 municipality;

39 (3) A housing plan element pursuant to section 10 of P.L.1985,  
40 c.222 (C.52:27D-310), including, but not limited to, residential  
41 standards and proposals for the construction and improvement of  
42 housing;

43 (4) A circulation plan element showing the location and types of  
44 facilities for all modes of transportation required for the efficient  
45 movement of people and goods into, about, and through the  
46 municipality, taking into account the functional highway classification

1 system of the Federal Highway Administration and the types,  
2 locations, conditions and availability of existing and proposed  
3 transportation facilities, including air, water, road and rail;

4 (5) A utility service plan element analyzing the need for and  
5 showing the future general location of water supply and distribution  
6 facilities, drainage and flood control facilities, sewerage and waste  
7 treatment, solid waste disposal and provision for other related utilities,  
8 and including any storm water management plan required pursuant to  
9 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.);

10 (6) A community facilities plan element showing the existing and  
11 proposed location and type of educational or cultural facilities, historic  
12 sites, libraries, hospitals, firehouses, police stations and other related  
13 facilities, including their relation to the surrounding areas;

14 (7) A recreation plan element showing a comprehensive system of  
15 areas and public sites for recreation;

16 (8) A conservation plan element providing for the preservation,  
17 conservation, and utilization of natural resources, including, to the  
18 extent appropriate, energy, open space, water supply, forests, soil,  
19 marshes, wetlands, harbors, rivers and other waters, fisheries,  
20 endangered or threatened species wildlife and other resources, and  
21 which systemically analyzes the impact of each other component and  
22 element of the master plan on the present and future preservation,  
23 conservation and utilization of those resources;

24 (9) An economic plan element considering all aspects of economic  
25 development and sustained economic vitality, including (a) a  
26 comparison of the types of employment expected to be provided by the  
27 economic development to be promoted with the characteristics of the  
28 labor pool resident in the municipality and nearby areas and (b) an  
29 analysis of the stability and diversity of the economic development to  
30 be promoted;

31 (10) A historic preservation plan element: (a) indicating the location  
32 and significance of historic sites and historic districts; (b) identifying  
33 the standards used to assess worthiness for historic site or district  
34 identification; and (c) analyzing the impact of each component and  
35 element of the master plan on the preservation of historic sites and  
36 districts;

37 (11) Appendices or separate reports containing the technical  
38 foundation for the master plan and its constituent elements;

39 (12) A recycling plan element which incorporates the State  
40 Recycling Plan goals, including provisions for the collection,  
41 disposition and recycling of recyclable materials designated in the  
42 municipal recycling ordinance, and for the collection, disposition and  
43 recycling of recyclable materials within any development proposal for  
44 the construction of 50 or more units of single-family residential  
45 housing or 25 or more units of multi-family residential housing and any  
46 commercial or industrial development proposal for the utilization of

1 1,000 square feet or more of land; and

2 (13) A farmland preservation plan element, which shall include: an  
3 inventory of farm properties and a map illustrating significant areas of  
4 agricultural land; a statement showing that municipal ordinances  
5 support and promote agriculture as a business; and a plan for  
6 preserving as much farmland as possible in the short term by  
7 leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et  
8 al.) through a variety of mechanisms including, but not limited to,  
9 utilizing option agreements, installment purchases, and encouraging  
10 donations of permanent development easements.

11 c. The master plan and its plan elements may be divided into  
12 subplans and subplan elements projected according to periods of time  
13 or staging sequences.

14 d. The master plan shall include a specific policy statement  
15 indicating the relationship of the proposed development of the  
16 municipality, as developed in the master plan to (1) the master plans  
17 of contiguous municipalities, (2) the master plan of the county in  
18 which the municipality is located, (3) the State Development and  
19 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
20 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and  
21 (4) the district solid waste management plan required pursuant to the  
22 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
23 (C.13:1E-1 et seq.) of the county in which the municipality is located.

24 In the case of a municipality situated within the Highlands Region,  
25 as defined pursuant to section 3 of P.L. , c. (C. ) (now before  
26 the Legislature as this bill), the master plan shall include a specific  
27 policy statement indicating the relationship of the proposed  
28 development of the municipality, as developed in the master plan, to  
29 the Highlands regional master plan adopted pursuant to section 4 of  
30 P.L. , c. (C. ) (now before the Legislature as this bill).

31 (cf: P.L.1999, c.180, s.2)

32

33 60. R.S.48:3-7 is amended to read as follow:

34 48:3-7. a. No public utility shall, without the approval of the  
35 board, sell, lease, mortgage or otherwise dispose of or encumber its  
36 property, franchises, privileges or rights, or any part thereof; or merge  
37 or consolidate its property, franchises, privileges or rights, or any part  
38 thereof, with that of any other public utility.

39 Where, by the proposed sale, lease or other disposition of all or a  
40 substantial portion of its property, any franchise or franchises,  
41 privileges or rights, or any part thereof or merger or consolidation  
42 thereof as set forth herein, it appears that the public utility or a wholly  
43 owned subsidiary thereof may be unable to fulfill its obligation to any  
44 employees thereof with respect to pension benefits previously enjoyed,  
45 whether vested or contingent, the board shall not grant its approval  
46 unless the public utility seeking the board's approval for such sale,

1 lease or other disposition assumes such responsibility as will be  
2 sufficient to provide that all such obligations to employees will be  
3 satisfied as they become due.

4 Every sale, mortgage, lease, disposition, encumbrance, merger or  
5 consolidation made in violation of this section shall be void.

6 Nothing herein shall prevent the sale, lease or other disposition by  
7 any public utility of any of its property in the ordinary course of  
8 business, nor require the approval of the board to any grant,  
9 conveyance or release of any property or interest therein heretofore  
10 made or hereafter to be made by any public utility to the United States,  
11 State or any county or municipality or any agency, authority or  
12 subdivision thereof, for public use.

13 The approval of the board shall not be required to validate the title  
14 of the United States, State or any county or municipality or any  
15 agency, authority or subdivision thereof, to any lands or interest  
16 therein heretofore condemned or hereafter to be condemned by the  
17 United States, State or any county or municipality or any agency,  
18 authority or subdivision thereof for public use.

19 b. Notwithstanding any law, rule, regulation or order to the  
20 contrary, an autobus public utility regulated by and subject to the  
21 provisions of Title 48 of the Revised Statutes may, without the  
22 approval of the Department of Transportation, sell, lease, mortgage or  
23 otherwise dispose of or encumber its property, or any part thereof,  
24 except that approval of the Department of Transportation shall be  
25 required for the following:

26 (1) the sale of 60% or more of its property within a 12-month  
27 period;

28 (2) a merger or consolidation of its property, franchises, privileges  
29 or rights; or

30 (3) the sale of any of its franchises, privileges or rights.

31 Notice of the sale, purchase or lease of any autobus or other vehicle  
32 subject to regulation under Title 48 of the Revised Statutes shall be  
33 provided to the Department of Transportation as the department shall  
34 require.

35 c. Except as otherwise provided in subsection e. of this section, no  
36 solid waste collector as defined in section 3 of P.L.1970, c.40  
37 (C.48:13A-3) shall, without the approval of the Department of  
38 Environmental Protection:

39 (1) sell, lease, mortgage or otherwise dispose of or encumber its  
40 property, including customer lists; or

41 (2) merge or consolidate its property, including customer lists, with  
42 that of any other person or business concern, whether or not that  
43 person or business concern is engaged in the business of solid waste  
44 collection or solid waste disposal pursuant to the provisions of  
45 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et  
46 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.



1 d. Any solid waste collector seeking approval for any transaction  
2 enumerated in subsection c. of this section shall file with the  
3 department, on forms and in a manner prescribed by the department,  
4 a notice of intent at least 30 days prior to the completion of the  
5 transaction.

6 (1) The department shall promptly review all notices filed pursuant  
7 to this subsection. The department may, within 30 days of receipt of  
8 a notice of intent, request that the solid waste collector submit  
9 additional information to assist in its review if it deems that such  
10 information is necessary. If no such request is made, the transaction  
11 shall be deemed to have been approved. In the event that additional  
12 information is requested, the department shall outline, in writing, why  
13 it deems such information necessary to make an informed decision on  
14 the impact of the transaction on effective competition.

15 (2) The department shall approve or deny a transaction within 60  
16 days of receipt of all requested information. In the event that the  
17 department fails to take action on a transaction within the 60-day  
18 period specified herein, then the transaction shall be deemed to have  
19 been approved.

20 (3) The department shall approve a transaction unless it makes a  
21 determination pursuant to the provisions of section 19 of P.L.1991,  
22 c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage,  
23 disposition, encumbrance, merger or consolidation would result in a  
24 lack of effective competition.

25 The department shall prescribe and provide upon request all  
26 necessary forms for the implementation of the notification  
27 requirements of this subsection.

28 e. (1) Any solid waste collector may, without the approval of the  
29 department, purchase, finance or lease any equipment, including  
30 collection or haulage vehicles.

31 (2) Any solid waste collector may, without the approval of the  
32 department, sell or otherwise dispose of its collection or haulage  
33 vehicles; except that no solid waste collector shall, without the  
34 approval of the department in the manner provided in subsection d. of  
35 this section, sell or dispose of 33% or more of its collection or haulage  
36 vehicles within a 12-month period.

37 f. (1) The owner or operator of a privately-owned sanitary landfill  
38 facility may, without the approval of the Department of Environmental  
39 Protection, sell or otherwise dispose of its assets except that the prior  
40 approval of the department shall be required (a) to sell all assets  
41 associated with the sanitary landfill facility or a portion thereof  
42 sufficient to transfer the operation of the sanitary landfill facility to a  
43 new owner or operator; (b) to sell a controlling ownership interest in  
44 the sanitary landfill facility; or (c) to merge or consolidate its property  
45 with that of any other person or business concern, whether or not that  
46 person or business concern is engaged in the business of solid waste

1 disposal pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et  
2 seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act.

3 (2) Any owner or operator seeking approval for any transaction  
4 enumerated in this subsection shall file with the department an  
5 application therefor, on forms and in a manner prescribed by the  
6 department. The department shall promptly review all applications  
7 filed pursuant to this subsection and shall serve requests for  
8 information regarding any transaction within 30 days following the  
9 filing of an application if the department deems that such information  
10 is necessary. The department shall approve or deny the transaction  
11 within 60 days of receipt of all requested information. In the event  
12 that the department fails to take action on a transaction within the  
13 60-day period specified herein, then the transaction shall be deemed to  
14 have been approved.

15 As used in this section, "business concern" means any corporation,  
16 association, firm, partnership, sole proprietorship, trust or other form  
17 of commercial organization; and "privately-owned sanitary landfill  
18 facility" means a commercial sanitary landfill facility which is owned  
19 and operated by a private person, corporation or other organization  
20 and includes all appurtenances and related improvements used at the  
21 site for the transfer, processing or disposal of solid waste.

22 g. No public water utility shall sell or otherwise convey any land  
23 it owns that is located in the Highlands Region, as defined in section  
24 3 of P.L. , c. (C. ) (now before the Legislature as this bill), and  
25 is utilized for the purpose of protecting a public water supply, except  
26 as may be allowed by the Commissioner of Environmental Protection,  
27 with the concurrence of the board, only for the purposes authorized  
28 pursuant to section 27 of P.L. , c. (C. ) (now before the  
29 Legislature as this bill).

30 (cf: P.L.2003, c.169, s.17)

31

32 61. Section 1 of P.L.1985, c.398 (C.52:18A-196) is amended to  
33 read as follows:

34 1. The Legislature finds and declares that:

35 a. New Jersey, the nation's most densely populated State, requires  
36 sound and integrated Statewide planning and the coordination of  
37 Statewide planning with local and regional planning in order to  
38 conserve its natural resources, revitalize its urban centers, protect the  
39 quality of its environment, and provide needed housing and adequate  
40 public services at a reasonable cost while promoting beneficial  
41 economic growth, development and renewal;

42 b. Significant economies, efficiencies and savings in the  
43 development process would be realized by private sector enterprise  
44 and by public sector development agencies if the several levels of  
45 government would cooperate in the preparation of and adherence to  
46 sound and integrated plans;

1 c. It is of urgent importance that the State Development Guide  
2 Plan be replaced by a State Development and Redevelopment Plan  
3 designed for use as a tool for assessing suitable locations for  
4 infrastructure, housing, economic growth and conservation;

5 d. It is in the public interest to encourage development,  
6 redevelopment and economic growth in locations that are well situated  
7 with respect to present or anticipated public services and facilities,  
8 giving appropriate priority to the redevelopment, repair, rehabilitation  
9 or replacement of existing facilities and to discourage development  
10 where it may impair or destroy natural resources or environmental  
11 qualities that are vital to the health and well-being of the present and  
12 future citizens of this State;

13 e. A cooperative planning process that involves the full  
14 participation of State, regional, county and local governments as well  
15 as other public and private sector interests will enhance prudent and  
16 rational development, redevelopment and conservation policies and the  
17 formulation of sound and consistent regional plans and planning  
18 criteria;

19 f. Since the overwhelming majority of New Jersey land use  
20 planning and development review occurs at the local level, it is  
21 important to provide local governments in this State with the technical  
22 resources and guidance necessary to assist them in developing land use  
23 plans and procedures which are based on sound planning information  
24 and practice, and to facilitate the development of local plans which are  
25 consistent with State and regional plans and programs;

26 g. An increasing concentration of the poor and minorities in older  
27 urban areas jeopardizes the future well-being of this State, and a sound  
28 and comprehensive planning process will facilitate the provision of  
29 equal social and economic opportunity so that all of New Jersey's  
30 citizens can benefit from growth, development and redevelopment;

31 h. An adequate response to judicial mandates respecting housing  
32 for low- and moderate-income persons requires sound planning to  
33 prevent sprawl and to promote suitable use of land; and

34 i. These purposes can be best achieved through the establishment  
35 of a State planning commission consisting of representatives from the  
36 executive and legislative branches of State government, local  
37 government, the general public and the planning community.

38 (cf: P.L.1985, c.398, s.1)

39  
40 62. Section 4 of P.L.1985, c.398 (C.52:18A-199) is amended to  
41 read as follows:

42 4. The commission shall:

43 a. Prepare and adopt within 36 months after the enactment of [this  
44 act] P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt  
45 at least every three years thereafter, the State Development and  
46 Redevelopment Plan, which shall provide a coordinated, integrated and

1 comprehensive plan for the growth, development, renewal and  
2 conservation of the State and its regions and which shall identify areas  
3 for growth, agriculture, open space conservation and other appropriate  
4 designations;

5 b. Prepare and adopt as part of the plan a long-term Infrastructure  
6 Needs Assessment, which shall provide information on present and  
7 prospective conditions, needs and costs with regard to State, county  
8 and municipal capital facilities, including water, sewerage,  
9 transportation, solid waste, drainage, flood protection, shore  
10 protection and related capital facilities;

11 c. Develop and promote procedures to facilitate cooperation and  
12 coordination among State agencies, regional entities, and local  
13 governments with regard to the development of plans, programs and  
14 policies which affect land use, environmental, capital and economic  
15 development issues;

16 d. Provide technical assistance to local governments and regional  
17 entities in order to encourage the use of the most effective and  
18 efficient planning and development review data, tools and procedures;

19 e. Periodically review State, regional, and local government  
20 planning procedures and relationships and recommend to the Governor  
21 and the Legislature administrative or legislative action to promote a  
22 more efficient and effective planning process;

23 f. Review any bill introduced in either house of the Legislature  
24 which appropriates funds for a capital project and may study the  
25 necessity, desirability and relative priority of the appropriation by  
26 reference to the State Development and Redevelopment Plan, and may  
27 make recommendations to the Legislature and to the Governor  
28 concerning the bill; and

29 g. Take all actions necessary and proper to carry out the provisions  
30 of [this act] P.L.1985, c.398 (C.52:18A-196 et al.).

31 (cf: P.L.1987, c.308, s.1)

32

33 63. Section 5 of P.L.1985, c.398 (C.52:18A-200) is amended to  
34 read as follows:

35 5. The State Development and Redevelopment Plan shall be  
36 designed to represent a balance of development and conservation  
37 objectives best suited to meet the needs of the State. The plan shall:

38 a. Protect the natural resources and qualities of the State,  
39 including, but not limited to, agricultural development areas, fresh and  
40 saltwater wetlands, flood plains, stream corridors, aquifer recharge  
41 areas, steep slopes, areas of unique flora and fauna, and areas with  
42 scenic, historic, cultural and recreational values;

43 b. Promote development and redevelopment in a manner consistent  
44 with sound planning and where infrastructure can be provided at  
45 private expense or with reasonable expenditures of public funds. This  
46 should not be construed to give preferential treatment to new

1 construction;

2 c. Consider input from State, regional, county and municipal  
3 entities concerning their land use, environmental, capital and economic  
4 development plans, including to the extent practicable any State and  
5 regional plans concerning natural resources or infrastructure elements;

6 d. Identify areas for growth, limited growth, agriculture, open  
7 space conservation and other appropriate designations that the  
8 commission may deem necessary;

9 e. Incorporate a reference guide of technical planning standards  
10 and guidelines used in the preparation of the plan; and

11 f. Coordinate planning activities and establish Statewide planning  
12 objectives in the following areas: land use, housing, economic  
13 development, transportation, natural resource conservation,  
14 agriculture and farmland retention, recreation, urban and suburban  
15 redevelopment, historic preservation, public facilities and services, and  
16 intergovernmental coordination.

