

[First Reprint]  
**SENATE, No. 1**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED MARCH 29, 2004

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**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.

**CURRENT VERSION OF TEXT**

As reported by the Senate Environment Committee on June 7, 2004, with amendments.

**(Sponsorship Updated As Of: 6/11/2004)**

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

26 The Legislature further finds and declares that the New Jersey  
27 Highlands is an essential source of drinking water, providing clean and  
28 plentiful drinking water for one-half of the State's population,  
29 including communities beyond the New Jersey Highlands, from only  
30 13 percent of the State's land area; that the New Jersey Highlands  
31 contains other exceptional natural resources such as clean air,  
32 contiguous forest lands, wetlands, pristine watersheds, and <sup>1</sup>[wildlife  
33 and plant species habitats] habitat for fauna and flora<sup>1</sup>, includes many  
34 sites of historic significance, and provides abundant recreational  
opportunities for the citizens of the State.

35

36 The Legislature further finds and declares that the New Jersey  
37 Highlands provides a desirable quality of life and place where people  
38 live and work; that it is important to ensure the economic viability of  
39 communities throughout the New Jersey Highlands; <sup>1</sup>and<sup>1</sup> that  
40 residential, commercial, and industrial development <sup>1</sup>[and],<sup>1</sup>  
41 redevelopment<sup>1</sup>,<sup>1</sup> and economic growth in certain appropriate areas of  
42 the New Jersey Highlands <sup>1</sup>[is] are<sup>1</sup> also in the best interests of all the  
43 citizens of the State, providing <sup>1</sup>[enumerable] innumerable<sup>1</sup> social,  
cultural, and economic benefits and opportunities.

**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 The Legislature further finds and declares that there are  
2 approximately 110,000 acres of agricultural lands in active production  
3 in the New Jersey Highlands; that these lands are important resources  
4 of the State that should be preserved; <sup>1</sup>[and]<sup>1</sup> that the agricultural  
5 industry in the region is a vital component of the economy <sup>1</sup>[and].<sup>1</sup>  
6 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  
7 order to preserve the agricultural industry in the region, it is necessary  
8 and important to recognize and reaffirm the goals, purposes, policies,  
9 and provisions of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1  
10 et seq.) and the protections afforded to farmers thereby<sup>1</sup>.

11 The Legislature further finds and declares that, since 1984, 65,000  
12 acres, or over 100 square miles, of the New Jersey Highlands have  
13 been lost to development; that sprawl and the pace of development in  
14 the region has dramatically increased, with the rate of loss of forested  
15 lands and wetlands more than doubling since 1995; that the New  
16 Jersey Highlands, because of its proximity to rapidly expanding  
17 suburban areas, is at serious risk of being fragmented and consumed  
18 by unplanned development; and that the existing land use and  
19 environmental regulation system cannot protect the water and natural  
20 resources of the New Jersey Highlands against the environmental  
21 impacts of sprawl development.

22 The Legislature further finds and declares that the protection of the  
23 New Jersey Highlands, because of its vital link to the future of the  
24 State's drinking water supplies and other key natural resources, is an  
25 issue of State level importance that cannot be left to the uncoordinated  
26 land use decisions of <sup>1</sup>[90] <sup>88</sup><sup>1</sup> municipalities, seven counties, and a  
27 myriad of private landowners; that the State should take action to  
28 delineate within the New Jersey Highlands a preservation area of  
29 exceptional natural resource value that includes watershed protection  
30 and other environmentally sensitive lands where stringent protection  
31 policies <sup>1</sup>[would] should<sup>1</sup> be implemented; that a regional approach  
32 to land use planning in the preservation area should be established to  
33 replace the existing uncoordinated system; that such a new regional  
34 approach to land use planning should be complemented by increased  
35 standards more protective of the environment established by the  
36 Department of Environmental Protection for development in the  
37 preservation area of the New Jersey Highlands; that the new regional  
38 planning approach and the more stringent environmental regulatory  
39 standards should be accompanied, as a matter of wise public policy  
40 and fairness to property owners, by a strong and significant  
41 commitment by the State to fund the acquisition of exceptional natural  
42 resource value lands; and that in the light of the various pressures now  
43 arrayed against the New Jersey Highlands, these new approaches  
44 should be implemented as soon as possible.

45 <sup>1</sup>The Legislature further finds and declares that in the New Jersey  
46 Highlands there is a mountain ridge running southwest from Hamburg  
47 Mountain in Sussex County that separates the eastern and the western  
48 New Jersey Highlands; that much of the State's drinking water supplies

1 originate in the eastern New Jersey Highlands; and that planning for  
2 the region and the environmental standards and regulations to protect  
3 those water supplies should be developed with regard to the  
4 differences in the topography of the Highlands Region and how the  
5 topography affects the quality of the water supplies.<sup>1</sup>

6 The Legislature therefore determines, in the light of these findings  
7 set forth hereinabove, and with the intention of transforming them into  
8 action, that it is in the public interest of all the citizens of the State of  
9 New Jersey to enact legislation setting forth a comprehensive approach  
10 to the protection of the water and other natural resources of the New  
11 Jersey Highlands; that this comprehensive approach should consist of  
12 the identification of a preservation area of the New Jersey Highlands  
13 that would be subjected to stringent water and natural resource  
14 protection <sup>1</sup>standards, policies<sup>1</sup>, planning, and regulation; that this  
15 comprehensive approach should also consist of the establishment of a  
16 Highlands Water Protection and Planning Council charged with the  
17 preparation of a regional master plan for the preservation area in the  
18 New Jersey Highlands as well as for the region in general; that this  
19 comprehensive approach should also include the adoption by the  
20 Department of Environmental Protection of stringent standards  
21 governing major development in the Highlands preservation area; that  
22 <sup>1</sup><sub>1</sub> because of the imminent peril that the ongoing rush of development  
23 poses for the New Jersey Highlands, immediate, interim standards  
24 should be imposed on the date of enactment of this act on major  
25 development in the preservation area of the New Jersey Highlands,  
26 followed subsequently by adoption by the department of appropriate  
27 rules and regulations; that it is appropriate to encourage in certain  
28 areas of the New Jersey Highlands, consistent with the State  
29 Development and Redevelopment Plan and smart growth strategies  
30 and principles, appropriate patterns of compatible residential,  
31 commercial, and industrial development, redevelopment, and economic  
32 growth, in or adjacent to areas already utilized for such purposes, and  
33 to discourage piecemeal, scattered, and inappropriate development, in  
34 order to accommodate local and regional growth and economic  
35 development in an orderly way while protecting the Highlands  
36 environment from the individual and cumulative adverse impacts  
37 thereof; that the maintenance of agricultural production and a positive  
38 agricultural business climate should be encouraged to the maximum  
39 extent possible wherever appropriate in the New Jersey Highlands; and  
40 that all such aforementioned measures should be guided, in heart,  
41 mind, and spirit, by an abiding and generously given commitment to  
42 protecting the incomparable water resources and natural beauty of the  
43 New Jersey Highlands so as to preserve them intact, in trust, forever  
44 for the pleasure, enjoyment, and use of future generations while also  
45 providing every conceivable opportunity for appropriate economic  
46 growth and development to advance the <sup>1</sup>[qualify] quality<sup>1</sup> of life of  
47 the residents of the region and the entire State.

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

2 <sup>1</sup>"Agricultural or horticultural development" means construction for  
3 the purposes of supporting common farmsite activities, including but  
4 not limited to: the production, harvesting, storage, grading,  
5 packaging, processing, and the wholesale and retail marketing of  
6 crops, plants, animals, and other related commodities and the use and  
7 application of techniques and methods of soil preparation and  
8 management, fertilization, weed, disease, and pest control, disposal of  
9 farm waste, irrigation, drainage and water management, and grazing;

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

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

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

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

31 "Construction beyond site preparation" means having completed the  
32 foundation for a building or structure, and does not include the  
33 clearing, cutting, or removing of vegetation, bringing construction  
34 materials to the site, or site grading or other earth work associated  
35 with preparing a site for construction;

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

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

41 "Department" means the Department of Environmental Protection;

42 <sup>1</sup>"Development" means the same as that term is defined in section  
43 3.1 of P.L.1975, c.291 (C.40:55D-4);<sup>1</sup>

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

46 "Disturbance" means the placement of impervious surface, the  
47 exposure or movement of soil or bedrock, or the clearing, cutting, or  
48 removing of vegetation;

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

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

18 "Farm conservation plan" means a site specific plan that prescribes  
19 needed land treatment and related conservation and natural resource  
20 management measures, including forest management practices, that are  
21 determined to be practical and reasonable for the conservation,  
22 protection, and development of natural resources, the maintenance and  
23 enhancement of agricultural or horticultural productivity, and the  
24 control and prevention of nonpoint source pollution;

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

29 "Highlands open waters" means all springs, streams <sup>1</sup>including  
30 intermittent streams<sup>1</sup>, wetlands, and bodies of surface water, whether  
31 natural or artificial, located wholly or partially within the boundaries  
32 of the Highlands Region<sup>1</sup>, but shall not mean swimming pools<sup>1</sup>;

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

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

40 "Impact fee" means cash or in-kind payments required to be paid by  
41 a developer as a condition for approval of a major subdivision or major  
42 site plan for the developer's proportional share of the cost of providing  
43 new or expanded reasonable and necessary public improvements  
44 located outside the property limits of the subdivision or development  
45 but reasonably related to the subdivision or development based upon  
46 the need for the improvement created by, and the benefits conferred  
47 upon, the subdivision or development;<sup>1</sup>

48 "Impervious surface" means any structure, surface, or improvement

1 that reduces or prevents absorption of stormwater into land, and  
2 includes porous paving, paver blocks, gravel, crushed stone, decks,  
3 patios, elevated structures, and other similar structures, surfaces, or  
4 improvements;

5 <sup>1</sup>"Individual unit of development" means a dwelling unit in the case  
6 of a residential development, a square foot in the case of a  
7 non-residential development, or any other standard employed by a  
8 municipality for different categories of development as a basis upon  
9 which to establish a service unit.<sup>1</sup>

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

13 "Major <sup>1</sup>Highlands <sup>1</sup>development" means <sup>1</sup>except as otherwise  
14 provided pursuant to subsection a. of section 30 of this act, (1)<sup>1</sup> any  
15 non-residential development <sup>1</sup>[, whether or not it also qualifies as a  
16 development as defined in the "Municipal Land Use Law," P.L.1975,  
17 c.291 (C.40:55D-1 et seq.); any residential development, whether or  
18 not it also qualifies as a development as defined in the "Municipal  
19 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), that provides  
20 for the ultimate disturbance of one acre or more of land or an increase  
21 in impervious surface of one-quarter acre or more; or any residential  
22 development, whether or not it also qualifies as a development as  
23 defined in the "Municipal Land Use Law," P.L.1975, c.291  
24 (C.40:55D-1 et seq.),] in the preservation area; (2) any residential  
25 development in the preservation area<sup>1</sup> that requires an environmental  
26 land use or water permit <sup>1</sup>[issued by the Department of Environmental  
27 Protection but which does not result] or that results<sup>1</sup> in the ultimate  
28 disturbance of one acre or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
29 increase in impervious surface by one-quarter acre or more; <sup>1</sup>(3) any  
30 activity undertaken or engaged in the preservation area that is not a  
31 development but results in the ultimate disturbance of one-quarter acre  
32 or more of forested area or that results in a cumulative increase in  
33 impervious surface by one-quarter acre or more on a lot; or (4) any  
34 capital or other project of a State entity or local government unit in  
35 the preservation area that requires an environmental land use or water  
36 permit or that results in the ultimate disturbance of one acre or more  
37 of land or a cumulative increase in impervious surface by one-quarter  
38 acre or more. Major Highlands development shall not mean an  
39 agricultural or horticultural development or agricultural or  
40 horticultural use in the preservation area;

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

46 "Mine site" means the land upon which a mine, whether active or  
47 inactive, is located, for which the Commissioner of Labor has granted  
48 a certificate of registration pursuant to section 4 of P.L.1954, c.197

1 (C.34:6-98.4) and the boundary of which includes all contiguous  
2 parcels, except as provided below, of property under common  
3 ownership or management, whether located in one or more  
4 municipalities, as such parcels are reflected by lot and block numbers  
5 or metes and bounds, including any mining plant, material, or  
6 equipment. "Contiguous parcels" as used in this definition of "mine  
7 site" shall not include parcels for which mining or quarrying is not a  
8 permitted use or for which mining or quarrying is not permitted as a  
9 prior nonconforming use under the "Municipal Land Use Law,"  
10 P.L.1975, c.291 (C.40:55D-1 et seq.);

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

13 "Planning area" means that portion of the Highlands Region not  
14 included within the preservation area;

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

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

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

21 "Regional master plan" means the Highlands regional master plan  
22 or any revision thereof adopted by the council pursuant to section 8 of  
23 this act;

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

27 "Resource management systems plan" means a site specific  
28 conservation system plan that (1) prescribes needed land treatment and  
29 related conservation and natural resource management measures,  
30 including forest management practices, for the conservation,  
31 protection, and development of natural resources, the maintenance and  
32 enhancement of agricultural or horticultural productivity, and the  
33 control and prevention of nonpoint source pollution, and (2)  
34 establishes criteria for resources sustainability of soil, water, air,  
35 plants, and animals;

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

40 "Service unit" means a standardized measure of consumption, use,  
41 generation or discharge attributable to an individual unit of  
42 development calculated in accordance with generally accepted  
43 engineering or planning standards for a particular category of capital  
44 improvements or facility expansions;

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

47 "State Development and Redevelopment Plan" means the State  
48 Development and Redevelopment Plan adopted pursuant to P.L.1985,



1 c.398 (C.52:18A-196 et al.);

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

5 "State Soil Conservation Committee" means the State Soil  
6 Conservation Committee in the Department of Agriculture established  
7 pursuant to R.S. 4:24-3;

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

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

16

17 4. (New section) There is hereby established a public body  
18 corporate and politic, with corporate succession, to be known as the  
19 "Highlands Water Protection and Planning Council." The council shall  
20 constitute a political subdivision of the State established as an  
21 instrumentality exercising public and essential governmental functions,  
22 and the exercise by the council of the powers and duties conferred by  
23 this act shall be deemed and held to be an essential governmental  
24 function of the State. For the purpose of complying with the  
25 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
26 Constitution, the council is hereby allocated within the Department of  
27 Environmental Protection, but, notwithstanding that allocation, the  
28 council shall be independent of any supervision or control by the  
29 department or by the commissioner or any officer or employee thereof.

30

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

33 (1) Eight residents of the counties of Bergen, Hunterdon, Morris,  
34 Passaic, Somerset, Sussex, or Warren, appointed by the Governor,  
35 with the advice and consent of the Senate, (a) <sup>1</sup>no more than four of  
36 whom shall be of the same political party, (b)<sup>1</sup> of whom five shall be  
37 municipal officials <sup>1</sup>residing in the Highlands Region and <sup>1</sup>holding  
38 elective office at the time of appointment and three shall be county  
39 officials holding elective office at the time of appointment, and <sup>1</sup>[(b)]  
40 (c)<sup>1</sup> among whom shall be <sup>1</sup>(i)<sup>1</sup> at least one resident from each of the  
41 counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex,  
42 and Warren<sup>1</sup>, and (ii) two residents from the county that has the  
43 largest population residing in the Highlands Region, of whom no more  
44 than one shall be of the same political party<sup>1</sup>; and

45 (2) Seven residents of the State, <sup>1</sup>of whom five shall be<sup>1</sup> appointed  
46 by the Governor, with the advice and consent of the Senate <sup>1</sup>, one shall  
47 be appointed by the Governor upon the recommendation of the  
48 President of the Senate, and one shall be appointed by the Governor

1 upon the recommendation of the Speaker of the General Assembly.  
2 The members appointed pursuant to this paragraph shall have, to the  
3 maximum extent practicable, expertise, knowledge, or experience in  
4 water quality protection, natural resources protection, environmental  
5 protection, agriculture, forestry, land use, or economic development,  
6 and at least four of them shall be property owners, business owners,  
7 or farmers in the Highlands Region or residents or nonresidents of the  
8 Highlands Region who benefit from or consume water from the  
9 Highlands Region<sup>1</sup>.

10 b. (1) Council members shall serve for terms of five years;  
11 provided, however, that of the members first appointed, five shall  
12 serve a term of three years, five shall serve a term of four years, and  
13 five shall serve a term of five years. <sup>1</sup>The initial terms of the two  
14 council members appointed by the Governor upon the  
15 recommendation, respectively, of the President of the Senate and the  
16 Speaker of the General Assembly shall be among those council  
17 members assigned initial terms of five years pursuant to this  
18 paragraph.<sup>1</sup>

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

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

25 d. Each member of the council, before entering upon the member's  
26 duties, shall take and subscribe an oath to perform the duties of the  
27 office faithfully, impartially, and justly to the best of the member's  
28 ability, in addition to any oath that may be required by R.S.41:1-1 et  
29 seq. A record of the oath shall be filed in the Office of the Secretary  
30 of State.

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

35 f. The powers of the council shall be vested in the members thereof  
36 in office. A majority of the total authorized membership of the council  
37 shall constitute a quorum <sup>1</sup>[except that] and<sup>1</sup> no action may be taken  
38 by the council except upon the affirmative vote of a majority of the  
39 <sup>1</sup>[quorum] total authorized membership of the council<sup>1</sup>. No alternate  
40 or designee of any council member shall exercise any power to vote on  
41 any matter pending before the council.

42 g. The Governor shall designate one of the members of the council  
43 as chairperson. The council shall appoint an executive director, who  
44 shall be the chief administrative officer thereof. The executive director  
45 shall serve at the pleasure of the council, and shall be a person  
46 qualified by training and experience to perform the duties of the office.

47 h. The members and staff of the council shall be subject to the  
48 "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-

1 12 et seq.).

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

4 j. A true copy of the minutes of every meeting of the council shall  
5 be prepared and forthwith delivered to the Governor. No action taken  
6 at a meeting by the council shall have force or effect until 10 days,  
7 exclusive of Saturdays, Sundays, and public holidays, after a copy of  
8 the minutes shall have been so delivered; provided, however, that no  
9 action taken with respect to the adoption of the regional master plan,  
10 or any portion or revision thereof, shall have force or effect until 30  
11 days, exclusive of Saturdays, Sundays, and public holidays, after a  
12 copy of the minutes shall have been so delivered. If, in the 10-day  
13 period, or 30-day period, as the case may be, the Governor returns the  
14 copy of the minutes with a veto of any action taken by the council at  
15 the meeting, the action shall be null and void and of no force and  
16 effect.

17

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

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

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

25 c. To maintain an office at such place or places in the Highlands  
26 Region as it may designate;

27 d. To sue and be sued in its own name;

28 e. To appoint, retain and employ, without regard to the provisions  
29 of Title 11A of the New Jersey Statutes but within the limits of funds  
30 appropriated or otherwise made available for those purposes, such  
31 officers, employees, <sup>1</sup>attorneys,<sup>1</sup> agents, and experts as it may require,  
32 and to determine the qualifications, terms of office, duties, services,  
33 and compensation therefor;

34 f. To apply for, receive, and accept, from any federal, State, or  
35 other public or private source, grants or loans for, or in aid of, the  
36 council's authorized purposes <sup>1</sup>[,]<sup>1</sup> or <sup>1</sup>[the]<sup>1</sup> in the carrying out of  
37 the council's powers, duties, and responsibilities;

38 g. To enter into any and all agreements or contracts, execute any  
39 and all instruments, and do and perform any and all acts or things  
40 necessary, convenient, or desirable for the purposes of the council or  
41 to carry out any power, duty, or responsibility expressly given in this  
42 act;

43 h. To call to its assistance and avail itself of the services of such  
44 employees of any State entity or local government unit as may be  
45 required and made available for such purposes;

46 i. To adopt a regional master plan for the Highlands Region as  
47 provided pursuant to section 8 of this act;

48 j. To appoint advisory boards, commissions, councils, or panels to

1 assist in its activities, including but not limited to a municipal advisory  
2 council consisting of mayors, municipal council members, or other  
3 representatives of municipalities located in the Highlands Region;

4 <sup>1</sup>[k. To authorize, if deemed useful, the establishment by  
5 appropriate persons or organizations of a nonprofit organization or  
6 organizations exempt from taxation pursuant to section 501 (c)(3) of  
7 the federal Internal Revenue Code of 1986, 26 U.S.C. s.501 (c)(3), for  
8 the purposes of assisting the council in furthering the purposes of this  
9 act and the regional master plan;]<sup>1</sup>

10 <sup>1</sup>[l.] k.<sup>1</sup> To solicit and consider public input and comment on the  
11 council's activities, the regional master plan, and other issues and  
12 matters of importance in the Highlands Region by periodically holding  
13 public hearings or conferences and providing other opportunities for  
14 such input and comment by interested parties;

15 <sup>1</sup>[m.] l.<sup>1</sup> To conduct examinations and investigations, to hear  
16 testimony, taken under oath at public or private hearings, on any  
17 material matter, and to require attendance of witnesses and the  
18 production of books and papers;

19 <sup>1</sup>[n.] m.<sup>1</sup> To prepare and transmit to the Commissioner of  
20 Environmental Protection such recommendations for water quality and  
21 water supply standards for surface and ground waters in the Highlands  
22 Region, or in tributaries and watersheds thereof, and for other  
23 environmental protection standards pertaining to the lands and natural  
24 resources of the Highlands Region, as the council deems appropriate;

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

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

40 <sup>1</sup>[q.] p.<sup>1</sup> To develop model land use ordinances and other  
41 development regulations, for consideration and possible adoption by  
42 municipalities in the planning area, that would help protect the  
43 environment, including, but not limited to, ordinances and other  
44 development regulations pertaining to steep slopes, forest cover,  
45 wellhead and water supply protection, <sup>1</sup>water conservation.<sup>1</sup>  
46 impervious surface, and clustering; and to provide guidance and  
47 technical assistance in connection therewith to those municipalities;

48 <sup>1</sup>[r.] q.<sup>1</sup> To identify and designate, and accept petitions from

1 municipalities to designate, special critical environmental areas in high  
2 resource value lands in the planning area, and develop voluntary  
3 standards and guidelines for protection of such special areas for  
4 possible implementation by those municipalities;

5 <sup>1</sup>[s.] r.<sup>1</sup> To comment upon any application for development before  
6 a local government unit, on the adoption of any master plan,  
7 development regulation, or other regulation by a local government  
8 unit, or on the enforcement by a local government unit of any  
9 development regulation or other regulation, which power shall be in  
10 addition to any other review, oversight, or intervention powers of the  
11 council prescribed by this act;

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

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

22 u. To promote, in conjunction with the Department of  
23 Environmental Protection and the Department of Agriculture,  
24 conservation of water resources both in the Highlands Region and in  
25 areas outside of the Highlands Region for which the Highlands is a  
26 source of drinking water;

27 v. To promote brownfield remediation and redevelopment in the  
28 Highlands Region;

29 w. To work with the State Agriculture Development Committee  
30 and the Garden State Preservation Trust to establish incentives for any  
31 landowner in the Highlands Region seeking to preserve land under the  
32 farmland preservation program that would be provided in exchange for  
33 the landowner agreeing to permanently restrict the amount of  
34 impervious surface and agricultural impervious cover on the farm to  
35 a maximum of five percent of the total land area of the farm;

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

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

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

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

4 (2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury,  
5 Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton,  
6 High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford,  
7 Tewksbury, and Union;

8 (3) in Morris County: Boonton Town, Boonton Township, Butler,  
9 Chester Boro, Chester Township, Denville, Dover, Hanover, Harding,  
10 Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill,  
11 Montville, Morris Plains, Morris Township, Morristown, Mount  
12 Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy  
13 Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway  
14 Township, Roxbury, Victory Gardens, Washington, and Wharton;

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

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

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

22 (7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin,  
23 Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope,  
24 Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg,  
25 Pohatcong, Washington Boro, Washington Township, and White.

26 b. <sup>1</sup>(1)<sup>1</sup> The preservation area shall consist of <sup>1</sup>all<sup>1</sup> that area  
27 <sup>1</sup>within the boundaries<sup>1</sup> described [by the Highlands Task Force,  
28 established by Executive Order No. 70 of 2003, and based upon  
29 natural resource data assembled by the United States Forest Service,  
30 Rutgers, The State University, and the New Jersey Water Supply  
31 Authority, which is to be translated, allowing for reasonable variations,  
32 by the Highlands Task Force with the assistance of Rutgers, The State  
33 University, the Department of Environmental Protection, and other  
34 appropriate entities, to appropriate and nearest practicable, on-the-  
35 ground, and easily identified reference points, such as, but not limited  
36 to, road descriptions, survey lines, and municipal boundaries, by May  
37 1, 2004 or as soon thereafter as may be possible. This narrative  
38 description of the preservation area shall be enacted into law.] herein:

39

40 Beginning at the New Jersey and New York border and the  
41 intersection of State Highway 17 and Interstate 287 in northern  
42 Mahwah Township; thence southerly on Interstate 287 to its  
43 intersection with Ramapo Valley Road (U.S. Highway 202); thence  
44 southwesterly on Ramapo Valley Road (U.S. Highway 202) to its  
45 intersection with the Campgaw Mountain County Reservation,  
46 immediately south of Marion Drive; thence in a general northeastern  
47 direction along the boundary of the Campgaw Mountain County  
48 Reservation, until its intersection with Interstate 287; thence southerly

1 on Interstate 287 to its intersection with the Mahwah Township and  
2 Oakland Borough corporate boundary; thence northwesterly along the  
3 Mahwah Township and Oakland Borough corporate boundary to its  
4 intersection with the Ramapo River; thence south on the east bank of  
5 the Ramapo River to its intersection with Interstate 287; thence  
6 westerly on Interstate 287 to its intersection with West Oakland  
7 Avenue; thence southerly and westerly on West Oakland Avenue to its  
8 intersection with Doty Road; thence southerly on Doty Road to its  
9 intersection with Ramapo Valley Road (U.S. Highway 202); thence  
10 westerly and southerly on Ramapo Valley Road (U.S. Highway 202)  
11 to its intersection with Long Hill Road (County Road 931); thence  
12 southerly on Long Hill Road (County Road 931) to its intersection  
13 with the Oakland Borough and Franklin Lakes Borough corporate  
14 boundary; thence southerly on the Oakland Borough and Franklin  
15 Lakes Borough corporate boundary to its intersection with the  
16 Oakland Borough corporate boundary; thence northwesterly along the  
17 Oakland Borough corporate boundary to the Wanaque Borough  
18 corporate boundary; thence westerly and southerly along the Wanaque  
19 Borough and Pompton Lakes Borough corporate boundary to its  
20 intersection with Ringwood Avenue (Alternate 511) to its intersection  
21 with the southwestern corner of Block 478, lot 7 in Wanaque  
22 Borough; thence east along the boundary of Block 478, lot 7 to  
23 boundary of Block 479, lot 3 in Wanaque Borough; thence northerly  
24 along the boundary of Block 479, lot 3 to the boundary of Block 479,  
25 lot 2; thence westerly and northerly to Interstate 287; thence northerly  
26 on Interstate 287 to its intersection with the Pompton River; thence  
27 northerly along the western bank of the Pompton River to its  
28 intersection in Wanaque Borough with the abandoned railroad right of  
29 way east of Ringwood Avenue; thence northerly on the abandoned  
30 railroad right of way to its intersection with Belmont Avenue; thence  
31 easterly on Belmont Avenue to its intersection with Mullen Avenue;  
32 thence southerly and easterly on Mullen Avenue to its intersection  
33 with Belmont Avenue thence easterly to Meadow Brook; thence  
34 northerly on the eastern bank of Meadow Brook to its intersection  
35 with Meadow Brook Avenue in Wanaque Borough; thence easterly on  
36 Meadow Brook Avenue to its intersection with Crescent Road; thence  
37 northerly on Crescent Road to its intersection with Tremont Terrace;  
38 thence northerly on Tremont Terrace to its intersection with Wilson  
39 Drive; thence northerly on Wilson Drive to its intersection with  
40 Conklintown Road; thence westerly on Conklintown Road to its  
41 intersection with Ringwood Avenue (Alternate 511); thence southerly  
42 on Ringwood Avenue (Alternate 511) to its intersection with the  
43 Wanaque Reservoir public lands; thence southerly and westerly on the  
44 Wanaque Reservoir public lands boundary to its intersection with  
45 Posts Brook; thence southerly on the eastern bank of Posts Brook to  
46 its intersection with Doty Road; thence easterly on Doty Road to its  
47 intersection the northeast corner of Block 401, lot 3 in Wanaque  
48 Borough; thence southerly along the boundary of Block 401, lot 3 to

