

# SENATE, No. 1056

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 30, 2014

**Sponsored by:**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris and Somerset)**

### **SYNOPSIS**

Repeals Highlands planning and environmental permitting provisions of “Highlands Water Protection and Planning Act,” and amends various statutes to reflect repeal thereof.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the Highlands Region, and amending and  
2 repealing various parts of the statutory law.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
8 as follows:

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

15 b. Any offer shall be reviewed and evaluated by the board and  
16 the committee in order to determine the suitability of the land for  
17 development easement purchase. Decisions regarding suitability  
18 shall be based on the following criteria:

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

22  
23 nonagricultural - agricultural - landowner's  
24 developmental value value asking price  
25 -----  
26 nonagricultural - agricultural  
27 development value value

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

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

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

37 c. Two independent appraisals paid for by the board shall be  
38 conducted for each parcel of land so offered and deemed suitable.  
39 The appraisals shall be conducted by independent, professional  
40 appraisers selected by the board and the committee from among  
41 members of recognized organizations of real estate appraisers. The  
42 appraisals shall determine the current overall value of the parcel for  
43 nonagricultural purposes, as well as the current market value of the  
44 parcel for agricultural purposes. The difference between the two  
45 values shall represent an appraisal of the value of the development

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

Matter underlined thus is new matter.

1 easement. If Burlington County or a municipality therein has  
2 established a development transfer bank pursuant to the provisions  
3 of P.L.1989, c.86 (C.40:55D-113 et seq.) or if any county or any  
4 municipality in any county has established a development transfer  
5 bank pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) [or  
6 the Highlands Water Protection and Planning Council has  
7 established a development transfer bank pursuant to section 13 of  
8 P.L.2004, c.120 (C.13:20-13)], the municipal average of the value  
9 of the development potential of property in a sending zone  
10 established by the bank may be the value used by the board in  
11 determining the value of the development easement. If a  
12 development easement is purchased using moneys appropriated  
13 from the fund, the State shall provide no more than 80%, except  
14 100% under emergency conditions specified by the committee  
15 pursuant to rules or regulations, of the cost of the appraisals  
16 conducted pursuant to this section.

17 d. Upon receiving the results of the appraisals, or in Burlington  
18 county or a municipality therein or elsewhere where a municipal  
19 average has been established under subsection c. of this section,  
20 upon receiving an application from the landowners, the board and  
21 the committee shall compare the appraised value, or the municipal  
22 average, as the case may be, and the landowner's offer and, pursuant  
23 to the suitability criteria established in subsection b. of this section:

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

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

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

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

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

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

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

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

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

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

26 (b) For the purposes of paragraph (2) of this subsection,  
27 "historic building or structure" means the same as that term is  
28 defined pursuant to subsection c. of section 1 of P.L.2001, c.405  
29 (C.13:8C-40.1).

30 (cf: P.L.2004, c.120, s.44)

31  
32 2. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read  
33 as follows:

34 29. Nothing herein contained shall be construed to prohibit the  
35 creation of a municipally approved program or other farmland  
36 preservation program, the purchase of development easements, or  
37 the extension of any other benefit herein provided on land, and to  
38 owners thereof, in the Pinelands area, as defined pursuant to section  
39 3 of P.L.1979, c. 111 (C. 13:18A-3) **】, or in the Highlands Region,**  
40 **as defined in section 3 of P.L.2004, c.120 (C.13:20-3)】.**

41 (cf: P.L.2004, c.120, s.45)

42  
43 3. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read  
44 as follows:

45 4. The board shall have the following powers:

46 a. To purchase, or to provide matching funds for the purchase  
47 of 80% of, the value of development potential and to otherwise  
48 facilitate development transfers, from the owner of record of the

- 1 property from which the development potential is to be transferred  
2 or from any person, or entity, public or private, holding the interest  
3 in development potential that is subject to development transfer;  
4 provided that, in the case of providing matching funds for the  
5 purchase of 80% of the value of development potential, the  
6 remaining 20% of that value is contributed by the affected  
7 municipality or county, or both, after public notice thereof in the  
8 New Jersey Register and in one newspaper of general circulation in  
9 the area affected by the purchase. The remaining 20% of the value  
10 of the development potential to be contributed by the affected  
11 municipality or county, or both, to match funds provided by the  
12 board, may be obtained by purchase from, or donation by, the  
13 owner of record of the property from which the development  
14 potential is to be transferred or from any person, or entity, public or  
15 private, holding the interest in development potential that is subject  
16 to development transfer. The value of development potential may  
17 be determined by either appraisal, municipal averaging based upon  
18 appraisal data, or by a formula supported by appraisal data. The  
19 board may also engage in development transfer by sale, exchange,  
20 or other method of conveyance, provided that in doing so, the board  
21 shall not substantially impair the private sale, exchange or other  
22 method of conveyance of development potential. The board may  
23 not, nor shall anything in this act be construed as permitting the  
24 board to, engage in development transfer from one municipality to  
25 another, which transfer is not in accordance with the ordinances of  
26 both municipalities;
- 27 b. To adopt and, from time to time, amend or repeal suitable  
28 bylaws for the management of its affairs;
- 29 c. To adopt and use an official seal and alter that seal at its  
30 pleasure;
- 31 d. To apply for, receive, and accept, from any federal, State, or  
32 other public or private source, grants or loans for, or in aid of, the  
33 board's authorized purposes;
- 34 e. To enter into any agreement or contract, execute any legal  
35 document, and perform any act or thing necessary, convenient, or  
36 desirable for the purposes of the board or to carry out any power  
37 expressly given in this act;
- 38 f. To adopt, pursuant to the "Administrative Procedure Act,"  
39 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
40 necessary to implement the provisions of this act;
- 41 g. To call to its assistance and avail itself of the services of the  
42 employees of any State, county, or municipal department, board,  
43 commission, or agency as may be required and made available for  
44 these purposes;
- 45 h. To retain such staff as may be necessary in the career service  
46 and to appoint an executive director thereof. The executive director  
47 shall serve as a member of the senior executive or unclassified

1 service and may be appointed without regard to the provisions of  
2 Title 11A of the New Jersey Statutes;

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

6 j. To provide, through the State TDR Bank, a financial  
7 guarantee with respect to any loan to be extended to any person that  
8 is secured using development potential as collateral for the loan.  
9 Financial guarantees provided under this act shall be in accordance  
10 with procedures, terms and conditions, and requirements, including  
11 rights and obligations of the parties in the event of default on any  
12 loan secured in whole or in part using development potential as  
13 collateral, to be established by rule or regulation adopted by the  
14 board pursuant to the "Administrative Procedure Act";

15 k. To enter into agreement with the State Agriculture  
16 Development Committee for the purpose of acquiring development  
17 potential through the acquisition of development easements on  
18 farmland so that the board may utilize the existing processes,  
19 procedures, and capabilities of the State Agriculture Development  
20 Committee as necessary and appropriate to accomplish the goals  
21 and objectives of the board as provided for pursuant to this act;

22 l. To enter into agreements with other State agencies or entities  
23 providing services and programs authorized by law so that the board  
24 may utilize the existing processes, procedures, and capabilities of  
25 those other agencies or entities as necessary and appropriate to  
26 accomplish the goals and objectives of the board as provided for  
27 pursuant to this act;

28 m. To provide planning assistance grants to municipalities for  
29 up to 50% of the cost of preparing, for development potential  
30 transfer purposes, a utility service plan element or a development  
31 transfer plan element of a master plan pursuant to section 19 of  
32 P.L.1975, c.291 (C.40:55D-28), a real estate market analysis  
33 required pursuant to section 12 of P.L.2004, c.2 (C.40:55D-148),  
34 and a capital improvement program pursuant to section 20 of  
35 P.L.1975, c.291 (C.40:55D-29) and incurred by a municipality, or  
36 \$40,000, whichever is less, which grants shall be made utilizing  
37 moneys deposited into the bank pursuant to section 8 of P.L.1993,  
38 c.339 , as amended by section 31 of P.L.2004, c.2;

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

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

47 p. **【**To provide funding to (1) any development transfer bank  
48 that may be established by the Highlands Water Protection and

1 Planning Council pursuant to section 13 of P.L.2004, c.120  
2 (C.13:20-13), for the purchase of development potential by the  
3 Highlands development transfer bank, and (2) the council to provide  
4 planning assistance grants to municipalities in the Highlands  
5 Region that are participating in a transfer of development rights  
6 program implemented by the council pursuant to section 13 of  
7 P.L.2004, c.120 (C.13:20-13) in such amounts as the council deems  
8 appropriate to the municipalities notwithstanding any provision of  
9 subsection m. of this section or of section 8 of P.L.1993, c.339, as  
10 amended by section 31 of P.L.2004, c.2, to the contrary】 (Deleted  
11 by amendment, P.L. , c. ) (pending before the Legislature as this  
12 bill) ; and

13 q. 【To serve as a development transfer bank for the Highlands  
14 Region if requested to do so by the Highlands Water Protection and  
15 Planning Council pursuant to section 13 of P.L.2004, c.120  
16 (C.13:20-13).】 (Deleted by amendment, P.L. , c. ) (pending  
17 before the Legislature as this bill)  
18 (cf: P.L.2004, c.120, s.46)  
19

20 4. Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is amended  
21 to read as follows:

22 11. Subject to the provisions of Title 11A of the New Jersey  
23 Statutes, and within the limits of funds appropriated or otherwise  
24 made available, the commissioner may appoint any officer or  
25 employee to the department necessary to carry out the provisions of  
26 P.L.1983, c.560 (C.13:1B-15.133 et seq.), fix and determine their  
27 qualifications, which may include a knowledge of and familiarity  
28 with the pinelands area 【or the Highlands Region】 and the residents  
29 thereof.  
30 (cf: P.L.2004, c.120, s.47)  
31

32 5. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to  
33 read as follows:

34 1. The Department of Environmental Protection, in cooperation  
35 with the Division of Travel and Tourism in the Department of State,  
36 in consultation with the Pinelands Commission as it affects the  
37 pinelands area designated pursuant to section 10 of P.L.1979, c.111  
38 (C.13:18A-11), 【and in consultation with the Highlands Water  
39 Protection and Planning Council as it affects the Highlands Region  
40 designated pursuant to section 7 of P.L.2004, c.120 (C.13:20-7),】  
41 shall establish a natural resources inventory, using the Geographic  
42 Information System, for the purpose of encouraging ecologically  
43 based tourism and recreation in New Jersey. This inventory shall  
44 contain information on New Jersey's natural, historic, and  
45 recreational resources, and shall include, to the greatest extent  
46 possible, but need not be limited to, federal, State, county and local  
47 parks, wildlife management areas, hatcheries, natural areas, historic

1 sites, State forests, recreational areas, ecological and biological  
2 study sites, reservoirs, marinas, boat launches, campgrounds,  
3 waterfront access points, winter sports recreation areas, and national  
4 wildlife refuges.

5 (cf: P.L.2007, c.253, s.9)

6  
7 6. Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to  
8 read as follows:

9 1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.)  
10 shall not apply in the case of conveyances by the State or the  
11 department involving an exchange of lands within the pinelands  
12 area, as defined in section 10 of P.L.1979, c.111 (C.13:18A-11), or  
13 within the Hackensack Meadowlands District, as defined in section  
14 4 of P.L.1968, c.404 (C.13:17-4) **】, or within the Highlands Region**  
15 **as defined in section 3 of P.L.2004, c.120 (C.13:20-3)】, to the**  
16 **federal government or any agency or entity thereof, another State**  
17 **agency or entity, or a local unit, provided the lands to be conveyed**  
18 **are used for recreation or conservation purposes, shall continue to**  
19 **be used for recreation or conservation purposes and it has been**  
20 **determined pursuant to subsection c. of this section that the**  
21 **proposed recreation and conservation purposes for the lands do not**  
22 **significantly alter the ecological and environmental value of the**  
23 **lands being exchanged.**

24 b. Prior to any conveyance of lands that is exempted from the  
25 provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
26 subsection a. of this section, the Department of Environmental  
27 Protection shall conduct at least one public hearing on the proposed  
28 conveyance in the municipality in which the lands proposed to be  
29 conveyed are located. The local unit proposing the recreation or  
30 conservation use of the lands being exchanged shall present its  
31 proposal for the use of the lands being exchanged at the public  
32 hearing, including a description of the proposed recreation or  
33 conservation use of the lands and any proposed alterations to the  
34 lands for the recreation or conservation purposes.

35 c. As a condition of any conveyance of lands that is exempted  
36 from the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant  
37 to subsection a. of this section, and prior to any public hearing  
38 required pursuant to subsection b. of this section, the Pinelands  
39 Commission, or the New Jersey Meadowlands Commission, **】, or the**  
40 **Highlands Water Protection and Planning Council,】** as appropriate,  
41 after consultation with the local units in which the lands to be  
42 conveyed are located, shall determine that the proposed recreation  
43 or conservation purpose does not significantly alter the ecological  
44 and environmental value of the lands being exchanged. The  
45 appropriate commission **】or council】** shall determine that the  
46 proposed recreation or conservation purpose does not significantly  
47 alter the ecological and environmental value of the lands being  
48 exchanged, if:

1 (1) the appropriate commission **【or council】** determines that any  
2 proposed recreation or conservation use of the lands being  
3 exchanged is consistent with the law, rules and regulations  
4 governing the protection and development of the pinelands area or  
5 pinelands preservation area, as appropriate and as defined in section  
6 10 of P.L.1979, c.111 (C.13:18A-11), or the Hackensack  
7 Meadowlands District, as defined in section 4 of P.L.1968, c.404  
8 (C.13:17-4), **【or the Highlands Region, as defined in section 3 of**  
9 **P.L.2004, c.120 (C.13:20-3),】** and the requirements of the law,  
10 rules or regulations have been met to the satisfaction of the  
11 appropriate commission **【or council】** ; and

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

16 The determinations required pursuant to this subsection shall be  
17 made available to the public at the time of the public hearing  
18 required pursuant to subsection b. of this section.

