

**ASSEMBLY, No. 963**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblyman JOHN DIMAIO**

**District 23 (Hunterdon, Somerset and Warren)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman PARKER SPACE**

**District 24 (Morris, Sussex and Warren)**

**Co-Sponsored by:**

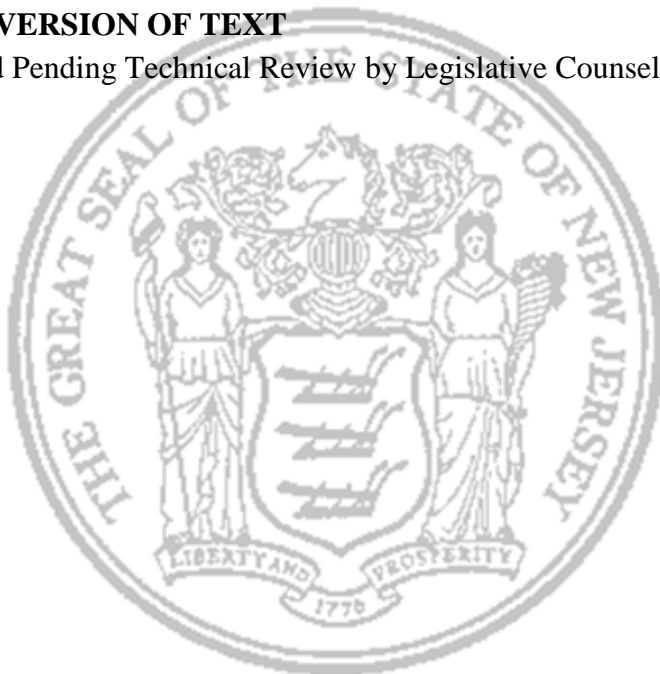
**Assemblyman Wirths**

**SYNOPSIS**

Provides "Highlands Water Protection and Planning Act" exemption, and clarifies municipal planning or zoning authority, for certain development along commercial corridors in Highlands Region.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning development along commercial corridors in the  
2 Highlands Region and amending P.L.2004, c.120.

3

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

6

7 1. Section 3 of P.L.2004, c.120 (C.13:20-3) is amended to read:

8 3. As used in **[this act]** P.L.2004, c.120 (C.13:20-1 et al.) :

9 "Agricultural or horticultural development" means construction  
10 for the purposes of supporting common farmsite activities,  
11 including but not limited to: the production, harvesting, storage,  
12 grading, packaging, processing, and the wholesale and retail  
13 marketing of crops, plants, animals, and other related commodities  
14 and the use and application of techniques and methods of soil  
15 preparation and management, fertilization, weed, disease, and pest  
16 control, disposal of farm waste, irrigation, drainage and water  
17 management, and grazing **[;]** .

18 "Agricultural impervious cover" means agricultural or  
19 horticultural buildings, structures, or facilities with or without  
20 flooring, residential buildings, and paved areas, but shall not mean  
21 temporary coverings **[;]** .

22 "Agricultural or horticultural use" means the use of land for  
23 common farmsite activities, including but not limited to: the  
24 production, harvesting, storage, grading, packaging, processing, and  
25 the wholesale and retail marketing of crops, plants, animals, and  
26 other related commodities and the use and application of techniques  
27 and methods of soil preparation and management, fertilization,  
28 weed, disease, and pest control, disposal of farm waste, irrigation,  
29 drainage and water management, and grazing **[;]** .

30 "Application for development" means the application form and  
31 all accompanying documents required for approval of a subdivision  
32 plat, site plan, planned development, conditional use, zoning  
33 variance, or direction of the issuance of a permit pursuant to the  
34 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)  
35 or R.S.40:27-1 et seq., for any use, development, or construction  
36 **[;]** .

37 "Capital improvement" means any facility for the provision of  
38 public services with a life expectancy of three or more years, owned  
39 and operated by or on behalf of the State or a political subdivision  
40 thereof **[;]** .

41 "Commercial corridor" means the land area with frontage on a  
42 State, county, or rail thoroughfare in the Highlands Region zoned  
43 for commercial or industrial use as of the effective date of  
44 P.L.2004, c.120 (C.13:20-1 et al.), or, subsequent to that effective

**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 date, the land area along such a thoroughfare that is deemed by a  
2 municipal planning board and governing body of a municipality to  
3 be necessary for commercial or industrial use for the economic  
4 viability of the municipality.