1 the intersection with the Bloomingdale Borough and Wanaque  
2 Borough corporate boundary; thence southerly on Bloomingdale  
3 Borough and Wanaque Borough corporate boundary to its intersection  
4 with Union Avenue County Road 511); thence westerly on Union  
5 Avenue (County Road 511) to its intersection with Morse Lake Road;  
6 thence north on Morse Lake Road to the southeastern corner of Block  
7 57, lot 41 in Bloomingdale Borough; thence westerly along the  
8 boundary of Block 57, lot 41 to the boundary of Block 57, lot 40;  
9 thence northerly and westerly along the boundary of Block 57, lot 40  
10 to the northeast corner of Block 57, lot 43.01; thence continuing  
11 westerly and southerly along the boundary of Block 57, lot 43.01 to  
12 the boundary of Block 92.08, lot 77; thence westerly along the  
13 boundary of Block 92.08, lot 77 to the northeast corner of Block  
14 92.08, lot 1; thence continuing westerly along the northern boundary  
15 of Block 92.08, lot 1 to the southern boundary of Block 49.02, lot 12;  
16 thence continuing westerly along the southern boundary of Block  
17 49.02, lot 12 to the southern boundary of Block 49.02, lot 28; thence  
18 continuing westerly along the southern boundary of Block 49.02, lot  
19 28 to Woodlot Road; thence westerly across Woodlot Road to the  
20 boundary of Block 49.09, lot 8; thence westerly along the southern  
21 boundary of Block 49.09, lot 8 to the boundary of Block 49.09, lot 12;  
22 thence westerly along the southern boundary of Block 49.09, lot 12 to  
23 Overlook Road (Natalie Court); thence westerly across Overlook  
24 Road (Natalie Court) to the boundary of Block 49.01, lot 5.04; thence  
25 northwesterly along the boundary of Block 49.01, lot 5.04 to the  
26 southern corner of Block 49.01, lot 5.05; thence northwesterly along  
27 the boundary of Block 49.01, lot 5.05 to a corner of Block 44, lot 182;  
28 thence generally westerly following the southern boundary of Block  
29 44, lot 182 to Glenwild Avenue (Carmantown Road) at South Road;  
30 thence northerly along the eastern edge of Glenwild Avenue  
31 (Carmantown Road) right of way to a point opposite Glade Road;  
32 thence south across Glenwild Avenue (Carmantown Road) to the  
33 northeast corner of Block 5, lot 28; thence south along the boundary  
34 of Block 5, lot 28 to the boundary of Block 5, lot 26.01; thence  
35 southerly along the boundary of Block 5, lot 26.01 to Star Lake Road  
36 (Ridge Road); thence southwest across Star Lake Road (Ridge Road)  
37 to the northern corner of Block 5, lot 26.11 along the boundary of  
38 Block 5, lot 26.01; thence westerly along the boundary of Block 5, lot  
39 26.01 to the northern corner of Block 5, lot 26.02; thence southerly  
40 and westerly following along the boundary of Block 5, lot 26.02 to the  
41 northeastern corner of Block 5, lot 25.02; thence westerly and  
42 southerly along the boundary of Block 5, lot 25.02 to the northern  
43 limit of the Macopin Road (County Road 693) right of way; thence  
44 northerly and westerly on Macopin Road (County Road 693) to its  
45 intersection with the Bloomingdale Borough and West Milford  
46 Township corporate boundary; thence southerly on the Bloomingdale  
47 Borough and West Milford Township corporate boundary to its  
48 intersection with the West Milford Township and Butler Borough



1 corporate boundary; thence southerly along this corporate boundary  
2 to its intersection with the Kinnelon Borough, Butler Borough and  
3 Morris County Corporate boundary; thence westerly, southerly and  
4 easterly on the Kinnelon Borough and Butler Borough corporate  
5 boundary to its intersection with State Highway 23; thence easterly on  
6 State Highway 23 to its intersection with the Kinnelon Borough and  
7 Riverdale Borough corporate boundary; thence southerly and easterly  
8 on the Riverdale Borough and Pequannock Township corporate  
9 boundary to its intersection with Interstate 287; thence southerly on  
10 Interstate 287 to its intersection with Old Lane Road Extension;  
11 thence westerly, northerly and westerly on Old Lane Road Extension  
12 to the intersection of Virginia Drive; thence southerly on Virginia  
13 Drive to its intersection with MacLeay Drive; thence southwesterly on  
14 MacLeay Drive to its intersection with West Lake Drive; thence  
15 southwesterly on West Lake Drive to Taylortown Road; thence  
16 northerly and westerly on Taylortown Road to its intersection with  
17 Boonton Avenue and Rockaway Valley Road; thence westerly on  
18 Rockaway Valley Road to its intersection with Powerville Road  
19 (County Road 618); thence northerly on Powerville Road (County  
20 Road 618) to its intersection with Kincaid Road; thence easterly on  
21 Kincaid Road to its intersection with the Boonton Township and  
22 Montville Township corporate boundary; thence northerly, along the  
23 corporate boundary to the intersection with the Boonton Township  
24 and Kinnelon Borough corporate boundary; thence westerly on the  
25 corporate boundary to the intersection with the Boonton Township  
26 and Rockaway Township corporate boundary; thence and southerly on  
27 the Boonton Township corporate boundary to its intersection with  
28 Split Rock Road; thence northerly on Split Rock Road to its  
29 intersection with Lyonsville Road; thence southerly and westerly on  
30 Lyonsville Road and its continuation as Meriden Lyonsville Road to  
31 its intersection with Beaver Brook; thence along the eastern bank of  
32 the Beaver Brook southerly to its intersection with Ford Road; thence  
33 southerly and westerly along Ford Road to its intersection with Morris  
34 Avenue; thence northerly and westerly along Morris Avenue to its  
35 intersection with Green Pond Road (County Road 513); thence  
36 northerly on Green Pond Road (County Road 513) to its intersection  
37 with the Wildcat Ridge Wildlife Management Area; thence westerly on  
38 the Wildcat Ridge Wildlife Management Area boundary to its  
39 intersection with Hibernia Brook; thence westerly on the southern  
40 bank of Hibernia Brook to its intersection with Valley View Drive;  
41 thence westerly on Valley View Drive to its intersection with Erie  
42 Avenue; thence northerly on Erie Avenue to its intersection with  
43 Comanche Avenue; thence southerly on Comanche Avenue to its  
44 intersection with West Lake Shore Drive; thence westerly on West  
45 Lake Shore Drive to its intersection with Jackson Avenue; thence  
46 westerly on Jackson Avenue to its intersection with Miami Trail;  
47 thence westerly and southerly on Miami Trail to its intersection with  
48 Cayuga Avenue; thence southerly on Cayuga Avenue to its

1 intersection with South Brookside Avenue; thence easterly on South  
2 Brookside Avenue to its intersection with Montauk Avenue; thence  
3 southerly on Montauk Avenue to its intersection with Old Middletown  
4 Road; thence southwesterly on Old Middletown Road to its  
5 intersection with Ridge Road; thence westerly on Ridge Road to its  
6 intersection with Cathy's Place; thence southerly on Cathy's Place to  
7 its intersection with Mt. Hope Road (County Road 666); thence  
8 northerly on Mt. Hope Road (County Road 666) to its intersection  
9 with the Mt. Hope Park public land boundary; thence southerly and  
10 westerly on the Mt. Hope Park public land boundary to its intersection  
11 with Block 70001 in Rockway Township (Picatinny Arsenal); thence  
12 northeasterly, northerly and southwesterly on the boundary of Block  
13 70001 (Picatinny Arsenal) to its intersection with State Highway 15;  
14 thence northerly on State Highway 15 to its intersection with the  
15 Rockaway Township and Jefferson Township corporate boundary;  
16 thence southwesterly on the Rockaway Township and Jefferson  
17 Township corporate boundary south of Interstate 80 to its intersection  
18 with the Conrail/NJ Transit right of way; thence westerly on  
19 Conrail/NJ Transit right of way to its intersection with the Roxbury  
20 Township and Mount Arlington Borough corporate boundary; thence  
21 northerly on the Roxbury Township and Mount Arlington Borough  
22 corporate boundary to its intersection with the southern corner of  
23 Block 22, lot 13 in Mount Arlington Borough; thence northerly and  
24 northwesterly on the boundary of Block 22, lot 13 to its intersection  
25 with Berkshire Avenue; thence westerly on Berkshire Avenue to its  
26 intersection with Mountainview Avenue; thence northerly on  
27 Mountainview Avenue to its intersection with the southern corner on  
28 Block 8, lot 5.01 in Mount Arlington Borough; thence easterly,  
29 northerly, southerly then northerly on the boundary of Block 8, lot  
30 5.01 to its intersection with Littel Way; thence westerly on Littel Way  
31 to its intersection with Howard Boulevard (County Road 615); thence  
32 northerly on Howard Boulevard, continuing northerly as it becomes  
33 Espanong Road, to its intersection with Edison Road (County Road  
34 615); thence easterly on Edison Road (County Road 615) to its  
35 intersection with State Highway 15; thence northerly on the eastern  
36 edge of the State Highway 15 right of way north of Lake Winona to  
37 its intersection with the electrical utility right of way; thence southerly  
38 and westerly on the utility right of way to its intersection with State  
39 Highway 181; thence southerly on State Highway 181 to its  
40 intersection with Prospect Point Road; thence southerly on Prospect  
41 Point Road to its intersection with Northwood Road (County Road  
42 609); thence southwesterly on Northwood Road to its intersection  
43 with a tributary of the Musconetcong River; thence northerly on the  
44 west bank of the tributary of the Musconetcong River to its  
45 intersection with the southwestern boundary of Block 70001, lot 4 in  
46 Hopatcong Borough; thence southwesterly on the southwestern  
47 boundary of Block 70001, lot 4 to its intersection with the  
48 southernmost corner of Block 70001, lot 5; thence northwesterly on

1 the boundary of Block 70001, lot 5 to its intersection with Block  
2 70001, lot 1; thence southwesterly on Block 70001, lot 1 to its  
3 intersection with the easternmost point of Block 50002, lot 1; thence  
4 southwesterly on Block 50002, lot 1 to its intersection with Mohawk  
5 Trail and Block 50003, lot 1 in Hopatcong Borough; thence  
6 northwesterly and southwesterly along the northeast border of Block  
7 5003, lot 1 to its intersection with the northwest corner of Block  
8 5002, lot 2; thence southerly along the western boundary of Block  
9 5002, lot 2 to its intersection with the northernmost corner Block  
10 5002, lot 4; thence southwesterly along the Block 5002, lot 4 to its  
11 intersection with Block 5002, lot 6; thence northwesterly,  
12 southwesterly, southeasterly and southwesterly along the boundary of  
13 Block 5002, lot 6 to its westernmost corner; thence westerly on a line  
14 to the intersection of Old Sparta Stanhope Road and Lubbers Run;  
15 thence northerly on Old Sparta Stanhope Road to its intersection with  
16 Sparta Stanhope Road (County Route 605); thence southerly on  
17 Sparta Stanhope Road (County Route 605) to the intersection of the  
18 Conrail right of way; thence southerly along the Conrail right of way  
19 to its intersection with the Byram Township and Stanhope Borough  
20 corporate boundary; thence westerly and southerly along the Byram  
21 Township and Stanhope Borough corporate boundary to its  
22 intersection with the southeastern corner of Block 42, lot 115 in  
23 Byram Township; thence northeasterly and westerly on the block limit  
24 of Block 42 to its intersection with the southeastern corner of Block  
25 42, lot 112; thence northerly on a line approximately 390 feet east of,  
26 and parallel to, State Highway 206 to its intersection with Brookwood  
27 Road; thence easterly on Brookwood Road to the southeastern corner  
28 of Block 40, lot 18; thence northerly on the boundary of Block 40, lot  
29 18 to its intersection with Block 40, lot 15; thence easterly and  
30 northerly on Block 40, lot 15 to its intersection with Block 40, lot 14;  
31 thence northeasterly, northerly, and westerly on the boundary of  
32 Block 40, lot 14 to its intersection with the southeastern corner of  
33 Block 365, lot 5; thence northeasterly on the boundary of Block 365,  
34 lot 5 to Lake Lackawanna Road (also known as Lackawanna Drive)  
35 and the southeastern corner of Block 226, lot 16; thence northeasterly  
36 on the boundary of Block 226, lot 16 to its intersection with Block  
37 226, lot 11; thence westerly, northerly, westerly, southerly, and  
38 westerly on the boundary of Block 226, lot 11 to its intersection with  
39 State Highway 206; thence southerly on State Highway 206 to its  
40 intersection with the northeast corner of Block 70, lot 7.02; thence  
41 westerly, southerly, westerly, and southerly on the boundary of Block  
42 70, lot 7.02 to its intersection with Block 70, lot 7.01; thence  
43 southerly on the boundary of Block 70, lot 7.01 to its intersection with  
44 Block 70, lot 6; thence southerly on the boundary of Block 70, lot 6  
45 to its intersection with Hi Glen Drive, continuing southerly to the  
46 northwest corner of Block 59, lot 5; thence southerly on the boundary  
47 of Block 59, lot 5 to its intersection with Block 34, lot 16; thence  
48 westerly, southerly, easterly and southerly on the boundary of Block

1 34, lot 16 to its intersection with Block 34, lot 17; thence westerly on  
2 the boundary of Block 34, Lot 17 to its intersection with Millstream  
3 Lane (as depicted on the municipal map); thence southerly on  
4 Millstream Lane (as depicted on the municipal map) to its intersection  
5 with Netcong Avenue; thence easterly on Netcong Avenue to its  
6 intersection with State Highway 206; thence southerly on the western  
7 edge of the State Highway 206 right of way to its intersection with the  
8 northeastern corner of Block 36, lot 39.01; thence westerly, southerly  
9 and easterly along the boundary of lot 39.01 to the western edge of the  
10 State Highway 206 right of way; thence southerly on the western edge  
11 of the State Highway 206 right of way to its intersection with the  
12 northeastern corner of Block 36, lot 40; thence westerly, northerly,  
13 westerly along the boundary of Block 36 Lot 40 to the boundary of  
14 Block 36, Lot 42; thence northerly, westerly, southerly along the  
15 boundary of Block 36, Lot 42 to Waterloo Road; thence westerly  
16 along Waterloo Road to the intersection with the northwestern corner  
17 of Block 29, Lot 201.03; thence southerly to the intersection of Block  
18 29, Lot 201.02 and Block 27, Lot 379; thence easterly to the northeast  
19 corner of Block 27, Lot 379; thence southerly on a line approximately  
20 143 feet west of, and paralleling, the western edge of the State  
21 Highway 206 right of way to the intersection with Acorn Street;  
22 thence easterly on Acorn Street to State Highway 206; thence  
23 southerly along the western edge of the State Highway 206 right of  
24 way to its intersection with the corporate boundary between Byram  
25 Township and Stanhope Borough; thence generally southerly along the  
26 corporate boundary between Byram Township and Stanhope Borough  
27 to the Musconetcong River and the corporate boundary between  
28 Byram Township and Mount Olive Township; thence northwesterly  
29 along the corporate boundary between Byram Township and Mount  
30 Olive Township to its intersection with Allamuchy State Park; thence  
31 southerly, westerly and southerly on the Allamuchy State Park  
32 boundary to its intersection with Interstate 80; thence southeasterly on  
33 Interstate 80 to its intersection with International Drive North; thence  
34 southeasterly on International Drive North to its intersection with  
35 Waterloo Valley Road; thence easterly and southerly on Waterloo  
36 Valley Road to its intersection with Allamuchy State Park; thence  
37 easterly and southerly and westerly on the Allamuchy State Park  
38 boundary to its intersection with Lozier Road; thence easterly on  
39 Lozier Road to its intersection with Waterloo Road; thence southerly  
40 on Waterloo Road to its intersection with 4th Street; thence westerly  
41 and southerly on 4th Street to its intersection with Hopkins Drive;  
42 thence southerly on Hopkins Drive to its intersection with Netcong  
43 Road (County Road 649); thence southerly and westerly on Netcong  
44 Road (County Road 649) to its intersection with Sand Shore Road  
45 (County Road 649); thence southerly on Sand Shore Road (County  
46 Road 649) to its intersection with U.S. Highway 46; thence northerly  
47 and easterly on U.S. Highway 46 to its intersection with Gold Mine  
48 Road; thence easterly on Gold Mine Road to its intersection with State

1 Highway 206; thence northerly on State Highway 206 to its  
2 intersection with Mountain Road; thence southerly and easterly on  
3 Mountain Road to its intersection with Mooney Road; thence northerly  
4 on Mooney Road to its intersection with U.S. Highway 46; thence  
5 easterly and southerly on U.S. Highway 46 to its intersection with  
6 Main Street and the Morris Canal Park boundary; thence southerly on  
7 the Morris Canal Park boundary to its intersection with Mountain  
8 Road; thence northeasterly on Mountain Road to its intersection with  
9 Emmans Road; thence southerly and westerly on Emmans Road to its  
10 intersection with the Conrail right of way south of Drake's Brook;  
11 thence southerly and westerly on Conrail right of way to its  
12 intersection with State Highway 206; thence southerly on State  
13 Highway 206 to its intersection with the Mount Olive Township and  
14 Chester Township corporate boundary; thence northerly and westerly  
15 on the Chester Township corporate boundary to its intersection with  
16 the Roxbury Township corporate boundary, continuing northerly and  
17 westerly on the Roxbury Township and Chester Township corporate  
18 boundaries to the intersection with the Black River Wildlife  
19 Management Area; thence northerly and easterly on the boundary of  
20 the lands of the Morris County Utilities Authority to its intersection  
21 with easterly on Righter Road; thence easterly on Righter Road to its  
22 intersection with Park Avenue; thence southerly on Park Avenue to its  
23 intersection with the Randolph Township and Chester Township  
24 corporate boundary; thence southeasterly on the Chester Township  
25 corporate boundary to its intersection with North Road (County Road  
26 513); thence southerly and westerly on North Road (County Road  
27 513) to its intersection with the Chester Township and Chester  
28 Borough corporate boundary; thence northerly; thence westerly,  
29 southerly and easterly around the Chester Borough corporate  
30 boundary to its intersection with Main Street (County Road 510);  
31 thence southerly on County Route 510 to its intersection with Chester  
32 Township and Mendham Township corporate boundary; thence  
33 southerly on the Chester Township corporate boundary to its  
34 intersection with the Chester Township and Peapack-Gladstone  
35 Borough and Somerset County corporate boundary; thence  
36 southwesterly on the Chester Township and Peapack-Gladstone  
37 Borough and Somerset County corporate boundary to its intersection  
38 with the Bedminster Township corporate boundary; thence southerly  
39 on the Bedminster Township corporate boundary to its intersection  
40 with Pottersville Road (County Road 512); thence westerly on  
41 Pottersville Road (County Road 512) to its intersection with Black  
42 River Road; thence northerly and westerly on Black River Road to its  
43 intersection with the corporate boundaries of Bedminster Township  
44 and Tewksbury Township; thence northerly along the corporate  
45 boundaries to their intersection with the corporate boundary of  
46 Washington Township; thence westerly along the corporate boundaries  
47 of Washington Township and Tewksbury Township to the point where  
48 it intersects Black River Road; thence northerly and westerly on Black

1 River Road to the intersection of Hacklebarney Road; thence north on  
2 Hacklebarney Road to the intersection of Old Farmers Road; thence  
3 northerly and westerly on Old Farmers Road to the intersection of  
4 Flintlock Drive; thence easterly and northerly on Flintlock Drive to the  
5 intersection of Parker Road; thence westerly on Parker Road to the  
6 intersection of Old Farmers Road; thence northerly on Old Farmers  
7 Road to the intersection with the southwestern corner of Block 36.06  
8 in Washington Township; thence northeasterly on the southern  
9 boundary of Block 36.06 to its intersection with Block 36, lot 42;  
10 thence northwesterly on the boundary of Block 36, lot 42 to its  
11 intersection with the southern corner of Block 36, lot 41; thence  
12 northeasterly along the southern boundary of Block 36, lot 41 to its  
13 intersection with Block 36, lot 43; thence northwesterly on the eastern  
14 boundary of Block 36, lot 41 to its intersection with Block 36, lot  
15 43.01; thence westerly and northwesterly on the boundary of Block  
16 36, lot 43.01 to a point 560 feet southeast from the centerline of East  
17 Mill Road; thence easterly, and parallel to East Mill Road, a distance  
18 of 1300 feet to a point 560 feet from the centerline of East Mill Road;  
19 thence northerly to its intersection with East Mill Road; thence  
20 westerly on East Mill Road to its intersection with the southwestern  
21 corner of Block 28, lot 17.01; thence northwesterly on the western  
22 boundary of Block 28, lot 17.01 to its intersection with Block 28, lot  
23 17; thence westerly, easterly and northwesterly on Block 28, lot 17 to  
24 its intersection with Block 28, lot 300; thence northwesterly on Block  
25 28, lot 300 to its intersection with Block 28, lot 60; thence  
26 northwesterly on Block 28, lot 60 to its intersection with Fairview  
27 Avenue; thence southwesterly on Fairview Avenue to its intersection  
28 with Springtown Brook (Raritan River Tributary); thence northerly  
29 and northwesterly on Springtown Brook to its intersection with the  
30 southeastern corner of Block 25, lot 47; thence northwesterly and  
31 westerly on the boundary of Block 25, lot 47 to a point that is due east  
32 of the northernmost corner of Block 25, lot 48; thence due east to the  
33 northernmost corner of Block 25, lot 48; thence westerly, northerly  
34 and westerly on the northernmost boundaries of Block 25, lots 48, 49,  
35 47.01, 51, and 52.01 to the intersection of Block 25, lot 52.02; thence  
36 northwesterly on Block 25, lot 52.02 to Schooley's Mountain Road  
37 (County Road 517); thence across Schooley's Mountain Road (County  
38 Road 517) to the northeastern corner of Block 33, lot 19.01; thence  
39 westerly on Block 33, lot 19.01 to the northernmost corner of Block  
40 33, lot 19; thence southwesterly on a line to the southwestern corner  
41 of Block 33, lot 58.01; thence southeasterly on Block 33, lot 58.01 to  
42 its intersection with the abandoned railroad right of way (including the  
43 Columbia Gas transmission line); thence crossing the abandoned  
44 railroad right of way to the southeastern corner of Block 33, lot 58;  
45 thence southeasterly on Block 33, lot 58 to West Mill Road (County  
46 Road 513); thence crossing to West Mill Road (County Road 513) to

1 the eastern corner of Block 34, lot 46; thence southeasterly and  
2 northeasterly on Block 34, lot 46 to its intersection with Block 34, lot  
3 50; thence northeasterly on Block 34, lot 50 to its intersection with  
4 Block 34, lot 1.01; thence northeasterly on Block 34, lot 1.01 to its  
5 intersection with Block 34, lot 3.01; thence northeasterly on Block 34,  
6 lot 3.01 to its intersection with Fairmount Road (County Road 517);  
7 thence southerly along Fairmount Road to the intersection of Parker  
8 Road; thence northeast along Parker Road to Black River Road;  
9 thence east along Parker Road to Pickle Road; thence south on Pickle  
10 Road to the intersection of West Fairmount Road (County Road 512);  
11 thence southerly on West Fairmount Road (County Road 512) to its  
12 intersection with Hollow Brook Road; thence westerly on Hollow  
13 Brook Road to its intersection with Homestead Road; thence southerly  
14 on Homestead Road to its intersection with High Street (County Road  
15 517) and Hill and Dale Road; thence westerly on Hill and Dale Road  
16 to its intersection with Rockaway Road; thence westerly on Rockaway  
17 Road to its intersection with Meadow Road; thence southerly on  
18 Meadow Road to its intersection with Bissell Road; thence westerly on  
19 Bissell Road to its intersection with Welsh Road; thence southerly and  
20 westerly on Welsh Road to its intersection with the Tewksbury  
21 Township and Clinton Township corporate boundary; thence westerly  
22 on the Tewksbury Township and Clinton Township corporate  
23 boundary to its intersection with Cokesbury Road (County Road 639);  
24 thence northerly and westerly on Cokesbury Road (County Road 639)  
25 to its intersection with Cokesbury Califon Road; thence northerly on  
26 Cokesbury Califon Road to its intersection with the Lebanon  
27 Township and Clinton Township corporate boundary; thence westerly  
28 on the Lebanon Township and Clinton Township corporate boundary  
29 to its intersection with Mt. Grove Road; thence southerly on Mt.  
30 Grove Road to its intersection with Beaver Brook Ravine public land  
31 boundary; thence southerly, westerly and northerly on the Beaver  
32 Brook Ravine public land boundary to its intersection with Highbridge  
33 Cokesbury Road (County Road 639); thence westerly on Highbridge  
34 Cokesbury Road (County Road 639) to its intersection with Stone  
35 Mill Road; thence north on Stone Mill Road to the Clinton Township  
36 and Lebanon Township corporate boundary; thence westerly on the  
37 Clinton Township corporate boundary to its intersection with the High  
38 Bridge Borough and Lebanon Township corporate boundary; thence  
39 west and southerly along the corporate boundary to the intersection  
40 with Cregar Road; thence westerly on Cregar Road to its intersection  
41 with State Highway 31; thence southerly on State Highway 31 to its  
42 intersection with the Spruce Run Reservoir boundary; thence southerly  
43 and westerly on the Spruce Run Reservoir boundary to its intersection  
44 with Rupell Road; thence westerly on Rupell Road to its intersection  
45 with the Clinton Fish and Wildlife Management Area; thence westerly  
46 on the Clinton Fish and Wildlife Management Area boundary to its

1 intersection with Charlestown Road (County Road 635); thence  
2 southerly on Charlestown Road (County Road 635) to its intersection  
3 with South Frontage Road in Union Township; thence westerly on  
4 South Frontage Road to the intersection of Baptist Church Road;  
5 thence south on Baptist Church Road to the Norfolk Southern Lehigh  
6 Valley railroad right of way; thence easterly along the northern  
7 boundary of the Norfolk Southern Lehigh Valley railroad right of way  
8 to Mechlin Corner Road; thence north on Mechlin Corner Road to the  
9 intersection of Perryville Road; thence easterly and southerly on  
10 Perryville Road to its intersection with Race Street; thence easterly on  
11 Race Street to its intersection with the Franklin Township and Union  
12 Township corporate boundary; thence southerly on the Franklin  
13 Township and Union Township corporate boundary to Pittstown  
14 Clinton Road (County Road 513) to its intersection with Cook's Cross  
15 Road; thence westerly on Cook's Cross Road to its intersection with  
16 Bloomsbury Road (County Road 579); thence northerly and westerly  
17 on Bloomsbury Road (County Road 579) to its intersection with Little  
18 York Pattenburg Road (County Road 614); thence westerly and  
19 southerly on Little York Pattenburg Road (County Road 614) to its  
20 intersection with Little York Mt. Pleasant Road (County Road 631)  
21 and Ellis Road; thence westerly and northerly on Ellis Road to its  
22 intersection with Hawkes Schoolhouse Road; thence southerly on  
23 Hawkes Schoolhouse Road to its intersection with Milford Warren  
24 Glen Road (County Road 519); thence westerly on Milford Warren  
25 Glen Road (County Road 519) to its intersection with Dennis Road;  
26 thence westerly and northerly on Dennis Road to its intersection with  
27 Milford Warren Glen Road (County Road 519); thence northerly on  
28 Milford Warren Glen Road (County Road 519) to its intersection with  
29 the Musconetcong River; thence southerly and westerly on the  
30 southern bank of the Musconetcong River to its intersection with the  
31 Delaware River and the State of New Jersey corporate boundary;  
32 thence northerly and easterly on the Delaware River and the State of  
33 New Jersey corporate boundary to its intersection with the  
34 Phillipsburg Town and Pohatcong Township corporate boundary;  
35 thence northeasterly on the Phillipsburg Town and Pohatcong  
36 Township corporate boundary to its intersection with Interstate 78;  
37 thence southerly on interstate 78 to its intersection with the Pohatcong  
38 Township and Alpha Borough corporate boundary; thence southerly  
39 and westerly on the Pohatcong Township and Alpha Borough  
40 corporate boundary to its intersection with Snydersville Road; thence  
41 northeasterly on Snydersville Road to its intersection with Interstate  
42 78; thence noutheasterly on Interstate 78 to its intersection with the  
43 Pohatcong Township and Alpha Borough corporate boundary; thence  
44 northeasterly on the Pohatcong Township and Alpha Borough  
45 corporate boundary to its intersection with Edge Road; thence  
46 northwesterly on Edge Road to its intersection with Interstate 78;



1 thence northerly and easterly on Interstate 78 to its intersection with  
2 US Highway 22; thence southeasterly on US Highway 22 to its  
3 intersection with the Greenwich Township and Pohatcong Township  
4 corporate boundary; thence southerly on the Greenwich Township and  
5 Pohatcong Township corporate boundary to its intersection with  
6 Warren Glen Bloomsbury Road (County Road 639); thence northerly  
7 and easterly on Warren Glen Bloomsbury Road (County Road 639) to  
8 its intersection with State Highway 173 in Greenwich Township;  
9 thence easterly on State Highway 173 to its intersection with Church  
10 Street (County Road 579); thence easterly on Church Street (County  
11 Road 579) to its intersection with the Musconetcong River; thence  
12 northerly and easterly on the northern bank of the Musconetcong  
13 River to its intersection with the eastern most boundary of the  
14 Musconetcong Valley Acquisition public lands in Bethlehem  
15 Township; thence easterly and southerly on the Musconetcong Valley  
16 Acquisition public land boundary to its intersection with the Conrail  
17 right of way; thence easterly on the Conrail right of way to its  
18 intersection with D. Hull Private Road; thence southerly on the D.  
19 Hull Private Road to its intersection with State Highway 173; thence  
20 east to the intersection of West Portal Asbury Road (County Road  
21 643); thence easterly and northerly on West Portal Asbury Road  
22 (County Road 643); thence easterly and northerly on West  
23 Portal-Asbury Road (County Road 643) to its intersection with Maple  
24 Avenue in Warren County; thence northerly and easterly on Maple  
25 Avenue to its intersection with Shurts Road; thence southerly on  
26 Shurts Road, becoming Valley Road in Hunterdon County, continuing  
27 on Valley Road to its intersection with Main Street in Hampton  
28 Borough; thence northerly on Main Street to its intersection with State  
29 Highway 31; thence northerly on State Highway 31 to its intersection  
30 with the Musconetcong River; thence northerly and easterly on the  
31 northern bank of the Musconetcong River to its intersection with  
32 Newburgh Road; thence east on Newburgh Road to the intersection  
33 of Schooley's Mountain Road (County Route 517); thence northerly  
34 on Schooley's Mountain Road (County Route 517) to the  
35 Musconetcong River; thence northerly along the Musconetcong River  
36 to East Avenue; thence northeasterly along East Avenue to U.S.  
37 Highway 46; thence northerly and easterly along U.S. Highway 46 to  
38 the intersection with the Washington Township and Mount Olive  
39 Township corporate boundary; thence westerly and southerly along  
40 said corporate boundary to the Musconetcong River; thence northerly  
41 along the southern bank of the Musconetcong River to the Stephens  
42 State Park boundary; thence northerly, westerly, northerly, westerly  
43 along the Stephens State Park boundary to a point opposite the lands  
44 of Stephens State Park on the western and northern bank of the  
45 Musconetcong; thence across the Musconetcong River to the  
46 boundary of the lands of Stephens State Park; thence along the