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

23 (cf: P.L.2004, c.120, s.49)

24

25 7. Section 18 of P.L.1985, c.432 (C.13:1M-18) is amended to  
26 read as follows:

27 18. a. Nothing in this act shall be construed to supersede or  
28 prohibit the adoption, by the governing body of any municipality or  
29 county, of any ordinance or resolution regulating or prohibiting the  
30 exploration beyond the reconnaissance phase, drilling for and the  
31 extraction of oil and natural gas **【or uranium】**. As used in this  
32 section, "reconnaissance" means:

33 (1) A geologic and mineral resource appraisal of a region by  
34 searching and analyzing published literature, aerial photography,  
35 and geologic maps;

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

39 (3) Surface geologic, topographic or other mapping and property  
40 surveying; or

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

44 b. A municipality or county shall submit a copy of any  
45 ordinance or regulation specifically pertaining to activities  
46 regulated by this act, or a rule or regulation promulgated pursuant to  
47 this act, to the department.

1 c. The department shall, within 90 days of submittal, approve  
2 or disapprove any ordinance or regulation submitted pursuant to  
3 subsection b. of this section. An ordinance or regulation shall be  
4 disapproved only if the department finds it unreasonable and  
5 provides in writing its reasons for the finding. The failure of the  
6 department to act within 90 days of submittal shall constitute  
7 approval.

8 d. Nothing in this section shall be construed to limit the  
9 authority of a municipality or county or board of health to enact  
10 ordinances or regulations of general applicability to all industrial or  
11 commercial activities, including, but not limited to, ordinances and  
12 regulations limiting noise, light, and odor.

13 e. The department shall not approve any ordinance or  
14 regulation submitted pursuant to subsection b. of this section which  
15 governs activities within the Pinelands area designated in the  
16 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
17 unless the Pinelands Commission has approved the ordinance or  
18 regulation. The department shall not disapprove an ordinance or  
19 regulation, or portion thereof, which has been certified by the  
20 Pinelands Commission as consistent with the requirements of the  
21 Comprehensive Management Plan as required by the "Pinelands  
22 Protection Act."

23 f. **【**The department shall not approve any ordinance or  
24 regulation submitted pursuant to subsection b. of this section which  
25 governs activities within the Highlands preservation area designated  
26 in the "Highlands Water Protection and Planning Act," P.L.2004,  
27 c.120 (C.13:20-1 et al.), unless the Highlands Water Protection and  
28 Planning Council has approved the ordinance or regulation. The  
29 department shall not disapprove an ordinance or regulation, or  
30 portion thereof, which has been certified by the Highlands Water  
31 Protection and Planning Council as consistent with the requirements  
32 of the Highlands regional master plan as required by the "Highlands  
33 Water Protection and Planning Act." **】** (Deleted by amendment,  
34 P.L. , c. ) (pending before the Legislature as this bill)  
35 (cf: P.L.2004, c.120, s.50)

36  
37 8. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to  
38 read as follows:

39 25. Within one year after the date of enactment of this act, and  
40 biennially thereafter until and including 2008, the Garden State  
41 Preservation Trust, after consultation with the Department of  
42 Environmental Protection, the State Agriculture Development  
43 Committee, the New Jersey Historic Trust, the Pinelands  
44 Commission, **【**the Highlands Water Protection and Planning  
45 Council,**】** and the Office of State Planning in the Department of  
46 Community Affairs, shall prepare and submit to the Governor and  
47 the Legislature a written report, which shall:

- 1       a. Describe the progress being made on achieving the goals and  
2 objectives of Article VIII, Section II, paragraph 7 of the State  
3 Constitution and this act with respect to the acquisition and  
4 development of lands for recreation and conservation purposes, the  
5 preservation of farmland, and the preservation of historic properties,  
6 and provide recommendations with respect to any legislative,  
7 administrative, or local action that may be required to ensure that  
8 those goals and objectives may be met in the future;
- 9       b. Tabulate, both for the reporting period and cumulatively, the  
10 total acreage for the entire State, and the acreage in each county and  
11 municipality, of lands acquired for recreation and conservation  
12 purposes and of farmland preserved for farmland preservation  
13 purposes that have been applied toward meeting the goals and  
14 objectives of Article VIII, Section II, paragraph 7 of the State  
15 Constitution and this act with respect to the acquisition of lands for  
16 recreation and conservation purposes and the preservation of  
17 farmland;
- 18       c. Tabulate, both for the reporting period and cumulatively, the  
19 total acreage for the entire State, and the acreage in each county and  
20 municipality, of any donations of land that have been applied  
21 toward meeting the goals and objectives of Article VIII, Section II,  
22 paragraph 7 of the State Constitution and this act with respect to the  
23 acquisition of lands for recreation and conservation purposes and  
24 the preservation of farmland;
- 25       d. List, both for the reporting period and cumulatively, and by  
26 project name, project sponsor, and location by county and  
27 municipality, all historic preservation projects funded with  
28 constitutionally dedicated moneys in whole or in part;
- 29       e. Indicate those areas of the State where, as designated by the  
30 Department of Environmental Protection in the Open Space Master  
31 Plan prepared pursuant to section 5 of P.L.2002, c.76  
32 (C.13:8C-25.1), the acquisition and development of lands by the  
33 State for recreation and conservation purposes is planned or is most  
34 likely to occur, and those areas of the State where there is a need to  
35 protect water resources, including the identification of lands where  
36 protection is needed to assure adequate quality and quantity of  
37 drinking water supplies in times of drought, indicate those areas of  
38 the State where the allocation of constitutionally dedicated moneys  
39 for farmland preservation purposes is planned or is most likely to  
40 occur, and provide a proposed schedule and expenditure plan for  
41 those acquisitions, developments, and allocations, for the next  
42 reporting period, which shall include an explanation of how those  
43 acquisitions, developments, and allocations will be distributed  
44 throughout all geographic regions of the State to the maximum  
45 extent practicable and feasible;
- 46       f. List any surplus real property owned by the State or an  
47 independent authority of the State that may be utilizable for  
48 recreation and conservation purposes or farmland preservation

1 purposes, and indicate what action has been or must be taken to  
2 effect a conveyance of those lands to the department, the  
3 committee, local government units, qualifying tax exempt nonprofit  
4 organizations, or other entities or persons so that the lands may be  
5 preserved and used for those purposes;

6 g. List, for the reporting period, all projects for which  
7 applications for funding under the Green Acres, farmland  
8 preservation, and historic preservation programs were received but  
9 not funded with constitutionally dedicated moneys during the  
10 reporting period, and the reason or reasons why those projects were  
11 not funded;

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

19 i. Tabulate, both for the reporting period and cumulatively, the  
20 total acreage for the entire State, and the acreage in each county and  
21 municipality, of lands acquired for recreation and conservation  
22 purposes that protect water resources and that protect flood-prone  
23 areas.

24 (cf: P.L.2004, c.120, s.51)

25  
26 9. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to  
27 read as follows:

28 5. a. Within one year after the date of enactment of P.L.2002,  
29 c.76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of  
30 Environmental Protection, in consultation with the Office of State  
31 Planning in the Department of Community Affairs **【,】** and the  
32 Pinelands Commission, **【and** the Highlands Water Protection and  
33 Planning Council,**】** shall prepare and submit to the Governor and the  
34 Legislature an Open Space Master Plan, which shall indicate those  
35 areas of the State where the acquisition and development of lands by  
36 the State for recreation and conservation purposes is planned or is  
37 most likely to occur, and those areas of the State where there is a need  
38 to protect water resources, including the identification of lands where  
39 protection is needed to assure adequate quality and quantity of  
40 drinking water supplies in times of drought, and which shall provide a  
41 proposed schedule and expenditure plan for those acquisitions and  
42 developments for the next reporting period, which shall include an  
43 explanation of how those acquisitions and developments will be  
44 distributed throughout all geographic regions of the State to the  
45 maximum extent practicable and feasible.

46 b. The department shall provide any information the Garden  
47 State Preservation Trust deems necessary in preparing its biennial

1 report pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).  
2 (cf: P.L.2004, c.120, s.52)

3

4 10. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to  
5 read as follows:

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

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

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

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

17 b. The expenditure and allocation of constitutionally dedicated  
18 moneys for recreation and conservation purposes shall reflect the  
19 geographic diversity of the State to the maximum extent practicable  
20 and feasible.

21 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,  
22 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted  
23 pursuant thereto, to the contrary, the value of a pinelands  
24 development credit, allocated to a parcel pursuant to P.L.1979,  
25 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
26 management plan adopted pursuant thereto, shall be made utilizing  
27 a value to be determined by either appraisal, regional averaging  
28 based upon appraisal data, or a formula supported by appraisal data.  
29 The appraisal and appraisal data shall consider as appropriate: land  
30 values in the pinelands regional growth areas; land values in  
31 counties, municipalities, and other areas reasonably contiguous to,  
32 but outside of, the pinelands area; and other relevant factors as may  
33 be necessary to maintain the environmental, ecological, and  
34 agricultural qualities of the pinelands area.

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

44 d. (Deleted by amendment, P.L.2010, c.70)

45 e. Moneys appropriated from the fund may be used to match  
46 grants, contributions, donations, or reimbursements from federal aid  
47 programs or from other public or private sources established for the  
48 same or similar purposes as the fund.

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

6 g. Whenever lands are donated to the State by a public utility,  
7 as defined pursuant to Title 48 of the Revised Statutes, for  
8 recreation and conservation purposes, the commissioner may make  
9 and keep the lands accessible to the public, unless the commissioner  
10 determines that public accessibility would be detrimental to the  
11 lands or any natural resources associated therewith.

12 h. Whenever the State acquires land for recreation and  
13 conservation purposes, the agency in the Department of  
14 Environmental Protection responsible for administering the land  
15 shall, within six months after the date of acquisition, inspect the  
16 land for the presence of any buildings or structures thereon which  
17 are or may be historic properties and, within 60 days after  
18 completion of the inspection, provide to the New Jersey Historic  
19 Preservation Office in the department (1) a written notice of its  
20 findings, and (2) for any buildings or structures which are or may  
21 be historic properties discovered on the land, a request for  
22 determination of potential eligibility for inclusion of the historic  
23 building or structure in the New Jersey Register of Historic Places.  
24 Whenever such a building or structure is discovered, a copy of the  
25 written notice provided to the New Jersey Historic Preservation  
26 Office shall also be sent to the New Jersey Historic Trust and to the  
27 county historical commission or advisory committee, the county  
28 historical society, the local historic preservation commission or  
29 advisory committee, and the local historical society if any of those  
30 entities exist in the county or municipality wherein the land is  
31 located.

32 i. (Deleted by amendment, P.L.2010, c.70)

33 j. **[(1)** Commencing on the date of enactment of P.L.2004, c.120  
34 (C.13:20-1 et al.) and through June 30, 2014 for lands located in the  
35 Highlands Region as defined pursuant to section 3 of P.L.2004,  
36 c.120 (C.13:20-3), when the department, a local government unit, or  
37 a qualifying tax exempt nonprofit organization seeks to acquire  
38 lands for recreation and conservation purposes using  
39 constitutionally dedicated moneys in whole or in part or Green  
40 Acres bond act moneys in whole or in part, it shall conduct or cause  
41 to be conducted an appraisal or appraisals of the value of the lands  
42 that shall be made using (a) the land use zoning of the lands, and  
43 any State environmental laws or Department of Environmental  
44 Protection rules and regulations that may affect the value of the  
45 lands, subject to the appraisal and in effect at the time of proposed  
46 acquisition, and (b) the land use zoning of the lands, and any State  
47 environmental laws or Department of Environmental Protection  
48 rules and regulations that may affect the value of the lands, subject

1 to the appraisal and in effect on January 1, 2004. The higher of  
2 those two values shall be utilized by the department, a local  
3 government unit, or a qualifying tax exempt nonprofit organization  
4 as the basis for negotiation with the landowner with respect to the  
5 acquisition price for the lands. The landowner shall be provided  
6 with both values determined pursuant to this paragraph.

7 A landowner may waive any of the requirements of this  
8 paragraph and may agree to sell the lands for less than the values  
9 determined pursuant to this paragraph.

10 The provisions of this paragraph shall be applicable only to lands  
11 the owner of which at the time of proposed acquisition is the same  
12 person who owned the lands on the date of enactment of P.L.2004,  
13 c.120 (C.13:20-1 et al.) and who has owned the lands continuously  
14 since that enactment date, or is an immediate family member of that  
15 person.

16 (2) (Deleted by amendment, P.L.2010, c.70)

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

20 (4) This subsection shall not:

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

23 (b) (Deleted by amendment, P.L.2010, c.70); or

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

27 (5) For the purposes of this subsection, "immediate family  
28 member" means a spouse, child, parent, sibling, aunt, uncle, niece,  
29 nephew, first cousin, grandparent, grandchild, father-in-law,  
30 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,  
31 stepbrother, stepsister, half brother, or half sister, whether the  
32 individual is related by blood, marriage, or adoption.】 (Deleted by  
33 amendment, P.L. , c. ) (pending before the Legislature as this  
34 bill)

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

47 l. In making decisions concerning the acquisition of lands by  
48 the State for recreation and conservation purposes using moneys

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

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

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

17 n. [(1) The department, within three months after the date of  
18 the first meeting of the Highlands Water Protection and Planning  
19 Council established pursuant to section 4 of P.L.2004, c.120  
20 (C.13:20-4), shall consult with and solicit recommendations from  
21 the council concerning land preservation strategies and acquisition  
22 plans in the Highlands Region as defined in section 3 of P.L.2004,  
23 c.120 (C.13:20-3).

24 The council's recommendations shall also address strategies and  
25 plans concerning establishment by the department of a methodology  
26 for prioritizing the acquisition of land in the Highlands preservation  
27 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for  
28 recreation and conservation purposes using moneys from the  
29 Garden State Green Acres Preservation Trust Fund, especially with  
30 respect to (a) any land that has declined substantially in value due  
31 to the implementation of the "Highlands Water Protection and  
32 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and (b) any major  
33 Highlands development, as defined in section 3 of P.L.2004, c.120  
34 (C.13:20-3), that would have qualified for an exemption pursuant to  
35 paragraph (3) of subsection a. of section 30 of P.L.2004, c.120  
36 (C.13:20-28) but for the lack of a necessary State permit as  
37 specified in subparagraph (b) or (c), as appropriate, of paragraph (3)  
38 of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28), and  
39 for which an application for such a permit had been submitted to the  
40 Department of Environmental Protection and deemed by the  
41 department to be complete for review on or before March 29, 2004.  
42 The recommendations may also include a listing of specific parcels  
43 in the Highlands preservation area that the council is aware of that  
44 meet the criteria of subparagraph (a) or (b) of this paragraph and for  
45 that reason should be considered by the department as a priority for  
46 acquisition, but any such list shall remain confidential  
47 notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.)  
48 or any other law to the contrary.