5 "Construction beyond site preparation" means having completed  
6 the foundation for a building or structure, and does not include the  
7 clearing, cutting, or removing of vegetation, bringing construction  
8 materials to the site, or site grading or other earth work associated  
9 with preparing a site for construction **【;】** .

10 "Construction materials facility" means any facility or land upon  
11 which the activities of production of ready mix concrete,  
12 bituminous concrete, or class B recycling occurs **【;】** .

13 "Council" means the Highlands Water Protection and Planning  
14 Council established by section 4 of **【this act;】** P.L.2004, c.120  
15 (C.13:20-4).

16 "Department" means the Department of Environmental  
17 Protection **【;】** .

18 "Development" means the same as that term is defined in section  
19 3.1 of P.L.1975, c.291 (C.40:55D-4) **【;】** .

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

22 "Disturbance" means the placement of impervious surface, the  
23 exposure or movement of soil or bedrock, or the clearing, cutting,  
24 or removing of vegetation **【;】** .

25 "Environmental land use or water permit" means a permit,  
26 approval, or other authorization issued by the Department of  
27 Environmental Protection pursuant to the "Freshwater Wetlands  
28 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water  
29 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the  
30 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),  
31 "The Realty Improvement Sewerage and Facilities Act (1954),"  
32 P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning  
33 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking  
34 Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood  
35 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.)**【;】** .

36 "Facility expansion" means the expansion of the capacity of an  
37 existing capital improvement in order that the improvement may  
38 serve new development **【;】** .

39 "Farm conservation plan" means a site specific plan that  
40 prescribes needed land treatment and related conservation and  
41 natural resource management measures, including forest  
42 management practices, that are determined to be practical and  
43 reasonable for the conservation, protection, and development of  
44 natural resources, the maintenance and enhancement of agricultural  
45 or horticultural productivity, and the control and prevention of  
46 nonpoint source pollution **【;】** .

1 "Farm management unit" means a parcel or parcels of land,  
2 whether contiguous or noncontiguous, together with agricultural or  
3 horticultural buildings, structures and facilities, producing  
4 agricultural or horticultural products, and operated as a single  
5 enterprise **[:]** .

6 "Highlands open waters" means all springs, streams including  
7 intermittent streams, wetlands, and bodies of surface water, whether  
8 natural or artificial, located wholly or partially within the  
9 boundaries of the Highlands Region, but shall not mean swimming  
10 pools **[:]** .

11 "Highlands Region" means that region so designated by  
12 subsection a. of section 7 of **[this act;]** P.L.2004, c.120 (C.13:20-  
13 7).

14 "Immediate family member" means spouse, child, parent, sibling,  
15 aunt, uncle, niece, nephew, first cousin, grandparent, grandchild,  
16 father-in-law, mother-in-law, son-in-law, daughter-in-law,  
17 stepparent, stepchild, stepbrother, stepsister, half brother, or half  
18 sister, whether the individual is related by blood, marriage, or  
19 adoption **[:]** .

20 "Impact fee" means cash or in-kind payments required to be paid  
21 by a developer as a condition for approval of a major subdivision or  
22 major site plan for the developer's proportional share of the cost of  
23 providing new or expanded reasonable and necessary public  
24 improvements located outside the property limits of the subdivision  
25 or development but reasonably related to the subdivision or  
26 development based upon the need for the improvement created by,  
27 and the benefits conferred upon, the subdivision or development **[:]** .

28 "Impervious surface" means any structure, surface, or  
29 improvement that reduces or prevents absorption of stormwater into  
30 land, and includes porous paving, paver blocks, gravel, crushed  
31 stone, decks, patios, elevated structures, and other similar  
32 structures, surfaces, or improvements **[:]** .

33 "Individual unit of development" means a dwelling unit in the  
34 case of a residential development, a square foot in the case of a non-  
35 residential development, or any other standard employed by a  
36 municipality for different categories of development as a basis upon  
37 which to establish a service unit **[:]** .

38 "Local government unit" means a municipality, county, or other  
39 political subdivision of the State, or any agency, board,  
40 commission, utilities authority or other authority, or other entity  
41 thereof **[:]** .