17 (cf: P.L.1985, c.398, s.5)

18

19 64. Section 6 of P.L.1985, c.398 (C.52:18A-201) is amended to  
20 read as follows:

21 6. a. There is established in the Department of the Treasury the  
22 Office of State Planning. The director of the office shall be appointed  
23 by and serve at the pleasure of the Governor. The director shall  
24 supervise and direct the activities of the office and shall serve as the  
25 secretary and principal executive officer of the State Planning  
26 Commission.

27 b. The Office of State Planning shall assist the commission in the  
28 performance of its duties and shall:

29 (1) Publish an annual report on the status of the State Development  
30 and Redevelopment Plan which shall describe the progress towards  
31 achieving the goals of the plan, the degree of consistency achieved  
32 among municipal, county, regional, and State plans, the capital needs  
33 of the State, and progress towards providing housing where such need  
34 is indicated;

35 (2) Provide planning service to other agencies or instrumentalities  
36 of State government, review the plans prepared by them, and  
37 coordinate planning to avoid or mitigate conflicts between plans;

38 (3) Provide advice and assistance to regional, county and local  
39 planning units;

40 (4) Review and comment on the plans of interstate agencies where  
41 the plans affect this State;

42 (5) Compile quantitative current estimates and Statewide forecasts  
43 for population, employment, housing and land needs for development  
44 and redevelopment; and

45 (6) Prepare and submit to the State Planning Commission, as an aid  
46 in the preparation of the State Development and Redevelopment Plan,

1 alternate growth and development strategies which are likely to  
2 produce favorable economic, environmental and social results.

3 c. The director shall ensure that the responsibilities and duties of  
4 the commission are fulfilled, and shall represent the commission and  
5 promote its activities before government agencies, public and private  
6 interest groups and the general public, and shall undertake or direct  
7 such other activities as the commission shall direct or as may be  
8 necessary to carry out the purposes of [this act] P.L.1985, c.398  
9 (C.52:18A-196 et al.).

10 d. With the consent of the commission, the director shall assign to  
11 the commission from the staff of the office at least two full-time  
12 planners, a full-time liaison to local and county governments and  
13 regional entities, and such other staff, clerical, stenographic and expert  
14 assistance as [he] the director shall deem necessary for the fulfillment  
15 of the commission's responsibilities and duties.

16 (cf: P.L.1985, c.398, s.6)

17

18 65. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to  
19 read as follows:

20 7. a. In preparing, maintaining and revising the State Development  
21 and Redevelopment Plan, the commission shall solicit and give due  
22 consideration to the plans, comments and advice of each county and  
23 municipality, State agencies designated by the commission, the  
24 Highlands Water Protection and Planning Council established pursuant  
25 to section 4 of P.L. , c. (C. ) (now before the Legislature as this  
26 bill), and other local and regional entities. Prior to the adoption of  
27 each plan, the commission shall prepare and distribute a preliminary  
28 plan to each county planning board, municipal planning board and  
29 other requesting parties, including State agencies, the Highlands Water  
30 Protection and Planning Council, and metropolitan planning  
31 organizations. Not less than 45 nor more than 90 days thereafter, the  
32 commission shall conduct a joint public informational meeting with  
33 each county planning board in each county and with the Highlands  
34 Water Protection and Planning Council for the purpose of providing  
35 information on the plan, responding to inquiries concerning the plan,  
36 and receiving informal comments and recommendations from county  
37 and municipal planning boards, local public officials, the Highlands  
38 Water Protection and Planning Council, and other interested parties.

39 b. The commission shall negotiate plan cross-acceptance with each  
40 county planning board, which shall solicit and receive any findings,  
41 recommendations and objections concerning the plan from local  
42 planning bodies. Each county planning board shall negotiate plan  
43 cross-acceptance among the local planning bodies within the county,  
44 unless it shall notify the commission in writing within 45 days of the  
45 receipt of the preliminary plan that it waives this responsibility, in  
46 which case the commission shall designate an appropriate entity, or

1 itself, to assume this responsibility. Each board or designated entity  
2 shall, within ten months of receipt of the preliminary plan, file with the  
3 commission a formal report of findings, recommendations and  
4 objections concerning the plan, including a description of the degree  
5 of consistency and any remaining inconsistency between the  
6 preliminary plan and county and municipal plans. In any event, should  
7 any municipality's plan remain inconsistent with the State Development  
8 and Redevelopment Plan after the completion of the cross-acceptance  
9 process, the municipality may file its own report with the State  
10 Planning Commission, notwithstanding the fact that the [County  
11 Planning Board] county planning board has filed its report with the  
12 State Planning Commission. The term cross-acceptance means a  
13 process of comparison of planning policies among governmental levels  
14 with the purpose of attaining compatibility between local, county,  
15 regional, and State plans. The process is designed to result in a  
16 written statement specifying areas of agreement or disagreement and  
17 areas requiring modification by parties to the cross-acceptance.

18 Notwithstanding any provision of this section to the contrary, any  
19 municipality or county in the Highlands Region, as defined in section  
20 3 of P.L. , c. (C. ) (now before the Legislature as this bill),  
21 whose municipal master plan and development regulations or county  
22 master plan and associated regulations, respectively, have been  
23 approved by the Highlands Water Protection and Planning Council  
24 pursuant to sections 14 or 15 of P.L. , c. (C. ) (now before the  
25 Legislature as this bill) to be in conformance with the Highlands  
26 regional master plan adopted by the council pursuant to section 8 of  
27 P.L. , c. (C. ) (now before the Legislature as this bill) shall be  
28 exempt from the cross-acceptance process required by this subsection  
29 for those portions of the municipality or county lying within the  
30 Highlands Region.

31 c. Upon consideration of the formal reports of the county planning  
32 boards, the commission shall prepare and distribute a final plan to  
33 county and municipal planning boards, the Highlands Water Protection  
34 and Planning Council, and other interested parties. The commission  
35 shall conduct not less than six public hearings in different locations  
36 throughout the State for the purpose of receiving comments on the  
37 final plan. The commission shall give at least 30 days' public notice of  
38 each hearing in advertisements in at least two newspapers which  
39 circulate in the area served by the hearing and at least 30 days' notice  
40 to the governing body and planning board of each county and  
41 municipality in the area served by the hearing and to the Highlands  
42 Water Protection and Planning Council for any area in the Highlands  
43 Region served by the hearing.

44 d. Taking full account of the testimony presented at the public  
45 hearings, the commission shall make revisions in the plan as it deems  
46 necessary and appropriate and adopt the final plan by a majority vote

1 of its authorized membership no later than 60 days after the final  
2 public hearing.

3 (cf: P.L.1998, c.109, s.1)

4

5 66. Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is amended to  
6 read as follows:

7 2. a. The Office of State Planning in consultation with the Office  
8 of Economic Policy, shall utilize the following:

9 (1) Conduct portions of these studies using its own staff;

10 (2) Contract with other State agencies to conduct portions of these  
11 studies; and

12 (3) Contract with an independent firm or an institution of higher  
13 learning to conduct portions of these studies.

14 b. Any portion of the studies conducted by the Office of State  
15 Planning, or any other State agency, shall be subject to review by an  
16 independent firm or an institution of higher learning.

17 c. The Assessment Study and the oversight review shall be  
18 submitted in the form of a written report to the State Planning  
19 Commission for distribution to the Governor, the Legislature,  
20 appropriate regional entities, and the governing bodies of each county  
21 and municipality in the State during the cross-acceptance process and  
22 prior to the adoption of the Final Plan.

23 d. A period extending from at least 45 days prior to the first of six  
24 public hearings, which are required under the State Planning Act,  
25 P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last  
26 public hearing shall be provided for counties and municipalities to  
27 review and respond to the studies. Requests for revisions to the  
28 Interim Plan shall be considered by the State Planning Commission in  
29 the formulation of the Final Plan.

30 (cf: P.L.1989, c.332, s.2)

31

32 67. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to  
33 read as follows:

34 8. The commission shall adopt rules and regulations to carry out  
35 its purposes, including procedures to facilitate the solicitation and  
36 receipt of comments in the preparation of the preliminary and final  
37 plan and to ensure a process for comparison of the plan with county  
38 and municipal master plans and regional plans, and procedures for  
39 coordinating the information collection, storage and retrieval activities  
40 of the various State agencies.

41 (cf: P.L.1985, c.398, s.8)

42

43 68. Section 9 of P.L.1985, c.398 (C.52:18A-204) is amended to  
44 read as follows:

45 9. The commission shall be entitled to call to its assistance any  
46 personnel of any State agency, regional entity, or county, municipality



1 or political subdivision thereof as it may require in order to perform its  
2 duties. The officers and personnel of any State agency, regional  
3 entity, or county, municipality or political subdivision thereof and any  
4 other person may serve at the request of the commission upon any  
5 advisory committee as the commission may create without forfeiture  
6 of office or employment and with no loss or diminution in the  
7 compensation, status, rights and privileges which they otherwise enjoy.  
8 (cf: P.L.1985, c.398, s.9)

9

10 69. Section 10 of P.L.1985, c.398 (C.52:18A-205) is amended to  
11 read as follows:

12 10. Each State agency, regional entity, or county, municipality or  
13 political subdivision thereof shall make available to the commission  
14 any studies, surveys, plans, data and other materials or information  
15 concerning the capital, land use, environmental, transportation,  
16 economic development and human services plans and programs of the  
17 agency, entity, county, municipality or political subdivision.  
18 (cf: P.L.1985, c.398, s.10)

19

20 70. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended to  
21 read as follows:

22 11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)  
23 shall not be construed to affect the plans and regulations of the  
24 Pinelands Commission pursuant to the "Pinelands Protection Act,"  
25 P.L. 1979, c.111 (C.13:18A-1 et seq.) [or], the [Hackensack] New  
26 Jersey Meadowlands [Development] Commission pursuant to the  
27 "Hackensack Meadowlands Reclamation and Development Act,"  
28 P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water  
29 Protection and Planning Council pursuant to the "Highlands Water  
30 Protection and Planning Act," P.L. , c. (C. ) (now before the  
31 Legislature as this bill) for that portion of the Highlands Region lying  
32 within the preservation area as defined in section 3 of P.L. , c.  
33 (C. ) (now before the Legislature as this bill) . The State Planning  
34 Commission shall rely on the adopted plans and regulations of these  
35 entities in developing the State Development and Redevelopment Plan.

36 b. The State Planning Commission may adopt, after the enactment  
37 date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning  
38 policies of the rules and regulations adopted pursuant to P.L.1973,  
39 c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and  
40 regulations adopted pursuant to subsection b. of section 17 of  
41 P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of  
42 rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1  
43 et seq.) thereafter as the State Development and Redevelopment Plan  
44 for the coastal area as defined in section 4 of P.L.1973, c.185  
45 (C.13:19-4).

46 (cf: P.L.1993, c.190, s.19)

1 71. Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to  
2 read as follows:

3 13. a. The department shall prepare and adopt the New Jersey  
4 Statewide Water Supply Plan, which plan shall be revised and updated  
5 at least once every five years.

6 b. The plan shall include, but need not be limited to, the following:

7 (1) An identification of existing Statewide and regional ground and  
8 surface water supply sources, both interstate and intrastate, and the  
9 current usage thereof;

10 (2) Projections of Statewide and regional water supply demands  
11 for the duration of the plan;

12 (3) Recommendations for improvements to existing State water  
13 supply facilities, the construction of additional State water supply  
14 facilities, and for the interconnection or consolidation of existing water  
15 supply systems;

16 (4) Recommendations for the diversion or use of fresh surface or  
17 ground waters and saline surface or ground waters for aquaculture  
18 purposes;

19 (5) Recommendations for legislative and administrative actions to  
20 provide for the maintenance and protection of watershed areas; and

21 (6) Identification of lands purchased by the State for water supply  
22 facilities that currently are not actively used for water supply purposes,  
23 including, but not limited to, the Six Mile Run Reservoir Site, with  
24 recommendations as to the future use of these lands for water supply  
25 purposes within or outside of the planning horizon for the plan.

26 c. Prior to adopting the plan, including any revisions and updates  
27 thereto, the department shall:

28 (1) Prepare and make available to all interested persons a copy of  
29 the proposed plan or proposed revisions and updates to the current  
30 plan;

31 (2) Conduct public meetings in the several geographic areas of the  
32 State on the proposed plan or proposed revisions and updates to the  
33 current plan; and

34 (3) Consider the comments made at these meetings, make any  
35 revisions to the proposed plan or proposed revisions and updates to  
36 the current plan as it deems necessary, and adopt the plan.

37 d. Prior to the adoption of any revision to the New Jersey  
38 Statewide Water Supply Plan pursuant to this section, the department  
39 shall consult with the Highlands Water Protection and Planning  
40 Council concerning the possible effects and impact of the plan upon  
41 the Highlands regional master plan and the water and other natural  
42 resources of the Highlands Region.

43 (cf: P.L.2003, c.251, s.2)

44

45 72. Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is amended to  
46 read as follows:

1 10. No action taken by the department pursuant to the provisions  
2 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202  
3 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the  
4 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
5 ~~[or], the comprehensive management plan for the pinelands area~~  
6 ~~adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the~~  
7 ~~"Highlands Water Protection and Planning Act," P.L. , c. (C. )~~  
8 ~~(now before the Legislature as this bill), or the Highlands regional~~  
9 ~~master plan adopted pursuant to section 8 of P.L. , c. (C. ) (now~~  
10 ~~before the Legislature as this bill).~~  
11 (cf: P.L.1993, c.202, s.10)

12

13 73. Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read  
14 as follows:

15 6. a. The authority is hereby empowered to design, initiate,  
16 acquire, construct, maintain, repair and operate projects or cause the  
17 same to be operated pursuant to a lease, sublease, or agreement with  
18 any person or governmental agency, and to issue bonds of the  
19 authority to finance these projects, payable from the revenues and  
20 other funds of the authority. All projects undertaken by the authority  
21 shall conform to the recommendations of the New Jersey Statewide  
22 Water Supply Plan.

23 b. The authority shall be subject to compliance with all State health  
24 and environmental protection statutes and regulations and any other  
25 statutes and regulations not inconsistent herewith. The authority may,  
26 upon the request of a governmental agency, enter into a contract to  
27 provide services for any project.

28 c. The authority shall consult with the Water Supply Advisory  
29 Council from time to time prior to final action on any project or  
30 undertaking authorized pursuant to this section.

31 d. The authority shall consult with the Highlands Water Protection  
32 and Planning Council, established pursuant to section 4 of P.L. ,  
33 c. (C. ) (now before the Legislature as this bill), from time to time  
34 prior to final action on any project or undertaking authorized pursuant  
35 to this section in the Highlands Region, as defined in section 3 of  
36 P.L. , c. (C. ) (now before the Legislature as this bill). The  
37 provisions of section 17 of P.L. , c. (C. ) (now before the  
38 Legislature as this bill) shall apply to the authority.

39 (cf: P.L.1981, c.293, s.6)

40

41 74. Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended to read  
42 as follows:

43 7. The Lake Hopatcong Commission shall, in conjunction with  
44 each Lake Hopatcong municipality, develop a stormwater and  
45 nonpoint source pollution management plan for the region. The  
46 stormwater management and nonpoint source pollution plan shall be

1 designed to reduce siltation and prevent pollution caused by  
2 stormwater runoff or nonpoint sources that would otherwise degrade  
3 the water quality of Lake Hopatcong and its tributaries, interfere with  
4 water-based recreation, or adversely affect aquatic life. The goals and  
5 purposes of the plan shall be to improve the quality of stormwater  
6 runoff entering Lake Hopatcong, identify cost effective measures to  
7 control stormwater runoff and nonpoint source pollution, and identify  
8 funding mechanisms for implementation of such measures. The  
9 commission shall consult with the Highlands Water Protection and  
10 Planning Council, established pursuant to section 4 of P.L. , c.  
11 (C. ) (now before the Legislature as this bill), in developing the  
12 stormwater and nonpoint source pollution management plan pursuant  
13 to this section. Any plan developed pursuant to this section that may  
14 impact upon or otherwise affect the Highlands preservation area, as  
15 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
16 as this bill), shall be consistent with the Highlands regional master plan  
17 adopted by the council pursuant to section 8 of that act.  
18 (cf: P.L.2000, c.175, s.7)

19

20 75. Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read  
21 as follows:

22 9. Each municipality represented on the commission shall provide  
23 the commission notice of proposed amendments and revisions to  
24 municipal master plans, zoning and other ordinances governing land  
25 use and development, and applications for specific development  
26 projects, and request that the commission review and evaluate the  
27 proposed amendment, revision, or application to assess its potential  
28 impact upon Lake Hopatcong and its watershed and provide the  
29 commission's recommendations for appropriate action thereon. As  
30 part of the commission's review and evaluation, the commission shall  
31 consider the consistency of the amendment or revision with the  
32 Highlands regional master plan if it may impact upon or otherwise  
33 affect the Highlands preservation area, as defined in section 3 of  
34 P.L. , c. (C. ) (now before the Legislature as this bill), and shall  
35 consult with the Highlands Water Protection and Planning Council,  
36 established pursuant to section 4 of P.L. , c. (C. ) (now before  
37 the Legislature as this bill), on any such matter.

38 (cf: P.L.2000, c.175, s.9)

39

40 76. R.S.58:5-12 is amended to read as follows:

41 58:5-12. The district water supply commission shall thereupon  
42 proceed to formulate plans for obtaining a water supply or a new or  
43 additional water supply for [such] the municipality and any other  
44 municipalities that may desire water from such joint water supply, as  
45 provided for herein, and to estimate the cost thereof, the annual cost  
46 of operating the same, the probable share of the cost which each of

1 the municipalities will be called upon to pay for its share of water  
2 supply and plant used in common with the other municipalities, and the  
3 cost of any distribution system, water supply or plant acquired or  
4 constructed for its individual use, and shall report [said] the plans to  
5 the municipalities, together with a form of contract, providing for the  
6 raising and payment of the necessary funds to meet the cost of  
7 acquisition and operation.