1 (2) In making decisions concerning applications for funding  
2 submitted by municipalities in the Highlands planning area, as  
3 defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or  
4 develop lands for recreation and conservation purposes using  
5 moneys from the Garden State Green Acres Preservation Trust  
6 Fund, in the evaluation and priority ranking process the department  
7 shall accord a higher weight to any application submitted by a  
8 municipality in the Highlands planning area that has amended its  
9 development regulations in accordance with section 13 of P.L.2004,  
10 c.120 (C.13:20-13) to establish one or more receiving zones for the  
11 transfer of development potential from the Highlands preservation  
12 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than  
13 that which is accorded to comparable applications submitted by  
14 other municipalities in the Highlands planning area that have not  
15 made such amendments to their development regulations.】 (Deleted  
16 by amendment, P.L. , c. ) (pending before the Legislature as this  
17 bill)

18 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-  
19 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,  
20 the sum spent by the department in each of those fiscal years for the  
21 acquisition of lands by the State for recreation and conservation  
22 purposes using moneys from the Garden State Green Acres  
23 Preservation Trust Fund in each county of the State shall be not  
24 less, and may be greater if additional sums become available, than  
25 the average annual sum spent by the department therefor in each  
26 such county, respectively, for State fiscal years 2002 through 2004,  
27 provided there is sufficient and appropriate lands within the county  
28 to be so acquired by the State for such purposes.  
29 (cf: P.L.2010, c.70, s.2)

30

31 11. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to  
32 read as follows:

33 38. a. All acquisitions or grants made pursuant to section 37 of  
34 P.L.1999, c.152 (C.13:8C-37) shall be made with respect to  
35 farmland devoted to farmland preservation under programs  
36 established by law.

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

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

46 d. The committee shall adopt the same or a substantially  
47 similar method for determining, for the purposes of this act, the  
48 committee's share of the cost of a development easement on

1 farmland to be acquired by a local government as that which is  
2 being used by the committee on the date of enactment of this act for  
3 prior farmland preservation funding programs.

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

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

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

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

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

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

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

41 g. (Deleted by amendment, P.L.2010, c.70)

42 h. Any farmland for which a development easement or fee  
43 simple title has been acquired pursuant to section 37 of P.L.1999,  
44 c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the  
45 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the  
46 "Agriculture Retention and Development Act," P.L.1983, c.32  
47 (C.4:1C-11 et al.).

48 i. (Deleted by amendment, P.L.2010, c.70)

1 j. [(1) Commencing on the date of enactment of P.L.2004, c.120  
2 (C.13:20-1 et al.) and through June 30, 2014 for lands located in the  
3 Highlands Region as defined pursuant to section 3 of P.L.2004,  
4 c.120 (C.13:20-3), when the committee, a local government unit, or  
5 a qualifying tax exempt nonprofit organization seeks to acquire a  
6 development easement on farmland or the fee simple title to  
7 farmland for farmland preservation purposes using constitutionally  
8 dedicated moneys in whole or in part or Green Acres bond act  
9 moneys in whole or in part, it shall conduct or cause to be  
10 conducted an appraisal or appraisals of the value of the lands that  
11 shall be made using (a) the land use zoning of the lands, and any  
12 State environmental laws or Department of Environmental  
13 Protection rules and regulations that may affect the value of the  
14 lands, subject to the appraisal and in effect at the time of proposed  
15 acquisition, and (b) the land use zoning of the lands, and any State  
16 environmental laws or Department of Environmental Protection  
17 rules and regulations that may affect the value of the lands, subject  
18 to the appraisal and in effect on January 1, 2004. The higher of  
19 those two values shall be utilized by the committee, a local  
20 government unit, or a qualifying tax exempt nonprofit organization  
21 as the basis for negotiation with the landowner with respect to the  
22 acquisition price for the lands. The landowner shall be provided  
23 with both values determined pursuant to this paragraph.

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

27 The provisions of this paragraph shall be applicable only to lands  
28 the owner of which at the time of proposed acquisition is the same  
29 person who owned the lands on the date of enactment of P.L.2004,  
30 c.120 (C.13:20-1 et al.) and who has owned the lands continuously  
31 since that enactment date, is an immediate family member of that  
32 person, or is a farmer as defined by the committee.

33 (2) (Deleted by amendment, P.L.2010, c.70)

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

37 (4) This subsection shall not:

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

40 (b) (Deleted by amendment, P.L.2010, c.70); or

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

44 (5) For the purposes of this subsection, "immediate family  
45 member" means a spouse, child, parent, sibling, aunt, uncle, niece,  
46 nephew, first cousin, grandparent, grandchild, father-in-law,  
47 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,  
48 stepbrother, stepsister, half brother, or half sister, whether the

1 individual is related by blood, marriage, or adoption.】 (Deleted by  
2 amendment, P.L. , c. ) (pending before the Legislature as this  
3 bill)

4 k. The committee and the Department of Environmental  
5 Protection, pursuant to the "Administrative Procedure Act,"  
6 P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and  
7 regulations that establish standards and requirements regulating any  
8 improvement on lands acquired by the State for farmland  
9 preservation purposes using constitutionally dedicated moneys to  
10 assure that any improvement does not diminish the protection of  
11 surface water or groundwater resources.

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

15 1. 【(1) The committee, within three months after the date of the  
16 first meeting of the Highlands Water Protection and Planning  
17 Council established pursuant to section 4 of P.L.2004, c.120  
18 (C.13:20-4), shall consult with and solicit recommendations from  
19 the council concerning farmland preservation strategies and  
20 acquisition plans in the Highlands Region as defined in section 3 of  
21 P.L.2004, c.120 (C.13:20-3).

22 The council's recommendations shall also address strategies and  
23 plans concerning establishment by the committee of a methodology  
24 for prioritizing the acquisition of development easements and fee  
25 simple titles to farmland in the Highlands preservation area, as  
26 defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland  
27 preservation purposes using moneys from the Garden State  
28 Farmland Preservation Trust Fund, especially with respect to  
29 farmland that has declined substantially in value due to the  
30 implementation of the "Highlands Water Protection and Planning  
31 Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations  
32 may also include a listing of specific parcels in the Highlands  
33 preservation area that the council is aware of that have experienced  
34 a substantial decline in value and for that reason should be  
35 considered by the committee as a priority for acquisition, but any  
36 such list shall remain confidential notwithstanding any provision of  
37 P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

38 (2) In prioritizing applications for funding submitted by local  
39 government units in the Highlands planning area, as defined in  
40 section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development  
41 easements on farmland in the Highlands planning area using  
42 moneys from the Garden State Farmland Preservation Trust Fund,  
43 the committee shall accord a higher weight to any application  
44 submitted by a local government unit to preserve farmland in a  
45 municipality in the Highlands planning area that has amended its  
46 development regulations in accordance with section 13 of P.L.2004,  
47 c.120 (C.13:20-13) to establish one or more receiving zones for the  
48 transfer of development potential from the Highlands preservation

1 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than  
2 that which is accorded to comparable applications submitted by  
3 other local government units to preserve farmland in municipalities  
4 in the Highlands planning area that have not made such  
5 amendments to their development regulations.】 (Deleted by  
6 amendment, P.L. , c. ) (pending before the Legislature as this  
7 bill)

8 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-  
9 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,  
10 the sum spent by the committee in each of those fiscal years for the  
11 acquisition by the committee of development easements and fee  
12 simple titles to farmland for farmland preservation purposes using  
13 moneys from the Garden State Farmland Preservation Trust Fund in  
14 each county of the State shall be not less, and may be greater if  
15 additional sums become available, than the average annual sum  
16 spent by the department therefor in each such county, respectively,  
17 for State fiscal years 2002 through 2004, provided there is sufficient  
18 and appropriate farmland within the county to be so acquired by the  
19 committee for such purposes.

20 (cf: P.L.2010, c.70, s.3)

21  
22 12. Section 8 of P.L.2005, c.178 (C.13:8C-38.2) is amended to  
23 read as follows:

24 8. a. The State Agriculture Development Committee shall  
25 prepare and issue at least annually a report listing the farms  
26 preserved through the acquisition by the committee of development  
27 easements on farmland or the acquisition of fee simple interests in  
28 farmland using monies appropriated from the Garden State  
29 Farmland Preservation Trust Fund or any other source. The report  
30 also shall include a list of any farms that have received soil and  
31 water conservation grants from the State in the prior State fiscal  
32 year. The report shall identify each farm by name and provide the  
33 county and municipality in which it is located.

34 b. Each report shall be transmitted within 15 business days after  
35 its issuance to: (1) the President of the Senate; (2) the Speaker of  
36 the General Assembly; (3) the chairpersons of the Senate Economic  
37 Growth Committee and the Assembly Agriculture and Natural  
38 Resources Committee, or their successors as designated by the  
39 President of the Senate and the Speaker of the General Assembly,  
40 respectively; (4) the Garden State Preservation Trust established  
41 pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4); and (5) the  
42 **【**Highlands Water Protection and Planning Council established  
43 pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); and (6) the**】**  
44 Pinelands Commission established pursuant to section 4 of  
45 P.L.1979, c.111 (C.13:18A-4). Copies of each report shall also be  
46 made available to the public upon request and on the Internet

1 website maintained by the State Agriculture Development  
2 Committee.

3 (cf: P.L.2005, c.178, s.8)  
4

5 13. Section 13 of P.L.1974, c.118 (C.13:13A-13) is amended to  
6 read as follows:

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

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

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

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

1 e. [The commission shall consult with the Highlands Water  
2 Protection and Planning Council, established pursuant to section 4  
3 of P.L.2004, c.120 (C.13:20-4), on any provision of the park master  
4 plan that may impact upon or otherwise affect the Highlands Region  
5 or the Highlands regional master plan, as defined in section 3 of  
6 P.L.2004, c.120 (C.13:20-3), and any such provision shall be  
7 consistent with the Highlands regional master plan adopted by the  
8 council pursuant to that act.] (Deleted by amendment, P.L. \_\_, c. \_\_)  
9 (pending before the Legislature as this bill)  
10 (cf: P.L.2004, c.120, s.55)  
11

12 14. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to  
13 read as follows:

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

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

35 c. The commission shall review and approve, reject, or modify  
36 any project within the review zone. The initial application for a  
37 proposed project within the zone shall be submitted by the applicant  
38 to the appropriate municipal reviewing agency. If approved by the  
39 agency, the application shall be sent to the commission for review.  
40 The commission shall review each proposed project in terms of its  
41 conformity with, or divergence from, the objectives of the  
42 commission's master plan and shall: (1) advise the appropriate  
43 municipal reviewing agency that the project can proceed as  
44 proposed; (2) reject the application and so advise the appropriate  
45 municipal reviewing agency and the governing body of the  
46 municipality; or (3) require modifications or additional safeguards  
47 on the part of the applicant, and return the application to the  
48 appropriate municipal reviewing agency, which shall be responsible

1 for insuring that these conditions are satisfied before issuing a  
2 permit. If no action is taken by the commission within a period of  
3 45 days from the date of submission of the application to the  
4 commission by the municipal reviewing agency, this shall constitute  
5 an approval by the commission. The commission's decision shall be  
6 final and binding on the municipality, and the commission may, in  
7 the case of any violation or threat of a violation of a commission's  
8 decision by a municipality, or by the appropriate municipal  
9 reviewing agency, as the case may be, institute civil action (1) for  
10 injunctive relief; (2) to set aside and invalidate a decision made by a  
11 municipality in violation of this subsection; or (3) to restrain,  
12 correct or abate such violation. As used herein: (1) "project"  
13 means any structure, land use change, or public improvements for  
14 which a permit from, or determination by, the municipality is  
15 required, which shall include, but not be limited to, building  
16 permits, zoning variances, and excavation permits; and (2) "agency"  
17 means any body or instrumentality of the municipality responsible  
18 for the issuance of permits or the approval of projects, as herein  
19 defined, which shall include, but not be limited to, governing  
20 bodies, planning and zoning boards, building inspectors, managers  
21 and municipal engineers.

22 d. **【**To the extent that any action the commission takes pursuant  
23 to this section may impact upon or otherwise affect the Highlands  
24 Region or the Highlands regional master plan, as defined in section  
25 3 of P.L.2004, c.120 (C.13:20-3), the commission shall consult with  
26 the Highlands Water Protection and Planning Council, established  
27 pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and any such  
28 action taken shall be consistent with the Highlands regional master  
29 plan adopted by the council pursuant to that act.**】** (Deleted by  
30 amendment, P.L. , c. ) (pending before the Legislature as this  
31 bill)

32 e. Notwithstanding the provisions of P.L.1974, c.118  
33 (C.13:13A-1 et seq.), and any rules and regulations adopted  
34 pursuant thereto, to the contrary, the commission is authorized to  
35 issue a general permit in lieu of an approval required pursuant to  
36 subsection b. or c. of this section. The commission shall adopt,  
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
38 (C.52:14B-1 et seq.), rules and regulations that identify the types of  
39 projects eligible for a general permit and establish the criteria for  
40 the approval or rejection of a general permit issued pursuant to this  
41 subsection. The commission may authorize, by adoption of a  
42 resolution by the affirmative vote of a majority of the members, the  
43 executive director of the commission to approve, approve with  
44 conditions, or reject an application for a general permit issued  
45 pursuant to this subsection in accordance with the provisions of  
46 P.L.1974, c.118 (C.13:13A-1 et seq.) and any rules and regulations  
47 adopted pursuant thereto.