42 "Major Highlands development" means, except as otherwise  
43 provided pursuant to subsection a. of section 30 of **[this act]**  
44 P.L.2004, c.120 (C.13:20-28) , (1) any non-residential development  
45 in the preservation area; (2) any residential development in the  
46 preservation area that requires an environmental land use or water  
47 permit or that results in the ultimate disturbance of one acre or more

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

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

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

35 "Office of Smart Growth" means the Office of State Planning  
36 established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-  
37 201)**【;】**.

38 "Planning area" means that portion of the Highlands Region not  
39 included within the preservation area **【;】** .

40 "Preservation area" means that portion of the Highlands Region  
41 so designated by subsection b. of section 7 of **【this act;】** P.L.2004,  
42 c.120 (C.13:20-7).

43 "Public utility" means the same as that term is defined in  
44 R.S.48:2-13 **【;】** .

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

1 "Regional master plan" means the Highlands regional master  
2 plan or any revision thereof adopted by the council pursuant to  
3 section 8 of **[this act;]** P.L.2004, c.120 (C.13:20-8).

4 "Resource management systems plan" means a site specific  
5 conservation system plan that (1) prescribes needed land treatment  
6 and related conservation and natural resource management  
7 measures, including forest management practices, for the  
8 conservation, protection, and development of natural resources, the  
9 maintenance and enhancement of agricultural or horticultural  
10 productivity, and the control and prevention of nonpoint source  
11 pollution, and (2) establishes criteria for resources sustainability of  
12 soil, water, air, plants, and animals **[;]** .

13 "Service area" means that area to be served by the capital  
14 improvement or facility expansion as designated in the capital  
15 improvement program adopted by a municipality under section 20  
16 of P.L.1975, c.291 (C.40:55D-29) **[;]** .

17 "Service unit" means a standardized measure of consumption,  
18 use, generation or discharge attributable to an individual unit of  
19 development calculated in accordance with generally accepted  
20 engineering or planning standards for a particular category of  
21 capital improvements or facility expansions **[;]** .

22 "Soil conservation district" means the same as that term is  
23 defined in R.S.4:24-2 **[;]** .

24 "Solar panel" means an elevated panel or plate, or a canopy or  
25 array thereof, that captures and converts solar radiation to produce  
26 power, and includes flat plate, focusing solar collectors, or  
27 photovoltaic solar cells and excludes the base or foundation of the  
28 panel, plate, canopy, or array **[;]** .

29 "State Development and Redevelopment Plan" means the State  
30 Development and Redevelopment Plan adopted pursuant to  
31 P.L.1985, c.398 (C.52:18A-196 et al.) **[;]** .

32 "State entity" means any State department, agency, board,  
33 commission, or other entity, district water supply commission,  
34 independent State authority or commission, or bi-state entity **[;]** .

35 "State Soil Conservation Committee" means the State Soil  
36 Conservation Committee in the Department of Agriculture  
37 established pursuant to R.S.4:24-3 **[;]** .

38 "Temporary coverings" means permeable, woven and non-woven  
39 geotextile fabrics that allow for water infiltration or impermeable  
40 materials that are in contact with the soil and are used for no more  
41 than two consecutive years **[; and]** .

42 "Waters of the Highlands" means all springs, streams including  
43 intermittent streams, and bodies of surface or ground water, whether  
44 natural or artificial, located wholly or partially within the  
45 boundaries of the Highlands Region, but shall not mean swimming  
46 pools.

47 (cf: P.L.2010, c.4, s.5)

1       2. Section 11 of P.L.2004, c.120 (C.13:20-11) is amended to  
2 read:

3       11. a. The regional master plan shall include, but need not  
4 necessarily be limited to:

5       (1) A resource assessment which:

6       (a) determines the amount and type of human development and  
7 activity which the ecosystem of the Highlands Region can sustain  
8 while still maintaining the overall ecological values thereof, with  
9 special reference to surface and ground water quality and supply;  
10 contiguous forests and woodlands; endangered and threatened  
11 animals, plants, and biotic communities; ecological factors relating  
12 to the protection and enhancement of agricultural or horticultural  
13 production or activity; air quality; and other appropriate  
14 considerations affecting the ecological integrity of the Highlands  
15 Region; and

16       (b) includes an assessment of scenic, aesthetic, cultural, historic,  
17 open space, farmland, and outdoor recreation resources of the  
18 region, together with a determination of overall policies required to  
19 maintain and enhance such resources;