1 southern boundary of Stephens State Park to the intersection of  
2 Willow Grove Road (Warren County Route 604); thence north along  
3 the lands of Stephens State Park and Willow Grove Road (Warren  
4 County Route 604) to a point opposite the lands of Stephens State  
5 Park on the west side of Willow Grove Road (Warren County Route  
6 604); thence crossing Willow Grove Road to the boundary of the lands  
7 of Stephens State Park; thence westerly along said State Park  
8 boundary lands to the intersection with the Conrail right of way;  
9 thence southerly on Conrail right of way to its intersection with Bilby  
10 Road; thence northerly and westerly on Bilby Road to its intersection  
11 with Old Bilby Road; thence northerly and westerly on Old Bilby Road  
12 to its intersection with High Street (County Road 517); thence  
13 southerly on High Street (County Road 517) to its intersection with  
14 Old Allamuchy Road; thence southerly and westerly on Old Allamuchy  
15 Road to its intersection with the Independence Township and  
16 Hackettstown Town corporate boundary; thence westerly and  
17 southerly on the Hackettstown Town corporate boundary to its  
18 intersection with the Hackettstown Town and Mansfield Township  
19 corporate boundary; thence southerly and easterly on the  
20 Hackettstown Town and Mansfield Township corporate boundary to  
21 its intersection with the Conrail railroad right of way at Rockport  
22 Road; thence southerly and westerly on the Conrail railroad right of  
23 way into Washington Township to a point along the Conrail railroad  
24 right of way 1,250 feet southwest of the Washington Township and  
25 Mansfield Township corporate boundary; thence proceeding  
26 northwesterly 380 feet more or less along a line projected to the  
27 southeastern corner of Block 43, lot 10.01 in Washington Township;  
28 thence continuing northwesterly and westerly along the boundary of  
29 Block 43, lot 10.01 to the northeastern corner of Block 43, lot 10;  
30 thence westerly along the boundary of Block 43, lot 10 to the  
31 southeastern corner of Block 43, lot 9; thence northerly along the  
32 eastern boundaries of Block 43, lots 9, 6 and 5; thence along a line  
33 projected from the northern corner of Block 43, lot 5 365 feet more  
34 or less across a portion of Block 43, lot 3 to the southeastern corner  
35 of Block 43, lot 4; thence northerly and westerly along the boundary  
36 of Block 43, lot 4 to Port Colden Road; thence northerly on Port  
37 Colden Road to the Shabbecong Creek crossing; thence southwestly  
38 along the northern bank of the Shabbecong Creek to its intersection  
39 with the western boundary of Block 40, lot 86; thence south along  
40 Block 40, lot 86 to the northeastern corner of Block 40, lot 87.02;  
41 thence westerly along the northern boundary of Block 40, lot 87.02;  
42 thence 60 feet more or less along a line projected from the  
43 northwestern corner of Block 40, lot 87.02 across a portion of Block  
44 40, lot 87 to the northeast corner of Block 40, lot 87.01 and a corner  
45 of Block 40, lot 87; thence westerly along the southern boundary of  
46 Block 40, lot 87 to the Washington Township and Washington

1 Borough corporate boundary; thence northerly and westerly along the  
2 Washington Township and Washington Borough corporate boundary  
3 to the southern corner of Block 40, lot 105; thence northeasterly to  
4 the corner and intersection with the boundary of Block 40, lot 87;  
5 thence northwesterly along the boundary of Block 40, lot 87 to the  
6 intersection with the first southwestern corner of Block 40, lot 110;  
7 thence northwesterly along the western boundary of Block 40, lot 110  
8 to the southern corner of Block 40, lot 25; thence northeasterly and  
9 northwesterly along the boundary of Block 40, lot 25 to the southern  
10 corner of Block 40, lot 28; thence northeasterly and northwesterly  
11 along the boundary of Block 40, lot 28 the intersection of Jackson  
12 Valley Road and State Highway 31; thence northerly along western  
13 edge of the right of way of State Highway 31 to a point 2,200 feet  
14 north of Jackson Valley Road intersection; thence turning 90 degrees  
15 west from the right of way edge and proceeding 1,300 feet more or  
16 less westerly across a portion of Block 38, lot 5 to the Conrail railroad  
17 tracks or right of way; thence south along the eastern edge of Conrail  
18 railroad tracks or right of way to the northern corner of Block 38, lot  
19 8; thence south along the western boundary of Block 38, lot 8 to the  
20 southern bank of the Pohatcong Creek; thence southwesterly along the  
21 southern bank of the Pohatcong Creek to Mine Hill Road; thence  
22 northwesterly along Mine Hill Road to the intersection of Bowerstown  
23 Road; thence southwesterly approximately 310 feet on the northern  
24 edge of the Bowerstown Road right of way to its intersection with a  
25 12 foot wide portion of Block 5, lot 18 which provides access to  
26 Bowerstown Road; thence 550 feet more or less westerly along the 12  
27 foot wide portion of Block 5, lot 18 to the point it intersects with the  
28 western limit of the 100 foot wide New Jersey Power and Light  
29 easement; thence turning south approximately 104 degrees more or  
30 less and projecting along a line 200 feet more or less to the northern  
31 corner of Block 5, lot 16.04; thence projected southerly along a line  
32 300 feet more or less to the northern corner of Block 5, lot 17; thence  
33 continuing southerly along the western boundaries of Block 5, lots 17,  
34 16.01, 16.02, and 16.03 to the western corner of Block 5, lot 16.03;  
35 thence projecting southerly along a line 670 feet more or less to the  
36 eastern corner of Block 5, lot 22.01; thence continuing southerly along  
37 the eastern boundary of Block 5, lot 22.01 to Lannings Trail; thence  
38 southeast across Lannings Trail to the northeast corner of Block 6, lot  
39 13.05; thence southwesterly and northwesterly along the eastern  
40 boundary of Block 6, lot 13.05 to the eastern corner of Block 6, lot  
41 11; thence southerly along the eastern boundary of Block 6, lot 11 to  
42 Lanning Terrace; thence southerly across Lanning Terrace to the  
43 northeastern corner of Block 6, lot 19.03; thence southerly along the  
44 eastern boundary of Block 6, lot 19.03 to the intersection of the  
45 northern boundary of Block 6, lot 20.01; thence following along the  
46 boundary of Block 6, lot 20.01 easterly and then generally

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

1 intersection with Block 2, lot 18.01; thence easterly, thence southerly  
2 on the boundary of Block 2, lot 18.01 to its intersection with the  
3 northwestern corner of Block 2, lot 19.02 at Kent Place; thence  
4 southerly on the boundary of Block 2, lot 19.02 to its southwestern  
5 corner; thence southerly on a line to the southwestern corner of Block  
6 2, lot 61; thence easterly on the southern boundary of Block 2, lot 61  
7 to its intersection with Jonestown Road; thence southerly on  
8 Jonestown Road to its intersection with the southwestern corner of  
9 Block 1.01, lot 39.02; thence easterly on the southern boundary of  
10 Block 1.01, lot 39.02, continuing easterly on the southern boundary  
11 of Block 1.01, lots 39 and 39.01 to the intersection with Mine Hill  
12 Road; thence northerly on Mine Hill Road to the intersection with  
13 Academy Street and the Oxford Mountain public land boundary;  
14 thence northeasterly on the Oxford Mountain public land boundary to  
15 the intersection with State Highway 31; thence easterly on State  
16 Highway 31 to the intersection of Oram's Lane; thence easterly on  
17 Oram's Lane to its end and intersection with Block 34, lot 2; thence  
18 northerly, thence easterly on the boundary of Block 34, lot 2 to its  
19 intersection with Block 34, lot 2.01; thence easterly on the northern  
20 boundary of Block 34, lot 2.01 to its intersection with the Pequest  
21 Wildlife Management Area boundary; thence northerly on the Pequest  
22 Wildlife Management Area boundary to its intersection with Axford  
23 Avenue and the Pequest Wildlife Management Area boundary; thence  
24 westerly and northerly on the Pequest Wildlife Management Area  
25 boundary to its intersection with the Oxford Township and White  
26 Township corporate boundary; thence westerly on the Oxford  
27 Township and White Township corporate boundary to its intersection  
28 with State Highway 31; thence northerly on State Highway 31 to its  
29 intersection with U.S. 46; thence easterly on U.S. 46 to its intersection  
30 with Free Union Road; thence northerly on Free Union Road to its  
31 intersection with Beechwood Road; thence westerly on Beechwood  
32 Road to its intersection with Tamarack Road; thence northerly on  
33 Tamarack Road to its intersection with the White Township and  
34 Liberty Township corporate boundary; thence northerly and westerly  
35 on the White Township and Liberty Township corporate boundary to  
36 its intersection with Mountain Lake Road (County Road 617); thence  
37 southerly and westerly on Mountain Lake Road to its intersection with  
38 North Bridgeville Road (County Road 519); thence northerly on North  
39 Bridgeville Road (County Road 519) to its intersection with the White  
40 Township and Hope Township corporate boundary; thence easterly  
41 and southerly on the White Township and Hope Township corporate  
42 boundary to its intersection with the Hope Township and Liberty  
43 Township corporate boundary; thence northerly and easterly on the  
44 Hope Township and Liberty Township corporate boundary to its  
45 intersection with the Frelinghuysen Township and Independence  
46 Township corporate boundary; thence northerly and easterly on the

1 Frelinhuysen Township and Independence Township corporate  
2 boundary to its intersection with Frelinghuysen Township and  
3 Allamuchy Township corporate boundary; thence northerly and  
4 easterly on the Frelinghuysen Township and Allamuchy Township  
5 corporate boundary to its intersection with the southern boundary of  
6 the Interstate 80 right of way in Frelinghuysen Township; thence  
7 easterly along the southern boundary of the Interstate 80 right of way  
8 to its intersection with the Conrail right of way in Allamuchy  
9 Township; thence southerly and westerly on the Conrail right of way  
10 to its intersection with the southeastern corner of Block 29 , lot 29 in  
11 Independence Township; thence northwesterly along the southwest  
12 boundary of Block 29, lot 29 in Independence Township to the  
13 Pequest River; thence northerly on the western bank of the Pequest  
14 River to its intersection with the southern corner of Block 29, lot 44  
15 in Independence Township; thence northwesterly along the  
16 southwestern boundary of Block 29, lot 44 in Independence Township  
17 to Shades of Death Road; thence southerly and westerly on Shades of  
18 Death Road to its intersection with Hope Road (County Road 611);  
19 thence southerly and easterly on Hope Road (County Road 611) to its  
20 intersection with U.S. 46; thence northerly and easterly on U.S. 46 to  
21 its intersection with Old Cemetery Road; thence southerly and easterly  
22 on Old Cemetery Road across the Conrail right of way to its  
23 intersection with Cemetery Road; thence southerly and easterly on  
24 Cemetery Road to its intersection with Barkers Mill Road; thence  
25 southerly and easterly on Barkers Mill Road to its intersection with  
26 Johnson Road; thence easterly and northerly on Johnson Road to its  
27 intersection with U.S. 46 and Ketchum Road; thence northerly and  
28 easterly on Ketchum Road to its intersection with Petersburg Road  
29 (County Road 614) and Ridge Road; thence northerly and easterly on  
30 Ridge Road to its intersection with County Road 517; thence northerly  
31 on County Road 517 to its intersection with Stuyvestant Road and  
32 Allamuchy State Park boundary; thence northerly along the Allamuchy  
33 State Park boundary into Green Township; thence southeasterly and  
34 northeasterly along the Allamuchy State Park boundary to its  
35 intersection with the Green Township and Byram Township corporate  
36 boundary; thence continuing northerly and easterly on the Byram  
37 Township and Andover Borough corporate boundary; thence  
38 continuing northerly and easterly along the Byram Township and  
39 Andover Township corporate boundary to its intersection with the  
40 Sparta Township corporate boundary; thence easterly on the Sparta  
41 Township corporate boundary to its intersection with Tomahawk  
42 Trail; thence easterly and northerly on Tomahawk Trail to its  
43 intersection with Green Road; thence northerly on Green Road to its  
44 intersection with Sawmill Road; thence easterly and northerly on  
45 Sawmill Road to its intersection with State Highway 181; thence  
46 northerly on State Highway 181 to its intersection with Blue Heron

1 Road; thence easterly on Blue Heron Road to its intersection with  
2 State Highway 15; thence northerly along the western boundary of the  
3 State Highway 15 right of way to its intersection with the southern  
4 corner of Block 13.13, lot 21 in Sparta Township; thence easterly and  
5 thence northerly along the boundary of Block 13.13, lot 21 to its  
6 intersection with Block 13.13, lot 22; thence northeasterly on the  
7 boundary of Block 13.13, lot 22 to its intersection with Glen Road  
8 (Sussex County Route 620); thence westerly on Glen Road (Sussex  
9 County Route 620) to its intersection with the westernmost point of  
10 Block 7, lot 57; thence easterly on the boundary of Block 7, lot 57 to  
11 its intersection with Block 7, lot 58; thence northerly on the boundary  
12 of Block 7, lot 58 to its intersection with the southwestern edge of  
13 Block 7, lot 61.02; thence easterly, northerly, then westerly on the  
14 boundary of Block 7, lot 61.02 to its intersection with Main Street;  
15 thence southwesterly on Main Street to its intersection with the  
16 southernmost corner of Block 12, lot 3; thence westerly on the  
17 southern boundary of Block 12, lot 3 to its intersection with Sussex  
18 County Route 517); thence westerly on Sussex County Route 517 to  
19 its intersection with Station Road; thence northerly on Station Road  
20 to its intersection with the southernmost point of Block 19, lot 43;  
21 thence northerly, thence easterly on the boundary of Block 19, lot 43  
22 to its intersection with Block 19, lot 39; thence following the boundary  
23 of Block 19, lot 39 around the parcel in a counterclockwise manner to  
24 its intersection with Block 19, lot 99; thence southerly on the  
25 boundary of Block 19, lot 99 to its intersection with the western  
26 boundary of the State Highway 15 right of way; thence northerly along  
27 the western boundary of the State Highway 15 right of way to its  
28 intersection with Houses Corner Road; thence easterly and northerly  
29 on Houses Corner Road to its intersection with West Mountain Road;  
30 thence southerly on West Mountain Road to its intersection with  
31 Sparta Munsons Road; thence southeasterly across Sparta Munsons  
32 Road to the Conrail right of way; thence northerly and easterly along  
33 the northwestern boundary of the Conrail right of way to its  
34 intersection with the Ogdensburg Borough and Sparta Township  
35 corporate boundary; thence northeasterly to the southwestern end of  
36 Heater's Pond and proceeding northerly along the western edge of  
37 Heater's Pond to the intersection of Edison Road; thence westerly on  
38 Edison Road to the intersection with the New York Susquehanna and  
39 Western Railroad right of way; thence northerly along the the easterly  
40 edge of the New York Susquehanna and Western Railroad right of  
41 way to the Ogdensburg Borough and Hardyston Township corporate  
42 boundary; thence westerly on the Ogdensburg Borough and Hardyston  
43 Township corporate boundary to its intersection with the Franklin  
44 Borough corporate boundary; thence easterly and northerly on the  
45 Franklin Borough and Hardyston Township corporate boundary to its  
46 intersection with Henderson Road (Hamburg Turnpike); thence

1 southerly and easterly on Henderson Road (Hamburg Turnpike) to the  
2 intersection of Mountain Road in Hardyston Township; thence  
3 northerly on Mountain Road to its intersection with Rudetown Road  
4 (County Road 517); thence easterly and northerly on Rudetown Road  
5 (County Road 517) to the Black Creek in Vernon Township; thence  
6 easterly along Black Creek to its intersection with the boundary of  
7 Block 280, lot 22 in Vernon Township; thence easterly along said  
8 boundary to the western boundary of Block 280, lot 23; thence  
9 following the boundary of Block 280, lot 23 south to the boundary of  
10 Block 177, lot 49; thence easterly and northerly along the boundary of  
11 Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence  
12 easterly along the boundary of Block 190, lot 18.06 to the boundary  
13 of Block 190, lot 18.05; thence southeasterly and thence northeasterly  
14 along the boundary Block 190, lot 18.05 to the boundary of Block  
15 190, lot 18.01; thence northeasterly along the boundary of Block 190,  
16 lot 18.01 to the boundary of Block 190, lot 18.S01; thence  
17 southeasterly along the boundary of Block 190, lot 18.S01 to the  
18 boundary of Block 190, lot 20; thence southwesterly and easterly  
19 along the boundary of Block 190, lot 20 to the boundary of Block 240,  
20 lot 1; thence easterly along the boundary of Block 240, lot 1 to County  
21 Road 515; thence northerly along County Road 515 to the intersection  
22 of Breakneck Road and County Road 515; thence easterly and  
23 southerly along the northern edge of the right of way of Breakneck  
24 Road to the intersection of the southeastern corner of Block 143, lot  
25 17 in Vernon Township; thence northerly along the eastern boundary  
26 of Block 143, lot 17 to the northern corner of Block 143, lot 25;  
27 thence northerly 1035 feet more or less along a line projected across  
28 Block 143, lot 17 to the southern corner of Block 143, lot 16; thence  
29 northerly along the eastern boundary of Block 143, lot 16 to the  
30 southern corner of Block 143, lot 15; thence westerly and northerly  
31 along the southwestern boundary of Block 143, lot 15 to Pond Eddy  
32 Road; thence northerly across Pond Eddy Road to the southern corner  
33 of Block 143, lot 10; thence northerly along the eastern boundary of  
34 Block 143, lot 10 to the boundary of Block 143, lot 7; thence westerly  
35 southerly and generally northerly along the western boundary of Block  
36 143, lot 7 to the limit of Block 143.01; thence northwesterly along the  
37 southern limit of Block 143.01 to the eastern corner of Block 143.01,  
38 lot 22; thence northwesterly along the northern boundary of Block  
39 143.01, lot 22 and lot 23 to Vernon Warwick Road (State Highway  
40 94); thence easterly and northerly on Vernon Warwick Road (State  
41 Highway 94) to its intersection with Maple Grange Road; thence  
42 northerly and westerly on Maple Grange Road to its intersection with  
43 Pochuck Creek and Wawayanda State Park/Appalachian Trail public  
44 land; thence northerly and westerly along the western and southern  
45 Wawayanda State Park/Appalachian Trail public land boundary to its  
46 intersection with the western terminus of Thistle Avenue (Walnut Hill



1 Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill  
2 Drive) to its intersection with Phlox Terrace; thence southerly on  
3 Phlox Terrace to its intersection with Cedar Terrace; thence southerly  
4 on Cedar Terrace to its intersection with Clover Lane; thence easterly  
5 on Clover Lane to its intersection with Zinnia Drive; thence southerly  
6 and westerly on the eastern and southern bank of the tributary of  
7 Black Creek to its intersection with Lounsberry Hollow Road; thence  
8 northerly on Lounsberry Hollow Road to its intersection with  
9 Dorchester Road; thence westerly and southerly on Dorchester Road  
10 to its intersection with Rolling Hills Road; thence southerly on Rolling  
11 Hills Road to its intersection with a tributary of Black Creek to its  
12 intersection with Pochuck Mountain public land boundary; thence  
13 southerly and northerly on the Pochuck Mountain public land  
14 boundary to its intersection with a tributary of Black Creek; thence  
15 northerly on the western bank of the tributary of Black Creek to its  
16 intersection with Lake Glenwood; thence along the west shore of Lake  
17 Glenwood to Pochuck Creek; thence northerly and westerly on Lake  
18 Shore Drive to its intersection with Glenwood Martin Station Road  
19 (County Road 565); thence southerly and westerly on Glenwood  
20 Martin Station Road (County Road 565) to its intersection with  
21 Babtown Road; thence northerly on Babtown Road to its intersection  
22 with Maple Avenue; thence northerly on with Maple Avenue to its  
23 intersection with Spring Lane; thence northerly on Spring Lane to its  
24 intersection with Lakeside Drive; thence northerly on Lakeside Drive  
25 to its intersection with Glen Road; thence westerly on Glen Road to  
26 its intersection with Lake Walkill Road; thence northerly on Lake  
27 Walkill Road to its intersection with the New York State corporate  
28 boundary; thence easterly and southerly to its intersection with State  
29 Highway 17 and Interstate Highway 287 in northern Mahwah  
30 Township, at a point of origin.

31  
32 (2) Except as otherwise provided in paragraph (1) of this  
33 subsection, any natural geographical feature, including a river, stream,  
34 or brook, used in paragraph (1) of this subsection for the boundary  
35 description of the preservation area shall be considered to lie totally  
36 within the preservation area, and any road, railroad, or railroad right  
37 of way used in paragraph (1) of this subsection for the boundary  
38 description of the preservation area shall be considered to lie totally  
39 outside of the preservation area. The use of property block and lot  
40 designations include or exclude property from the preservation area.  
41 Where a survey gore exists between a property boundary depicted  
42 upon a municipal tax map and the limits of a surveyed property noted  
43 in paragraph (1) of this subsection, the surveyed property boundary  
44 description shall be considered to constitute the preservation area  
45 boundary.<sup>1</sup>

46 c. The planning area shall consist of all that area of the Highlands

1 Region not within the preservation area.

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

10

11 8. (New section) <sup>1</sup>a.<sup>1</sup> The council shall, within 18 months after the  
12 date of its first meeting, and after holding at least five public hearings  
13 in various locations in the Highlands Region and at least one public  
14 hearing in Trenton, prepare and adopt a regional master plan for the  
15 Highlands Region. The Highlands regional master plan shall be  
16 periodically revised and updated at least once every <sup>1</sup>[five] ~~six~~<sup>1</sup> years,  
17 after public hearings.

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

22 b. Within 60 days after adopting the regional master plan, the  
23 council shall submit the plan to the State Planning Commission for  
24 endorsement pursuant to the rules and regulations adopted by the  
25 State Planning Commission. The State Planning Commission review  
26 shall be limited to the planning area only.<sup>1</sup>

27

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

46 b. Prior to adoption of, and in preparing, the regional master plan,

1 the council may, in conjunction with municipalities in the preservation  
2 area, identify areas in which redevelopment shall be encouraged in  
3 order to promote the economic well-being of the municipality,  
4 provided that the redevelopment conforms <sup>1</sup>[to] with<sup>1</sup> the goals of the  
5 preservation area and this act <sup>1</sup>, with the standards prescribed pursuant  
6 to section 32 of this act,<sup>1</sup> and with the rules and regulations adopted  
7 by the Department of Environmental Protection pursuant to sections  
8 <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  
9 redevelopment pursuant to this subsection shall be either a brownfield  
10 site designated by the Department of Environmental Protection or a  
11 site at which at least 70% of the area thereof is covered with  
12 impervious surface.<sup>1</sup>

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

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

24  
25 10. (New section) a. The goal of the regional master plan with  
26 respect to the entire Highlands Region shall be to protect and enhance  
27 the significant values of the resources thereof in a manner which is  
28 consistent with the purposes and provisions of this act.

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

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

33 (2) preserve extensive and, to the maximum extent possible,  
34 contiguous areas of land in its natural state, thereby ensuring the  
35 continuation of a Highlands environment which contains the unique  
36 and significant natural, scenic, and other resources representative of  
37 the Highlands Region;

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

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

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

45 (6) promote conservation of water resources;

46 (7) promote brownfield remediation and redevelopment;

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

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

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

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

11       (2) preserve to the maximum extent possible any environmentally  
12 sensitive lands and other lands needed for recreation and conservation  
13 purposes;

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

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

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

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

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

22       (7) promote conservation of water resources;

23       (8) promote brownfield remediation and redevelopment;

24       (9)<sup>1</sup> encourage, consistent with the State Development and  
25 Redevelopment Plan and smart growth strategies and principles,  
26 appropriate patterns of compatible residential, commercial, and  
27 industrial development, redevelopment, and economic growth, in or  
28 adjacent to areas already utilized for such purposes, and discourage  
29 piecemeal, scattered, and inappropriate development, in order to  
30 accommodate local and regional growth and economic development  
31 in an orderly way while protecting the Highlands environment from the  
32 individual and cumulative adverse impacts thereof <sup>1</sup>; and

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

36

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

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

40       <sup>1</sup>[(1)] (a)<sup>1</sup> determines the amount and type of human development  
41 and activity which the ecosystem of the Highlands Region can sustain  
42 while still maintaining the overall ecological values thereof, with  
43 special reference to surface and ground water quality and supply;  
44 <sup>1</sup>contiguous forests and woodlands; <sup>1</sup>endangered and threatened  
45 animals, plants, and biotic communities; ecological factors relating to  
46 the protection and enhancement of agricultural <sup>1</sup>or horticultural<sup>1</sup>

1 production or activity; air quality; and other appropriate  
2 considerations affecting the ecological integrity of the Highlands  
3 Region; <sup>1</sup>and<sup>1</sup>

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

8 (3) includes an assessment of opportunities for appropriate  
9 economic growth, development, and redevelopment which shall  
10 include consideration of public investment priorities, infrastructure  
11 investments, economic development, revitalization, housing,  
12 transportation, energy resources, waste management, recycling,  
13 brownfields, and design such as mixed-use, compact design, and  
14 transit villages.

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

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

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

31 <sup>1</sup>[c.] (3)<sup>1</sup> A component to provide for the maximum feasible local  
32 government and public input into the council's operations, which shall  
33 include a framework for developing policies for the planning area in  
34 conjunction with those local government units <sup>1</sup>[with jurisdiction over  
35 those lands] in the planning area<sup>1</sup> who choose to conform to the  
36 regional master plan <sup>1</sup>[.];<sup>1</sup>

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

44 (5) A transportation component that provides a plan for  
45 transportation system preservation, includes all federally mandated

1 projects or programs, and recognizes smart growth strategies and  
2 principles. The transportation component shall include projects to  
3 promote a sound, balanced transportation system that is consistent  
4 with smart growth strategies and principles and which preserves  
5 mobility and maintains the transportation infrastructure of the  
6 Highlands Region. Transportation projects and programs shall be  
7 reviewed and approved by the council in consultation with the  
8 Department of Transportation prior to inclusion in the transportation  
9 component; and

10 (6) A smart growth component that includes an assessment, based  
11 upon the resource assessment prepared pursuant to paragraph (1) of  
12 subsection a. of this section, of opportunities for appropriate  
13 development, redevelopment, and economic growth, and a transfer of  
14 development rights program which shall include consideration of  
15 public investment priorities, infrastructure investments, economic  
16 development, revitalization, housing, transportation, energy resources,  
17 waste management, recycling, brownfields, and design such as mixed-  
18 use, compact design, and transit villages. In preparing this component,  
19 the council shall:

20 (a) prepare a land use capability map;

21 (b) identify existing developed areas capable of sustaining  
22 redevelopment activities and investment;

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

28 (d) identify transportation, water, wastewater, and power  
29 infrastructure that would support or limit development and  
30 redevelopment in the planning area. This analysis shall also provide  
31 proposed densities for development, redevelopment, or voluntary  
32 receiving zones for the transfer of development rights;

33 (e) identify potential voluntary receiving zones in the planning area  
34 for the transfer of development rights through the appropriate  
35 expansion of infrastructure or the modified uses of existing  
36 infrastructure;

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

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

43 (h) identify areas appropriate for redevelopment and set appropriate  
44 density standards for redevelopment. Any area identified for possible  
45 redevelopment pursuant to this subparagraph shall be either a  
46 brownfield site designated by the Department of Environmental

1 Protection or a site at which at least 70% of the area thereof is  
2 covered with impervious surface.

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

7  
8 12. (New section) In addition to the contents of the regional  
9 master plan described in section 11 of this act, the plan shall also  
10 include, with respect to the preservation area, a land use capability  
11 map and a comprehensive statement of policies for planning and  
12 managing the development and use of land in the preservation area,  
13 which shall be based upon, comply with, and implement the  
14 environmental standards <sup>1</sup>[set forth in section 31 of this act and as]<sup>1</sup>  
15 adopted by the Department of Environmental Protection pursuant to  
16 sections <sup>1</sup>[32 through 33] 33 and 34<sup>1</sup> of this act<sup>1</sup>, and the resource  
17 assessment prepared pursuant to paragraph (1) of subsection a. of  
18 section 11 of this act<sup>1</sup>.

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

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

30 b. minimum standards governing municipal and county master  
31 planning, development regulations, and other regulations concerning  
32 the development and use of land in the preservation area, including,  
33 but not limited to, standards for minimum lot sizes and stream  
34 setbacks, construction on steep slopes, maximum appropriate  
35 population densities, and regulated or prohibited uses for specific  
36 portions of the preservation area.

37  
38 13. (New section) a. The council shall <sup>1</sup>[develop and implement]  
39 use the regional master plan elements prepared pursuant to sections 11  
40 and 12 of this act, including the resource assessment and the smart  
41 growth component, to establish<sup>1</sup> a transfer of development rights  
42 program for the Highlands Region <sup>1</sup>that furthers the goals of the  
43 regional master plan. The transfer of development rights program  
44 shall be<sup>1</sup> consistent with <sup>1</sup>the "State Transfer of Development Rights  
45 Act," P.L.2004, c.2 (C.40:55D-137 et seq.) or<sup>1</sup> any <sup>1</sup>applicable<sup>1</sup>  
46 transfer of development rights program created otherwise by law<sup>1</sup>.

1 except as otherwise provided in this section<sup>1</sup>.

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

7 c. In consultation with municipal, county, and State entities, the  
8 council shall, within 18 months after the date of enactment of this act,  
9 and from time to time thereafter as may be appropriate, identify areas  
10 within the planning area that are appropriate for development as  
11 voluntary receiving zones pursuant to P.L.2004, c.2 (C.40:55D-137  
12 et seq.) considering the information gathered pursuant to sections 11  
13 and 12 of this act, including but not limited to the information  
14 gathered on the transfer of development rights pursuant to paragraph  
15 (6) of subsection a. of section 11 of this act. For the purposes of the  
16 council establishing a transfer of development rights program prior to  
17 the preparation of the initial regional master plan, the council in  
18 identifying areas appropriate for development as voluntary receiving  
19 zones shall consider such information as may be gathered pursuant to  
20 sections 11 and 12 of this act and as may be available at the time, but  
21 the council need not delay the creation of the transfer of development  
22 rights program until the initial regional master plan has been prepared.  
23 The council shall set a goal of identifying areas within the planning  
24 area that are appropriate for development as voluntary receiving zones  
25 that, combined together, constitute four percent of the land area of the  
26 planning area, to the extent that the goal is compatible with the  
27 amount and type of human development and activity that would not  
28 compromise the integrity of the ecosystem of the planning area.