8 If the plans to be formulated pursuant to this section involve  
9 obtaining water from the Highlands Region, as defined in section 3 of  
10 P.L. , c. (C. ) (now before the Legislature as this bill), the  
11 district water supply commission shall consult with the Highlands  
12 Water Protection and Planning Council established pursuant to section  
13 4 of P.L. , c. (C. ) (now before the Legislature as this bill) prior  
14 to moving forward with any such plans or entering into any such  
15 contracts. The provisions of section 17 of P.L. , c. (C. ) (now  
16 before the Legislature as this bill) shall apply to the district water  
17 supply commission.

18 (cf: R.S.58:5-12)

19

20 77. Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is amended to  
21 read as follows:

22 1. a. An application for a permit issued by the Department of  
23 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et  
24 seq.) for the discharge of groundwater to surface water involving a  
25 groundwater remedial action necessitated by a discharge from an  
26 underground storage tank containing petroleum products or a  
27 groundwater remedial action involving petroleum products, shall  
28 contain, in addition to a properly filled application form:

29 (1) such documentation or other information on the permit  
30 application as may be prescribed by the department on a checklist  
31 made available to a prospective applicant;

32 (2) if the discharge from the proposed groundwater remedial action  
33 is located within a wastewater service district or area of a local public  
34 entity, a certified statement that a request, dated at least 60 days prior  
35 to the filing of the permit application, had been made to the local  
36 public entity to discharge the groundwater into the wastewater  
37 collection or treatment facilities of that entity, and that no reply has  
38 been received from that entity, or a written statement by the local  
39 public entity, dated not more than 60 days prior to the filing of the  
40 permit application with the department, that the entity has approved  
41 or rejected a written request by the applicant to discharge the treated  
42 groundwater into the wastewater collection or treatment facilities of  
43 that entity. Notwithstanding that a local public entity has approved  
44 the request to discharge groundwater into its facilities, the department  
45 may approve the applicant's permit to discharge the groundwater to  
46 surface water upon a finding that it is in the public interest;

1 (3) a certified statement that a copy of the completed application  
2 form along with a consent request, as prescribed in subsection b. of  
3 this section, have been filed with the clerk of the municipality in which  
4 the site of the proposed groundwater remedial action is located, and  
5 setting forth the date of the filing with the host municipality, which  
6 filing shall be made prior to, or concurrent with, the filing of the  
7 application with the department; [and]

8 (4) within the pinelands area, documentation from the Pinelands  
9 Commission that the application is consistent with the requirements of  
10 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
11 or any regulations promulgated pursuant thereto and section 502 of  
12 the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and

13 (5) within the Highlands preservation area, documentation from the  
14 Highlands Water Protection and Planning Council that the application  
15 is consistent with the requirements of the "Highlands Water Protection  
16 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
17 this bill), and any rules and regulations and the Highlands regional  
18 master plan adopted pursuant thereto.

19 b. The department shall prescribe the form and content of a request  
20 for consent filed with a municipality pursuant to paragraph (3) of  
21 subsection a. of this section. The municipal consent request shall be  
22 limited to an identification of all municipal approvals with which the  
23 applicant is required to comply, the status of any applications filed  
24 therefor, and whether or not the municipality consents to the  
25 application and the specific reasons therefor. The request for consent  
26 form shall also advise that documentation and other information  
27 relating to the application have been filed and are available for review  
28 at the department. A municipality receiving a request for consent form  
29 shall have 30 days from the date of receipt of a copy of the application  
30 and request for consent form to file with the department the  
31 information requested, and its consent of, or objections to, the  
32 application. Municipal consent or objection to a groundwater remedial  
33 action shall be by resolution of the governing body of the municipality  
34 unless the governing body has, by resolution, delegated such authority  
35 to a qualified officer or entity thereof, in which case the endorsement  
36 shall be signed by the designated officer or official of the entity.  
37 Notwithstanding that a municipality objects to a permit application or  
38 fails to file a consent or objection to the permit application, the  
39 department may approve the applicant's permit application to  
40 discharge groundwater to surface water.

41 c. An application pursuant to subsection a. of this section shall be  
42 deemed complete, for the purposes of departmental review, within 30  
43 days of the filing of the application with the department unless the  
44 department notifies the applicant, in writing, prior to expiration of the  
45 30 days that the application has failed to satisfy one or more of the  
46 items identified in subsection a. of this section. If an application is

1 determined to be complete, the department shall review and take final  
2 action on the completed application within 60 days from  
3 commencement of the review, or, if the parties mutually agree to a  
4 30-day extension, within 90 days therefrom. The review period for a  
5 completed application shall commence immediately upon termination  
6 of the 30-day period, or upon determination by the department that the  
7 application is complete, whichever occurs first. If the department fails  
8 to take final action on a permit application for a general permit in the  
9 time frames set forth in this subsection, that general permit shall be  
10 deemed to have been approved by the department. The department  
11 shall review an application for a permit pursuant to subsection a. of  
12 this section and shall take action on that application pursuant to the  
13 time frames set forth in this subsection, notwithstanding that all of the  
14 municipal approvals have not been obtained, unless such approvals  
15 would materially affect the terms and conditions of the permit, except  
16 that in such instances the department may condition its approval of the  
17 application on the necessary municipal approvals being subject to the  
18 terms and conditions of the application.

19 d. The department may issue a general permit for the discharge of  
20 groundwater to surface water pursuant to a groundwater remedial  
21 action of discharged petroleum products as provided in subsection a.  
22 of this section.

23 e. (1) The department may not require a municipal consent of a  
24 treatment works application for a groundwater remedial action for  
25 which a permit application is submitted pursuant to subsection a. of  
26 this section.

27 (2) If a completed application for a treatment works approval for  
28 a groundwater remedial action is filed with the department at the same  
29 time as an application for a general permit therefor, the department  
30 shall concurrently review the two applications, except that the review  
31 of the application for the treatment works approval for a groundwater  
32 remedial action shall not be subject to the time frames set forth in  
33 subsection c. of this section.

34 f. The provisions of this section shall apply to applications filed on  
35 or after the effective date of this act, except that the Department of  
36 Environmental Protection may implement any of the provisions of this  
37 section prior to that date.

38 g. The department may, in accordance with the "Administrative  
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
40 regulations to implement the provisions of this act.

41 h. For purposes of this section:

42 "General permit" means a permit issued by the department for  
43 similar discharges.

44 "Groundwater remedial action" means the removal or abatement of  
45 one or more pollutants in a groundwater source.

46 "Local public entity" means a sewerage authority established

1 pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal  
2 authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et  
3 seq.), the Passaic Valley Sewerage Commissioners continued pursuant  
4 to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68  
5 et seq. or a local unit authorized to operate a sewerage facility  
6 pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

7 "Underground storage tank" shall have the same meaning as in  
8 section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used  
9 herein underground storage tanks shall include:

10 (1) farm underground storage tanks of 1,100 gallons or less  
11 capacity used for storing motor fuel for noncommercial purposes;

12 (2) underground storage tanks used to store heating oil for on-site  
13 consumption in a nonresidential building with a capacity of 2,000  
14 gallons or less; and

15 (3) underground storage tanks used to store heating oil for on-site  
16 consumption in a residential building.

17 (cf: P.L.1993, c.351, s.1)

18

19 78. Section 24 of P.L.1993, c.139 (C.58:10B-2) is amended to  
20 read as follows:

21 24. a. The department shall, pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
23 regulations establishing criteria and minimum standards necessary for  
24 the submission, evaluation and approval of plans or results of  
25 preliminary assessments, site investigations, remedial investigations,  
26 and remedial action workplans and for the implementation thereof.  
27 The documents for the preliminary assessment, site investigation,  
28 remedial investigation, and remedial action workplan required to be  
29 submitted for a remediation, shall not be identical to the criteria and  
30 standards used for similar documents submitted pursuant to federal  
31 law, except as may be required by federal law. In establishing criteria  
32 and minimum standards for these terms the department shall strive to  
33 be result oriented, provide for flexibility, and to avoid duplicate or  
34 unnecessarily costly or time consuming conditions or standards.

35 b. The regulations adopted by the department pursuant to  
36 subsection a. of this section shall provide that a person performing a  
37 remediation may deviate from the strict adherence to the regulations,  
38 in a variance procedure or by another method prescribed by the  
39 department, if that person can demonstrate that the deviation and the  
40 resulting remediation would be as protective of human health, safety,  
41 and the environment, as appropriate, as the department's regulations  
42 and that the health risk standards established in subsection d. of  
43 section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable  
44 environmental standards would be met. Factors to be considered in  
45 determining if the deviation should be allowed are whether the  
46 alternative method:



1 (1) has been either used successfully or approved by the  
2 department in writing or similar situations;

3 (2) reflects current technology as documented in peer-reviewed  
4 professional journals;

5 (3) can be expected to achieve the same or substantially the same  
6 results or objectives as the method which it is to replace; and

7 (4) furthers the attainment of the goals of the specific remedial  
8 phase for which it is used.

9 The department shall make available to the public, and shall  
10 periodically update, a list of alternative remediation methods used  
11 successfully or approved by the department as provided in paragraph  
12 (1) of this subsection.

13 c. To the extent practicable and in conformance with the standards  
14 for remediations as provided in section 35 of P.L.1993, c.139  
15 (C.58:10-12), the department shall adopt rules and regulations that  
16 allow for certain remedial actions to be undertaken in a manner  
17 prescribed by the department without having to obtain prior approval  
18 from or submit detailed documentation to the department. A person  
19 who performs a remedial action in the manner prescribed in the rules  
20 and regulations of the department, and who certifies this fact to the  
21 department, shall obtain a no further action letter from the department  
22 for that particular remedial action.

23 d. The department shall develop regulatory procedures that  
24 encourage the use of innovative technologies in the performance of  
25 remedial actions and other remediation activities.

26 e. Notwithstanding any other provisions of this section, all  
27 remediation standards and remedial actions that involve real property  
28 located in the pinelands area shall be consistent with the provisions of  
29 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
30 any rules and regulations adopted pursuant thereto, and with section  
31 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C.  
32 s.471i.

33 f. Notwithstanding any other provisions of this section, all  
34 remediation standards and remedial actions that involve real property  
35 located in the Highlands preservation area shall be consistent with the  
36 provisions of the "Highlands Water Protection and Planning Act,"  
37 P.L. , c. (C. ) (now before the Legislature as this bill), and any  
38 rules and regulations and the Highlands regional master plan adopted  
39 pursuant thereto.

40 (cf: P.L.1997, c.278, s.10)

41

42 79. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
43 read as follows:

44 35. a. The Department of Environmental Protection shall adopt  
45 minimum remediation standards for soil, groundwater, and surface  
46 water quality necessary for the remediation of contamination of real

1 property. The remediation standards shall be developed to ensure that  
2 the potential for harm to public health and safety and to the  
3 environment is minimized to acceptable levels, taking into  
4 consideration the location, the surroundings, the intended use of the  
5 property, the potential exposure to the discharge, and the surrounding  
6 ambient conditions, whether naturally occurring or man-made.

7 Until the minimum remediation standards for the protection of  
8 public health and safety as described herein are adopted, the  
9 department shall apply public health and safety remediation standards  
10 for contamination at a site on a case-by-case basis based upon the  
11 considerations and criteria enumerated in this section.

12 The department shall not propose or adopt remediation standards  
13 protective of the environment pursuant to this section, except  
14 standards for groundwater or surface water, until recommendations  
15 are made by the Environment Advisory Task Force created pursuant  
16 to section 37 of P.L.1993, c.139. Until the Environment Advisory  
17 Task Force issues its recommendations and the department adopts  
18 remediation standards protective of the environment as required by  
19 this section, the department shall continue to determine the need for  
20 and the application of remediation standards protective of the  
21 environment on a case-by-case basis in accordance with the guidance  
22 and regulations of the United States Environmental Protection Agency  
23 pursuant to the "Comprehensive Environmental Response,  
24 Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq.  
25 and other statutory authorities as applicable.

26 The department may not require any person to perform an  
27 ecological evaluation of any area of concern that consists of an  
28 underground storage tank storing heating oil for on-site consumption  
29 in a one to four family residential building.

30 b. In developing minimum remediation standards the department  
31 shall:

32 (1) base the standards on generally accepted and peer reviewed  
33 scientific evidence or methodologies;

34 (2) base the standards upon reasonable assumptions of exposure  
35 scenarios as to amounts of contaminants to which humans or other  
36 receptors will be exposed, when and where those exposures will occur,  
37 and the amount of that exposure;

38 (3) avoid the use of redundant conservative assumptions. The  
39 department shall avoid the use of redundant conservative assumptions  
40 by the use of parameters that provide an adequate margin of safety and  
41 which avoid the use of unrealistic conservative exposure parameters  
42 and which guidelines make use of the guidance and regulations for  
43 exposure assessment developed by the United States Environmental  
44 Protection Agency pursuant to the "Comprehensive Environmental  
45 Response, Compensation, and Liability Act of 1980," 42 U.S.C.  
46 s.9601 et seq. and other statutory authorities as applicable;

1 (4) where feasible, establish the remediation standards as numeric  
2 or narrative standards setting forth acceptable levels or concentrations  
3 for particular contaminants; and

4 (5) consider and utilize, in the absence of other standards used or  
5 developed by the Department of Environmental Protection and the  
6 United States Environmental Protection Agency, the toxicity factors,  
7 slope factors for carcinogens and reference doses for non-carcinogens  
8 from the United States Environmental Protection Agency's Integrated  
9 Risk Information System (IRIS).

10 c. (1) The department shall develop residential and nonresidential  
11 soil remediation standards that are protective of public health and  
12 safety. For contaminants that are mobile and transportable to  
13 groundwater or surface water, the residential and nonresidential soil  
14 remediation standards shall be protective of groundwater and surface  
15 water. Residential soil remediation standards shall be set at levels or  
16 concentrations of contamination for real property based upon the use  
17 of that property for residential or similar uses and which will allow the  
18 unrestricted use of that property without the need of engineering  
19 devices or any institutional controls and without exceeding a health  
20 risk standard greater than that provided in subsection d. of this  
21 section. Nonresidential soil remediation standards shall be set at levels  
22 or concentrations of contaminants that recognize the lower likelihood  
23 of exposure to contamination on property that will not be used for  
24 residential or similar uses, which will allow for the unrestricted use of  
25 that property for nonresidential purposes, and that can be met without  
26 the need of engineering controls. Whenever real property is  
27 remediated to a nonresidential soil remediation standard, except as  
28 otherwise provided in paragraph (3) of subsection g. of this section,  
29 the department shall require, pursuant to section 36 of P.L.1993, c.139  
30 (C.58:10B-13), that the use of the property be restricted to  
31 nonresidential or other uses compatible with the extent of the  
32 contamination of the soil and that access to that site be restricted in a  
33 manner compatible with the allowable use of that property.

34 (2) The department may develop differential remediation standards  
35 for surface water or groundwater that take into account the current,  
36 planned, or potential use of that water in accordance with the "Clean  
37 Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution  
38 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

39 d. The department shall develop minimum remediation standards  
40 for soil, groundwater, and surface water intended to be protective of  
41 public health and safety taking into account the provisions of this  
42 section. In developing these minimum health risk remediation  
43 standards the department shall identify the hazards posed by a  
44 contaminant to determine whether exposure to that contaminant can  
45 cause an increase in the incidence of an adverse health effect and  
46 whether the adverse health effect may occur in humans. The

1 department shall set minimum soil remediation health risk standards  
2 for both residential and nonresidential uses that:

3 (1) for human carcinogens, as categorized by the United States  
4 Environmental Protection Agency, will result in an additional cancer  
5 risk of one in one million;

6 (2) for noncarcinogens, will limit the Hazard Index for any given  
7 effect to a value not exceeding one.

8 The health risk standards established in this subsection are for any  
9 particular contaminant and not for the cumulative effects of more than  
10 one contaminant at a site.

11 e. Remediation standards and other remediation requirements  
12 established pursuant to this section and regulations adopted pursuant  
13 thereto shall apply to remediation activities required pursuant to the  
14 "Spill Compensation and Control Act," P.L.1976, c.141  
15 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977,  
16 c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the  
17 "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the  
18 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),  
19 the "Comprehensive Regulated Medical Waste Management Act,"  
20 P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste  
21 Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the  
22 "Sanitary Landfill Facility Closure and Contingency Fund Act,"  
23 P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level  
24 Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333  
25 (C.13:1E-177 et seq.), or any other law or regulation by which the  
26 State may compel a person to perform remediation activities on  
27 contaminated property. However, nothing in this subsection shall be  
28 construed to limit the authority of the department to establish  
29 discharge limits for pollutants or to prescribe penalties for violations  
30 of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to  
31 require the complete removal of nonhazardous solid waste pursuant to  
32 law.

