SENATE, No. 286

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator JOSEPH PENNACCHIO
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Exempts construction, expansion, or renovation of public institutions of higher education, public schools, and police and fire academies from "Highlands Water Protection and Planning Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the Highlands Region, and amending P.L.2004, c.120.

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

1. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to read:

30. a. The following are exempt from the provisions of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) , the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) , or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan:

(1) the construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase that lot;

(2) the construction of a single family dwelling on a lot in existence on the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) , provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;

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

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

(i) preliminary or final site plan approval;

(ii) final municipal building or construction permit;

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

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

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

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

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

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.

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

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

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

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

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

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

The exemption provided in this paragraph shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph, shall expire if any of those qualifying approvals expire, and shall expire if construction beyond site preparation does not commence within three years after the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) ;

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

(5) any improvement to a single family dwelling in existence on the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) , including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

(6) any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) , including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

(7) an activity conducted in accordance with an approved woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) or a forest stewardship plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31), or the normal harvesting of forest products in accordance with a forest management plan or forest stewardship plan approved by the State Forester;

(8) the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;

(9) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) and does not result in the construction of any new through-capacity travel lanes;

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

(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) ;

(12) the reactivation of rail lines and rail beds existing on the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) ;

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

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

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

(16) any lands of a federal military installation existing on the date of enactment of **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) that lie within the Highlands Region; **[**and**]**

(17) a major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the

municipality in which the development is located. The exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) ; and

(18) the construction, expansion, or renovation of a public institution of higher education or a public school as defined pursuant to N.J.S.18A:1-1, or a police or fire academy .

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

c. Nothing in **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) shall be construed to alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

d. Nothing in **[**this act**]** P.L.2004, c.120 (C.13:20-1 et al.) shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3.

(cf: P.L.2009, c.256, s.11)

2. This act shall take effect immediately.

STATEMENT

This bill would amend the "Highlands Water Protection and Planning Act," P.L.2004, c.120, to provide an exemption from that act for the construction, expansion, or renovation of a public institution of higher education or a public school as defined pursuant to N.J.S.18A:1-1, or a police or fire academy.