29 d. The council shall work with municipalities and the State  
30 Planning Commission to identify centers, designated by the State  
31 Planning Commission, as voluntary receiving zones for the transfer of  
32 development rights program.

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

36 f. In consultation with municipal, county, and State entities, the  
37 council shall work with municipalities outside of the preservation area  
38 to assist these municipalities in developing ordinances necessary to  
39 implement the transfer of development rights. The council shall also  
40 establish advisory or model ordinances and other information for this  
41 purpose.

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

46 g. Notwithstanding the provisions of P.L.2004, c.2 (C.40:55D-137



1 et seq.) to the contrary, the council shall perform the real estate  
2 analysis for the Highlands Region that is required to be performed by  
3 a municipality prior to the adoption or amendment of any development  
4 transfer ordinance pursuant to P.L.2004, c.2.

5 h. (1) The council shall set the initial value of a development right.  
6 The Office of Green Acres in the Department of Environmental  
7 Protection and the State Agriculture Development Committee shall  
8 provide support and technical assistance to the council in the operation  
9 of the transfer of development rights program. The council shall  
10 establish the initial value of a development right considering the  
11 Department of Environmental Protection rules and regulations in effect  
12 the day before the date of enactment of this act.

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

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

29 (2) At the request of the council, the Department of Banking and  
30 Insurance, the State Transfer of Developments Right Bank, the State  
31 Agriculture Development Committee, and the Pinelands Development  
32 Credit Bank shall provide technical assistance to the council in  
33 establishing and operating a development transfer bank as authorized  
34 pursuant to paragraph (1) of this subsection.

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

38 <sup>1</sup>j. The Office of Smart Growth shall review and coordinate State  
39 infrastructure capital investment, community development and  
40 financial assistance in the planning area in furtherance of the regional  
41 master plan. Prior to the council establishing its transfer of  
42 development rights program, the Office of Smart Growth shall  
43 establish a transfer of development rights pilot program that includes  
44 Highlands Region municipalities.

45 k. Any municipality in the planning area whose municipal master  
46 plan and development regulations have been approved by the council

1 to be in conformance with the regional master plan in accordance with  
2 sections 14 or 15 of this act, and that amends its development  
3 regulations to accommodate voluntary receiving zones within its  
4 boundaries which are identified pursuant to subsection c. of this  
5 section and which provide for a minimum residential density of five  
6 dwelling units per acre, shall, for those receiving zones, be: eligible  
7 for an enhanced planning grant from the council of up to \$250,000;  
8 eligible for a grant to reimburse the reasonable costs of amending the  
9 municipal development regulations; authorized to impose impact fees  
10 in accordance with subsection m. of this section; entitled to legal  
11 representation pursuant to section 22 of this act; accorded priority  
12 status in the Highlands Region for any State capital or infrastructure  
13 programs; and eligible for any other appropriate assistance, incentives,  
14 or benefits provided pursuant to section 18 of this act.

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

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

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

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

43 (4) An impact fee may be imposed by a municipality pursuant to this  
44 subsection in order to generate revenue for funding or recouping the  
45 costs of new capital improvements or facility expansions necessitated  
46 by new development, to be paid by the developer as defined pursuant

1 to section 3.1 of P.L.1975, c.291 (C.40:55D-4). Improvements and  
2 expansions for which an impact fee is to be imposed shall bear a  
3 reasonable relationship to needs created by the new development, but  
4 in no case shall an impact fee assessed pursuant to this subsection  
5 exceed \$15,000 per dwelling unit unless and until impact fees are  
6 otherwise established by law at which time the impact fee shall be  
7 200% of the calculated impact fee.

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

12 No impact fee authorized under this subsection shall include a  
13 contribution for any transportation improvement necessitated by a new  
14 development in a county which is covered by a transportation  
15 development district created pursuant to the "New Jersey  
16 Transportation Development District Act of 1989," P.L.1989, c.100  
17 (C.27:1C-1 et al.).<sup>1</sup>

18

19 14. (New section) a. Within <sup>1</sup>[six months] nine to 15 months<sup>1</sup>  
20 after the date of adoption of the regional master plan or any revision  
21 thereof, <sup>1</sup>according to a schedule to be established by the council.<sup>1</sup>  
22 each municipality located wholly or partially in the preservation area  
23 shall submit to the council such revisions of the municipal master plan  
24 and development regulations, as applicable to the development and use  
25 of land in the preservation area, as may be necessary in order to  
26 conform them with the goals, requirements, and provisions of the  
27 regional master plan. After receiving and reviewing the revisions, the  
28 council shall approve, reject, or approve with conditions the revised  
29 plan and development regulations, as it deems appropriate, after public  
30 hearing, within 60 days after the date of submission thereof.

31 Upon rejecting or conditionally approving any such revised plan or  
32 development regulations, the council shall identify such changes  
33 therein that it deems necessary for council approval thereof, and the  
34 relevant municipality shall adopt and enforce the plan or development  
35 regulations as so changed.

36 b. Within <sup>1</sup>[six months] nine to 15 months<sup>1</sup> after the date of  
37 adoption of the regional master plan or any revision thereof,  
38 <sup>1</sup>according to a schedule to be established by the council.<sup>1</sup> each county  
39 located wholly or partially in the preservation area shall submit to the  
40 council such revisions of the county master plan and associated  
41 regulations, as applicable to the development and use of land in the  
42 preservation area, as may be necessary in order to conform them with  
43 the goals, requirements, and provisions of the regional master plan.  
44 After receiving and reviewing the revisions, the council shall approve,  
45 reject, or approve with conditions those revised plans and associated  
46 regulations, as it deems appropriate, after public hearing, within 60

1 days after the date of submission thereof.

2 Upon rejecting or conditionally approving any such revised plan or  
3 associated regulations, the council shall identify such changes therein  
4 that it deems necessary for council approval thereof, and the relevant  
5 county shall adopt and enforce the plan or associated regulations as so  
6 changed.

7 c. <sup>1</sup>[Any approval of an application for development, or use of  
8 land, in the preservation area granted by any local government unit in  
9 violation of the regional master plan or an approved revised municipal  
10 or county master plan, development regulations, or other regulations  
11 pursuant to this act shall be null and void and of no force and effect at  
12 law or equity.] The council may revoke a conformance approval  
13 granted pursuant to this section or section 15 of this act, after  
14 conducting a hearing, if the council finds that the local government  
15 unit has taken action inconsistent with the regional master plan.<sup>1</sup>

16 d. In the event that any municipality or county fails to adopt or  
17 enforce an approved revised master plan, development regulations, or  
18 other regulations, as the case may be, including any condition thereto  
19 imposed by the council, as required pursuant to subsections a. or b. of  
20 this section, the council shall adopt and enforce such rules and  
21 regulations as may be necessary to implement the minimum standards  
22 contained in the regional master plan as applicable to any municipality  
23 or county within the preservation area. If any municipality or county  
24 fails to adopt or enforce an approved revised master plan, development  
25 regulations, or other regulations, as the case may be, including any  
26 condition thereto imposed by the council, as required pursuant to  
27 subsections a. or b. of this section, the council shall have all local  
28 enforcement authority provided pursuant to the "Municipal Land Use  
29 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  
30 seq., <sup>1</sup>and this act,<sup>1</sup> as well as the authority to issue stop construction  
31 orders, as may be necessary to implement the provisions of this act,  
32 any rules and regulations adopted pursuant thereto, and the  
33 requirements and provisions of the regional master plan.

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

39 <sup>1</sup>f. The requirements of this section shall not apply to any  
40 municipality or county located wholly within the planning area. Any  
41 municipality or county located partially within the preservation area  
42 and partially within the planning area shall be required to comply with  
43 the provisions of this section and the regional master plan only with  
44 respect to that portion of the municipality or county lying within the  
45 preservation area. Voluntary conformance with the regional master  
46 plan as it may apply to those portions of a municipality or county lying

1 within the planning area shall be permitted as provided pursuant to  
2 section 15 of this act.<sup>1</sup>

3  
4 15. (New section) a. <sup>1</sup>(1)<sup>1</sup> For any municipality located wholly in  
5 the planning area or for any portion of a municipality lying within the  
6 planning area, the municipality may, by ordinance, petition the council  
7 of its intention to revise its master plan and development regulations,  
8 as applicable to the development and use of land in the planning area,  
9 to conform with the goals, requirements, and provisions of the  
10 regional master plan.

11 The municipality shall proceed in revising its master plan and  
12 development regulations in accordance with the framework adopted  
13 by the council pursuant to subsection a. of section 14 of this act.

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

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

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

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

1 municipality from the State as a benefit or result of obtaining council  
2 approval pursuant to this <sup>1</sup>[section] subsection<sup>1</sup>.

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

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

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

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

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

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

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

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

11 This paragraph shall not apply to any major development which is  
12 a residential development that requires an environmental land use or  
13 water permit but which does not result in the ultimate disturbance of  
14 one acre or more of land or an increase in impervious surface by  
15 one-quarter acre or more.

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

22

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

29 b. Within the preservation area, any capital or other project of a  
30 State entity or local government unit that involves the ultimate  
31 disturbance of two acres or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
32 increase in impervious surface by one acre or more shall be submitted  
33 to the council for review<sup>1</sup>, except that no such submission shall be  
34 required for (1) the routine maintenance and operations, rehabilitation,  
35 preservation, reconstruction, or repair of transportation or  
36 infrastructure systems by a State entity or local government unit,  
37 provided that the activity is consistent with the goals and purposes of  
38 this act and does not result in the construction of any new through-  
39 capacity travel lanes, or (2) the construction of transportation safety  
40 projects and bicycle and pedestrian facilities, provided that the activity  
41 does not result in the construction of any new through-capacity travel  
42 lanes<sup>1</sup>. The council shall establish procedures for conducting such  
43 reviews and shall have the power to approve, approve with conditions,  
44 or disapprove the project. No such project shall proceed without the  
45 approval of the council; provided that, in the case of a project of a  
46 State entity, if the council disapproves the project, the head of the

1 appropriate principal department of State government with primary  
2 responsibility for the project may override the council's disapproval  
3 upon making a written finding, which shall be submitted to the council  
4 and the Governor, that the project is necessary for public health,  
5 safety, or welfare and including with that finding a factual basis and  
6 explanation in support thereof. In the case of a project of an  
7 independent State authority or commission or a bi-state entity, any  
8 such finding shall be made by the Governor or such other State  
9 governmental official as the Governor may designate for that purpose.

10 <sup>1</sup>The council shall review any submission pursuant to this  
11 subsection within 30 days after receipt. If the council fails to act  
12 within the 30-day period, or within such other time period as may be  
13 mutually agreed upon by the parties, the project shall be deemed  
14 approved.<sup>1</sup>

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

37

38 <sup>1</sup>[18.] 17.<sup>1</sup> (New section) a. <sup>1</sup>(1)<sup>1</sup> Subsequent to adoption of the  
39 regional master plan, the council may review, within 15 days after any  
40 final local government unit approval<sup>1</sup>, rejection, or approval with  
41 conditions<sup>1</sup> thereof, any application for development in the  
42 preservation area. Upon determining to exercise that authority, the  
43 council shall transmit, by certified mail, written notice thereof to the  
44 person who submitted the application <sup>1</sup>to the local government unit<sup>1</sup>.  
45 The council shall, after public hearing thereon, approve, reject, or  
46 approve with conditions any such application <sup>1</sup>or decision<sup>1</sup> within 60



1 days after transmitting the notice; provided, however, that an  
2 application shall not be rejected or conditionally approved unless the  
3 council determines that the development does not conform with the  
4 regional master plan, as applicable to the local government unit  
5 wherein the development is located, or that the development could  
6 result in substantial impairment of the resources of the Highlands  
7 Region. Such approval, rejection, or conditional approval shall be  
8 binding upon the person who submitted the application, shall  
9 supersede any local government unit <sup>1</sup>[approval of] decision on<sup>1</sup> any  
10 such development, and shall be subject only to judicial review as  
11 provided in section <sup>1</sup>[29] 28<sup>1</sup> of this act. <sup>1</sup>Pending completion of the  
12 review by the council of any final local government approval or  
13 approval with conditions of an application for development in the  
14 preservation area and the issuance of the council's decision thereon,  
15 the applicant shall not proceed with the development.

16 (2) No cause of action may be filed in the Superior Court to contest  
17 a local government unit decision on an application for development in  
18 the preservation area if the council exercises its review authority  
19 pursuant to this section. Any such cause of action filed before the date  
20 that the council exercises its review authority pursuant to this section  
21 shall be dismissed by the court for lack of jurisdiction. Upon  
22 determination of the council to exercise its review authority pursuant  
23 to this section, judicial review of the decision of the local government  
24 unit and of the council pursuant to this section shall proceed as  
25 provided pursuant to section 28 of this act.<sup>1</sup>

26 b. Every person submitting an application for development in the  
27 preservation area shall be required to provide a notice of the  
28 application to the council in accordance with such procedures therefor  
29 as shall be established by the council.

30 c. Notwithstanding any provision of subsections a. or b. of this  
31 section to the contrary, for any municipality or county that has  
32 adopted an approved revised master plan, development regulations, or  
33 other regulations, as the case may be, including any condition thereto  
34 imposed by the council, the requirements of this section shall apply  
35 only to applications for development that provide for the ultimate  
36 disturbance of two acres or more of land or <sup>1</sup>[an] a cumulative<sup>1</sup>  
37 increase in impervious surface by one acre or more. The council<sup>1</sup>,  
38 however,<sup>1</sup> may provide, pursuant to subsection d. of section 14 of this  
39 act, that the requirements of this section apply to any application for  
40 development within the preservation area in any municipality or county  
41 that fails to adopt or enforce an approved revised master plan,  
42 development regulations, or other regulations, as the case may be,  
43 including any condition thereto imposed by the council.

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

1 <sup>1</sup>[19.] 18.<sup>1</sup> (New section) a. Any municipality in the Highlands  
2 Region whose municipal master plan and development regulations, and  
3 any county in the Highlands Region whose county master plan and  
4 associated regulations, have been approved by the council to be in  
5 conformance with the regional master plan in accordance with sections  
6 14 or 15 of this act shall qualify for State aid, planning assistance,  
7 technical assistance, and other benefits and incentives that may be  
8 awarded or provided by the State to municipalities and counties which  
9 have received plan endorsement <sup>1</sup>by the State Planning Commission<sup>1</sup>  
10 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196  
11 et al.) or which otherwise practice or implement smart growth  
12 strategies and principles. Any such municipality or county shall also  
13 qualify for any State aid that may be provided for smart growth  
14 projects.

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

31  
32 <sup>1</sup>[20. (New section) a. Every municipality located wholly or  
33 partially in the preservation area shall be entitled to State aid to  
34 compensate for any decrease in the aggregate amount of property tax  
35 revenues derived from the taxation of real property in that portion of  
36 the municipality located in the preservation area that is directly  
37 attributable to the implementation of this act. The council shall  
38 establish methods and procedures for calculating the aggregate true  
39 value of the real property and the aggregate amount of property tax  
40 revenues derived therefrom in each municipality in the preservation  
41 area in the year prior to the enactment of this act, and for calculating,  
42 for each year after the enactment of this act, any decrease in the  
43 aggregate true value of the real property, and in the aggregate amount  
44 of property tax revenues derived therefrom, that is directly attributable  
45 to the implementation of this act. The council shall annually calculate  
46 the amount to which each municipality is entitled pursuant to this

1 section, and shall certify and transmit such amounts to the State  
2 Treasurer and to the Director of the Division of Local Government  
3 Services in the Department of Community Affairs.

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

11 c. The State Treasurer shall include in the State Treasurer's annual  
12 budget request for State aid the amounts certified by the council  
13 pursuant to subsection a of this section. The State Treasurer shall pay,  
14 from monies appropriated for the purposes of this section, to each  
15 municipality the amount of State aid appropriated therefor in a manner  
16 and pursuant to a schedule set forth in the rules and regulations  
17 adopted pursuant subsection d. of this section.

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

23 e. This section shall expire July 1 next following five years after the  
24 date of enactment of this act.]<sup>1</sup>

25

26 <sup>1</sup>19. (New section) a. (1) There is established in the Department  
27 of the Treasury the "Highlands Municipal Property Tax Stabilization  
28 Board," which shall consist of three members to be appointed by the  
29 Governor, who shall be recognized experts in the field of taxation.  
30 Members of the board may also be members of the Highlands Water  
31 Protection and Planning Council established pursuant to section 4 of  
32 P.L. , c. (C. ) (now before the Legislature as this bill).

33 (2) Within 120 days after the date of enactment of P.L. , c.  
34 (C. ) (now before the Legislature as this bill), the board, in  
35 consultation with the Highlands Water Protection and Planning  
36 Council, shall establish procedures for determining the valuation base  
37 of a qualified municipality, whether fiscal stress has been caused by the  
38 implementation of the "Highlands Water Protection and Planning Act,"  
39 P.L. , c. (C. ) (now before the Legislature as this bill) in a  
40 qualified municipality, and the amount due a qualified municipality to  
41 compensate for a decline in the aggregate true value of vacant land  
42 directly attributable to the implementation of the "Highlands Water  
43 Protection and Planning Act."

44 b. The "Highlands Municipal Property Tax Stabilization Fund" is  
45 established in the General Fund as a special nonlapsing fund for the  
46 purpose of providing State aid to qualified municipalities pursuant to

1 this section. There shall be credited each State fiscal year from the  
2 "Highlands Protection Fund" created pursuant to section 21 of P.L. ,  
3 c. (C. ) (now before the Legislature as this bill) to the Highlands  
4 Municipal Property Tax Stabilization Fund such sums as shall be  
5 necessary to provide State aid to qualified municipalities pursuant to  
6 this section. Every qualified municipality shall be eligible for a  
7 distribution from the fund pursuant to the provisions of this section.

8 c. The assessor of every qualified municipality shall certify to the  
9 county tax board on a form to be prescribed by the Director of the  
10 Division of Taxation in the Department of the Treasury, and on or  
11 before December 1 annually, a report of the assessed value of each  
12 parcel of vacant land in the base year and the change in the assessed  
13 value of each such parcel in the current tax year attributable to  
14 successful appeals of assessed values of vacant land to the county tax  
15 board pursuant to R.S.54:3-21 et seq. or attributable to a revaluation  
16 approved by the director and implemented or a reassessment approved  
17 by the county board of taxation. If a judgment or an appeal is  
18 overturned or modified, upon a final judgment an appropriate  
19 adjustment shall be made by the director in the payment of the  
20 entitlement due next following the judgment.

21 d. (1) Upon receipt of reports filed pursuant to subsection c. of this  
22 section and using procedures developed by the board pursuant to  
23 subsection a. of this section, the county tax board shall compute and  
24 certify to the director on or before December 20 of each year, in such  
25 manner as to identify for each qualified municipality the aggregate  
26 decline, if any, in the true value of vacant land, comparing the current  
27 tax year to the base year. The aggregate changes so identified for each  
28 qualified municipality shall constitute its valuation base for purposes  
29 of this section.

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

35 (3) Upon receipt of the information, the board shall make a final  
36 determination on the valuation base of each qualified municipality;  
37 calculate the amount due a qualified municipality, in accordance with  
38 the procedures developed pursuant to subsection a. of this section, to  
39 compensate for a decline, if any, by multiplying its valuation base by  
40 its tax rate; and certify to the director and the State Treasurer, on or  
41 before February 1 of each year, that amount to which each qualified  
42 municipality is entitled.

43 e. Upon receipt of the certification by the board, the State  
44 Treasurer shall certify to each qualified municipality, on or before  
45 February 15, its property tax stabilization amount. A copy of the  
46 certified amounts shall be forwarded to the Director of the Division of

- 1 Local Government Services in the Department of Community Affairs.  
2 f. (1) The State Treasurer, upon warrant of the Director of the  
3 Division of Budget and Accounting in the Department of the Treasury,  
4 shall pay to each qualified municipality its entitlement as State aid  
5 from the sums available in the "Highlands Municipal Property Tax  
6 Stabilization Fund" in two equal installments pursuant to a schedule  
7 prescribed by the Division of Local Government Services.  
8 (2) If the amount available in the "Highlands Municipal Property  
9 Tax Stabilization Fund" in any year is insufficient to pay the full  
10 amount to which each qualified municipality is entitled pursuant to this  
11 section, the payments shall be made on a pro rata basis.  
12 (3) Notwithstanding any provisions of this section to the contrary,  
13 in the sixth, seventh, eighth, ninth, and tenth years of the State aid  
14 program created by this section, a qualified municipality shall be  
15 entitled to receive, respectively, 90%, 70%, 50%, 30%, and 10% of  
16 the sum it otherwise would have been paid pursuant to this subsection,  
17 and thereafter the program shall expire.  
18 g. Any municipality receiving a certification from the State  
19 Treasurer pursuant to subsection e. of this section shall anticipate such  
20 sums in its annual budget or any amendments or supplements thereto  
21 as a direct offset to the amount to be raised by taxation.  
22 h. The Director of the Division of Taxation in reviewing the  
23 reports filed pursuant to subsection c. of this section may make such  
24 changes therein as the director deems necessary to ensure that the  
25 reports accurately reflect the change in the assessed value of vacant  
26 land.  
27 i. The Director of the Division of Local Government Services shall  
28 make such changes in the budget of any qualified municipality to  
29 ensure that all sums received pursuant to this section are utilized as a  
30 direct offset to the amount to be raised by taxation and shall make  
31 such changes therein as the director deems necessary to ensure that the  
32 offset occurs.  
33 j. Any sum received by a qualified municipality pursuant to this  
34 section shall not be considered as an exception or exemption under  
35 P.L.1976, c.68 (C.40A:4-45.1 et seq.).  
36 k. Notwithstanding the provisions of the "Local Budget Law"  
37 (N.J.S.40A:4-1 et seq.), a qualified municipality which is due a  
38 property tax stabilization payment pursuant to this section may  
39 anticipate the amount of the entitlement in its annual budget for the  
40 year in which the payment is made.  
41 l. The State Treasurer may deduct from the State aid a municipality  
42 would otherwise receive pursuant to this section an amount equivalent  
43 to that portion of any sums received by a municipality pursuant to  
44 section 1 of P.L.1999, c.225 (C.58:29-8) that the State Treasurer, in  
45 consultation with the Director of the Division of Local Government  
46 Services, determines to be duplicative of any State aid received

1 pursuant to this section.

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

7 n. As used in this section:

8 "Base year" means the calendar year 2003;

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

11 "Current tax year" means the most recent year for which a report  
12 is filed pursuant to subsection c. of this section;

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

16 "Qualified municipality" means any municipality located wholly or  
17 partially in the Highlands preservation area, provided however, that  
18 after the adoption of the Highlands regional master plan by the  
19 Highlands Water Protection and Planning Council pursuant to section  
20 8 of P.L. , c. (C. ) (now before the Legislature as this bill),  
21 qualified municipality shall mean only a municipality that has  
22 conformed its municipal master plan and development regulations to  
23 the Highlands regional master plan pursuant to section 14 of P.L. ,  
24 c. (C. ) (now before the Legislature as this bill);

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

32 "True value of vacant land" or "true value" means the aggregate  
33 assessed value of vacant land divided by the average ratio of  
34 assessed-to-true value of real property (commonly known as the  
35 equalization rate) promulgated by the Director of the Division of  
36 Taxation in the Department of the Treasury and published in the table  
37 of equalized valuation; and

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

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

1

2 120. (New section) a. The "Pinelands Property Tax Assistance  
3 Fund" is established in the General Fund as a special nonlapsing fund  
4 for the purpose of providing State aid to qualifying municipalities in  
5 the pinelands area. The Commissioner of Community Affairs shall  
6 serve as administrator of the fund.

7 b. Every qualifying municipality in the pinelands area shall be  
8 eligible for State aid made with monies in the fund. The Commissioner  
9 of Community Affairs shall annually distribute to each qualifying  
10 municipality in the pinelands area a percentage of the monies annually  
11 allocated to the fund equal to the percentage the qualifying  
12 municipality received of the total sum distributed from the "Pinelands  
13 Municipal Property Tax Stabilization Fund" pursuant to P.L.1983,  
14 c.551 (C.54:1-68 et seq.).

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

21 d. Any State aid made available with monies from the "Pinelands  
22 Property Tax Assistance Fund" pursuant to this section shall be in  
23 addition to any other moneys appropriated or otherwise made available  
24 pursuant to any other federal or State program for the same category  
25 of aid.

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

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

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

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

44 i. The Director of the Division of Local Government Services shall  
45 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
46 c.410 (C.52:14B-1 et seq.), such rules and regulations as may be

1 necessary to implement the provisions of this section.

2 j. As used in this section:

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

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

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

11

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

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

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

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

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

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

41

42 <sup>1</sup>[21.] 22.<sup>1</sup> (New section) The <sup>1</sup>[Attorney General] council<sup>1</sup> shall  
43 provide legal representation to any requesting local government unit  
44 located in the Highlands Region in any cause of action filed against the  
45 local government unit and contesting an act or decision of the local  
46 government unit taken or made under authority granted pursuant to



1 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
2 R.S.40:27-1 et seq., the "State Uniform Construction Code Act,"  
3 P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

4 a. the municipal master plan and development regulations, or, in  
5 the case of a county governmental entity, the county master plan and  
6 associated regulations, have been approved by the council to be in  
7 conformance with the regional master plan in accordance with sections  
8 14 or 15 of this act; <sup>1</sup>[and]<sup>1</sup>

9 b. the council <sup>1</sup>[has certified in writing to the Attorney General]  
10 determines<sup>1</sup> that the act or decision of the local government unit which  
11 is the subject of the cause of action is consistent with the regional  
12 master plan<sup>1</sup>; and

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

17  
18 <sup>1</sup>[22.] 23.<sup>1</sup> (New section) Within 10 days after the date of  
19 enactment of this act, the Department of Community Affairs, in  
20 consultation with the Department of Environmental Protection, shall  
21 provide guidelines and instructions to all local government units  
22 located wholly or partially within the preservation area with respect to  
23 the processing, review, and enforcement of applications for  
24 development after the date of enactment of this act and before  
25 adoption of the regional master plan.

26  
27 <sup>1</sup>[23.] 24.<sup>1</sup> (New section) The municipal master plan and  
28 development regulations of any municipality, and the county master  
29 plan and associated regulations of any county, located in the Highlands  
30 Region which have been approved by the council to be in conformance  
31 with the regional master plan in accordance with sections 14 or 15 of  
32 this act shall be entitled to a strong presumption of validity. In any  
33 cause of action filed against such a local government unit and  
34 contesting an act or decision of the local government unit taken or  
35 made under authority granted pursuant to the "Municipal Land Use  
36 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the  
37 "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-  
38 119 et seq.), or this act, the court shall give extraordinary deference  
39 to the local government unit, provided that the municipal master plan  
40 and development regulations, or, in the case of a county governmental  
41 entity, the county master plan and associated regulations, have been  
42 approved by the council to be in conformance with the regional master  
43 plan in accordance with sections 14 or 15 of this act. The plaintiff  
44 shall have the burden of proof to demonstrate by clear and convincing  
45 evidence that the act or decision of any such local government unit  
46 was arbitrary, capricious, or unreasonable or in patent abuse of

1 discretion.

2

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

9 b. <sup>1</sup>[Upon adoption by the Highlands Water Protection and  
10 Planning Council of the regional master plan, any municipality located  
11 wholly or partially in the preservation area, and any municipality in the  
12 Highlands planning area that is approved by the Highlands Water  
13 Protection and Planning Council to be in conformance with the  
14 regional master plan pursuant to section 15 of this act, may petition  
15 the Council on Affordable Housing to have its 1987 to 1999 fair share  
16 obligation adjusted in accordance with any applicable rules and  
17 regulations to reflect the change in circumstances in the municipality  
18 resulting from conformance with the regional master plan. In the  
19 event that the municipality has received substantive certification or is  
20 subject to a judgment of repose, that protection shall not be affected  
21 or compromised by the adjustment.

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

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

28

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

41

42 <sup>1</sup>[26. a. Effective on the date of enactment of this act, any person  
43 who is selling any land, or any interest therein or option therefor,  
44 within the preservation area shall give to the Commissioner of  
45 Environmental Protection written notice, by certified mail, that a  
46 contract of sale has been executed for the property. The notice shall

1 set forth the terms and conditions of the executed contract of sale and  
2 shall have attached a copy of that contract. The notice of executed  
3 contract of sale shall also include any other information that the  
4 commissioner may reasonably require by rule or regulation. The State  
5 shall have the right of first refusal to purchase the land upon  
6 substantially similar terms and conditions, which right shall be  
7 exercisable as provided by this section. The State may exercise its  
8 right of first refusal only if the land, or the interest therein or option  
9 therefor, is to be used for water supply protection purposes or  
10 recreation and conservation purposes, or farmland preservation  
11 purposes. If the State chooses to exercise its right of first refusal, the  
12 State shall give notice of that intent to the landowner within a period  
13 of 30 days following the date of receipt of the notice of executed  
14 contract of sale. The State shall submit its offer to match the terms  
15 and conditions of the executed contract of sale to the landowner  
16 within the 60 days following the expiration of the 30-day period. If no  
17 notice is given within the 30-day period that the State intends to  
18 exercise its right of first refusal, or if no offer is submitted to the  
19 landowner within the 60-day period following the 30-day period, the  
20 owner may at the expiration of the 30-day period or the 60-day period,  
21 as the case may be, convey the land to the proposed purchaser named  
22 in the executed contract of sale upon the terms and conditions  
23 specified therein, or to the proposed purchaser's assignee as provided  
24 in that executed contract of sale. If the owner fails to convey the land  
25 to the named proposed purchaser or an assignee thereof pursuant to  
26 the executed contract of sale, the land shall again become subject to  
27 the State's right of first refusal as provided by this section. A  
28 landowner may elect to convey the land to the State upon the exercise  
29 of the State's right of first refusal without breaching the original  
30 contract of sale, notwithstanding that the State's offer is different than,  
31 or provides for lower consideration than, that in the original executed  
32 contract of sale.