48 (cf: P.L.2007, c.142, s.2)

1        15. Section 21 of P.L.2004, c.120 (C.13:20-19) is amended to  
2 read as follows:

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

21        b. Monies deposited in the " **Highlands** Watershed Protection  
22 Fund" shall be used only for:

23        (1) **Payments to the "Highlands Municipal Property Tax**  
24 **Stabilization Fund"** established pursuant to subsection b. of section  
25 19 of this act in such amounts as are necessary to provide property  
26 tax stabilization aid pursuant to that section **(Deleted by**  
27 **amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the Legislature as this**  
28 **bill) ;**

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

31        (3) **the making of grants by the Highlands Water Protection and**  
32 **Planning Council pursuant to sections 13 and 18 of this act**  
33 **(Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the**  
34 **L Legislature as this bill) ; and**

35        (4) allocations to the Pinelands Property Tax Assistance Fund  
36 established pursuant to section 20 of **this act** P.L.2004, c.120  
37 (C.54:1-84) .

38 (cf: P.L.2004, c.120, s.21)  
39

40        16. Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended to read  
41 as follows:

42        2. Any billboard or outdoor advertising sign licensed and  
43 permitted pursuant to the "Roadside Sign Control and Outdoor  
44 Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed  
45 to be erected on or above any State right-of-way or any real  
46 property of the department shall be subject to local government  
47 zoning ordinances, applicable local government building permit

1 requirements, and in the pinelands area, shall be subject to the  
2 provisions of the comprehensive management plan prepared and  
3 adopted by the Pinelands Commission pursuant to section 7 of  
4 P.L.1979, c.111 (C.13:18A-8) **】, and in the Highlands Region, shall**  
5 be subject to the provisions of the "Highland Water Protection and  
6 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), any rules and  
7 regulations adopted pursuant thereto, and the Highlands regional  
8 master plan adopted by the Highlands Water Protection and  
9 Planning Council pursuant to section 8 of that act**】** .

10 (cf: P.L.2004, c.120, s.57)

11  
12 17. R.S.32:14-5 is amended to read as follows:

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

30 b. The Palisades Interstate Park Commission, in cooperation  
31 with the North Jersey District Water Supply Commission and in  
32 consultation with the New Jersey Department of Environmental  
33 Protection **【and the Highlands Water Protection and Planning**  
34 **Council】** , may, from time to time, select and locate such lands  
35 lying within the Highlands or Skylands areas of Bergen, Hunterdon,  
36 Morris, Passaic, Somerset and Warren counties in the State of New  
37 Jersey, including lands in those areas lying within the North Jersey  
38 Water Supply District, as may, in the opinion of the Palisades  
39 Interstate Park Commission and the North Jersey District Water  
40 Supply Commission, in consultation with the department **【and the**  
41 **Highlands Water Protection and Planning Council】** , be proper and  
42 necessary to be reserved for establishing a park:

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

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

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

4 c. Except as authorized for the purposes specified by R.S.32:15-1  
5 et seq. and R.S.32:16-1 et seq. with regard to the location,  
6 construction, maintenance, and operation of the Henry Hudson  
7 Drive and the Palisades Interstate Parkway in Bergen county, the  
8 Palisades Interstate Park Commission shall not acquire by  
9 condemnation any lands described in subsections a. and b. of this  
10 section. Any such lands shall be acquired by the Palisades  
11 Interstate Park Commission only through a sale by a willing seller.  
12 (cf: P.L.2004, c.120, s.58)

13

14 18. Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended to  
15 read as follows:

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

17 (1) assess present and projected development, land use, and land  
18 management practices and patterns, and identify actual and  
19 potential environmental threats and problems, around Greenwood  
20 Lake and within its watershed, and determine the effects of those  
21 practices and patterns, threats, and problems upon the natural,  
22 scenic, and recreational resources of Greenwood Lake and its  
23 watershed;

24 (2) develop recommended regulations, procedures, policies,  
25 planning strategies, and model ordinances and resolutions  
26 pertaining to the protection, preservation, maintenance,  
27 management, and enhancement of Greenwood Lake and its  
28 watershed, which would be implemented as appropriate on a  
29 voluntary basis by those entities with representatives on the  
30 commission;

31 (3) coordinate environmental clean up, maintenance, and  
32 protection efforts undertaken, for the benefit of Greenwood Lake  
33 and its watershed, by those entities with representatives on the  
34 commission;

35 (4) coordinate with the New Jersey Department of Environmental  
36 Protection's watershed management program for the area that  
37 includes Greenwood Lake;

38 (5) recommend appropriate State legislation and administrative  
39 action pertaining to the protection, preservation, maintenance,  
40 management, and enhancement of Greenwood Lake and its  
41 watershed;

42 (6) advocate, and where appropriate, act as a coordinating,  
43 distributing, or recipient agency for, federal, State, or private  
44 funding of environmental cleanup, maintenance, and protection  
45 projects for Greenwood Lake and its watershed, which projects may  
46 include the work of the commission; and

47 (7) take such other action as may be appropriate or necessary to  
48 further the purpose of this act.

1       b. **【**The commission shall consult with the Highlands Water  
2       Protection and Planning Council, established pursuant to section 4  
3       of P.L.2004, c.120 (C.13:20-4), in carrying out its duties as  
4       prescribed pursuant to subsection a. of this section. Any action  
5       taken by the commission that may impact upon or otherwise affect  
6       the Highlands preservation area, as defined in section 3 of  
7       P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands  
8       regional master plan adopted by the council pursuant to section 8 of  
9       that act.**】** (Deleted by amendment, P.L. , c. ) (pending before the  
10      Legislature as this bill)  
11      (cf: P.L.2004, c.120, s.59)  
12

13       19. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
14      read as follows:

15       19. Preparation; contents; modification.

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

20       b. The master plan shall generally comprise a report or  
21      statement and land use and development proposals, with maps,  
22      diagrams and text, presenting, at least the following elements (1)  
23      and (2) and, where appropriate, the following elements (3) through  
24      (16):

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

28       (2) A land use plan element

29       (a) taking into account and stating its relationship to the  
30      statement provided for in paragraph (1) hereof, and other master  
31      plan elements provided for in paragraphs (3) through (14) hereof  
32      and natural conditions, including, but not necessarily limited to,  
33      topography, soil conditions, water supply, drainage, flood plain  
34      areas, marshes, and woodlands;

35       (b) showing the existing and proposed location, extent and  
36      intensity of development of land to be used in the future for varying  
37      types of residential, commercial, industrial, agricultural,  
38      recreational, open space, educational and other public and private  
39      purposes or combination of purposes including any provisions for  
40      cluster development; and stating the relationship thereof to the  
41      existing and any proposed zone plan and zoning ordinance; and

42       (c) showing the existing and proposed location of any airports  
43      and the boundaries of any airport safety zones delineated pursuant  
44      to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-  
45      80 et al.); and

46       (d) including a statement of the standards of population density  
47      and development intensity recommended for the municipality;

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

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

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

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

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

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

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

45       (10) An historic preservation plan element: (a) indicating the  
46 location and significance of historic sites and historic districts; (b)  
47 identifying the standards used to assess worthiness for historic site  
48 or district identification; and (c) analyzing the impact of each

1 component and element of the master plan on the preservation of  
2 historic sites and districts;

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

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

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

23 (14) A development transfer plan element which sets forth the  
24 public purposes, the locations of sending and receiving zones and  
25 the technical details of a development transfer program based on the  
26 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); (15) An  
27 educational facilities plan element which incorporates the purposes  
28 and goals of the "long-range facilities plan" required to be  
29 submitted to the Commissioner of Education by a school district  
30 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4); and

31 (16) A green buildings and environmental sustainability plan  
32 element, which shall provide for, encourage, and promote the  
33 efficient use of natural resources and the installation and usage of  
34 renewable energy systems; consider the impact of buildings on the  
35 local, regional and global environment; allow ecosystems to  
36 function naturally; conserve and reuse water; treat storm water on-  
37 site; and optimize climatic conditions through site orientation and  
38 design.

39 c. The master plan and its plan elements may be divided into  
40 subplans and subplan elements projected according to periods of  
41 time or staging sequences.

42 d. The master plan shall include a specific policy statement  
43 indicating the relationship of the proposed development of the  
44 municipality, as developed in the master plan to (1) the master plans  
45 of contiguous municipalities, (2) the master plan of the county in  
46 which the municipality is located, (3) the State Development and  
47 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
48 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)

1 and (4) the district solid waste management plan required pursuant  
2 to the provisions of the "Solid Waste Management Act," P.L.1970,  
3 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is  
4 located.

5 **【In the case of a municipality situated within the Highlands**  
6 **Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the**  
7 **master plan shall include a specific policy statement indicating the**  
8 **relationship of the proposed development of the municipality, as**  
9 **developed in the master plan, to the Highlands regional master plan**  
10 **adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).】**

11 (cf: P.L.2013, c.106, s.6)

12  
13 20. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read  
14 as follows:

15 4. a. The proceeds of the fees collected by the county recording  
16 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be  
17 accounted for and remitted to the county treasurer.

18 b. (1) The county portion of the basic fee collected pursuant to  
19 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49  
20 (C.46:15-7) shall be retained by the county treasurer for the use of  
21 the county.

22 (2) The State portion of the basic fee, the additional fee, and the  
23 general purpose fee shall be paid to the State Treasurer for the use  
24 of the State. Payments shall be made to the State Treasurer on the  
25 tenth day of each month following the month of collection.

26 c. (1) Amounts, not in excess of \$25,000,000, paid during the  
27 State fiscal year to the State Treasurer from the payment of the  
28 State portion of the basic fee shall be credited to the "Shore  
29 Protection Fund" created pursuant to section 1 of P.L.1992, c.148  
30 (C.13:19-16.1), in the manner established under that section.

31 (2) In addition to the amounts credited to the "Shore Protection  
32 Fund" pursuant to paragraph (1) of this subsection, amounts equal  
33 to \$12,000,000 in each of the first 10 years after **【the date of**  
34 **enactment of the "Highlands Water Protection and Planning**  
35 **Act,"P.L.2004, c.120 (C.13:20-1 et al.)】** August 10, 2004 and to  
36 \$5,000,000 in each year thereafter, paid during the State fiscal year  
37 to the State Treasurer from the payment of **【fees collected by the**  
38 **county recording officer other than the additional fee of \$0.75 for**  
39 **each \$500.00 of consideration or fractional part thereof recited in**  
40 **the deed in excess of \$150,000.00】** the State portion of the basic fee  
41 shall be credited to the "【Highlands】 Watershed Protection Fund"  
42 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in  
43 the manner established under that section. No monies shall be  
44 credited to the "【Highlands】 Watershed Protection Fund" pursuant  
45 to this paragraph until and unless the full amount of \$25,000,000  
46 has first been credited to the "Shore Protection Fund" pursuant to  
47 paragraph (1) of this subsection.

1 d. All amounts paid to the State Treasurer from the payment of  
2 the additional fee shall be credited to the Neighborhood  
3 Preservation Nonlapsing Revolving Fund established pursuant to  
4 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established  
5 under section 20 thereof (C.52:27D-320).

6 (cf: P.L.2004, c.120, s.61)  
7

8 21. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
9 read as follows:

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

13 (1) credit amounts paid to the State Treasurer, if any, in payment  
14 of fees collected pursuant to paragraph (1) or paragraph (2) of  
15 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the  
16 "Shore Protection Fund" created pursuant to section 1 of P.L.1992,  
17 c.148 (C.13:19-16.1), the Neighborhood Preservation Nonlapsing  
18 Revolving Fund established pursuant to section 20 of P.L.1985,  
19 c.222 (C.52:27D-320), and the " **【Highlands】 Watershed** Protection  
20 Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-  
21 19), pursuant to the requirements of section 4 of P.L.1968, c.49  
22 (C.46:15-8);

23 (2) appropriate the balance of the "Shore Protection Fund"  
24 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for  
25 the purposes of that fund;

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

29 (4) appropriate the balance of the " **【Highlands】 Watershed**  
30 Protection Fund" created pursuant to section 21 of P.L.2004, c.120  
31 (C.13:20-19), for the purposes of that fund.

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

43 (cf: P.L.2004, c.120, s.62)  
44

45 22. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to  
46 read as follows:

47 7. a. In preparing, maintaining and revising the State  
48 Development and Redevelopment Plan, the commission shall solicit

1 and give due consideration to the plans, comments and advice of  
2 each county and municipality, State agencies designated by the  
3 commission, **the Highlands Water Protection and Planning Council**  
4 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4),  
5 and other local and regional entities. Prior to the adoption of each  
6 plan, the commission shall prepare and distribute a preliminary plan  
7 to each county planning board, municipal planning board and other  
8 requesting parties, including State agencies **the Highlands Water**  
9 **Protection and Planning Council,** and metropolitan planning  
10 organizations. Not less than 45 nor more than 90 days thereafter,  
11 the commission shall conduct a joint public informational meeting  
12 with each county planning board in each county **and with the**  
13 **Highlands Water Protection and Planning Council** for the purpose  
14 of providing information on the plan, responding to inquiries  
15 concerning the plan, and receiving informal comments and  
16 recommendations from county and municipal planning boards, local  
17 public officials **the Highlands Water Protection and Planning**  
18 **Council,** and other interested parties.

19 b. The commission shall negotiate plan cross-acceptance with  
20 each county planning board, which shall solicit and receive any  
21 findings, recommendations and objections concerning the plan from  
22 local planning bodies. Each county planning board shall negotiate  
23 plan cross-acceptance among the local planning bodies within the  
24 county, unless it shall notify the commission in writing within 45  
25 days of the receipt of the preliminary plan that it waives this  
26 responsibility, in which case the commission shall designate an  
27 appropriate entity, or itself, to assume this responsibility. Each  
28 board or designated entity shall, within ten months of receipt of the  
29 preliminary plan, file with the commission a formal report of  
30 findings, recommendations and objections concerning the plan,  
31 including a description of the degree of consistency and any  
32 remaining inconsistency between the preliminary plan and county  
33 and municipal plans. In any event, should any municipality's plan  
34 remain inconsistent with the State Development and Redevelopment  
35 Plan after the completion of the cross-acceptance process, the  
36 municipality may file its own report with the State Planning  
37 Commission, notwithstanding the fact that the county planning  
38 board has filed its report with the State Planning Commission. The  
39 term cross-acceptance means a process of comparison of planning  
40 policies among governmental levels with the purpose of attaining  
41 compatibility between local, county, regional, and State plans. The  
42 process is designed to result in a written statement specifying areas  
43 of agreement or disagreement and areas requiring modification by  
44 parties to the cross-acceptance.