33 f. (1) A person performing a remediation of contaminated real  
34 property, in lieu of using the established minimum soil remediation  
35 standard for either residential use or nonresidential use adopted by the  
36 department pursuant to subsection c. of this section, may submit to the  
37 department a request to use an alternative residential use or  
38 nonresidential use soil remediation standard. The use of an alternative  
39 soil remediation standard shall be based upon site specific factors  
40 which may include (1) physical site characteristics which may vary  
41 from those used by the department in the development of the soil  
42 remediation standards adopted pursuant to this section; or (2) a site  
43 specific risk assessment. If a person performing a remediation  
44 requests to use an alternative soil remediation standard based upon a  
45 site specific risk assessment, that person shall demonstrate to the  
46 department that the requested deviation from the risk assessment

1 protocol used by the department in the development of soil  
2 remediation standards pursuant to this section is consistent with the  
3 guidance and regulations for exposure assessment developed by the  
4 United States Environmental Protection Agency pursuant to the  
5 "Comprehensive Environmental Response, Compensation, and  
6 Liability Act of 1980," 42 U.S.C. 9601 et seq. and other statutory  
7 authorities as applicable. A site specific risk assessment may consider  
8 exposure scenarios and assumptions that take into account the form of  
9 the contaminant present, natural biodegradation, fate and transport of  
10 the contaminant, available toxicological data that are based upon  
11 generally accepted and peer reviewed scientific evidence or  
12 methodologies , and physical characteristics of the site, including, but  
13 not limited to, climatic conditions and topographic conditions.  
14 Nothing in this subsection shall be construed to authorize the use of  
15 an alternative soil remediation standard in those instances where an  
16 engineering control is the appropriate remedial action, as determined  
17 by the department, to prevent exposure to contamination.

18 Upon a determination by the department that the requested  
19 alternative remediation standard satisfies the department's regulations,  
20 is protective of public health and safety, as established in subsection  
21 d. of this section, and is protective of the environment pursuant to  
22 subsection a. of this section, the alternative residential use or  
23 nonresidential use soil remediation standard shall be approved by the  
24 department. The burden to demonstrate that the requested alternative  
25 remediation standard is protective rests with the person requesting the  
26 alternative standard and the department may require the submission of  
27 any documentation as the department determines to be necessary in  
28 order for the person to meet that burden.

29 (2) The department may, upon its own initiative, require an  
30 alternative remediation standard for a particular contaminant for a  
31 specific real property site, in lieu of using the established minimum  
32 residential use or nonresidential use soil remediation standard adopted  
33 by the department for a particular contaminant pursuant to this  
34 section. The department may require an alternative remediation  
35 standard pursuant to this paragraph upon a determination by the  
36 department, based on the weight of the scientific evidence, that due to  
37 specific physical site characteristics of the subject real property,  
38 including, but not limited to, its proximity to surface water, the use of  
39 the adopted residential use or nonresidential use soil remediation  
40 standards would not be protective , or would be unnecessarily  
41 overprotective, of public health or safety or of the environment, as  
42 appropriate.

43 g. The development, selection, and implementation of any  
44 remediation standard or remedial action shall ensure that it is  
45 protective of public health, safety, and the environment, as applicable,  
46 as provided in this section. In determining the appropriate remediation

1 standard or remedial action that shall occur at a site, the department  
2 and any person performing the remediation, shall base the decision on  
3 the following factors:

4 (1) Unrestricted use remedial actions, limited restricted use  
5 remedial actions and restricted use remedial actions shall be allowed  
6 except that unrestricted use remedial actions and limited restricted use  
7 remedial actions shall be preferred over restricted use remedial actions.  
8 The department, however, may not disapprove the use of a restricted  
9 use remedial action or a limited restricted use remedial action so long  
10 as the selected remedial action meets the health risk standard  
11 established in subsection d. of this section, and where, as applicable,  
12 is protective of the environment. The choice of the remedial action to  
13 be implemented shall be made by the person performing the  
14 remediation in accordance with regulations adopted by the department  
15 and that choice of the remedial action shall be approved by the  
16 department if all the criteria for remedial action selection enumerated  
17 in this section , as applicable, are met. The department may not  
18 require a person to compare or investigate any alternative remedial  
19 action as part of its review of the selected remedial action;

20 (2) Contamination may, upon the department's approval, be left  
21 onsite at levels or concentrations that exceed the minimum soil  
22 remediation standards for residential use if the implementation of  
23 institutional or engineering controls at that site will result in the  
24 protection of public health, safety and the environment at the health  
25 risk standard established in subsection d. of this section and if the  
26 requirements established in subsections a., b., c. and d. of section 36  
27 of P.L.1993, c.139 (C.58:10B-13) are met;

28 (3) Real property on which there is soil that has not been  
29 remediated to the residential soil remediation standards, or real  
30 property on which the soil, groundwater, or surface water has been  
31 remediated to meet the required health risk standard by the use of  
32 engineering or institutional controls, may be developed or used for  
33 residential purposes, or for any other similar purpose, if (a) all areas  
34 of that real property at which a person may come into contact with soil  
35 are remediated to meet the residential soil remediation standards and  
36 (b) it is clearly demonstrated that for all areas of the real property,  
37 other than those described in subparagraph (a) above, engineering and  
38 institutional controls can be implemented and maintained on the real  
39 property sufficient to meet the health risk standard as established in  
40 subsection d. of this section;

41 (4) Remediation shall not be required beyond the regional natural  
42 background levels for any particular contaminant. The department  
43 shall develop regulations that set forth a process to identify  
44 background levels of contaminants for a particular region. For the  
45 purpose of this paragraph "regional natural background levels" means  
46 the concentration of a contaminant consistently present in the

1 environment of the region of the site and which has not been  
2 influenced by localized human activities;

3 (5) Remediation shall not be required of the owner or operator of  
4 real property for contamination coming onto the site from another  
5 property owned and operated by another person, unless the owner or  
6 operator is the person who is liable for cleanup and removal costs  
7 pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

8 (6) Groundwater that is contaminated shall not be required to be  
9 remediated to a level or concentration for any particular contaminant  
10 lower than the level or concentration that is migrating onto the  
11 property from another property owned and operated by another  
12 person;

13 (7) The technical performance, effectiveness and reliability of the  
14 proposed remedial action in attaining and maintaining compliance with  
15 applicable remediation standards and required health risk standards  
16 shall be considered. In reviewing a proposed remedial action, the  
17 department shall also consider the ability of the owner or operator to  
18 implement the proposed remedial action within a reasonable time  
19 frame without jeopardizing public health, safety or the environment;

20 (8) The use of a remedial action for soil contamination that is  
21 determined by the department to be effective in its guidance document  
22 created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is  
23 presumed to be an appropriate remedial action if it is to be  
24 implemented on a site in the manner described by the department in the  
25 guidance document and applicable regulations and if all of the  
26 conditions for remedy selection provided for in this section are met.  
27 The burden to prove compliance with the criteria in the guidance  
28 document is with the person performing the remediation;

29 (9) (Deleted by amendment, P.L.1997, c.278).

30 The burden to demonstrate that a remedial action is protective of  
31 public health, safety and the environment, as applicable, and has been  
32 selected in conformance with the provisions of this subsection is with  
33 the person proposing the remedial action.

34 The department may require the person performing the remediation  
35 to supply the information required pursuant to this subsection as is  
36 necessary for the department to make a determination.

37 h. (1) The department shall adopt regulations which establish a  
38 procedure for a person to demonstrate that a particular parcel of land  
39 contains large quantities of historical fill material. Upon a  
40 determination by the department that large quantities of historic fill  
41 material exist on that parcel of land, there is a rebuttable presumption  
42 that the department shall not require any person to remove or treat the  
43 fill material in order to comply with applicable health risk or  
44 environmental standards. In these areas the department shall establish  
45 by regulation the requirement for engineering or institutional controls  
46 that are designed to prevent exposure of these contaminants to

1 humans, that allow for the continued use of the property, that are less  
2 costly than removal or treatment, which maintain the health risk  
3 standards as established in subsection d. of this section, and, as  
4 applicable, are protective of the environment. The department may  
5 rebut the presumption only upon a finding by the preponderance of the  
6 evidence that the use of engineering or institutional controls would not  
7 be effective in protecting public health, safety, and the environment.  
8 The department may not adopt any rule or regulation that has the  
9 effect of shifting the burden of rebutting the presumption. For the  
10 purposes of this paragraph "historic fill material" means generally large  
11 volumes of non-indigenous material, no matter what date they were  
12 emplaced on the site, used to raise the topographic elevation of a site,  
13 which were contaminated prior to emplacement and are in no way  
14 connected with the operations at the location of emplacement and  
15 which include, but are not limited to, construction debris, dredge  
16 spoils, incinerator residue, demolition debris, fly ash, and  
17 non-hazardous solid waste. Historic fill material shall not include any  
18 material which is substantially chromate chemical production waste or  
19 any other chemical production waste or waste from processing of  
20 metal or mineral ores, residues, slags or tailings.

21 (2) The department shall develop recommendations for remedial  
22 actions in large areas of historic industrial contamination. These  
23 recommendations shall be designed to meet the health risk standards  
24 established in subsection d. of this section, and to be protective of the  
25 environment and shall take into account the industrial history of these  
26 sites, the extent of the contamination that may exist, the costs of  
27 remedial actions, the economic impacts of these policies, and the  
28 anticipated uses of these properties. The department shall issue a  
29 report to the Senate Environment Committee and to the Assembly  
30 Agriculture and Waste Management Committee, or their successors,  
31 explaining these recommendations and making any recommendations  
32 for legislative or regulatory action.

33 (3) The department may not, as a condition of allowing the use of  
34 a nonresidential use soil remediation standard, or the use of  
35 institutional or engineering controls, require the owner of that real  
36 property, except as provided in section 36 of P.L.1993, c.139  
37 (C.58:10B-13), to restrict the use of that property through the filing  
38 of a deed easement, covenant, or condition.

39 i. The department may not require a remedial action workplan to  
40 be prepared or implemented or engineering or institutional controls to  
41 be imposed upon any real property unless sampling performed at that  
42 real property demonstrates the existence of contamination above the  
43 applicable remediation standards.

44 j. Upon the approval by the department of a remedial action  
45 workplan, or similar plan that describes the extent of contamination at  
46 a site and the remedial action to be implemented to address that



1 contamination, the department may not subsequently require a change  
2 to that workplan or similar plan in order to compel a different  
3 remediation standard due to the fact that the established remediation  
4 standards have changed; however, the department may compel a  
5 different remediation standard if the difference between the new  
6 remediation standard and the remediation standard approved in the  
7 workplan or other plan differs by an order of magnitude. The  
8 limitation to the department's authority to change a workplan or  
9 similar plan pursuant to this subsection shall only apply if the workplan  
10 or similar plan is being implemented in a reasonable timeframe, as may  
11 be indicated in the approved remedial action workplan or similar plan.

12 k. Notwithstanding any other provisions of this section, all  
13 remediation standards and remedial actions that involve real property  
14 located in the Pinelands area shall be consistent with the provisions of  
15 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
16 any rules and regulations promulgated pursuant thereto, and with  
17 section 502 of the "National Parks and Recreation Act of 1978," 16  
18 U.S.C. s.471i; and all remediation standards and remedial actions that  
19 involve real property located in the Highlands preservation area shall  
20 be consistent with the provisions of the "Highlands Water Protection  
21 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
22 this bill), and any rules and regulations and the Highland regional  
23 master plan adopted pursuant thereto.

24 l. Upon the adoption of a remediation standard for a particular  
25 contaminant in soil, groundwater, or surface water pursuant to this  
26 section, the department may amend that remediation standard only  
27 upon a finding that a new standard is necessary to maintain the health  
28 risk standards established in subsection d. of section 35 of P.L.1993,  
29 c.139 (C.58:10B-12) or to protect the environment, as applicable. The  
30 department may not amend a public health based soil remediation  
31 standard to a level that would result in a health risk standard more  
32 protective than that provided for in subsection d. of section 35 of  
33 P.L.1993, c.139 (C.58:10B-12).

34 m. Nothing in P.L.1993, c.139 shall be construed to restrict or in  
35 any way diminish the public participation which is otherwise provided  
36 under the provisions of the "Spill Compensation and Control Act,"  
37 P.L.1976, c.141 (C.58:10-23.11 et seq.).

38 n. Notwithstanding any provision of subsection a. of section 36 of  
39 P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may  
40 not require a person intending to implement a remedial action at an  
41 underground storage tank facility storing heating oil for on-site  
42 consumption at a one to four family residential dwelling to provide  
43 advance notice to a municipality prior to implementing that remedial  
44 action.

45 o. A person who has remediated a site pursuant to the provisions  
46 of this section, who was liable for the cleanup and removal costs of

1 that discharge pursuant to the provisions of paragraph (1) of  
2 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and  
3 who remains liable for the discharge on that site due to a possibility  
4 that a remediation standard may change, undiscovered contamination  
5 may be found, or because an engineering control was used to  
6 remediate the discharge, shall maintain with the department a current  
7 address at which that person may be contacted in the event additional  
8 remediation needs to be performed at the site. The requirement to  
9 maintain the current address shall be made part of the conditions of the  
10 no further action letter issued by the department.

11 (cf: P.L.1997, c.278, s.17)

12

13 80. Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read  
14 as follows:

15 1. a. There shall be appropriated each State fiscal year from the  
16 General Fund to each municipality within which any lands subject to  
17 the moratorium on the conveyance of watershed lands imposed  
18 pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of  
19 P.L.1990, c.19, or subject to the prohibition on the sale or conveyance  
20 of certain public water supply lands prescribed pursuant to section 27  
21 of P.L. , c. (C. ) (now before the Legislature as this bill), are  
22 located an amount of ~~[\$68.50]~~ \$35 per acre of such lands located  
23 within the municipality. Notwithstanding the provisions of this section  
24 to the contrary, the per acre amount of watershed moratorium or  
25 water supply protection offset aid prescribed by this section shall be  
26 adjusted annually in direct proportion to the increase or decrease in the  
27 Consumer Price Index for all urban consumers in the New York City  
28 area as reported by the United States Department of Labor. The  
29 adjustment shall become effective on July 1 of the year in which the  
30 adjustment is made.

31 b. Notwithstanding the provisions of subsection a. of this section  
32 to the contrary, payments shall no longer be made pursuant thereto on  
33 the basis of the location within a municipality of lands subject to the  
34 moratorium on the conveyance of watershed lands imposed pursuant  
35 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
36 c.19, if (1) those sections are repealed by law, or (2) the watershed  
37 land conveyance moratorium imposed pursuant to those sections is  
38 terminated by a final, unappealed order of a court of competent  
39 jurisdiction, whichever is sooner.

40 (cf: P.L.1999, c.225, s.1)

41

42 81. Section 3 of P.L.1999, c.225 is amended to read as follows:

43 3. This act shall take effect July 1, 1999 [and shall expire (1) on  
44 the repeal by law of section 1 of P.L.1988, c.163 and section 1 of  
45 P.L.1990, c.19, or (2) upon termination of the watershed land  
46 conveyance moratorium imposed pursuant to section 1 of P.L.1988,

1 c.163 and section 1 of P.L.1990, c.19, by a final, unappealed order of  
2 a court of competent jurisdiction, whichever is sooner].  
3 (cf: P.L.1999, c.225, s.3)

4  
5 82. This act shall take effect immediately.

6  
7  
8 STATEMENT

9  
10 I

11  
12 This bill would establish a comprehensive approach to the  
13 protection and preservation of the drinking water and natural  
14 resources of the New Jersey Highlands Region, which is the source of  
15 the drinking water of over half of the residents of New Jersey.

16 The approach set forth in this bill consists essentially of four major  
17 components. First, the bill defines the New Jersey Highlands Region  
18 and divides it into a preservation area, in which development would  
19 be strictly regulated, and a planning area. Secondly, the bill establishes  
20 the Highlands Water Protection and Planning Council, which would be  
21 charged with preparing and implementing a regional master plan for  
22 the Highlands Region, with which municipalities and counties in the  
23 preservation area would be required to conform their master plans.  
24 Thirdly, the bill would require, upon the date of enactment, that any  
25 major development in the preservation area receive from the  
26 Department of Environmental Protection (DEP) a Highlands  
27 Preservation Area approval, which would consist of the related aspects  
28 of existing environmental land use and water permits as well as  
29 additional, statutorily prescribed environmentally protective land use  
30 and water protection requirements. This system would be in effect for  
31 nine months. Lastly, the bill would require the DEP to adopt, within  
32 nine months, immediately effective rules and regulations establishing  
33 a permanent Highlands permitting review program, incorporating the  
34 provisions of the Highlands Preservation Area approval program, and  
35 setting strict standards for reviewing major development in the  
36 preservation area.

37 The bill also contains land owner equity provisions and a provision  
38 to provide State aid to offset decreases in property tax revenues in  
39 municipalities with land located in the preservation area, and  
40 authorizes the Highlands Water Protection and Planning Council to  
41 establish and implement a transfer of development rights program. In  
42 addition, this bill prohibits any State or local public entity or public  
43 utility from selling any water supply protection lands in the Highlands  
44 Region, with certain exceptions.

1

## II

2

3 The New Jersey Highlands Region consists of about 800,000 acres,  
4 or about 1,250 square miles, of forests and hills stretching from  
5 Ringwood in the northeast to Phillipsburg in the southwest, across  
6 portions of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex,  
7 and Warren counties and 90 municipalities, and offers unparalleled  
8 opportunities for hiking, bird watching, fishing, and other naturalist  
9 and recreational activities.

10 The Highlands Region is the location of a majority of the State's  
11 reservoirs, and its surface and ground water resources together  
12 provide drinking water for over half of the residents in New Jersey,  
13 many of whom do not live in the Highlands. The Highlands Region,  
14 because of its proximity to rapidly expanding suburban areas, is at  
15 serious risk of being fragmented and consumed by hop-scotch  
16 suburban development, with more than 3,000 acres per year being lost  
17 to development. The existing land use and environmental regulation  
18 system has shown itself to be unable to protect the water and natural  
19 resources of the Highlands Region against the environmental impacts  
20 of sprawl development. The comprehensive approach set forth in this  
21 bill would set the stage for the long-term protection of the potable  
22 water supplies of the Highlands Region.