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

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

45 d. Any contract made in violation of subsection a. of this section  
46 is voidable.

1 e. Nothing in this section shall be construed so as to limit any  
2 authority granted to the Department of Environmental Protection, the  
3 State Agriculture Development Committee, or any other State entity,  
4 or a local government unit, pursuant to law, to acquire any lands, or  
5 interests therein or options therefor, in such manner as may be  
6 provided in any such law.

7 f. For the purposes of this section, "immediate family member"  
8 means spouse, child, sibling, aunt, uncle, niece, nephew, first cousin,  
9 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,  
10 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half  
11 brother, or half sister, whether the individual is related by blood,  
12 marriage, or adoption.]<sup>1</sup>

13

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

20 a. shall not apply to the sale or conveyance of such lands to  
21 another local government unit, public utility, or State entity for the  
22 purpose of protecting a public water supply, or the sale or conveyance  
23 of such lands for permanent preservation and use for recreation and  
24 conservation purposes, provided that in either case the sale or  
25 conveyance is approved by the commissioner; or

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

31

32 <sup>1</sup>[28.] 27.<sup>1</sup> (New section) The council may institute an action or  
33 proceeding in Superior Court for injunctive relief for any violation of  
34 this act, or any rule or regulation adopted pursuant thereto, or, in the  
35 preservation area for any violation of, or nonconformance with, the  
36 regional master plan <sup>1</sup>[, and the court may proceed in the action in a  
37 summary manner]. The council may also institute an action or  
38 proceeding for injunctive relief for any violation of the regional master  
39 plan in the planning area as it relates to a municipality or county that  
40 has been approved to be in conformance with the regional master plan  
41 pursuant to section 15 of this act<sup>1</sup>. In any <sup>1</sup>action or <sup>1</sup>proceeding  
42 brought pursuant to this section, the court <sup>1</sup>may proceed in a summary  
43 manner and<sup>1</sup> may also grant temporary or interlocutory relief.

44

45 <sup>1</sup>[29.] 28.<sup>1</sup> (New section) Any decision rendered or action taken  
46 by the council pursuant to this act shall be a final agency action subject

1 to judicial review in the Appellate Division of the Superior Court of  
2 New Jersey in accordance with the Rules of Court. The court may  
3 grant such relief as it deems just and proper, and to make and enter an  
4 order enforcing, modifying, and enforcing as so modified, remanding  
5 for further specific evidence or findings, or setting aside in whole or  
6 in part, the decision of the council. The findings of fact upon which  
7 the council's decision is based shall be conclusive if supported by  
8 substantial evidence on the record considered as a whole.

9  
10 <sup>1</sup>[30.] 29.<sup>1</sup> (New section) On or before March 31 in each year the  
11 council shall make an annual report of its activities for the preceding  
12 calendar year to the Governor <sup>1</sup>[and],<sup>1</sup> the Legislature <sup>1</sup>and the  
13 governing body and the chief executive officer of each municipality  
14 and county in the Highlands Region<sup>1</sup>. Each such report shall set forth  
15 a complete operating and financial statement covering its operations  
16 during the year.

17  
18 <sup>1</sup>30. (New section) a. The following are exempt from the  
19 provisions of this act, the regional master plan, any rules or regulations  
20 adopted by the Department of Environmental Protection pursuant to  
21 this act, or any amendments to a master plan, development regulations,  
22 or other regulations adopted by a local government unit to specifically  
23 conform them with the regional master plan:

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

29 (2) the construction of a single family dwelling on a lot in existence  
30 on the date of enactment of this act, provided that the construction  
31 does not result in the ultimate disturbance of one acre or more of land  
32 or a cumulative increase in impervious surface by one-quarter acre or  
33 more;

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

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

38 (i) preliminary or final site plan approval;

39 (ii) final municipal building or construction permit;

40 (iii) minor subdivision approval where no subsequent site plan  
41 approval is required;

42 (iv) final subdivision approval where no subsequent site plan  
43 approval is required; or

44 (v) preliminary subdivision approval where no subsequent site plan  
45 approval is required; and

46 (b) at least one of the following permits from the Department of

1 Environmental Protection, if applicable to the proposed major  
2 Highlands development:

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

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

8 (iii) a certification or other approval or authorization issued  
9 pursuant to the "The Realty Improvement Sewerage and Facilities Act  
10 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

11 (iv) a treatment works approval pursuant to the "Water Pollution  
12 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

13 (c) one of the following permits from the Department of  
14 Environmental Protection, if applicable to the proposed major  
15 Highlands development, and if the proposed major Highlands  
16 development does not require one of the permits listed in  
17 subsubparagraphs (i) through (iv) of subparagraph (b) of this  
18 paragraph:

19 (i) a permit or other approval or authorization issued pursuant to  
20 the "Freshwater Wetlands Protection Act," P.L.1987, c.156  
21 (C.13:9B-1 et seq.); or

22 (ii) a permit or other approval or authorization issued pursuant to  
23 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
24 et seq.).

25 The exemption provided in this paragraph shall apply only to the  
26 land area and the scope of the major Highlands development addressed  
27 by the qualifying approvals pursuant to subparagraphs (a) and (b), or  
28 (c) if applicable, of this paragraph, shall expire if any of those  
29 qualifying approvals expire, and shall expire if construction beyond site  
30 preparation does not commence within three years after the date of  
31 enactment of this act;

32 (4) the reconstruction of any building or structure for any reason  
33 within 125% of the footprint of the lawfully existing impervious  
34 surfaces on the site, provided that the reconstruction does not increase  
35 the lawfully existing impervious surface by one-quarter acre or more.  
36 This exemption shall not apply to the reconstruction of any agricultural  
37 or horticultural building or structure for a non-agricultural or non-  
38 horticultural use;

39 (5) any improvement to a single family dwelling in existence on the  
40 date of enactment of this act, including but not limited to an addition,  
41 garage, shed, driveway, porch, deck, patio, swimming pool, or septic  
42 system;

43 (6) any improvement, for non-residential purposes, to a place of  
44 worship owned by a nonprofit entity, society or association, or  
45 association organized primarily for religious purposes, or a public or  
46 private school, or a hospital, in existence on the date of enactment of

1 this act, including but not limited to new structures, an addition to an  
2 existing building or structure, a site improvement, or a sanitary facility;  
3 (7) an activity conducted in accordance with an approved woodland  
4 management plan pursuant to section 3 of P.L.1964, c.48  
5 (C.54:4-23.3) or the normal harvesting of forest products in  
6 accordance with a forest management plan approved by the State  
7 Forester;  
8 (8) the construction or extension of trails with non-impervious  
9 surfaces on publicly owned lands or on privately owned lands where  
10 a conservation or recreational use easement has been established;  
11 (9) the routine maintenance and operations, rehabilitation,  
12 preservation, reconstruction, or repair of transportation or  
13 infrastructure systems by a State entity or local government unit,  
14 provided that the activity is consistent with the goals and purposes of  
15 this act and does not result in the construction of any new through-  
16 capacity travel lanes;  
17 (10) the construction of transportation safety projects and bicycle  
18 and pedestrian facilities by a State entity or local government unit,  
19 provided that the activity does not result in the construction of any  
20 new through-capacity travel lanes;  
21 (11) the routine maintenance and operations, rehabilitation,  
22 preservation, reconstruction, repair, or upgrade of public utility lines,  
23 rights of way, or systems, by a public utility, provided that the activity  
24 is consistent with the goals and purposes of this act;  
25 (12) the reactivation of rail lines and rail beds existing on the date  
26 of enactment of this act;  
27 (13) the construction of a public infrastructure project approved by  
28 public referendum prior to January 1, 2005 or a capital project  
29 approved by public referendum prior to January 1, 2005;  
30 (14) the mining, quarrying, or production of ready mix concrete,  
31 bituminous concrete, or Class B recycling materials occurring or which  
32 are permitted to occur on any mine, mine site, or construction  
33 materials facility existing on June 7, 2004;  
34 (15) the remediation of any contaminated site pursuant to P.L.1993,  
35 c.139 (C.58:10B-1 et seq.);  
36 (16) any lands of a federal military installation existing on the date  
37 of enactment of this act that lie within the Highlands Region; and  
38 (17) a major Highlands development located within an area  
39 designated as Planning Area 1 (Metropolitan), or Planning Area 2  
40 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-196  
41 et seq.) as of March 29, 2004, that on or before March 29, 2004 has  
42 been the subject of a settlement agreement and stipulation of dismissal  
43 filed in the Superior Court, or a builder's remedy issued by the  
44 Superior Court, to satisfy the constitutional requirement to provide for  
45 the fulfillment of the fair share obligation of the municipality in which  
46 the development is located. The exemption provided pursuant to this

1 paragraph shall expire if construction beyond site preparation does not  
2 commence within three years after receiving all final approvals  
3 required pursuant to the "Municipal Land Use Law," P.L.1975, c.291  
4 (C.40:55D-1 et seq.).

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

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

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

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

35 (2) Any agricultural or horticultural development in the  
36 preservation area that would result in the increase, after the date of  
37 enactment of this act either individually or cumulatively, of agricultural  
38 impervious cover by nine percent or more of the total land area of a  
39 farm management unit in the preservation area shall require the review  
40 and approval by the local soil conservation district of a resource  
41 management systems plan which shall be prepared and submitted by  
42 the owner or operator of the farm management unit.

43 Prior to the approval of a resource management systems plan by a  
44 local soil conservation district, a copy of the resource management  
45 systems plan shall be forwarded by the local soil conservation district  
46 to the Department of Environmental Protection for review and



1 approval, with or without conditions, or denial within 60 days after  
2 receipt by the department. Upon approval of the resource  
3 management systems plan by the local soil conservation district and  
4 the Department of Environmental Protection, the owner or operator  
5 of the farm management unit shall implement the plan on the farm  
6 management unit. The local soil conservation district shall transmit a  
7 copy of an approved resource management systems plan to the State  
8 Soil Conservation Committee, and, if any part of the farm management  
9 unit is preserved under any farmland preservation program, to the  
10 State Agriculture Development Committee.

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

26 b. (1) If any person violates any provision of subsection a. of this  
27 section, any rule or regulation adopted pursuant to subsection a. of  
28 this section, or a farm conservation plan or a resource management  
29 systems plan approved pursuant to subsection a. of this section, the  
30 Department of Agriculture or the local soil conservation district may  
31 institute a civil action in the Superior Court for injunctive relief to  
32 prohibit and prevent the violation or violations and the court may  
33 proceed in a summary manner.

34 (2) (a) Any person who violates any provision of subsection a. of  
35 this section, any rule or regulation adopted pursuant to subsection a.  
36 of this section, or a farm conservation plan or a resource management  
37 systems plan approved pursuant to subsection a. of this section shall  
38 be liable to a civil administrative penalty of up to \$5,000 for each  
39 violation. If the violation is of a continuing nature, each day during  
40 which it continues shall constitute an additional, separate, and distinct  
41 offense. No assessment shall be levied pursuant to this subsection  
42 until after the party has been notified by certified mail or personal  
43 service and provided an opportunity for a hearing.

44 (b) Any amount assessed under this subsection shall fall within a  
45 range established in a penalty schedule adopted by the Department of  
46 Agriculture pursuant to the "Administrative Procedure Act," which

1 shall take into account the seriousness and duration of the violation  
2 and whether the violation involves the failure to prepare or to  
3 implement a farm conservation plan or resource management systems  
4 plan. The schedule shall also provide for an enhanced penalty if the  
5 violation causes an impairment to water quality. Any civil  
6 administrative penalty assessed under this subsection may be  
7 compromised by the Secretary of Agriculture upon the posting of a  
8 performance bond by the violator, or upon such terms and conditions  
9 as the secretary may establish by regulation.

10 (c) Any person who fails to pay a civil administrative penalty in full  
11 pursuant to this subsection shall be subject, upon order of a court, to  
12 a civil penalty of up to \$5,000 for each violation. If the violation is of  
13 a continuing nature, each day during which it continues shall constitute  
14 an additional, separate, and distinct offense. Any such civil penalty  
15 imposed may be collected with costs in a summary proceeding  
16 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
17 (C.2A:58-10 et seq.). The Superior Court and the municipal court  
18 shall have jurisdiction to enforce the provisions of the "Penalty  
19 Enforcement Law of 1999" in connection with this subsection.

20 (d) All penalties collected pursuant to this subsection shall either be  
21 used, as determined by the council, by the State Agriculture  
22 Development Committee for the preservation of farmland in the  
23 preservation area or by any development transfer bank used or  
24 established by the council to purchase development potential in the  
25 preservation area.

26 c. Nothing in this act, the regional master plan, any rules or  
27 regulations adopted by the Department of Environmental Protection  
28 pursuant to this act, or any amendments to a master plan, development  
29 regulations, or other regulations adopted by a local government unit  
30 to specifically conform them with the regional master plan shall be  
31 construed to alter or compromise the goals, purposes, policies, and  
32 provisions of, or lessen the protections afforded to farmers by, the  
33 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules  
34 or regulations adopted pursuant thereto.

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

38  
39 <sup>1</sup>[31.] 32.<sup>1</sup> (New section) a. Commencing on the date of  
40 enactment of this act and until the effective date of the rules and  
41 regulations adopted by the Department of Environmental Protection  
42 pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act, all major  
43 <sup>1</sup>Highlands<sup>1</sup> development in the preservation area shall require a  
44 Highlands Preservation Area approval from the department. The  
45 Highlands Preservation Area approval shall consist of the related  
46 aspects of other regulatory programs which may include, but need not

1 be limited to, the "Freshwater Wetlands Protection Act," P.L.1987,  
2 c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species  
3 Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water  
4 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the  
5 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),  
6 "The Realty Improvement Sewerage and Facilities Act (1954),"  
7 P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning  
8 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water  
9 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area  
10 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and  
11 regulations adopted pursuant thereto. For the purposes of this section,  
12 the provisions of P.L.1975, c. 232 (C.13:1D-29 et seq.) shall not apply  
13 to an application for a permit pursuant to the "Flood Hazard Area  
14 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

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

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

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

44 (3) notwithstanding the provisions of subsection a. of section 5 of  
45 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
46 pursuant thereto, to the contrary, any diversion of more than 50,000

1 gallons per day, and multiple diversions by the same or related entities  
2 for the same or related projects or developments of more than 50,000  
3 gallons per day, of waters of the Highlands shall require a permit  
4 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
5 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be  
6 based on consideration of individual and cumulative impacts of  
7 multiple diversions, maintenance of stream base flows, minimization  
8 of depletive use, maintenance of existing water quality, and protection  
9 of ecological uses<sup>1</sup>. Any new or increased diversion for nonpotable  
10 purposes that is more than 50% consumptive shall require an  
11 equivalent reduction in water demand within the same subdrainage  
12 area through such means as groundwater recharge of stormwater or  
13 reuse. Existing unused allocation or allocations used for nonpotable  
14 purposes may be revoked by the department where measures to the  
15 maximum extent practicable are not implemented to reduce demand.  
16 All new or increased diversions shall be required to implement water  
17 conservation measures to the maximum extent practicable<sup>1</sup>;

18 (4) 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 (5) 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 (6) a prohibition on impervious surfaces of greater than three  
25 percent of the land area of a lot existing on the date of enactment of  
26 this act, except that Highlands open waters shall not be included in the  
27 calculation of that land area;

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

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

45 c. <sup>1</sup>[The Highlands Preservation Area approval required pursuant  
46 to this section shall include a limited review by the department of an

1 application for a Highlands Preservation Area approval to a review for  
2 the purpose of locating a single family dwelling on the property based  
3 upon the least environmental impact to the natural resources located  
4 on the property when the application is for the construction of a single  
5 family dwelling on property owned by the individual on the date of  
6 enactment of this act, but only if the construction requires an  
7 environmental land use or water permit and does not result in the  
8 ultimate disturbance of one acre or more of land or an increase in  
9 impervious surface by one-quarter acre or more. This limited review  
10 shall not be construed to authorize the waiver of any other provision  
11 of law, or any rule or regulation adopted pursuant thereto.]  
12 Application for a Highlands Preservation Area approval shall be made  
13 on forms made available by the department and shall be accompanied  
14 by a fee established in accordance with a fee schedule issued by the  
15 department within 10 days after the date of enactment of this act and  
16 published in the New Jersey Register. The fee schedule shall be  
17 exempt from the rulemaking requirements of the "Administrative  
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall expire  
19 upon the adoption of the rules and regulations required pursuant to  
20 subsection a. of section 33 of this act.

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

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

36 b. The rules and regulations adopted pursuant to subsection a. of  
37 this section shall be in effect for a period not to exceed one year after  
38 the date of the filing. These rules and regulations shall thereafter be  
39 adopted, amended, or readopted by the commissioner in accordance  
40 with the requirements of the "Administrative Procedure Act," after  
41 consultation with the council, the Department of Agriculture, the  
42 Department of Community Affairs, <sup>1</sup>[and]<sup>1</sup> the State Planning  
43 Commission<sup>1</sup>, and the Department of Transportation<sup>1</sup>.

44 c. <sup>1</sup>[The rules and regulations adopted by the commissioner  
45 pursuant to subsection a. of this section and any requirement to obtain  
46 a Highlands permitting review pursuant this act shall not apply to any

1 major development for which all State environmental land use or water  
2 permits and local permits, approvals, and other authorizations have  
3 been issued.]

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

1 <sup>1</sup>[33.] 34.<sup>1</sup> (New section) The Department of Environmental  
2 Protection shall prepare rules and regulations establishing the  
3 environmental standards for the preservation area upon which the  
4 regional master plan adopted by the council and the Highlands  
5 permitting review program administered by the department pursuant  
6 to this act shall be based. These rules and regulations shall provide for  
7 at least the following:

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

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

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

44 d. notwithstanding the provisions of subsection a. of section 5 of  
45 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
46 pursuant thereto, to the contrary, a system for the regulation of any

1 diversion of more than 50,000 gallons per day, and multiple diversions  
2 by the same or related entities for the same or related projects or  
3 developments of more than 50,000 gallons per day, of waters of the  
4 Highlands pursuant to the "Water Supply Management Act,"  
5 P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant  
6 thereto shall be based on consideration of individual and cumulative  
7 impacts of multiple diversions, maintenance of stream base flows,  
8 minimization of depletive use, maintenance of existing water quality,  
9 and protection of ecological uses<sup>1</sup>. Any new or increased diversion for  
10 nonpotable purposes that is more than 50% consumptive shall require  
11 an equivalent reduction in water demand within the same subdrainage  
12 area through such means as groundwater recharge of stormwater or  
13 reuse. Existing unused allocation or allocations used for nonpotable  
14 purposes may be revoked by the department where measures to the  
15 maximum extent practicable are not implemented to reduce demand.  
16 All new or increased diversions shall be required to implement water  
17 conservation measures to the maximum extent practicable<sup>1</sup>;

18 e. a septic system density standard established at a level to prevent  
19 the degradation of water quality, or to require the restoration of water  
20 quality, and to protect ecological uses from individual, secondary, and  
21 cumulative impacts, in consideration of deep aquifer recharge available  
22 for dilution;

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

26 g. the antidegradation provisions of the surface water quality  
27 standards and the stormwater regulations applicable to category one  
28 waters to be applied to Highlands open waters;

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

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

39 j. a prohibition on development, except linear development for  
40 infrastructure, utilities, and the rights-of-way therefor, provided that  
41 no other feasible alternative<sup>1</sup>, as determined by the department,<sup>1</sup> exists  
42 for the linear development, on steep slopes in the preservation area  
43 with a grade of 20% or greater, and standards for development on  
44 slopes in the preservation area exhibiting a grade of between 10% and  
45 20%. The standards shall assure that developments on slopes  
46 exhibiting a grade of between 10% and 20% preserve and protect



1 steep slopes from the negative consequences of development on the  
2 site and the cumulative impact in the Highlands Region. The standards  
3 shall be developed to prevent soil erosion and sedimentation, protect  
4 water quality, prevent stormwater runoff, protect threatened and  
5 endangered animal and plant species sites and designated habitats,  
6 provide for minimal practicable degradation of unique or irreplaceable  
7 land types, historical or archeological areas, and existing scenic  
8 attributes at the site and within the surrounding area, protect upland  
9 forest, and restrict impervious surface; and shall take into  
10 consideration differing soil types, soil erodability, topography,  
11 hydrology, geology, and vegetation types; and

12 k. 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; and  
16 standards to protect upland forested areas that require all appropriate  
17 measures be taken to avoid impacts or disturbance to upland forested  
18 areas, and where avoidance is not possible that all appropriate  
19 measures have been taken to minimize and mitigate impacts to upland  
20 forested areas and to prevent soil erosion and sedimentation, protect  
21 water quality, prevent stormwater runoff, and protect threatened and  
22 endangered animal and plant species sites and designated habitats.

23

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

1 (C.58:16A-50 et seq.).

2 b. The Highlands permitting review program established pursuant  
3 to this section shall include:

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

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

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

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

1 program.

2 d. The Highlands permitting review program established pursuant  
3 to this section may provide for the issuance of a general permit<sup>1, 1</sup>  
4 provided that the department adopts rules and regulations which  
5 identify the activities subject to general permit review and establish the  
6 criteria for the approval or disapproval of a general permit.

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

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

23

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

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

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

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

46 (3) will result in minimum feasible alteration or impairment of the

1 aquatic ecosystem including existing contour, vegetation, fish and  
2 wildlife resources, and aquatic circulation of a freshwater wetland;

3 (4) will not jeopardize the continued existence of species listed  
4 pursuant to "The Endangered and Nongame Species Conservation  
5 Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant  
6 Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which  
7 appear on the federal endangered or threatened species list, and will  
8 not result in the likelihood of the destruction or adverse modification  
9 of habitat for any rare, threatened, or endangered species of animal or  
10 plant;

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

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

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

18 b. A Highlands permitting review approval may be issued to a  
19 major <sup>1</sup>Highlands<sup>1</sup> development <sup>1</sup>[subject to a limited review pursuant  
20 to paragraph (1) of subsection b. of section 34 of this act or]<sup>1</sup> granted  
21 a waiver pursuant to the provisions of <sup>1</sup>[paragraph (2) of]<sup>1</sup> subsection  
22 b. of section <sup>1</sup>[34] <sup>1</sup>35<sup>1</sup> of this act notwithstanding the inability to  
23 make the finding required pursuant to subsection a. of this section.  
24

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

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

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

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

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

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

41 Recourse to any of the remedies available under this section shall  
42 not preclude recourse to any of the other remedies prescribed in this  
43 section or by any other applicable law.

44 b. Whenever, on the basis of available information, the  
45 commissioner finds a person in violation of any provision of section

1 <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands permitting review approval issued  
2 pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of this act, or any rule or regulation  
3 adopted pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act, the  
4 commissioner may issue an order: (1) specifying the provision or  
5 provisions of the <sup>1</sup>law, <sup>1</sup> rule, regulation, permit, approval, or  
6 authorization of which the person is in violation; (2) citing the action  
7 which constituted the violation; (3) requiring compliance with the  
8 provision or provisions violated; (4) requiring the restoration of the  
9 area which is the site of the violation; and (5) providing notice to the  
10 person of the right to a hearing on the matters contained in the order.

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

- 17 (1) A temporary or permanent injunction;
- 18 (2) Assessment of the violator for the costs of any investigation,  
19 inspection, or monitoring survey which led to the establishment of the  
20 violation, and for the reasonable costs of preparing and bringing legal  
21 action under this subsection;
- 22 (3) Assessment of the violator for any costs incurred by the State  
23 in removing, correcting, or terminating the adverse effects resulting  
24 from any unauthorized regulated activity for which legal action under  
25 this subsection may have been brought;
- 26 (4) Assessment against the violator for compensatory damages for  
27 any loss or destruction of wildlife, fish or aquatic life, and for any  
28 other actual damages caused by an unauthorized regulated activity;
- 29 (5) A requirement that the violator restore the site of the violation  
30 to the maximum extent practicable and feasible.

31 d. The commissioner is authorized to assess a civil administrative  
32 penalty of up to \$25,000 for each violation of any provision of section  
33 <sup>1</sup>[31] 32<sup>1</sup> of this act, a Highlands permitting review approval issued  
34 pursuant to section <sup>1</sup>[35] 36<sup>1</sup> of this act, or any rule or regulation  
35 adopted pursuant to sections <sup>1</sup>[32 and 33] 33 and 34<sup>1</sup> of this act, and  
36 each day during which each violation continues shall constitute an  
37 additional, separate, and distinct offense. Any amount assessed under  
38 this subsection shall fall within a range established by regulation by the  
39 commissioner for violations of similar type, seriousness, and duration.  
40 <sup>1</sup>In adopting rules and regulations establishing the amount of any  
41 penalty to be assessed, the commissioner may take into account the  
42 economic benefits from the violation gained by the violator.<sup>1</sup> No  
43 assessment shall be levied pursuant to this section until after the party  
44 has been notified by certified mail or personal service. The notice  
45 shall: (1) identify the section of the <sup>1</sup>law, <sup>1</sup> rule, regulation, permit,

1 approval, or authorization violated; (2) recite the facts alleged to  
2 constitute a violation; (3) state the amount of the civil penalties to be  
3 imposed; and (4) affirm the rights of the alleged violator to a hearing.  
4 The ordered party shall have 20 days from receipt of the notice within  
5 which to deliver to the commissioner a written request for a hearing.  
6 After the hearing and upon finding that a violation has occurred, the  
7 commissioner may issue a final order after assessing the amount of the  
8 fine specified in the notice. If no hearing is requested, the notice shall  
9 become a final order after the expiration of the 20-day period.  
10 Payment of the assessment is due when a final order is issued or the  
11 notice becomes a final order. The authority to levy an administrative  
12 penalty is in addition to all other enforcement provisions in this act and  
13 in any other applicable law, rule, or regulation, and the payment of any  
14 assessment shall not be deemed to affect the availability of any other  
15 enforcement provisions in connection with the violation for which the  
16 assessment is levied. Any civil administrative penalty assessed under  
17 this section may be compromised by the commissioner upon the  
18 posting of a performance bond by the violator, or upon such terms and  
19 conditions as the commissioner may establish by regulation.

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

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

1 A second or subsequent offense under this subsection shall subject the  
2 violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to  
3 the contrary, of not less than \$5,000 nor more than \$50,000 per day  
4 of violation, in addition to any other applicable penalties and  
5 provisions under Title 2C of the New Jersey Statutes. A person who  
6 knowingly makes a false statement, representation, or certification in  
7 any application, record, or other document filed or required to be  
8 maintained under this act shall be guilty, upon conviction, of a crime  
9 of the fourth degree and, notwithstanding any provision of  
10 N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more  
11 than \$10,000, in addition to any other applicable penalties and  
12 provisions under Title 2C of the New Jersey Statutes.

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

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

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

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

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

44

45 <sup>1</sup>[37.] 38.<sup>1</sup> (New section) Notwithstanding the provisions  
46 P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted

1 pursuant thereto, to the contrary, major <sup>1</sup>Highlands<sup>1</sup> development as  
 2 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
 3 as this bill) that includes a regulated activity as defined in section 3 of  
 4 P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater  
 5 wetland transition area located <sup>1</sup>[wholly or partially]<sup>1</sup> in the Highlands  
 6 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
 7 before the Legislature as this bill) shall also be regulated pursuant to  
 8 sections <sup>1</sup>[31 through 36] 32 through 37<sup>1</sup> of P.L. , c. (C. ) (now  
 9 before the Legislature as this bill).

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

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

44  
 45 <sup>1</sup>[40.] 41.<sup>1</sup> (New section) Notwithstanding the provisions of the



1 "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or  
 2 any rule or regulation adopted pursuant thereto, to the contrary, the  
 3 Department of Environmental Protection, pursuant to section <sup>1</sup>[33]  
 4 34<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill),  
 5 within the Highlands preservation area as defined in section 3 of  
 6 P.L. , c. (C. ) (now before the Legislature as this bill), shall limit  
 7 or prohibit the construction of new public water systems or the  
 8 extension of existing public water systems <sup>1</sup>to serve development in  
 9 the Highlands preservation area as defined in section 3 of P.L. ,  
 10 c. (C. ) (now before the Legislature as this bill)<sup>1</sup>, except in the case  
 11 of a demonstrated need to protect public health and safety<sup>1</sup>, and  
 12 except to serve development in the Highlands preservation area that  
 13 is exempt from the provisions of P.L. , c. (C. ) (now before the  
 14 Legislature as this bill) pursuant to subsection a. of section 30 of  
 15 P.L. , c. (C. ) (now before the Legislature as this bill)<sup>1</sup>.

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

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

1 before the Legislature as this bill).

2

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

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

11 b. Any offer shall be reviewed and evaluated by the board and the  
12 committee in order to determine the suitability of the land for  
13 development easement purchase. Decisions regarding suitability shall  
14 be based on the following criteria:

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

18

19 nonagricultural - agricultural - landowner's  
20 developmental value value asking price

21 -----

22 nonagricultural - agricultural  
23 development value value

24

25 (2) The degree to which the purchase would encourage the  
26 survivability of the municipally approved program in productive  
27 agriculture; and

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

30 The board and the committee shall reject any offer for the sale of  
31 development easements which is unsuitable according to the above  
32 criteria and which has not been approved by the board and the  
33 municipality.

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

1 to section 13 of P.L. , c. (C. ) (now before the Legislature as  
2 this bill), the municipal average of the value of the development  
3 potential of property in a sending zone established by the bank may be  
4 the value used by the board in determining the value of the  
5 development easement. If a development easement is purchased using  
6 moneys appropriated from the fund, the State shall provide no more  
7 than 80%, except 100% under emergency conditions specified by the  
8 committee pursuant to rules or regulations, of the cost of the  
9 appraisals conducted pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

33 b. Any offer shall be reviewed and evaluated by the board and the  
 34 committee in order to determine the suitability of the land for  
 35 development easement purchase. Decisions regarding suitability shall  
 36 be based on the following criteria:

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

40

$$\begin{array}{r}
 41 \quad \text{nonagricultural} - \text{agricultural} - \text{landowner's} \\
 42 \quad \text{developmental value} \quad \text{value} \quad \text{asking price} \\
 43 \quad \text{-----} \\
 44 \quad \quad \text{nonagricultural} - \text{agricultural} \\
 45 \quad \quad \text{development value} \quad \text{value}
 \end{array}$$

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

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

6 The board and the committee shall reject any offer for the sale of  
7 development easements which is unsuitable according to the above  
8 criteria and which has not been approved by the board and the  
9 municipality.