45 c. Upon consideration of the formal reports of the county  
46 planning boards, the commission shall prepare and distribute a final  
47 plan to county and municipal planning boards, **the Highlands**

1 Water Protection and Planning Council,】 and other interested  
2 parties. The commission shall conduct not less than six public  
3 hearings in different locations throughout the State for the purpose  
4 of receiving comments on the final plan. The commission shall give  
5 at least 30 days' public notice of each hearing in advertisements in  
6 at least two newspapers which circulate in the area served by the  
7 hearing and at least 30 days' notice to the governing body and  
8 planning board of each county and municipality in the area served  
9 by the hearing 【and to the Highlands Water Protection and Planning  
10 Council for any area in the Highlands Region served by the  
11 hearing】.

12 d. Taking full account of the testimony presented at the public  
13 hearings, the commission shall make revisions in the plan as it  
14 deems necessary and appropriate and adopt the final plan by a  
15 majority vote of its authorized membership no later than 60 days  
16 after the final public hearing.

17 (cf: P.L.2004, c.120, s.67)

18

19 23. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to  
20 read as follows:

21 8. a. The commission shall adopt rules and regulations to carry  
22 out its purposes, including procedures to facilitate the solicitation  
23 and receipt of comments in the preparation of the preliminary and  
24 final plan and to ensure a process for comparison of the plan with  
25 county and municipal master plans and regional plans, and  
26 procedures for coordinating the information collection, storage and  
27 retrieval activities of the various State agencies, and to establish a  
28 process for the endorsement of municipal, county, and regional  
29 plans that are consistent with the State Development and  
30 Redevelopment Plan.

31 b. 【Any municipality or county or portion thereof located in the  
32 Highlands preservation area as defined in section 3 of P.L.2004,  
33 c.120 (C.13:20-3) shall be exempt from the plan endorsement  
34 process established in the rules and regulations adopted pursuant to  
35 subsection a. of this section. Upon the State Planning Commission  
36 endorsing the regional master plan adopted by the Highlands Water  
37 Protection and Planning Council pursuant to section 8 of P.L.2004,  
38 c.120 (C.13:20-8), any municipal master plan and development  
39 regulations or county master plan and associated regulations that  
40 have been approved by the Highlands Water Protection and  
41 Planning Council pursuant to section 14 or 15 of P.L.2004, c.120  
42 (C.13:20-14 or C.13:20-15) shall be deemed the equivalent of  
43 having those plans endorsed by the State Planning Commission.】  
44 (Deleted by amendment, P.L. , c. ) (pending before the  
45 Legislature as this bill)

46 (cf: P.L.2004, c.120, s.69)

1       24. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended to  
2 read as follows:

3       11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)  
4 shall not be construed to affect the plans and regulations of the  
5 Pinelands Commission pursuant to the "Pinelands Protection Act,"  
6 P.L.1979, c.111 (C.13:18A-1 et seq.), or the New Jersey  
7 Meadowlands Commission pursuant to the "Hackensack  
8 Meadowlands Reclamation and Development Act," P.L.1968, c.404  
9 (C.13:17-1 et seq.) **】, or the Highlands Water Protection and**  
10 **Planning Council pursuant to the "Highlands Water Protection and**  
11 **Planning Act,"**P.L.2004, c.120 (C.13:20-1 et al.) for that portion of  
12 the Highlands Region lying within the preservation area as defined  
13 in section 3 of P.L.2004, c.120 (C.13:20-3)**】** . The State Planning  
14 Commission shall rely on the adopted plans and regulations of these  
15 entities in developing the State Development and Redevelopment  
16 Plan.

17       b. The State Planning Commission may adopt, after the  
18 enactment date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal  
19 planning policies of the rules and regulations adopted pursuant to  
20 P.L.1973, c.185 (C.13:19-1 et seq.), the coastal planning policies of  
21 the rules and regulations adopted pursuant to subsection b. of  
22 section 17 of P.L.1973, c.185 (C.13:19-17) and any coastal  
23 planning policies of rules and regulations adopted pursuant to  
24 P.L.1973, c.185 (C.13:19-1 et seq.) thereafter as the State  
25 Development and Redevelopment Plan for the coastal area as  
26 defined in section 4 of P.L.1973, c.185 (C.13:19-4).  
27 (cf: P.L.2004, c.120, s.72)  
28

29       25. Section 3 of P.L.2004, c.89 (C.52:27D-10.4) is amended to  
30 read as follows:

31       3. The Smart Growth Ombudsman shall:

32       a. in conjunction with the Directors of the Divisions of Smart  
33 Growth established pursuant to sections 5, 7 and 9 of P.L.2004, c.89  
34 (C.13:1D-145, C.27:1E-2 and C.52:27D-10.6), review all relevant  
35 permit programs and requirements and make recommendations to  
36 the Governor and the departments regarding integration of multiple  
37 review and approval processes and recommendations on those  
38 permits for which approval may be expedited in smart growth areas  
39 through mechanisms such as permits-by-rule, general permits or  
40 qualification of professionals;

41       b. maintain and operate an informational website which shall  
42 enable any person to gain access to information regarding the  
43 statutory obligations and authority of the Smart Growth  
44 Ombudsman, including those services which the ombudsman may  
45 provide to State permit applicants to facilitate or expedite permit  
46 approval and issuance;

47       c. at the request of an applicant, participate in the permit  
48 application and review process to ensure compliance with the time

1 frames set forth in subsection c. of section 5, subsection c. of  
2 section 7 or subsection c. of section 9, or subsections c. and d. of  
3 section 10, as the case may be, of P.L.2004, c.89 (C.13:1D-145,  
4 C.27:1E-2, C.52:27D-10.6 or C.13:1D-146);

5 d. review any new rules or regulations proposed by any State  
6 agency and determine whether the proposed rules or regulations, as  
7 they pertain to the smart growth areas, are consistent with the State  
8 Development and Redevelopment Plan. In the event that the Smart  
9 Growth Ombudsman determines that the proposed rules or  
10 regulations in the smart growth areas are not consistent with the  
11 State Development and Redevelopment Plan, the Smart Growth  
12 Ombudsman shall return the proposed rules or regulations to the  
13 State agency with recommended amendments necessary to make the  
14 proposed rules or regulations consistent with the State Development  
15 and Redevelopment Plan. A State agency shall not file proposed  
16 new rules or regulations for publication in the New Jersey Register  
17 unless and until the Smart Growth Ombudsman determines the  
18 proposed rules or regulations in the smart growth areas are  
19 consistent with the State Development and Redevelopment Plan.  
20 The requirements of this section may be waived upon a written  
21 determination by the Chief Counsel to the Governor that the  
22 proposed rules or regulations are required to implement a federal or  
23 State mandate; and

24 e. one year after the date of enactment of this act and annually  
25 thereafter, prepare a report which shall be transmitted to the  
26 Governor and the Legislature summarizing the activities of the  
27 ombudsman, including, but not limited to, a description of the  
28 permits, permit mechanisms, and permit processes that have been  
29 streamlined, a list of permit applications in which the ombudsman  
30 has participated, any rules or regulations that have been reviewed  
31 and the consistency determinations made by the ombudsman, and a  
32 report concerning the programs established for the registration and  
33 qualification of professionals by the Director of the Division of  
34 Smart Growth in the Department of Environmental Protection, the  
35 Department of Transportation, and the Department of Community  
36 Affairs.

37 As used in this section, "State agency" shall not include the  
38 Pinelands Commission established pursuant to P.L.1979, c.111  
39 (C.13:18A-1 et seq.), [the Highlands Water Protection and Planning  
40 Council established pursuant to P.L.2004, c.89 (C.52:27D-10.2 et  
41 al),] or the New Jersey Meadowlands Commission established  
42 pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), or any independent  
43 authority or commission.  
44 (cf: P.L.2004, c.89, s.3)

45  
46 26. Section 20 of P.L.2004, c.120 (C.54:1-84) is amended to  
47 read as follows:

- 1       20. a. The "Pinelands Property Tax Assistance Fund" is  
2 established in the General Fund as a special nonlapsing fund for the  
3 purpose of providing State aid to qualifying municipalities in the  
4 pinelands area. The Commissioner of Community Affairs shall  
5 serve as administrator of the fund.
- 6       b. Every qualifying municipality in the pinelands area shall be  
7 eligible for State aid made with monies in the fund. The  
8 Commissioner of Community Affairs shall annually distribute to  
9 each qualifying municipality in the pinelands area a percentage of  
10 the monies annually allocated to the fund equal to the percentage  
11 the qualifying municipality received of the total sum distributed  
12 from the "Pinelands Municipal Property Tax Stabilization Fund"  
13 pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).
- 14       c. The State Treasurer shall annually credit, in each of the first  
15 five years after the date of enactment of P.L.2004, c.120 (C.13:20-1  
16 et al.), to the "Pinelands Property Tax Assistance Fund" from the "  
17 **Highlands** Watershed Protection Fund" established pursuant to  
18 section 21 of P.L.2004, c.120 (C.13:20-19), the sum of \$1,800,000.
- 19       d. Any State aid made available with monies from the  
20 "Pinelands Property Tax Assistance Fund" pursuant to this section  
21 shall be in addition to any other moneys appropriated or otherwise  
22 made available pursuant to any other federal or State program for  
23 the same category of aid.
- 24       e. Any qualifying municipality receiving State aid pursuant to  
25 this section shall anticipate those sums in its annual budget or any  
26 amendments or supplements thereto as a direct offset to the amount  
27 to be raised by taxation.
- 28       f. The Director of the Division of Local Government Services in  
29 the Department of Community Affairs shall make such changes in  
30 the budget of any qualifying municipality to ensure that all sums  
31 received pursuant to this section are utilized as a direct offset to the  
32 amount to be raised by taxation and shall make such changes  
33 therein as the director deems necessary to ensure that the offset  
34 occurs.
- 35       g. Any sum received by a qualifying municipality pursuant to  
36 this section shall not be considered as an exception or exemption  
37 under P.L.1976, c.68 (C.40A:4-45.1 et seq.).
- 38       h. Notwithstanding the provisions of the "Local Budget Law"  
39 (N.J.S.40A:4-1 et seq.), a qualifying municipality which is due a  
40 payment pursuant to this section may anticipate the amount of the  
41 entitlement in its annual budget for the year in which the payment is  
42 made.
- 43       i. The Director of the Division of Local Government Services  
44 shall adopt, pursuant to the "Administrative Procedure Act,"  
45 P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as  
46 may be necessary to implement the provisions of this section.
- 47       j. As used in this section:

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

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

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

10 (cf: P.L.2004, c.120, s.20)

11

12 27. Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to  
13 read as follows:

14 13. a. The department shall prepare and adopt the New Jersey  
15 Statewide Water Supply Plan, which plan shall be revised and  
16 updated at least once every five years.

17 b. The plan shall include, but need not be limited to, the  
18 following:

19 (1) An identification of existing Statewide and regional ground  
20 and surface water supply sources, both interstate and intrastate, and  
21 the current usage thereof;

22 (2) Projections of Statewide and regional water supply demands  
23 for the duration of the plan;

24 (3) Recommendations for improvements to existing State water  
25 supply facilities, the construction of additional State water supply  
26 facilities, and for the interconnection or consolidation of existing  
27 water supply systems, both interstate and intrastate;

28 (4) Recommendations for the diversion or use of fresh surface or  
29 ground waters and saline surface or ground waters for aquaculture  
30 purposes;

31 (5) Recommendations for legislative and administrative actions  
32 to provide for the maintenance and protection of watershed areas;

33 (6) Identification of lands purchased by the State for water  
34 supply facilities that currently are not actively used for water supply  
35 purposes, including, but not limited to, the Six Mile Run Reservoir  
36 Site, with recommendations as to the future use of these lands for  
37 water supply purposes within or outside of the planning horizon for  
38 the plan; and

39 (7) Recommendations for administrative actions to ensure the  
40 protection of ground and surface water quality and water supply  
41 sources.

42 c. Prior to adopting the plan, including any revisions and  
43 updates thereto, the department shall:

44 (1) Prepare and make available to all interested persons a copy  
45 of the proposed plan or proposed revisions and updates to the  
46 current plan;

1 (2) Conduct public meetings in the several geographic areas of  
2 the State on the proposed plan or proposed revisions and updates to  
3 the current plan; and

4 (3) Consider the comments made at these meetings, make any  
5 revisions to the proposed plan or proposed revisions and updates to  
6 the current plan as it deems necessary, and adopt the plan.

7 d. **【**Prior to the adoption of any revision to the New Jersey  
8 Statewide Water Supply Plan pursuant to this section, the  
9 department shall consult with the Highlands Water Protection and  
10 Planning Council, established pursuant to section 4 of P.L.2004,  
11 c.120 (C.13:20-4), concerning the possible effects and impact of the  
12 plan upon the Highlands regional master plan, adopted pursuant to  
13 section 8 of P.L.2004, c.120 (C.13:20-8l), and the water and other  
14 natural resources of the Highlands Region, as defined in section 3  
15 of P.L.2004, c.120 (C.13:20-3).**】** (Deleted by amendment, P.L. ,  
16 c. ) (pending before the Legislature as this bill)  
17 (cf: P.L.2005, c.285, s.1)  
18

19 28. Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is amended to  
20 read as follows:

21 10. No action taken by the department pursuant to the provisions  
22 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202  
23 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the  
24 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
25 **【,** or the comprehensive management plan for the pinelands area  
26 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8) 【,  
27 the "Highlands Water Protection and Planning Act,"P.L.2004, c.120  
28 (C.13:20-1 et al.), or the Highlands regional master plan adopted  
29 pursuant to section 8 of P.L.2004, c.120 (C.13:20-8)】 .  
30 (cf: P.L.2004, c.120, s.74)  
31

32 29. Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read  
33 as follows:

34 6. a. The authority is hereby empowered to design, initiate,  
35 acquire, construct, maintain, repair and operate projects or cause the  
36 same to be operated pursuant to a lease, sublease, or agreement with  
37 any person or governmental agency, and to issue bonds of the  
38 authority to finance these projects, payable from the revenues and  
39 other funds of the authority. All projects undertaken by the  
40 authority shall conform to the recommendations of the New Jersey  
41 Statewide Water Supply Plan.