23

24

## III

25

26 For the purposes of this bill the Highlands Region is defined as all  
27 the area within the 90 municipalities in Bergen, Hunterdon, Morris,  
28 Passaic, Somerset, Sussex, and Warren counties enumerated in section  
29 7 of the bill. The preservation area of the Highlands Region, in which  
30 municipalities would be required to conform their master plans and  
31 development ordinances with the regional master plan developed by  
32 the Highlands Water Protection and Planning Council and in which the  
33 strict DEP permitting requirements would apply, will be delineated  
34 based upon natural resource data assembled by the United States  
35 Forest Service, Rutgers, The State University, and the New Jersey  
36 Water Supply Authority. That area will be translated to on-the-  
37 ground, and easily identified reference points, such as road  
38 descriptions, survey lines, and municipal boundaries, by May 1, 2004,  
39 or as soon thereafter as may be possible. This legislation will be  
40 amended before it is enacted into law to incorporate this narrative  
41 description of the preservation area as part of the Highlands Water  
42 Protection and Planning Act.

43 The planning area of the Highlands Region, in which municipal  
44 conformance with the council's regional master plan is optional, and  
45 in which the strict DEP permitting requirements would not apply,

1 would consist of all that area of the Highlands Region not within the  
2 preservation area.

3

4

#### IV

5

6 The first tier of water and natural resource protection for the  
7 Highlands Region established in this bill consists of a planning and  
8 preservation strategy developed and implemented at the local and  
9 regional level. In this light, the bill would establish the Highlands  
10 Water Protection and Planning Council, a 15-member body appointed  
11 by the Governor, with the advice and consent of the Senate, and  
12 charged with preparing and implementing a regional master plan for  
13 the Highlands Region. The membership of the council would consist  
14 of eight residents of the counties of Bergen, Hunterdon, Morris,  
15 Passaic, Somerset, Sussex, or Warren, five of whom would be elected  
16 municipal officials and three of whom would be elected county  
17 officials. Of these eight people, there would be at least one resident  
18 from each of the counties. The other seven members of the council  
19 would consist of seven residents of the State. Members of the council  
20 would serve for terms of five years, and without compensation. The  
21 Governor would appoint the chairperson of the council, and the  
22 council would appoint an executive director. This bill allows the  
23 Governor to veto any action taken by the council.

24 The Highlands Water Protection and Planning Council would be  
25 required to adopt a regional master plan for the Highlands Region  
26 within 18 months of the council's first meeting. The goals of the  
27 regional master plan with respect to the preservation area would be to:  
28 protect, restore, and enhance the quality and quantity of surface and  
29 ground waters; preserve extensive and contiguous areas of land in  
30 their natural state, protect the contiguous forests, wetlands, vegetated  
31 stream corridors, steep slopes, and critical habitats; preserve farmland  
32 and historic resources; promote compatible agricultural, horticultural,  
33 recreational, and cultural land uses; and prohibit or limit to the  
34 maximum extent possible construction or development which is  
35 incompatible with the preservation of the Highlands.

36 With respect to the planning area the goals of the regional master  
37 plan would be to: protect surface and ground waters; preserve to the  
38 maximum extent possible any environmentally sensitive lands; protect  
39 the essential character of the Highlands environment; preserve  
40 farmland and historic resources; and encourage appropriate  
41 development, redevelopment, and economic growth consistent with  
42 the State Development and Redevelopment Plan and smart growth  
43 strategies and principles.

44 The regional master plan would consist of several components.  
45 Among these would be: a resource assessment which determines the  
46 amount and type of human development and activity which the

1 ecosystem of the Highlands Region can sustain; a land use capability  
2 map for the preservation area based on the standards adopted by the  
3 DEP for the review of development in the preservation area; a  
4 preservation zone element identifying areas in the preservation area  
5 in which development would be prohibited; an element detailing  
6 minimum standards for municipal and county master plans and  
7 development regulations in the preservation area; an assessment which  
8 determines the amount and type of human development and activity  
9 which the ecosystem of the Highlands Region can sustain while still  
10 maintaining the overall ecological values thereof; an assessment of  
11 scenic, aesthetic, cultural, historic, open space, farm land, and outdoor  
12 recreation resources of the region; an assessment of opportunities for  
13 appropriate economic growth, development, and redevelopment; a  
14 financial component detailing the cost of implementing the regional  
15 master plan, including payments in lieu-of-taxes, and acquisition of  
16 lands for preservation or recreation and conservation purposes; a  
17 component to provide for local government and public input into the  
18 council's operations; and a coordination and consistency component  
19 which details the ways in which local, State, and federal programs and  
20 policies may best be coordinated to promote the goals and policies of  
21 the regional master plan.

22 Within six months after the Highlands Water Protection and  
23 Planning Council adopts the regional master plan, the governing body  
24 of each municipality and county located wholly or partially in the  
25 preservation area would be required to revise its master plan and  
26 development regulations to conform them with the requirements of the  
27 regional plan and to submit the revisions to the council. The council  
28 would be authorized to approve or disapprove the revisions and to  
29 require additional changes. If such a municipality or county in the  
30 preservation area does not conform its master plan and development  
31 regulations to the regional master plan, the council would be  
32 authorized to enforce the provisions of the regional master plan and to  
33 essentially enforce the "Municipal Land Use Law" in the municipality  
34 or county and issue stop construction orders. In addition, the council  
35 would have call up review authority over any local application for  
36 development in a municipality or county in the preservation area. Any  
37 municipality or county in the planning area may elect to conform its  
38 master plan and development regulations to the appropriate provisions  
39 of the regional master plan.

40 In addition to the adoption of the regional master plan, the  
41 Highlands Water Protection and Planning Council would be required  
42 to develop and implement a transfer of development rights program.  
43 This bill authorizes the council to use the existing State Transfer of  
44 Developments Rights Bank or to establish a bank specifically for the  
45 Highlands Region. The council would also be authorized to review  
46 significant capital projects of the State or local governments in the

1 preservation area.

2 This bill also establishes a mechanism under which any municipality  
3 in the preservation area would be entitled to State aid to compensate  
4 for any decrease in the aggregate amount of property tax revenues  
5 derived from the taxation of real property in that portion of the  
6 municipality located in the preservation area that is directly  
7 attributable to the implementation of the provisions of this bill. The  
8 council would annually calculate the amount to which each  
9 municipality is entitled, and would certify and transmit these amounts  
10 to the State Treasurer and to the Director of the Division of Local  
11 Government Services in the Department of Community Affairs. The  
12 State Treasurer would then include within the State Treasurer's annual  
13 budget request for State aid the amounts certified by the council.

14 This bill would also direct the Attorney General to provide, when  
15 certain requirements have been met, legal representation to any  
16 requesting local government unit located in the Highlands Region in  
17 any cause of action filed against the local government unit and  
18 contesting an act or decision of the local government unit taken or  
19 made under authority granted pursuant to any provision of this bill or  
20 to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
21 seq.), R.S.40:27-1 et seq., or the "State Uniform Construction Code  
22 Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

23

24

V

25

26 The second tier of water and natural resource protection for the  
27 preservation area of the Highlands Region established in this bill  
28 consists of the imposition of environmentally protective standards for  
29 the review and permitting of major development by the DEP. Most  
30 development of any significant impact currently requires one or more  
31 State level water and land use permits issued by the DEP under the  
32 authority of a wide umbrella of environmental laws and their  
33 accompanying rules and regulations. This bill would increase the  
34 standards imposed for the issuance of, and would coordinate and  
35 consolidate the review of, these permits for development in the  
36 preservation area of the Highlands Region. These more stringent  
37 standards would also be incorporated into the land use capability  
38 component of the regional master plan adopted by the Highlands  
39 Water Protection and Planning Council, which would in turn be  
40 reflected in the revised municipal and county master plans and  
41 development regulations. Thus, in terms of the overall structure of  
42 this bill, these standards (the authorization for which is set forth in  
43 sections 31 to 35 of this bill) form a tie between the State and regional  
44 preservation approaches in this bill.

45 This bill essentially directs the DEP to develop and enforce two  
46 chronologically sequential environmental permitting programs and

1 standards in the preservation area of the Highlands. Both permitting  
2 programs and standards would apply to permits for major  
3 development. As used in this bill, "major development" means any  
4 non-residential development, any residential development disturbing  
5 one acre or more of land or increasing impervious surface by a quarter  
6 acre or more, and any residential development that does not meet  
7 these requirements but which does require an environmental land use  
8 or water permit. This bill defines an environmental land use or water  
9 permit to include a permit, approval, or other authorization issued  
10 pursuant to the "Freshwater Wetlands Protection Act," the "Water  
11 Supply Management Act," the "Water Pollution Control Act," "The  
12 Realty Improvement Sewerage and Facilities Act (1954)," the "Water  
13 Quality Planning Act," the "Safe Drinking Water Act," or the "Flood  
14 Hazard Area Control Act;" or an approval for an individual subsurface  
15 sewage disposal system from a delegated local health agency pursuant  
16 to the "County Environmental Health Act."

17 The first DEP permitting program would take effect upon  
18 enactment of the bill. Thereafter, any person proposing a major  
19 development in the preservation area would be required to receive a  
20 Highlands Preservation Area approval. This new approval would  
21 consist of the appropriate aspects of the regulatory requirements of  
22 existing environmental land use and water permits, as well as  
23 additional statutorily established standards in the bill that are self  
24 executing, which is to say that no rules and regulations would be  
25 required to implement them. These new requirements would require:  
26 that a 300-foot buffer, in which major development would be  
27 prohibited, be established adjacent to all Highlands open waters (which  
28 includes streams, wetlands, and other bodies of surface water); that the  
29 quality of all Highlands open waters be maintained and not degraded;  
30 that the review of a water diversion permit be triggered by a more than  
31 50,000 gallon per day diversion (the current threshold for the rest of  
32 the State is more than 100,000 gallons); that a zero net fill requirement  
33 be met for flood hazard areas; that the antidegradation and other  
34 provisions applicable to category one waters be applied to Highlands  
35 open waters; that impervious surface of more than three percent of the  
36 land area of a site would be prohibited on existing lots; that  
37 development, excluding linear development, would be prohibited on  
38 steep slopes with a grade of 20% or greater; and that upland forest  
39 areas would not be disturbed, with certain exceptions. The Highlands  
40 Preservation Area approval program would be in effect for the first  
41 nine months following enactment of the bill.

42 The second and permanent DEP permitting program for the  
43 preservation area, the Highlands permitting review program, would be  
44 adopted as immediately effective rules and regulations within nine  
45 months after enactment of the bill. These rules and regulations would  
46 be adopted without following the usual notice and comment provisions



1 of the "Administrative Procedure Act," would be in effect for not more  
2 than one year, and would thereafter be adopted pursuant to the normal  
3 notice and comment provisions of the "Administrative Procedure Act."  
4 These rules and regulations would establish a Highlands permitting  
5 review program, the structure and requirements for which would  
6 essentially track the requirements for the statutorily established  
7 Highlands Preservation Area approval. The bill provides, however, for  
8 special treatment by the Highlands permitting program of certain single  
9 family dwellings and for hardship waivers for certain single family  
10 dwellings. In addition, this bill would exempt from the requirement to  
11 obtain a Highlands permitting review any major development for which  
12 all DEP environmental land use and water permits and local permits  
13 and approvals have been obtained. This bill would authorize the DEP  
14 to issue general permits under the Highlands permitting review  
15 program, and authorizes the DEP to charge an application fee. This  
16 bill also sets forth detailed and environmentally protective guidelines  
17 that DEP must follow when reviewing and issuing a Highlands  
18 permitting review approval. This bill also includes a penalty section  
19 which allows the DEP to impose civil administrative penalties for  
20 certain violations of the bill or DEP's rules and regulations adopted  
21 pursuant thereto. A person who violates certain provisions of the bill  
22 or the DEP's rules and regulations adopted pursuant thereto could also  
23 be subject to civil and criminal penalties.

24

25

## VI

26

27 This bill also contains provisions providing protection for the equity  
28 in land of landowners or farmers who decide to sell their property, or  
29 in the case of farmers a development easement, to the State, the State  
30 Agriculture Development Committee in the case of farmland, or a local  
31 government unit or a non-profit organization. In such cases this bill  
32 provides for a special appraisal process to account for any decrease  
33 in the value of the property which may have been caused by the  
34 regulatory requirements imposed by the bill. This appraisal system is  
35 modeled after that already provided for in law for the Green Acres and  
36 farmland preservation programs. Only landowners who have owned  
37 the subject land continuously from the date of enactment of this bill  
38 until the date of the proposed acquisition, with certain exceptions,  
39 would be eligible for the special appraisal system. In addition, any  
40 landowner would be required to choose between the appraisal system  
41 established in this bill or the two other existing appraisal systems  
42 currently in law.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2635**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 17, 2004

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 2635 with committee amendments.

As amended, this bill, to be known as the "Highlands Water Protection and Planning Act," would establish a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region, which is the source of the drinking water of more than half of the residents of New Jersey and offers unique hiking, bird watching, fishing, and other naturalist and recreational activities.

The approach set forth in the bill, as amended, consists essentially of four major parts. First, the bill defines the New Jersey Highlands Region and divides it into a preservation area, in which development would be strictly regulated, and a planning area, in which development would be monitored but not as strictly controlled. Secondly, the bill establishes the Highlands Water Protection and Planning Council, which would be charged with preparing and implementing a regional master plan for the Highlands Region, with which municipalities and counties in the preservation area would be required to conform their master plans. Thirdly, the bill would require, upon the date of enactment, that most major Highlands development in the preservation area receive from the Department of Environmental Protection (DEP) a Highlands Preservation Area approval, which would consist of the related aspects of existing environmental land use and water permits as well as additional, statutorily prescribed environmentally protective land use and water protection requirements. This system would be in effect for nine months. Lastly, the bill would require the DEP to adopt, within nine months, immediately effective rules and regulations establishing a permanent Highlands permitting review program, incorporating the provisions of the Highlands Preservation Area approval program, and setting strict standards for reviewing major Highlands development in the preservation area.

The bill, as amended, exempts some activities and types of

development in the preservation area from complying with the provisions of the regional master plan, the Highlands Preservation Area approval, and the permanent Highlands permitting review program. The bill, as amended, also contains land owner equity provisions and a provision to provide State aid to offset decreases in property tax revenues in municipalities with land located in the preservation area, makes changes to statutorily provided watershed aid, establishes a "Highlands Protection Fund," and requires the Highlands Water Protection and Planning Council to establish and implement a transfer of development rights program.

## I

The New Jersey Highlands Region consists of about 800,000 acres, or about 1,250 square miles, stretching from Ringwood in the northeast to Phillipsburg in the southwest, across portions of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren counties. Under the bill as amended, the Highlands Region is defined as all of the area within the 88 municipalities in Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren counties enumerated in section 7 of the bill. The bill, as amended, would exclude Andover Borough, Andover Township, and Lafayette from the Highlands Region, and would include Bedminster.

The preservation area of the Highlands Region, in which municipalities would be required to conform their master plans and development ordinances with the regional master plan developed by the Highlands Water Protection and Planning Council and in which the strict DEP permitting requirements would apply, is delineated in the bill, as amended, based upon natural resource data assembled by the United States Forest Service, Rutgers, The State University, and the New Jersey Water Supply Authority. The bill, as amended, contains a narrative description of the preservation area, translated into on-the-ground, identifiable reference points, such as road descriptions, survey lines, and municipal boundaries. The bill, as amended, provides that the planning area of the Highlands Region, in which municipal conformance with the council's regional master plan is optional, and in which the strict DEP permitting requirements would not apply, would consist of all that area of the Highlands Region not within the preservation area. The bill, as amended, would not include town and regional centers designated pursuant to the State Plan in the preservation area.

Under the bill, as amended, any road, railroad, or railroad right of way that constitutes part of the preservation area boundary would be considered outside the preservation area, and any stream, river or brook that constitutes part of the preservation area boundary would be considered to lie within the preservation area.

In addition to the formal designation of the preservation area in the

bill, municipalities, in whole or in part in the planning area, are authorized under the bill, as amended, to opt into the regional master plan by choosing to conform their master plans and other development regulations with the regional master plan to be adopted by the Highlands Water Protection and Planning Council.

## II

The bill, as amended, would establish the Highlands Water Protection and Planning Council, a 15-member body appointed by the Governor, with the advice and consent of the Senate, and charged with preparing and implementing a regional master plan for the Highlands Region. Members of the council would serve for terms of five years, and without compensation. The Governor would appoint the chairperson of the council, and the council would appoint an executive director. The bill, as amended, provides that no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council, and allows the Governor to veto any action taken by the council.

The bill, as amended, further specifies the following concerning the members of the council:

- 1) No more than four of the eight elected officials appointed to the council would be from the same political party;
- 2) The five municipal officials would be required to be Highlands Region residents;
- 3) Two of the eight county residents appointed by the Governor to the council would be residents of the county with the largest population in the Highlands Region;
- 4) Two of the seven residents of the State appointed by the Governor to the council would be recommended by the Legislature - one by the Senate President and one by the Speaker of the General Assembly;
- 5) Members of the council, to the maximum extent practicable, would have expertise, knowledge or experience in water quality protection, natural resources protection, environmental protection, agriculture, land use, or economic development; and
- 6) At least four of the members of the council would be property owners, business owners, or farmers in the Highlands Region or residents or nonresidents of the Highlands Region who benefit from or consume water from the Highlands Region.