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

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

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

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

45 e. Upon approval by the committee and the board, the secretary is  
46 authorized to provide the board, within the limits of funds

1 appropriated therefor, an amount equal to no more than 80%, except  
2 100% under emergency conditions specified by the committee  
3 pursuant to rules or regulations, of the purchase price of the  
4 development easement, as determined pursuant to the provisions of  
5 this section. The board shall provide its required share and accept the  
6 landowner's offer to sell the development easement. The acceptance  
7 shall cite the specific terms, contingencies and conditions of the  
8 purchase.

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

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

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

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

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

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

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

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

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

3       29. Nothing herein contained shall be construed to prohibit the  
4 creation of a municipally approved program or other farmland  
5 preservation program, the purchase of development easements, or the  
6 extension of any other benefit herein provided on land, and to owners  
7 thereof, in the Pinelands area, as defined pursuant to section 3 of P.L.  
8 1979, c. 111 (C. 13:18A-3), or in the Highlands Region, as defined in  
9 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
10 bill) .  
11 (cf: P.L.1983, c.32, s.29)

12

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

15       4. The board shall have the following powers:

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

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

46       c. To adopt and use an official seal and alter that seal at its

1 pleasure;

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

5 e. To enter into any agreement or contract, execute any legal  
6 document, and perform any act or thing necessary, convenient, or  
7 desirable for the purposes of the board or to carry out any power  
8 expressly given in this act;

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

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

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

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

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

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

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

46 m. To provide planning assistance grants to municipalities that



1 have adopted viable development transfer ordinances, as determined  
2 by the board, for up to 50% of the cost of planning associated with  
3 such an ordinance and incurred by a municipality, or \$10,000,  
4 whichever is less, which grants shall be made utilizing moneys  
5 deposited into the bank pursuant to section 8 of [this act] P.L.1993,  
6 c.339;

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

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

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

24

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

27 4. The board shall have the following powers:

28 a. To purchase, or to provide matching funds for the purchase of  
29 80% of, the value of development potential and to otherwise facilitate  
30 development transfers, from the owner of record of the property from  
31 which the development potential is to be transferred or from any  
32 person, or entity, public or private, holding the interest in development  
33 potential that is subject to development transfer; provided that, in the  
34 case of providing matching funds for the purchase of 80% of the value  
35 of development potential, the remaining 20% of that value is  
36 contributed by the affected municipality or county, or both, after  
37 public notice thereof in the New Jersey Register and in one newspaper  
38 of general circulation in the area affected by the purchase. The  
39 remaining 20% of the value of the development potential to be  
40 contributed by the affected municipality or county, or both, to match  
41 funds provided by the board, may be obtained by purchase from, or  
42 donation by, the owner of record of the property from which the  
43 development potential is to be transferred or from any person, or  
44 entity, public or private, holding the interest in development potential  
45 that is subject to development transfer. The value of development  
46 potential may be determined by either appraisal, municipal averaging

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

1 the acquisition of development easements on farmland so that the  
2 board may utilize the existing processes, procedures, and capabilities  
3 of the State Agriculture Development Committee as necessary and  
4 appropriate to accomplish the goals and objectives of the board as  
5 provided for pursuant to this act;

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

12 m. To provide planning assistance grants to municipalities for up  
13 to 50% of the cost of preparing, for development potential transfer  
14 purposes, a utility service plan element or a development transfer plan  
15 element of a master plan pursuant to section 19 of P.L.1975, c.291  
16 (C.40:55D-28), a real estate market analysis required pursuant to  
17 section 12 of P.L.2004, c.2 (C.40:55D-148), and a capital  
18 improvement program pursuant to section 20 of P.L.1975, c.291  
19 (C.40:55D-29) and incurred by a municipality, or \$40,000, whichever  
20 is less, which grants shall be made utilizing moneys deposited into the  
21 bank pursuant to section 8 of P.L.1993, c.339, as amended by section  
22 31 of P.L.2004, c.2;

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

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

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

44 q. To serve as a development transfer bank for the Highlands  
45 Region if requested to do so by the Highlands Water Protection and  
46 Planning Council pursuant to section 13 of P.L. , c. (C. ) (now

1 before the Legislature as this bill).<sup>1</sup>

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

3

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

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

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

15

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

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

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

38

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

41 1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall  
42 not apply in the case of conveyances by the State or the department  
43 involving an exchange of lands within the pinelands area, as defined in  
44 section 10 of P.L.1979, c.111 (C.13:18A-11), or within the  
45 Hackensack Meadowlands District, as defined in section 4 of  
46 P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as

1 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
2 as this bill), to the federal government or any agency or entity thereof,  
3 another State agency or entity, or a local unit, provided the lands to be  
4 conveyed are used for recreation or conservation purposes, shall  
5 continue to be used for recreation or conservation purposes and it has  
6 been determined pursuant to subsection c. of this section that the  
7 proposed recreation and conservation purposes for the lands do not  
8 significantly alter the ecological and environmental value of the lands  
9 being exchanged.

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

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

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

45 (2) a portion of the lands would be maintained in an undeveloped  
46 or pre-conveyance state and no wetlands would be negatively affected

1 in violation of State or federal law, or any rules or regulations adopted  
2 pursuant thereto.

3 The determinations required pursuant to this subsection shall be  
4 made available to the public at the time of the public hearing required  
5 pursuant to subsection b. of this section.

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

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

11

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

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

20 (1) A geologic and mineral resource appraisal of a region by  
21 searching and analyzing published literature, aerial photography, and  
22 geologic maps;

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

26 (3) Surface geologic, topographic or other mapping and property  
27 surveying; or

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

30 b. A municipality or county shall submit a copy of any ordinance  
31 or regulation specifically pertaining to activities regulated by this act,  
32 or a rule or regulation promulgated pursuant to this act, to the  
33 department.

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

40 d. Nothing in this section shall be construed to limit the authority  
41 of a municipality or county or board of health to enact ordinances or  
42 regulations of general applicability to all industrial or commercial  
43 activities, including, but not limited to, ordinances and regulations  
44 limiting noise, light, and odor.

45 e. The department shall not approve any ordinance or regulation  
46 submitted pursuant to subsection b. of this section which governs

1 activities within the Pinelands area designated in the "Pinelands  
2 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the  
3 Pinelands Commission has approved the ordinance or regulation. The  
4 department shall not disapprove an ordinance or regulation, or portion  
5 thereof, which has been certified by the Pinelands Commission as  
6 consistent with the requirements of the Comprehensive Management  
7 Plan as required by the "Pinelands Protection Act."

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

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

20

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

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

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

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

- 1 recreation and conservation purposes and the preservation of farmland;
- 2 c. Tabulate, both for the reporting period and cumulatively, the  
3 total acreage for the entire State, and the acreage in each county and  
4 municipality, of any donations of land that have been applied toward  
5 meeting the goals and objectives of Article VIII, Section II, paragraph  
6 7 of the State Constitution and this act with respect to the acquisition  
7 of lands for recreation and conservation purposes and the preservation  
8 of farmland;
- 9 d. List, both for the reporting period and cumulatively, and by  
10 project name, project sponsor, and location by county and  
11 municipality, all historic preservation projects funded with  
12 constitutionally dedicated moneys in whole or in part;
- 13 e. Indicate those areas of the State where, as designated by the  
14 Department of Environmental Protection in the Open Space Master  
15 Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1),  
16 the acquisition and development of lands by the State for recreation  
17 and conservation purposes is planned or is most likely to occur, and  
18 those areas of the State where there is a need to protect water  
19 resources, including the identification of lands where protection is  
20 needed to assure adequate quality and quantity of drinking water  
21 supplies in times of drought, indicate those areas of the State where  
22 the allocation of constitutionally dedicated moneys for farmland  
23 preservation purposes is planned or is most likely to occur, and  
24 provide a proposed schedule and expenditure plan for those  
25 acquisitions, developments, and allocations, for the next reporting  
26 period, which shall include an explanation of how those acquisitions,  
27 developments, and allocations will be distributed throughout all  
28 geographic regions of the State to the maximum extent practicable and  
29 feasible;
- 30 f. List any surplus real property owned by the State or an  
31 independent authority of the State that may be utilizable for recreation  
32 and conservation purposes or farmland preservation purposes, and  
33 indicate what action has been or must be taken to effect a conveyance  
34 of those lands to the department, the committee, local government  
35 units, qualifying tax exempt nonprofit organizations, or other entities  
36 or persons so that the lands may be preserved and used for those  
37 purposes;
- 38 g. List, for the reporting period, all projects for which applications  
39 for funding under the Green Acres, farmland preservation, and historic  
40 preservation programs were received but not funded with  
41 constitutionally dedicated moneys during the reporting period, and the  
42 reason or reasons why those projects were not funded;
- 43 h. Provide, for the reporting period, a comparison of the amount  
44 of constitutionally dedicated moneys annually appropriated for local  
45 government unit projects for recreation and conservation purposes in  
46 municipalities eligible to receive State aid pursuant to P.L.1978, c.14



1 (C.52:27D-178 et seq.) to the average amount of Green Acres bond  
2 act moneys annually appropriated for such projects in the years 1984  
3 through 1998; and

4 i. Tabulate, both for the reporting period and cumulatively, the  
5 total acreage for the entire State, and the acreage in each county and  
6 municipality, of lands acquired for recreation and conservation  
7 purposes that protect water resources and that protect flood-prone  
8 areas.

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

10

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

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

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

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

35

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

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

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

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

46 (3) Provide grants to assist qualifying tax exempt nonprofit

1 organizations to pay the cost of acquisition and development of lands  
2 for recreation and conservation purposes.

3 b. The expenditure and allocation of constitutionally dedicated  
4 moneys for recreation and conservation purposes shall reflect the  
5 geographic diversity of the State to the maximum extent practicable  
6 and feasible.

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

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

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

44 A landowner may waive any of the requirements of this paragraph  
45 and may agree to sell the lands for less than the values determined  
46 pursuant to this paragraph.

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

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

14 (3) This subsection shall not:

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

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

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

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

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

31 e. Moneys appropriated from the fund may be used to match  
32 grants, contributions, donations, or reimbursements from federal aid  
33 programs or from other public or private sources established for the  
34 same or similar purposes as the fund.

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

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

45 h. Whenever the State acquires land for recreation and conservation  
46 purposes, the agency in the Department of Environmental Protection

1 responsible for administering the land shall, within six months after the  
2 date of acquisition, inspect the land for the presence of any buildings  
3 or structures thereon which are or may be historic properties and,  
4 within 60 days after completion of the inspection, provide to the New  
5 Jersey Historic Preservation Office in the department (1) a written  
6 notice of its findings, and (2) for any buildings or structures which are  
7 or may be historic properties discovered on the land, a request for  
8 determination of potential eligibility for inclusion of the historic  
9 building or structure in the New Jersey Register of Historic Places.  
10 Whenever such a building or structure is discovered, a copy of the  
11 written notice provided to the New Jersey Historic Preservation Office  
12 shall also be sent to the New Jersey Historic Trust and to the county  
13 historical commission or advisory committee, the county historical  
14 society, the local historic preservation commission or advisory  
15 committee, and the local historical society if any of those entities exist  
16 in the county or municipality wherein the land is located.

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

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

41 (3) This subsection shall not:

42 (a) apply if the Department of Environmental Protection  
43 wastewater, water quality and watershed management rules and  
44 regulations and associated requirements and standards applicable to  
45 the lands at the time of proposed acquisition have not changed since  
46 November 3, 1998;

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

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

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

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

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

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

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

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

9     (4) This subsection shall not:

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

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

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

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

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

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

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

37     [j.] k. The department shall adopt guidelines for the evaluation and  
38 priority ranking process which shall be used in making decisions  
39 concerning the acquisition of lands by the State for recreation and  
40 conservation purposes using moneys from the Garden State Green  
41 Acres Preservation Trust Fund and from any other source. <sup>1</sup>The  
42 guidelines shall be designed to provide, to the maximum extent  
43 practicable and feasible, that such moneys are spent equitably among  
44 the geographic areas of the State.<sup>1</sup> The guidelines, and any  
45 subsequent revisions thereto, shall be published in the New Jersey  
46 Register. The adoption of the guidelines or of the revisions thereto,

1 shall not be subject to the requirements of the "Administrative  
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3 [k.] l. In making decisions concerning the acquisition of lands by  
4 the State for recreation and conservation purposes using moneys from  
5 the Garden State Green Acres Preservation Trust Fund, in the  
6 evaluation and priority ranking process the department shall accord  
7 three times the weight to acquisitions of lands that would protect  
8 water resources, and two times the weight to acquisitions of lands that  
9 would protect flood-prone areas, as those criteria are compared to the  
10 other criteria in the priority ranking process.

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

18 Any rules and regulations adopted pursuant to this subsection shall  
19 not apply to activities on lands acquired prior to the adoption of the  
20 rules and regulations.

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

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

1 Protection and deemed by the department to be complete for review  
2 on or before March 29, 2004. The recommendations may also include  
3 a listing of specific parcels in the Highlands preservation area that the  
4 council is aware of that meet the criteria of subparagraphs (a) or (b)  
5 of this paragraph and for that reason should be considered by the  
6 department as a priority for acquisition, but any such list shall remain  
7 confidential notwithstanding any provision of P.L.1963, c.73  
8 (C.47:1A-1 et seq.) or any other law to the contrary.

9 (2) In making decisions concerning applications for funding  
10 submitted by municipalities in the Highlands planning area, as defined  
11 in section 3 of P.L. , c. (C. ) (now before the Legislature as this  
12 bill), to acquire or develop lands for recreation and conservation  
13 purposes using moneys from the Garden State Green Acres  
14 Preservation Trust Fund, in the evaluation and priority ranking process  
15 the department shall accord a higher weight to any application  
16 submitted by a municipality in the Highlands planning area that has  
17 amended its development regulations in accordance with section 13 of  
18 P.L. , c. (C. ) (now before the Legislature as this bill) to  
19 establish one or more receiving zones for the transfer of development  
20 potential from the Highlands preservation area, as defined in section  
21 3 of P.L. , c. (C. ) (now before the Legislature as this bill), than  
22 that which is accorded to comparable applications submitted by other  
23 municipalities in the Highlands planning area that have not made such  
24 amendments to their development regulations.

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

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

37  
38 <sup>1</sup>[53.] 54.<sup>1</sup> Section 38 of P.L.1999, c.152 (C.13:8C-38) is  
39 amended to read as follows:

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

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



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

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

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

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

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

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

34 (4) considering the importance of preserving agricultural lands in  
35 the pinelands area; and

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

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

46 g. (1) (a) For State fiscal years 2000 through 2004 only, when the

1 committee, a local government unit, or a qualifying tax exempt  
2 nonprofit organization seeks to acquire a development easement on  
3 farmland or the fee simple title to farmland for farmland preservation  
4 purposes using constitutionally dedicated moneys in whole or in part,  
5 it shall conduct or cause to be conducted an appraisal or appraisals of  
6 the value of the lands that shall be made using the land use zoning of  
7 the lands <sup>1</sup>[(I)] (i)<sup>1</sup> in effect at the time of proposed acquisition, and  
8 (ii) in effect on November 3, 1998 as if that land use zoning is still in  
9 effect at the time of proposed acquisition. The higher of those two  
10 values shall be utilized by the committee, a local government unit, or  
11 a qualifying tax exempt nonprofit organization as the basis for  
12 negotiation with the landowner with respect to the acquisition price  
13 for the lands. The landowner shall be provided with both values  
14 determined pursuant to this subparagraph.

15 A landowner may waive any of the requirements of this paragraph  
16 and may agree to sell the lands for less than the values determined  
17 pursuant to this paragraph.

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

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

31 (3) This subsection shall not:

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

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

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

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

45 (e) alter any requirements to disclose information to a landowner  
46 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361

1 (C.20:3-1 et seq.).

2 h. Any farmland for which a development easement or fee simple  
3 title has been acquired pursuant to section 37 of <sup>1</sup>[this act] P.L.1999,  
4 c.152 (C.13:8C-37)<sup>1</sup> shall be entitled to the benefits conferred by the  
5 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the  
6 "Agriculture Retention and Development Act," P.L.1983, c.32  
7 (C.4:1C-11 et al.).

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

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

33 (3) This subsection shall not:

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

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

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

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

46 j. (1) Commencing on the date of enactment of P.L. , c. (C. )

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

29 A landowner may waive any of the requirements of this paragraph  
30 and may agree to sell the lands for less than the values determined  
31 pursuant to this paragraph.

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

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

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

46 (4) This subsection shall not:

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

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

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

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

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

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

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

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

36     Any rules and regulations adopted pursuant to this subsection shall  
 37 not apply to improvements on lands acquired prior to the adoption of  
 38 the rules and regulations.

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

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

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

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

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

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

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

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

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

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

43       e. 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), on any  
46 provision of the park master plan that may impact upon or otherwise

1 affect the Highlands Region or the Highlands regional master plan, as  
2 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
3 as this bill), and any such provision shall be consistent with the  
4 Highlands regional master plan adopted by the council pursuant to that  
5 act.

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

7

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

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

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

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



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

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

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

28

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

31 2. Any billboard or outdoor advertising sign licensed and permitted  
32 pursuant to the "Roadside Sign Control and Outdoor Advertising  
33 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected  
34 on or above any State right-of-way or any real property of the  
35 department shall be subject to local government zoning ordinances,  
36 applicable local government building permit requirements, and in the  
37 pinelands area, shall be subject to the provisions of the comprehensive  
38 management plan prepared and adopted by the Pinelands Commission  
39 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the  
40 Highlands Region, shall be subject to the provisions of the "Highland  
41 Water Protection and Planning Act," P.L. , c. (C. ) (now before  
42 the Legislature as this bill), any rules and regulations adopted pursuant  
43 thereto, and the Highlands regional master plan adopted by the  
44 Highlands Water Protection and Planning Council pursuant to section  
45 8 of that act .

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

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

2       32:14-5. a. Palisades Interstate Park Commission shall, from time  
3 to time, select and locate such lands lying between the top or steep  
4 edge of the Palisades or the crest of the slope in places where the steep  
5 Palisade rocks are absent and the high-water line of the Hudson river,  
6 from the New York State line on the north, to a line beginning at the  
7 intersection of the southern line of the old Fort Lee dock or landing  
8 with the high-water line of the Hudson river and running thence in a  
9 westerly direction and at right angles to said high-water line of the  
10 Hudson river to the east side of the river road running from Edgewater  
11 to Fort Lee, in Bergen county, on the south, and such lands or rights  
12 in lands belonging to persons other than the State, as may lie between  
13 the exterior bulkhead line established in the Hudson river and the  
14 high-water line of the Hudson river, as may, in the opinion of the  
15 Palisades Interstate Park Commission, be proper and necessary to be  
16 reserved for the purpose of establishing a park and thereby preserving  
17 the scenic beauty of the Palisades.

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

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

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

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

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

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

45

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

1 to read as follows:

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

3 [a.] (1) assess present and projected development, land use, and  
4 land management practices and patterns, and identify actual and  
5 potential environmental threats and problems, around Greenwood  
6 Lake and within its watershed, and determine the effects of those  
7 practices and patterns, threats, and problems upon the natural, scenic,  
8 and recreational resources of Greenwood Lake and its watershed;

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

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

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

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

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

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

32 b. The commission shall consult with the Highlands Water  
33 Protection and Planning Council, established pursuant to section 4 of  
34 P.L. , c. (C. ) (now before the Legislature as this bill), in carrying  
35 out its duties as prescribed pursuant to subsection a. of this section.  
36 Any action taken by the commission that may impact upon or  
37 otherwise affect the Highlands preservation area, as defined in section  
38 3 of P.L. , c. (C. ) (now before the Legislature as this bill), shall  
39 be consistent with the Highlands regional master plan adopted by the  
40 council pursuant to section 8 of that act.

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

42

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

45 19. Preparation; contents; modification.

46 a. The planning board may prepare and, after public hearing, adopt

1 or amend a master plan or component parts thereof, to guide the use  
2 of lands within the municipality in a manner which protects public  
3 health and safety and promotes the general welfare.

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

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

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

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

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

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

45 (6) A community facilities plan element showing the existing and  
46 proposed location and type of educational or cultural facilities, historic

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

1 subplans and subplan elements projected according to periods of time  
2 or staging sequences.

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

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

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

21

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

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

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

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

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

1 subdivision thereof, for public use.

2 The approval of the board shall not be required to validate the title  
3 of the United States, State or any county or municipality or any  
4 agency, authority or subdivision thereof, to any lands or interest  
5 therein heretofore condemned or hereafter to be condemned by the  
6 United States, State or any county or municipality or any agency,  
7 authority or subdivision thereof for public use.

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

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

17 (2) a merger or consolidation of its property, franchises, privileges  
18 or rights; or

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

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

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

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

30 (2) merge or consolidate its property, including customer lists, with  
31 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 collection or solid waste disposal pursuant to the provisions of  
34 P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et  
35 seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

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

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

1 information is requested, the department shall outline, in writing, why  
2 it deems such information necessary to make an informed decision on  
3 the impact of the transaction on effective competition.

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

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

14 The department shall prescribe and provide upon request all  
15 necessary forms for the implementation of the notification  
16 requirements of this subsection.

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

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

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

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



1 that the department fails to take action on a transaction within the  
2 60-day period specified herein, then the transaction shall be deemed to  
3 have been approved.

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

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

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

20

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

23 19. Preparation; contents; modification.

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

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

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

35 (2) A land use plan element (a) taking into account and stating its  
36 relationship to the statement provided for in paragraph (1) hereof, and  
37 other master plan elements provided for in paragraphs (3) through (14)  
38 hereof and natural conditions, including, but not necessarily limited to,  
39 topography, soil conditions, water supply, drainage, flood plain areas,  
40 marshes, and woodlands; (b) showing the existing and proposed  
41 location, extent and intensity of development of land to be used in the  
42 future for varying types of residential, commercial, industrial,  
43 agricultural, recreational, educational and other public and private  
44 purposes or combination of purposes; and stating the relationship  
45 thereof to the existing and any proposed zone plan and zoning  
46 ordinance; and (c) showing the existing and proposed location of any

1 airports and the boundaries of any airport safety zones delineated  
2 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260  
3 (C.6:1-80 et seq.); and (d) including a statement of the standards of  
4 population density and development intensity recommended for the  
5 municipality;

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

10 (4) A circulation plan element showing the location and types of  
11 facilities for all modes of transportation required for the efficient  
12 movement of people and goods into, about, and through the  
13 municipality, taking into account the functional highway classification  
14 system of the Federal Highway Administration and the types,  
15 locations, conditions and availability of existing and proposed  
16 transportation facilities, including air, water, road and rail;

17 (5) A utility service plan element analyzing the need for and  
18 showing the future general location of water supply and distribution  
19 facilities, drainage and flood control facilities, sewerage and waste  
20 treatment, solid waste disposal and provision for other related utilities,  
21 and including any storm water management plan required pursuant to  
22 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.). If a  
23 municipality prepares a utility service plan element as a condition for  
24 adopting a development transfer ordinance pursuant to subsection c.  
25 of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall  
26 address the provision of utilities in the receiving zone as provided  
27 thereunder;

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

32 (7) A recreation plan element showing a comprehensive system of  
33 areas and public sites for recreation;

34 (8) A conservation plan element providing for the preservation,  
35 conservation, and utilization of natural resources, including, to the  
36 extent appropriate, energy, open space, water supply, forests, soil,  
37 marshes, wetlands, harbors, rivers and other waters, fisheries,  
38 endangered or threatened species wildlife and other resources, and  
39 which systemically analyzes the impact of each other component and  
40 element of the master plan on the present and future preservation,  
41 conservation and utilization of those resources;

42 (9) An economic plan element considering all aspects of economic  
43 development and sustained economic vitality, including (a) a  
44 comparison of the types of employment expected to be provided by the  
45 economic development to be promoted with the characteristics of the  
46 labor pool resident in the municipality and nearby areas and (b) an

1 analysis of the stability and diversity of the economic development to  
2 be promoted;

3 (10) A historic preservation plan element: (a) indicating the  
4 location and significance of historic sites and historic districts; (b)  
5 identifying the standards used to assess worthiness for historic site or  
6 district identification; and (c) analyzing the impact of each component  
7 and element of the master plan on the preservation of historic sites and  
8 districts;

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

11 (12) A recycling plan element which incorporates the State  
12 Recycling Plan goals, including provisions for the collection,  
13 disposition and recycling of recyclable materials designated in the  
14 municipal recycling ordinance, and for the collection, disposition and  
15 recycling of recyclable materials within any development proposal for  
16 the construction of 50 or more units of single-family residential  
17 housing or 25 or more units of multi-family residential housing and any  
18 commercial or industrial development proposal for the utilization of  
19 1,000 square feet or more of land;

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

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

33 c. The master plan and its plan elements may be divided into  
34 subplans and subplan elements projected according to periods of time  
35 or staging sequences.

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

46 In the case of a municipality situated within the Highlands Region,

1 as defined in section 3 of P.L. , c. (C. ) (now before the  
2 Legislature as this bill), the master plan shall include a specific policy  
3 statement indicating the relationship of the proposed development of  
4 the municipality, as developed in the master plan, to the Highlands  
5 regional master plan adopted pursuant to section 8 of P.L. , c.  
6 (C. ) (now before the Legislature as this bill).<sup>1</sup>  
7 (cf: P.L.2004, c.2, s.37)

8  
9 <sup>1</sup>61. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read  
10 as follows:

11 4. The proceeds of the fees collected by the county recording  
12 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be  
13 accounted for and remitted to the county treasurer. An amount equal  
14 to 28.6% of the proceeds from the first \$1.75 for each \$500.00 of  
15 consideration or fractional part thereof recited in the deed collected  
16 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be retained  
17 by the county treasurer for the use of the county and the balance shall  
18 be paid to the State Treasurer for the use of the State; provided  
19 however, that on and after the tenth day following a certification by  
20 the Director of the Division of Budget and Accounting in the  
21 Department of the Treasury pursuant to subsection b. of section 2 of  
22 P.L.1992, c.148 (C.46:15-10.2), 100.0% of the proceeds from the first  
23 \$0.50 for each \$500.00 of consideration or fractional part thereof  
24 recited in the deed so collected shall be retained by the county  
25 treasurer for the use of the county and no amount shall be paid to the  
26 State Treasurer for the use of the State. Payments shall be made to  
27 the State Treasurer on the tenth day of each month following the  
28 month of collection.

29 a. (1) Amounts, not in excess of \$25,000,000, paid during the  
30 State fiscal year to the State Treasurer from the payment of fees  
31 collected by the county recording officer other than the additional fee  
32 of \$0.75 for each \$500.00 of consideration or fractional part thereof  
33 recited in the deed in excess of \$150,000.00 collected pursuant to  
34 section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited to the "Shore  
35 Protection Fund" created pursuant to section 1 of P.L.1992, c.148  
36 (C.13:19-16.1), in the manner established under that section.

37 (2) In addition to the amounts credited to the "Shore Protection  
38 Fund" pursuant to paragraph (1) of this subsection, amounts equal to  
39 \$12,000,000 in each of the first 10 years after the date of enactment  
40 of the "Highlands Water Protection and Planning Act," P.L. , c.  
41 (C. ) (now before the Legislature as this bill) and to \$5,000,000 in  
42 each year thereafter, paid during the State fiscal year to the State  
43 Treasurer from the payment of fees collected by the county recording  
44 officer other than the additional fee of \$0.75 for each \$500.00 of  
45 consideration or fractional part thereof recited in the deed in excess of  
46 \$150,000.00 shall be credited to the "Highlands Protection Fund"

1 created pursuant to section 21 of P.L. , c. (C. ) (now before the  
2 Legislature as this bill), in the manner established under that section.  
3 No monies shall be credited to the "Highlands Protection Fund"  
4 pursuant to this paragraph until and unless the full amount of  
5 \$25,000,000 has first been credited to the "Shore Protection Fund"  
6 pursuant to paragraph (1) of this subsection.

7 b. All amounts paid to the State Treasurer in payment of the  
8 additional fee of \$0.75 for each \$500.00 of consideration or fractional  
9 part thereof recited in the deed in excess of \$150,000.00 collected  
10 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited  
11 to the Neighborhood Preservation Nonlapsing Revolving Fund  
12 established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the  
13 manner established under section 20 thereof (C.52:27D-320).<sup>1</sup>  
14 (cf: P.L.2003, c.113, s.3)

15  
16 <sup>1</sup>62. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
17 read as follows:

18 2. a. The annual appropriations act for each State fiscal year shall,  
19 without other conditions, limitations or restrictions on the following:

20 (1) credit amounts paid to the State Treasurer, if any, in payment  
21 of fees collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7),  
22 to the "Shore Protection Fund" created pursuant to section 1 of  
23 P.L.1992, c.148 (C.13:19-16.1), [and] the Neighborhood  
24 Preservation Nonlapsing Revolving Fund established pursuant to  
25 section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands  
26 Protection Fund" created pursuant to section 21 of P.L. , c. (C. )  
27 (now before the Legislature as this bill), pursuant to the requirements  
28 of section 4 of P.L.1968, c.49 (C.46:15-8);

29 (2) appropriate the balance of the "Shore Protection Fund" created  
30 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the  
31 purposes of that fund; [and]

32 (3) appropriate the balance of the Neighborhood Preservation  
33 Nonlapsing Revolving Fund established pursuant to section 20 of  
34 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

35 (4) appropriate the balance of the "Highlands Protection Fund"  
36 created pursuant to section 21 of P.L. , c. (C. ) (now before the  
37 Legislature as this bill), for the purposes of that fund.