42 b. The authority shall be subject to compliance with all State  
43 health and environmental protection statutes and regulations and  
44 any other statutes and regulations not inconsistent herewith. The  
45 authority may, upon the request of a governmental agency, enter  
46 into a contract to provide services for any project.

1 c. The authority shall consult with the Water Supply Advisory  
2 Council from time to time prior to final action on any project or  
3 undertaking authorized pursuant to this section.

4 d. **【**The authority shall consult with the Highlands Water  
5 Protection and Planning Council, established pursuant to section 4  
6 of P.L.2004, c.120 (C.13:20-4), from time to time prior to final  
7 action on any project or undertaking authorized pursuant to this  
8 section in the Highlands Region, as defined in section 3 of  
9 P.L.2004, c.120 (C.13:20-3). The provisions of section 16 of  
10 P.L.2004, c.120 (C.13:20-16) shall apply to the authority.**】** (Deleted  
11 by amendment, P.L. , c. ) (pending before the Legislature as this  
12 bill)  
13 (cf: P.L.2004, c.120, s.75)  
14

15 30. Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended to read  
16 as follows:

17 7. The Lake Hopatcong Commission shall, in conjunction with  
18 each Lake Hopatcong municipality, develop a stormwater and  
19 nonpoint source pollution management plan for the region. The  
20 stormwater management and nonpoint source pollution plan shall be  
21 designed to reduce siltation and prevent pollution caused by  
22 stormwater runoff or nonpoint sources that would otherwise  
23 degrade the water quality of Lake Hopatcong and its tributaries,  
24 interfere with water-based recreation, or adversely affect aquatic  
25 life. The goals and purposes of the plan shall be to improve the  
26 quality of stormwater runoff entering Lake Hopatcong, identify cost  
27 effective measures to control stormwater runoff and nonpoint  
28 source pollution, and identify funding mechanisms for  
29 implementation of such measures. **【**The commission shall consult  
30 with the Highlands Water Protection and Planning Council,  
31 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), in  
32 developing the stormwater and nonpoint source pollution  
33 management plan pursuant to this section. Any plan developed  
34 pursuant to this section that may impact upon or otherwise affect  
35 the Highlands preservation area, as defined in section 3 of  
36 P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands  
37 regional master plan adopted by the council pursuant to section 8 of  
38 that act.**】**

39 (cf: P.L.2004, c.120, s.76)  
40

41 31. Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read  
42 as follows:

43 9. Each municipality represented on the commission shall  
44 provide the commission notice of proposed amendments and  
45 revisions to municipal master plans, zoning and other ordinances  
46 governing land use and development, and applications for specific  
47 development projects, and request that the commission review and  
48 evaluate the proposed amendment, revision, or application to assess

1 its potential impact upon Lake Hopatcong and its watershed and  
2 provide the commission's recommendations for appropriate action  
3 thereon. **【As part of the commission's review and evaluation, the**  
4 **commission shall consider the consistency of the amendment or**  
5 **revision with the Highlands regional master plan, adopted pursuant**  
6 **to section 8 of P.L.2004, c.120 (C.13:20-8), if it may impact upon**  
7 **or otherwise affect the Highlands preservation area, as defined in**  
8 **section 3 of P.L.2004, c.120 (C.13:20-3), and shall consult with the**  
9 **Highlands Water Protection and Planning Council, established**  
10 **pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any such**  
11 **matter.】**

12 (cf: P.L.2004, c.120, s.77)

13

14 32. R.S.58:5-12 is amended to read as follows:

15 58:5-12. The district water supply commission shall thereupon  
16 proceed to formulate plans for obtaining a water supply or a new or  
17 additional water supply for the municipality and any other  
18 municipalities that may desire water from such joint water supply,  
19 as provided for herein, and to estimate the cost thereof, the annual  
20 cost of operating the same, the probable share of the cost which  
21 each of the municipalities will be called upon to pay for its share of  
22 water supply and plant used in common with the other  
23 municipalities, and the cost of any distribution system, water supply  
24 or plant acquired or constructed for its individual use, and shall  
25 report the plans to the municipalities, together with a form of  
26 contract, providing for the raising and payment of the necessary  
27 funds to meet the cost of acquisition and operation.

28 **【If the plans to be formulated pursuant to this section involve**  
29 **obtaining water from the Highlands Region, as defined in section 3**  
30 **of P.L.2004, c.120 (C.13:20-3), the district water supply**  
31 **commission shall consult with the Highlands Water Protection and**  
32 **Planning Council established pursuant to section 4 of P.L.2004,**  
33 **c.120 (C.13:20-4) prior to moving forward with any such plans or**  
34 **entering into any such contracts. The provisions of section 16 of**  
35 **P.L.2004, c.120 (C.13:20-16) shall apply to the district water supply**  
36 **commission.】**

37 (cf: P.L.2004, c.120, s.78)

38

39 33. Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is amended to  
40 read as follows:

41 1. a. An application for a permit issued by the Department of  
42 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1  
43 et seq.) for the discharge of groundwater to surface water involving  
44 a groundwater remedial action necessitated by a discharge from an  
45 underground storage tank containing petroleum products or a  
46 groundwater remedial action involving petroleum products, shall  
47 contain, in addition to a properly filled application form:

1 (1) such documentation or other information on the permit  
2 application as may be prescribed by the department on a checklist  
3 made available to a prospective applicant;

4 (2) if the discharge from the proposed groundwater remedial  
5 action is located within a wastewater service district or area of a  
6 local public entity, a certified statement that a request, dated at least  
7 60 days prior to the filing of the permit application, had been made  
8 to the local public entity to discharge the groundwater into the  
9 wastewater collection or treatment facilities of that entity, and that  
10 no reply has been received from that entity, or a written statement  
11 by the local public entity, dated not more than 60 days prior to the  
12 filing of the permit application with the department, that the entity  
13 has approved or rejected a written request by the applicant to  
14 discharge the treated groundwater into the wastewater collection or  
15 treatment facilities of that entity. Notwithstanding that a local  
16 public entity has approved the request to discharge groundwater  
17 into its facilities, the department may approve the applicant's permit  
18 to discharge the groundwater to surface water upon a finding that it  
19 is in the public interest;

20 (3) a certified statement that a copy of the completed application  
21 form along with a consent request, as prescribed in subsection b. of  
22 this section, have been filed with the clerk of the municipality in  
23 which the site of the proposed groundwater remedial action is  
24 located, and setting forth the date of the filing with the host  
25 municipality, which filing shall be made prior to, or concurrent  
26 with, the filing of the application with the department; and

27 (4) within the pinelands area, documentation from the Pinelands  
28 Commission that the application is consistent with the requirements  
29 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et  
30 seq.) or any regulations promulgated pursuant thereto and section  
31 502 of the "National Parks and Recreation Act of 1978" (Pub.L.  
32 95-625) **】**; and

33 (5) within the Highlands preservation area, documentation from  
34 the Highlands Water Protection and Planning Council that the  
35 application is consistent with the requirements of the "Highlands  
36 Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et  
37 al.), and any rules and regulations and the Highlands regional  
38 master plan adopted pursuant thereto **】**.

39 b. The department shall prescribe the form and content of a  
40 request for consent filed with a municipality pursuant to paragraph  
41 (3) of subsection a. of this section. The municipal consent request  
42 shall be limited to an identification of all municipal approvals with  
43 which the applicant is required to comply, the status of any  
44 applications filed therefor, and whether or not the municipality  
45 consents to the application and the specific reasons therefor. The  
46 request for consent form shall also advise that documentation and  
47 other information relating to the application have been filed and are  
48 available for review at the department. A municipality receiving a

1 request for consent form shall have 30 days from the date of receipt  
2 of a copy of the application and request for consent form to file  
3 with the department the information requested, and its consent of,  
4 or objections to, the application. Municipal consent or objection to  
5 a groundwater remedial action shall be by resolution of the  
6 governing body of the municipality unless the governing body has,  
7 by resolution, delegated such authority to a qualified officer or  
8 entity thereof, in which case the endorsement shall be signed by the  
9 designated officer or official of the entity. Notwithstanding that a  
10 municipality objects to a permit application or fails to file a consent  
11 or objection to the permit application, the department may approve  
12 the applicant's permit application to discharge groundwater to  
13 surface water.

14 c. An application pursuant to subsection a. of this section shall  
15 be deemed complete, for the purposes of departmental review,  
16 within 30 days of the filing of the application with the department  
17 unless the department notifies the applicant, in writing, prior to  
18 expiration of the 30 days that the application has failed to satisfy  
19 one or more of the items identified in subsection a. of this section.  
20 If an application is determined to be complete, the department shall  
21 review and take final action on the completed application within 60  
22 days from commencement of the review, or, if the parties mutually  
23 agree to a 30-day extension, within 90 days therefrom. The review  
24 period for a completed application shall commence immediately  
25 upon termination of the 30-day period, or upon determination by the  
26 department that the application is complete, whichever occurs first.  
27 If the department fails to take final action on a permit application  
28 for a general permit in the time frames set forth in this subsection,  
29 that general permit shall be deemed to have been approved by the  
30 department. The department shall review an application for a  
31 permit pursuant to subsection a. of this section and shall take action  
32 on that application pursuant to the time frames set forth in this  
33 subsection, notwithstanding that all of the municipal approvals have  
34 not been obtained, unless such approvals would materially affect  
35 the terms and conditions of the permit, except that in such instances  
36 the department may condition its approval of the application on the  
37 necessary municipal approvals being subject to the terms and  
38 conditions of the application.

39 d. The department may issue a general permit for the discharge  
40 of groundwater to surface water pursuant to a groundwater remedial  
41 action of discharged petroleum products as provided in subsection  
42 a. of this section.

43 e. (1) The department may not require a municipal consent of a  
44 treatment works application for a groundwater remedial action for  
45 which a permit application is submitted pursuant to subsection a. of  
46 this section.

47 (2) If a completed application for a treatment works approval for  
48 a groundwater remedial action is filed with the department at the

1 same time as an application for a general permit therefor, the  
2 department shall concurrently review the two applications, except  
3 that the review of the application for the treatment works approval  
4 for a groundwater remedial action shall not be subject to the time  
5 frames set forth in subsection c. of this section.

6 f. The provisions of this section shall apply to applications filed  
7 on or after the effective date of this act, except that the Department  
8 of Environmental Protection may implement any of the provisions  
9 of this section prior to that date.

10 g. The department may, in accordance with the "Administrative  
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules  
12 and regulations to implement the provisions of this act.

13 h. For purposes of this section:

14 "General permit" means a permit issued by the department for  
15 similar discharges.

16 "Groundwater remedial action" means the removal or abatement  
17 of one or more pollutants in a groundwater source.

18 "Local public entity" means a sewerage authority established  
19 pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal  
20 authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et  
21 seq.), the Passaic Valley Sewerage Commissioners continued  
22 pursuant to R.S.58:14-2, a joint meeting established pursuant to  
23 R.S.40:63-68 et seq. or a local unit authorized to operate a sewerage  
24 facility pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

25 "Underground storage tank" shall have the same meaning as in  
26 section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used  
27 herein underground storage tanks shall include:

28 (1) farm underground storage tanks of 1,100 gallons or less  
29 capacity used for storing motor fuel for noncommercial purposes;

30 (2) underground storage tanks used to store heating oil for  
31 on-site consumption in a nonresidential building with a capacity of  
32 2,000 gallons or less; and

33 (3) underground storage tanks used to store heating oil for  
34 on-site consumption in a residential building.

35 (cf: P.L.2004, c.120, s.79)

36  
37 34. Section 24 of P.L.1993, c.139 (C.58:10B-2) is amended to  
38 read as follows:

39 24. a. The department shall, pursuant to the "Administrative  
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules  
41 and regulations establishing criteria and standards necessary for the  
42 submission, evaluation and approval of plans or results of  
43 preliminary assessments, site investigations, remedial  
44 investigations, and remedial action workplans and for the  
45 implementation thereof. The documents for the preliminary  
46 assessment, site investigation, remedial investigation, and remedial  
47 action workplan required to be submitted for a remediation, shall  
48 not be identical to the criteria and standards used for similar

1 documents submitted pursuant to federal law, except as may be  
2 required by federal law. In establishing criteria and standards for  
3 these terms the department shall strive to be result oriented, provide  
4 for flexibility, and to avoid duplicate or unnecessarily costly or time  
5 consuming conditions or standards.

6 b. The regulations adopted by the department pursuant to  
7 subsection a. of this section shall provide that a person performing a  
8 remediation may deviate from the strict adherence to the  
9 regulations, in a variance procedure or by another method  
10 prescribed by the department, if that person can demonstrate that  
11 the deviation and the resulting remediation would be as protective  
12 of human health, safety, and the environment, as appropriate, as the  
13 department's regulations and that the health risk standards  
14 established in subsection d. of section 35 of P.L.1993, c.139  
15 (C.58:10B-12) and any applicable environmental standards would  
16 be met. Factors to be considered in determining if the deviation  
17 should be allowed are whether the alternative method:

18 (1) has been either used successfully or approved by the  
19 department in writing or similar situations;

20 (2) reflects current technology as documented in peer-reviewed  
21 professional journals;

22 (3) can be expected to achieve the same or substantially the  
23 same results or objectives as the method which it is to replace; and

24 (4) furthers the attainment of the goals of the specific remedial  
25 phase for which it is used.

26 c. To the extent practicable and in conformance with the  
27 standards for remediations as provided in section 35 of P.L.1993,  
28 c.139 (C.58:10-12), the department shall adopt rules and regulations  
29 that allow for certain remedial actions to be undertaken in a manner  
30 prescribed by the department without having to obtain prior  
31 approval from or submit detailed documentation to the department.  
32 A person who performs a remedial action in the manner prescribed  
33 in the rules and regulations of the department, and who certifies this  
34 fact to the department, shall obtain a final remediation document for  
35 that particular remedial action.