20       (2) A financial component, together with a cash flow timetable  
21 which:

22       (a) details the cost of implementing the regional master plan,  
23 including, but not limited to, property tax stabilization measures,  
24 watershed moratorium offset aid, planning grants and other State  
25 aid for local government units, capital requirements for any  
26 development transfer bank, payments in lieu-of-taxes, acquisition,  
27 within five years and within 10 years after the date of enactment of  
28 **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) , of fee simple or other  
29 interests in lands for preservation or recreation and conservation  
30 purposes, compensation guarantees, general administrative costs,  
31 and any anticipated extraordinary or continuing costs; and

32       (b) details the sources of revenue for covering such costs,  
33 including, but not limited to, grants, donations, and loans from  
34 local, State, and federal departments, agencies, and other  
35 governmental entities, and from the private sector;

36       (3) A component to provide for the maximum feasible local  
37 government and public input into the council's operations, which  
38 shall include a framework for developing policies for the planning  
39 area in conjunction with those local government units in the  
40 planning area who choose to conform to the regional master plan;

41       (4) A coordination and consistency component which details the  
42 ways in which local, State, and federal programs and policies may  
43 best be coordinated to promote the goals, purposes, policies, and  
44 provisions of the regional master plan, and which details how land,  
45 water, and structures managed by governmental or  
46 nongovernmental entities in the public interest within the Highlands  
47 Region may be integrated into the regional master plan;

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

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

22       (a) prepare a land use capability map;

23       (b) identify existing developed areas capable of sustaining  
24 redevelopment activities and investment;

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

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

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

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

44       (g) identify special critical environmental areas and other  
45 critical natural resource lands where development should be  
46 limited; and

47       (h) identify areas appropriate for redevelopment and set  
48 appropriate density standards for redevelopment. Any area



1 identified for possible redevelopment pursuant to this subparagraph  
2 shall be either a brownfield site designated by the Department of  
3 Environmental Protection or a site at which at least 70% of the area  
4 thereof is covered with impervious surface.

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

9 c. Notwithstanding any provision of this section to the  
10 contrary, nothing in the regional master plan shall be deemed to  
11 supersede the right and authority of a municipality or a county to  
12 exercise planning or zoning authority in connection with property  
13 located within a commercial corridor.

14 (cf: P.L.2004, c.120, s.11)

15  
16 3. Section 12 of P.L.2004, c.120 (C.13:20-12) is amended to  
17 read as follows:

18 12. In addition to the contents of the regional master plan  
19 described in section 11 of **【this act】** P.L.2004, c.120 (C.13:20-11) ,  
20 the plan shall also include, with respect to the preservation area, a  
21 land use capability map and a comprehensive statement of policies  
22 for planning and managing the development and use of land in the  
23 preservation area, which shall be based upon, comply with, and  
24 implement the environmental standards adopted by the Department  
25 of Environmental Protection pursuant to sections 33 and 34 of **【this**  
26 **act】** P.L.2004, c.120 (C.13:20-31 and C.13:20-32) , and the  
27 resource assessment prepared pursuant to paragraph (1) of  
28 subsection a. of section 11 of **【this act】** P.L.2004, c.120 (C.13:20-  
29 11).

30 These policies shall include provision for implementing the  
31 regional master plan by the State and local government units in the  
32 preservation area in a manner that will ensure the continued,  
33 uniform, and consistent protection of the Highlands Region in  
34 accordance with the goals, purposes, policies, and provisions of this  
35 act, and shall include:

36 a. a preservation zone element that identifies zones within the  
37 preservation area where development shall not occur in order to  
38 protect water resources and environmentally sensitive lands and  
39 which shall be permanently preserved through use of a variety of  
40 tools, including but not limited to land acquisition and the transfer  
41 of development rights; and

42 b. minimum standards governing municipal and county master  
43 planning, development regulations, and other regulations  
44 concerning the development and use of land in the preservation  
45 area, including, but not limited to, standards for minimum lot sizes  
46 and stream setbacks, construction on steep slopes, maximum  
47 appropriate population densities, and regulated or prohibited uses  
48 for specific portions of the preservation area.