\* \* \*

In addition to and among the extensive powers of the council enumerated in section 6 of the bill as it was introduced, the committee amended the bill to empower the council to:

- 1) develop model land use ordinances and other regulations for

water conservation, and promote, in conjunction with the DEP and the Department of Agriculture, water conservation of water resources both in the Highlands Region and in areas outside of the Highlands Region for which the Highlands is a source of drinking water;

2) establish and implement a road signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region;

3) promote brownfield remediation and redevelopment in the Highlands Region; and

4) work with the State Agriculture Development Committee and the Garden State Preservation Trust to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface or agricultural impervious cover on the farm to a maximum of 5% of the total land area of the farm.

\* \* \*

Under section 8 of the bill, as amended, the Highlands Water Protection and Planning Council would be required to adopt a regional master plan within 18 months after the council's first meeting. The council may not adopt the regional master plan unless the regional master plan includes at least one recommended receiving zone for each municipality in the planning area pursuant to the transfer of development rights program authorized under the bill, as amended, or, for any municipality that does not have a receiving zone, an analysis of the reasons why the council determined that the municipality has no receiving zone capacity.

The regional master plan would also be required to recognize and not compromise the provisions of the "Right to Farm Act" and the protections to farmers it affords. In the preservation area, the regional master plan would also limit redevelopment to DEP designated brownfield sites and sites that are at least 70% covered with impervious surface. Within the 60 days after the council adopts the regional master plan, the council would submit the plan to the State Planning Commission for review and endorsement, and the commission's review would be limited to the parts of the regional master plan concerning the planning area. Any municipality or county or portion thereof located within the preservation area would be exempted from the State Development and Redevelopment Plan endorsement process. The bill, as amended, also directs the Department of Community Affairs, in consultation with the DEP, to provide guidelines and instructions to all local government units wholly or partially in the preservation area with respect to the processing, review and enforcement of applications for development after the date of enactment and before the adoption of the regional master plan.

\* \* \*

The bill, as amended, provides that the goals of the regional master plan in both the preservation area and planning area would be to protect, restore, and enhance the quality and quantity of surface and ground waters; preserve extensive and contiguous areas of land in their natural state; protect the contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitats; preserve farmland and historic resources; preserve recreational opportunities on publicly owned land; promote conservation of water resources; promote brownfield remediation and redevelopment; and promote compatible agricultural, horticultural, recreational, and cultural land uses. In the preservation area, the regional master plan would have the additional goal to prohibit or limit to the maximum extent possible construction or development which is incompatible with the preservation of the Highlands. In the planning area, the additional goals of the regional master plan would be to encourage appropriate development, redevelopment, and economic growth consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, and to promote a sound, balanced transportation system that is consistent with smart growth and preserves mobility in the Highlands Region.

The bill, as amended, provides under section 11 that the regional master plan would consist of several components. Among these would be:

- 1) a resource assessment - binding in the preservation area and for advisory purposes only in the planning area - that determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain;
- 2) an assessment of opportunities for appropriate economic growth, development, and redevelopment;
- 3) a financial component detailing the cost of implementing the regional master plan, including property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for any development transfer bank, payments in lieu-of-taxes, and acquisition of lands for preservation or recreation and conservation purposes;
- 4) a component to provide for local government and public input into the council's operations;
- 5) a coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals and policies of the regional master plan;
- 6) a transportation component that provides a plan for transportation system preservation, includes all federally mandated projects or programs, and recognizes smart growth strategies and principles; and

7) a smart growth component that would provide for, among other components described in the bill as amended, redevelopment, transfer of development rights, a land use capacity map, and model minimum standards for municipal and county master planning and development regulations outside the preservation area.

\* \* \*

Under the bill, as amended, within nine to 15 months after the Highlands Water Protection and Planning Council adopts the regional master plan, the governing body of each municipality and county located wholly or partially in the preservation area would be required to revise its master plan and development regulations to conform them with the requirements of the regional master plan and to submit the revisions to the council. The cost of making these revisions would be reimbursable by the council. The council would be authorized to approve or disapprove the revisions and to require additional changes. If such a municipality or county in the preservation area does not conform its master plan and development regulations to the regional master plan, the council would be authorized to enforce the provisions of the regional master plan and to essentially enforce the "Municipal Land Use Law" in the municipality or county and issue stop construction orders. In addition, the council would have call up review authority over any local application for development in a municipality or county in the preservation area. Any municipality or county in the planning area may elect to conform its master plan and development regulations to the appropriate provisions of the regional master plan. Finally, the council would also be authorized to review significant capital projects of the State or local governments in the preservation area. The council would be required to process any reviews of State, county, or municipal capital projects and other projects that are not exempt from council review within 30 days after their submission.

\* \* \*

The bill, as amended, contains a number of specific provisions concerning the transfer of development rights program for which the council must recommend growth receiving zones in the regional master plan before the regional master plan can be adopted. The bill, as amended, authorizes the council to use the existing State Transfer of Developments Rights Bank or to establish a bank specifically for the Highlands Region. Otherwise, as provided under the bill as amended, the authorized transfer of development rights program would be consistent with the recently enacted "State Transfer of Development Rights Act," P.L.2004, c.2 (C.40:55D-137 et seq.), except for the following provisions:

- 1) The council would perform the real estate analysis for the

Highlands Region that is required to be performed by a municipality prior to the adoption or amendment of any development transfer ordinance under the "State Transfer of Development Rights Act;"

2) No later than 18 months after the bill is enacted, and from time to time thereafter as the council determines is appropriate, the council, in consultation with municipal, county and State entities, would be required to:

a) identify areas within the preservation area that are appropriate as sending zones pursuant to the "State Transfer of Development Rights Act,"

b) identify areas within the planning area that are appropriate for development as voluntary receiving zones pursuant to the "State Transfer of Development Rights Act"; and

c) set a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area;

3) The first time the council prepares a regional master plan and initially establishes the transfer of development rights program, the council should consider any supporting information for the regional master plan but would not be required to wait to create the transfer of development rights program until the first regional master plan has been prepared;

4) The council would be required to work with municipalities and the State Planning Commission to identify centers designated by the State Planning Commission as voluntary receiving zones for the transfer of development rights program;

5) In consultation with municipal, county and State entities, the council would be required to:

a) assist municipalities or counties in analyzing voluntary receiving zone capacity;

b) work with municipalities outside the preservation area to assist these municipalities in developing ordinances necessary to implement the transfer of development rights; and

c) establish advisory or model ordinances and other information for this purpose;

6) The council would establish the initial value of a development right considering the DEP rules and regulations in effect the day before the date of enactment. In addition, the council would give priority consideration for inclusion in a transfer of development rights program any lands that comprise a major Highlands development that would have qualified for an exemption under the grandfather provision but for the lack of a necessary State permit as specified in that exemption provision, and for which an application for such a permit had been submitted to and deemed by the DEP to be complete for review on or before March 29, 2004;



7) The council would make assistance available to municipalities that desire to create additional sending zones on any lands within their boundaries which lie within the planning area and are designated for conservation in the regional master plan;

8) The Office of Green Acres and the State Agriculture Development Committee would be required to provide support and technical assistance to the council to operate the transfer of development rights program;

9) The Department of Banking and Insurance, the State Transfer of Developments Right Bank, the State Agriculture Development Committee, and the Pinelands Development Credit Bank would be required to provide technical assistance to the council in establishing and operating a development transfer bank, at the request of the council;

10) The Office of Smart Growth would be directed to review and coordinate State infrastructure capital investment, community development and financial assistance in the planning area in furtherance of the regional master plan;

11) Any municipality in the planning area whose municipal master plan and development regulations have been approved by the council to be in conformance with the regional master plan and that amends its development regulations to accommodate voluntary receiving zones within its boundaries identified by the council to provide for a minimum residential density of 5 dwelling units per acre, would be:

a) eligible for an enhanced planning grant of up to \$250,000 from the council;

b) eligible for a grant to reimburse the reasonable costs of amending the municipal development regulations;

c) authorized to impose impact fees, pursuant to an impact fee ordinance that would be adopted by the municipality, at a rate of up to \$15,000 per dwelling unit unless and until impact fees are otherwise established by law at which time the impact fee would be 200% of the calculated impact fee;

d) entitled to legal representation as provided elsewhere under the bill;

e) accorded priority status for any State capital improvement or infrastructure programs; and

f) eligible for any other appropriate assistance or incentives;

13) Any municipality located outside of the Highlands Region in any county that has a municipality in the Highlands Region that establishes a receiving zone that provides for a minimum residential density of five dwelling units per acre for the transfer of development rights from a sending zone in the Highlands Region, and that accepts that transfer of development rights shall, for those receiving zones, be eligible for the same grants, authority, priority status, and other assistance, incentives, and benefits as listed above, except such a municipality would not be eligible for legal representation; and

14) Any municipality authorized to impose impact fees would

exercise that authority by an impact fee ordinance in accordance with the provisions of the bill, as amended.

\* \* \*

The bill, as amended, also establishes a mechanism under which any municipality in the preservation area would be entitled to State aid to compensate for any decrease in the aggregate amount of property tax revenues derived from the taxation of real property in that portion of the municipality located in the preservation area that is directly attributable to the implementation of the provisions of the bill as amended. The "Highlands Municipal Property Tax Stabilization Board," established in the bill as amended, and the county tax board would annually calculate the amount to which each municipality is entitled, and would certify and transmit these amounts to the State Treasurer and to the Director of the Division of Local Government Services in the Department of Community Affairs. The State Treasurer would then pay to each qualified municipality its entitled amount in two equal installments.

The bill, as amended, would create a "Highlands Protection Fund," and dedicate \$20 million of the realty transfer fee revenue annually for 10 years, and \$5 million annually thereafter, for (1) payments to the "Highlands Municipal Property Tax Stabilization Fund"; (2) the payment of watershed moratorium offset aid pursuant to section 1 of P.L.1999, c.225 (C.58:29-8); and (3) the making of grants by the council pursuant to the bill.

Also, under the bill, as amended, when certain requirements provided under section 21 of the bill, as amended, have been met, the council would provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to any provision of the bill as amended, or to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., or the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

### III

The second level of water and natural resource protection for the preservation area of the Highlands Region established in the bill, as amended, consists of the imposition of environmentally protective standards for the review and permitting of major Highlands development by the DEP. Most development of any significant impact currently requires one or more State level water and land use permits issued by the DEP under the authority of a wide umbrella of environmental laws and their accompanying rules and regulations. The

bill, as amended, would increase the standards imposed for the issuance of, and would coordinate and consolidate the review of, these permits for development in the preservation area of the Highlands Region. These more stringent standards would also be incorporated into the land use capability component of the regional master plan adopted by the Highlands Water Protection and Planning Council. In turn, municipalities and counties in the preservation area would revise their respective master plans and development regulations to conform with the regional master plan, and thereby reflect the more stringent standards in their respective master plans and development regulations. In this way, the standards authorized by sections 31 through 35 of the bill, as amended, create a tie between the State and regional preservation approaches in the bill.

\* \* \*

The bill, as amended, essentially directs the DEP to develop and enforce two chronologically sequential environmental permitting programs and standards in the preservation area of the Highlands. Both permitting programs and standards would apply to permits for major Highlands development.

As used in the bill, as amended, "major Highlands development," except as otherwise exempted under section 29 of the bill, as amended, means: (1) any non-residential development in the preservation area; (2) any residential development in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity in the preservation area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. As amended, the definition of "major Highlands development" does not include an agricultural or horticultural development or agricultural or horticultural use in the preservation area. The bill, as amended, defines an environmental land use or water permit to include a permit, approval, or other authorization issued pursuant to the "Freshwater Wetlands Protection Act," the "Water Supply Management Act," the "Water Pollution Control Act," "The Realty Improvement Sewerage and Facilities Act (1954)," the "Water Quality Planning Act," the "Safe Drinking Water Act," or the "Flood Hazard Area Control Act."

The first DEP permitting program would take effect upon enactment of the bill, and would be in effect for the first nine months following enactment of the bill, after which the second DEP permitting

program would go into effect. While the first permitting program would be in effect, any person proposing a major Highlands development in the preservation area would be required to receive a Highlands Preservation Area approval. This new approval would consist of the appropriate aspects of the regulatory requirements of existing environmental land use and water permits, as well as the additional, self-executing, statutorily established standards established in the bill as amended. No rules or regulations would be required to implement these standards. These new requirements would require that:

1) a 300-foot buffer, in which major Highlands development would be prohibited, be established adjacent to all Highlands open waters (which includes streams, wetlands, and other bodies of surface water);

2) the quality of all Highlands open waters be maintained and not degraded;

3) the review of a water diversion permit be triggered by a diversion of more than 50,000 gallon per day (the current threshold for the rest of the State is more than 100,000 gallons);

4) any new or increased diversion for all nonpotable purposes that is more than 50% consumptive would be required to demonstrate an equivalent reduction in water demand within the same subdrainage area through means such as groundwater recharge of stormwater or reuse, the existing unused allocation or allocations used for all nonpotable purposes may be revoked where measures to the maximum extent practicable are not implemented to reduce demand, and all new or increased diversions would be required to implement water conservation measures to the maximum extent practicable;

5) a zero net fill requirement be met for flood hazard areas;

6) the antidegradation and other provisions applicable to category one waters be applied to Highlands open waters;

7) more than three percent of the land area of a site as impervious surface - defined as "any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements" - would be prohibited on existing lots;

8) development, excluding linear development, would be prohibited on steep slopes with a grade of 20% or greater; and

9) upland forest areas would not be disturbed, with certain exceptions.

The second and permanent DEP permitting program for the preservation area, the Highlands permitting review program, would be adopted as immediately effective rules and regulations within nine months after enactment of the bill as amended. These rules and regulations would be adopted without following the usual notice and comment provisions of the "Administrative Procedure Act," would be in effect for not more than one year, and would thereafter be adopted pursuant to the normal notice and comment provisions of the

"Administrative Procedure Act." These rules and regulations would establish a Highlands permitting review program, the structure and requirements for which would essentially track the requirements for the statutorily established Highlands Preservation Area approval, with the addition of a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses.

The bill, as amended, would authorize the DEP to issue general permits under the Highlands permitting review program, and would authorize the DEP to charge an application fee. The bill, as amended, also sets forth detailed and environmentally protective guidelines that DEP must follow when reviewing and issuing a Highlands permitting review approval. The bill, as amended, also includes a penalty section which allows the DEP to impose civil administrative penalties for certain violations of the bill or DEP rules and regulations adopted pursuant thereto. A person who violates certain provisions of the bill or the DEP rules and regulations adopted pursuant thereto could also be subject to civil and criminal penalties.

In addition, the bill, as amended, requires the DEP to limit or prohibit the construction of new public water systems or the extension of existing public water systems to serve development in the preservation area, except in the case of a demonstrated need to protect public health and safety, and except to serve development in the preservation area that is exempt under the provisions of the bill. The bill, as amended, would revoke designated sewer service areas within the preservation area for which wastewater collection systems have not been installed on the date of enactment, and any associated treatment works approvals in the impacted areas would expire on the date of enactment, except that any designated sewer service area would not be revoked and any associated treatment works approvals would not expire if necessary to serve development in the preservation area that is exempt under the provisions of the bill.

## V

There are a number of exemptions provided in section 29 of the bill, as amended. The exemptions provide that the requirements and other provisions of the bill after it is enacted into law, the regional master plan, any rules or regulations adopted by the DEP pursuant to the bill, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan, cannot be applied to the following:

- 1) the construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment;

- (2) the construction of a single family dwelling on a lot in existence

on the date of enactment, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase by one-quarter acre or more in impervious surface (defined as "any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements");

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

(a) one of the following "Municipal Land Use Law" approvals:

(i) preliminary or final site plan approval;

(ii) final municipal building or construction permit;

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

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

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

(b) at least one of the following permits from the DEP, if applicable to the proposed major Highlands development:

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

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

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

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

(c) one of the following permits from the DEP, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the DEP water permits listed in subparagraphs (i) through (iv) of subparagraph (b) above:

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

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

This exemption only applies to the land area and the scope of the major Highlands development addressed by the qualifying approvals provided, before those qualifying approvals expire, if construction beyond site preparation begins within three years after the date of enactment;

4) the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious

surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use;

5) any improvement to a single family dwelling in existence on the date of enactment of the bill as amended, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

6) any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of the bill, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

7) an activity conducted in accordance with an approved woodland management plan as provided by current law or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;

(8) the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;

(9) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of the bill and does not result in the construction of any new through-capacity travel lanes;

(10) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;

(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of the bill;

(12) the reactivation of rail lines and rail beds existing on the date of enactment;

(13) the construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;

(14) the mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on the date of enactment;

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

(16) any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region.

Although the bill, as amended, would provide these exemptions, it also provides that the exemptions to the provisions of the law established by the enactment of the bill and the exemptions from the various regulatory requirements created under the bill, as amended, do not exempt the activities and types of development listed above from other applicable State or local laws, rules, regulations, development regulations, or ordinances. Furthermore, the bill, as amended, provides that none of its provisions alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

The bill, as amended, also excludes "agricultural or horticultural development" and "agricultural or horticultural use" from the definition of major Highlands development and therefore those uses and activities would not be subject to the Highlands approval and permit review program established in the bill as amended. Instead, agricultural or horticultural development in the preservation area that would increase agricultural impervious cover would be subject to review by the local soil conservation district. If an agricultural or horticultural development would increase agricultural impervious cover (either individually or cumulatively) by three percent or more of the total land area of the farm management unit, the owner or operator would be required to submit a farm conservation plan to the local soil conservation district. If the agricultural or horticultural development would increase agricultural impervious cover by more than nine percent, a more detailed resource management systems plan would be required to be submitted to the local soil conservation district and to the DEP. The Department of Agriculture, in consultation with the DEP, would be required to adopt rules and regulations establishing scientific standards to guide the preparation and implementation of the farm conservation plans and resource management systems plans prepared by farmers pursuant to the bill, as amended.