36 d. The department shall develop regulatory procedures that  
37 encourage the use of innovative technologies in the performance of  
38 remedial actions and other remediation activities.

39 e. Notwithstanding any other provisions of this section, all  
40 remediation standards and remedial actions that involve real  
41 property located in the pinelands area shall be consistent with the  
42 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
43 (C.13:18A-1 et seq.), any rules and regulations adopted pursuant  
44 thereto, and with section 502 of the "National Parks and Recreation  
45 Act of 1978," 16 U.S.C. s.471i.

46 f. **【**Notwithstanding any other provisions of this section, all  
47 remediation standards and remedial actions that involve real  
48 property located in the Highlands preservation area shall be

1 consistent with the provisions of the "Highlands Water Protection  
2 and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules  
3 and regulations and the Highlands regional master plan adopted  
4 pursuant thereto.】 (Deleted by amendment, P.L. , c. ) (pending  
5 before the Legislature as this bill)  
6 (cf: P.L.2009, c.60, s.41)  
7

8 35. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
9 read as follows:

10 35. a. The Department of Environmental Protection shall adopt  
11 minimum remediation standards for soil, groundwater, and surface  
12 water quality necessary for the remediation of contamination of real  
13 property. The remediation standards shall be developed to ensure  
14 that the potential for harm to public health and safety and to the  
15 environment is minimized to acceptable levels, taking into  
16 consideration the location, the surroundings, the intended use of the  
17 property, the potential exposure to the discharge, and the  
18 surrounding ambient conditions, whether naturally occurring or  
19 man-made.

20 Until the minimum remediation standards for the protection of  
21 public health and safety as described herein are adopted, the  
22 department shall apply public health and safety remediation  
23 standards for contamination at a site on a case-by-case basis based  
24 upon the considerations and criteria enumerated in this section.

25 The department may not require any person to perform an  
26 ecological evaluation of any area of concern that consists of an  
27 underground storage tank storing heating oil for on-site  
28 consumption in a one to four family residential building.

29 b. In developing minimum remediation standards the  
30 department shall:

31 (1) base the standards on generally accepted and peer reviewed  
32 scientific evidence or methodologies;

33 (2) base the standards upon reasonable assumptions of exposure  
34 scenarios as to amounts of contaminants to which humans or other  
35 receptors will be exposed, when and where those exposures will  
36 occur, and the amount of that exposure;

37 (3) avoid the use of redundant conservative assumptions. The  
38 department shall avoid the use of redundant conservative  
39 assumptions by the use of parameters that provide an adequate  
40 margin of safety and which avoid the use of unrealistic conservative  
41 exposure parameters and which guidelines make use of the guidance  
42 and regulations for exposure assessment developed by the United  
43 States Environmental Protection Agency pursuant to the  
44 "Comprehensive Environmental Response, Compensation, and  
45 Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory  
46 authorities as applicable;

1 (4) where feasible, establish the remediation standards as  
2 numeric or narrative standards setting forth acceptable levels or  
3 concentrations for particular contaminants; and

4 (5) consider and utilize, in the absence of other standards used  
5 or developed by the Department of Environmental Protection and  
6 the United States Environmental Protection Agency, the toxicity  
7 factors, slope factors for carcinogens and reference doses for non-  
8 carcinogens from the United States Environmental Protection  
9 Agency's Integrated Risk Information System (IRIS).

10 c. (1) The department shall develop residential and  
11 nonresidential soil remediation standards that are protective of  
12 public health and safety. For contaminants that are mobile and  
13 transportable to groundwater or surface water, the residential and  
14 nonresidential soil remediation standards shall be protective of  
15 groundwater and surface water. Residential soil remediation  
16 standards shall be set at levels or concentrations of contamination  
17 for real property based upon the use of that property for residential  
18 or similar uses and which will allow the unrestricted use of that  
19 property without the need of engineering devices or any  
20 institutional controls and without exceeding a health risk standard  
21 greater than that provided in subsection d. of this section.  
22 Nonresidential soil remediation standards shall be set at levels or  
23 concentrations of contaminants that recognize the lower likelihood  
24 of exposure to contamination on property that will not be used for  
25 residential or similar uses, which will allow for the unrestricted use  
26 of that property for nonresidential purposes, and that can be met  
27 without the need of engineering controls. Whenever real property is  
28 remediated to a nonresidential soil remediation standard, except as  
29 otherwise provided in paragraph (3) of subsection g. of this section,  
30 the department shall require, pursuant to section 36 of P.L.1993,  
31 c.139 (C.58:10B-13), that the use of the property be restricted to  
32 nonresidential or other uses compatible with the extent of the  
33 contamination of the soil and that access to that site be restricted in  
34 a manner compatible with the allowable use of that property.

35 (2) The department may develop differential remediation  
36 standards for surface water or groundwater that take into account  
37 the current, planned, or potential use of that water in accordance  
38 with the "Clean Water Act" (33 U.S.C. s.1251 et seq.) and the  
39 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

40 d. The department shall develop minimum remediation  
41 standards for soil, groundwater, and surface water intended to be  
42 protective of public health and safety taking into account the  
43 provisions of this section. In developing these minimum health risk  
44 remediation standards the department shall identify the hazards  
45 posed by a contaminant to determine whether exposure to that  
46 contaminant can cause an increase in the incidence of an adverse  
47 health effect and whether the adverse health effect may occur in

1 humans. The department shall set minimum soil remediation health  
2 risk standards for both residential and nonresidential uses that:

3 (1) for human carcinogens, as categorized by the United States  
4 Environmental Protection Agency, will result in an additional  
5 cancer risk of one in one million;

6 (2) for noncarcinogens, will limit the Hazard Index for any  
7 given effect to a value not exceeding one.

8 The health risk standards established in this subsection are for  
9 any particular contaminant and not for the cumulative effects of  
10 more than one contaminant at a site.

11 e. Remediation standards and other remediation requirements  
12 established pursuant to this section and regulations adopted  
13 pursuant thereto shall apply to remediation activities required  
14 pursuant to the "Spill Compensation and Control Act," P.L.1976,  
15 c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act,"  
16 P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21  
17 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330  
18 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970,  
19 c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical  
20 Waste Management Act," sections 1 through 25 of P.L.1989, c.34  
21 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities  
22 Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary  
23 Landfill Facility Closure and Contingency Fund Act," P.L.1981,  
24 c.306 (C.13:1E-100 et seq.), the "Regional Low-Level Radioactive  
25 Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177  
26 et seq.), or any other law or regulation by which the State may  
27 compel a person to perform remediation activities on contaminated  
28 property. However, nothing in this subsection shall be construed to  
29 limit the authority of the department to establish discharge limits  
30 for pollutants or to prescribe penalties for violations of those limits  
31 pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the  
32 complete removal of nonhazardous solid waste pursuant to law.

33 f. (1) A person performing a remediation of contaminated real  
34 property, in lieu of using the established minimum soil remediation  
35 standard for either residential use or nonresidential use adopted by  
36 the department pursuant to subsection c. of this section, may submit  
37 to the department a request to use an alternative residential use or  
38 nonresidential use soil remediation standard. The use of an  
39 alternative soil remediation standard shall be based upon site  
40 specific factors which may include (1) physical site characteristics  
41 which may vary from those used by the department in the  
42 development of the soil remediation standards adopted pursuant to  
43 this section; or (2) a site specific risk assessment. If a person  
44 performing a remediation requests to use an alternative soil  
45 remediation standard based upon a site specific risk assessment, that  
46 person shall demonstrate to the department that the requested  
47 deviation from the risk assessment protocol used by the department  
48 in the development of soil remediation standards pursuant to this

1 section is consistent with the guidance and regulations for exposure  
2 assessment developed by the United States Environmental  
3 Protection Agency pursuant to the "Comprehensive Environmental  
4 Response, Compensation, and Liability Act of 1980," 42  
5 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A  
6 site specific risk assessment may consider exposure scenarios and  
7 assumptions that take into account the form of the contaminant  
8 present, natural biodegradation, fate and transport of the  
9 contaminant, available toxicological data that are based upon  
10 generally accepted and peer reviewed scientific evidence or  
11 methodologies, and physical characteristics of the site, including,  
12 but not limited to, climatic conditions and topographic conditions.  
13 Nothing in this subsection shall be construed to authorize the use of  
14 an alternative soil remediation standard in those instances where an  
15 engineering control is the appropriate remedial action, as  
16 determined by the department, to prevent exposure to  
17 contamination.

18 Upon a determination by the department that the requested  
19 alternative remediation standard satisfies the department's  
20 regulations, is protective of public health and safety, as established  
21 in subsection d. of this section, and is protective of the environment  
22 pursuant to subsection a. of this section, the alternative residential  
23 use or nonresidential use soil remediation standard shall be  
24 approved by the department. The burden to demonstrate that the  
25 requested alternative remediation standard is protective rests with  
26 the person requesting the alternative standard and the department  
27 may require the submission of any documentation as the department  
28 determines to be necessary in order for the person to meet that  
29 burden.

30 (2) The department may, upon its own initiative, require an  
31 alternative remediation standard for a particular contaminant for a  
32 specific real property site, in lieu of using the established minimum  
33 residential use or nonresidential use soil remediation standard  
34 adopted by the department for a particular contaminant pursuant to  
35 this section. The department may require an alternative remediation  
36 standard pursuant to this paragraph upon a determination by the  
37 department, based on the weight of the scientific evidence, that due  
38 to specific physical site characteristics of the subject real property,  
39 including, but not limited to, its proximity to surface water, the use  
40 of the adopted residential use or nonresidential use soil remediation  
41 standards would not be protective, or would be unnecessarily  
42 overprotective, of public health or safety or of the environment, as  
43 appropriate.

44 g. The development, selection, and implementation of any  
45 remediation standard or remedial action shall ensure that it is  
46 protective of public health, safety, and the environment, as  
47 applicable, as provided in this section. In determining the  
48 appropriate remediation standard or remedial action that shall occur

1 at a site, the department and any person performing the remediation,  
2 shall base the decision on the following factors:

3 (1) Unrestricted use remedial actions, limited restricted use  
4 remedial actions and restricted use remedial actions shall be  
5 allowed except that unrestricted use remedial actions and limited  
6 restricted use remedial actions shall be preferred over restricted use  
7 remedial actions. For any remediation initiated one year after the  
8 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the  
9 department shall require the use of an unrestricted use remedial  
10 action, or a presumptive remedy or an alternative remedy as  
11 provided in paragraph (10) of this subsection, at a site or area of  
12 concern where new construction is proposed for residential  
13 purposes, for use as a child care center licensed pursuant to  
14 P.L.1983, c.492 (C.30:5B-1 et seq.), or as a public school or private  
15 school as defined in N.J.S.18A:1-1, as a charter school established  
16 pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or where there  
17 will be a change in the use of the site to residential, child care, or  
18 public school, private school, or charter school purposes or another  
19 purpose that involves use by a sensitive population. For any  
20 remediation initiated on or after the date of enactment of P.L.2009,  
21 c.60 (C.58:10C-1 et al.), the department may require the use of an  
22 unrestricted use remedial action or a presumptive remedy as  
23 provided in guidelines adopted pursuant to paragraph (10) of this  
24 subsection for a site or area of concern that is to be used for  
25 residential, child care, or public school, private school, or charter  
26 school purposes or another purpose that involves use by a sensitive  
27 population. Except as provided in this subsection, and section 27 of  
28 P.L.2009, c.60 (C.58:10C-27), the department, however, may not  
29 disapprove the use of a restricted use remedial action or a limited  
30 restricted use remedial action so long as the selected remedial  
31 action meets the health risk standard established in subsection d. of  
32 this section, and where, as applicable, is protective of the  
33 environment. Except as provided in this subsection and section 27  
34 of P.L.2009, c.60 (C.58:10C-27), the choice of the remedial action  
35 to be implemented shall be made by the person responsible for  
36 conducting the remediation in accordance with regulations adopted  
37 by the department and that choice of the remedial action shall be  
38 approved by the department if all the criteria for remedial action  
39 selection enumerated in this section, as applicable, are met. Except  
40 as provided in section 27 of P.L.2009, c.60 (C.58:10C-27), the  
41 department may not require a person to compare or investigate any  
42 alternative remedial action as part of its review of the selected  
43 remedial action. The department may disapprove the selection of a  
44 remedial action for a site on which the proposed remedial action  
45 will render the property unusable for future redevelopment or for  
46 recreational use;

47 (2) Contamination may, upon the department's approval, be left  
48 onsite at levels or concentrations that exceed the minimum soil

1 remediation standards for residential use if the implementation of  
2 institutional or engineering controls at that site will result in the  
3 protection of public health, safety and the environment at the health  
4 risk standard established in subsection d. of this section, if the  
5 requirements established in subsections a., b., c. and d. of section 36  
6 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of  
7 this subsection, are met. The department may also require the  
8 treatment or removal of contaminated material that would pose an  
9 acute health or safety hazard in the event of failure of an  
10 engineering control;

11 (3) Real property on which there is soil that has not been  
12 remediated to the residential soil remediation standards, or real  
13 property on which the soil, groundwater, or surface water has been  
14 remediated to meet the required health risk standard by the use of  
15 engineering or institutional controls, may be developed or used for  
16 residential purposes, or for any other similar purpose, if (a) all areas  
17 of that real property at which a person may come into contact with  
18 soil are remediated to meet the residential soil remediation  
19 standards, (b) it is clearly demonstrated that for all areas of the real  
20 property, other than those described in subparagraph (a) above,  
21 engineering and institutional controls can be implemented and  
22 maintained on the real property sufficient to meet the health risk  
23 standard as established in subsection d. of this section, and (c) a  
24 presumptive remedy established and approved by the department  
25 pursuant to paragraph (10) of this subsection, or an alternative  
26 remedy approved by the department pursuant to paragraph (10) of  
27 this subsection, has been approved, as provided in paragraphs (1)  
28 and (10) of this subsection;