1     Notwithstanding any provision of this section to the contrary,  
2     nothing in the regional master plan shall be deemed to supersede the  
3     right and authority of a municipality or a county to exercise  
4     planning or zoning authority in connection with property located  
5     within a commercial corridor.  
6     (cf: P.L.2004, c.120, s.12)

7  
8     4. Section 14 of P.L.2004, c.120 (C.13:20-14) is amended to  
9     read as follows:

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

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

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

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

45     c. The council may revoke a conformance approval granted  
46     pursuant to this section or section 15 of **【this act】** P.L.2004, c.120  
47     (C.13:20-15) , after conducting a hearing, if the council finds that

1 the local government unit has taken action inconsistent with the  
2 regional master plan.

3 d. In the event that any municipality or county fails to adopt or  
4 enforce an approved revised master plan, development regulations,  
5 or other regulations, as the case may be, including any condition  
6 thereto imposed by the council, as required pursuant to subsection  
7 a. or b. of this section, the council shall adopt and enforce such  
8 rules and regulations as may be necessary to implement the  
9 minimum standards contained in the regional master plan as  
10 applicable to any municipality or county within the preservation  
11 area. If any municipality or county fails to adopt or enforce an  
12 approved revised master plan, development regulations, or other  
13 regulations, as the case may be, including any condition thereto  
14 imposed by the council, as required pursuant to subsection a. or b.  
15 of this section, the council shall have all local enforcement  
16 authority provided pursuant to the "Municipal Land Use Law,"  
17 P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., and this  
18 act, as well as the authority to issue stop construction orders, as  
19 may be necessary to implement the provisions of **【this act】**  
20 P.L.2004, c.120 (C.13:20-1 et al.) , any rules and regulations  
21 adopted pursuant thereto, and the requirements and provisions of  
22 the regional master plan.

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

28 f. The requirements of this section shall not apply to any  
29 municipality or county located wholly within the planning area.  
30 Any municipality or county located partially within the preservation  
31 area and partially within the planning area shall be required to  
32 comply with the provisions of this section and the regional master  
33 plan only with respect to that portion of the municipality or county  
34 lying within the preservation area. Voluntary conformance with the  
35 regional master plan as it may apply to those portions of a  
36 municipality or county lying within the planning area shall be  
37 permitted as provided pursuant to section 15 of **【this act】** P.L.2004,  
38 c.120 (C.13:20-15) .

39 g. Notwithstanding any provision of this section or any other  
40 provision of P.L.2004, c.120 (C.13:20-1 et al.), or any regional  
41 master plan, or rule or regulation adopted pursuant thereto, to the  
42 contrary, a municipality or county shall not be denied conformance  
43 approval or be deemed to have taken an action inconsistent with the  
44 regional master plan if the municipality or county is exercising  
45 planning or zoning authority in connection with property located  
46 within a commercial corridor in a manner inconsistent with the  
47 regional master plan.

48 (cf: P.L.2004, c.120, s.14)

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

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

10       The municipality shall proceed in revising its master plan and  
11 development regulations in accordance with the framework adopted  
12 by the council pursuant to subsection a. of section 14 of **[this act]**  
13 P.L.2004, c.120 (C.13:20-14).

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

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

25       (3) Any municipality approved by the council to be in  
26 conformance with the regional master plan pursuant to this  
27 subsection shall be entitled to any financial or other assistance or  
28 incentives received by a municipality from the State as a benefit or  
29 result of obtaining council approval pursuant to section 14 of **[this**  
30 **act]** P.L.2004, c.120 (C.13:20-14).

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

1 benefit or result of obtaining council approval pursuant to this  
2 subsection.

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

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

13 The county shall proceed in revising its master plan and  
14 associated regulations in accordance with the framework adopted by  
15 the council pursuant to subsection b. of section 14 of **【this act】**  
16 P.L.2004, c.120 (C.13:20-14) .

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

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

28 (3) Any county approved by the council to be in conformance  
29 with the regional master plan pursuant to this subsection shall be  
30 entitled to any financial or other assistance or incentives received  
31 by a county from the State as a benefit or result of obtaining council  
32 approval pursuant to section 14 of **【this act】** P.L.2004, c.120  
33 (C.13:20-14) .

34 c. Notwithstanding any provision of this section or any other  
35 provision of P.L.2004, c.120 (C.13:20-1 et al.), or any regional  
36 master plan, or rule or regulation adopted pursuant thereto, to the  
37 contrary, a municipality or county shall not be denied conformance  
38 approval or be deemed to have taken an action inconsistent with the  
39 regional master plan if the municipality or county is exercising  
40 planning or zoning authority in connection with property located  
41 within a commercial corridor in a manner inconsistent with the  
42 regional master plan.