## VI

The bill, as amended, also contains provisions providing protection for the equity in land of landowners or farmers who decide to sell their property, or in the case of farmers a development easement, to the State, the State Agriculture Development Committee in the case of farmland, or a local government unit or a non-profit organization. In such cases, the bill, as amended, would provide for a special appraisal process commencing on the date of enactment or July 1, 2004, whichever is later, and through June 30, 2009. This appraisal system is modeled after the system currently provided for in the law for the Green Acres and farmland preservation programs. As amended, the first appraisal would be based on the land use zoning of the lands, and any State environmental laws or DEP rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at



the time of proposed acquisition, and the second appraisal would be based on the land use zoning of the lands, and any State environmental laws or DEP rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. Only landowners who have owned the subject land continuously from the date of enactment of the bill until the date of the proposed acquisition, with certain exceptions, would be eligible for the special appraisal system. In addition, any landowner would be required to choose between the appraisal system established in this bill, as amended, or the two other existing statutory appraisal systems.

The bill, as amended, provides that the Highlands Water Protection and Planning Council would make recommendations to the DEP concerning prioritizing the acquisition of land in the preservation area for conservation purposes, especially lands that have declined substantially in value due to the implementation of the bill, and for any major Highlands development that would have qualified for an exemption under the grandfather provision but for the lack of a necessary State permit, and for which an application for such a permit had been submitted to the DEP and deemed to be complete for review on or before March 29, 2004. The council would make similar recommendations concerning farmland preservation to the State Agriculture Development Committee for lands that have declined substantially in value due to the implementation of the bill. However, the provisions of the bill, as amended, would not change the formulas or procedures currently used to prioritize properties for preservation under the Green Acres and farmland preservation programs. Current law requires the DEP to adopt guidelines for evaluation and priority ranking of land acquisition under the Green Acres program. Under the bill as amended, these guidelines would be required to be designed to provide, to the maximum extent practicable and feasible, for the equitable spending of moneys among the geographic areas of the State. In addition, the bill, as amended, requires that the amount of money spent by the State for State Green Acres acquisitions and State purchases of farmland and farmland easements in the fiscal years 2005-2009 in the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem would be at least as much as the average annual amount spent in those nine counties for State fiscal years 2000-2004.

Finally, the bill, as amended, contains a number of provisions amending current law to provide for the independent commissions and authorities in and near the Highland Region to coordinate planning with the Highlands Water Protection and Planning Council, and giving the DEP the necessary authority to implement the provisions of the bill.

The bill, as amended, contains no provision concerning the State's right of first refusal for lands being sold or conveyed in the Highlands Region, no provision negating preliminary and final "Municipal Land Use Law" approvals of major development that were inconsistent with

the Highlands regional master plan, and no provisions concerning prohibitions against local government units, public utilities, or public water utilities from selling lands in the Highlands Region that may protect the water supply.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill:

1) Change the definition of "major development" to "major Highlands development" and revise the scope of the definition (Section 3);

2) Add definitions of "agricultural or horticultural development," "agricultural impervious cover," "agricultural or horticultural use," "construction beyond site preparation," "development," "farm conservation plan," "farm management unit," "immediate family member," "Office of Smart Growth," "public utility," "resource management systems plan," "soil conservation district," "State entity," "State Soil Conservation Committee," and "temporary coverings" (Section 3);

3) Add definitions of "construction materials facility," "mine," and "mine site," which definitions are related to an exemption for mining and quarrying provided in section 28 of the bill (Section 3);

4) Clarify the definitions of "Highlands open waters" and "waters of the Highlands" (Section 3);

5) Add definitions of "capital improvement," "facility expansion," "impact fee," "individual unit of development," "service area" and "service unit," which are related to the transfer of development rights program to be established by the council (Section 3);

6) Make changes to the qualification and residency requirements of the 15 council members, and provide that no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council (Section 5);

7) Authorize the council to: hire attorneys, develop model land use ordinances and other development regulations for planning area municipalities concerning water conservation, establish a Highlands Region road signage program, promote water conservation in and outside of the Highlands Region, promote brownfield remediation and redevelopment, and work with the State Agriculture and Development Committee and the Garden State Preservation Trust to establish incentives under the farmland preservation program that would be provided in exchange for a landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on farmland (Section 6);

8) Include a metes and bounds description of the boundaries of the preservation area (Section 7);

9) Specify that any road, railroad, or railroad right of way that constitutes part of the preservation area boundary would be considered outside the preservation area, and any stream, river or brook that

constitutes part of the preservation area boundary would be considered to lie within the preservation area (Section 7);

10) Specify that town and regional centers designated pursuant to the State Plan would not be included in the preservation area (Section 7);

11) Prohibit council adoption of the regional master plan unless the regional master plan includes recommended receiving zones for transfer of development rights or an analysis is provided of why a receiving zone was not recommended (Section 8);

12) Require the regional master plan to be submitted to the State Planning Commission for endorsement, and limit the commission's review to the planning area only (Section 8);

13) Provide for council and DEP consultation with the Department of Transportation wherever appropriate;

14) Limit redevelopment to brownfield sites or to sites with at least 70% impervious surface (Section 9);

15) Direct council to ensure the regional master plan recognizes and does not compromise the provisions of the "Right to Farm Act" (Section 9);

16) Expand the goals of the regional master plan in the preservation area and the planning area (Section 10);

17) Specify the resource assessment is only for advisory purposes in the planning area (Section 10);

18) Expand the required components of the regional master plan to include a transportation and a smart growth component (Section 11);

19) Provide certain requirements and provisions for the transfer of development rights program to be established by the council (Section 13);

20) Empower the council to revoke conformance approval for a preservation area municipality if the local government takes action inconsistent with regional master plan (Section 14);

21) Delete section 16 of the bill as introduced, which concerned vested rights under the "Municipal Land Use Law;"

22) Provide preservation area municipalities with additional time to revise ordinances to conform to regional plan (Sections 14 and 18);

23) Provide for cause of actions contesting local government development decisions in the preservation area (Section 17);

24) Provide reasonable expenses incurred by municipalities and counties for conforming with the regional master plan would be payable from grants and other financial aid (Section 18);

25) Delete section 20 of the bill as introduced, and revise the property tax stabilization provisions to address decline in taxes paid for vacant land and other issues (Section 19);

26) Create a "Highlands Protection Fund," and dedicate a portion of the realty transfer fee revenue annually for certain State aid purposes in the Highlands Region (Sections 20, 60 and 61);

27) Provide that the council, rather than the Attorney General,

would provide legal representation to local governments in the preservation area whose development decisions are challenged in court (Section 21);

28) Revise section 24 of the bill as introduced, which concerns the Council on Affordable Housing and adjustments to fair share obligations in consideration of the regional master plan (Section 24);

29) Delete section 26 of the bill as introduced, which concerned the State's right of first refusal to purchase property from the bill;

30) Delete section 27 of the bill as introduced, which concerned the sale of water supply protection lands in the Highlands Region by any State or local public entity or public utility;

31) Provide exemptions for certain activities and types of development to the provisions of the bill after it is enacted into law, the regional master plan, any rules or regulations adopted by the DEP pursuant to the bill, or any amendments to a master plan (Section 29);

32) Specify that the provisions of the bill would not affect the funding allocations in the "Garden State Preservation Trust Act" (Section 29);

33) Add a new section concerning agricultural or horticultural development in the preservation area (Section 30);

34) Provide for specifics connected to administration of the Highlands Preservation Area approval, including exempting the establishment of the fee schedule from the provisions of the "Administrative Procedure Act" (Section 31);

35) Require demonstration of equivalent reductions in water demand and implementation of water conservation connected with new or increased water allocations for nonpotable purposes, and authorize revocation of unused allocations (Section 31 and 33);

36) Add language to provide that the provisions of sections 40 and 41 in the bill as introduced, concerning public water systems and designated sewer service areas, would not apply to development in the preservation area that is exempt pursuant to section 29 of the bill (Sections 40 and 41);

37) Add language to provide that moneys for State open space acquisition be spent equitably among the geographic areas of the State (Section 52);

38) Provide a special appraisal process for open space and farmland preservation (Sections 52 and 53);

39) Require that the amount of money spent by the State for State Green Acres acquisitions and State purchases of farmland and farmland easements in the fiscal years 2005-2009 in the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem would be at least as much as the average annual amount spent in those counties for State fiscal years 2000-2004 (Sections 52 and 53);

40) Exempt any municipality or county or portion thereof located within the Highlands preservation area from the State Development and Redevelopment Plan endorsement process (Sections 66 and 68);

41) Provide that the State Planning Commission can not deny plan endorsement to a municipality or portion thereof located in the planning area on the basis of the municipality not having designated a voluntary receiving area as may identified by the council (Section 68);

42) Change the amount of watershed aid to municipalities who host lands on which there is a moratorium from \$35 per acre to \$47 per acre (Section 81);

43) Delete sections 27, 60, and 81 of the bill as introduced, which concerned the sale of water supply lands; and

44) Make technical and clarifying changes to the bill.

#### Minority Statement

by

Assemblymen Chatzidakis and Rooney

While the Minority appreciates the worthiness of preserving the Highlands Region, there are still a number of outstanding issues that must be addressed in this legislation in order to achieve that goal.

First, the bill contains no funding source for the acquisition of lands in the Highlands Region. Without an identified funding source for acquisition, there is the concern that the land will be preserved through statutory and regulatory action instead of fairly compensating property owners. Second, the bill provides financial assistance to municipalities in the planning area of the Highlands Region that choose to accept growth, while in contrast, the mandatory growth regions in the Pinelands Area have received no such assistance, and such equity concerns should be considered at this time. Third, there is a concern that certain pieces of property important in this Highlands conservation effort will not be preserved. Fourth, the Legislature should provide for more thoughtful and thorough deliberations on this important legislation, in order to ensure that all concerns are addressed.

Therefore, we cannot fully support this bill at this time and respectfully abstain.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2635**

# **STATE OF NEW JERSEY**

DATED: JUNE 7, 2004

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2635.

This Assembly Committee Substitute for Assembly Bill No. 2635, to be known as the "Highlands Water Protection and Planning Act," establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. The Highland Region is the source of the drinking water of more than half of the residents of New Jersey and offers unique hiking, bird watching, fishing, and other naturalist and recreational activities.

The approach set forth in the substitute essentially consists of four major parts. First, the substitute defines the New Jersey Highlands Region and divides it into a preservation area, in which development will be strictly regulated, and a planning area, in which development will be monitored but not as strictly controlled. Second, the substitute establishes the Highlands Water Protection and Planning Council, which is charged with preparing and implementing a regional master plan for the Highlands Region. The substitute requires municipalities and counties in the preservation area to conform their master plans to the regional master plan. Third, the substitute requires upon its date of enactment that most major Highlands development in the preservation area receive from the Department of Environmental Protection (DEP) a Highlands Preservation Area approval, which will consist of the related aspects of existing environmental land use and water permits and additional statutorily prescribed environmentally protective land use and water protection requirements. This system will be in effect for nine months. Fourth, the substitute requires the DEP to adopt, within nine months, immediately effective rules and regulations establishing a permanent Highlands permitting review program, incorporating the provisions of the Highlands Preservation Area approval program, and setting strict standards for reviewing major Highlands development in the preservation area.

The substitute exempts some activities and types of development in the preservation area from complying with the provisions of the regional master plan, the Highlands Preservation Area approval, and

the permanent Highlands permitting review program. The substitute includes landowner equity provisions and a provision to provide State aid to offset decreases in property tax revenues in municipalities with land located in the preservation area, makes changes to statutorily provided watershed aid, establishes a "Highlands Protection Fund," and requires the Highlands Water Protection and Planning Council to establish and implement a transfer of development rights program.

The substitute is different from Assembly Bill No. 2635 (1R) as follows:

(1) Establishes the "Pinelands Property Tax Assistance Fund" to which will be allocated \$1.8 million annually from the "Highlands Protection Fund" for five years. Moneys in the fund will be distributed to municipalities in the pinelands area in the same percentage of the total that the municipality received from the "Pinelands Municipal Tax Stabilization Fund" pursuant to P.L.1983, c.551;

(2) Reduces the dedication to the "Highlands Protection Fund" for the first 10 years from \$20 million annually to \$12 million annually;

(3) Changes the exemption for the construction of a single family home for the individual's own use on a lot owned by the individual on the date of enactment to also allow the construction of a single family home for an individual's own use on a lot for which the individual had a contract of sale on or before May 17, 2004;

(4) Adds a new exemption for a major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to the "State Planning Act" as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. This exemption will expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law";

(5) Provides that the exemption for the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation systems by a State entity or local government unit also applies to infrastructure systems;

(6) Requires that the amount of money spent by the State for State Green Acres acquisitions and State purchases of farmland and farmland easements in the fiscal years 2005-2009 in each county in the State, rather than in the nine southern counties only, will be at least as much as the average annual amount spent in each county for State fiscal years 2002-2004 provided there are sufficient and appropriate lands available to be so acquired by the State;

(7) Omits subsection k. of section 6 concerning the establishment of a nonprofit by the Highlands Water Protection and Planning Council;

(8) Makes certain changes to the transfer of development rights sections related to eligibility for priority status for State capital or infrastructure programs;

(9) Makes changes to the transfer of development rights sections to provide that the council shall not adopt the regional master plan unless it recommends receiving zones in the planning area, rather than in each municipality in the planning area;

(10) Specifies that the plan's transportation component and smart growth component are only for advisory purposes in the planning area;

(11) Authorizes the Office of Smart Growth to establish a pilot transfer of development rights program;

(12) Omits language in section 68 regarding the State Planning Commission's authority to deny plan endorsement;

(13) Provides that nothing in the substitute shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3;

(14) Revises the definition of "mine site" and the exemption for mining; and

(15) Makes changes to the preservation area boundary in Mahwah, Hopatcong, and Sparta.

As reported by the committee, this substitute is identical to Senate Bill No. 1 (1R).

**FISCAL IMPACT:**

The substitute dedicates \$12 million annually for the first 10 years and \$5 million annually thereafter from the realty transfer fee to the "Highlands Protection Fund" established pursuant to the substitute.

The substitute allocates \$1.8 million annually for five years from the "Highlands Protection Fund" to the "Pinelands Municipal Tax Stabilization Fund" established pursuant to the substitute.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 2635

## STATE OF NEW JERSEY

## 211th LEGISLATURE

DATED: JUNE 14, 2004

### SUMMARY

- Synopsis:** The "Highlands Water Protection and Planning Act"; creates Highlands Water Protection and Planning Council; and dedicates a portion of realty transfer fee revenue annually for certain State aid purposes in Highlands Region.
- Type of Impact:** Expenditure increase from the General Fund.
- Agencies Affected:** Departments of Environmental Protection, Agriculture, Community Affairs, Transportation, and Treasury; State Planning Commission; and affected municipalities and counties.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost - Undedicated</b>	\$3,000,000 to \$4,000,000 annually		
<b>State Cost - Dedicated</b>	\$20,000,000 annually		
<b>Local Cost</b>	Indeterminate		

- ! The bill establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. This area comprises nearly 800,000 acres in northern New Jersey, covering 88 municipalities.
- ! The Highlands Water Protection and Planning Council is established to develop a regional master plan, help manage the regulatory provisions of the bill, create a transfer of development rights (TDR) program, and provide financial assistance when needed.
- ! The bill annually dedicates \$20 million for 10 years and \$5 million thereafter from realty transfer fees to compensate towns adversely affected by decreased property values, to restore watershed moratorium offset aid, and to support local grants awarded by the Council. Other financial incentives are provided to landowners, municipalities, and Pinelands communities.
- ! The Office of Legislative Services (OLS) estimates that an annual State appropriation of \$3 million to \$4 million may be required to support the Council's operating budget. More funds may also be needed for startup, regional master plan, and TDR development costs.

## BILL DESCRIPTION

Assembly Bill No. 2635 (1R) of 2004, the "Highlands Water Protection and Planning Act," establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. The bill defines the Highlands Region and divides it into a preservation area, where development would be strictly regulated, and a planning area where development would not be as strictly controlled.

The bill establishes the Highlands Water Protection and Planning Council, an independent agency "in, but not of" the Department of Environmental Protection (DEP). Its major responsibilities would include preparing and implementing a regional master plan for the Highlands Region, exercising review authority over any local application for development within the preservation area, and reviewing publicly-funded capital projects. Pursuant to Council review and approval, municipalities and counties in the preservation area would be required to amend their master plans to conform with the regional master plan. The cost of making these revisions would be reimbursable by the State through the Council.

For the first nine months following enactment, the bill requires that most major development in the preservation area receive from the DEP a Highlands Preservation Area approval, a permit consisting of existing and new environmentally protective land use and water protection requirements. After that time period, the bill requires the DEP to adopt rules and regulations establishing a permanent Highlands permitting review and permit program.

The bill requires the Council to establish a transfer of development rights (TDR) program and to recommend growth receiving zones in the regional master plan prior to adoption. The Council is authorized to use the existing State TDR Bank or to establish such a bank specifically for the Highlands Region. Financial incentives are available to certain municipalities in or outside the planning area that permit voluntary receiving zones within their boundaries. These incentives include planning grants up to \$250,000, reimbursement of costs to amend municipal development regulations, authorization to impose impact fees, entitlement to free legal representation, and eligibility for any other appropriate assistance or incentives.