29 (4) Remediation shall not be required beyond the regional  
30 natural background levels for any particular contaminant. The  
31 department shall develop regulations that set forth a process to  
32 identify background levels of contaminants for a particular region.  
33 For the purpose of this paragraph "regional natural background  
34 levels" means the concentration of a contaminant consistently  
35 present in the environment of the region of the site and which has  
36 not been influenced by localized human activities;

37 (5) Remediation shall not be required of the owner or operator  
38 of real property for contamination coming onto the site from  
39 another property owned and operated by another person, unless the  
40 owner or operator is the person who is liable for cleanup and  
41 removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

42 (6) Groundwater that is contaminated shall not be required to be  
43 remediated to a level or concentration for any particular  
44 contaminant lower than the level or concentration that is migrating  
45 onto the property from another property owned and operated by  
46 another person;

47 (7) The technical performance, effectiveness and reliability of  
48 the proposed remedial action in attaining and maintaining

1 compliance with applicable remediation standards and required  
2 health risk standards shall be considered. In reviewing a proposed  
3 remedial action, the department or the licensed site remediation  
4 professional shall also consider the ability of the owner or operator  
5 to implement the proposed remedial action within a reasonable time  
6 frame without jeopardizing public health, safety or the environment;

7 (8) The use of a remedial action for soil contamination that is  
8 determined by the department to be effective in its guidance  
9 document created pursuant to section 38 of P.L.1993, c.139  
10 (C.58:10B-14), is presumed to be an appropriate remedial action if  
11 it is to be implemented on a site in the manner described by the  
12 department in the guidance document and applicable regulations  
13 and if all of the conditions for remedy selection provided for in this  
14 section are met. The burden to prove compliance with the criteria  
15 in the guidance document is with the person responsible for  
16 conducting the remediation;

17 (9) (Deleted by amendment, P.L.1997, c.278);

18 (10) The department shall, by rule or regulation, establish  
19 presumptive remedies, use of which shall be required on any site or  
20 area of concern to be used for residential purposes, as a child care  
21 center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), as a  
22 public school or private school as defined in N.J.S.18A:1-1, or as a  
23 charter school established pursuant to P.L.1995, c.426 (C.18A:36A-  
24 1 et seq.). The department may also issue guidelines that provide  
25 for presumptive remedies that may be required as provided in  
26 paragraph (1) of this subsection, on a site to be used for residential  
27 purposes, as a child care center, or as a public school, private school  
28 or charter school. The presumptive remedies shall be based on the  
29 historic use of the property, the nature and extent of the  
30 contamination at the site, the future use of the site and any other  
31 factors deemed relevant by the department. The department may  
32 include the use of engineering and institutional controls in the  
33 presumptive remedies authorized pursuant to this subsection. If the  
34 person responsible for conducting the remediation demonstrates to  
35 the department that the use of an unrestricted use remedial action or  
36 a presumptive remedy is impractical due to conditions at the site, or  
37 that an alternative remedy would be equally protective over time as  
38 a presumptive remedy, then an alternative remedy for the site that is  
39 protective of the public health and safety may be proposed for  
40 review and approval by the department;

41 (11) The department may authorize a person conducting a  
42 remediation to divide a contaminated site into one or more areas of  
43 concern. For each area of concern, a different remedial action may  
44 be selected provided the requirements of this subsection are met and  
45 the remedial action selected is consistent with the future use of the  
46 property; and

47 (12) The construction of single family residences, public schools,  
48 private schools, or charter schools, or child care centers shall be

1 prohibited on a landfill that undergoes a remediation if engineering  
2 controls are required for the management of landfill gas or leachate.

3 The burden to demonstrate that a remedial action is protective of  
4 public health, safety and the environment, as applicable, and has  
5 been selected in conformance with the provisions of this subsection  
6 is with the person responsible for conducting the remediation.

7 The department may require the person responsible for  
8 conducting the remediation to supply the information required  
9 pursuant to this subsection as is necessary for the department to  
10 make a determination.

11 h. (1) The department shall adopt regulations which establish a  
12 procedure for a person to demonstrate that a particular parcel of  
13 land contains large quantities of historical fill material. Upon a  
14 determination by the department that large quantities of historic fill  
15 material exist on that parcel of land, there is a rebuttable  
16 presumption that the department shall not require any person to  
17 remove or treat the fill material in order to comply with applicable  
18 health risk or environmental standards. In these areas the  
19 department shall establish by regulation the requirement for  
20 engineering or institutional controls that are designed to prevent  
21 exposure of these contaminants to humans, that allow for the  
22 continued use of the property, that are less costly than removal or  
23 treatment, which maintain the health risk standards as established in  
24 subsection d. of this section, and, as applicable, are protective of the  
25 environment. The department may rebut the presumption only upon  
26 a finding by the preponderance of the evidence that the use of  
27 engineering or institutional controls would not be effective in  
28 protecting public health, safety, and the environment. The  
29 department may not adopt any rule or regulation that has the effect  
30 of shifting the burden of rebutting the presumption. For the  
31 purposes of this paragraph "historic fill material" means generally  
32 large volumes of non-indigenous material, no matter what date they  
33 were emplaced on the site, used to raise the topographic elevation  
34 of a site, which were contaminated prior to emplacement and are in  
35 no way connected with the operations at the location of  
36 emplacement and which include, but are not limited to, construction  
37 debris, dredge spoils, incinerator residue, demolition debris, fly ash,  
38 and non-hazardous solid waste. Historic fill material shall not  
39 include any material which is substantially chromate chemical  
40 production waste or any other chemical production waste or waste  
41 from processing of metal or mineral ores, residues, slags or tailings.

42 (2) The department shall develop recommendations for remedial  
43 actions in large areas of historic industrial contamination. These  
44 recommendations shall be designed to meet the health risk  
45 standards established in subsection d. of this section, and to be  
46 protective of the environment and shall take into account the  
47 industrial history of these sites, the extent of the contamination that  
48 may exist, the costs of remedial actions, the economic impacts of

1 these policies, and the anticipated uses of these properties. The  
2 department shall issue a report to the Senate Environment and  
3 Energy Committee and to the Assembly Environment and Solid  
4 Waste Committee, or their successors, explaining these  
5 recommendations and making any recommendations for legislative  
6 or regulatory action.

7 (3) The department may not, as a condition of allowing the use  
8 of a nonresidential use soil remediation standard, or the use of  
9 institutional or engineering controls, require the owner of that real  
10 property, except as provided in section 36 of P.L.1993, c.139  
11 (C.58:10B-13), to restrict the use of that property through the filing  
12 of a deed easement, covenant, or condition.

13 i. The department may not require a remedial action workplan  
14 to be prepared or implemented or engineering or institutional  
15 controls to be imposed upon any real property unless sampling  
16 performed at that real property demonstrates the existence of  
17 contamination above the applicable remediation standards.

18 j. Upon the approval by the department or by a licensed site  
19 remediation professional of a remedial action workplan, or similar  
20 plan that describes the extent of contamination at a site and the  
21 remedial action to be implemented to address that contamination,  
22 the department may not subsequently require a change to that  
23 workplan or similar plan in order to compel a different remediation  
24 standard due to the fact that the established remediation standards  
25 have changed; however, the department may compel a different  
26 remediation standard if the difference between the new remediation  
27 standard and the remediation standard approved in the workplan or  
28 other plan differs by an order of magnitude. The limitation to the  
29 department's authority to change a workplan or similar plan  
30 pursuant to this subsection shall only apply if the workplan or  
31 similar plan is being implemented in a reasonable timeframe, as  
32 may be indicated in the approved remedial action workplan or  
33 similar plan.

34 k. Notwithstanding any other provisions of this section, all  
35 remediation standards and remedial actions that involve real  
36 property located in the Pinelands area shall be consistent with the  
37 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
38 (C.13:18A-1 et seq.), any rules and regulations promulgated  
39 pursuant thereto, and with section 502 of the "National Parks and  
40 Recreation Act of 1978," 16 U.S.C. s.471i **];** and all remediation  
41 standards and remedial actions that involve real property located in  
42 the Highlands preservation area shall be consistent with the  
43 provisions of the "Highlands Water Protection and Planning Act,"  
44 P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations  
45 and the Highlands regional master plan adopted pursuant thereto**].**

46 l. Upon the adoption of a remediation standard for a particular  
47 contaminant in soil, groundwater, or surface water pursuant to this  
48 section, the department may amend that remediation standard only

1 upon a finding that a new standard is necessary to maintain the  
2 health risk standards established in subsection d. of section 35 of  
3 P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as  
4 applicable. The department may not amend a public health based  
5 soil remediation standard to a level that would result in a health risk  
6 standard more protective than that provided for in subsection d. of  
7 section 35 of P.L.1993, c.139 (C.58:10B-12).

8 m. Nothing in P.L.1993, c.139 shall be construed to restrict or  
9 in any way diminish the public participation which is otherwise  
10 provided under the provisions of the "Spill Compensation and  
11 Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

12 n. Notwithstanding any provision of subsection a. of section 36  
13 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department  
14 may not require a person intending to implement a remedial action  
15 at an underground storage tank facility storing heating oil for on-  
16 site consumption at a one to four family residential dwelling to  
17 provide advance notice to a municipality prior to implementing that  
18 remedial action.

19 o. A person who has remediated a site pursuant to the  
20 provisions of this section, who was liable for the cleanup and  
21 removal costs of that discharge pursuant to the provisions of  
22 paragraph (1) of subsection c. of section 8 of P.L.1976, c.141  
23 (C.58:10-23.11g), and who remains liable for the discharge on that  
24 site due to a possibility that a remediation standard may change,  
25 undiscovered contamination may be found, or because an  
26 engineering control was used to remediate the discharge, shall  
27 maintain with the department a current address at which that person  
28 may be contacted in the event additional remediation needs to be  
29 performed at the site. The requirement to maintain the current  
30 address shall be made part of the conditions of the permit issued  
31 pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) and the final  
32 remediation document.

33 (cf: P.L.2010, c.87, s.3)

34  
35 36. Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read  
36 as follows:

37 1. There shall be appropriated each State fiscal year from the  
38 “**Highlands Watershed** Protection Fund , ” created pursuant to  
39 section **19** 21 of P.L.2004, c.120 **[(C.54:1-85)]** (C.13:20-19), to  
40 each municipality within which any lands subject to the moratorium  
41 on the conveyance of watershed lands imposed pursuant to section 1  
42 of P.L.1988, c.163, as amended by section 1 of P.L.1990, c.19, are  
43 located **[an amount of \$47 per acre of such lands]** the  
44 municipality’s pro rata share of the balance of the “Watershed  
45 Protection Fund” available, after the allocation to the Pinelands  
46 Property Tax Assistance Fund established pursuant to section 20 of  
47 P.L.2004, c.120 (C.54:1-84) is made, based upon the number of  
48 acres subject to the moratorium on the conveyance of watershed

1 lands located within the municipality. [Notwithstanding the  
2 provisions of this section to the contrary, the per acre amount of  
3 watershed moratorium offset aid prescribed by this section shall be  
4 adjusted annually in direct proportion to the increase or decrease in  
5 the Consumer Price Index for all urban consumers in the New York  
6 City area as reported by the United States Department of Labor.  
7 The adjustment shall become effective on July 1 of the year in  
8 which the adjustment is made.]

9 (cf: P.L.2004, c.120, s.82)

10  
11 37. The following sections are repealed:  
12 Section 19 of P.L.2004, c.89 (13:1D-147); and  
13 Sections 1 through 19 and sections 22 through 43 of P.L.2004,  
14 c.120 (C.13:20-1 et al.).

15  
16 38. This act shall take effect immediately.

#### 17 18 19 STATEMENT

20  
21 This bill repeals sections 1 through 19 and sections 22 through  
22 43 of P.L.2004, c.120 (C.13:20-1 et al.), the “Highlands Water  
23 Protection and Planning Act” (“Highlands act”). The sections to be  
24 repealed by this bill established the Highlands Water Protection and  
25 Planning Council (“Highlands council”), detailed the components of  
26 the regional master plan to be developed by the Highlands council,  
27 and established a strict environmental permitting program in the  
28 Highlands preservation area.

29 This bill also amends those sections of statutory law that were  
30 amended by the Highlands act to provide for the various  
31 commissions and authorities in and near the Highlands Region to  
32 coordinate planning with the Highlands council. The bill deletes  
33 that language which is unnecessary as a result of the provisions of  
34 this bill to repeal various sections of the Highlands act.

35 This bill does not affect sections 63 through 71 of the Highlands  
36 act which amended the “State Planning Act” to incorporate  
37 coordination with regional entities into the State Development and  
38 Redevelopment Plan process.

39 In addition, this bill amends and renames the “Highlands  
40 Protection Fund” as the “Watershed Protection Fund” to continue  
41 the dedication of \$12 million of the realty transfer fee revenue  
42 annually for 10 years, and \$5 million annually thereafter, for the  
43 payment of watershed moratorium offset aid pursuant to P.L.1999,  
44 c.225 (C.58:29-8), and the funding of the “Pinelands Property Tax  
45 Assistance Fund” established in the Highlands act.

46 This bill amends P.L.1999, c.225 (C.58:29-8) to provide that the  
47 amount of the payment of watershed moratorium offset aid each  
48 year would be the municipality’s pro rata share of the balance of the

1    “Watershed Protection Fund,” available after the allocation to the  
2    Pinelands Property Tax Assistance Fund is made, based upon the  
3    number of acres subject to the watershed moratorium located within  
4    the municipality.

5       This bill also amends section 8 of P.L.2005, c.178 (C.13:8C-  
6    38.2), which requires the State Agriculture Development Committee  
7    to prepare and issue periodic reports listing the farms preserved  
8    under the State development easement and fee simple acquisition  
9    programs and listing the farms receiving soil and water grants, by  
10   deleting the requirement to provide a copy of these reports to the  
11   Highlands Council.

12      This bill amends section 3 and repeals section 19 of P.L.2004,  
13   c.89 (the law concerning expedited State permits in smart growth  
14   areas) to reflect the repeal of the Highlands act by this bill.

15      Lastly, this bill makes technical amendments to update statutory  
16   text.