38 b. If the requirements of subsection a. of this section are not met  
39 on the effective date of an annual appropriations act for the State fiscal  
40 year, or if an amendment or supplement to an annual appropriations  
41 act for the State fiscal year should violate any of the requirements of  
42 subsection a. of this section, the Director of the Division of Budget  
43 and Accounting in the Department of the Treasury shall, not later than  
44 five days after the enactment of the annual appropriations act, or an  
45 amendment or supplement thereto, that violates any of the  
46 requirements of subsection a. of this section, certify to the Director of

1 the Division of Taxation that the requirements of subsection a. of this  
2 section have not been met.<sup>1</sup>

3 (cf: P.L.1992, c.148, s.2)

4

5 <sup>1</sup>[61.] 63.<sup>1</sup> Section 1 of P.L.1985, c.398 (C.52:18A-196) is  
6 amended to read as follows:

7 1. The Legislature finds and declares that:

8 a. New Jersey, the nation's most densely populated State, requires  
9 sound and integrated Statewide planning and the coordination of  
10 Statewide planning with local and regional planning in order to  
11 conserve its natural resources, revitalize its urban centers, protect the  
12 quality of its environment, and provide needed housing and adequate  
13 public services at a reasonable cost while promoting beneficial  
14 economic growth, development and renewal;

15 b. Significant economies, efficiencies and savings in the  
16 development process would be realized by private sector enterprise  
17 and by public sector development agencies if the several levels of  
18 government would cooperate in the preparation of and adherence to  
19 sound and integrated plans;

20 c. It is of urgent importance that the State Development Guide  
21 Plan be replaced by a State Development and Redevelopment Plan  
22 designed for use as a tool for assessing suitable locations for  
23 infrastructure, housing, economic growth and conservation;

24 d. It is in the public interest to encourage development,  
25 redevelopment and economic growth in locations that are well situated  
26 with respect to present or anticipated public services and facilities,  
27 giving appropriate priority to the redevelopment, repair, rehabilitation  
28 or replacement of existing facilities and to discourage development  
29 where it may impair or destroy natural resources or environmental  
30 qualities that are vital to the health and well-being of the present and  
31 future citizens of this State;

32 e. A cooperative planning process that involves the full  
33 participation of State, regional, county and local governments as well  
34 as other public and private sector interests will enhance prudent and  
35 rational development, redevelopment and conservation policies and the  
36 formulation of sound and consistent regional plans and planning  
37 criteria;

38 f. Since the overwhelming majority of New Jersey land use  
39 planning and development review occurs at the local level, it is  
40 important to provide local governments in this State with the technical  
41 resources and guidance necessary to assist them in developing land use  
42 plans and procedures which are based on sound planning information  
43 and practice, and to facilitate the development of local plans which are  
44 consistent with State and regional plans and programs;

45 g. An increasing concentration of the poor and minorities in older  
46 urban areas jeopardizes the future well-being of this State, and a sound

1 and comprehensive planning process will facilitate the provision of  
2 equal social and economic opportunity so that all of New Jersey's  
3 citizens can benefit from growth, development and redevelopment;

4 h. An adequate response to judicial mandates respecting housing  
5 for low- and moderate-income persons requires sound planning to  
6 prevent sprawl and to promote suitable use of land; and

7 i. These purposes can be best achieved through the establishment  
8 of a State planning commission consisting of representatives from the  
9 executive and legislative branches of State government, local  
10 government, the general public and the planning community.

11 (cf: P.L.1985, c.398, s.1)

12

13 <sup>1</sup>[62.] 64.<sup>1</sup> Section 4 of P.L.1985, c.398 (C.52:18A-199) is  
14 amended to read as follows:

15 4. The commission shall:

16 a. Prepare and adopt within 36 months after the enactment of [this  
17 act] P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt  
18 at least every three years thereafter, the State Development and  
19 Redevelopment Plan, which shall provide a coordinated, integrated and  
20 comprehensive plan for the growth, development, renewal and  
21 conservation of the State and its regions and which shall identify areas  
22 for growth, agriculture, open space conservation and other appropriate  
23 designations;

24 b. Prepare and adopt as part of the plan a long-term Infrastructure  
25 Needs Assessment, which shall provide information on present and  
26 prospective conditions, needs and costs with regard to State, county  
27 and municipal capital facilities, including water, sewerage,  
28 transportation, solid waste, drainage, flood protection, shore  
29 protection and related capital facilities;

30 c. Develop and promote procedures to facilitate cooperation and  
31 coordination among State agencies, regional entities, and local  
32 governments with regard to the development of plans, programs and  
33 policies which affect land use, environmental, capital and economic  
34 development issues;

35 d. Provide technical assistance to local governments and regional  
36 entities in order to encourage the use of the most effective and  
37 efficient planning and development review data, tools and procedures;

38 e. Periodically review State, regional, and local government  
39 planning procedures and relationships and recommend to the Governor  
40 and the Legislature administrative or legislative action to promote a  
41 more efficient and effective planning process;

42 f. Review any bill introduced in either house of the Legislature  
43 which appropriates funds for a capital project and may study the  
44 necessity, desirability and relative priority of the appropriation by  
45 reference to the State Development and Redevelopment Plan, and may  
46 make recommendations to the Legislature and to the Governor

1 concerning the bill; and

2 g. Take all actions necessary and proper to carry out the provisions  
3 of [this act] P.L.1985, c.398 (C.52:18A-196 et al.).

4 (cf: P.L.1987, c.308, s.1)

5

6 <sup>1</sup>[63.] 65.<sup>1</sup> Section 5 of P.L.1985, c.398 (C.52:18A-200) is  
7 amended to read as follows:

8 5. The State Development and Redevelopment Plan shall be  
9 designed to represent a balance of development and conservation  
10 objectives best suited to meet the needs of the State. The plan shall:

11 a. Protect the natural resources and qualities of the State,  
12 including, but not limited to, agricultural development areas, fresh and  
13 saltwater wetlands, flood plains, stream corridors, aquifer recharge  
14 areas, steep slopes, areas of unique flora and fauna, and areas with  
15 scenic, historic, cultural and recreational values;

16 b. Promote development and redevelopment in a manner consistent  
17 with sound planning and where infrastructure can be provided at  
18 private expense or with reasonable expenditures of public funds. This  
19 should not be construed to give preferential treatment to new  
20 construction;

21 c. Consider input from State, regional, county and municipal  
22 entities concerning their land use, environmental, capital and economic  
23 development plans, including to the extent practicable any State and  
24 regional plans concerning natural resources or infrastructure elements;

25 d. Identify areas for growth, limited growth, agriculture, open  
26 space conservation and other appropriate designations that the  
27 commission may deem necessary;

28 e. Incorporate a reference guide of technical planning standards  
29 and guidelines used in the preparation of the plan; and

30 f. Coordinate planning activities and establish Statewide planning  
31 objectives in the following areas: land use, housing, economic  
32 development, transportation, natural resource conservation,  
33 agriculture and farmland retention, recreation, urban and suburban  
34 redevelopment, historic preservation, public facilities and services, and  
35 intergovernmental coordination.

36 (cf: P.L.1985, c.398, s.5)

37

38 <sup>1</sup>[64.] 66.<sup>1</sup> Section 6 of P.L.1985, c.398 (C.52:18A-201) is  
39 amended to read as follows:

40 6. a. There is established in the Department of the Treasury the  
41 Office of State Planning. The director of the office shall be appointed  
42 by and serve at the pleasure of the Governor. The director shall  
43 supervise and direct the activities of the office and shall serve as the  
44 secretary and principal executive officer of the State Planning  
45 Commission.

46 b. The Office of State Planning shall assist the commission in the



1 performance of its duties and shall:

2 (1) Publish an annual report on the status of the State Development  
3 and Redevelopment Plan which shall describe the progress towards  
4 achieving the goals of the plan, the degree of consistency achieved  
5 among municipal, county, regional, and State plans, the capital needs  
6 of the State, and progress towards providing housing where such need  
7 is indicated;

8 (2) Provide planning service to other agencies or instrumentalities  
9 of State government, review the plans prepared by them, and  
10 coordinate planning to avoid or mitigate conflicts between plans;

11 (3) Provide advice and assistance to regional, county and local  
12 planning units;

13 (4) Review and comment on the plans of interstate agencies where  
14 the plans affect this State;

15 (5) Compile quantitative current estimates and Statewide forecasts  
16 for population, employment, housing and land needs for development  
17 and redevelopment; and

18 (6) Prepare and submit to the State Planning Commission, as an aid  
19 in the preparation of the State Development and Redevelopment Plan,  
20 alternate growth and development strategies which are likely to  
21 produce favorable economic, environmental and social results.

22 c. The director shall ensure that the responsibilities and duties of  
23 the commission are fulfilled, and shall represent the commission and  
24 promote its activities before government agencies, public and private  
25 interest groups and the general public, and shall undertake or direct  
26 such other activities as the commission shall direct or as may be  
27 necessary to carry out the purposes of [this act] P.L.1985, c.398  
28 (C.52:18A-196 et al.).

29 d. With the consent of the commission, the director shall assign to  
30 the commission from the staff of the office at least two full-time  
31 planners, a full-time liaison to local and county governments and  
32 regional entities, and such other staff, clerical, stenographic and expert  
33 assistance as [he] the director shall deem necessary for the fulfillment  
34 of the commission's responsibilities and duties.

35 (cf: P.L.1985, c.398, s.6)

36

37 <sup>1</sup>[65.] 67.<sup>1</sup> Section 7 of P.L.1985, c.398 (C.52:18A-202) is  
38 amended to read as follows:

39 7. a. In preparing, maintaining and revising the State Development  
40 and Redevelopment Plan, the commission shall solicit and give due  
41 consideration to the plans, comments and advice of each county and  
42 municipality, State agencies designated by the commission, the  
43 Highlands Water Protection and Planning Council established pursuant  
44 to section 4 of P.L. , c. (C. ) (now before the Legislature as this  
45 bill), and other local and regional entities. Prior to the adoption of  
46 each plan, the commission shall prepare and distribute a preliminary

1 plan to each county planning board, municipal planning board and  
2 other requesting parties, including State agencies, the Highlands Water  
3 Protection and Planning Council, and metropolitan planning  
4 organizations. Not less than 45 nor more than 90 days thereafter, the  
5 commission shall conduct a joint public informational meeting with  
6 each county planning board in each county and with the Highlands  
7 Water Protection and Planning Council for the purpose of providing  
8 information on the plan, responding to inquiries concerning the plan,  
9 and receiving informal comments and recommendations from county  
10 and municipal planning boards, local public officials, the Highlands  
11 Water Protection and Planning Council, and other interested parties.

12 b. The commission shall negotiate plan cross-acceptance with each  
13 county planning board, which shall solicit and receive any findings,  
14 recommendations and objections concerning the plan from local  
15 planning bodies. Each county planning board shall negotiate plan  
16 cross-acceptance among the local planning bodies within the county,  
17 unless it shall notify the commission in writing within 45 days of the  
18 receipt of the preliminary plan that it waives this responsibility, in  
19 which case the commission shall designate an appropriate entity, or  
20 itself, to assume this responsibility. Each board or designated entity  
21 shall, within ten months of receipt of the preliminary plan, file with the  
22 commission a formal report of findings, recommendations and  
23 objections concerning the plan, including a description of the degree  
24 of consistency and any remaining inconsistency between the  
25 preliminary plan and county and municipal plans. In any event, should  
26 any municipality's plan remain inconsistent with the State Development  
27 and Redevelopment Plan after the completion of the cross-acceptance  
28 process, the municipality may file its own report with the State  
29 Planning Commission, notwithstanding the fact that the [County  
30 Planning Board] county planning board has filed its report with the  
31 State Planning Commission. The term cross-acceptance means a  
32 process of comparison of planning policies among governmental levels  
33 with the purpose of attaining compatibility between local, county,  
34 regional, and State plans. The process is designed to result in a  
35 written statement specifying areas of agreement or disagreement and  
36 areas requiring modification by parties to the cross-acceptance.

37 <sup>1</sup>[Notwithstanding any provision of this section to the contrary, any  
38 municipality or county in the Highlands Region, as defined in section  
39 3 of P.L. , c. (C. ) (now before the Legislature as this bill),  
40 whose municipal master plan and development regulations or county  
41 master plan and associated regulations, respectively, have been  
42 approved by the Highlands Water Protection and Planning Council  
43 pursuant to sections 14 or 15 of P.L. , c. (C. ) (now before the  
44 Legislature as this bill) to be in conformance with the Highlands  
45 regional master plan adopted by the council pursuant to section 8 of  
46 P.L. , c. (C. ) (now before the Legislature as this bill) shall be

1 exempt from the cross-acceptance process required by this subsection  
2 for those portions of the municipality or county lying within the  
3 Highlands Region.]<sup>1</sup>

4 c. Upon consideration of the formal reports of the county planning  
5 boards, the commission shall prepare and distribute a final plan to  
6 county and municipal planning boards, the Highlands Water Protection  
7 and Planning Council, and other interested parties. The commission  
8 shall conduct not less than six public hearings in different locations  
9 throughout the State for the purpose of receiving comments on the  
10 final plan. The commission shall give at least 30 days' public notice of  
11 each hearing in advertisements in at least two newspapers which  
12 circulate in the area served by the hearing and at least 30 days' notice  
13 to the governing body and planning board of each county and  
14 municipality in the area served by the hearing and to the Highlands  
15 Water Protection and Planning Council for any area in the Highlands  
16 Region served by the hearing.

17 d. Taking full account of the testimony presented at the public  
18 hearings, the commission shall make revisions in the plan as it deems  
19 necessary and appropriate and adopt the final plan by a majority vote  
20 of its authorized membership no later than 60 days after the final  
21 public hearing.

22 (cf: P.L.1998, c.109, s.1)

23

24 <sup>1</sup>[~~66.~~ 68.<sup>1</sup> Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is  
25 amended to read as follows:

26 2. a. The Office of State Planning in consultation with the Office  
27 of Economic Policy, shall utilize the following:

28 (1) Conduct portions of these studies using its own staff;

29 (2) Contract with other State agencies to conduct portions of these  
30 studies; and

31 (3) Contract with an independent firm or an institution of higher  
32 learning to conduct portions of these studies.

33 b. Any portion of the studies conducted by the Office of State  
34 Planning, or any other State agency, shall be subject to review by an  
35 independent firm or an institution of higher learning.

36 c. The Assessment Study and the oversight review shall be  
37 submitted in the form of a written report to the State Planning  
38 Commission for distribution to the Governor, the Legislature,  
39 appropriate regional entities, and the governing bodies of each county  
40 and municipality in the State during the cross-acceptance process and  
41 prior to the adoption of the Final Plan.

42 d. A period extending from at least 45 days prior to the first of six  
43 public hearings, which are required under the State Planning Act,  
44 P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last  
45 public hearing shall be provided for counties and municipalities to  
46 review and respond to the studies. Requests for revisions to the

1 Interim Plan shall be considered by the State Planning Commission in  
2 the formulation of the Final Plan.

3 (cf: P.L.1989, c.332, s.2)

4

5 <sup>1</sup>[67.] 69.<sup>1</sup> Section 8 of P.L.1985, c.398 (C.52:18A-203) is  
6 amended to read as follows:

7 8. <sup>1</sup>a.<sup>1</sup> The commission shall adopt rules and regulations to carry  
8 out its purposes, including procedures to facilitate the solicitation and  
9 receipt of comments in the preparation of the preliminary and final  
10 plan and to ensure a process for comparison of the plan with county  
11 and municipal master plans and regional plans, and procedures for  
12 coordinating the information collection, storage and retrieval activities  
13 of the various State agencies<sup>1</sup>, and to establish a process for the  
14 endorsement of municipal, county, and regional plans that are  
15 consistent with the State Development and Redevelopment Plan.

16 b. Any municipality or county or portion thereof located in the  
17 Highlands preservation area as defined in section 3 of P.L. , c.  
18 (C. ) (now before the Legislature as this bill) shall be exempt from  
19 the plan endorsement process established in the rules and regulations  
20 adopted pursuant to subsection a. of this section. Upon the State  
21 Planning Commission endorsing the regional master plan adopted by  
22 the Highlands Water Protection and Planning Council pursuant to  
23 section 8 of P.L. , c. (C. ) (now before the Legislature as this  
24 bill), any municipal master plan and development regulations or county  
25 master plan and associated regulations that have been approved by the  
26 Highlands Water Protection and Planning Council pursuant to sections  
27 14 or 15 of P.L. , c. (C. ) (now before the Legislature as this  
28 bill) shall be deemed the equivalent of having those plans endorsed by  
29 the State Planning Commission<sup>1</sup>.

30 (cf: P.L.1985, c.398, s.8)

31

32 <sup>1</sup>[68.] 70.<sup>1</sup> Section 9 of P.L.1985, c.398 (C.52:18A-204) is  
33 amended to read as follows:

34 9. The commission shall be entitled to call to its assistance any  
35 personnel of any State agency, regional entity, or county, municipality  
36 or political subdivision thereof as it may require in order to perform its  
37 duties. The officers and personnel of any State agency, regional  
38 entity, or county, municipality or political subdivision thereof and any  
39 other person may serve at the request of the commission upon any  
40 advisory committee as the commission may create without forfeiture  
41 of office or employment and with no loss or diminution in the  
42 compensation, status, rights and privileges which they otherwise enjoy.

43 (cf: P.L.1985, c.398, s.9)

44

45 <sup>1</sup>[69.] 71.<sup>1</sup> Section 10 of P.L.1985, c.398 (C.52:18A-205) is  
46 amended to read as follows:

1       10. Each State agency, regional entity, or county, municipality or  
2 political subdivision thereof shall make available to the commission  
3 any studies, surveys, plans, data and other materials or information  
4 concerning the capital, land use, environmental, transportation,  
5 economic development and human services plans and programs of the  
6 agency, entity, county, municipality or political subdivision.

7 (cf: P.L.1985, c.398, s.10)

8

9       <sup>1</sup>[70.] 72.<sup>1</sup> Section 11 of P.L.1985, c.398 (C.52:18A-206) is  
10 amended to read as follows:

11       11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)  
12 shall not be construed to affect the plans and regulations of the  
13 Pinelands Commission pursuant to the "Pinelands Protection Act,"  
14 P.L. 1979, c.111 (C.13:18A-1 et seq.) [or], the [Hackensack] New  
15 Jersey Meadowlands [Development] Commission pursuant to the  
16 "Hackensack Meadowlands Reclamation and Development Act,"  
17 P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water  
18 Protection and Planning Council pursuant to the "Highlands Water  
19 Protection and Planning Act," P.L. , c. (C. ) (now before the  
20 Legislature as this bill) for that portion of the Highlands Region lying  
21 within the preservation area as defined in section 3 of P.L. , c.  
22 (C. ) (now before the Legislature as this bill) . The State Planning  
23 Commission shall rely on the adopted plans and regulations of these  
24 entities in developing the State Development and Redevelopment Plan.

25       b. The State Planning Commission may adopt, after the enactment  
26 date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning  
27 policies of the rules and regulations adopted pursuant to P.L.1973,  
28 c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and  
29 regulations adopted pursuant to subsection b. of section 17 of  
30 P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of  
31 rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1  
32 et seq.) thereafter as the State Development and Redevelopment Plan  
33 for the coastal area as defined in section 4 of P.L.1973, c.185  
34 (C.13:19-4).

35 (cf: P.L.1993, c.190, s.19)

36

37       <sup>1</sup>[71.] 73.<sup>1</sup> Section 13 of P.L.1981, c.262 (C.58:1A-13) is  
38 amended to read as follows:

39       13. a. The department shall prepare and adopt the New Jersey  
40 Statewide Water Supply Plan, which plan shall be revised and updated  
41 at least once every five years.

42       b. The plan shall include, but need not be limited to, the following:

43       (1) An identification of existing Statewide and regional ground and  
44 surface water supply sources, both interstate and intrastate, and the  
45 current usage thereof;

46       (2) Projections of Statewide and regional water supply demands for

1 the duration of the plan;

2 (3) Recommendations for improvements to existing State water  
3 supply facilities, the construction of additional State water supply  
4 facilities, and for the interconnection or consolidation of existing water  
5 supply systems;

6 (4) Recommendations for the diversion or use of fresh surface or  
7 ground waters and saline surface or ground waters for aquaculture  
8 purposes;

9 (5) Recommendations for legislative and administrative actions to  
10 provide for the maintenance and protection of watershed areas; and

11 (6) Identification of lands purchased by the State for water supply  
12 facilities that currently are not actively used for water supply purposes,  
13 including, but not limited to, the Six Mile Run Reservoir Site, with  
14 recommendations as to the future use of these lands for water supply  
15 purposes within or outside of the planning horizon for the plan.

16 c. Prior to adopting the plan, including any revisions and updates  
17 thereto, the department shall:

18 (1) Prepare and make available to all interested persons a copy of  
19 the proposed plan or proposed revisions and updates to the current  
20 plan;

21 (2) Conduct public meetings in the several geographic areas of the  
22 State on the proposed plan or proposed revisions and updates to the  
23 current plan; and

24 (3) Consider the comments made at these meetings, make any  
25 revisions to the proposed plan or proposed revisions and updates to  
26 the current plan as it deems necessary, and adopt the plan.

27 d. Prior to the adoption of any revision to the New Jersey  
28 Statewide Water Supply Plan pursuant to this section, the department  
29 shall consult with the Highlands Water Protection and Planning  
30 Council<sup>1</sup>, established pursuant to section 4 of P.L. , c. (C. )  
31 (now before the Legislature as this bill),<sup>1</sup> concerning the possible  
32 effects and impact of the plan upon the Highlands regional master  
33 plan<sup>1</sup>, adopted pursuant to section 8 of P.L. , c. (C. ) (now  
34 before the Legislature as this bill),<sup>1</sup> and the water and other natural  
35 resources of the Highlands Region<sup>1</sup>, as defined in section 3 of P.L. ,  
36 c. (C. ) (now before the Legislature as this bill)<sup>1</sup>.

37 (cf: P.L.2003, c.251, s.2)

38

39 <sup>1</sup>[72.] 74.<sup>1</sup> Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is  
40 amended to read as follows:

41 10. No action taken by the department pursuant to the provisions  
42 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202  
43 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the  
44 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
45 [or], the comprehensive management plan for the pinelands area  
46 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the

1 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
2 (now before the Legislature as this bill), or the Highlands regional  
3 master plan adopted pursuant to section 8 of P.L. , c. (C. ) (now  
4 before the Legislature as this bill).

5 (cf: P.L.1993, c.202, s.10)

6

7 <sup>1</sup>[73.] 75.<sup>1</sup> Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended  
8 to read as follows:

9 6. a. The authority is hereby empowered to design, initiate,  
10 acquire, construct, maintain, repair and operate projects or cause the  
11 same to be operated pursuant to a lease, sublease, or agreement with  
12 any person or governmental agency, and to issue bonds of the  
13 authority to finance these projects, payable from the revenues and  
14 other funds of the authority. All projects undertaken by the authority  
15 shall conform to the recommendations of the New Jersey Statewide  
16 Water Supply Plan.

17 b. The authority shall be subject to compliance with all State health  
18 and environmental protection statutes and regulations and any other  
19 statutes and regulations not inconsistent herewith. The authority may,  
20 upon the request of a governmental agency, enter into a contract to  
21 provide services for any project.

22 c. The authority shall consult with the Water Supply Advisory  
23 Council from time to time prior to final action on any project or  
24 undertaking authorized pursuant to this section.

25 d. The authority shall consult with the Highlands Water Protection  
26 and Planning Council, established pursuant to section 4 of P.L. ,  
27 c. (C. ) (now before the Legislature as this bill), from time to time  
28 prior to final action on any project or undertaking authorized pursuant  
29 to this section in the Highlands Region, as defined in section 3 of  
30 P.L. , c. (C. ) (now before the Legislature as this bill). The  
31 provisions of section <sup>1</sup>[17] 16<sup>1</sup> of P.L. , c. (C. ) (now before the  
32 Legislature as this bill) shall apply to the authority.

33 (cf: P.L.1981, c.293, s.6)

34

35 <sup>1</sup>[74.] 76.<sup>1</sup> Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended  
36 to read as follows:

37 7. The Lake Hopatcong Commission shall, in conjunction with  
38 each Lake Hopatcong municipality, develop a stormwater and  
39 nonpoint source pollution management plan for the region. The  
40 stormwater management and nonpoint source pollution plan shall be  
41 designed to reduce siltation and prevent pollution caused by  
42 stormwater runoff or nonpoint sources that would otherwise degrade  
43 the water quality of Lake Hopatcong and its tributaries, interfere with  
44 water-based recreation, or adversely affect aquatic life. The goals and  
45 purposes of the plan shall be to improve the quality of stormwater  
46 runoff entering Lake Hopatcong, identify cost effective measures to

1 control stormwater runoff and nonpoint source pollution, and identify  
2 funding mechanisms for implementation of such measures. The  
3 commission shall consult with the Highlands Water Protection and  
4 Planning Council, established pursuant to section 4 of P.L. , c.  
5 (C. ) (now before the Legislature as this bill), in developing the  
6 stormwater and nonpoint source pollution management plan pursuant  
7 to this section. Any plan developed pursuant to this section that may  
8 impact upon or otherwise affect the Highlands preservation area, as  
9 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
10 as this bill), shall be consistent with the Highlands regional master plan  
11 adopted by the council pursuant to section 8 of that act.

12 (cf: P.L.2000, c.175, s.7)

13

14 <sup>1</sup>[75.] 77.<sup>1</sup> Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended  
15 to read as follows:

16 9. Each municipality represented on the commission shall provide  
17 the commission notice of proposed amendments and revisions to  
18 municipal master plans, zoning and other ordinances governing land  
19 use and development, and applications for specific development  
20 projects, and request that the commission review and evaluate the  
21 proposed amendment, revision, or application to assess its potential  
22 impact upon Lake Hopatcong and its watershed and provide the  
23 commission's recommendations for appropriate action thereon. As  
24 part of the commission's review and evaluation, the commission shall  
25 consider the consistency of the amendment or revision with the  
26 Highlands regional master plan<sup>1</sup>, adopted pursuant to section 8 of  
27 P.L. , c. (C. ) (now before the Legislature as this bill),<sup>1</sup> if it may  
28 impact upon or otherwise affect the Highlands preservation area, as  
29 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
30 as this bill), and shall consult with the Highlands Water Protection and  
31 Planning Council, established pursuant to section <sup>1</sup>[4of] 4 of<sup>1</sup> P.L. ,  
32 c. (C. ) (now before the Legislature as this bill), on any such  
33 matter.

34 (cf: P.L.2000, c.175, s.9)

35

36 <sup>1</sup>[76.] 78.<sup>1</sup> R.S.58:5-12 is amended to read as follows:

37 58:5-12. The district water supply commission shall thereupon  
38 proceed to formulate plans for obtaining a water supply or a new or  
39 additional water supply for **[such]** the municipality and any other  
40 municipalities that may desire water from such joint water supply, as  
41 provided for herein, and to estimate the cost thereof, the annual cost  
42 of operating the same, the probable share of the cost which each of  
43 the municipalities will be called upon to pay for its share of water  
44 supply and plant used in common with the other municipalities, and the  
45 cost of any distribution system, water supply or plant acquired or  
46 constructed for its individual use, and shall report **[said]** the plans to



1 the municipalities, together with a form of contract, providing for the  
2 raising and payment of the necessary funds to meet the cost of  
3 acquisition and operation.

4 If the plans to be formulated pursuant to this section involve  
5 obtaining water from the Highlands Region, as defined in section 3 of  
6 P.L. , c. (C. ) (now before the Legislature as this bill), the  
7 district water supply commission shall consult with the Highlands  
8 Water Protection and Planning Council established pursuant to section  
9 4 of P.L. , c. (C. ) (now before the Legislature as this bill) prior  
10 to moving forward with any such plans or entering into any such  
11 contracts. The provisions of section <sup>1</sup>[17] 16<sup>1</sup> of P.L. , c. (C. )  
12 (now before the Legislature as this bill) shall apply to the district water  
13 supply commission.

14 (cf: R.S.58:5-12)

15  
16 <sup>1</sup>[77.] 79.<sup>1</sup> Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is  
17 amended to read as follows:

18 1. a. An application for a permit issued by the Department of  
19 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et  
20 seq.) for the discharge of groundwater to surface water involving a  
21 groundwater remedial action necessitated by a discharge from an  
22 underground storage tank containing petroleum products or a  
23 groundwater remedial action involving petroleum products, shall  
24 contain, in addition to a properly filled application form:

25 (1) such documentation or other information on the permit  
26 application as may be prescribed by the department on a checklist  
27 made available to a prospective applicant;

28 (2) if the discharge from the proposed groundwater remedial action  
29 is located within a wastewater service district or area of a local public  
30 entity, a certified statement that a request, dated at least 60 days prior  
31 to the filing of the permit application, had been made to the local  
32 public entity to discharge the groundwater into the wastewater  
33 collection or treatment facilities of that entity, and that no reply has  
34 been received from that entity, or a written statement by the local  
35 public entity, dated not more than 60 days prior to the filing of the  
36 permit application with the department, that the entity has approved  
37 or rejected a written request by the applicant to discharge the treated  
38 groundwater into the wastewater collection or treatment facilities of  
39 that entity. Notwithstanding that a local public entity has approved  
40 the request to discharge groundwater into its facilities, the department  
41 may approve the applicant's permit to discharge the groundwater to  
42 surface water upon a finding that it is in the public interest;

43 (3) a certified statement that a copy of the completed application  
44 form along with a consent request, as prescribed in subsection b. of  
45 this section, have been filed with the clerk of the municipality in which  
46 the site of the proposed groundwater remedial action is located, and

1 setting forth the date of the filing with the host municipality, which  
2 filing shall be made prior to, or concurrent with, the filing of the  
3 application with the department; [and]

4 (4) within the pinelands area, documentation from the Pinelands  
5 Commission that the application is consistent with the requirements of  
6 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
7 or any regulations promulgated pursuant thereto and section 502 of  
8 the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and

9 (5) within the Highlands preservation area, documentation from the  
10 Highlands Water Protection and Planning Council that the application  
11 is consistent with the requirements of the "Highlands Water Protection  
12 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
13 this bill), and any rules and regulations and the Highlands regional  
14 master plan adopted pursuant thereto.