The bill establishes a funding mechanism under which a municipality in the preservation area could receive State aid to compensate for any decrease in the aggregate amount of property tax revenue that is directly attributable to the bill's implementation. Specifically, a newly created Highlands Municipal Property Tax Stabilization Board, along with county tax boards, would annually calculate and certify the amount to which each affected municipality is entitled. The certified sum would then be paid by the State Treasurer to each qualified municipality.

These State payments would be supplied from the Highlands Municipal Property Tax Stabilization Fund, which will be financed by the Highlands Protection Fund. Both special accounts are created by the bill. The bill capitalizes the Highlands Protection Fund by dedicating to it \$20 million per year from State realty transfer fee revenues for the first 10 years following enactment, with \$5 million annually dedicated thereafter. The bill also directs the Highlands Protection Fund to annually allocate money for a revised watershed moratorium offset aid program and for local grants awarded through the Council.

The bill contains landowner equity provisions designed to compensate landowners within the preservation area who decide to sell land or development rights to the State's Green Acres or farmland preservation programs. The bill provides that such lands could receive fair market compensation by using a two-part appraisal system modeled after the system used by these two programs. A hold harmless provision is also included to ensure that southern New Jersey counties continue to receive equitable funding from these programs.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received

### *OFFICE OF LEGISLATIVE SERVICES*

The Office of Legislative Services (OLS) estimates that the annual dedication of realty transfer fund monies for the purposes described therein will result in a proportional decrease in available balances in the General Fund. Notwithstanding this fact, the cost of implementing the bill will require State funding on an annual basis to support the basic operations of the Council, staff, offices and support services. Although staff size and needs are uncertain, the OLS estimates regular operating costs could approach \$3 million to \$4 million annually.

This projection is based on comparing the Council budget with the budgets of two other public entities that have missions similar to the proposed Council, the Pinelands Commission and the New Jersey (Hackensack) Meadowlands Commission. Both agency budgets are at approximately \$3 million. The Council budget may be even higher due to the bill's requirement that it provide legal representation to any Highlands town having legal actions filed against it as a result of this act or certain other State laws. The Council's administrative expense could also be higher because the bill calls for it to develop a transfer of development rights (TDR) program. This last responsibility could incur especially significant expenses because it would require the Council to conduct real estate analyses and other related duties during the process of identifying so-called "sending and receiving" zones. Affected municipalities may also incur costs during this exercise. Financial assistance may be available to offset such costs from the State TDR Bank, which currently has a balance of approximately \$20 million.

With respect to general implementation costs, the OLS does not have sufficient information to provide an estimate at this time. Such costs could include one-time capital and other start-up expenses for leases or rent, furniture, vehicles, etc. In addition, significant one-time costs may be incurred in the development of the regional master plan. On the plus side, the Council could eventually supplement its budget through application review fees, compensation for other regulatory duties performed on behalf of the State, or contributions from non-state funding sources such as the federal government, nonprofit organizations, and private industry.

The requirement that municipalities and counties in the Highlands preservation area adopt and submit revisions to their master plans and development regulations in order to conform to the regional master plan will incur certain costs. Cost estimates will vary widely depending on the degree of difference between the local and regional plans. However, under the bill, these costs would be recouped through planning grants supported from the realty transfer fee dedication. It is unclear, however, whether all such costs will ultimately be covered by these grants, or whether there will be sufficient funding to meet all reimbursement claims from communities in both the preservation and planning areas.

The bill's potential fiscal impact on property tax values is addressed by the proposed Highlands Municipal Property Tax Stabilization Fund, which is established to compensate municipalities that experience decreased property tax collections as a result of the bill. Local fiscal impacts may also be mitigated by the allocation of Highlands Protection Fund money to restore watershed moratorium offset aid, which was discontinued in FY 2003. For comparison purposes, the State provided a total of \$16,067,000 in watershed moratorium offset aid to six municipalities from FY 1997 to FY 2002.

With respect to the bill's fiscal impact on State agencies, the DEP is directed to establish upon enactment a Highlands Preservation Area approval process that would be required of all major development applicants. This approval would consist mostly of existing permits plus some new regulatory requirements included in the bill. It would provide immediate review of development applications until a permanent Highlands permitting review program is established nine months later.

The bill allows the DEP to establish fees to meet all administrative costs of the new permitting program. For existing and future permit review functions under the bill, the DEP is allowed to charge appropriate fees to cover most or all of its administrative costs. Assuming that some additional staff may have to be hired to handle increased, first-year work levels under the new program, administrative costs may exceed review fee revenues for several years. State funding liability should eventually decrease, however, as the program stabilizes.

With respect to the potential costs incurred by the Department of Community Affairs and other affected State agencies, the OLS does not have sufficient data to formulate an estimate.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 2635**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: JUNE 29, 2004

**SUMMARY**

- Synopsis:** The "Highlands Water Protection and Planning Act"; creates Highlands Water Protection and Planning Council; and dedicates a portion of realty transfer fee revenue annually for certain State aid purposes in the Highlands Region and the pinelands area.
- Type of Impact:** Expenditure increase from the General Fund.
- Agencies Affected:** Departments of Environmental Protection, Agriculture, Community Affairs, Transportation, and Treasury; State Planning Commission; and affected municipalities and counties.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost - Undedicated</b>	\$3,000,000 to \$4,000,000 annually		
<b>State Cost - Dedicated</b>	\$12,000,000 annually		
<b>Local Cost</b>	Indeterminate		

- ! The bill establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. This area comprises nearly 800,000 acres in northern New Jersey, covering 88 municipalities.
- ! The Highlands Water Protection and Planning Council is established to develop a regional master plan, help manage the regulatory provisions of the bill, create a transfer of development rights (TDR) program, and provide financial assistance when needed.
- ! The bill annually dedicates \$12 million for 10 years and \$5 million thereafter from realty transfer fees to (1) compensate towns adversely affected by decreased property values; (2) support watershed moratorium offset aid; (3) award local grants; and (4) make five annual allocations of \$1.8 million to Pinelands communities to offset property tax increases. Other financial incentives are also provided to landowners and municipalities.

- ! The Office of Legislative Services (OLS) estimates that an annual State appropriation of \$3 million to \$4 million may be required to support the Council's operating budget. More funds may also be needed for startup costs, development of the regional master plan, and TDR development expenses.

## **BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill No. 2635 of 2004, the "Highlands Water Protection and Planning Act," establishes a comprehensive, long-term approach to the protection and preservation of the drinking water and natural resources of the New Jersey Highlands Region. The bill defines the Highlands Region and divides it into a preservation area, where development would be strictly regulated, and a planning area where development would not be as strictly controlled.

The bill establishes the Highlands Water Protection and Planning Council, an independent agency "in, but not of" the Department of Environmental Protection (DEP). Its major responsibilities would include preparing and implementing a regional master plan for the Highlands Region, exercising review authority over any local application for development within the preservation area, and reviewing publicly-funded capital projects. Pursuant to Council review and approval, municipalities and counties in the preservation area would be required to amend their master plans to conform with the regional master plan. The cost of making these revisions would be reimbursable by the State through the Council.

For the first nine months following enactment, the bill requires that most major development in the preservation area receive from the DEP a Highlands Preservation Area approval, a permit consisting of existing and new environmentally protective land use and water protection requirements. After that time period, the bill requires the DEP to adopt rules and regulations establishing a permanent Highlands permitting review and permit program.

The bill requires the Council to establish a transfer of development rights (TDR) program, which would include recommendations regarding receiving zones in the planning area, prior to the adoption of the regional master plan. The Council is authorized to use the existing State TDR Bank or to establish such a bank specifically for the Highlands Region. The bill provides financial incentives to municipalities in or outside the planning area that permit voluntary receiving zones within their boundaries. These incentives include planning grants up to \$250,000, reimbursement of costs to amend municipal development regulations, authorization to impose impact fees, and eligibility for State financial assistance. The bill also directs the State Office of Smart Growth to establish a pilot TDR program.

The bill establishes a funding mechanism under which a municipality in the preservation area could receive State aid to compensate for any decrease in the aggregate amount of property tax revenue that is directly attributable to the bill's implementation. Specifically, a newly created Highlands Municipal Property Tax Stabilization Board, along with county tax boards, would annually calculate and certify the amount to which each municipality is entitled. The certified sum would then be paid by the State Treasurer to each qualified municipality.

These particular State payments would be derived from the Highlands Municipal Property Tax Stabilization Fund, an account financed by the Highlands Protection Fund. The bill capitalizes the Highlands Protection Fund by dedicating to it \$12 million per year from State realty transfer fee revenues for the first 10 years following enactment, with \$5 million annually dedicated thereafter. The bill also directs the Highlands Protection Fund to annually allocate money for a revised watershed moratorium offset aid program, for any local grants awarded by the Council, and for Pinelands municipalities through a newly created Pinelands Property Tax Assistance Fund. Under the bill, this fund would receive \$1.8 million annually for five years to

help offset property tax increases in qualified Pinelands region communities.

Last, the bill contains landowner equity provisions designed to compensate landowners within the preservation area who decide to sell land or development rights to the State's Green Acres or farmland preservation programs. The bill provides that such lands could receive fair market compensation by using a two-part appraisal system modeled after the system used by these two programs. A hold harmless provision is also included to ensure that all counties receive equitable funding from these programs from fiscal years 2005-2009.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) estimates that the annual dedication of realty transfer fund monies for the purposes described therein will result in a proportional decrease in available balances in the General Fund. Notwithstanding this fact, the cost of implementing the bill will require State funding on an annual basis to support the basic operations of the Council, staff, offices and support services. Although staff size and needs are uncertain, the OLS estimates regular operating costs could approach \$3 million to \$4 million annually.

This projection is based on comparing the Council budget with the budgets of two other public entities that have missions similar to the proposed Council: the Pinelands Commission and the New Jersey (Hackensack) Meadowlands Commission. Both agencies receive approximately \$3 million annually for operational expenses. The Council budget may prove to be even higher due to the bill's requirement that it provide legal representation to any Highlands town having legal actions filed against it as a result of the act, and its role in developing a transfer of development rights (TDR) program. This last responsibility could incur significant expenses because it would require the Council to conduct real estate analyses and other related duties during the process of identifying so-called "sending and receiving" zones. Affected municipalities may also incur costs during this exercise. Financial assistance to offset some or all of such costs may be available from the State TDR Bank, which currently has a balance of approximately \$20 million, or from grants awarded by the Council.

With respect to the Council's one-time implementation costs, the OLS does not have sufficient information to provide a cost estimate at this time. Such costs could include capital and other start-up expenses for leases or rent, furniture, vehicles, etc. In addition, significant one-time costs may be incurred in the development of the regional master plan. On the plus side, the Council could eventually supplement its budget through application review fees, compensation for other regulatory duties performed on behalf of the State, or contributions from non-state funding sources such as the federal government, nonprofit organizations, or private donations.

The requirement that municipalities and counties in the Highlands preservation area adopt and submit revisions to their master plans and development regulations in order to conform to the regional master plan will incur certain costs. Cost estimates will vary widely depending on the degree of difference between the local and regional plans. However, under the bill, these costs would be recouped through planning grants supported by the realty transfer fee dedication. It is unclear, however, whether all such costs will ultimately be covered by these grants, or whether there will be sufficient funding to meet all reimbursement claims from communities in both the preservation and planning areas.

The bill's potential fiscal impact on property tax values is addressed by the proposed Highlands Municipal Property Tax Stabilization Fund, which is established to compensate municipalities that experience decreased property tax collections as a result of the bill. Local fiscal impacts may also be mitigated by the bill's restoration (albeit revised) of the Watershed Moratorium Offset Aid program, which was discontinued in FY 2003. For comparison purposes, the State provided over \$16 million for this program from FY 1997 to FY 2002.

The Highlands Protection Fund will also provide property tax relief to certain Pinelands communities by allocating \$1.8 million annually for five years to the proposed Pinelands Property Tax Assistance Fund. For comparison purposes, the State has intermittently provided over \$9 million in property tax-related aid in the Pinelands area from FY 1985 through FY 2002.

With respect to the bill's fiscal impact on State agencies, the DEP is directed to establish upon enactment a Highlands Preservation Area approval process that would be required of all major development applicants. This approval would consist mostly of existing permits plus some new regulatory requirements included in the bill. It would provide immediate review of development applications until a permanent Highlands permitting review program is established nine months later.

The bill allows the DEP to establish fees to meet all administrative costs of the new permitting program. For existing and future permit review functions under the bill, the DEP is allowed to charge appropriate fees to cover most or all of its administrative costs. Assuming that some additional staff may have to be hired to handle increased, first-year work levels under the new program, administrative costs may exceed review fee revenues for several years. State funding liability should eventually decrease, however, as the program stabilizes.

As to the potential costs incurred by the Department of Community Affairs (DCA) and other affected State agencies, the OLS does not have enough data to formulate an estimate of such expenses at this time.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



## Office of the Governor

### News Releases

[Previous Screen](#)

PO BOX 004  
TRENTON, NJ 08625

Contact: Micah Rasmussen  
609-777-2600

RELEASE: August 10, 2004

### **Governor McGreevey Enacts Historic Highlands Legislation, Protects Drinking Water for 5.4 Million New Jersey Residents**

#### *Highlands Act Continues New Jersey's Legacy of Environmental Protection*

(WANAQUE) — Governor James E. McGreevey today signed historic legislation that preserves nearly 400,000 acres of environmentally sensitive land in New Jersey's Highlands region and protects the source of clean drinking water for 5.4 million New Jersey residents.

“The Highlands region has long been one of the missing jewels in this country's and our state's preservation efforts,” McGreevey said. “No longer. By signing the Highlands Act today, we are keeping our commitment to New Jersey families and ensuring clean drinking water for our children. Today is the crowning moment in our efforts to protect the environment. Today is a wonderful day for New Jersey, a wonderful day for our environment and our children, and a wonderful day for the future of this great state.”

The Governor signed the landmark Highlands Water Protection and Planning Act during a noon news conference at the Wanaque Reservoir Dam in Wanaque. He was joined by: former governors Brendan T. Byrne and James J. Florio; the bill's sponsors Sen. Bob Smith, Sen. Robert J. Martin, and Assemblyman John F. McKeon; Passaic County Freeholder and Highlands Task Force Member Lois Cuccinello; Lebanon Township Mayor and Highlands Task Force Member Eileen Swan, and 13-year-old Catherine Cacciola of Girl Scout Troop 404 in Paramus.

The event was also attended by numerous local officials, area scouting groups and various other environmental advocates.

The Highlands Act is the toughest of its kind in the nation and carries on the legacy of environmental protection that is the hallmark of New Jersey, from preserving the Pinelands, to protecting wetlands to saving open space.

"This is one of the most significant pieces of environmental legislation ever passed," said Byrne. "It makes giant steps to preserve open spaces in a critical area of New Jersey".

Florio echoed Byrne.

"The Highlands Act represents the most significant advancement of natural resource protection in New Jersey since passage of the Pinelands Act 25 years ago," said Florio, Chairman of the New Jersey Pinelands Commission. "Like the Pinelands law, this measure will ensure clean, abundant water and protect the ecology of a unique and vulnerable natural area. I commend Governor McGreevey for taking a tough stand to ensure the passage of this landmark legislation. This is truly a legacy accomplishment for the Governor."

Smith, co-sponsor of the Act, said he has long recognized the need to protect the Highlands.

"For some, the fight to protect the New Jersey Highlands has gone on for decades," said Smith, Chairman of the Senate Environment Committee. "For others, it has only felt like it took that long, despite objections by opponents that it was 'rushed through the legislative process.' In any event, through careful deliberation and measured response, we've come up with a bill that will be celebrated in New Jersey as one of the biggest environmental accomplishments in decades."

McKeon agreed.

"It is rewarding to witness the enthusiasm of New Jerseyans in protecting this important forested region and preserving its vital natural resources," said McKeon. "This landmark legislation is our chance to preserve New Jersey's greatest source of drinking water for future generations. I am proud that we have not let this once-in-a-lifetime opportunity pass us by."

Sixty-four percent of New Jersey residents, about 5.4 million people, receive their water from the Highlands. Those residents live in 292 municipalities, in 16 counties. And they include 900,000 people in urban areas such as Newark and Jersey City.

The New Jersey Highlands is a 1,000 square mile area in the Northwest part of the State, stretching from Phillipsburg in the Southwest to Ringwood in the Northeast. It lies within portions of seven counties (Hunterdon, Somerset, Sussex, Warren, Morris, Passaic and Bergen) and 87 municipalities.

Between 1995 and 2000, sprawl consumed 25,000 acres of forests and farmland in the Highlands. Population growth is increasing in the Highlands at a rate nearly 50 percent faster than the statewide rate.

The Highlands Water Protection and Planning Act designates a preservation area of 400,000 acres where development will be significantly curtailed. The Act heightens environmental standards to protect this area, which includes the region's most

environmentally sensitive land, and establishes the Highlands Water Protection and Planning Council. The Council will work with local officials to prepare a master plan for the entire Highlands region, including both the preservation and planning areas, within the next 18 months.

Information about the Highlands Act and answers to frequently asked questions is available at <http://www.nj.gov/dep/highlands/>, a new website unveiled by the Department of Environmental Protection today.

Under Governor McGreevey, New Jersey has protected more than 580 miles of waterways, saved 66,429 acres of open space and preserved more than 40,000 acres of farmland.

**State of New Jersey Governor's Office**

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