43 (cf: P.L.2004, c.120, s.15)  
44

45 6. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to  
46 read as follows:

47 30. a. The following are exempt from the provisions of this act,  
48 the regional master plan, any rules or regulations adopted by the

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

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

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

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

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

21 (i) preliminary or final site plan approval;

22 (ii) final municipal building or construction permit;

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

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

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

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

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

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

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

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

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

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

4 (ii) a permit or other approval or authorization issued pursuant  
5 to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-  
6 50 et seq.).

7 The exemption provided in this paragraph shall apply only to the  
8 land area and the scope of the major Highlands development  
9 addressed by the qualifying approvals pursuant to subparagraphs (a)  
10 and (b), or (c) if applicable, of this paragraph, shall expire if any of  
11 those qualifying approvals expire, and shall expire if construction  
12 beyond site preparation does not commence within three years after  
13 the date of enactment of **【this act】** P.L.2004, c.120 (C.13:20-  
14 1 et al.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (18) the construction or reconstruction of commercial or  
38 industrial development within a commercial corridor .

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

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



1 d. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall  
2 be construed to repeal, reduce, or otherwise modify the obligation  
3 of counties, municipalities, and other municipal and public agencies  
4 of the State to pay property taxes on lands used for the purpose and  
5 for the protection of a public water supply, without regard to any  
6 buildings or other improvements thereon, pursuant to R.S.54:4-3.3.  
7 (cf: P.L.2009, c.256, s.11)

8  
9 7. This act shall take effect immediately.

10  
11  
12 STATEMENT

13  
14 This bill amends the “Highlands Water Protection and Planning  
15 Act,” P.L.2004, c.120 (C.13:20-1 et al.), to (1) clarify municipal  
16 planning or zoning authority, and (2) provide an exemption from  
17 the Highlands permitting review program for certain development  
18 along commercial corridors in the Highlands Region.

19 Specifically, this bill provides that, notwithstanding any  
20 provision of the “Highlands Water Protection and Planning Act,” or  
21 any regional master plan, or rule or regulation adopted pursuant  
22 thereto, to the contrary, a municipality or county would not be  
23 denied conformance approval or be deemed to have taken an action  
24 inconsistent with the regional master plan if the municipality or  
25 county is exercising its planning or zoning authority for property  
26 located within a commercial corridor in a manner inconsistent with  
27 the regional master plan.

28 In addition, the bill amends the “Highlands Water Protection and  
29 Planning Act” to add a new exemption for the construction or  
30 reconstruction of commercial or industrial development within a  
31 commercial corridor. This construction or reconstruction would be  
32 exempt from the provisions of the “Highlands Water Protection and  
33 Planning Act,” the regional master plan, any rules or regulations  
34 adopted by the Department of Environmental Protection pursuant  
35 thereto, or any amendments to a master plan, development  
36 regulations, or other regulations adopted by a local government unit  
37 to specifically conform them with the regional master plan.

38 The bill defines a “commercial corridor” as the land area with  
39 frontage on a State, county, or rail thoroughfare in the Highlands  
40 Region zoned for commercial or industrial use as of August 10,  
41 2004, i.e., the effective date of the “Highlands Water Protection and  
42 Planning Act,” or, subsequent to that date, the land area along such  
43 a thoroughfare that is deemed by a municipal planning board and  
44 governing body of a municipality to be necessary for commercial or  
45 industrial use for the economic viability of that municipality.

46 This bill is meant to encourage reasonable and necessary  
47 economic growth in the Highlands Region as set forth in the  
48 findings and declarations section of the “Highlands Water

1   Protection and Planning Act” that “it is important to ensure the  
2   economic viability of communities throughout the New Jersey  
3   Highlands; and that residential, commercial, and industrial  
4   development, redevelopment, and economic growth in certain  
5   appropriate areas of the New Jersey Highlands are also in the best  
6   interests of all the citizens of the State, providing innumerable  
7   social, cultural, and economic benefits and opportunities.” This bill  
8   would further these findings and declarations by providing that  
9   commercial corridors along well-traveled thoroughfares are  
10   appropriate areas for economic development in the Highlands  
11   Region.