15 b. The department shall prescribe the form and content of a request  
16 for consent filed with a municipality pursuant to paragraph (3) of  
17 subsection a. of this section. The municipal consent request shall be  
18 limited to an identification of all municipal approvals with which the  
19 applicant is required to comply, the status of any applications filed  
20 therefor, and whether or not the municipality consents to the  
21 application and the specific reasons therefor. The request for consent  
22 form shall also advise that documentation and other information  
23 relating to the application have been filed and are available for review  
24 at the department. A municipality receiving a request for consent form  
25 shall have 30 days from the date of receipt of a copy of the application  
26 and request for consent form to file with the department the  
27 information requested, and its consent of, or objections to, the  
28 application. Municipal consent or objection to a groundwater remedial  
29 action shall be by resolution of the governing body of the municipality  
30 unless the governing body has, by resolution, delegated such authority  
31 to a qualified officer or entity thereof, in which case the endorsement  
32 shall be signed by the designated officer or official of the entity.  
33 Notwithstanding that a municipality objects to a permit application or  
34 fails to file a consent or objection to the permit application, the  
35 department may approve the applicant's permit application to  
36 discharge groundwater to surface water.

37 c. An application pursuant to subsection a. of this section shall be  
38 deemed complete, for the purposes of departmental review, within 30  
39 days of the filing of the application with the department unless the  
40 department notifies the applicant, in writing, prior to expiration of the  
41 30 days that the application has failed to satisfy one or more of the  
42 items identified in subsection a. of this section. If an application is  
43 determined to be complete, the department shall review and take final  
44 action on the completed application within 60 days from  
45 commencement of the review, or, if the parties mutually agree to a  
46 30-day extension, within 90 days therefrom. The review period for a

1 completed application shall commence immediately upon termination  
2 of the 30-day period, or upon determination by the department that the  
3 application is complete, whichever occurs first. If the department fails  
4 to take final action on a permit application for a general permit in the  
5 time frames set forth in this subsection, that general permit shall be  
6 deemed to have been approved by the department. The department  
7 shall review an application for a permit pursuant to subsection a. of  
8 this section and shall take action on that application pursuant to the  
9 time frames set forth in this subsection, notwithstanding that all of the  
10 municipal approvals have not been obtained, unless such approvals  
11 would materially affect the terms and conditions of the permit, except  
12 that in such instances the department may condition its approval of the  
13 application on the necessary municipal approvals being subject to the  
14 terms and conditions of the application.

15 d. The department may issue a general permit for the discharge of  
16 groundwater to surface water pursuant to a groundwater remedial  
17 action of discharged petroleum products as provided in subsection a.  
18 of this section.

19 e. (1) The department may not require a municipal consent of a  
20 treatment works application for a groundwater remedial action for  
21 which a permit application is submitted pursuant to subsection a. of  
22 this section.

23 (2) If a completed application for a treatment works approval for  
24 a groundwater remedial action is filed with the department at the same  
25 time as an application for a general permit therefor, the department  
26 shall concurrently review the two applications, except that the review  
27 of the application for the treatment works approval for a groundwater  
28 remedial action shall not be subject to the time frames set forth in  
29 subsection c. of this section.

30 f. The provisions of this section shall apply to applications filed on  
31 or after the effective date of this act, except that the Department of  
32 Environmental Protection may implement any of the provisions of this  
33 section prior to that date.

34 g. The department may, in accordance with the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
36 regulations to implement the provisions of this act.

37 h. For purposes of this section:

38 "General permit" means a permit issued by the department for  
39 similar discharges.

40 "Groundwater remedial action" means the removal or abatement of  
41 one or more pollutants in a groundwater source.

42 "Local public entity" means a sewerage authority established  
43 pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal  
44 authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et  
45 seq.), the Passaic Valley Sewerage Commissioners continued pursuant  
46 to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68

1 et seq. or a local unit authorized to operate a sewerage facility  
2 pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

3 "Underground storage tank" shall have the same meaning as in  
4 section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used  
5 herein underground storage tanks shall include:

6 (1) farm underground storage tanks of 1,100 gallons or less  
7 capacity used for storing motor fuel for noncommercial purposes;

8 (2) underground storage tanks used to store heating oil for on-site  
9 consumption in a nonresidential building with a capacity of 2,000  
10 gallons or less; and

11 (3) underground storage tanks used to store heating oil for on-site  
12 consumption in a residential building.

13 (cf: P.L.1993, c.351, s.1)

14

15 <sup>1</sup>[78.] 80.<sup>1</sup> Section 24 of P.L.1993, c.139 (C.58:10B-2) is  
16 amended to read as follows:

17 24. a. The department shall, pursuant to the "Administrative  
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
19 regulations establishing criteria and minimum standards necessary for  
20 the submission, evaluation and approval of plans or results of  
21 preliminary assessments, site investigations, remedial investigations,  
22 and remedial action workplans and for the implementation thereof.  
23 The documents for the preliminary assessment, site investigation,  
24 remedial investigation, and remedial action workplan required to be  
25 submitted for a remediation, shall not be identical to the criteria and  
26 standards used for similar documents submitted pursuant to federal  
27 law, except as may be required by federal law. In establishing criteria  
28 and minimum standards for these terms the department shall strive to  
29 be result oriented, provide for flexibility, and to avoid duplicate or  
30 unnecessarily costly or time consuming conditions or standards.

31 b. The regulations adopted by the department pursuant to  
32 subsection a. of this section shall provide that a person performing a  
33 remediation may deviate from the strict adherence to the regulations,  
34 in a variance procedure or by another method prescribed by the  
35 department, if that person can demonstrate that the deviation and the  
36 resulting remediation would be as protective of human health, safety,  
37 and the environment, as appropriate, as the department's regulations  
38 and that the health risk standards established in subsection d. of  
39 section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable  
40 environmental standards would be met. Factors to be considered in  
41 determining if the deviation should be allowed are whether the  
42 alternative method:

43 (1) has been either used successfully or approved by the  
44 department in writing or similar situations;

45 (2) reflects current technology as documented in peer-reviewed  
46 professional journals;

1 (3) can be expected to achieve the same or substantially the same  
2 results or objectives as the method which it is to replace; and

3 (4) furthers the attainment of the goals of the specific remedial  
4 phase for which it is used.

5 The department shall make available to the public, and shall  
6 periodically update, a list of alternative remediation methods used  
7 successfully or approved by the department as provided in paragraph  
8 (1) of this subsection.

9 c. To the extent practicable and in conformance with the standards  
10 for remediations as provided in section 35 of P.L.1993, c.139  
11 (C.58:10-12), the department shall adopt rules and regulations that  
12 allow for certain remedial actions to be undertaken in a manner  
13 prescribed by the department without having to obtain prior approval  
14 from or submit detailed documentation to the department. A person  
15 who performs a remedial action in the manner prescribed in the rules  
16 and regulations of the department, and who certifies this fact to the  
17 department, shall obtain a no further action letter from the department  
18 for that particular remedial action.

19 d. The department shall develop regulatory procedures that  
20 encourage the use of innovative technologies in the performance of  
21 remedial actions and other remediation activities.

22 e. Notwithstanding any other provisions of this section, all  
23 remediation standards and remedial actions that involve real property  
24 located in the pinelands area shall be consistent with the provisions of  
25 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
26 any rules and regulations adopted pursuant thereto, and with section  
27 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C.  
28 s.471i.

29 f. Notwithstanding any other provisions of this section, all  
30 remediation standards and remedial actions that involve real property  
31 located in the Highlands preservation area shall be consistent with the  
32 provisions of the "Highlands Water Protection and Planning Act,"  
33 P.L. , c. (C. ) (now before the Legislature as this bill), and any  
34 rules and regulations and the Highlands regional master plan adopted  
35 pursuant thereto.

36 (cf: P.L.1997, c.278, s.10)

37  
38 <sup>1</sup>[79.] 81.<sup>1</sup> Section 35 of P.L.1993, c.139 (C.58:10B-12) is  
39 amended to read as follows:

40 35. a. The Department of Environmental Protection shall adopt  
41 minimum remediation standards for soil, groundwater, and surface  
42 water quality necessary for the remediation of contamination of real  
43 property. The remediation standards shall be developed to ensure that  
44 the potential for harm to public health and safety and to the  
45 environment is minimized to acceptable levels, taking into  
46 consideration the location, the surroundings, the intended use of the

1 property, the potential exposure to the discharge, and the surrounding  
2 ambient conditions, whether naturally occurring or man-made.

3 Until the minimum remediation standards for the protection of  
4 public health and safety as described herein are adopted, the  
5 department shall apply public health and safety remediation standards  
6 for contamination at a site on a case-by-case basis based upon the  
7 considerations and criteria enumerated in this section.

8 The department shall not propose or adopt remediation standards  
9 protective of the environment pursuant to this section, except  
10 standards for groundwater or surface water, until recommendations  
11 are made by the Environment Advisory Task Force created pursuant  
12 to section 37 of P.L.1993, c.139. Until the Environment Advisory  
13 Task Force issues its recommendations and the department adopts  
14 remediation standards protective of the environment as required by  
15 this section, the department shall continue to determine the need for  
16 and the application of remediation standards protective of the  
17 environment on a case-by-case basis in accordance with the guidance  
18 and regulations of the United States Environmental Protection Agency  
19 pursuant to the "Comprehensive Environmental Response,  
20 Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq.  
21 and other statutory authorities as applicable.

22 The department may not require any person to perform an  
23 ecological evaluation of any area of concern that consists of an  
24 underground storage tank storing heating oil for on-site consumption  
25 in a one to four family residential building.

26 b. In developing minimum remediation standards the department  
27 shall:

28 (1) base the standards on generally accepted and peer reviewed  
29 scientific evidence or methodologies;

30 (2) base the standards upon reasonable assumptions of exposure  
31 scenarios as to amounts of contaminants to which humans or other  
32 receptors will be exposed, when and where those exposures will occur,  
33 and the amount of that exposure;

34 (3) avoid the use of redundant conservative assumptions. The  
35 department shall avoid the use of redundant conservative assumptions  
36 by the use of parameters that provide an adequate margin of safety and  
37 which avoid the use of unrealistic conservative exposure parameters  
38 and which guidelines make use of the guidance and regulations for  
39 exposure assessment developed by the United States Environmental  
40 Protection Agency pursuant to the "Comprehensive Environmental  
41 Response, Compensation, and Liability Act of 1980," 42 U.S.C.  
42 s.9601 et seq. and other statutory authorities as applicable;

43 (4) where feasible, establish the remediation standards as numeric  
44 or narrative standards setting forth acceptable levels or concentrations  
45 for particular contaminants; and

46 (5) consider and utilize, in the absence of other standards used or

1 developed by the Department of Environmental Protection and the  
2 United States Environmental Protection Agency, the toxicity factors,  
3 slope factors for carcinogens and reference doses for non-carcinogens  
4 from the United States Environmental Protection Agency's Integrated  
5 Risk Information System (IRIS).

6 c. (1) The department shall develop residential and nonresidential  
7 soil remediation standards that are protective of public health and  
8 safety. For contaminants that are mobile and transportable to  
9 groundwater or surface water, the residential and nonresidential soil  
10 remediation standards shall be protective of groundwater and surface  
11 water. Residential soil remediation standards shall be set at levels or  
12 concentrations of contamination for real property based upon the use  
13 of that property for residential or similar uses and which will allow the  
14 unrestricted use of that property without the need of engineering  
15 devices or any institutional controls and without exceeding a health  
16 risk standard greater than that provided in subsection d. of this  
17 section. Nonresidential soil remediation standards shall be set at levels  
18 or concentrations of contaminants that recognize the lower likelihood  
19 of exposure to contamination on property that will not be used for  
20 residential or similar uses, which will allow for the unrestricted use of  
21 that property for nonresidential purposes, and that can be met without  
22 the need of engineering controls. Whenever real property is  
23 remediated to a nonresidential soil remediation standard, except as  
24 otherwise provided in paragraph (3) of subsection g. of this section,  
25 the department shall require, pursuant to section 36 of P.L.1993, c.139  
26 (C.58:10B-13), that the use of the property be restricted to  
27 nonresidential or other uses compatible with the extent of the  
28 contamination of the soil and that access to that site be restricted in a  
29 manner compatible with the allowable use of that property.

30 (2) The department may develop differential remediation standards  
31 for surface water or groundwater that take into account the current,  
32 planned, or potential use of that water in accordance with the "Clean  
33 Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution  
34 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

35 d. The department shall develop minimum remediation standards  
36 for soil, groundwater, and surface water intended to be protective of  
37 public health and safety taking into account the provisions of this  
38 section. In developing these minimum health risk remediation  
39 standards the department shall identify the hazards posed by a  
40 contaminant to determine whether exposure to that contaminant can  
41 cause an increase in the incidence of an adverse health effect and  
42 whether the adverse health effect may occur in humans. The  
43 department shall set minimum soil remediation health risk standards  
44 for both residential and nonresidential uses that:

45 (1) for human carcinogens, as categorized by the United States  
46 Environmental Protection Agency, will result in an additional cancer

1 risk of one in one million;

2 (2) for noncarcinogens, will limit the Hazard Index for any given  
3 effect to a value not exceeding one.

4 The health risk standards established in this subsection are for any  
5 particular contaminant and not for the cumulative effects of more than  
6 one contaminant at a site.

7 e. Remediation standards and other remediation requirements  
8 established pursuant to this section and regulations adopted pursuant  
9 thereto shall apply to remediation activities required pursuant to the  
10 "Spill Compensation and Control Act," P.L.1976, c.141  
11 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977,  
12 c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the  
13 "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the  
14 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),  
15 the "Comprehensive Regulated Medical Waste Management Act,"  
16 P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste  
17 Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the  
18 "Sanitary Landfill Facility Closure and Contingency Fund Act,"  
19 P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level  
20 Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333  
21 (C.13:1E-177 et seq.), or any other law or regulation by which the  
22 State may compel a person to perform remediation activities on  
23 contaminated property. However, nothing in this subsection shall be  
24 construed to limit the authority of the department to establish  
25 discharge limits for pollutants or to prescribe penalties for violations  
26 of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to  
27 require the complete removal of nonhazardous solid waste pursuant to  
28 law.

29 f. (1) A person performing a remediation of contaminated real  
30 property, in lieu of using the established minimum soil remediation  
31 standard for either residential use or nonresidential use adopted by the  
32 department pursuant to subsection c. of this section, may submit to the  
33 department a request to use an alternative residential use or  
34 nonresidential use soil remediation standard. The use of an alternative  
35 soil remediation standard shall be based upon site specific factors  
36 which may include (1) physical site characteristics which may vary  
37 from those used by the department in the development of the soil  
38 remediation standards adopted pursuant to this section; or (2) a site  
39 specific risk assessment. If a person performing a remediation  
40 requests to use an alternative soil remediation standard based upon a  
41 site specific risk assessment, that person shall demonstrate to the  
42 department that the requested deviation from the risk assessment  
43 protocol used by the department in the development of soil  
44 remediation standards pursuant to this section is consistent with the  
45 guidance and regulations for exposure assessment developed by the  
46 United States Environmental Protection Agency pursuant to the



1 "Comprehensive Environmental Response, Compensation, and  
2 Liability Act of 1980," 42 U.S.C. 9601 et seq. and other statutory  
3 authorities as applicable. A site specific risk assessment may consider  
4 exposure scenarios and assumptions that take into account the form of  
5 the contaminant present, natural biodegradation, fate and transport of  
6 the contaminant, available toxicological data that are based upon  
7 generally accepted and peer reviewed scientific evidence or  
8 methodologies, and physical characteristics of the site, including, but  
9 not limited to, climatic conditions and topographic conditions.  
10 Nothing in this subsection shall be construed to authorize the use of  
11 an alternative soil remediation standard in those instances where an  
12 engineering control is the appropriate remedial action, as determined  
13 by the department, to prevent exposure to contamination.

14 Upon a determination by the department that the requested  
15 alternative remediation standard satisfies the department's regulations,  
16 is protective of public health and safety, as established in subsection  
17 d. of this section, and is protective of the environment pursuant to  
18 subsection a. of this section, the alternative residential use or  
19 nonresidential use soil remediation standard shall be approved by the  
20 department. The burden to demonstrate that the requested alternative  
21 remediation standard is protective rests with the person requesting the  
22 alternative standard and the department may require the submission of  
23 any documentation as the department determines to be necessary in  
24 order for the person to meet that burden.

25 (2) The department may, upon its own initiative, require an  
26 alternative remediation standard for a particular contaminant for a  
27 specific real property site, in lieu of using the established minimum  
28 residential use or nonresidential use soil remediation standard adopted  
29 by the department for a particular contaminant pursuant to this  
30 section. The department may require an alternative remediation  
31 standard pursuant to this paragraph upon a determination by the  
32 department, based on the weight of the scientific evidence, that due to  
33 specific physical site characteristics of the subject real property,  
34 including, but not limited to, its proximity to surface water, the use of  
35 the adopted residential use or nonresidential use soil remediation  
36 standards would not be protective, or would be unnecessarily  
37 overprotective, of public health or safety or of the environment, as  
38 appropriate.

39 g. The development, selection, and implementation of any  
40 remediation standard or remedial action shall ensure that it is  
41 protective of public health, safety, and the environment, as applicable,  
42 as provided in this section. In determining the appropriate remediation  
43 standard or remedial action that shall occur at a site, the department  
44 and any person performing the remediation, shall base the decision on  
45 the following factors:

46 (1) Unrestricted use remedial actions, limited restricted use

1 remedial actions and restricted use remedial actions shall be allowed  
2 except that unrestricted use remedial actions and limited restricted use  
3 remedial actions shall be preferred over restricted use remedial actions.  
4 The department, however, may not disapprove the use of a restricted  
5 use remedial action or a limited restricted use remedial action so long  
6 as the selected remedial action meets the health risk standard  
7 established in subsection d. of this section, and where, as applicable,  
8 is protective of the environment. The choice of the remedial action to  
9 be implemented shall be made by the person performing the  
10 remediation in accordance with regulations adopted by the department  
11 and that choice of the remedial action shall be approved by the  
12 department if all the criteria for remedial action selection enumerated  
13 in this section , as applicable, are met. The department may not  
14 require a person to compare or investigate any alternative remedial  
15 action as part of its review of the selected remedial action;

16 (2) Contamination may, upon the department's approval, be left  
17 onsite at levels or concentrations that exceed the minimum soil  
18 remediation standards for residential use if the implementation of  
19 institutional or engineering controls at that site will result in the  
20 protection of public health, safety and the environment at the health  
21 risk standard established in subsection d. of this section and if the  
22 requirements established in subsections a., b., c. and d. of section 36  
23 of P.L.1993, c.139 (C.58:10B-13) are met;

24 (3) Real property on which there is soil that has not been  
25 remediated to the residential soil remediation standards, or real  
26 property on which the soil, groundwater, or surface water has been  
27 remediated to meet the required health risk standard by the use of  
28 engineering or institutional controls, may be developed or used for  
29 residential purposes, or for any other similar purpose, if (a) all areas  
30 of that real property at which a person may come into contact with soil  
31 are remediated to meet the residential soil remediation standards and  
32 (b) it is clearly demonstrated that for all areas of the real property,  
33 other than those described in subparagraph (a) above, engineering and  
34 institutional controls can be implemented and maintained on the real  
35 property sufficient to meet the health risk standard as established in  
36 subsection d. of this section;

37 (4) Remediation shall not be required beyond the regional natural  
38 background levels for any particular contaminant. The department  
39 shall develop regulations that set forth a process to identify  
40 background levels of contaminants for a particular region. For the  
41 purpose of this paragraph "regional natural background levels" means  
42 the concentration of a contaminant consistently present in the  
43 environment of the region of the site and which has not been  
44 influenced by localized human activities;

45 (5) Remediation shall not be required of the owner or operator of  
46 real property for contamination coming onto the site from another

1 property owned and operated by another person, unless the owner or  
2 operator is the person who is liable for cleanup and removal costs  
3 pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

4 (6) Groundwater that is contaminated shall not be required to be  
5 remediated to a level or concentration for any particular contaminant  
6 lower than the level or concentration that is migrating onto the  
7 property from another property owned and operated by another  
8 person;

9 (7) The technical performance, effectiveness and reliability of the  
10 proposed remedial action in attaining and maintaining compliance with  
11 applicable remediation standards and required health risk standards  
12 shall be considered. In reviewing a proposed remedial action, the  
13 department shall also consider the ability of the owner or operator to  
14 implement the proposed remedial action within a reasonable time  
15 frame without jeopardizing public health, safety or the environment;

16 (8) The use of a remedial action for soil contamination that is  
17 determined by the department to be effective in its guidance document  
18 created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is  
19 presumed to be an appropriate remedial action if it is to be  
20 implemented on a site in the manner described by the department in the  
21 guidance document and applicable regulations and if all of the  
22 conditions for remedy selection provided for in this section are met.  
23 The burden to prove compliance with the criteria in the guidance  
24 document is with the person performing the remediation;

25 (9) (Deleted by amendment, P.L.1997, c.278).

26 The burden to demonstrate that a remedial action is protective of  
27 public health, safety and the environment, as applicable, and has been  
28 selected in conformance with the provisions of this subsection is with  
29 the person proposing the remedial action.

30 The department may require the person performing the remediation  
31 to supply the information required pursuant to this subsection as is  
32 necessary for the department to make a determination.

33 h. (1) The department shall adopt regulations which establish a  
34 procedure for a person to demonstrate that a particular parcel of land  
35 contains large quantities of historical fill material. Upon a  
36 determination by the department that large quantities of historic fill  
37 material exist on that parcel of land, there is a rebuttable presumption  
38 that the department shall not require any person to remove or treat the  
39 fill material in order to comply with applicable health risk or  
40 environmental standards. In these areas the department shall establish  
41 by regulation the requirement for engineering or institutional controls  
42 that are designed to prevent exposure of these contaminants to  
43 humans, that allow for the continued use of the property, that are less  
44 costly than removal or treatment, which maintain the health risk  
45 standards as established in subsection d. of this section, and, as  
46 applicable, are protective of the environment. The department may

1 rebut the presumption only upon a finding by the preponderance of the  
2 evidence that the use of engineering or institutional controls would not  
3 be effective in protecting public health, safety, and the environment.  
4 The department may not adopt any rule or regulation that has the  
5 effect of shifting the burden of rebutting the presumption. For the  
6 purposes of this paragraph "historic fill material" means generally large  
7 volumes of non-indigenous material, no matter what date they were  
8 emplaced on the site, used to raise the topographic elevation of a site,  
9 which were contaminated prior to emplacement and are in no way  
10 connected with the operations at the location of emplacement and  
11 which include, but are not limited to, construction debris, dredge  
12 spoils, incinerator residue, demolition debris, fly ash, and  
13 non-hazardous solid waste. Historic fill material shall not include any  
14 material which is substantially chromate chemical production waste or  
15 any other chemical production waste or waste from processing of  
16 metal or mineral ores, residues, slags or tailings.

17 (2) The department shall develop recommendations for remedial  
18 actions in large areas of historic industrial contamination. These  
19 recommendations shall be designed to meet the health risk standards  
20 established in subsection d. of this section, and to be protective of the  
21 environment and shall take into account the industrial history of these  
22 sites, the extent of the contamination that may exist, the costs of  
23 remedial actions, the economic impacts of these policies, and the  
24 anticipated uses of these properties. The department shall issue a  
25 report to the Senate Environment Committee and to the Assembly  
26 Agriculture and Waste Management Committee, or their successors,  
27 explaining these recommendations and making any recommendations  
28 for legislative or regulatory action.

29 (3) The department may not, as a condition of allowing the use of  
30 a nonresidential use soil remediation standard, or the use of  
31 institutional or engineering controls, require the owner of that real  
32 property, except as provided in section 36 of P.L.1993, c.139  
33 (C.58:10B-13), to restrict the use of that property through the filing  
34 of a deed easement, covenant, or condition.

35 i. The department may not require a remedial action workplan to  
36 be prepared or implemented or engineering or institutional controls to  
37 be imposed upon any real property unless sampling performed at that  
38 real property demonstrates the existence of contamination above the  
39 applicable remediation standards.

40 j. Upon the approval by the department of a remedial action  
41 workplan, or similar plan that describes the extent of contamination at  
42 a site and the remedial action to be implemented to address that  
43 contamination, the department may not subsequently require a change  
44 to that workplan or similar plan in order to compel a different  
45 remediation standard due to the fact that the established remediation  
46 standards have changed; however, the department may compel a

1 different remediation standard if the difference between the new  
2 remediation standard and the remediation standard approved in the  
3 workplan or other plan differs by an order of magnitude. The  
4 limitation to the department's authority to change a workplan or  
5 similar plan pursuant to this subsection shall only apply if the workplan  
6 or similar plan is being implemented in a reasonable timeframe, as may  
7 be indicated in the approved remedial action workplan or similar plan.

8 k. Notwithstanding any other provisions of this section, all  
9 remediation standards and remedial actions that involve real property  
10 located in the Pinelands area shall be consistent with the provisions of  
11 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
12 any rules and regulations promulgated pursuant thereto, and with  
13 section 502 of the "National Parks and Recreation Act of 1978," 16  
14 U.S.C. s.471i; and all remediation standards and remedial actions that  
15 involve real property located in the Highlands preservation area shall  
16 be consistent with the provisions of the "Highlands Water Protection  
17 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
18 this bill), and any rules and regulations and the Highland regional  
19 master plan adopted pursuant thereto.

20 l. Upon the adoption of a remediation standard for a particular  
21 contaminant in soil, groundwater, or surface water pursuant to this  
22 section, the department may amend that remediation standard only  
23 upon a finding that a new standard is necessary to maintain the health  
24 risk standards established in subsection d. of section 35 of P.L.1993,  
25 c.139 (C.58:10B-12) or to protect the environment, as applicable. The  
26 department may not amend a public health based soil remediation  
27 standard to a level that would result in a health risk standard more  
28 protective than that provided for in subsection d. of section 35 of  
29 P.L.1993, c.139 (C.58:10B-12).

30 m. Nothing in P.L.1993, c.139 shall be construed to restrict or in  
31 any way diminish the public participation which is otherwise provided  
32 under the provisions of the "Spill Compensation and Control Act,"  
33 P.L.1976, c.141 (C.58:10-23.11 et seq.).

34 n. Notwithstanding any provision of subsection a. of section 36 of  
35 P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may  
36 not require a person intending to implement a remedial action at an  
37 underground storage tank facility storing heating oil for on-site  
38 consumption at a one to four family residential dwelling to provide  
39 advance notice to a municipality prior to implementing that remedial  
40 action.

41 o. A person who has remediated a site pursuant to the provisions  
42 of this section, who was liable for the cleanup and removal costs of  
43 that discharge pursuant to the provisions of paragraph (1) of  
44 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and  
45 who remains liable for the discharge on that site due to a possibility  
46 that a remediation standard may change, undiscovered contamination

1 may be found, or because an engineering control was used to  
2 remediate the discharge, shall maintain with the department a current  
3 address at which that person may be contacted in the event additional  
4 remediation needs to be performed at the site. The requirement to  
5 maintain the current address shall be made part of the conditions of the  
6 no further action letter issued by the department.

7 (cf: P.L.1997, c.278, s.17)

8

9 <sup>1</sup>[80.] 82.<sup>1</sup> Section 1 of P.L.1999, c.225 (C.58:29-8) is amended  
10 to read as follows:

11 1. <sup>1</sup>[a.]<sup>1</sup> There shall be appropriated each State fiscal year from  
12 the <sup>1</sup>[General Fund] "Highlands Protection Fund" created pursuant to  
13 section 19 of P.L. , c. (C. ) (now before the Legislature as this  
14 bill)<sup>1</sup> to each municipality within which any lands subject to the  
15 moratorium on the conveyance of watershed lands imposed pursuant  
16 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
17 c.19, <sup>1</sup>[or subject to the prohibition on the sale or conveyance of  
18 certain public water supply lands prescribed pursuant to section 27 of  
19 P.L. , c. (C. ) (now before the Legislature as this bill).]<sup>1</sup> are  
20 located an amount of [~~\$68.50~~]<sup>1</sup> [~~\$35~~]<sup>1</sup> ~~\$47~~<sup>1</sup> per acre of such lands  
21 located within the municipality. Notwithstanding the provisions of this  
22 section to the contrary, the per acre amount of watershed moratorium  
23 <sup>1</sup>[or water supply protection]<sup>1</sup> offset aid prescribed by this section  
24 shall be adjusted annually in direct proportion to the increase or  
25 decrease in the Consumer Price Index for all urban consumers in the  
26 New York City area as reported by the United States Department of  
27 Labor. The adjustment shall become effective on July 1 of the year in  
28 which the adjustment is made.

29 <sup>1</sup>[b. Notwithstanding the provisions of subsection a. of this section  
30 to the contrary, payments shall no longer be made pursuant thereto on  
31 the basis of the location within a municipality of lands subject to the  
32 moratorium on the conveyance of watershed lands imposed pursuant  
33 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
34 c.19, if (1) those sections are repealed by law, or (2) the watershed  
35 land conveyance moratorium imposed pursuant to those sections is  
36 terminated by a final, unappealed order of a court of competent  
37 jurisdiction, whichever is sooner.]<sup>1</sup>

38 (cf: P.L.1999, c.225, s.1)

39

40 <sup>1</sup>[81. Section 3 of P.L.1999, c.225 is amended to read as follows:

41 3. This act shall take effect July 1, 1999 [and shall expire (1) on  
42 the repeal by law of section 1 of P.L.1988, c.163 and section 1 of  
43 P.L.1990, c.19, or (2) upon termination of the watershed land  
44 conveyance moratorium imposed pursuant to section 1 of P.L.1988,  
45 c.163 and section 1 of P.L.1990, c.19, by a final, unappealed order of

1 a court of competent jurisdiction, whichever is sooner].

2 (cf: P.L.1999, c.225, s.3)]<sup>1</sup>

3

4 <sup>1</sup>[82.] 83.<sup>1</sup> This act shall take effect immediately.